

NATIONAL  
INDIAN  
GAMING  
COMMISSION

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WRITER	JHC
DATE	11/15
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Roseann Demmert, President  
Klawock Cooperative Association  
P.O. Box 112  
Klawock, Alaska 99925

Dear President Demmert:

This letter responds to your request to review and approve the tribal gaming ordinance submitted on August 17, 1993, for the Klawock Cooperative Association the Association. 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 Klawock Cooperative Association's gaming ordinance, the Association 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 Klawock Cooperative Association for review and approval. The NIGC staff and I look forward to working with you and the Association in implementing the IGRA.

Sincerely yours,

Anthony J. Hope  
Anthony J. Hope  
Chairman



**Klawock Cooperative Association**

P.O. Box 112  
Klawock, Alaska 99925  
(907) 755-2265

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"Site of the First Salmon Cannery Built in Alaska"

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**RESOLUTION NO. 93-31**

**TITLE: AMENDMENT TO "INDIAN GAMING ORDINANCE 93-01"  
ADOPTED PREVIOUSLY BY THE TRIBAL COUNCIL**

A Resolution of the KLAWOCK COOPERATIVE ASSOCIATION Tribal Council representing 518 members.

WHEREAS: The KLAWOCK COOPERATIVE ASSOCIATION is a duly constituted "Indian Tribe" organized pursuant to the authority of the acts of Congress of June 18, 1934 (48 Stat.984) and May 1, 1936 (49 Stat.1250), and is recognized by the U.S.Government as being eligible for the programs and services provided by the Bureau of Indian Affairs to Indians because of their status as Indians; and

WHEREAS: The KLAWOCK COOPERATIVE ASSOCIATION adopted Resolution No. 93-01 approving the Gaming Ordinance of the Klawock Cooperative Association, and

WHEREAS: The KLAWOCK COOPERATIVE ASSOCIATION has been informed by Bertram E. Hirsh, the attorney representing the Klawock Cooperative Association that, in order to secure approval of said Gaming Ordinance by the National Indian Gaming Commission, section 1.03(6) of said Ordinance defining the term "gaming device" must be amended in order to conform to the definition of such term contained in the Johnson Act, 15 U.S.C. S1171.

THEREFORE BE IT RESOLVED, that section 1.03(6) of the Klawock Cooperative Association Gaming Ordinance be and it is hereby amended as follows:

(6) The term "gambling device" means -

(A) any so-called "slot machine," "progressive slot machine," "video game of chance" or any other machine or mechanical device an essential part of which is drum or reel with insignia thereon, and (i) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(B) any other machine or mechanical device (including, but not limited to, roulette wheels and similar devices) designed and manufactured primarily for use in connection with gambling, and (i) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(C) any subassembly or essential part intended to be used in connection with any such machine or mechanical device, but which is not attached to any such machine or mechanical device as a constituent part.

#### CERTIFICATION

I, Roseann Demmert, the undersigned, as President of the KLAUOCK COOPERATIVE ASSOCIATION, hereby certify that this Resolution was adopted by a vote of Ayes: 8, Nays: -0-, Abstain: -0-, during a legally called session of the Tribal Council on this 5th day of November, 1993.

ATTEST:

  
\_\_\_\_\_  
Roseann Demmert  
PRESIDENT

  
\_\_\_\_\_  
Philip Demmert  
Council Secretary



**Klawock Cooperative Association**

P.O. Box 112  
Klawock, Alaska 99925  
(907) 755-2265

**"Site of the First Salmon Cannery Built in Alaska"**

**RESOLUTION NO. 93-33**

**TITLE: AMENDMENT TO "INDIAN GAMING ORDINANCE 93-01"  
ADOPTED PREVIOUSLY BY THE TRIBAL COUNCIL**

A Resolution of the KLAWOCK COOPERATIVE ASSOCIATION Tribal Council representing 518 members.

WHEREAS: The KLAWOCK COOPERATIVE ASSOCIATION is a duly constituted "Indian Tribe" organized pursuant to the authority of the acts of Congress of June 18, 1934 (48 Stat.984) and May 1, 1936 (49 Stat.1250), and is recognized by the U.S.Government as being eligible for the programs and services provided by the Bureau of Indian Affairs to Indians because of their status as Indians; and

WHEREAS: The KLAWOCK COOPERATIVE ASSOCIATION adopted Resolution No. 93-01 approving the Gaming Ordinance of the Klawock Cooperative Association; and

WHEREAS: The KLAWOCK COOPERATIVE ASSOCIATION has been informed by Bertram E. Hirsch, the Attorney representing the Klawock Cooperative Association, that, in order to secure approval of said Gaming Ordinance by the National Indian Gaming Commission, section 1.03(8) of said Ordinance defining the term "Indian Land" must be amended in order to conform to the definition of such term contained in 25 C.F.R. § 502.12.

THEREFORE BE IT RESOLVED, that section 1.03(8) of the Klawock Cooperative Association Gaming Ordinance be and it hereby is amended as follows:

(8) The term "Indian Land" means -

(A) all lands of the Klawock Cooperative Association as may have Indian reservation status under federal law;

(B) all lands title to which is held in trust by the United States for the benefit of the Klawock Cooperative Association or any member of the Tribe and over which the Klawock Cooperative Association exercises governmental power, provided that the trust title existed on or before October 17, 1988;

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(C) all lands held by the Klawock Cooperative Association or any member of the Tribe subject to a restriction by the United States against alienation and over which the Klawock Cooperative Association exercises governmental power.

CERTIFICATION

I, Roseann Demmert, the undersigned, as President of the KLAWOCK COOPERATIVE ASSOCIATION, hereby certify that this Resolution was adopted by a vote of Ayes: 6, Nays:-0-, Abstain:-0-, during a legally called session on this 12th day of November, 1993.

ATTEST:

*Roseann Demmert*  
Roseann Demmert  
PRESIDENT

*Ernest Smith, Sr.*  
Ernest Smith, Sr.  
TREASURER

APPROVED

GAMING ORDINANCE OF THE  
KLAWOCK COOPERATIVE ASSOCIATION  
(ADOPTED JUNE , 1993)

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## CHAPTER 1

### GENERAL PROVISIONS

#### Section 1.01 Title.

This Ordinance shall be known as the Klawock Cooperative Association Gaming Ordinance.

#### Section 1.02 Purpose.

The purpose of this Ordinance is to regulate the conduct of class II and class III gaming activities conducted on Indian lands of the Klawock Cooperative Association to generate revenue for the operation of tribal government programs and services, promote tribal self-sufficiency and economic development, shield the operation of gaming from organized crime and other corrupting influences, and assure that gaming is conducted fairly and honestly by both the operator and players. This Ordinance shall supersede any prior gaming Ordinance.

#### Section 1.03 Definitions.

For purposes of this Ordinance -

(1) The term "class I gaming" means - (RESERVED).

(2) The term "class II gaming" means -

(A) the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith) -

(i) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,

(ii) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

(iii) 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, and

(B) card games that are -

(i) explicitly authorized by the laws of the State of Iowa, or

(ii) are not explicitly prohibited by the laws of the State of Alaska and are played at any location in the State of Alaska,

but only if such card games are played in conformity with those laws and regulations (if any) of such State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

(C) The term "class II gaming" does not include -

(i) any banking card games, including baccarat, chemin de fer, or blackjack (21), or

(ii) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

(3) The term "class III gaming" means all forms of gaming that are not class II gaming and includes but is not limited to, gambling devices, dice games, wheel games, card games, pari-mutuel wagering on horses and dogs, lotteries, sports betting pools and sports betting including parlay cards.

(4) The term "commission" means the Klawock Cooperative Association Gaming Commission.

(5) The term "distributor" means a person or entity that sells, leases, markets or otherwise distributes gambling games or implements of gambling which are usable in the lawful conduct of gambling games pursuant to this Ordinance, to a licensee authorized to conduct gambling games pursuant to this Ordinance.

(6) The term "gambling device" means video games of chance, progressive slot machines and slot machines.

(7) The term "gross receipts" means the total sums wagered and, when applicable, shall include the total sums received from non-gambling sales made on the premises of or in connection with the Tribe's gaming operation;

(8) The term "Indian land" means -

(A) all lands of the Klawock Cooperative Association as may have Indian reservation status under federal law;

(B) all lands title to which is held in trust by the United States for the benefit of the Klawock Cooperative Association or any member of the Tribe, provided that the trust title existed on or before October 17, 1988;

(C) all lands held by the Klawock Cooperative Association or any member of the Tribe subject to a restriction by the United

States against alienation and over which the Klawock Cooperative Association exercises governmental power; and

(D) all lands which may be acquired by the Klawock Cooperative Association in the future which meet the requirements, if applicable, of 25 U.S.C. §2719.

(9) The term "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; or,

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

(d) If not otherwise included, a person who has access to cash, tokens or chips, machine components or other gaming supplies or who has management, security or accounting responsibilities.

(10) The term "lottery" means a game for which chances are sold, the winning chance or chances being secretly predetermined or later selected in a chance drawing and in which the holders of winning chances receive money or something of value. The term "chance drawing" includes the identification of winning numbers or symbols by a mechanical, electronic or electromechanical device which makes the selection in a random manner. The term "lottery" includes keno, if conducted as a class III game, and the types of games actually being conducted by the Iowa Lottery unless the game is by definition a video game of chance or slot machine.

(11) The term "management contract" means any contract, subcontract, or collateral agreement between the Tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

(12) The term "manufacturer" means a person or entity that designs, assembles, fabricates, produces, constructs, or who otherwise prepares a product or a component part of a product of

any implement of gambling usable in the lawful conduct of gambling games pursuant to this Ordinance.

(13) The term "pari-mutuel" means a betting system in which all persons who bet share in an established prize pool of similar bets.

(14) The term "parlay cards" means a form of sports betting in which the player must correctly select the winners in a specified minimum number of events in order to win.

(15) The term "person having management responsibility for a management contract" means the person designated by the management contract as having management responsibility for the gaming operation, or a portion thereof.

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

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

(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; or

(d) If not otherwise included, a person who has access to cash, tokens or chips, machine components or other gaming supplies or who has management, security or accounting responsibilities.

(17) The term "progressive slot machine" means a slot machine with a payoff which increases as the slot machine is played.

(18) The term "slot machine" means a mechanical or electronic gaming device into which a player deposits coins or tokens and from which certain numbers or coins are paid out when a particular, random configuration of symbols appears on the reels or screen of the device.

(19) The term "sports betting" means the placing of bets or wagers on the outcome of any athletic event, sporting event or similar contest including, but not limited to, the playing of parlay cards.

(20) The term "sports betting pool" means a game in which numbers are randomly selected by the participants, and winners are determined by whether the numbers selected correspond to numbers relating to an athletic event in the manner prescribed by the rules of the game.

(21) The term "tribe" means the Klawock Cooperative Association.

(22) The term "video game of chance" means a game of chance played on microprocessor-controlled devices that simulate games commonly referred to as poker, blackjack, craps, hi-lo, keno, roulette, line-up symbols and numbers, pulltabs, or other electronic or electromechanical facsimiles of any game of chance which are activated by the insertion of a coin, token or currency and which award coins, additional plays or a written or displayed statement of the amount of a prize which is redeemable for cash.

**Section 1.04 Gaming activity ownership.**

The Tribe shall have the sole proprietary interest in and the sole responsibility for the conduct of any gaming activity on Indian lands. The Tribe shall have the sole control over any bank accounts holding any financial assets related to the Tribe's gaming operation.

**Section 1.05 Allocation of gaming net revenues.**

The net revenues from any gaming operation conducted by the Tribe pursuant to this ordinance shall be allocated only to -

- (1) fund tribal government operations or programs;
- (2) provide for the general welfare of the Tribe and its members;
- (3) promote tribal economic development;
- (4) donate to charitable organizations; or
- (5) help fund operations of local government agencies.

**Section 1.06 Gaming facility construction and maintenance; National Environmental Policy Act compliance.**

(a) The construction and maintenance of any gaming facility, as well as the operation of any gaming, by the Tribe shall be conducted in a manner which adequately protects the environment and the public health and safety.

(b) Whenever a management contract provides for the development and construction of gaming facilities, or parts thereof, any class II or class III gaming operation of the Tribe and any management contractor shall provide such readily available or obtainable environmental information as may be necessary to enable the National Indian Gaming Commission, or such other party as may be authorized by such Commission to prepare an environmental assessment or environmental impact statement, as the case may be.

**Section 1.07 Withholding tax on winnings.**

All winnings received or prizes awarded by a licensed class II or class III gaming operation are Klawock Cooperative Association earned income and are subject to Tribe and federal income tax laws. An amount deducted from winnings, or from a cash prize awarded to an individual, for payment of a tribal tax shall be remitted to the Tribe on behalf of the individual who won the wager or prize.

**Section 1.08 Civil jurisdiction; dispute resolution.**

(a) The Tribe shall exercise civil jurisdiction concurrent with the State of Alaska over all civil matters involving players of authorized class II or class III gaming, licensees and other persons and entities and that involve the transaction of any business on or within Indian land or on or within any other property related to class III gaming on Indian land or that involve a contract, wherever entered into, to supply goods or services on or within such property or that involve the commission of tortious acts on or within such property. The Tribe shall also exercise such concurrent civil jurisdiction over any person who commits a tortious act outside of Indian land provided that such person regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered on Indian land, or expects or should reasonably expect the act to have consequences on Indian land and derives substantial revenue from interstate or international commerce or from commerce with the Tribe.

(b) The Commission may require any person or entity licensed pursuant to this Ordinance or any other person or entity employed by or doing business with the Tribe's gaming operation as a patron or otherwise to contractually or otherwise agree, as a condition of employment or of doing business with the Tribe's gaming operation, that the Tribe shall have exclusive jurisdiction to determine any civil matter within the civil jurisdiction of the Tribe conferred by paragraph (a) of this section.

(c) Unless the Tribe has established an adjudicatory mechanism for the determination of civil matters in a manner that complies with the due process of law provisions of the Indian Civil Rights Act, 25 U.S.C. §1302(8), the Tribe shall not exercise the concurrent civil jurisdiction authorized under paragraph (a) of this section and the Commission shall not require any person or entity to agree that the Tribe shall have exclusive civil jurisdiction pursuant to paragraph (b) of this section.

(d) Any dispute between any member of the gaming public and the gaming operation or any management contractor that is not presented for resolution to an adjudicatory forum or to the Commission acting within the regulatory jurisdiction conferred upon it under this Ordinance, shall be resolved by the Tribal Council

or by an impartial mediator or arbitrator designated by the Tribal Council.

**Section 1.09 Federal law and Tribe-State compact compliance.**

Any provision of this Ordinance or of any rule or regulation issued pursuant thereto notwithstanding, the requirements of any applicable federal law or regulation or of any class III gaming compact between the Tribe and the State of Alaska shall govern whenever there is an inconsistency between this Ordinance and any rule or regulation issued thereunder and such federal law or regulation, or compact.

**Section 1.10 Agent for service.**

Unless otherwise designated by resolution of the Tribal Council, the Chairman of the Tribe shall be the agent of the Tribe for service of any official determination, order, or notice of violation by the National Indian Gaming Commission.

**CHAPTER 2**

**GAMING COMMISSION**

**Section 2.01 Gaming Commission; establishment; background investigation; waiver of background investigation; ineligibility.**

(a) There is hereby created the Klawock Cooperative Association Gaming Commission. The Commission shall consist of three members of the Tribe, all of whom shall be appointed by the Tribal Council for such term as the Council may determine. The Tribal Council shall designate one of the three commissioners to be the chairperson of the Commission.

(b) Appointments to the Commission shall be temporary pending the completion of a background investigation and verification that the appointee is eligible to serve on the Commission. Each person appointed by the Tribal Council to serve on the Commission shall file a sworn statement with the Tribal Council, within twenty (20) days following appointment, containing the information described in section 3.04(a). A current photograph and two (2) sets of fingerprints on forms commonly used by the Federal Bureau of Investigation shall be submitted with the sworn statement. The sworn statement shall include a waiver of any right of confidentiality and shall allow access to law enforcement records of the United States, any state and any tribe, extend to any financial or personnel record wherever maintained, and authorize the Commission to obtain information from other state and tribal gaming jurisdictions regarding license or permit applications or disciplinary actions, or conduct of the appointee in those jurisdictions. An appointee who knowingly makes a false, misleading

or erroneous statement in the sworn statement or in any other information provided to the Tribal Council is guilty of a serious misdemeanor.

(c) Upon receipt of the sworn statement, photograph, and fingerprints, the Council shall cause a thorough background investigation to be conducted to verify the truthfulness of the information provided and to ensure that the appointee is eligible for appointment. Background investigations may be conducted by the Federal Bureau of Investigation, by a criminal investigation agency of the State of Alaska or by another agency qualified to perform such an investigation. In conducting a background investigation, the identity of each person interviewed in the course of the investigation shall be kept confidential.

(d) The Tribal Council may waive the background investigation for persons appointed to the Commission whenever the Federal Bureau of Investigation, a criminal investigation agency of the State of Alaska or another agency qualified to perform such an investigation has completed a background investigation on the appointee, within the one year preceding the appointment, for and on behalf of -

(1) a gaming regulatory body of the State of Alaska, or

(2) a gaming regulatory body of the states of Iowa, Nevada, South Dakota or New Jersey,

and the results of such background investigation have been provided to the Tribal Council in sufficient detail to assure that the appointee is eligible to serve on the Commission. Whenever a full background investigation is waived under this paragraph, the Tribal Council may require that a background investigation be conducted to update and make current the background investigation report received from another gaming jurisdiction.

(e) A person shall be ineligible to serve as a Commissioner or as an employee of the Commission if such person has violated any rule or regulation of the Commission or has pled guilty to or has been convicted of any of the offenses listed below, if the Tribal Council determines that the circumstances of the violation of such rule or regulation or of the offense giving rise to the conviction make the person's service as a Commissioner or as an employee of the Commission a hazard to the regulation and conduct of gaming or may reasonably undermine the public confidence in the integrity of the gaming conducted by the Tribe.

(1) Offenses related to bookkeeping; or

(2) Offenses related to gambling; or

(3) Offenses related to cheating, theft, or to any fraud or deception while participating in gaming activities or otherwise;

or

(4) Offenses related to the use of an alias; or

(5) Offenses that are felonies and are drug-related; or

(6) Offenses that are a serious or aggravated misdemeanor, including violations of this Ordinance.

If a conviction occurred within the last five (5) years, the person shall be ineligible to serve as a Commissioner or to be employed by the Commission. In the event that the Tribal Council determines that sufficient evidence of rehabilitation exists, the Tribal Council may appoint a person to the Commission or authorize the Commission to employ a person who has been convicted within the last five (5) years of one of the offenses described herein.

If charges are pending against a Commissioner or an employee of the Commission which, if resulting in a conviction, would disqualify the Commissioner or employee from serving on or employment with the Commission, the Commissioner or employee shall be suspended pending the disposition of the charges.

(f) The Tribal Council shall not appoint to the Commission and the Commission shall not employ any person determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations 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, methods and activities in the conduct of gaming. If the Tribal Council makes such a determination with respect to a person temporarily appointed to the Commission, the appointment shall be immediately terminated and such person shall not be entitled to the hearing provided for in section 2.02(f).

(g) The Tribal Council shall not appoint to the Commission and the Commission shall not employ any person who has knowingly made a false statement to the Tribal Council.

(h) If, after the end of any period of temporary appointment to or after employment by the Commission, the Tribal Council receives reliable information indicating that a Commissioner or employee of the Commission, is not eligible to serve on the Commission or to be employed by the Commission, the Tribal Council shall suspend such Commissioner or employee and shall notify such Commissioner or employee in writing of the suspension and proposed termination of appointment or employment. The notice shall include a time and place for a hearing, in accordance with section 2.02(f) on the proposed termination.

(i) The Tribal Council, after the end of any period of temporary appointment to the Commission, shall revoke any

appointment to the Commission and the Commission shall terminate the appointment of any employee upon the happening of any event which would have made the Commissioner or employee ineligible for appointment or employment if the event had occurred prior to such appointment or employment, or if the Commissioner or employee of the Commission violates or permits a violation of a provision of this Ordinance or of a rule or regulation adopted by the Commission. Whenever termination of the appointment of a Commissioner or of the employment of an employee of the Commission is based on ineligibility for such appointment or employment, the Commissioner or employee, as the case may be, shall not be entitled to the hearing provided for in section 2.02(f).

**Section 2.02 Restrictions on Commissioners and Commission employees; conflict of interest; removal from office.**

(a) No member of the gaming Commission or any employee of the Commission or a member of their immediate family may be a license holder under this Ordinance, except that such immediate family members shall be eligible to apply for an employee license under section 3.07 of this Ordinance.

(b) No member of the Commission or any employee of the Commission or a member of their immediate family, directly or indirectly, individually, or as a member of a partnership or other association, or as a shareholder, director, or officer of a corporation shall have an interest in a business which contracts for the operation and management of the Tribe's gaming operation, or any marketing or supplying of equipment and materials in connection therewith.

(c) A member of the Commission or any employee of the Commission or a member of their immediate family shall not ask for, offer to accept, or receive a gift, gratuity, or other thing of value from a person or entity licensed under this Ordinance or from a person or entity contracting or seeking to contract with the Tribe's gaming operation for the operation and management of such operation or to supply gaming equipment or materials.

(d) A person or entity licensed under this Ordinance or a person or entity contracting or seeking to contract with the Tribe's gaming operation for the operation and management of such operation or to supply gaming equipment or materials shall not offer a member of the Commission or any employee of the Commission or a member of their immediate family a gift, gratuity, or other thing of value.

(e) As used in this section, "member of their immediate family" means a spouse, child, stepchild, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, parent, parent-in-law, or stepparent of the Commissioner or employee.

(f) Whenever there is reasonable cause to believe that a Commissioner or employee of the Commission has violated any provision of this Ordinance or any rule or regulation promulgated pursuant thereto, the Tribal Council shall immediately suspend such Commissioner or employee. Within five (5) days following any suspension, the Tribal Council shall notify the Commissioner or employee of the alleged violation and of a hearing before the Tribal Council or its designee. Unless a suspended Commissioner or employee resigns or is cleared of any wrongdoing before a hearing is held, the Tribal Council or its designee shall conduct a hearing on the alleged violation no later than thirty (30) days following the date of suspension, provided that the Chairman of the Tribe may extend this time for not more than an additional thirty (30) days if an investigation of the alleged violation has not been completed.

(1) At any hearing, a suspended Commissioner or employee shall have an opportunity to be heard, including an opportunity to present oral and documentary evidence, cross-examine witnesses and present oral arguments within limits established by the Tribal Council.

(2) When holding a hearing under this subsection, the Tribal Council or the Tribal Council's designee may administer oaths and affirmations, issue subpoenas to compel the attendance of witnesses or procure the production of documents, and take such other action as may be necessary to conduct the hearing in a manner most likely to result in a fair disposition.

(3) Whenever a preponderance of the evidence introduced at a hearing supports the conclusion that a Commissioner or an employee of the Commission has violated any provision of this Ordinance or any rule or regulation promulgated pursuant thereto, such Commissioner or employee shall be permanently removed from the office of Commissioner or the position of employee, as the case may be, and shall be permanently ineligible from appointment as a Commissioner and from employment by the Commission.

(g) A violation of paragraphs (a), (b), (c) and (d) of this section is a serious misdemeanor.

### Section 2.03 Gaming Commission; powers.

The Commission shall supervise all gambling operations governed by this Ordinance. The commission may adopt such rules and regulations as it may deem necessary to carry out the provisions of this Ordinance and shall have the following powers:

(1) To identify occupations within the Tribe's gaming operation which require licensing and adopt standards for licensing the occupations including establishing fees and durational terms

for the occupational licenses;

(2) To investigate applicants and determine the eligibility of applicants for a license;

(3) To license any person, employee, agent or contractor working in or for the Tribe's gaming operation who requires a license, to license any person, organization or entity selling, leasing or otherwise distributing gambling equipment to the Tribe's gaming operation, including establishing fees and durational terms for such licenses;

(4) To investigate and approve any contractors of the Tribe's gaming operation, or any ancillary contractors of any management contractor, who provide supplies, services, concessions or property to the Tribe's gaming operation or to any management contractor in connection therewith;

(5) To limit, condition, suspend, restrict or revoke any license it may issue, and assess fines;

(6) To adopt standards, including game rules, under which all gambling operations shall be held, including regulation of the prize and wagering structure in accordance with the applicable provisions, if any, of any class III gaming compact between the Tribe and the State of Alaska entered into pursuant to federal law;

(7) To inspect and examine all premises wherein gaming is conducted or gambling devices or equipment are manufactured, sold, or distributed;

(8) To inspect all equipment and supplies in, upon or about a gaming operation, or inspect any equipment or supplies, wherever located, which may or have been used in the gaming operation;

(9) To summarily seize and remove from a gaming establishment and impound equipment, supplies, and other property for the purpose of examination, inspection, evidence or forfeiture;

(10) To enter the office, facilities, or other places of business of a licensee to determine compliance with this Ordinance;

(11) To access upon demand and inspect, examine, copy and audit all papers, books and records of applicants and licensees respecting any revenue or income produced by any gaming business;

(12) To require verification of the daily gross revenues and income of any licensed gaming activity, and verification of all other matters affecting the enforcement of the policy of or any of the provisions of this Ordinance;

(13) To seize and impound any patron's winnings which the

Commission may have reason to believe may have been won or obtained in violation of this Ordinance or any other law pending a civil forfeiture hearing on such seizure and/or a criminal proceeding in connection therewith;

(14) To investigate alleged violations of this Ordinance, the Commission rules, regulations, orders or final decisions, any class III gaming compact entered into between the Tribe and the State of Alaska, and any other applicable laws, and to take appropriate disciplinary action, including the imposition of civil fines, against a licensee or any employee of a licensee for the violation, or institute appropriate legal action for enforcement, or both;

(15) To require the suspension, revocation or other appropriate disposition of the license of a licensee for a violation by the licensee or an employee of the licensee of this Ordinance or a Commission rule or regulation or for engaging in a fraudulent practice;

(16) For the purpose of enforcing the provisions of this Ordinance, to exercise the powers of a peace officer of the Tribe;

(17) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent documents, and administer oaths and affirmations to the witnesses, when, in the judgment of the Commission, it is necessary to enforce this Ordinance or the rules and regulations of the Commission;

(18) To determine the payouts from the gambling games authorized under this Ordinance and to set the payout rate for all slot machines, such payout rate to be in accordance with any applicable requirements of the compact between the Tribe and the State of Alaska governing class III gaming on Indian lands of the Tribe;

(19) To provide for the continuous videotaping of all gambling activities conducted at the Tribe's gaming operation under guidelines set by rule of the Commission;

(20) To provide for adequate security at the Tribe's gaming operation;

(21) To adopt such rules and regulations as may be necessary to carry out the provisions of this Ordinance and the responsibilities of the Tribe under any applicable federal law and any class III gaming compact entered into between the Tribe and the State of Alaska; and

(22) To take any other action as may be reasonable and appropriate to enforce this Ordinance and the rules and regulations of the Commission.

**Section 2.04 Commission approval of non-management contracts.**

All contracts entered into by the Tribe's gaming operation or by any management contractor on behalf thereof must be approved by the Commission if the contract:

(1) Exceeds the value of \$5,000.00 in any 12-month period.

(2) Is a contract in which any employee, agent or contractor, including any management contractor employed by the Tribe or by the Tribe's gaming operation, or any officer or director of any such management contractor or of any parent company thereof has either a direct or indirect economic or beneficial interest.

**Section 2.05 Minimum standards for inspection and approval of gambling devices and other gaming equipment.**

(a) Prior to the installation and use of a gambling device and other gaming equipment, the Commission shall inspect, test and consider the gambling device or other gaming equipment for approval. The Commission shall not approve a gambling device or other gaming equipment unless the tests or inspection conducted indicate that such gambling device or other gaming equipment meets the minimum standards established by the Commission consistent with any applicable provisions of a class III gaming compact entered into between the Tribe and the State of Alaska.

(b) The Commission may waive the inspection and testing requirements of this section for any gambling device whenever an identical gambling device is currently approved for use by -

(1) a gaming regulatory body of the State of Alaska, or

(2) by a gaming regulatory body of the states of Iowa, Nevada, South Dakota or New Jersey, and the test results from such jurisdictions show that the gambling device meets the standards established pursuant to subsection (a). The test results indicating that the device complies with the applicable standards must be submitted to the Commission and the manufacturer of the gambling device must certify to the Commission and, if required by a class III gaming compact entered into between the Tribe and the State of Alaska, to the State of Alaska that each gambling device to be shipped complies in all respects with such standards.

(c) The Commission may require a prototype or sample of any model of gambling device or other gaming equipment used in the Tribe's gaming operation to be placed and retained in its custody as a control for comparison purposes.

(d) Any evidence that gambling devices or other gaming equipment used in the Tribe's gaming operation has been tampered

with or altered in any way that would affect the integrity, fairness, honesty or suitability of the device or equipment shall be reported to the Commission.

**Section 2.06 Monthly commission reports.**

The Commission shall make a monthly report to the Tribal Council. The report shall include a full and complete statement of gaming revenues paid to the Tribe and to any management contractor, expenses and all other financial transactions of the Commission, a summary of all licensing and enforcement actions, such other information as to which the Commission may wish to advise the Council, and information on any other matters requested by the Council.

**Section 2.07 Employee, agent, contractor employment records.**

The Commission shall retain applications for licensure or other employment in connection with the Tribe's gaming operation, reports of background investigations, if any, and other employee, agent or contractor records for a period no less than three (3) years from the date of termination of such employment as an employee, agent or contractor.

**Section 2.08 Commission records.**

(a) Gaming information and records enumerated in this section are confidential and may not be disclosed except pursuant to court order. No person may use a subpoena, discovery or other applicable statutes to obtain such information or records. Information and records considered confidential include:

(1) Tax returns of individual licensees;

(2) Applications, credit, medical and security reports of applicants for licenses and of other persons seeking or doing business with the Commission;

(3) Marketing, financial or sales data, the disclosure of which may be harmful to the competitive position of the Tribe's gaming operation, its licensees or persons seeking or doing business with the Commission; and

(4) Audit work papers, worksheets and auditing procedures used by the Commission, its agents or employees.

(b) Nothing in this section shall be construed to prohibit the Commission from disclosing information and records in accordance with the provisions of any class III gaming compact entered into between the Tribe and the State of Alaska, or with any applicable federal law or regulation.

**Section 2.09 Public availability of Commission rules and regulations.**

All rules and regulations, including game rules, issued or approved by the Commission shall be available to any person making a request for such.

**Section 2.10 Methods of service.**

(a) The Commission shall serve any official determination, order, or notice of violation on licensees, including employees, agents and contractors doing business at or with the Tribe's gaming operation, and others within the jurisdiction of the Commission, by:

(1) Delivering a copy to a designated agent;

(2) Delivering a copy to the person or entity that is the subject of the official determination, order, or notice of violation;

(3) Delivering a copy to the individual who, after reasonable inquiry, appears to be in charge of the gaming operation or such other entity that is the subject of the official determination, order, or notice of violation;

(4) Mailing to the person or entity that is the subject of the official determination, order, or notice of violation or to his or her or its designated agent at the last known address. Service by mail is complete upon mailing; or

(5) Transmitting a facsimile to the person or entity that is the subject of the official determination, order, or notice of violation or to his or her or its designated agent at the last known facsimile number. Service by facsimile is complete upon transmission.

(b) Delivery of a copy means: Handing it to the attorney or designated agent (or attorney for either); leaving a copy at the person's, entity's, agent's or attorney's office with a clerk or other person in charge thereof; if there is no one in charge, leaving it in a conspicuous place therein; if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or, if the entity cannot otherwise be served, handing it to or leaving a copy with a principal, officer, board member, or majority stockholder.

(c) Service shall not be deemed incomplete because of refusal to accept.

## CHAPTER 3

### LICENSING AND EMPLOYMENT

Section 3.01 Licensing employees, agents, contractors - management, security and accounting personnel - gambling equipment distributors; employment without a license.

(a) Any employee, agent or contractor working in or for the Tribe's gaming operation who has access to cash, tokens or chips, machine components or other gaming supplies or who has management, security or accounting responsibilities, or any person, organization or entity selling, leasing, marketing or otherwise distributing gambling equipment, games or implements of gambling to the Tribe's gaming operation shall be required to have and display prominently, or display upon request, an appropriate, valid and current tribal license to do business at or with the Tribe's gaming operation.

For the purposes of this section, each person or entity having a direct financial interest in or management responsibility for a management contract, including

(1) each member of the board of directors and each officer of a management contractor,

(2) the ten (10) persons who have the greatest direct or indirect financial interest in a management contract and/or in an entity that is a party to a management contract,

(3) in the case of a corporation or other entity that is a party to or has a financial interest in a management contract, each shareholder who directly or indirectly owns 10 percent or more of the issued and outstanding stock of the corporation, or is one of the ten (10) largest holders of such stock, alone or in combination with another stockholder who is a spouse, parent, child or sibling,

(4) in the case of a trust that is a party to or has a financial interest in a management contract, each beneficiary or trustee,

(5) in the case of a partnership that is a party to or has a financial interest in a management contract, each partner,

(6) in the case of an entity, other than a natural person, that has an interest in a trust, partnership or corporation that has an interest in a management contract, all parties of that entity, and

(7) any other person, designated by the Commission, with

a direct or indirect financial interest in a management contract shall be considered to have management responsibilities.

(b) Any person required to be licensed under subsection (a) may be employed by the Tribe's gaming operation without such licensure for a period not to exceed ninety (90) days, except that in the case of any person who is not a key employee or primary management official, the Commission may approve up to an additional thirty (30) days of employment if the completion of the background investigation is pending at the expiration of the ninety (90) day period, provided that prior to the commencement of employment each such person has completed and submitted to the Commission the license application required under section 3.04(a).

(1) Whenever the gaming operation approves the employment of a key employee or primary management official under this subsection, no later than the first day that such person commences employment, the gaming operation shall forward such person's completed license application to the National Indian Gaming Commission.

(2) Whenever the gaming operation approves the employment of a key employee or primary management official under this subsection, no later than the first day that such person commences employment, the Commission shall begin to conduct the background investigation required by section 3.06 to determine the eligibility of such person for continued employment in the gaming operation. Within sixty (60) days after a key employee or primary management official commences employment without a license, the Commission shall forward to the National Indian Gaming Commission the investigative report required by section 3.06(a).

(c) No gaming license for a key employee or primary management official to do business at or with the Tribe's gaming operation shall be issued by the Commission until after the National Indian Gaming Commission has provided the Tribe with

(1) a notice that it has no objection to the issuance of a license to such key employee or primary management official, or

(2) a statement itemizing objections to the issuance of a license to such key employee or primary management official and the Commission has reconsidered such person's application taking such objections into account.

### Section 3.02 License eligibility requirements.

In order to be eligible for a license to conduct business at the Tribe's gaming operation, applicants must:

(1) be at least eighteen (18) at the time of their employment

at the Tribe's gaming operation;

(2) be of good repute and moral character;

(3) not have been denied a gaming license by the Tribe, the State of Alaska or any other gaming licensing jurisdiction, or currently have a gaming license which has been suspended by the Tribe, the State of Alaska or any other gaming licensing jurisdiction, or have had a gaming license revoked by the Tribe, the State of Alaska or any other gaming licensing jurisdiction;

(4) not be employed in any part-time or full-time employment with a government or private employer in any capacity which would create a conflict of interest between the applicant's employment and the interests and objectives of the licensed employment; and

(5) not be ineligible for a license under section 3.03 of this Ordinance.

**Section 3.03 License ineligibility; suspension; revocation; employment ineligibility.**

(a) The Commission shall not issue a license to any person or entity that has refused to sign the waiver of confidentiality required under section 3.04(a).

(b) The Commission may find an applicant ineligible for a license and deny, suspend, or revoke the license of any applicant who has violated any rule or regulation of the Commission or has pled guilty to or has been convicted of any of the offenses listed below, if the Commission determines that the circumstances of the violation of such rule or regulation or of the offense giving rise to the conviction make the applicant's presence at the Tribe's gaming operation a hazard to the regulation and conduct of gaming or may reasonably undermine the public confidence in the integrity of the gaming conducted at such operation.

(1) Offenses related to bookkeeping; or

(2) Offenses related to gambling; or

(3) Offenses related to cheating, theft, or to any fraud or deception while participating in gaming activities or otherwise; or

(4) Offenses related to the use of an alias; or

(5) Offenses that are felonies and are drug-related; or

(6) Offenses that are a serious or aggravated misdemeanor, including violations of this Ordinance.

If a conviction occurred within the last five (5) years, the

license shall be denied. If conviction occurred within the last ten (10) years, a license may be issued if the Commission determines that sufficient evidence of rehabilitation exists.

The Commission shall temporarily deny a license and shall suspend an existing license if charges are pending against an applicant which, if resulting in a conviction, would disqualify the applicant from receiving or holding a license.

(c) The Commission shall not issue a license to any person or entity determined to be a person or entity whose prior activities, criminal record, if any, or reputation, habits and associations 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, methods and activities in the conduct of gaming. No licensed gaming operation shall employ such a person in any capacity.

(d) The Commission shall not issue a license to any person or entity that has knowingly supplied materially false or misleading information to the Commission, or who has omitted required material information from such person's or entity's license application, and may deny a license to any person or entity that has made any false statement in the license application.

(e) The Commission shall fine, revoke, suspend, limit or refuse to renew the license of any person or entity upon a determination that such person or entity delayed, maneuvered or took any action, or attempted to delay, maneuver or take any action to unlawfully divert gaming or other proceeds properly belonging to the Tribe.

(f) The Commission shall fine, revoke, suspend, limit or refuse to renew the license of any person or entity having management responsibilities at the Tribe's gaming operation upon a determination that such person or entity failed to notify the Commission of any new prospective employee, agent or contractor who, upon employment is to have access to cash, tokens or chips, machine components or other gaming supplies or who is to have management, security or accounting responsibilities.

(g) The Commission shall fine, revoke, suspend, limit or refuse to renew the license of any person or entity having management responsibilities at the Tribe's gaming operation upon a determination that such person or entity failed to notify the Commission of any proposed or actual ancillary contractors who provide supplies, services, concessions or property to the Tribe's gaming operation or to the management contractor in connection therewith, as the case may be, and secure the approval of the Commission for the employment of such contractor.

(h) Except as otherwise provided in section 3.01(b), the

employment of any person required to have a license in order to conduct business at the Tribe's gaming operation as an employee, agent or contractor shall automatically terminate if such employee, agent or contractor is not licensed 90 days following the commencement of employment.

(i) If, after the issuance of a gaming license, the Commission receives reliable information indicating that an employee, agent or contractor is not eligible to have a license to conduct business at the Tribe's gaming operation, the Commission shall suspend such license and shall notify the licensee in writing of the suspension and proposed revocation. When the suspension involves a key employee or primary management official or any employee, agent or contractor who has access to cash, tokens or chips, machine components or other gaming supplies or who has management, security or accounting responsibilities, the notice shall include a time and place for a hearing on the proposed license revocation. After a revocation hearing, the Commission shall notify the National Indian Gaming Commission of its decision to revoke or to reinstate the license. The Commission may act to revoke or reinstate the license of any other licensee under such procedures as it may determine appropriate.

(j) The Commission shall revoke and refuse to renew an existing license upon the happening of any event which would have made the licensee ineligible for a license if the event had occurred prior to the issuance of the license, or if the licensee knowingly made a false statement on the license application, or if the licensee or an agent of the licensee violates or permits a violation of a provision of this Ordinance or of a rule or regulation adopted by the Commission.

(k) A former licensee whose license is revoked is not eligible to receive another license.

**Section 3.04 License application requirements; Privacy Act and false statements notices to key employees and primary management officials.**

Any person, organization or entity required under section 3.01 to secure a license in order to conduct business at the Tribe's gaming operation must apply for the appropriate license at least thirty (30) days prior to conducting such business or as otherwise allowed in the discretion of the Commission and in accordance with section 3.01(b). The application shall be sworn.

(a) **Employee, agent or contractor license application.** The license application of any person or entity required to have a license in order to conduct business at the Tribe's gaming operation as an employee, agent or contractor shall contain, at a minimum, the following information about the applicant:

(1) Full name, including other names used (oral or written);

(2) Date of birth and place of birth;

(3) Social security number(s);

(4) Citizenship(s), including tribal affiliation(s);

(5) Gender;

(6) All languages (spoken or written);

(7) Whether the applicant has an addiction to alcohol or a controlled substance;

(8) Whether the applicant has a history of mental illness or repeated acts of violence;

(9) Physical description;

(10) Residence(s) addresses since age eighteen (18), including for the previous ten (10) years and including the city, state and country;

(11) Employment history since age eighteen (18), including for the previous 5 years, businesses and employment positions held, ownership interests in those business, and business addresses, including business addresses for the previous ten (10) years;

(12) Drivers license numbers for the previous 5 years;

(13) Current business and residence telephone numbers;

(14) Criminal history, including major traffic offenses, and including the date and place of any felony or misdemeanor (excluding minor traffic violations) arrest, the charge, details surrounding any arrest or charges, the name and address of the court involved, the disposition of any charges filed and the dates of any prosecution and disposition;

(15) Whether the applicant has ever held or applied for a professional or occupational license or permit issued by any state, Indian tribe or any other jurisdiction, the jurisdiction in which the license or permit was issued or applied for, the name and address of any licensing or regulatory agency with which the application for a professional or occupational license or permit was filed, the type of license or permit, the license or permit number, and the details surrounding any denial of the license or permit or the withdrawal of the application therefor, the details surrounding any suspension, revocation, or other disciplinary

action taken based on the license or permit, and if not current, the reason it is not current;

(16) Whether the applicant has ever held or applied for a gambling related license or permit issued by any state, Indian tribe or any other jurisdiction, the jurisdiction in which the license or permit was issued or applied for, the name and address of any licensing or regulatory agency with which the application for a license or permit related to gaming was filed, the type of license or permit, the license or permit number, the details surrounding any denial of the license or permit or the withdrawal of the application therefor, the details surrounding any suspension, revocation, or other disciplinary action taken based on the license or permit, and if not current, the reason it is not current;

(17) Whether the applicant has ever had any experience related to any agreement with any gaming operation, the exact nature of the applicant's role in the operation, the name and address of all parties to the agreement, the place the agreement was performed, and the dates covered by the agreement;

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

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

(20) A complete financial statement showing all sources of income for the previous three (3) years, and including assets, liabilities, and net worth as of the date of submission;

(21) Whether the applicant has ever been an investor in any gaming operation, the exact nature of the investment, the name and address of all other investors holding (directly or indirectly) an interest of ten (10) percent or more in the gaming operation, and the name and address of the gaming operation; and

(22) Names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (a)(10) of this section.

The applicant will also be required to submit with the application a current photograph and two (2) sets of fingerprints on forms commonly used by the Federal Bureau of Investigation, as well as any other information deemed relevant or requested, either orally or in writing, by the Commission.

The application shall include a waiver of any right of confidentiality and shall allow access to law enforcement and

regulatory agency records of the United States, any state, any tribe, and any foreign government, extend to any financial or personnel record wherever maintained, and authorize the Commission to obtain information from other state and tribal gaming jurisdictions regarding license or permit applications or disciplinary actions, or conduct of the applicant or any of its shareholders, partners, agents, or employees in those jurisdictions. The waiver shall also authorize the Tribe to disclose any of the information contained in the application to appropriate federal, tribal, state, or foreign law enforcement and regulatory agencies in connection with a background investigation or when relevant to civil, criminal or regulatory investigations or prosecutions or investigations of activities associated with a gaming operation.

For the purposes of this subsection, applicant includes each member of the board of directors and each officer of a management contractor.

A person who knowingly makes a false, misleading or erroneous statement on the application or in any statement attached to the application is guilty of a serious misdemeanor.

**(b) Management contractor license application.**

(1) In addition to the applicable information required under subsection (a), where the applicant for a management contract is an entity, the application shall state:

(i) Applicant's name and address;

(ii) Name and address of applicant's parent company, if any;

(iii) Names and addresses of each person comprising such entity or parent entity who has a direct financial interest in, or management responsibility for, the management contract. For each such person, the application shall include the information required under subsection (a);

(iv) Names and addresses of each director, officer, stockholders who hold (directly or indirectly) 10 percent or more of the issued and outstanding stock, and other owners who hold (directly or indirectly) 10 percent or more of the ownership interest in such applicant entity and in the applicant's parent company, if any, including the beneficiary or trustee of any trust, and any partner. For each such person, the application shall include the information required under subsection (a);

(v) Whether the applicant has ever failed to meet a monetary obligation in connection with any gambling operation;

(vi) Name and address of all proposed or actual ancillary contractors who provide supplies, services, concessions or property to the Tribe's gaming operation or to the management contractor in connection therewith. If the identity of any such contractor is not known at the time the application is submitted, the management contractor shall have a continuing duty throughout the term of any management contract to provide this information to the Commission;

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

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

(ix) Criminal history, including the date and place of any felony or misdemeanor charge, details surrounding any arrest or charges, the name and address of the court involved, the disposition of any charges filed and the date of disposition; and

(x) Whether the entity has ever held or applied for a gambling related license or permit issued by any state, Indian tribe or any other jurisdiction, the jurisdiction in which the license or permit was issued or applied for, the name and address of any licensing or regulatory agency with which the application for a license or permit related to gaming was filed, the type of license or permit, the license or permit number, the details surrounding any denial of the license or permit or the withdrawal of the application therefor, the details surrounding any suspension, revocation, or other disciplinary action taken based on the license or permit, and if not current, the reason it is not current;

(2) The application shall also include

(i) Copies of documents establishing the existence of the entity, such as the partnership agreement, the trust agreement, or the articles of incorporation;

(ii) Copies of documents designating the person who is charged with acting on behalf of the entity;

(iii) Copies of bylaws or other documents that provide the day-to-day operating rules for the organization; and

(iv) Complete financial statements showing all sources of income for the previous three (3) fiscal years, and including assets, liabilities, and net worth as of the date of submission.

(iv) Complete financial statements for the previous three (3) fiscal years.

(3) Each entity required to submit information under this section shall sign and submit the following statement:

A false statement knowingly and willfully provided in any of the information pursuant to this section may be grounds for not approving the contract in which we have a financial interest, or for disapproving or voiding such contract after it is approved by the Chairman of the National Indian Gaming Commission. Also, we may be punished by fine or imprisonment (U.S. Ordinance, title 18, section 1001).

(c) Seller, lessor or distributor license application. The license application of any person, organization or entity for a license to sell, lease, market or otherwise distribute gambling games, implements or equipment to the Tribe's gaming operation shall contain, at a minimum, the following information about the applicant:

(1) Name(s) and mailing address of the person or entity making the application;

(2) Names and addresses of all parties having a direct or indirect financial interest in or with respect to the applicant and their interest in and connection to the applicant;

(3) Type of activity to be engaged in under the license;

(4) Explicit and detailed disclosure of any criminal record, including any delinquent taxes owed to the federal or any state government by the applicant, any person holding a managerial position or ownership interest in the applicant organization, and any party of interest whose name appears on the application;

(5) Whether the applicant is licensed by any Indian tribe, the State of Alaska or any other State to sell, lease or otherwise distribute gambling equipment together with proof that the applicant holds a current and valid distributor or manufacturer license from either the States of Iowa, New Jersey, Nevada or South Dakota;

(6) Whether the applicant has ever had a distributor or manufacturer license revoked or suspended by an Indian tribe or by the state that issued the license and, if so, the circumstances surrounding the Indian tribe's or state's action; and

(7) A statement of waiver authorizing the Commission and/or

the State of Alaska to conduct a background investigation of the applicant and any person whose name is required to appear on the application.

The Commission, in its discretion, may waive the requirements of this subsection if the applicant presents proof and the Commission verifies that the applicant holds a current and valid distributor or manufacturer license from either the States of Alaska, Iowa, New Jersey, Nevada or South Dakota, provided that such applicant is not the subject of any investigation or other action that could result in the suspension or revocation of such license.

(d) **Licensee consent to tribal civil and criminal jurisdiction.** The application for each type of license described in this section shall require the applicant to execute an acknowledgement that licensure pursuant to the provisions of this Ordinance constitutes the applicant's formal acquiescence to the civil jurisdiction of the Tribe. Whenever the applicant is an Indian, whether or not a member of the Tribe, the acknowledgement shall express the applicant's formal acquiescence to the civil and criminal jurisdiction of the Tribe. The acknowledgement shall be stated in bold face and with each letter of each word capitalized.

(e) **License application Privacy Act and false statements notices.** The application for each type of license described in this section shall contain the following notices:

(1) **Privacy Notice.**

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, 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 the Tribe or another tribe being unable to hire you in a primary management official or key employee position.

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

**(2) Notice regarding false statements.**

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment (U.S. Ordinance, title 18, section 1001).

**(f) Notice to existing key employees and primary management officials regarding Privacy Act compliance.** The Commission shall notify in writing all existing key employees and primary management officials whose license applications did not include the privacy notice required under subsection (a) that each such employee or official shall sign a statement that contains the notice regarding false statements.

**(g) Notice to existing key employees and primary management officials regarding false statements.** The Commission shall notify in writing all existing key employees and primary management officials whose license applications did not include the notice regarding false license application statements required under subsection (a) that each such employee or official shall sign a statement that contains the Privacy Act notice and that consents to the routine uses described in that notice.

**Section 3.05 License application fees.**

The Commission shall set a fee to defray the costs associated with application processing, the search and classification of fingerprints and background investigations. The Commission shall not authorize the search and classification of fingerprints or begin any background investigation until it receives a deposit from the license applicant to cover the initial costs of the background investigation, including the search and classification of fingerprints. The fees may be periodically adjusted for each application to assure that the administrative and other costs of reviewing and investigating each application are covered by the license applicant. The license applicant shall be billed for the costs of the investigation as it proceeds. The investigation shall be stopped if the unpaid costs exceed the amount of the deposit available. All fees shall be made payable to the Tribe.

**Section 3.06 Commission background investigation; federal notification of results; waiver of background investigation.**

(a) Upon receipt of an application for a license to conduct business at or with the Tribe's gaming operation as an employee, agent or contractor, the Commission, prior to the issuance of any license, shall cause a thorough background investigation to be conducted on the applicant to verify the truthfulness of the information provided by the applicant and to ensure that persons and entities licensed by the Commission are eligible for licensure. Background investigations may be conducted by the Federal Bureau of Investigation, a criminal investigation agency of the State of Alaska or by another agency qualified to perform such an investigation. The background investigation shall include a criminal history check by a law enforcement agency conducted, at a minimum, by submitting the license applicant's fingerprints to the Federal Bureau of Investigation for a check of its criminal history records and by checking all other available non-duplicative criminal history data bases, archives or files. In conducting a background investigation, the identity of each person interviewed in the course of the investigation shall be kept confidential. Upon completion of any background investigation and before the issuance of a license to any employee, agent or contractor, the Commission shall forward to the National Indian Gaming Commission an investigative report on each background investigation, including the steps taken in conducting the background investigation, the results of the investigation, the conclusions reached and the bases for those conclusions, and whether the license applicant was found eligible for licensure and employment in the Tribe's gaming operation. The Commission shall also submit management contractor background investigation results to the State of Alaska in accordance with the applicable provisions of any class III gaming compact entered into between the Tribe and the State.

(b) The Commission may waive any background investigation required under this section whenever the Federal Bureau of Investigation, a criminal investigation agency of the State of Alaska or another agency qualified to perform such an investigation has completed a background investigation on the license applicant, within the one year preceding the date of the application, for and on behalf of -

(1) a gaming regulatory body of the State of Alaska, or

(2) a gaming regulatory body of the states of Iowa, Nevada, South Dakota or New Jersey,

and the results of such background investigation have been provided to the Commission in sufficient detail to assure that the applicant is eligible for licensure. Whenever a full background investigation is waived under this paragraph, the Commission may require that a

background investigation be conducted to update and make current the background investigation report received from another gaming jurisdiction.

### **Section 3.07 Classes of licenses.**

Upon proper application and approval, the following classes of licenses may be issued by the Commission:

(1) **Class II gaming activity license.** There shall be no fee for this license. The license shall be site specific and shall be valid until revoked or cancelled by the Commission or the Tribal Council.

(2) **Class III gaming activity license.** There shall be no fee for this license. The license shall be site specific and shall be valid until revoked or cancelled by the Commission or the Tribal Council.

(3) **Management contractor license.** The fee for such a license shall be \$1,000.00. The license shall be site specific and shall be valid for a period of one year subject to renewal for the term of any valid management contract. The holder of such a license shall be entitled to manage and operate the Tribe's class II or class III gaming operation on Indian lands subject to the ordinances and regulations of the Tribe and the Commission.

(4) **Key employee or primary management official license.** Any employee, agent or contractor working in or for the Tribe's gaming operation who has access to cash, tokens or chips, machine components or other gaming supplies or who has management, security or accounting responsibilities must obtain such a license. The license shall be valid for a period of one year and shall have a license fee of \$50.00.

(5) **Employee license.** Any employee, not licensed as a key employee or primary management official, must obtain such a license. The license shall be valid for a period of one year and shall have a license fee of \$20.00.

(6) **Manufacturer or distributor license.** Any manufacturer or distributor of gambling equipment, games or implements of gambling to be used in the Tribe's gaming operation must obtain such a license. The license shall be valid for a period of one year. The manufacturer's license shall have a fee of \$100.00. A distributor's license shall have a fee of \$400.00.

(7) **Machine license.** Any person or entity entering into a lease or sales agreement with the Tribe regarding slot machines or video games of chance must obtain, for each slot machine or video game of chance to be placed in the Tribe's gaming operation, such a license for any period of time during which the Tribe is not the

100% owner of such slot machine or video game of chance. The license shall have the fee of \$1.00 for each day during which the Tribe is not the 100% owner of such slot machine or video game of chance.

All fees shall be made payable to the Tribe.

### **Section 3.08 Machine licenses.**

In addition to a distributor license provided for in sections 3.01 and 3.10, any person or entity entering into a lease or sales agreement with the Tribe regarding slot machines or video games of chance must obtain, and maintain throughout the duration of any such agreement, an annual non-transferable license for each slot machine and video game of chance to be placed in the Tribe's gaming operation. The license application of any person or entity entering into such lease or sales agreement shall contain, at a minimum, the following information about the applicant and the machines:

(1) Name and address of the applicant with proof of a current and valid distributor or manufacturer license issued by the Tribe and by either the States of Alaska, Iowa, New Jersey, Nevada or South Dakota;

(2) Identification numbers or codes for each slot machine or video game of chance placed in the Tribe's gaming operation, including the manufacturer, the serial number and the model number; and

(3) Proof that the slot machine or video game of chance is currently approved for use by a gaming regulatory body of the State of Alaska; or proof that the slot machine or video game of chance has been tested and approved by a gaming regulatory body of the States of Iowa, New Jersey, Nevada or South Dakota and that such test shows that the machine meets the standards, if any, set forth in a gaming compact between the Tribe and the State of Alaska; or proof of approval and certification by an approved gaming test laboratory that the slot machine or video game of chance or a prototype thereof meets the standards, if any, set forth in a gaming compact between the Tribe and the State of Alaska or such standards as may be required by the Commission.

### **Section 3.09 Licensing of gaming activity.**

Class II and class III gaming activities may be conducted on Indian lands only if licensed.

(a) **Licensing of class II gaming activity.** The Commission may license and regulate a tribally owned class II gaming activity if the State of Alaska permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal law).

(b) **Licensing of class III gaming activity.** The Commission may license and regulate a tribally owned class III gaming activity if the State of Alaska permits such gaming activity for any purpose by any person, organization or entity and the gaming is conducted in conformance with a Tribal-State compact entered into by the Tribe and the State of Alaska that is in effect.

(c) **Separate license for each facility.** The Commission shall issue a separate license for each place, facility, or location on Indian lands at which class II or class III gaming is conducted.

The license shall be displayed in a prominent place on the premises where the class II or class III gaming activity is conducted.

**Section 3.10 Licensing of distributors and manufacturers;  
management contractor ineligible; suspension;  
revocation.**

(a) A manufacturer or distributor of gambling games or implements of gambling shall annually apply for a license upon a form prescribed by the Commission before the first day of April in each year and shall submit the appropriate license fee. An applicant shall provide the necessary information as the Commission requires.

(b) A management contractor or any person or entity licensed for employment in the Tribe's gaming operation shall not be a manufacturer or distributor of gambling games or implements of gambling.

(c) The Commission shall suspend, revoke or refuse to renew the license of any manufacturer or distributor of gambling games or implements of gambling if the State of Alaska or any other state gaming jurisdiction has suspended, revoked or refused to renew the similar license of such manufacturer or distributor.

**Section 3.11 License contents.**

Each license shall set forth the name of the licensee, the type of license granted, and the expiration date of the license. The license shall also contain a statement that in accordance with the licensee's license application, the licensee has formally acquiesced to the civil jurisdiction or, in the case of an Indian licensee not a member of the Tribe, to the civil and criminal jurisdiction of the Tribe as a condition for licensure.

**Section 3.12 Legal effect of licensure.**

Any person or entity who accepts a license or the renewal thereof pursuant to the provisions of this Ordinance shall be deemed to have agreed to be bound by the provisions of this Ordinance, any rules and regulations issued in accordance therewith, the

provisions of any class III gaming compact entered into between the Tribe and the State of Alaska, and any amendments to such Ordinance, rules or regulations and compact. It is the responsibility of the licensee to be informed regarding the provisions of this Ordinance, the rules and regulations issued pursuant thereto and any class III gaming compact entered into between the Tribe and the State of Alaska. Ignorance of such provisions will not excuse violations.

**Section 3.13 Licensee consent to search.**

Each licensee shall consent to the employees or agents of the Commission to the search without a warrant of the licensee's person, personal property and effects, and premises which are located within the Tribe's gaming operation or adjacent facilities under control of or utilized by the licensee to inspect for or investigate violations of this Ordinance or violations of rules or regulations adopted by the Commission.

**Section 3.14 License non-transferable.**

Any license issued by the Commission authorizing any person, organization, or entity to conduct business at the Tribe's gaming operation shall be non-transferable and shall prohibit the licensee from transferring, subcontracting or assigning to any other person, organization or entity any of its rights or duties relating to the license either directly or indirectly or, in the case of a management contractor, any ownership interest in the management contract.

**Section 3.15 License as revocable privilege.**

Any license issued by the Commission to any person, organization or entity for the conduct of business at the Tribe's gaming operation is a revocable privilege. No holder thereof shall be deemed to have a part in any vested rights therein or thereunder. The burden of proving that a person, organization or entity is qualified to hold any license issued by the Commission rests at all times with the licensee. The Commission shall continually monitor the conduct of all licensees to assure that licenses are not held by unqualified or disqualified persons or by any qualified person or persons whose operations are conducted in an unsuitable manner.

**Section 3.16 Notice to National Indian Gaming Commission of license issuance or non-issuance; transmittal of primary management official and key employee license application to National Indian Gaming Commission.**

(a) The Commission shall notify the National Indian Gaming Commission of the issuance of a license to any person, organization or entity required under section 3.01 to secure a license in order to conduct business at the Tribe's gaming operation.

(b) Whenever the Commission does not license a license applicant, the Commission shall notify the National Indian Gaming Commission of such action. If the non-issuance of a license is based on a determination that the license applicant is ineligible for licensure, the Commission shall forward copies of its eligibility determination and investigative report, if any, to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Record System.

(c) Whenever the Tribe employs a primary management official or a key employee, the Commission shall forward to the National Indian Gaming Commission a copy of such official's or employee's complete license application.

## CHAPTER 4

### MANAGEMENT CONTRACTS

#### Section 4.01 Management contract contents; approval.

The Tribal Council may approve and, on behalf of the Tribe, enter into any management contract if it determines that such contract provides at least:

(1) for compliance with this Ordinance and the Indian Gaming Regulatory Act in the conduct of all gaming covered by the contract;

(2) for an enumeration of the responsibilities of each of the parties for each identifiable function, including:

- (i) Maintaining and improving the gaming facility;
- (ii) Providing operating capital;
- (iii) Establishing operating days and hours;
- (iv) Hiring, firing, training and promoting employees;
- (v) Maintaining the gaming operation's books and records;
- (vi) Preparing the gaming operation's financial statements and reports;
- (vii) Paying for the services of the independent auditor engaged pursuant to section 5.01(a) of this Ordinance;
- (viii) Hiring and supervising security personnel;
- (ix) Providing fire protection services;
- (x) Setting the advertising budget and placing

advertising;

(xi) Paying bills and expenses;

(xii) Establishing and administering employment practices;

(xiii) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage;

(xiv) Complying with all applicable provisions of the Internal Revenue Ordinance;

(xv) Paying the cost of any increased public safety services; and

(xvi) If applicable, supplying the National Indian Gaming Commission with all information necessary for the Commission to comply with the regulations of such Commission issued pursuant to the National Environmental Policy Act.

(3) for the establishment and maintenance of satisfactory accounting systems and procedures whenever the contractor is responsible for the establishment or maintenance of such systems and procedures. At a minimum, the accounting systems and procedures shall

(i) Include an adequate system of internal accounting controls;

(ii) Permit the preparation of financial statements in accordance with generally accepted accounting principles;

(iii) Be susceptible to audit;

(iv) Allow a class II gaming operation, the Tribe, and the National Indian Gaming Commission to calculate the annual fee under 25 C.F.R. §514.1;

(v) Permit the calculation and payment of the manager's fee; and

(vi) Provide for the allocation of operating expenses or overhead expenses among the Tribe, the tribal gaming operation, the contractor, and any other user of shared facilities and services;

(4) for verifiable financial reports that are prepared by or for the Council on a monthly basis, or for the contractor to provide the Tribe with all information necessary to prepare such reports, whenever the contractor is responsible for the preparation of such reports or for maintaining such information as may be necessary to prepare such reports;

(5) for immediate access to the daily operations of the gaming operation, including its books and records whenever these are maintained by the contractor, by the Commission and other appropriate tribal officials who shall also have the right to verify the daily gross revenues and income from any tribal gaming activity and access to any other gaming-related information the Tribe deems appropriate;

(6) for a minimum monthly guaranteed payment to the Tribe in a sum certain that has preference over the retirement of development and construction costs;

(7) for an agreed upon maximum dollar amount for the recoupment of development and construction costs;

(8) that the contract term not exceed five (5) years, provided that the Tribal Council may request the National Indian Gaming Commission to authorize a contract term that exceeds five (5) years but does not exceed seven (7) years if the Council determines that the capital investment required, and the income projections, for the particular gaming operation require the additional time, and provided further that the term of the management contract begins running no later than the beginning date of the gaming activities authorized by an approved management contract;

(9) for grounds and mechanisms for modifying or terminating such contract;

(10) for mechanisms to resolve disputes between the management contractor and

(i) customers, consistent with the procedures in section 1.08(d) of this Ordinance;

(ii) the Tribe; and

(iii) the gaming operation employees;

(11) for preference to members of the Tribe in hiring employees for the gaming operation;

(12) that the method of compensating and reimbursing the management contractor be detailed and that any fee based upon a percentage of the net revenues of the tribal gaming activity is reasonable in light of surrounding circumstances and, in no event, shall exceed 30 percent of the net revenues, provided that the Tribal Council may request the National Indian Gaming Commission to approve a fee not to exceed 40 percent of the net revenues if the Council determines that the capital investment required, and the income projections, for such tribal gaming operation require the additional fee;

(13) that the management contractor cannot transfer, subcontract or assign any of its rights and duties under the contract or, without advance approval of the Tribe, any ownership interest in the contract;

(14) that for service of any official determination, order, or notice of violation by the Commission, the management contract designate the same agent of the management contractor designated for service of any official determination, order, or notice of violation issued by the National Indian Gaming Commission;

(15) a representation that the contract is the entirety of the agreement between the Tribe and the management contractor; and

(16) that the contract shall not be effective unless and until it is approved by the Chairman of the National Indian Gaming Commission, the date of signature of the Tribe and the management contractor notwithstanding.

No management contract shall transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists and unless clearly specified in writing in the contract.

#### **Section 4.02 Management contract disapproval; termination.**

The Tribal Council shall not approve and shall terminate any management contract if it determines that:

(1) Any principal, director, agent or employee of a management contractor or any person having a direct or indirect financial or ownership interest in, or having management responsibility for a management contract is an elected member of the Tribal Council; or

(2) Any principal, director, agent or key employee of a management contractor or of any parent company of a management contractor, any person having a direct or indirect financial or ownership interest in, or having management responsibility for, a management contract, and,

(i) in the case of a person who is a party to a management contract, any person having a direct financial interest in such management contract, or

(ii) in the case of a trust that is a party to a management contract, any beneficiary or trustee, or

(iii) in the case of a partnership that is a party to a management contract, any partner, or

(iv) in the case of a corporation that is a party to a management contract, any person who is a director or who holds

(directly or indirectly) 10 percent or more of the issued and outstanding stock of the corporation or of any parent company of the corporation alone or in combination with another stockholder who is a spouse, parent, child or sibling, or

(v) in the case of an entity, other than a natural person, that has an interest in a trust, partnership or corporation that has an interest in a management contract, all parties of that entity

has been or is subsequently convicted of any felony or gaming offense; or

(3) Any principal, director, agent, employee, or (directly or indirectly) 10 percent or more shareholder of a management contractor or of any parent company of a management contractor, any person having a direct or indirect financial or ownership interest in, or having management responsibility for, a management contract, or the management contractor entity or its parent company, if any, has provided materially false statements or information to the Commission or other tribal officials pertaining to matters where a provision of this Ordinance or of any rules or regulations promulgated by the Commission requires the submission of information to the Tribe or an agency thereof, or has refused to respond to questions by the Commission or other tribal officials propounded for the purpose of carrying out their duties and responsibilities under this Ordinance or the rules and regulations promulgated thereunder; or

(4) Any principal, director, agent, employee, or (directly or indirectly) 10 percent or more shareholder of a management contractor or of any parent company of a management contractor, any person having a direct or indirect financial or ownership interest in, or having management responsibility for, a management contract, or the management contractor entity or its parent company, if any, has provided materially false statements or information to the National Indian Gaming Commission pertaining to matters where a provision of any federal law or regulation requires the submission of information to such Commission, or has refused to respond to questions by such Commission propounded for the purpose of carrying out its duties and responsibilities under such federal laws and regulations; or

(5) Any principal, agent, employee, or (directly or indirectly) 10 percent or more shareholder of a management contractor or of any parent company of a management contractor, or any person having a direct or indirect financial or ownership interest in, or having management responsibility for, a management contract has been determined by the Commission to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance

the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or in the carrying on of related business and financial arrangements; or

(6) The management contractor or its parent company, if any, or the agents of either, has or has attempted to unduly interfere with or influence for its gain or advantage any decision or process of tribal government relating to the Tribe's gaming operation; or

(7) The management contractor or its agents have deliberately or substantially failed to comply with the terms of the management contract, the provisions of this Ordinance, any rules or regulations adopted pursuant to this Ordinance, any applicable federal law, any rules or regulations of the National Indian Gaming Commission, or any of the requirements of a Tribal-State compact entered into between the Tribe and the State of Alaska governing gaming on Indian lands; or

(8) The management contract is inconsistent with any of the requirements of a Tribal-State compact entered into between the Tribe and the State of Alaska governing gaming on Indian lands; or

(9) The background investigation of the management contractor warrants disapproval or termination of the management contract; or

(10) A trustee, exercising the skill and diligence to which a trustee is commonly held, would not approve the contract.

(11) Changes in persons with a financial interest in or management responsibility for a management contract have occurred without the approval of the Commission or the National Indian Gaming Commission.

#### **Section 4.03 Management contractor records.**

In addition to other records and information required by this Ordinance or by any rules or regulations of the Commission, a licensed management contractor shall maintain the following records:

(a) If a corporation:

(1) A certified copy of articles of incorporation and any amendments thereto both for itself and any parent corporation;

(2) A copy of bylaws and any amendments thereto both for itself and any parent corporation;

(3) A current list of officers and directors both for itself and any parent corporation;

(4) Minutes of all meetings of stockholders and directors

both for itself, and, whenever the Tribe's gaming operation is the subject of discussion, for any parent corporation;

(5) A current list of all stockholders and stockholders of affiliates, including their names and the names of beneficial owners of shares;

(6) A complete record of all transfers of stock;

(7) A record of amounts paid to the corporation for issuance of stock and other capital contributions and dates thereof;

(8) A record, by stockholder, of all dividends distributed by the corporation; and

(9) A record of all salaries, wages, and other remuneration (including perquisites), direct and indirect, paid during the calendar or fiscal year, by the corporation, to all officers, directors, and stockholders with an ownership interest at any time during the calendar or fiscal year, equal to or greater than 5 percent of the outstanding stock of any class of stock.

(b) If a partnership:

(1) A schedule showing the amounts and dates of capital contributions, the names and addresses of the contributors, and percentage of interest in net assets, profits and losses held by each;

(2) A record of the withdrawals of partnership funds or assets;

(3) A record of salaries, wages, and other remuneration (including perquisites), direct and indirect, paid to each partner during the calendar or fiscal year; and

(4) A copy of the partnership agreement and certificate of limited partnership, if applicable;

(c) If a sole proprietorship:

(1) A schedule showing the name and address of the proprietor and the amount and date of their original investment;

(2) A record of dates and amounts of subsequent additions to the original investment and withdrawals therefrom; and

(3) A record of salaries, wages, and other remuneration (including perquisites), direct and indirect, paid to the proprietor during the calendar or fiscal year;

(d) Federal and state tax returns showing income and losses in connection with the Tribe's gaming operation.

All records shall be located in a place approved by the Commission.

#### **Section 4.04 Management contractor bond.**

A management contractor shall post a bond to the Tribe before the effective date of any such contract in a sum as the Commission or the Tribal Council shall fix, with sureties to be approved by the Commission or Council. The bond shall be used to guarantee that the management contractor faithfully executes the management contract, keeps its books and records and makes reports, and conducts all gaming operations in conformity with this Ordinance, any rules and regulations adopted by the Commission, the provisions of any compact entered into between the Tribe and the State of Alaska, and applicable federal law. The bond shall not be cancelled by a surety on less than 30 days' notice in writing to the Commission or Council. If a bond is cancelled and the management contractor fails to file a new bond in the required amount on or before the effective date of cancellation, the management contract shall be terminated. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

### **CHAPTER 5**

#### **AUDITING AND ACCOUNTING**

##### **Section 5.01 Audits of gaming operation; accounting requirements.**

(a) The gaming operation financial statements, books and records shall be audited annually by an independent auditor who is a certified public accountant. The annual independent audit will include an audit of all gaming related contracts for supplies, services, or concessions for a contract amount in excess of \$25,000.00 (except contracts for professional legal or accounting services). The audit will also include an audit of gaming and cash procedures and equipment and an audit of conformance with this Ordinance, applicable laws and regulations, and any compact entered into between the Tribe and the State of Alaska governing class III gaming. All audits shall be conducted pursuant to the AICPA Standards for Audits of Casinos when applicable and in accordance with otherwise generally accepted accounting principles and auditing standards. A copy of the report(s) and management letter(s) setting forth the results of each annual audit will be submitted to the National Indian Gaming Commission within 120 days after the end of each fiscal year of the gaming operation.

(1) Whenever the annual or any other audit indicates a material weakness in the internal accounting control procedures or other internal control systems, or non-conformance with this Ordinance, applicable laws and regulations, and any compact entered

into between the Tribe and the State of Alaska governing class III gaming, the Tribe's gaming operation, within 90 days from receipt of the audit report, shall indicate to the Commission the corrective actions taken.

(2) The annual audited financial statements and the quarterly fee assessment reports, if any, submitted by the Tribe to the National Indian Gaming Commission in relation to any class II gaming operation shall be reconciled by the auditor. Upon request, the reconciliation shall be provided to the National Indian Gaming Commission or its authorized representative.

(b) The gross receipts and adjusted gross receipts from gambling shall be separately handled and accounted for from all other moneys received from operation of the Tribe's gaming operation. The Commission may designate a representative to directly supervise the handling and accounting of all gross receipts and adjusted gross receipts from gambling and related activities of the Tribe's gaming operation. The compensation of such representative shall be fixed by the Commission but shall be paid by the Tribe's gaming operation. The Commission shall also have access to any bank records pertaining to the Tribe's gaming operation including those bank records of any management contractor showing deposits received from or withdrawals of monies in connection with the Tribe's gaming operation.

(c) The Tribe shall perform such additional audits of the books, records, equipment and procedures of any licensed class III gaming operation and of any management contractor thereof as the Commission may deem necessary or as may be required under the terms of any class III gaming compact entered into between the Tribe and the State of Alaska.

(d) The books of account, records and documents pertaining to the Tribe's gaming operation and of any management contractor or other person or entity licensed in connection therewith shall be made available to the Commission, any other authorized agency of the Tribe, or any authorized agency of the federal government or the State of Alaska for inspection and audit at reasonable times, with or without notice. Such books of account, records and facilities pertaining to any class III gaming operation of the Tribe shall also be made available to authorities of the State of Alaska, under applicable provisions of any class III gaming compact between the Tribe and the State, for the purpose of conducting such routine facility inspections, including equipment testing, casino surveillance, review and copying of records and other information as may be permitted under such compact. Such books of account, records and documents shall be organized and indexed in such a manner to provide immediate accessibility to the Commission or other authorized agency.

(e) A failure to permit inspection or any falsification of any

books or records related to any transaction connected with the holding, operating, and conducting of any gaming activity is a serious misdemeanor.

(f) Throughout the term of any class III gaming compact between the Tribe and the State of Alaska, all books, records and documents pertaining to any authorized class III gaming activities, including the records of any management contractor and the Tribe, shall be separately maintained pursuant to generally accepted accounting principles under standards of the AICPA in order to facilitate auditing to ensure compact compliance.

(g) In no event shall the books, records, and documents pertaining to any authorized class II or class III gaming activities be removed from the premises of the Tribe's gaming operation prior to audit.

(h) All original books, records and documents may be copied and stored on a microfilm, microfiche or other suitable media system approved by the Commission.

(i) No original book, record or document may be destroyed by the Tribe's gaming operation or any licensee thereof without the prior approval of the Commission, unless the particular book, record or document has first been copied and stored on microfilm, microfiche or other suitable media in accordance with subsection (h) of this section.

For the purpose of this section, "books, records and documents" shall be defined as any book, record or document pertaining to, prepared or generated by the Tribe's gaming operation or any licensee thereof including, but not limited to, all forms, reports, accounting records, ledgers, subsidiary records, computer-generated data, internal audit records, correspondence and personnel records.

#### Section 5.02 Accounting records.

(a) A licensed class II or class III gaming operation of the Tribe shall permanently maintain complete and accurate books of account and records, including inventory records of gaming supplies, sufficient to establish the amount of gross and net income, deductions and expenses, receipts and disbursements, and other information required in any financial statement, report, or other accounting prepared pursuant to this Ordinance, any regulations issued thereunder, the Indian Gaming Regulatory Act, or any regulations of the National Indian Gaming Commission, and to enable any class II gaming operation, the Tribe or the National Indian Gaming Commission to determine the amount of any fees required under 25 C.F.R. §514.1. The books of account and records shall also show, in addition to any other information required by the Commission or the Tribal Council, gross receipts and the amount of any taxes collected or accrued in connection with any gambling

activities, all expenses, charges, fees and other deductions, the cash amounts or the cost to the gambling operation of goods or other noncash valuables distributed to participants in the licensed activity, and evidences of indebtedness.

(b) General accounting records shall be maintained on a double entry system of accounting with transactions recorded on an accrual basis.

(c) Detailed, supporting, and subsidiary records shall be maintained. These records include, but are not necessarily limited to:

(1) Statistical game records to reflect drop (amount of cash wagered by patrons) and win (amount of cash won by the gaming operation) amounts for each type of game on a daily basis;

(2) Records of all investments, advances, loans and receivable balances, due to the licensed class II or class III gaming operation or any management contractor thereof;

(3) Records related to investments in property and equipment;

(4) Records which identify the handle, payout, win amounts and percentages, theoretical win amounts and percentages, and differences between theoretical and actual win amounts and percentages, for each slot machine or video game of chance on at least a week-to-date, month-to-date, and year-to-date basis;

(5) Records of all loans and other amounts payable by the licensed class II or class III gaming operation;

(6) Records which identify the purchase, receipt and destruction of gaming chips and tokens; and

(7) Other records required by the Commission.

### Section 5.03 Gaming operation reports.

(a) A licensed class II or class III gaming operation of the Tribe shall file monthly reports with the Commission indicating adjusted gross receipts from gambling games and from other related activities conducted on the premises of the Tribe's gaming operation. These reports will be by calendar month and will be filed within 15 days following the end of each month.

(b) A licensed class II or class III gaming operation of the Tribe shall file an annual financial statement with the Commission covering all financial activities of the Tribe's gaming operation. This statement shall be filed within 90 calendar days following the end of the fiscal year.

(1) Any adjustments resulting from the annual audit shall be recorded in the accounting records of the year to which the adjustment relates. In the event the adjustments were not reflected in the annual report of the Tribe's gaming operation and the Commission concludes the adjustments are significant, the Commission may require a revised annual report to be filed within 30 calendar days following notification.

(2) Required financial statements shall include a footnote reconciling and explaining any differences between the financial statements included in the annual report of the Tribe's gaming operation and the audited financial statements. Such footnote shall disclose the effect of such adjustments on:

- a. Casino revenues;
- b. Revenues net of complimentary services;
- c. Total costs and expenses;
- d. Income before extraordinary items; and
- e. Net income.

**Section 5.04 Retention of audit and accounting records and gaming operation reports.**

A licensed class II or class III gaming operation of the Tribe shall retain all books of account, records, reports and other documents required by this Chapter or any rules and regulations of the Commission for no less than five (5) years. In the event that the gaming operation terminates, these books, records, reports and other documents shall be retained in the custody of the Tribal Council.

**Section 5.05 Retention of enforcement action records.**

A licensed class II or class III gaming operation of the Tribe shall maintain copies of all enforcement actions that the Tribe, the State of Alaska, the National Indian Gaming Commission, or any other agency of the United States has taken against the operation, noting the final disposition of each case.

**CHAPTER 6**

**INTERNAL CONTROLS**

**Section 6.01 Internal control systems.**

A licensed class II or class III gaming operation of the Tribe shall operate all gaming under a system of adequate and effective

internal controls. Internal control systems and any changes therein shall be approved by the Commission before any gaming operations may be commenced by a licensed class II or class III gaming operation. Once approved, no system of internal controls may be altered until the Commission has approved the changes. At a minimum, internal control systems shall include procedures or standards for -

(1) Training personnel to understand prescribed procedures;

(2) Segregating incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of their duties;

(3) Accounting controls within the cashier's cage;

(4) Use of drop boxes and drop buckets;

(5) Transportation of drop boxes to and from gaming tables;

(6) Storage of drop boxes;

(7) Accepting cash or prepaid vouchers at gaming tables;

(8) Distributing gaming chips to gaming tables;

(9) Removing gaming chips from gaming tables;

(10) Closing gaming tables;

(11) Count room security;

(12) Opening, counting and recording contents of drop boxes;

(13) Slot machine or video game of chance identifying and non-identifying features and capabilities;

(14) Jackpot payouts;

(15) Filling payout reserve containers of slot machines or video games of chance; and

(16) Counting and recording contents of slot machine or video game of chance drop buckets.

**Section 6.02 Computer recording requirements and monitoring of slot machines or video games of chance.**

(a) A licensed class III gaming operation will have a computer connected to slot machines or video games of chance to record and

monitor the activities of such machine. The computer will be designed and operated to automatically perform the function relating to slot machine or video game of chance meters as follows:

(1) Record the number and total value of coins or tokens placed in the slot machine or video game of chance for the purpose of activating play;

(2) Record the number and total value of coins or tokens in the drop bucket of the slot machines or video games of chance;

(3) Record the number and total value of slot tokens, cash or chips to be paid manually as the result of a jackpot; and

(b) The computer shall store in machine-readable form all information required under this section and such stored data shall not be susceptible to change or removal by any personnel prior to submission to the Commission.

#### **Section 6.03 Security and surveillance procedures.**

The Commission shall establish security and surveillance procedures and equipment standards consistent with any applicable security and surveillance requirements of a class III gaming compact entered into between the Tribe and the State of Alaska. At a minimum, these procedures shall include the employment of a reasonably adequate security force and providing for a certified peace officer with the power to arrest all persons committing gaming violations to be present at all times when gambling is being conducted.

#### **Section 6.04 Gambling equipment and games acquisition; distributor's notice.**

(a) A licensed class II or class III gaming operation shall acquire all gambling equipment, games or implements of gambling from a distributor licensed pursuant to this Ordinance.

(b) Prior to delivery to a gaming operation licensed under this Ordinance, the manufacturer or distributor shall provide the Commission with a copy of the invoice showing the items shipped and a copy of the bill of lading.

#### **Section 6.05 Games and game rules; approval and posting.**

The Commission will approve all games and game rules. Before any game may be played in the Tribe's gaming operation, the game must be authorized by the Commission and the game rules must be publicly posted in the gaming facility at such conspicuous locations, near where such gaming activity is conducted, so as to make them readily available and accessible to the public.

**Section 6.06 Name tags.**

All persons operating or assisting the operation or conduct of any class II or class III gaming activity shall wear legible tags evidencing their names and the legend of the Klawock Cooperative Association. Tags must be visible and worn or otherwise affixed to all persons operating or assisting in the operation of such gaming activities.

**CHAPTER 7**

**PROHIBITED AND UNLAWFUL ACTIVITIES**

**Section 7.01 Prohibited activities.**

(a) A person or entity is guilty of an aggravated misdemeanor for any of the following:

(1) Engaging in any class II gaming, or in class III gaming where wagering is used or to be used, without a license issued by the Commission; or

(2) Acting or employing a person to act as a shill or decoy to encourage participation in a gambling game.

(b) A person or entity knowingly permitting a person under the age of eighteen years to make a wager is guilty of a simple misdemeanor.

(c) A person or entity wagering or accepting a wager at any location outside a gaming operation licensed under this Ordinance is guilty of a simple misdemeanor.

(d) A person or entity commits an aggravated misdemeanor and, in addition, shall be barred for life from any gaming operation under the jurisdiction of the Commission, if the person or entity, either alone or in concert with others, does any of the following:

(1) Offers, promises, or gives anything of value or benefit to a person who is connected to a gaming operation owned by the Tribe including, but not limited to, an officer or employee of the Tribe, an officer or employee of a management contractor, pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the Commission; or

(2) Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with a gaming operation owned by the Tribe including, but not limited

to, an officer or employee of the Tribe, an officer or employee of a management contractor, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the Commission; or

(3) Uses a device, including any calculator, computer, or other electronic, electrical or mechanical device to assist in any of the following:

(A) In projecting the outcome of a game; or

(B) In keeping track of the cards played; or

(C) In analyzing or changing the probability of the occurrence of an event relating to the gambling game;

or

(D) In analyzing or changing the strategy for playing or betting to be used in the game except as permitted by the Commission; or

(4) Cheats at a gambling game; or

(5) Manufactures, sells, or distributes any cards, chips, dice, game or device which is intended to be used to violate any provision of this Ordinance; or

(6) Instructs a person in cheating or in the use of a device for that purpose with the knowledge or intent that the information or use conveyed may be employed to violate any provision of this Ordinance; or

(7) Alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before it is revealed to the players; or

(8) Places, increases, decreases or cancels a bet after acquiring knowledge, not available to all players, of the outcome of the gambling game which is the subject of the bet or to aid a person in acquiring such knowledge for the purpose of placing, increasing, decreasing or cancelling a bet contingent on that outcome; or

(9) Claims, collects, or takes, or attempts to claim, collect, or take, money or anything of value in or from the gambling games, with intent to defraud, without having made a wager contingent on winning a gambling game, or claims, collects, or takes an amount of money or thing of value of greater value than the amount won; or

(10) Knowingly entices or induces a person to go to any place where a gambling game is being conducted or operated in violation of the provisions of this Ordinance with the intent that the other person plays or participates in that gambling game; or

(11) Uses counterfeit chips, tokens, coins or other currency in a gambling game; or

(12) Knowingly uses other than chips, tokens, coin, currency or other methods or credit approved by the Commission or uses coin not of the denomination as the coin intended to be used in the gambling games; or

(13) Has in the person's possession any device intended to be used to violate a provision of this Ordinance; or

(14) Has in the person's possession, except a licensee or employee of a licensee acting in furtherance of the employee's employment at a licensed gaming operation, any key or device designed for the purpose of opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or mechanical device connected with the gambling game or for removing coins, tokens, chips or other contents of a gambling game; or

(15) Uses any fraudulent scheme or technique; or

(16) Has located on the premises of the Tribe's gaming operation any gaming equipment or implements of gaming not authorized under this Ordinance or by the Commission; or

(17) Manipulates with intent to cheat (whether with or without a device), any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

(e) The possession of more than one of the devices described in subsection (d), paragraphs 3, 5, 13 or 14, permits a rebuttable inference that the possessor intended to use the devices for cheating.

#### **Section 7.02 Wagering by minors prohibited.**

A person under the age of eighteen years shall not make a wager on any gambling activity conducted at the Tribe's gaming operation and shall not be allowed in the area of such operation where gambling is being conducted. If any person below the age of eighteen plays and otherwise qualifies to win any prize, the prize shall not be paid and the estimated amount wagered during the course of the game shall be returned to the player.

**Section 7.03 Gambling on credit unlawful; licensee loans unlawful.**

(a) Any class II or class III gaming operation shall be operated for cash only. A person who, in connection with the Tribe's gambling operation, tenders and a person who receives any promise, agreement, note, bill, bond, contract, mortgage or other security, or any negotiable instrument, as consideration for any wager or bet commits a misdemeanor.

(b) Any licensee or any employee of any licensee who loans to any person money or any other thing of value for the purpose of permitting that person to place any wager or bet at the Tribe's gaming operation commits a misdemeanor. However, a bingo participant may make payment by personal check for any entry or participation fee assessed by the Tribe.

(c) Any licensee or any employee of any licensee who engages in pawnbroking or who takes goods or materials in hock from any person for the purpose of permitting that person to place any wager or bet at the Tribe's gaming operation commits a misdemeanor.

(d) Nothing in this section shall be construed to prohibit the Tribe or a management contractor from offering check cashing and credit card transactions as routinely offered by other businesses. Credit card transactions may be consummated only through a bona fide credit card company whose services are offered to other businesses located within the Tribe's jurisdiction or within the State of Alaska.

(e) Nothing in this section shall apply to credits won by players who activate play on slot machines or video games of chance after inserting coins, currency, or tokens into the game.

(f) Personal checks accepted by the Tribe's gaming operation must be deposited into a financial institution on the banking day following the receipt of such check.

**Section 7.04 Possession of firearms and dangerous weapons prohibited.**

The possession of firearms or other dangerous weapons shall be prohibited at all times within the gambling area of the Tribe's gaming operation and within adjacent facilities except for certified tribal, State of Alaska, or federal law enforcement officers carrying such weapons in the course of their official duties and authorized to be on the premises of the Tribe's gaming operation.

**Section 7.05 Alcohol prohibited; exception.**

(a) The sale or possession of alcohol including, but not

limited to, beer, liquor or any other beverage containing alcohol, on the premises of the Tribe's gaming operation or adjacent facilities is a serious misdemeanor.

(b) The sale or possession of alcoholic beverages may be permitted on the premises of the Tribe's gaming operation and adjacent facilities only if authorized under a liquor ordinance approved by the Tribal Council and the Secretary of the Interior in accordance with applicable federal law.

#### Section 7.06 Penalties and fines.

(a) Whenever a person within the criminal jurisdiction of the Tribe is convicted of a misdemeanor or simple misdemeanor, such person shall be sentenced to a term of imprisonment not to exceed six months or to a criminal fine not to exceed two thousand five hundred dollars, or both such imprisonment and fine.

(b) Whenever a person within the criminal jurisdiction of the Tribe is convicted of an aggravated or serious misdemeanor, such person shall be sentenced to a term of imprisonment not to exceed one year or to a criminal fine not to exceed five thousand dollars, or both such imprisonment and fine.

(c) For purposes of paragraphs (a) and (b) of this section, the term "person" shall mean a member of the Tribe or an Indian who is not a member of the Tribe.

(d) Whenever a person or entity within the civil jurisdiction of the Tribe violates any provision of this Ordinance, any rule or regulation of the Commission, any provision of any class III gaming compact entered into between the Tribe and the State of Alaska, or engages in any activity proscribed under such Ordinance, rules or regulations or compact, such person or entity shall be subject to a civil fine or license suspension or license revocation or both a civil fine and license suspension or revocation. The Commission shall establish, enforce, and impose such schedule of civil fines as may be necessary to assure compliance with the provisions of this Ordinance, the rules and regulations of the Commission, and any class III gaming compact entered into between the Tribe and the State of Alaska. Upon determining that a person or entity may be the subject of a civil fine, the Commission or its agents or employees may immediately attach the personal property of such person or entity of a value sufficient to satisfy the applicable fine, and hold such property until a final determination is made on whether such person or entity shall be required to pay a civil fine. Nothing in any schedule of fines established by the Commission shall be deemed to limit the amount of any civil fine that may be imposed by a tribal court or by the Commission upon a finding that a person or entity has violated any provision of this Ordinance, any rule or regulation of the Commission, or any provision of any class III gaming compact entered into between the

Tribe and the State of Alaska.

(e) A violator shall be required to pay court costs or Commission costs, as the case may be, storage fees and auction or sales fees.

(f) No fine shall be assessed or any action taken for any violation of this Ordinance, any rule or regulation issued pursuant thereto, or any provision of a class III gaming compact entered into between the Tribe and the State of Alaska unless a charge or complaint is filed with the Commission or a tribal court, as the case may be, within three years of the commission of the violation.

#### Section 7.07 Forfeiture of property.

(a) Anything of value, including all traceable proceeds, including but not limited to, real and personal property, moneys, negotiable instruments, securities, and conveyances belonging to any person or entity, is subject to forfeiture to the Tribe if the item was used for any of the following:

(1) In exchange for a bribe intended to affect the outcome of a gambling game; or

(2) In exchange for, to facilitate, or in connection with a violation of this Ordinance, any rule or regulation of the Commission, any provision of any class III gaming compact entered into between the Tribe and the State of Alaska, or in taking any action proscribed under such Ordinance, rules or regulations or compact; or

(3) In exchange for, to facilitate, or in connection with a violation of any management contract with the Tribe.

(b) All moneys, coin, and currency found in close proximity of wagers, or of records of wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.

(c) Subsections (a) and (b) do not apply if the act or omission which would give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.

(d) Upon determining that the property of a person or entity may be subject to forfeiture, the Commission or its agents or employees may immediately seize such personal property of the person or entity as may be subject to forfeiture, and hold such property until a final determination is made on whether such property is to be forfeited to the Tribe.

(e) Within five (5) days following the seizure of any property that may be subject to forfeiture, the Commission shall notify the

person or entity from whom such property was seized and, if different, the owner of such property, if known, of a hearing before the Commission to determine whether the property was used for any of the purposes described in paragraph (a) of this section. The hearing shall be held no later than fifteen (15) days following the date of seizure of the property, provided that the Commission may extend this time for not more than an additional fifteen (15) days if an investigation into the circumstances of the use of the property has not been completed.

(1) At any hearing, the person or entity from whom the property was seized and, if different, the owner of the property shall have an opportunity to be heard, including an opportunity to present oral and documentary evidence, cross-examine witnesses and present oral arguments within limits established by the Commission.

(2) When holding a hearing under this subsection, the Chairman of the Commission or any presiding Commissioner may administer oaths and affirmations, issue subpoenas to compel the attendance of witnesses or procure the production of documents, and take such other action as may be necessary to conduct the hearing in a manner most likely to result in a fair disposition.

(3) Whenever a preponderance of the evidence introduced at a hearing supports the conclusion that seized property was used for any of the purposes described in paragraph (a) of this section, the Commission shall issue an order forfeiting such property to the Tribe.

(f) Upon receipt of forfeited property, the Tribe shall permit an owner or lienholder of record having a nonforfeitable property interest in the property the opportunity to purchase the property interest forfeited. If the owner or lienholder does not exercise the option under this subsection within thirty (30) days the option is terminated, unless the time for exercising the option is extended by the Tribe.

(g) A person having a valid, recorded lien or property interest in forfeited property, which has not been purchased pursuant to subsection (f), shall either be reimbursed to the extent of the nonforfeitable interest or to the extent that the sale of the item produces sufficient revenue to do so, whichever amount is less. The sale of forfeited property should be conducted in a manner which is commercially reasonable and calculated to provide a sufficient return to cover the costs of the sale and reimburse any nonforfeitable interest. The validity of a lien or property interest is determined as of the date upon which property becomes forfeitable.

(h) This section does not preclude a civil suit by an owner of an interest in forfeited property against the party who, by using the property for any of the purposes described in paragraph

(a) of this section, caused the property to become forfeited to the Tribe.