

NATIONAL
INDIAN
GAMING
COMMISSION

FEB 14 1994

Joseph P. O'Leary
Office of the Tribal Attorney
Keweenaw Bay Indian Community
Route 1, Box 45
Baraga, Michigan 49908

Dear Mr. O'Leary:

This letter responds to your request to review and approve the tribal gaming ordinance adopted by the Keweenaw Bay Indian Community (the Community) on January 15, 1994. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of 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 the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

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

With the Chairman's approval of the Community's gaming ordinance, the Community is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Keweenaw Bay Indian Community for review and approval. The NIGC staff and I look forward to working with you and the Community in implementing the IGRA.

Sincerely yours,

Anthony J. Hope

Anthony J. Hope
Chairman

KEWEENAW BAY INDIAN COMMUNITY

1993
TRIBAL COUNCIL

Keweenaw Bay Tribal Center
Baraga, Michigan 49908
Phone (906) 353-6623
Fax (906) 353-7540

FRED DAKOTA, President
WAYNE SWARTZ, Vice-President
ANN DURANT, Secretary
WILLIAM E. EMERY, Asst. Sec.
AMY ST. ARNOLD, Treasurer

BILL CARDINAL
ROSEMARY HAATAJA
MICHAEL LAFERNIER
CHARLES LOONSFOOT, SR.
ISADORE MISEGAN
MYRTLE TOLONEN
ROBERT VOAKES

RESOLUTION KB-396-94

- WHEREAS: The Keweenaw Bay Indian Community (KBIC) is a federally recognized Indian Tribe, organized pursuant to the provisions of the Indian Reorganization Act of 1934, 48 Stat. 984, 25 U.S.C. 476, with a Constitution and by-laws duly approved by the United States Secretary of the Interior on December 17, 1936; and
- WHEREAS: Article VI, Section (a) of the KBIC Constitution imposes a duty on the KBIC Tribal Council to protect the health, security and general welfare of the Keweenaw Bay Indian Community; and
- WHEREAS: The KBIC Tribal Council has determined that the operation of gaming enterprises upon land under the jurisdiction of KBIC advances the duty described above by providing employment opportunities for tribal members, by providing revenues to fund KBIC economic development, to donate to charitable purposes to help fund operations of other local governmental agencies and to otherwise provide for the general welfare of the KBIC; and
- WHEREAS: The KBIC Tribal Council adopted policies and regulations governing gaming on KBIC reservation on August 6, 1984, and adopted superseding regulations governing such activity on November 9, 1985; and
- WHEREAS: On August 19, 1992, the KBIC Tribal Council adopted a comprehensive gaming ordinance intended to bring KBIC's gaming regulations into full compliance with the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701, et seq; and
- WHEREAS: By Resolution #KB-379-93 the KBIC Tribal Council amended 503 and 504 of the KBIC Gaming Ordinance and directed the KBIC Tribal Attorney to submit the Gaming Ordinance to the National Indian Gaming Commission (NIGC) for review and approval; and
- WHEREAS: By letter dated December 21, 1993, the NIGC identified three minor deficiencies in KBIC's Gaming Ordinance submission which the KBIC Tribal Council desires to correct; and

WHEREAS: In addition to the changes suggested by the NIGC, the KBIC Tribal Council wishes to amend 405(a) of the Gaming Ordinance in order to make it consistent with Section 2(B) of the August 20, 1993 gaming compact between KBIC and Michigan. The August 20, 1993 compact was formally approved by the Secretary of the Interior on November 30, 1993.

NOW THEREFORE BE IT RESOLVED THAT the KBIC Tribal Council hereby designates the KBIC Tribal Attorney as its agent to receive service of process pursuant to 25 C.F.R. 519.1; and

BE IT FURTHER RESOLVED THAT 504(a) and 201(30) of the KBIC Gaming Ordinance are hereby amended to be consistent with the recommendations of the NIGC, and 405(a) of the Ordinance is amended to be consistent with Section 2(B) of the KBIC/Michigan Gaming Compact of August 20, 1993.

CERTIFICATION

The foregoing resolution was duly adopted by the Keweenaw Bay Tribal Council with a quorum present during its regular/special session on this 15 day of JANUARY 1994, by a vote of 11 in favor, 0 opposed, and 0 abstaining.



ANN DURANT, Secretary
Keweenaw Bay Tribal Council

KEWEENAW BAY INDIAN COMMUNITY

1993
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RESOLUTION #KB-379-93

- WHEREAS: The Keweenaw Bay Indian Community (KBIC) is a federally recognized Indian Tribe, organized pursuant to the provisions of the Indian Reorganization Act of 1934, 48 Stat. 984, 25 U.S.C. §476, with a Constitution and by-laws duly approved by the United States Secretary of the Interior on December 17, 1936; and
- WHEREAS: Article VI, Section (a) of the KBIC Constitution imposes a duty on the KBIC Tribal Council to protect the health, security and general welfare of the Keweenaw Bay Indian Community; and
- WHEREAS: The Keweenaw Bay Indian Community Tribal Council has determined that the operation of gaming enterprises upon land under the jurisdiction of KBIC advances the duty described above by providing employment opportunities for tribal members and by providing revenues to fund KBIC economic development, to donate to charitable purposes, to help fund operations of other local governmental agencies and to otherwise provide for the general welfare of the KBIC; and
- WHEREAS: The KBIC Tribal Council adopted policies and regulations governing gaming on KBIC's reservation on August 6, 1984, and adopted superseding regulations governing such activity on November 9, 1985; and
- WHEREAS: On August 19, 1992 the KBIC Tribal Council adopted a comprehensive gaming ordinance intended to bring KBIC's gaming regulations into full compliance with the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §2701, et seq; and
- WHEREAS: On August 20, 1993 a compact governing the operation of Class III gaming upon Tribal lands was agreed to and signed by the Governor of the State of Michigan and the KBIC Tribal Chairman; and
- WHEREAS: The compact has been approved by the KBIC Tribal Council, both Houses of the Michigan State Legislature and has been forwarded to the Secretary for approval and publication in the Federal Register; and

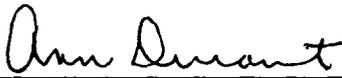
WHEREAS: The KBIC Tribal Council desires to amend §§503 & 504 of the KBIC Gaming Ordinance and further desires that the ordinance be reviewed by the Chairman of the National Indian Gaming Commission and be published in the Federal Register.

NOW THEREFORE BE IT RESOLVED THAT the Keweenaw Bay Tribal Council hereby adopts the amendments to §§503 & 504 of the KBIC Gaming Ordinance; and

BE IT FURTHER RESOLVED, that the KBIC Tribal Council hereby directs the KBIC Tribal Attorney to forward the KBIC Gaming Ordinance, as amended, to the Chairman of the National Indian Gaming Commission for review, approval and publication along with a copy of this resolution and any other materials necessary to the approval process.

CERTIFICATION

The foregoing resolution was duly adopted by the Keweenaw Bay Tribal Council with a quorum present during its regular/special session on this 16 day of October, 1993, by a vote of 10 in favor, 0 opposed, and 0 abstaining.



ANN DURANT, Secretary
Keweenaw Bay Tribal Council

(1/12/94)

(approved: 1/15/94)

Keweenaw Bay Indian Community
GAMING ORDINANCE

APPROVED

KEWEENAW BAY INDIAN COMMUNITY GAMING ORDINANCE

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KEWEENAW BAY INDIAN COMMUNITY GAMING ORDINANCE

An ordinance to authorize, license and regulate certain forms of gaming within the jurisdiction of the Keweenaw Bay Indian Community.

CHAPTER 1 — FINDINGS, INTENT AND POLICY

§101 Findings.

The Keweenaw Bay Tribal Council on behalf of the Keweenaw Bay Indian Community finds that:

a. Tribal regulation and control of gaming activity within the jurisdiction of the Keweenaw Bay Indian Community 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 Keweenaw Bay Indian Community has the legal authority to license and regulate any gaming activity within its jurisdiction which is not specifically prohibited by federal law.

c. Properly licensed and regulated gaming enterprises are in conformance with announced federal policy promoting Indian self-government and Indian tribal economic self-sufficiency.

d. It is essential that the Tribal Council regulate gaming in a manner commensurate with applicable federal and tribal law and policy.

e. The present needs of the Keweenaw Bay Indian Community include increased employment, training, housing, health care, nutrition, educational opportunities, social services and community and economic development, needs which are not adequately addressed by state and federal programs.

f. Tribal operation and licensing of gaming activity is a legitimate means of generating revenue to address the above described needs.

g. The Tribe is vigorously pursuing its goals of self-sufficiency and self-determination through the development of tribal businesses and enterprises. Because the L'Anse

Reservation lacks income-generating natural resources, the Tribe has been forced to use tribal business development to raise the funds necessary to expand its programs, increase employment and improve its on-reservation economy. This effort has recently become of increased importance 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 and programmatic needs and to provide much needed employment for tribal members.

h. As a result of Subsections 101(a) and 101(g) above, the adoption of the following new and expanded gaming Ordinance is in the best interest of the Keweenaw Bay Indian Community.

§102 Intent.

The Keweenaw Bay Tribal Council, on behalf of the Keweenaw Bay Indian Community, declares that the intent of this Ordinance is to:

a. Regulate, control, and oversee all gaming within the jurisdiction of the Keweenaw Bay Indian Community.

b. State, declare and otherwise clarify that a tribal license to operate a gaming enterprise is a revocable privilege, not a right.

c. Ensure that the operation of tribally-regulated gaming can continue as a means of generating tribal revenue.

d. Ensure that gaming is conducted fairly and honestly by both operators and players, and that it remain free from corrupt, incompetent, unconscionable and dishonest practices.

e. Encourage tribal economic development and employment opportunities.

f. Ensure that all gaming revenue is used for the benefit of the Tribe and its community.

g. Ensure that the Tribe provide a fair and impartial forum for the resolution of all gaming disputes.

h. Ensure that tribal gaming laws are

strictly and fairly enforced upon all people involved in gaming activity within the jurisdiction of the Keweenaw Bay Indian Community.

§103 Policy.

a. *Keweenaw Bay Tribal Policy of Self-Government.*

The Tribe is firmly committed to the principle of tribal self-government. Consistent with federal policy, the Keweenaw Bay 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 systems and programs, and the promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

b. *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 authorized by the Indian Gaming Regulatory Act, and that the proceeds of such gaming are used exclusively for the benefits of the Tribe as required by the IGRA. When operated in accordance with the provisions of this Ordinance, such gaming shall be beneficial to the general welfare of all residents of the Reservation.

CHAPTER 2 — DEFINITIONS

§201 Definitions.

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

1) "Adjusted gross proceeds" means gross proceeds 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 proceeds" means the time buy-ins or tournament fees collected by the operator.

2) "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.

3) "Breakage" means the remainder by which the amount payable on each dollar wagered exceeds a multiple of ten cents, and in a minus pool, five cents.

4) "Capital cost" means any disbursement for personal property, the useful life of which is expected to extend beyond one year.

5) "Casino" means an establishment in which several gaming activities or enterprises are operated.

6) "Charitable gaming ticket" means any game piece used in the play of a paper pull tab game, or jar ticket, or raffle.

7) "Cheating" means a person's 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.

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

9) "Contractual agreement" means any legally binding agreement made between an operator and another person for the purpose of conducting any form of lawful gaming activity, or providing goods or services to any lawful gaming activity or operation.

10) "Council" or "Tribal Council" means the governing body of the Keweenaw Bay Indian Community.

11) "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 education or cultural programs.

b. Uses otherwise lessening the burden of the Keweenaw Bay Tribal government.

c. Uses benefiting one or more people suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense which is uncompensated by insurance.

d. Uses for community service projects which promote the common good, enhance the social and economic welfare of the community, and benefit an indefinite number of people.

12) "Eligible organization" means any non-profit organization operated for educational, charitable, patriotic, veterans, fraternal, religious, civic, or public-spirited purposes, or for the relief of poverty, distress, or other deleterious conditions on the L'Anse Reservation.

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

14) "Exclusive license" means a license which precludes the Tribe from issuing to another a license for the same specific form of gaming during the life of the exclusive license. An applicant must demonstrate and the Tribal Council must find that the issuance of an exclusive license is in the economic interest and welfare of the Tribe.

15) "Games of chance" means any game or activity which falls within the broad definition of gaming or gaming activity.

16) "Gaming" or "gaming activity" means any activity, operation or game of chance in which any valuable consideration may be wagered upon the outcome determined by chance, skill, speed, strength or endurance, and in which any valuable prize is awarded to the player so wagering.

17) "Gaming apparatus or gaming equipment" means any device, machine, paraphernalia, or equipment that is used or us-

able 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 establishment.

18) "Gaming establishment" means any location or structure, stationary or movable, wherein gaming is permitted, promoted, performed, conducted, or operated and the operator of which establishment contributes the net proceeds derived from the gaming toward eligible organizational uses as defined. Gaming establishment does not include the site of a fair, carnival, exposition, or similar occasion.

19) "Gaming Program" means any Tribal Program which oversees one or more parts of the operation of all tribal gaming activity.

20) "General Manager" means the person appointed by the Tribal Council pursuant to §801 of this Ordinance, who is responsible for overseeing all tribally owned and tribally operated gaming establishments listed in §404 (a)(1)-(4).

21) "Gross proceeds" means all money collected or received from lawful gaming activity.

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

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

24) "In privity with" means a relationship involving one who acts jointly with another or as an accessory before the fact to an act committed by the other or as a co-conspirator with the other.

25) "IRS" means the United States Internal Revenue Service.

26) "Key employee" means:

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

1. Bingo caller;
2. Counting room supervisor;

3. Chief of security;
 4. Custodian of gaming supplies or cash;
 5. Floor manager;
 6. Pit boss;
 7. Dealer;
 8. Croupier;
 9. Approver of credit; or
 10. Custodian of gambling devices including persons with access to cash and accounting records within such devices;
 - b. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year;
 - c. If not otherwise included, the four most highly compensated persons in the gaming operation; or
 - d. Any employee whom the Tribal Council may by written notice classify as a key employee.
- 27) "License" means the official, legal, and revocable permission granted by the Tribal Council to an applicant to conduct licensed gaming activity on the tribal lands of the KBIC.
- 28) "Lotto" means a form of gaming in which the proceeds derived from the sale of tickets or chances are pooled and those proceeds or parts thereof allotted by chance to one or more chance takers or ticket purchasers.
- The amount of cash prizes or winnings are determined by the 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.
- 29) "National Indian Gaming Commission" means the National Indian Gaming Commission established by the Indian Gaming Regulatory Act.
- 30) "Net proceeds" means gross gaming revenues less:
 - a. Amounts paid out as, or paid for, prizes; and
 - b. Total gaming related operating expenses, excluding management fees.
- 31) "Operator" means a person which has obtained a gaming license under this

Law or which is otherwise permitted by this law to perform, promote, conduct, or operate any lawful gaming activity on tribal lands at a gaming establishment.

32) "Ordinance means the Keweenaw Bay Indian Community Gaming Ordinance.

33) "Participate" or "Participation" or "Participating" in any gaming activity means operating, directing, financing or in any way assisting 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.

34) "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, the plural of "person" is "people".

35) "Player" means a person participating in a game with the hope of winning money or other benefit, but does not include an operator, or any assistant of an operator.

36) "Primary Management Official" means:

- a. The person having management responsibility for a management contract;
- b. Any person who has authority:
 1. To hire and fire employees; or
 2. To set up working policy for the gaming operation; or
- c. The chief financial officer or other person who has financial management responsibility.

37) "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 operator or eligible organization, and offered as a prize to players in the next game.

38) "Pull-tabs, punchboards and tip jars" means a form of gaming in which preprinted cards utilizing symbols or numbers in random order which are uncovered by random choice in expectation of cash prizes if prescribed combinations of symbols and numbers are revealed.

39) "Raffle" means a form of gaming in which each player buys a ticket for a chance to win a prize with the winner determined by a random method. "Raffle" does not include a slot machine.

40) "Reservation" means all lands within the original confines of the L'Anse Federal Indian Reservation, reserved to the Tribe in the Treaty with the Chippewa of 1854, and all other lands added thereto by Executive Order, federal statute or other legal action.

41) "State" means the State of Michigan.

42) "Takeout" means that portion of a wager which is deducted from or not included in the pari-mutuel pool, and which is distributed to people other than those placing wagers.

43) "Tele-bet" means any system of telephone account wagering on a gaming event.

44) "Tele-bingo" means a form of lawful gaming defined as "bingo" which is conducted on tribal lands, but through a system combining the use of computers and cable television or telephone lines, and does not require the presence of the players at the site from where the telecast is originating. The presence of players is required however, at the site on the reservation where the tele-bingo game is being offered.

45) "Tribal Court" means the Tribal Court of the Keweenaw Bay Indian Community.

46) "Tribal/state compact" means any gaming compact between the Tribe and the State, as authorized by the Indian Gaming Regulatory Act (IGRA), or by state or tribal law.

47) "Tribe" means the Keweenaw Bay Indian Community.

48) "Twenty-one," also known as "black-jack," is the card game played by a maximum of seven players and one dealer

wherein each player plays his hand against the dealer's hand, the object of which is for a player to obtain a higher total card count 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 as one or 11, 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.

49) "Wager" means the initial bet made in any game.

50) "Wagering Office" means any location within tribal lands at which wagers are placed or accepted by an operator.

CHAPTER 3 — GENERAL PROVISIONS

§301 Authority and Sovereign Powers and Responsibilities.

This Ordinance is enacted pursuant to the inherent sovereign powers of the Tribe. The power to enact this Ordinance is expressly delegated to the Keweenaw Bay Tribal Council.

§302 Application of Federal Law.

In 1970, President Nixon announced that it was 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. 450-450n.

In 1983, President Regan reaffirmed that commitment in his Indian Policy Statement, he encouraged tribes to reduce their dependence on federal funds by generating more of their own revenues, and pledged to assist tribes in that endeavor.

In 1988, the federal commitment to promote tribal economic development, tribal self-sufficiency, and strong tribal government was expressly legislated in the IGRA,

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. It provided a federal statutory basis for operation and regulation of Indian gaming.

§303 Title, Repeal of Prior Laws, and Effect of Repeal.

This Ordinance may be cited as the Keweenaw Bay Indian Community Gaming Ordinance, or the KBIC Gaming Ordinance. This Ordinance shall be appropriately inserted in the Tribal Code of the Keweenaw Bay Indian Community.

All titles, chapters, and sections of the Tribal Code of the Keweenaw Bay Indian Community which pertain to gaming, and are in effect as of the date that this Ordinance becomes operative, are hereby repealed, and all other laws, or parts thereof, inconsistent with the provisions of this Ordinance are hereby repealed.

Repeal of this Ordinance or any portion thereof shall not have the effect of reviving any prior Law, Ordinance, or Resolution theretofore repealed or suspended.

§304 Classes of Gaming.

This Ordinance shall divide gaming into the following three Classes:

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; and

2. All card games operated by the Tribe prior to May 1, 1988.

3. Any additional card games explicitly authorized or not explicitly prohibited by the laws of the State and which are played at any location in the State in conformity with State laws and regulations regarding hours or period of operation of such card games or limitations on wagers or pot size of such card games.

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

§305 Construction.

In construing the provisions of this Ordinance, unless the context otherwise requires, the following shall apply:

a. This Ordinance 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.

§306 Savings Clause.

If any section of this Ordinance is invalidated by a court of competent jurisdiction, the remaining sections shall not be affected thereby.

§307 Effective Date.

This Ordinance shall be effective upon adoption by the Tribe, approval by the Chairman of the National Indian Gaming Commission and publication in the Federal Register as required by 25 U.S.C. §2710(d)(2)(b).

CHAPTER 4 — GAMING LICENSES

§401 Applicability.

This Ordinance applies to all people engaged in gaming within the jurisdiction of the Tribe. The application for license and the conduct of gaming 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 Ordinance or other Tribal laws.

§402 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.

§403 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 enterprises operating one or more Class II gaming activities.

b. *Tribally Owned or Tribally Operated Class III.*

This license shall be required for all tribally owned or tribally operated gaming enterprises operating any gaming other than Class I or Class II Gaming.

§404 Application Procedures.

a. *Existing Tribally Owned and Tribally Operated Class II and Class III.*

Notwithstanding any other provisions of this Ordinance, existing tribally owned and tribally operated gaming enterprises shall be granted a license immediately upon adoption of the Ordinance, without the need for an application. The Tribal Council is confident that these existing enterprises meet all of the criteria required by §405. These "grandfather" licenses shall expire on December 31, 1993, by which time a new license shall be applied for. The existing en-

terprises to be granted an immediate license are:

1. Ojibwa Casino, Hwy. M-38 and Beartown Road, Baraga, MI; Class II and Class III license.

2. Ojibwa Lanes and Lounge, Hwy. M-38 and Beartown Road, Baraga, MI; Class III license.

3. Big Bucks Bingo, Hwy. M-38 and Beartown Road, Baraga, MI; Class II license.

4. Big Bucks Bingo II, Chocolay Township, Marquette County, MI; Class II license.

5. Keweenaw Bay Indian Community Senior Citizens, Hwy. M-38 and Beartown Road, Baraga, MI; Class II license.

6. Keweenaw Bay Indian Community Youth Club, Zeba Hall, L'Anse, MI; Class II license.

b. *Tribally Owned and Tribally Operated Class II.*

Before issuing a license to a tribally owned or tribally operated Class II gaming activity the Tribal Council shall:

1. Review the proposed gaming activity to ensure that all threshold criteria required by this Ordinance shall be met.

2. Perform the necessary background checks on management contractors, primary management officials and key employees required by this Ordinance.

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 tribally operated Class III gaming activity the Tribal Council shall:

1. Review the proposed gaming activity to ensure that all threshold criteria required by this Ordinance shall be met.

2. Perform the necessary background

checks on management contractors, primary management officials and key employees required by this Ordinance.

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.

§405 Threshold Criteria Which a Potential Operator Must Meet.

The Tribal Council shall automatically issue the above license to any tribally owned or tribally operated Class II or Class III proposed gaming enterprise if:

a. The proposed gaming activity is located on any of the following lands:

1. All lands currently within the limits of the Tribe's Reservation;

2. Any lands contiguous to the boundaries of the Reservation of the Tribe on October 17, 1988; and

3. Any lands title to which is either held in trust by the United States for the benefit of the Tribe or individual or held by the Tribe or individual subject to restriction by the United States against alienation and over which the Tribe exercises governmental power.

b. The proposed gaming activity is to be played as Class II gaming as defined by this Ordinance and the IGRA.

c. The proposed gaming activity is authorized by a Tribal Council resolution.

d. The Tribe or one of its subdivisions 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 facility is consistent with tribal and federal law and is properly approved by the Chairman of the National Indian Gaming Commission.

e. The resolution authorizing the proposed gaming activity provides that:

1. The revenues of the proposed gaming activity shall be independently audited annually and copies of those audits will be provided to the National Indian Gaming Commission.

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

3. All of the proceeds of the proposed gaming activity shall be used for the purposes stated in §803.

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 specifically included in the annual independent audit required by §405(e)(1) above.

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 Tribal Council finds will adequately protect the environment and the public health and safety.

6. All primary management officials and key employees shall pass the background checks and obtain the tribal gaming employee licenses required by this Ordinance.

7. The Tribal Council 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. In the event the gaming activity is Class III gaming, such gaming activity meets all other criteria established by the tribal/state compact.

§406 License Application Fees.

No application fee shall be required for a tribally owned or tribally operated Class II or Class III gaming enterprise.

§407 License Tax.

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

§408 Terms of License.

The tribally owned and tribally operated Class II and Class III gaming licenses issued to the enterprises listed in §404(a) shall be valid until specifically revoked or suspended by the Tribal Council. All other Class II and Class III gaming licenses shall be valid for a period of one (1) year from the date of issuance.

§409 Posting of Licenses.

Each operator shall post his tribal gaming license in a conspicuous location at his or her place of business. If an operator has more than one location the operator must obtain and post a separate license for each location. Any organization licensed to sell raffle tickets shall, within twenty-four (24) hours of request, show to any person who so requests a copy of the organization's tribal gaming license.

§410 Gaming License Renewals.

Each annual tribal gaming license must be renewed every 365 days from the date of issuance. 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 operator shall submit a written renewal application to the Tribal Council on the form provided by the Tribal Council. No renewal application shall be approved until the annual report, required by §411, has been properly filed. No renewal application shall be required for the tribally owned or tribally operated enterprises listed in §404(a). These enterprises must nonetheless comply with the annual reporting requirements listed in §411. No annual tribal gaming license shall be renewed, and the gaming licenses issued to the enterprises listed in §404(a) will be suspended or revoked, if the Tribal Council has reasonable grounds to believe that the enterprise has been or will be operated in

violation of tribal, federal or other applicable law or the terms and conditions of the tribal/state compact.

§411 Annual Reports.

Each operator who possesses an annual Class II or Class III Tribal gaming license must file an annual report with the Tribal Council between the fifteenth (15th) day and the thirtieth (30th) day of September of each year. The report shall be submitted to the Tribal Council on the annual report form provided and shall include, at a minimum, the following information:

- a. The name, address and telephone number of the operator;
- b. The names, addresses and titles of all of the current managers of the operator;
- c. A description of the gaming activity that it has operated and the total gross sales;
- d. A written copy of any changes it proposes to initiate in its rules and procedures;
- e. A statement of the specific date or dates and time or times on which it wishes to operate its gaming activity over the next license period;
- f. The name and addresses of the person who will be designated as primary management official over the next license period;
- g. A statement of any changes 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 employee who the Tribal Council may determine to be key employees during review of the application;
- i. Written proof that the 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 operator has complied with the Internal Revenue Codes and Regulations, and a statement that the operator shall continue to obey all tribal and federal laws and shall hold the Tribal Council harmless for failure to do so;
- k. Any location at which the gaming ac-

tivity has been conducted and any new location which will be established in the next license period;

l. The number of full-time equivalent people, on an annualized basis, employed by the operation during the past twelve (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 operator attributable directly or indirectly to tribally-licensed gaming activity over the preceding twelve (12) months;

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

o. The name, address and signature of the agent who will accept service of process on behalf of the operator, who must reside on the Reservation; and

p. If the 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 Council.

§412 Closure of a Tribally Licensed Gaming Activity.

If the Tribal Council finds that any tribally owned gaming activity is operating in violation of this Code or otherwise present a threat to the public, the Tribal Council will immediately notify the Tribal Chairman.

The Tribal Council may close down any tribally owned or tribally operated gaming activity temporarily or permanently at any time with or without cause.

CHAPTER 5 — GAMING EMPLOYEE LICENSES

§501 Current and Valid Gaming Employee License Required.

Each primary management official and key employee of a Class II or Class III gaming operation must possess a current, valid gaming employee license.

§502 Application Procedure.

a. Any person seeking a tribal gaming employee license shall submit an application to the Tribal Council on such form or in such manner as the Tribal Council may require.

b. At a minimum, the application shall contain 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 (5) years, or, 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 Manager for whom the applicant is applying to work and the specific location at which he or she is applying to be employed.

3. The name and job description the applicant is applying for.

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 §502(b)(1).

7. A list of the applicant's previous jobs over the preceding five (5) 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 (5) 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 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 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.

15. Written permission giving the Tribal Council or its designee, the right to investigate the applicant's background, including his criminal record, civil and criminal judgements and credit history.

16. 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.

17. A disclosure of any civil or criminal judgements rendered against the applicant, including the case number, a description of the judgement and the name and address of the court involved.

18. 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.

19. 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.

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

21. Each application shall be accompanied by a sworn statement that the applicant will abide by all applicable tribal and federal laws, regulations and policies.

22. Each application for a gaming employee license shall be accompanied by an application fee of ten dollars (\$10.00). This application fee shall be

waived for all employees of the tribally owned and tribally operated gaming enterprises listed in §404(a).

23. 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 your Social Security Number (SSN) is voluntary. However, failure to supply an SSN may result in errors in processing your application.

§503 Review Procedure.

a. The Tribal Council or its designee shall forward a copy of each application to the office of the Tribal Prosecuting Attorney. The Tribal Prosecuting Attorney shall prepare an investigative report which verifies the accuracy of the informative presented in each application and shall arrange for ap-

propriate Tribal, State or Federal law enforcement agencies to verify in writing the accuracy of the applicant's criminal record. The investigative report shall contain at a minimum the following information:

1. The written verification of the applicant's criminal record from the appropriate law enforcement agency for every state, Indian reservation or other federal territory where the applicant has resided within the last five (5) years;

2. The results of contacts with personal references and past employers, including positive and negative information regarding the applicants employment history and character;

3. The results of contacts with regulatory agencies which oversee any professional or business licenses for which the applicant has applied;

4. Background information on any criminal or civil judgements against the applicant in tribal, state or federal courts;

5. Other relevant information bearing on the applicant's fitness to serve as a primary management official or key employee including, but not limited to, the applicant's ownership interest in any businesses within the past five (5) years, any past or present association with or interest in any gaming business or enterprise and any pending civil or criminal actions against the applicant;

6. A recommendation from the Tribal Prosecuting Attorney whether to grant or deny the license, along with the reasons for said recommendation.

b. Once the investigative report is completed it shall be presented to the Tribal Council for review. The Tribal Council shall, after reviewing the findings of the Tribal Prosecuting Attorney, either grant or deny the license.

The applicant shall be notified in writing of the Council's decision. If the Council votes to deny the license, it shall include in the notification the specific reasons for its decision.

c. A copy of the application, the results of the background checks performed and the findings and decision shall be forwarded to the National Indian Gaming Commission before the license is issued.

d. All applications, background checks and Council decisions shall be retained in the files for a period of at least ten (10) years.

§504 Scope of License.

a. Any applicant granted a license shall be fingerprinted by the Tribal Police Department in cooperation with the General Manager. The fingerprints so obtained shall be forwarded by the Chief of the Tribal Police Department to the National Indian Gaming Commission for filing with the Federal Bureau of Investigation.

b. Any employee gaming licenses issued pursuant to this section shall be effective for only the location, job and employer contained in the application.

c. Any licensed employee shall apply to have his or her license transferred to a new location by requesting that transfer in writing to the Tribal Council in a manner which details the new job and location and operator that he or she proposes to work for.

§505 Licensing Period.

Any employee gaming license issued pursuant to this section shall be effective until September 30th of the year in which it is issued. If the employee gaming license is issued after June 30th in any year, the license shall remain effective until September 30th of the year following the year in which it is issued. The license shall state on its face the name of the employee, the location at which he or she is licensed to work, the gaming operator who employs him or her, the date that the license became effective and the date that it expires.

§506 Renewals.

A holder of an employee gaming license shall petition to have his or her license renewed, by applying to the Tribal Council for a renewal before his or her original license

has expired and updating all information contained in the original application.

§507 Requirement to Produce License Upon Request.

Any person receiving an employee gaming license must carry that license upon his or her person during all working hours. Any person wishing to inspect an employee's gaming license shall make a request to the Manager of the enterprise where that employee is working. If reasonable cause is demonstrated to the Manager, he or she will direct the employee to produce his or her license for inspection.

§508 Permanent License Suspension or Revocation: Employee Gaming License.

a. Grounds for Temporary Suspension or Revocation.

The Tribal Council may suspend or revoke any employee 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 or her 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 or other person in an attempt to avoid or circumvent tribal law.
5. The employee has offered something of value to or accepted a loan, financing or other thing of value from a Tribal Council member, a subordinate employee or any person participating in any gaming activity, with the intent to commit any of the prohibited acts described in §702 of this Ordinance, or to violate any other applicable federal or state laws.

6. The employee has knowingly promoted, played or participated in any gaming activity operated in violation of tribal or federal law or the tribal/state gaming compact.

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 Ordinance or the rules and regulations of the Tribal Council.

9. The employee has been convicted of, or has entered a plea of *nolo contendere* (no contest) to, any crime involving gaming, fraud, theft, embezzlement or other activity which, if perpetrated at his or her 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 refused to comply with any lawful order, inquiry or directive of the Tribal Council, the federal government or any court of competent jurisdiction.

11. The employee has been convicted of, or entered a plea of *nolo contendere* (no contest) to, a crime involving the sale of illegal narcotics or controlled substances.

12. The employee has been determined to have present or prior activities, criminal record, if any, or reputation, habits and 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 Temporary Suspension or Revocation.

Whenever it is brought to the attention of the Tribal Council that a person has failed to comply with any condition of his or her tribal gaming license or has failed to obtain a license, the Tribal Council or its designee may either undertake an investigation of the gaming enterprise, or serve upon such person or any agent of 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. Such notice shall state the reason for the order, the time and place for the show cause hearing before the Tribal Council, and that the person shall have an opportunity to present testimony and cross-examine opposing witnesses, and to present any other evidence as to why a revocation order or injunction should not be issued. The hearing shall be governed in all respects in accordance with tribal law and Tribal Council regulations.

§509 Temporary Suspension of Employee Gaming License.

a. Any employee gaming license may be temporarily and immediately suspended by the Tribal Council, Tribal Court or its designee for not more than thirty (30) days if any of the following have occurred:

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 gaming enterprise poses a threat to the general public.

3. The employee has made a material false statement in his or her license application.

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

b. In the event the Tribal Council determines that any employee meets any of the criteria stated in §509(a)(1)-(4) above or that his or her non-compliance with this Ordinance is a direct and immediate threat to the peace, safety, morals or health or welfare of the community, the Tribal Council or its designee shall issue a notice of temporary suspension of his or her employee gaming license which shall be served upon the employee or any agent of the employee. The order shall state the grounds upon which is issued and the employee's right to a hearing. The employee shall cease and desist operating in his or her management position or in his or her capacity as a key employee immediately upon receipt of the order, but

he or she may file a notice of appeal with the Tribal Council which shall hold a hearing on the order within fourteen (14) calendar days of its receipt of the appeal. At the hearing the employee shall have an opportunity to present testimony and cross examine opposing witnesses, and to present any other evidence as to why a temporary suspension order or an injunction should not be issued. The hearing shall be governed in all respects in accordance with tribal law and Tribal Council regulations.

CHAPTER 6 — PROVISIONS OF GENERAL APPLICABILITY TO ALL OPERATORS

§601 General Provisions.

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

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

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

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

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

f. Each operator shall have a copy of this Ordinance and regulations readily available for inspection by any person at each authorized gaming site.

g. No person under the age of eighteen (18) years shall be permitted to conduct, assist in or play any gaming activity being conducted within a facility which has a retail alcoholic beverage license. Notwithstanding the provisions of this paragraph, no person under the age of twenty-one (21)

shall be allowed on the premises of the enterprise listed in §404(a)(1) except employees of that enterprise who are eighteen (18) years of age or older.

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

i. A person under the age of fourteen (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.

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

k. Each operator of a gaming activity is prohibited from renting or lending gaming equipment to any person without the prior approval of the Tribal Council.

l. Each operator is prohibited from exchanging any gaming equipment which might affect the integrity of the game the equipment is used for without obtaining the prior approval of the Tribal Council.

m. Any operator who anticipates the printing, manufacture, or construction of any equipment for gaming activity shall first notify the Tribal Council of his or her intention and shall have the finished product approved by the Tribal Council before it is placed into service.

n. Gaming chips and other tokens of value shall only be sold and redeemed by the operator and only for full value. Complimentary chips or other tokens issued and approved by the Tribal Council for promotional purposes may not be redeemed for cash and may only be played or used in the gaming activity for which they were intended.

o. Each licensed gaming operation shall maintain and keep for not less than ten (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.

The Tribal Comptroller shall be responsible for fulfilling the provisions of this paragraph for the tribally owned or tribally operated gaming enterprises listed in §404(a)(1)-(4).

p. Each operator conducting a gaming activity on premises that it does not own, shall file with the Tribal Council, prior to conducting any gaming activity at such premises, a written agreement, attested to by both the operator and the owner of such site, setting forth the terms under which he or she is permitted the use of such site.

A) At a minimum, such agreement shall contain the following information:

1. The name of the grantor or lessor, whichever is applicable, who is the legal owner of the site. If the operator is to be a sub-lessee, then the name of the lessee must also be included.

2. The name of the operator.

3. The term of such use of the site.

4. The monetary consideration to be paid for such use of the site, if any.

5. A precise description of the premises granted to or leased by the operator within the facility.

6. A prohibition of advertising of the gaming activity by the grantor.

7. The following provision:

"The (grantor/lessor) hereby agrees that neither (he/she), (his/her) spouse, nor any employee or agent of the (grantor/lessor) shall participate in the selling, distributing, conducting, assisting or participating in gaming activity at the site herein (granted/ leased) without the prior written approval of the Tribal Council.

B) The rental provision of such agreement must establish a fixed monthly rental dollar amount unless otherwise approved in writing by the Tribal Council.

C) A graduated lease rate for use of the site is prohibited unless approved in writing by the Tribal Council.

D) Other remuneration, in lieu of money, for use of the site is prohibited un-

less approved in writing by the Tribal Council.

E) A percentage lease rate for use of the site is prohibited unless approved in writing by the Tribal Council.

F) No game of chance shall be operated in conjunction with the conduct of the grantor's business operation unless approved in writing by the Tribal Council.

G) Any re-negotiated agreement shall be furnished to the Tribal Council prior to its effective date.

q. There shall be no sale of liquor at any gaming site without the prior approval of the Tribal Council. No person under the age of twenty-one (21) shall be served alcoholic beverages at any gaming site licensed by this Ordinance.

r. Consideration for the chance to play in any gaming activity shall only be cash or, where allowed, a personal check, or complimentary chips or other tokens issued and approved by the Tribal Council for promotional purposes, and shall be presented at the time the game is played. No other form of consideration shall be allowed unless the Tribal Council gives prior written approval.

s. Evidence of any win in excess of \$1,200 by any player must be provided to that player in such form as will be acceptable to the IRS.

t. Each operator shall pay all applicable fees and file all applicable reports on time.

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

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

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

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

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

z. Each operator shall make its premises and books and records available for inspection during normal business hours by the Tribal Council or their designee.

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

ab. Each operator shall keep accurate books and records of all moneys received and paid out and provide the Tribal Council or its designee with copies of or access to the same upon request.

ac. All net proceeds of any gaming activity shall be used only in a manner prescribed by this Ordinance.

ad. Every operator shall comply with all applicable Tribal and Federal Revenue Reporting Laws.

ae. It shall be a violation of the Tribal Law and Order Code to violate any provision of this Ordinance, any regulation of the Tribal Council, or any order of the Tribal Court.

af. Each operator shall immediately suspend any employee who is charged with an offense described in §702(ai) or any offense related to the sale, possession, manufacture and or transport of illegal drugs. The operator shall also immediately notify the Tribal Council in writing of the name of the person and the pending charge and advise the Tribal Council of the outcome of the case. If the employee is convicted or pleads *nolo contendere* (no contest) to the charge, his or her employment shall be terminated.

CHAPTER 7 — ENFORCEMENT

§701 Jurisdiction.

Except as otherwise provided in this Ordinance and in any tribal/state compact, the Tribal Court shall have jurisdiction over all violations of this Ordinance.

§702 Prohibited Acts.

In addition to other civil and criminal offenses provided for in this Ordinance, the following acts are prohibited and subject any violator to the civil or criminal penalties specified herein:

a. Participating in any on-reservation gaming activity which is not authorized by this Ordinance.

b. Knowingly making a false statement in an application for employment with any operator or with the Tribal Council.

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 Council member or employee and any person participating in any gaming activity with the intent to commit any of the prohibited acts described in §702 of this Ordinance, or to violate any other applicable federal or state laws.

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 Ordinance.

h. Falsifying any books or records which relate to any transaction connected with any gaming activity pursuant to this Ordinance.

i. Conducting or participating in any gaming activity which in any manner results in cheating or misrepresentation, and which allows any other disreputable tactics which 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 which affects its outcome.

j. To conduct gaming activity with, or to allow participation in gaming activity by or with, 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.

p. To solicit, directly or indirectly, or use inside information on the nature or status of any gaming activity for the benefit of an individual.

q. To tamper with a gaming device, attempt or conspire to manipulate the outcome or the payoff of a gaming device, or otherwise unlawfully tamper with or 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 to cause any person to violate any provision of this Ordinance or any rules and regulations adopted thereunder.

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 under age to participate in a game of chance.

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.

y. To employ any person at a licensed gaming establishment whom the 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 Ordinance or any tribal or federal law.

aa. It shall be unlawful to conduct or participate in gaming activity which in any manner results in cheating or misrepresentation, and which allows any other disreputable tactics which detract from the fair nature and equal chance of participation among gaming players, or which otherwise creates an advantage over and above the chance of the game which affects the outcome of the gaming activity.

ab. No 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.

ac. To use bogus or counterfeit chips or charitable gaming tickets, or to substitute or use any game, cards, or charitable gaming tickets that have been marked or tampered with.

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

ae. 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.

af. To tamper with any gaming device or to attempt to manipulate the outcome or the payoff of any gaming device.

ag. To aid, abet, or conspire with another person knowingly or to cause any person to violate any provision of this Ordinance or other applicable law.

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

ai. No operator shall employ any person who has been convicted of or entered a plea of *nolo contendere* (no contest) to a crime of theft, embezzlement, fraud, a gaming crime or any other crime which, if perpetrated on the operator's premises would threaten the fairness or integrity of the game or create a threat to the public.

§703 Criminal Violation.

Any Indian who violates or fails to comply with any provision of this Ordinance, or who fails or neglects to comply with any order or decision of the Tribal Council, shall be guilty of a misdemeanor. Each day during which any such violation or failure to comply continues shall constitute a separate violation of this Ordinance.

A conviction upon a violation of the provisions of this subsection shall constitute a conviction of a Class A misdemeanor

§704 Civil Violation.

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

§705 Cumulative Fines.

All civil fines accruing under this Ordinance shall be cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any fine, or judgment, penalty, forfeiture or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution against any officer, director, agent, or employee of any operator, or any other person.

§706 Purpose of Civil Penalties.

The civil fines imposed under this Ordinance are intended to be remedial and not punitive and are designed to compensate the Tribe or the damage done to 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 Ordinance. The civil fines under this Ordinance are also intended to coerce all people into complying with this Ordinance and Tribal Council regulations and not to punish such people for violation of such laws and regulations.

§707 Civil Action for Penalties.

In enforcing the civil infraction provisions of this Ordinance, the Tribal Council shall proceed, in the name of the Tribe, against a person for violation of such provision by civil complaint pursuant to the provisions of this Ordinance. The Tribal Council in such action shall have the burden of showing, by the preponderance of the evidence, that such person violated the applicable provision of this Ordinance.

§708 Seizure of Property.

All property utilized in violation of this Ordinance shall be subject to seizure by order of the Tribal Court.

§709 Reporting of Offenders.

The Clerk of the Tribal Court shall, upon final conviction of any person under this subsection, report the name of the person convicted to the Tribal Council.

CHAPTER 8 — OPERATION OF TRIBALLY OWNED OR TRIBALLY OPERATED GAMES

§801 Management by a General Manager.

a. The Tribal Council shall appoint one (1) person who shall serve as General Manager over all of the tribally owned and tribally operated gaming enterprises listed in §404(a)(1)–(4). The person appointed shall undergo a background check by the Tribal Council and shall obtain an employee gaming license before commencing work. The Tribal Council shall be the direct supervisor of the General Manager.

b. The General Manager, with the consent of the Tribal Council, shall appoint one (1) person who shall serve as Manager at each of its tribally operated gaming establishments. The person appointed shall undergo a background check by the Tribal Council and shall obtain an employee gaming license before commencing work. The General Manager shall be the direct supervisor of each Manager.

c. Each Manager shall be responsible for managing and overseeing the day-to-day operations of the gaming establishment. He or she shall have such authority as the General Manager or Tribal Council may delegate.

d. Each Manager shall present a written monthly report to the General Manager which details the amount of income generated, the number of employees working at the establishment, and a detailed description of major patron complaints and other problems experienced at the establishment; also a written statement of any changes in key employees or primary management officials.

e. The General Manager shall prepare a written monthly report to the Tribal Council summarizing and commenting on the overall operations of the tribally owned and tribally operated gaming enterprises listed in §404(a)(1)–(4). The General Manager shall append the individual Managers' reports to his or her report for consideration by the Tribal Council.

f. Any patron's winnings shall be paid in cash or check or both and shall be paid on the date it is won. If necessary, it shall be paid within three (3) days from the date it is won.

g. The General Manager shall propose and the Tribal Council shall approve a patron's complaint process. Each tribally owned and tribally operated gaming establishment shall post at least one sign in each gaming room informing patrons of the procedure to follow to lodge complaints.

h. Each tribally owned or tribally operated gaming establishment shall carry sufficient liability insurance to protect the public in the event of an accident. The Tribal Council shall determine the amount of liability insurance required for each gaming establishment.

i. Each tribally owned or tribally operated gaming establishment shall make written copies of the rules of each game available to any member of the general public upon request, and shall post in a conspicuous place a sign giving the general public notice of the availability of the written rules of each game.

j. The General Manager shall be personally responsible for seeing that gaming activity is managed in accordance with tribal and federal law and that such gaming activity under his or her control complies with all IRS reporting requirements.

§802 Management of Youth Club Bingo and Senior Citizens Bingo.

a. The Tribal Council shall appoint one (1) person who shall serve as Manager over the tribally operated enterprise listed in §404(a)(5) and one (1) person who shall serve as Manager over the tribally operated enterprise listed in §404(a)(6). The people appointed shall undergo a background check by the Tribal Council and shall obtain an employee gaming license before commencing work. The Tribal Chairman/CEO shall be the direct supervisor of the Managers appointed pursuant to this section.

b. The Managers appointed in §802(a) shall be responsible for overseeing the oper-

ation of the enterprises known as Youth Club Bingo and Senior Citizens Bingo, and shall have such authority as the Tribal Council may delegate.

c. Each Manager appointed in §802(a) shall present a monthly written report to the Tribal Council which details the amount of income generated, the number of employees working at the enterprise, and a statement of any changes in key employees or primary management officials.

d. Any patron's winnings shall be paid in cash on the date it is won.

e. Each Manager appointed in §802(a) shall propose and the Tribal Council shall approve a patron complaint process. A sign shall be posted in a conspicuous place during the operation of the Youth Club Bingo and Senior Citizens Bingo informing patrons of the procedure to follow to lodge complaints.

f. Each Manager appointed in §802(a) shall make written copies of the rules of each game available to any member of the general public upon request, and shall post a sign in a conspicuous place during the operation of the games giving the general public notice of the availability of the written rules of each game.

g. Each Manager appointed in §802(a) shall be personally responsible for seeing that the bingo games under his or her control are managed in accordance with tribal and federal law and that such gaming activity complies with all IRS reporting requirements.

§803 Use of Net Revenues of Tribally Owned or Tribally Operated Gaming Enterprises.

a. All net proceeds of a tribally owned or tribally operated gaming enterprise shall be held in the name of the Tribe. Such net proceeds may only be expended by the Tribal Council by motion or 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.

§804 Audit Requirements.

a. The Tribal Council and the General Manager shall obtain an annual outside audit of each gaming establishment. A copy of such audit shall be provided to 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 annually shall be specifically included in the annual independent audit required by §405(e)(1). A copy of such audit will be provided to the Tribal Council and the National Indian Gaming Commission.

§805 Management Contracts.

a. Each management contract is subject to the prior approval of the National Indian Gaming Commission.

b. Each management contract shall be approved by the Tribal Council. Before giving final consideration to any proposed management contract, the Council will obtain the following information for review:

1. Background information on the proposed management contractor including its name, address, the names and addresses of each person or entity having a direct financial interest or management responsibility for the proposed management contractor, and in the case of a corporation, the names and addresses of each member of its board of directors and all stockholders who hold directly or indirectly ten percent (10%) or more of its issued or outstanding stock.

2. A description of any previous experience that each person listed in §804(b)(1) above has had with other gaming contracts with Indian tribes or with the gaming industry generally, in-

cluding the name and address of any tribal government or licensing agency with which such person has had a contract relating to gaming.

3. A complete financial statement of each person listed in §804(b)(1) above.

4. The Tribal Council shall contact each of the tribal governments and licensing agencies in §804(b)(2) above to determine the performance history of the proposed management contractor.

5. The Tribal Council shall arrange to have each proposed management contractor investigated to learn of his or her personal attributes and to determine whether he or she has a prior criminal record or any pending criminal charges.

6. The Tribal Council shall obtain an independent verification of the completed financial statements of each proposed management contractor.

7. The Tribal Council shall undertake any additional steps it can to determine the character and reputation of each proposed management contractor.

8. If the Tribal Council, after reviewing the above described information, still desires to enter into a management contract with the proposed management contractor, such management contract shall be placed in writing and submitted to legal counsel for review before the Council approves it.

c. Any management contract approved by the Council must contain at a minimum the following, with respect to the gaming enterprise to which the contract is applicable:

1. A provision requiring a monthly financial accounting of the gaming enterprise's income and expenses. Such reports shall be prepared by an independent auditor who is mutually acceptable to the Tribe and the management contractor.

2. A provision providing the Tribe absolute access to the daily operation of the gaming enterprise and to its books, and the Tribe's absolute right to verify the daily gross revenues of the gaming enterprise at any time.

3. A provision guaranteeing the Tribe a minimum guaranteed payment which shall always take precedence over the management contractor's right to recoup development and construction costs.

4. An agreed upon ceiling for the management contractor's development and construction costs.

5. A provision that the contract shall not exceed five years.

6. A provision for termination of the contract and the grounds for termination.

d. If the council is satisfied with the information it receives it shall submit its proposed contract along with all of the above described information to the Chairman of the National Indian Gaming Commission for approval.