NATIONAL
INDIAN
GAMING
COMMISSION

JAN 28 1997

Robert Guenthardt, Chairman
Little River Band of Ottawa Indians
P.O. Box 314
Manistee, MI 49660-0314

Dear Chairman Guenthardt:

This letter responds to your request to review and approve the tribal gaming Ordinance No. 97-400-01 adopted by the Little River Band of Ottawa Indians (the Tribe) on January 15, 1997. 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. Such approval does not constitute approval of specific games. Also, the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe 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 Little River Band of Ottawa Indians for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

Thomas J. Foley
Commissioner

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TRIBAL COUNCIL
LITTLE RIVER BAND OF OTTAWA INDIANS

GAMING ORDINANCE
ORDINANCE NO. #97-400-01
Amended and Recodified March 25, 1999

PURPOSE.

The Little River Band of Ottawa Indians (hereinafter "Tribe"), acting through its Tribal Council in the exercise of its inherent sovereign power to enact ordinances, regulate the economic enterprises of the Tribe, and otherwise safeguard and provide for the health, safety, and welfare of the members of the Tribe, hereby ordains and establishes this Ordinance for the purpose of authorizing and comprehensively and preemptively regulating the terms and conditions under which Class II and Class III gaming may be conducted on the lands of the Tribe.

Section 1. Terms Defined.

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

1.01. *Bingo*. "Bingo" shall mean Bingo as defined in IGRA and regulations promulgated thereunder.

1.02. *Casino*. "Casino" shall mean any Class II and/or Class III Gaming Facility owned by the Tribe.

1.03. *Cheating*. "Cheating" shall mean operating or playing in any game in a manner which violates of the written or commonly understood rules of the game, with the intent to

create for the player or someone in privity with the player an advantage over and above the chance of the game.

1.04. *Class II Gaming*. "Class II Gaming" shall mean Class II Gaming as defined in IGRA.

1.05. *Class III Gaming*. "Class III Gaming" shall mean Class III Gaming as defined in IGRA and the Compact.

1.06. *Compact*. "Compact" shall mean either:

(a) A gaming compact between the Tribe and the State of Michigan, entered into pursuant to Section 11(d)(3) of IGRA, and approved by the Secretary of the Interior including all renewals, amendments, appendices, exhibits and other attachments thereto, or

(b) Procedures promulgated by the Secretary of the Interior pursuant to Section 11(d)(7)(B)(vii) of IGRA, governing the conduct of Class III gaming by the Tribe.

1.07. *Gaming Service Contractor*. "Gaming Service Contractor" means any person, firm or corporation, other than a primary management official or key employee, who has a contract or agreement with the Gaming Operation that results in the purchase or lease of supplies, equipment, services or concessions in excess of $25,000.00 annually, except contracts for professional, legal and accounting services.

1.08. *Enterprise*. "Enterprise" shall mean any commercial enterprise of the Tribe authorized to engage in Gaming, and all ancillary commercial activities within the Gaming Facility(ies) and other improvements constructed for the conduct of Gaming.

1.09. *Equipment*. "Equipment" means all furnishings, fixtures, machinery, equipment, Gaming Devices and other personal property acquired for use in connection with a Gaming Enterprise.

1.10. *Gaming*. "Gaming" means Class II and Class III gaming authorized by this Ordinance and the Compact.

1.11. *Gaming Devices*. "Gaming Devices" shall mean Electronic Games of Chance as defined in the Compact and as defined in IGRA.

1.12. *Gaming Employee*. "Gaming Employee" shall mean any person employed in the operation or management of a Gaming Enterprise, whether employed by or contracted to the Tribe, or by any person or entity providing on or off-site services to the Tribe within or without any Gaming Facility, including without limitation, managers, assistant managers,

accounting personnel, surveillance personnel, security personnel, cashiers, supervisors, shift bosses, machine mechanics, gaming consultants, management companies and their principals, and any other natural person whose employment duties require or authorize access to restricted areas of any Gaming Facility not otherwise open to the public.

1.13. *Gaming Facility*. "Gaming Facility" shall mean the building, buildings, or structure wherein Gaming is permitted, performed, conducted, or operated, and associated and adjacent real property owned by the Tribe.

1.14. *Gaming Service*. "Gaming Service" shall mean any goods, services or concessions provided by contract to the Tribe or to a Manager in connection with the operation of Gaming in an amount in excess of $25,000.00 in any calendar year, except for professional, legal or accounting services. No contract may be broken up into parts for the purpose of avoiding this definition or any requirement of licensure or certification required by this ordinance.

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

1.16. *Key employee*. "Key Employee" shall mean:

(a) A person who performs one or more of the following functions:
- (i) Bingo caller;
- (ii) Counting room supervisor;
- (iii) Chief of security;
- (iv) Custodian of gaming supplies or cash;
- (v) Floor manager;
- (vi) Pit boss;
- (vii) Dealer;
- (viii) Croupier;
- (ix) Approver of credit; or
- (x) Custodian of gambling devices including persons with access to cash and accounting records within such devices.

(b) Any other Gaming Employee as the Tribal Commission may include in the future by rule or regulation;

(c) If not otherwise included, any other person whose total cash compensation is in excess of $50,000 per year; or

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

1.17. *IGRA*. "IGRA" shall mean the Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2701 et seq, as amended from time to time.

1.18. *License*. "License" shall mean any official and revocable authorization granted for a limited period of time by the Tribal Gaming Commission pursuant to this Ordinance to an applicant to conduct or participate in any gaming activity on the Little River Band Reservation.

1.19. *Management Contract*. "Management Contract" shall mean a contract or agreement between the Tribe and a Manager for the management of a Gaming Operation, including any related subcontracts and collateral agreements.

1.20. *Management Contractor*. "Management Contractor" shall mean any person, firm, corporation or entity having a direct or indirect financial interest in a management contract.

1.21. *Manager*. "Manager" shall mean a person, firm, corporation or entity with whom the Tribe enters into a Management Contract.

1.22. *National Indian Gaming Commission*. "National Indian Gaming Commission" shall mean the Commission established pursuant to IGRA.

1.23. *Net Revenues*. "Net Revenues" shall mean the gross revenues of a Gaming Operation less amounts paid for or paid out as prizes and less total operating expenses, determined in accordance with generally accepted accounting principles, but excluding management fees paid to a Manager in accordance with IGRA.

1.24. *Primary Management Official*. "Primary Management Official" shall mean:

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

(b) Any person who has authority:
   (i) To hire and fire Gaming Employees; or
   (ii) To set up working policy for any Enterprise; or

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

1.25. *Principal.* Principal shall mean those persons having a direct or indirect financial interest in a management contract:

(a) Any natural person having a financial interest in the contract in question;

(b) with respect to a trust, any beneficiary or trustee;

(c) with respect to a partnership, any partner;

(d) with respect to a corporation, any person who (a) is a director thereof, or (b) holds at least 10% of the issued and outstanding stock alone or in combination with any other stockholder who is such person's spouse, parent, child or sibling;

(e) with respect to any entity other than a natural person, firm, or corporation that has an interest in a trust, partnership or corporation that has an interest in a management contract, all parties of that entity.

1.26. *Reservation.* "Reservation" shall mean those lands acquired by or for the Tribe pursuant to 25 U.S.C. §1300k-4(b) or such other lands upon which Gaming may lawfully be conducted pursuant to IGRA.

1.27. *Secretary.* "Secretary" shall mean the Secretary of the United States Department of the Interior or his/her designee.

1.28. *State.* "State" shall mean the State of Michigan.

1.29. *Tribal Court.* "Tribal Court" shall mean the Tribal Court and Tribal Court of Appeals of the Little River Band of Ottawa Indians and all other tribal judicial forums now or hereinafter established by the Tribe.

1.30. *Tribal Gaming Commission.* "Tribal Gaming Commission" or "Gaming Commission" shall mean the body created pursuant to this Gaming Ordinance to regulate Gaming in accordance with IGRA, any Class III gaming or Class II gaming regulations prescribed by the Secretary and this Gaming Ordinance.

1.31. *Tribe.* "Tribe" shall mean the Little River Band of Ottawa Indians.

Section 2. Creation of Tribal Gaming Commission.

2.01. *Establishment.* The Tribal Council hereby charters, creates and establishes a Gaming Commission as a governmental subdivision of the Tribe. The Commission shall be

referred to throughout this Ordinance as the Gaming Commission. As a subdivision of the Tribal government, the Gaming Commission has been delegated the right to exercise one or more of the substantial governmental functions of the Tribe. In creating the Gaming Commission, it is the purpose and intent of the Tribal Council that the Gaming Commission ensure the integrity, honesty and fairness of all gaming activities conducted on the Tribe's Reservation and that such gaming activities be conducted in conformance with this ordinance, Rules and Regulations promulgated by the Gaming Commission, the Indian Gaming Regulatory Act, and any applicable Class III gaming compact or Class III gaming rules.

2.02. *Duration*. The Gaming Commission shall have perpetual existence and succession in its own name, unless dissolved by the Tribal Council pursuant to Tribal law.

Section 3. Sovereign Immunity of Gaming Commission; Tribe.

3.01. *Sovereign Immunity of the Gaming Commission*. The Gaming Commission is clothed by federal and tribal law with all the privileges and immunities of the Tribe, except as specifically limited by Sections 14 and 15 of this ordinance, including sovereign immunity from suit in any state, federal or tribal court. Nothing in this ordinance shall be deemed or construed to be a waiver of sovereign immunity of the Gaming Commission from suit, which shall only be waived pursuant to subsection 3.02. Except as provided by Section 14 and 15, nothing in this ordinance shall be deemed or construed to be a consent of the Gaming Commission to the jurisdiction of the United States or any state or of any other tribe with regard to the business or affairs of the Gaming Commission.

3.02. *Waiver of Sovereign Immunity of the Gaming Commission*. Expect as provided in Sections 14 and 15 of this Ordinance, the sovereign immunity of the Gaming Commission may be waived only by express resolution of the Gaming Commission after consultation with the Tribal Council and the Tribe's General Counsel. Expect as provided in Sections 14 and 15 of this Ordinance, all waivers or sovereign immunity must be preserved with the resolutions of the Gaming Commission and filed with the Tribal Council of continuing force and effect. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Gaming Commission subject thereto, and shall specify the court having jurisdiction pursuant thereto and the applicable law. Neither the power to sue and be sued provided in subsection 6.01(m), nor any express waiver of sovereign immunity by resolution of the Gaming Commission shall be deemed a consent to levy of any judgment, lien or attachment upon property of the Gaming Commission other than property specifically pledged or assigned, or a consent to suit in respect to any land contained within the Reservation of the Tribe or a consent to the alienation, attachment or encumbrance of any such land.

3.03. *Sovereign Immunity of the Tribe.* All inherent sovereign rights of the Tribe as a federally-recognized Indian tribe with respect to the existence and activities of the Gaming Commission are hereby expressly reserved, including sovereign immunity from suit in any state, federal or tribal court. Except as provided in Sections 14 and 15 of this Ordinance, nothing in this ordinance, nor any action of the Gaming Commission, shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribe; or to be a consent of the Tribe to the jurisdiction of the United States or of any state or any other tribe with regard to the business or affairs of the Gaming Commission or the Tribe; or to be a consent of the Tribe to any cause of action, case or controversy, or to the levy of any judgment, lien or attachment upon any property of the Tribe; or to be a consent to suit with respect to any lands in the Tribe's Reservation, or to be a consent to the alienation, attachment or encumbrance of any such land.

3.04. *Credit of the Tribe.* Nothing in this ordinance nor any activity of the Gaming Commission shall implicate or in any way involve the credit of the Tribe.

3.05. *Assets of the Tribal Commission.* The Gaming Commission shall have only those assets specifically assigned to it by the Tribal Council or acquired in its name by the Tribe or by it on its own behalf. No activity of the Gaming Commission nor any indebtedness incurred by it shall implicate or in any way involve assets of tribal members or the Tribe not assigned in writing to the Gaming Commission.

Section 4. Appointment of Gaming Commissioners; Qualifications.

4.01. *Number of Gaming Commissioners.* The Gaming Commission shall be comprised of five (5) Gaming Commissioners.

4.02. *Appointment of Gaming Commissioners.* The members of the Gaming Commission shall be appointed by the Tribal Council as follows:

> (a) *Initial Appointments.* Upon the enactment and passage of this ordinance, the Tribal Council shall publicize, to the extent reasonable and practical, that it will be appointing a five (5) member Gaming Commission and is seeking applicants for appointment and nominations of individuals for appointment. The Tribal Council may schedule interviews of qualified applicants /nominees. As soon as the Tribal Council completes its review of the qualified Tribal members willing to serve on the Gaming Commission, the Tribal Council shall, at its next regularly scheduled meeting, appoint five (5) members to the Gaming Commission. Provided that in any event the appointments shall be made within sixty (60) days of the date of execution of the Management Agreement.

(b) *Terms of Office*. The terms of office for the initial appointees shall be staggered, with two (2) members appointed for a term of one (1) year, two (2) members appointed for a term of two (2) years, and one member appointed for a term of three (3) years. All subsequent appointments to the Gaming Commission shall be for terms of four (4) years. Members may be reappointed for additional terms without limitation.

(c) *Future Appointments*. At least four (4) weeks prior to any meeting during which appointments to the Gaming Commission will be made, the Tribal Ogema shall publicize that he/she will be making such nominations for appointments and shall seek applicants for appointment and nominations of individuals to be appointed.

4.03. *Qualifications of Commissioners*. Any enrolled member of the Tribe, at least twenty-one years of age or older who is not an elected member of the Tribal Council or the Tribal Ogema who is qualified to serve as a Commissioner under Subsections 4.04 and 4.05 of this Section may be appointed to serve on the Gaming Commission. Each newly appointed Commissioner must attend training on the Indian Gaming Regulatory Act, regulations promulgated by the National Indian Gaming Commission, federal revenue laws relating to gaming, this Gaming Ordinance and any Regulations adopted by the Gaming Commission.

4.04. *Background Investigation*. Before any applicant may be appointed to serve on the Gaming Commission, the Tribal Ogema shall perform or arrange to have performed a comprehensive background check on each prospective member. The results of the background checks shall be submitted to the Tribal Council when the Tribal Ogema submits his/her request for appointment. No person shall serve as a Commissioner if:

(a) That person's prior activities, criminal records, if any, or reputation, habits or associations:

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

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

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

(b) That person has been convicted of or entered a plea of nolo contendere to a felony or any gaming offense in any jurisdiction or to a misdemeanor involving dishonesty or moral turpitude; or

(c) That person has a present financial interest in the conduct of any Gaming Enterprise;

(d) That person is an employee of the Gaming Commission;

(e) That person has a member of his immediate family, residing in the same household, who is employed as a primary management official or key employee by any Gaming Enterprise regulated by the Gaming Commission; or

(f) Fails to disclose a conflict of interest, as defined in Section 4.05.

In the event a disqualifying event, as defined in paragraph (c), (d) or (e) of this Section 4.04 occurs after the date a person's appointment to the Gaming Commission has been confirmed by the Tribal Council, that Commissioner may continue to serve on the Commission for up to 120 days after the date the disqualifying event occurred so that the Tribal Ogema may begin the process of submitting a new candidate for appointment to the Gaming Commission. In the event of any other disqualifying event, as defined in this Section, the Tribal Council may take immediate steps to remove that Commissioner.

4.05. *Conflict of Interest.* No person shall serve as a Commissioner if that person is a member of the Tribal Council or a judge of the Tribal Court. Persons nominated for appointment to the Gaming Commission must, prior to his/her appointment, disclose the names and addresses of his/her immediate family members, whether such immediate family members are employed at any Gaming Enterprise regulated by the Gaming Commission, and whether he/she or a member of his/her immediate family has a financial interest in any Gaming Service business. Gaming Commissioners are prohibited from participating in making decisions, which involve balancing personal financial interests or the interests of members of that Commissioner's immediate family, other than interests held in common by all Tribal members, against the interests of the Gaming Commission or the Tribe. Failure to disclose a conflict of interest, or to refrain from participating in decisions that involve a conflict of interest, shall be grounds for removal of a Commissioner pursuant to Section 4.07 of this Ordinance.

4.06. *Oath of Office.* Immediately upon appointment, the Ogema shall administer the oath of office to the members of the Gaming Commission which oath of office shall include a commitment to uphold the Constitution and laws of the Little River Band of Ottawa Indians and to perform faithfully and diligently the duties and responsibilities of the Gaming Commission. Each person appointed to the Gaming Commission shall sign an oath of office, which designates the date of that person's appointment and the date upon which that appointment expires.

4.07. *Removal of Members or Vacancies.*

(a) *Removal.* A Commissioner may be removed by a resolution in favor of removal supported by seven (7) members of the Tribal Council for the following reasons: serious inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, misconduct in office, or for any conduct which threatens the honesty and integrity of the Gaming Commission or otherwise violates the letter or intent of this ordinance. Except as provided below, no Commissioner may be removed without notice and an opportunity for a hearing before the Tribal Council, and then only after the Commissioner has been given written notice of the specific charges at least ten (10) days prior to such hearing. At any such hearing, the Commissioner shall have the opportunity to be heard in person or by counsel and to present witnesses and documentary evidence on his behalf. At the request of the Commissioner whose removal is at issue, the hearing may be held in closed session. The Tribal Council may also elect to receive certain evidence in closed session if public disclosure of such evidence might compromise any ongoing law enforcement investigation. If five (5) members of the Tribal Council determines that immediate removal of a Commissioner is necessary to protect the interests of the Tribe, the Tribal Council may immediately remove the Commissioner temporarily, and the question of permanent removal shall be determined thereafter pursuant to the hearing procedures described above. At the conclusion of the presentation of evidence and of any summary statements, the Tribal Council shall deliberate in closed session and shall issue its decision within seven (7) days. A written record of all removal proceedings together with the charges and findings thereon shall be kept by the Tribal Council Recorder. The decision of the Tribal Council to remove a Commissioner shall be final and no appeal to any other tribunal shall be available.

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

Section 5. Organization; Meetings of the Gaming Commission.

5.01. *Meetings.*

(a) *Regular Meetings*. The Gaming Commission shall hold at least one regular monthly meeting which shall take place at a suitable time and place determined by the Gaming Commission.

(b) *Special meetings*. Special meetings may be called at the request of the Chairman of the Gaming Commission or three (3) members of the Gaming Commission.

(c) *Compensation of Commissioners*. Commissioners may receive a stipend or other compensation for their service on the Commission in accordance with the budget approved for the Gaming Commission.

(d) *Quorum*. A quorum for all meetings or hearings shall consist of three (3) members.

(e) *Voting*. All questions arising in connection with the action of the Gaming Commission shall be decided by an affirmative vote of at least three (3) of the five (5) Commissioners; Provided that action on licensing of all Gaming Employees may be decided by majority vote provided a quorum is present.

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

Section 6. Powers and Responsibilities of Gaming Commission.

6.01. *Powers of the Gaming Commission*. In furtherance, but not in limitation, of the Gaming Commission's purposes and responsibilities, and subject to any restrictions contained in this Ordinance or other applicable law, the Gaming Commission shall have and is authorized to exercise by majority vote, the following powers:

(a) To regulate all day-to-day gaming activity within the jurisdiction of the Tribe to ensure the integrity thereof.

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

(c) To issue, deny, suspend or revoke any gaming License necessary to operate, manage, conduct business with or be employed at any gaming activities authorized

by this Ordinance, or other tribal laws, and to establish a schedule of fees as may be necessary to defray expenses of License processing and background investigations.

(d) To conduct or cause to be conducted, background investigations of persons or business entities applying for any gaming License.

(e) To enact and enforce such rules and regulations consistent with this ordinance regarding its activities as the Gaming Commission may deem necessary and proper to effectuate the powers granted by this Ordinance and duties imposed by applicable law.

(f) Subject to the approval of the Tribal Council of an appropriation of funds therefore, to employ such staff as reasonably may be required to fulfill the Commission's responsibilities under this Ordinance; provided, that all employees of the Gaming Commission shall be subject to background investigations, including criminal and financial background investigations.

(g) To arrange for and direct such inspections and investigations as it deems necessary to ensure compliance with this Ordinance and implementing regulations. In undertaking such investigations, the Gaming Commission may request the assistance of tribal gaming staff, federal, state and tribal law enforcement officials, legal counsel and other third parties.

(h) To administer oaths, conduct hearings, and by subpoena compel any licensee or License applicant, any person employed by a gaming facility, and any person doing business with a Gaming Enterprise to appear before it and to provide such information, documents or other materials as may be in their possession to assist in any investigation conducted by the Gaming Commission relating to the enforcement of tribal gaming laws and regulations.

(i) To make, or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property, and the books, records, papers, vouchers, accounts, documents and financial statements of any Gaming Enterprise operating, or suspected to be operating, within the jurisdiction of the Tribe.

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

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

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

(m) Where it is in the best interest of the Tribe, to develop a cooperative working relationship with federal, state and other Indian tribes, agencies and officials.

(n) To investigate any aspect of any Gaming Enterprise in order to protect the public interest in the integrity of gaming and to prevent improper and unlawful conduct. The Gaming Commission shall investigate any report of a failure of any Gaming Enterprise to comply with this ordinance, any regulations adopted by the Gaming Commission, IGRA, or the Compact. The Gaming Commission may issue an order requiring any Gaming Enterprise to take any corrective or remedial action deemed necessary.

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

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

(q) To make application and accept grants and other awards from private and governmental sources in carrying out or furthering the purposes of the Gaming Commission.

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

(s) Pursuant to the Tribal law, to initiate a suspension or revocation proceeding of a liquor license issued to a gaming establishment.

6.02. *Additional Powers and Duties.*

(a) The Gaming Commission shall require the Manager of each Gaming Facility licensed by the Tribe to prepare a plan for the protection of public safety and the physical security of patrons of Gaming Facilities, setting forth the respective responsibilities of the Gaming Commission, the security department of the Gaming Facility(ies), and any Tribal police agency(ies). Such plan, and any subsequent

modifications thereof, shall be submitted to the Gaming Commission annually for its review and approval.

(b) The Gaming Commission shall enforce all Tribal health and safety standards applicable to Gaming Facilities licensed by the Tribe.

(c) The Gaming Commission shall establish a list of persons barred from Tribal gaming facilities because of their criminal history or association with career offenders or career offender organizations which pose a threat to the integrity of gaming.

(d) The Gaming Commission shall publish and distribute copies of this Ordinance, Gaming Commission rules, and any Council, Gaming Commission or Tribal Court decisions regarding gaming matters.

(e) The Gaming Commission shall maintain and keep current a record of new developments in the area of Indian gaming.

(f) The Gaming Commission shall obtain and publish a summary of federal revenue laws relating to gaming and to ensure compliance with the same.

(g) The Gaming Commission shall arrange for training of Gaming Commissioners, Gaming Commission employees and others in areas relating to the regulation of gaming.

(h) The Gaming Commission shall consult with and make recommendations to the Council regarding changes in tribal gaming laws.

6.03. *Annual Budget*. The Gaming Commission shall prepare an annual operating budget for all Gaming Commission activities and present it to the Tribal Ogema and the Tribal Council in accordance with budget and appropriation procedures established by the Tribe's Constitution and by the Tribal Council.

6.04. *Gaming Commission Regulations*.

(a) Gaming Commission regulations consistent with this Ordinance and necessary to carry out the orderly performance of its duties and powers shall include, but shall not be limited to the following:

(1) Internal operational procedures of the Gaming Commission and its staff;

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

(3) A regulatory system for all gaming activity, including accounting, contracting, and surveillance, to ensure the integrity, honesty and fairness of all gaming activities;

(4) The conduct of inspections, investigations, hearings, enforcement actions and other powers of the Gaming Commission authorized by this Ordinance.

(b) No regulation of the Gaming Commission shall be of any force or effect unless it is adopted by the Gaming Commission by written resolution and filed for record in the office of the Tribal Council Recorder.

(c) The Tribal Court and any other court of competent jurisdiction shall take judicial notice of all Gaming Commission regulations adopted pursuant to and consistent with this Ordinance.

6.05. *Right of Entrance*. The Gaming Commission and duly authorized officers and employees of the Gaming Commission, during regular business hours, may enter upon any premises of any Gaming Enterprise for the purpose of making inspections and examining the accounts, books, papers, and documents, of any such Gaming Enterprise. The Manager of each Gaming Enterprise shall facilitate such inspection or examinations by giving every reasonable aid to the Gaming Commission and to any properly authorized officer or employee. A Commissioner or a member of the Gaming Commission's staff shall visit each tribally-owned or tribally-operated Gaming Enterprise during normal business hours for the purpose of monitoring its operation. Such visits may be unannounced.

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

6.07. *Hearings; Examiner*. Pursuant to regulations, the Gaming Commission may hold any hearing it deems to be reasonably required in the administration of its powers and duties under this ordinance.

The Gaming Commission may designate one of its members to act as examiner for the purpose of holding any such hearing or the Gaming Commission may appoint another person to act as examiner under subsection 6.08 below. The Gaming Commission hearing regulations shall, at a minimum, afford any affected party, and all people interested therein as determined by the Gaming Commission, the right to appear personally before the Gaming Commission, the right to be represented by counsel at the affected party's own

expense, the right to face and question witnesses against the affected party, and the right to present oral or documentary evidence in support of the affected party's support.

6.08. *Appointment of Examiner.* The Gaming Commission may appoint any person qualified in the law or possessing knowledge or expertise in the subject matter of the hearing to act as examiner for the purpose of holding any hearing which the Gaming Commission, or any member thereof, has power or authority to hold. Examiners appointed under this section shall not have the power to make findings or issue orders.

Section 7. Classes of Gaming Authorized.

7.01. *Class II Gaming Authorized.* Class II Gaming as defined in the IGRA, 25 U.S.C. Section 2703 (A) and by regulations lawfully promulgated by the National Indian Gaming Commission that now or hereafter may be in effect is hereby authorized.

7.02. *Class III Gaming Authorized.* Class III Gaming as defined in IGRA, 25 U.S.C. Section 2703 (8) and by regulations lawfully promulgated by the National Indian Gaming Commission that now or hereafter may be in effect is hereby authorized, provided such Class III Gaming is also authorized by and consistent with the Compact, as defined in this Ordinance.

7.03. *Class II and/or Class III License Required.* Class II and Class III Gaming authorized by this Ordinance shall be conducted only by persons or entities which have obtained a valid Gaming Facility License issued by the Gaming Commission pursuant to this Ordinance, and rules and regulations adopted pursuant to and consistent therewith.

Section 8. Tribal Ownership Required.

8.01. *Sole Proprietary Interest Required.* The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any Gaming Facilities or Enterprises authorized by this Ordinance.

8.02. *Private/Individual Ownership Prohibited.* No individual, partnership, corporation or entity of any kind shall own in whole or in part any Class II or Class III Gaming Facility authorized or regulated by this Ordinance.

8.03. *Management Contracts Authorized.* Nothing in this Ordinance shall preclude the Tribe from entering into Management Contracts as authorized under IGRA.

Section 9. Use of Gaming Revenue.

9.01. *Permitted Uses.* Net revenues from Class II and Class III Gaming shall be used only for the following purposes:

(a) to fund Tribal government operations and programs;

(b) to provide for the general welfare of the Tribe and its members;

(c) to promote Tribal economic development;

(d) to donate to charitable organizations;

(e) to help fund operations of local governmental agencies.

Section 10. Audit Required; Report to National Indian Gaming.

10.01. *Annual Audit.* The Tribal Gaming Commission shall conduct or have conducted an independent audit of all Gaming Enterprises on an annual basis and shall submit the resulting audit reports to the Tribal Council and the National Indian Gaming Commission.

10.02. *Audit to Include Gaming Service Contracts.* All Gaming Service contracts shall be specifically included within the scope of the audit described in Section 10.01, provided, that the Tribal Gaming Commission or the Tribal Council may require that Gaming Service contracts for less than $25,000.00 annually be included in the scope of the audit if inclusion is deemed necessary to protect the public interest in the integrity of Indian gaming.

10.03. *Record-keeping Requirements.* At each Gaming Facility at which Class III gaming is conducted, accounting records shall be kept on a double entry system of accounting, maintaining detailed, supporting, subsidiary records. Gaming Facilities subject to this provision shall maintain the following records for not less than three (3) years:

(a) Revenues, expenses, assets, liabilities and equity for the location at which Class III gaming is conducted;

(b) Daily cash transactions for each Class III game at the location at which gaming is conducted, including but not limited to transactions relating to each gaming table bank, game drop box and gaming room bank;

(c) All markers, IOUs, returned checks, hold checks or other similar credit instruments;

(d) Individual and statistical game records (except card games) to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;

(e) Contracts, correspondence and other transaction documents relating to all Gaming Service Contractors;

(f) Records of all tribal gaming enforcement activities;

(g) Audits prepared by or on behalf of the Tribe; and

(h) Personnel information on all Class III Gaming Employees or agents, including rotation sheets, hours worked, employee profiles and background checks.

Section 11. Gaming Facility Licenses.

11.01. *License Required.* No person shall conduct Class II or Class III Gaming within the jurisdiction of the Tribe unless such Gaming is conducted at a Gaming Facility licensed by the Tribe. No license may be issued for any Gaming Facility which is owned or operated by any person other than the Tribe. If Gaming activity is proposed in more than one building at the site of any Gaming Enterprise, a separate Gaming Facility license shall be required for each building or location where Class II or Class III Gaming is conducted under this ordinance.

11.02. *Types of Licenses.* The Tribe may issue each of the following types of Gaming Facility Licenses.

(a) *Tribally-Owned or Tribally-Operated Class II.* This License shall be required of all tribally-owned or tribally operated Gaming Facilities operating one or more Class II Gaming activities.

(b) *Tribally-Owned or Tribally-Operated Class III.* This License shall be required for all tribally-owned or operated Gaming Facilities operating any gaming other than Class I or Class II gaming.

11.03. *Gaming Facility Application Procedures.* In order to obtain a Gaming Facility License, the Enterprise requesting such license shall submit an application on the form provided by the Tribal Gaming Commission. The applicant shall include all of the following information:

(a) A description of the Gaming activity proposed, including, but not limited to: the type of Gaming proposed, the maximum number and types of Gaming Equipment and Gaming Devices expected to be in the Facility at any one time, the number and types of Gaming Equipment and Gaming Devices expected to be in use when the Facility first opens, and the days and hours of operation proposed.

(b) A description of the Gaming Facility proposed, including the layout of the Gaming Equipment and Gaming Devices and the surveillance systems the Gaming Facility.

(c) The location proposed for such Gaming Facility.

(d) A description of the security, police, fire protection and other public safety services to be available to the proposed Gaming Facility and patrons of such Facility.

(e) A description of the accounting procedures proposed for such Gaming Facility.

(f) The name, address, title, and a description of the duties and responsibilities of each primary management official and key employee proposed for the Gaming Facility.

(g) The number and categories of all other Gaming Employees it is anticipated will be employed at the Gaming Facility.

11.04. *Threshold Criteria which a Gaming Facility Applicant Must Meet.* In addition to the information required in the Gaming Facility License application, any applicant for a tribally-owned or tribally operated Class II or Class III Gaming Facility License must provide documentation that the Gaming Enterprise and proposed Gaming Facility will meet the following threshold criteria:

(a) The proposed Gaming Facility is to be located on Reservation lands acquired for or by the Tribe under 25 U.S.C. Section 130OK-4(b) or on other lands upon which Gaming may lawfully be conducted pursuant to IGRA.

(b) The proposed Gaming activity is to be played as Class II Gaming as defined by this Ordinance and IGRA.

(c) The Gaming Enterprise and proposed Gaming Facility is authorized by a Tribal Council resolution.

(d) The Tribe or one of its subdivisions will have the sole proprietary interest and the Tribe will have the exclusive responsibility for the conduct of the proposed Gaming Enterprise.

(e) The Tribal Council resolution authorizing the Gaming Enterprise and proposed Gaming Facility provides that:

(1) The revenues of the Gaming Enterprise shall be audited annually and copies of those audits will be provided to the Tribal Gaming Commission, Tribal Council and the National Indian Gaming Commission.

(2) The Gaming Enterprise shall comply with all IRS reporting and filing requirements.

(3) All of the proceeds of the Gaming Enterprise shall be used for the purposes stated in Section 9.

(4) All Gaming Service Contracts shall be subject to the annual audit described in paragraph (1) of this subsection.

(5) The construction or maintenance of the Gaming Facility and the operation of the proposed Gaming Facility shall be conducted in a manner adequately protects the environment and the health and safety.

(6) All primary management officials and key employees shall pass the background checks and obtain the appropriate License required by this Ordinance.

(7) Any Management Contract between the Tribe and a Management Contractor has been approved by the Tribal Council and the National Indian Gaming Commission.

(8) All Principals having a direct or indirect financial interest in any Management Contract have passed the background checks required by this Ordinance and the National Indian Gaming Commission.

(9) The proposed Gaming Facility shall pay to the National Indian Gaming Commission such fees as federal law may require.

(10) In the event that Class III Gaming is proposed, such Gaming meets all other criteria established by the Compact.

11.05. *Gaming Facility License Application Procedures.*

(a) Upon receipt of a complete application for a Gaming Facility License for any tribally-owned or operated Class II or Class III Gaming Facility, the Tribal Gaming Commission shall:

(1) Review the proposed Gaming Enterprise to ensure that all threshold criteria required by this Ordinance shall be met.

(2) Ensure that the necessary background checks have been performed on all management contractors, primary management officials and key employees required by this Ordinance and that all such entities or persons possess a valid and current provisional or regular License for each such entity's or person's position.

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

(4) Review and approve the layout of the games and surveillance systems for the Gaming Facility.

(5) Review and approve the plan for the protection of public safety and the physical security of patrons of the Gaming Facility.

(6) Review all aspects of the proposed Gaming Enterprise to ensure that it will be in compliance with the provisions of the Compact.

(7) Take any additional steps necessary to ensure the integrity of such Gaming.

(b) The Tribal Gaming Commission shall approve the Gaming Facility application within 30 days following the receipt of a complete application unless the Tribal Gaming Commission believes, based upon reasonable grounds, that the Gaming will be operated at the proposed Gaming Facility in violation of tribal, federal or other applicable law or the terms and conditions of the Compact.

(c) If the Tribal Gaming Commission denies an application for a Gaming Facility License, the Gaming Commission shall promptly notify the applicant of the specific reasons for such denial and a description of any corrective actions which the Tribal Gaming Commission determines will cure the deficiencies which resulted in denial of the application.

11.06. *License Application Fees.* An application fee, not to exceed $100,000.00, shall be required for each tribally-operated Class II or Class III Gaming Facility. Said fee shall be set

by the Tribal Gaming Commission and shall be based upon the Tribal Gaming Commission's estimate of the anticipated actual cost of regulating the Gaming Facility, excluding the costs associated with licensing Primary Management Officials, Key Employees and other Gaming Employees. The license fee shall be paid in advance in quarterly installments. The Gaming Facility License shall not become valid until the first quarter's license fee is received by the Tribal Gaming Commission. The Gaming Facility's License shall lapse and the Tribal Gaming Commission shall take appropriate enforcement action if quarterly payments are not timely made.

11.07. *Terms of License.* A tribally-owned or tribally-operated Class II and Class III Gaming Facility License shall be valid for a period of thirteen (13) months from the date of issuance.

11.08. *Posting of Licenses.* The Gaming Facility License must be posted in a conspicuous location at all times on the premises of each Gaming Facility. If the Gaming Enterprise conducts Gaming at more than one location, the Gaming Enterprise must obtain and post a separate License for each Gaming Facility.

11.09. *Gaming Facility License Renewals.*

(a) Each tribal Gaming Facility License must be renewed every thirteen (13) months from the date of issuance. A renewal fee shall be required for each Class II or Class III Gaming Facility License in accordance with the Section 11.06.

(b) In order to obtain a renewal of a license, the Enterprise shall submit a written renewal application to the Tribal Gaming Commission on the form provided by the Tribal Gaming Commission. No renewal application shall be approved until the annual report, required by subsection 11.10, has been properly filed.

(c) All renewal applications submitted shall be approved in 30 days or less unless the Commission believes, based on reasonable grounds, that the Enterprise has been or will be operated in violation of tribal, federal or other applicable law or the terms and conditions of the Compact.

(d) If the Tribal Gaming Commission denies a renewal application for a Gaming Facility License, the Gaming Commission shall, within 7 calendar days, notify the applicant of the specific reasons for such denial and a description of any corrective actions which the Tribal Gaming Commission determines will cure the deficiencies which resulted in denial of the application.

11.10. *Annual Reports.* Each Enterprise which possesses a Class II or Class III Gaming Facility License must file an annual report with the Tribal Gaming Commission and the Tribal Council between the 15th and the last day of the 12th month of each such License.

The report shall be submitted to the Tribal Gaming Commission and shall include, at a minimum, the following information:

(a) The name, address and telephone number of the Enterprise and Gaming Facility;

(b) The names, addresses and titles of all of the current managers of the Enterprise and the Gaming Facility;

(c) A description of the operations of the Gaming Facility, including, but not limited to: the number and type of games and Gaming Devices operated, the number of days and hours of operation, and the total gross sales;

(d) A written copy of any changes anticipated or proposed in the operations of the Gaming Facility, including any changes in its rules, public safety/security plan, layout of the games or surveillance systems;

(e) The name, address, title, and a description of the duties and responsibilities of each primary management official and key employee for the Gaming Facility;

(f) The name and addresses of the person who will be designated as primary management official over the next license period;

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

(h) The names and addresses of any employees who the Tribal Commission may determine to be key employees during review of the application;

(i) Written proof that the Enterprise and the Management Contractor, if any, has paid to the National Indian Gaming Commission such fees as federal and tribal law may require it to pay and will continue to do so;

(j) A sworn statement that the Enterprise has complied with the Internal Revenue Codes and Regulations, including written notice of customer winnings, and a statement that the Enterprise shall continue to obey all tribal and federal laws and shall hold the Tribal Gaming Commission and the Tribe harmless for failure to do so;

(k) A verified copy of the last annual audited financial report following the end of the Enterprise's last fiscal year;

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

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

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

11.11. *Non-Interference with Management of Gaming Facility.* The Tribal Gaming Commission is required to receive the information contained in the annual report provided under subsection 11.10 solely to ensure that the Gaming Facility is free from corruption and to aid in carrying out its regulatory responsibilities. The Tribal Gaming Commission shall have no responsibility for, and shall not interfere with or regulate, any business or management activities or decisions of the Gaming Enterprise.

Section 12. Licensing of Gaming Facility Employees and Gaming Service Contractors.

12.01. *Licensing.* The Tribe and the Gaming Commission, consistent with IGRA, and the Compact, shall ensure that the policies and procedures set out in this section are implemented with respect to the following individuals and entities, who shall be required to fill out an application form for a license:

(a) each Management Contractor and each Principal thereof;
(b) each Primary Management Official;
(c) each Key Employee;
(d) each Gaming Service Contractor; and
(e) Each Gaming Employee (other than a Management Contractor and Principals thereof, Primary Management Officials or Key Employees.

12.02. *Licensure of Management Contractors and Principals Thereof.* No person or other legal entity shall be employed as a Management Contractor, unless such person or entity has a current Management Contractor's license issued by the Tribal Gaming Commission. In order to receive such a license, each Principal, as defined in Section 1.25, must submit an application containing the information required in subsection 13.01 and must have passed the background investigation required by this ordinance.

12.03. *Licensure of Primary Management Officials*. No person, firm or other entity other than the Tribe shall be employed as a Manager, have a management interest, or financial interest in the operation of any Gaming Facility, unless such person, firm or entity has a current Primary Management Official's license issued by the Tribal Gaming Commission.

12.04. *Licensure of Key Employees*. No person shall be employed as a Key Employee at any Gaming Facility, unless such person has a current Key Employee's license issued by the Tribal Gaming Commission.

12.05. *Licensure of Gaming Service Contractors*. No person, firm or corporation shall purchase any Gaming Service, or enter into a contract for the purchase or lease of any Gaming Service, unless the provider of such Gaming Service has a current Gaming Service Contractors' license issued by the Tribal Gaming Commission.

12.06. *Licensure of Gaming Employees*. No person shall be employed as a Gaming Employee, as defined in this Ordinance, (other than a Management Contractor and Principals thereof, Primary Management Officials or Key Employees) unless such person has a current Gaming Employee's license issued by the Tribal Gaming Commission.

12.07. *Non-Gaming Employees*. All persons who are not Gaming Employees but work at any Gaming Facility, must obtain a non-gaming work permit from the Tribal Gaming Commission before commencing employment. Such work permits may be issued upon a determination by the Tribal Gaming Commission that the employee is not a threat to the effective regulation of Gaming and creates no risk or enhances no danger of unfair or illegal practices, methods or activities in the conduct of Gaming. All applicants for work permits shall provide such information as the Tribal Gaming Commission shall require.

Section 13. Gaming License Application Procedures.

13.01. *Application for License*. The Tribal Gaming Commission shall require from each potential Management Contractor and each Principal thereof, from each person seeking employment as a Primary Management official, or Key Employee, and may require all others listed in sub-section 12.01, to submit an application to the Tribal Gaming Commission on the form and in the manner required by the Tribal Gaming Commission. The application shall include all of the following information:

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

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

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

(d) Current business and residence telephone numbers;

(e) A description of any existing and previous gaming or other business relationships with any Indian tribe;

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

(g) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, the current status of the application, and whether or not such license or permit was granted;

(h) A list of all felony charges and dispositions against the applicant, if any, and for each felony for which there is ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

(i) A list of all misdemeanor charges and dispositions against the applicant, if any, (excluding traffic violations for which incarceration was not a possible punishment), and for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;

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

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

(l) Two (2) current photographs;

(m) For all applications for licenses for Management Contractors and each Principal thereof, or Primary Management Officials, a complete financial statement and/or income tax records showing all sources of income for the previous three (3) years, and assets, liabilities, and net worth as of the date of the application;

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

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

(p) Written permission giving the Tribal Gaming Commission or its designee the right to investigate the applicant's background, including his criminal records, civil and criminal judgments and credit history.

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

(r) Any other information the Tribe deems relevant;

(s) For all applications for licenses for Management Contractors and each Principal thereof, Primary Management Officials or Key Employees, fingerprints obtained in duplicate on fingerprint impression cards taken by the Manistee City Police Department or the Tribal Gaming Commission consistent with procedures adopted by the Tribe according to 25 C.F.R. §522.2 (h);

(t) Any other information required by Tribal Gaming Commission rule or regulation.

13.02. *Application Forms - Notices.*

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

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

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

"A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment."

13.03. *Burden of Proof*. It is the determination of the Tribe that the public interest in the integrity of gaming is such that the burden of proof to establish fitness or eligibility to obtain or maintain a license under this ordinance shall be upon the applicant or licensee, as the case may be.

13.04. *Background Investigation*. The Tribal Gaming Commission shall conduct, or cause to be conducted, an investigation sufficient to make a determination under subsection 13.05 below. In conducting a background investigation, the Tribe, the Tribal Gaming Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation. The background investigation shall consist of at least the following:

(a) The Tribal Gaming Commission or its designee shall also contact each reference provided in the application and take other appropriate steps to verify the accuracy of the other information presented and prepare a report of their findings for the Commission.

(b) The criminal background of each applicant for a license shall be investigated submitting vital information concerning the applicant to the Michigan State Police and/or local law enforcement and, for Management Contractors, Primary Management Officials and Key Employees, submitting impressions of the applicant's fingerprints, taken under paragraph (s) of subsection 13.01, to the Federal Bureau of Investigation Criminal Information Center, and any other law enforcement agency(ies) that the Tribal Gaming Commission deems appropriate, requesting a criminal history report. The vital information provided to such law enforcement agencies shall include, at a minimum: the applicant's full name, any other names used by the applicant, date and place of birth, citizenship, drivers license numbers, social security number, and a physical description.

(c) With respect to applicants for a Management Contractors or Primary Management Officials license, the Gaming Commission shall also investigate and verify the accuracy of financial information provided by the applicant by contacting banks, other financial institutions or other sources as deemed necessary. The Tribal Gaming Commission shall also obtain a credit bureau report on the applicant.

(d) The Tribal Gaming Commission shall attempt to complete the background investigation described in this subsection within 30 days following receipt of a complete application.

(e) The Gaming Commission may contract with a private, municipal, state, and/or federal investigation agencies to perform the required background and/or criminal history investigations.

13.05. *Eligibility Determination*. The Tribal Gaming Commission shall review a person's or entity's prior activities, criminal records, if any, reputation, habits, and associations to make a finding concerning the eligibility of a key employee or primary management official or other individual or entity listed above for employment in or association with a Gaming Enterprise. If the Tribal Gaming Commission determines that employment of or contract with the person or entity poses a threat to the public interest or to the effective regulation of Gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming, the Tribal Gaming Enterprise shall not employ or contract with that person or entity in a key employee or primary management official position, or as an employee, nor as a management contractor nor supplier of gaming goods or services.

13.06. *Standards for Issuance of Key Employee or Primary Management Officials' License.* The Tribal Gaming Commission shall not grant a license to any applicant for employment as a Key Employee or Primary Management Official who:

(a) Is a member of the Tribal Council or the Tribal Ogema;

(b) Is under the age of 18; or

(c) Has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, fraud or misrepresentation, within the immediately preceding 10 years; or

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

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

(f) Has knowingly and willfully provided materially false and misleading statements or information to the Tribal Gaming Commission or refused to respond to questions asked by the Tribal Gaming Commission.

(g) The terms "fraud or misrepresentation" as used in paragraph (c) shall mean a criminal offense committed in Michigan or any other jurisdiction, involving theft, fraud or misrepresentation, which is a felony or would be a felony if committed in Michigan, and which was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from the employee's criminal record by executive pardon, state court order, or operation of law.

(h) The term "any offense" as used in paragraph (d) shall mean any criminal offense not described in paragraph (c), whether committed in Michigan or any

other jurisdiction, that is, or would be, a crime under the provisions of the Michigan Penal Code, Act 328 of the Public Acts of 1931, as amended, or the controlled substances provisions of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended or any other criminal offense not included within the scope of paragraph (c).

13.07. *Action on Applications for Nongaming Employee Work Permits, Gaming Employee License, and Gaming Service Contractor License.*

(a) Within 15 days following the completion of the background investigation, the Tribal Gaming Commission shall review the application, the results of background investigation to determine if the applicant qualifies for the license or work permit applied for.

(b) If the Tribal Gaming Commission determines that an applicant for a Gaming Service Contractors license, Gaming Employee license or Non-gaming employee work permit qualifies, pursuant to subsection 13.05, for the issuance of the license or work permit applied for, the Tribal Gaming Commission may approve the application and issue the license or work permit, as the case may be.

(c) If the Tribal Gaming Commission denies any application for a Gaming Service Contractor license, Gaming Employee license or Nongaming Employee work permit, the Gaming Commission shall, within 7 calendar days, notify the applicant that the application was denied and specify the reasons for the denial, including information concerning any criminal conviction(s), which prompted the denial. The notice to each applicant shall also inform the applicant of the applicant's right to request a hearing and appeals provided in Section 14.

(d) If a license is not issued to an applicant, the Tribal Gaming Commission:

(1) Shall notify the National Indian Gaming Commission; and
(2) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

13.08. *Action on Applications for Management Contractor, Primary Management Official and Key Employee License.*

(a) Within 15 days following the completion of the background investigation (s) described in subsection 13.04, the Tribal Gaming Commission shall review the application, the results of background investigation, the criminal history reports, and financial report, if required, to determine if the applicant qualifies for the license applied for.

(b) If the Tribal Gaming Commission determines that an applicant qualifies, pursuant to sub-sections 13.05 and 13.06, for the issuance of such license or work permit applied for, the Tribal Gaming Commission may approve the application on an preliminary basis and may, in its further discretion, issue a provisional license to the applicant. A provisional license shall be valid for not more than one year.

(c) Within 7 calendar days after granting preliminary approval of a license application, the Tribal Gaming Commission shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

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

The Tribal Gaming Commission shall submit, with the investigative report, a copy of the Gaming Commission's eligibility determination and notify the National Indian Gaming Commission of the Tribal Gaming Commission's intention to issue the applicant a license and request that the agency review the application and investigative report pursuant to IGRA.

(d) The Tribal Gaming Commission may grant final approval of a license application submitted under this subsection only after the following 1 of the following has occurred:

(1) The Tribal Gaming Commission has received notice from the National Indian Gaming Commission that it has no objection to the issuance of the license; or

(2) Thirty (30) days have elapsed since the National Indian Gaming Commission was notified of the Tribal Gaming Commission's intent to issue the license and the National Indian Gaming Commission has not responded; or

(3) The National Indian Gaming Commission timely objected to the issuance of the license, the Tribal Gaming Commission has reconsidered the application in light of the objections received and has determined that the applicant may be licensed notwithstanding those objections.

(e) The Tribal Gaming Commission shall promptly notify the applicant that the application is approved and shall issue the license. If a provisional license was previously issued, the effective date of the license shall be the date the provisional license was issued.

(f) The gaming operation shall not employ as a key employee or primary management official a person who has not received either a provisional or regular license within ninety (90) days of being employed by the gaming facility.

(g) If the Tribal Gaming Commission denies any application for a license under this subsection, the Gaming Commission shall, within 7 calendar days, notify the applicant that the application was denied and specify the reasons, including information concerning any criminal conviction(s), which prompted the denial. The notice to each applicant shall also inform the applicant of the applicant's right to request a hearing and appeals provided in Section 14. The applicant may file an immediate appeal with the Tribal Court of the Gaming Commission's decision under this section and the Tribal Court shall hear the appeal within 14 calendar days of its receipt of the appeal.

(h) If a license is not issued to an applicant, the Tribal Gaming Commission:

(1) Shall notify the National Indian Gaming Commission; and

(2) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

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

13.09. *Licensing Period*. Any employee gaming license issued pursuant to this section shall be effective for a period of one year from the date of issuance and shall contain the licensee's photograph and shall state on its face the name of the employee, the Gaming Facility at which the employee is licensed to work, the type of license, the date that the license became effective and the date that it expires.

13.10. *Renewals*. A holder of an employee gaming license shall petition to have his license renewed, by applying to the Tribal Commission for a renewal before his original license has expired and updating all information contained in the original application. Provisional licenses may be granted if a license expires before the Commission acts upon the license

renewal request and such provisional license shall be valid and effective until the license is renewed or the license renewal request is denied by the Gaming Commission.

13.11. *Requirement to Produce License Upon Request.* Any person receiving an employee gaming license must carry that license upon his person during all working hours and must produce that license upon the request of any person.

Section 14. Suspension/Revocation of License; Right to Appeal.

14.01. *Hearing upon Denial of License.* Any applicant who is affected by an adverse action by the Tribal Gaming Commission in connection with denial of a license applied for under this ordinance may request a hearing before the Tribal Gaming Commission by written request submitted within 30 days following notice of the action by the Tribal Gaming Commission. Within 14 days following receipt of a notice requesting a hearing, the Tribal Gaming Commission shall afford such person or entity an opportunity to appear and be heard before the Tribal Gaming Commission, in person or with a representative or legal counsel, and to submit such evidence as such person or entity deems relevant in the matter. The Tribal Gaming Commission may receive evidence from the applicant or licensee, the Tribe, Tribal Gaming Commission or any person or entity that the Tribal Gaming Commission deems relevant to the matter. The Tribal Gaming Commission shall either affirm or reconsider its decision to deny the license within 7 days following hearing. The applicant may file an immediate appeal with the Tribal Court of the Gaming Commission's decision under this section and the Tribal Court shall hear the appeal within 14 calendar days of its receipt of the appeal.

14.02. *Suspension of Gaming License.*

(a) Subject to subsection 14.06 below, any gaming license may be temporarily and immediately suspended by the Tribal Gaming Commission or the Tribal Court for not more than 30 days if the Tribal Gaming Commission receives reliable information that any of the following have occurred:

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

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

(3) The employee/entity has knowingly and intentionally made a material false and misleading statement in his license application.

(4) The employee/entity has participated in gaming activity regulated by this Ordinance and unauthorized by his tribal gaming license.

(5) The employee/entity has refused to comply with any lawful order of the Tribal Gaming Commission, the Tribal Court or the National Indian Gaming Commission.

(b) In the event the Tribal Gaming Commission determines that any employee/entity meets any of the criteria stated in subsections 14.02(a)(1) through 14.02(a)(5) above or that his non-compliance with this Ordinance is a direct and immediate threat to the peace, safety, morals or health or welfare of the community, subject to review by the Tribal Court, the Tribal Gaming Commission or its designee shall issue a notice of temporary suspension of such person's gaming license which shall be served upon the employee/entity or an agent of the employee/entity and upon the Manager. The order shall state the grounds upon which it is issued and the employee/entity's right to a hearing. The employee/entity shall cease and desist operating in his management position or in his capacity as a key employee immediately upon receipt of the order, but s/he may file a notice of appeal with the Tribal Gaming Commission which shall hold a hearing on the order within 14 calendar days of its receipt of the appeal. At the hearing the employee/entity shall have the right to be represented by counsel at the employee/entity' s expense and an opportunity to present testimony and cross-examine opposing witnesses, and to present any other documentary and oral evidence as to why a temporary suspension order or an injunction should not be issued. The hearing shall be governed in all respects in accordance with tribal law and Tribal Gaming Commission regulations. The employee/entity may file an immediate appeal with the Tribal Court of the Gaming Commission's decision under this section, including the notice of temporary suspension, and the Tribal Court shall hear such appeal within 14 calendar days of its receipt of the appeal.

14.03. *Revocation of Gaming License.*

(a) Subject to subsection 14.06 below, any gaming license may be revoked by the Tribal Gaming Commission or the Tribal Court if, following the hearing described in paragraph (b) of this subsection, the Tribal Gaming Commission finds that any of the following have occurred:

(1) The employee/entity has violated any gaming law.

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

(3) The employee/entity intentionally made a material false and misleading statement in his license application.

(4) The employee/entity participated in gaming activity regulated by this Ordinance and unauthorized by his tribal gaming license.

(5) The employee/entity wilfully refused to comply with any lawful order of the Tribal Gaming Commission, the Tribal Court or the National Indian Gaming Commission.

(b) Subject to subsection 14.06 below, in the event the Tribal Gaming Commission receives reliable information indicating that any licensed individual, corporation or other entity has committed any of the violations stated in subsections 14.03 (a)(1) through 14.03 (a)(5) above or that his non-compliance with this ordinance is a direct and immediate threat to the peace, safety, morals or health or welfare of the community, the Tribal Gaming Commission shall issue a notice of intent to revoke such person's gaming license which shall be served upon the employee/entity or an agent of the employee/entity and upon the Manager. The order shall state the grounds upon which it is issued and the employee/ entity's right to a hearing before the Tribal Gaming Commission within 14 calendar days and right to offer sworn oral or documentary evidence relevant to the violation charged. Subject to review by the Tribal Court, a license may be suspended during such pre-hearing period by the vote of a majority of the members of the Tribal Gaming Commission then in office where such extraordinary action is essential to protect the public safety or the integrity of Gaming; a license shall be suspended during such period as required under IGRA if the revocation hearing arises as a result of notice from the National Indian Gaming Commission. The employee/entity may file an immediate appeal with the Tribal Court of the Gaming Commission's decision under this section, including the decision to issue a temporary suspension issue and the Tribal Court shall hear the appeal within 14 calendar of its receipt of the appeal.

14.04. *Appeal to the Tribal Court*. Subject to the burden of proof set forth in this Ordinance, a finding or licensing decision of the Tribal Gaming Commission, including but not limited to a decision to deny, suspend, revoke, modify or condition any license pursuant to this Ordinance, may be appealed to the Tribal Court by the aggrieved person or entity. In all appeals before the Tribal Court, there shall be deference given by the Tribal Court to the determination of the Tribal Gaming Commission as the agency charged with responsibility for interpreting its own regulations. Findings of fact and conclusions of law made by the Tribal Gaming Commission may be reviewed de novo by the Tribal Court. The decision of the Tribal Court shall be final.

14.05. *Action Following Revocation Hearing /Appeals*. After a revocation hearing, the Tribal Gaming Commission shall decide to revoke or to reinstate a gaming license. If the decision

is to revoke the license and, after appeal, that decision is upheld, the Tribal Gaming Commission shall notify the National Indian Gaming Commission, and where applicable, the State Gaming Agency, of its decision.

14.06. *Notice of Concern - Manager and Primary Management Officials.* Notwithstanding the foregoing, in the event that the Tribal Gaming Commission obtains reliable information that the duly licensed Manager and/or a Primary Management Official may have breached any provision of this ordinance, the Compact, IGRA or its license, the Tribal Gaming Commission shall issue a Notice of Concern to the licensee prior to any action of suspension or the giving of notice of a revocation hearing with respect to its/their license(s). The Notice of Concern shall describe the alleged breach, shall describe the steps necessary to effect a cure and shall provide the licensee with an opportunity to meet with the Tribal Gaming Commission to discuss the matter. The discontinuance or correction of the alleged breach shall constitute a cure thereof, except where such alleged breach constitutes a criminal violation by the Manager or the Primary Management Official. If the alleged breach is not corrected or discontinued as required herein, then the Tribal Gaming Commission shall institute the notice and hearing procedure set forth above.

14.07. *Resolution of Disputes Between the Gaming Public and the Tribe or Managers.* Disputes between the gaming public and the Tribe or the Manager of any Gaming Enterprise shall be resolved as follows:

(a) The complaining member of the gaming public shall have the opportunity to present his/her complaint or grievance, verbally or in writing, to the General Manager of the Gaming Facility or a person designated by the General Manager to resolve grievances with members of the gaming public.

(b) If the complaint or grievance is not resolved under paragraph (a) to the satisfaction of the complaining member of the gaming public, he/she may file a written grievance with the Tribal Gaming Commission. The Tribal Gaming Commission shall provide such member of the gaming public with a complaint /grievance form which requests the following information: name, address and telephone number of the complainant/grievant, a description of the circumstances or incident giving rise to the complaint /grievance, the name of the Gaming Facility wherein the incident complained of occurred, the name of the employee (s) involved, the name of the management official to whom the incident was reported pursuant to paragraph (a), and the relief or action requested.

(c) The Tribal Gaming Commission shall review the written grievance within 7 days of receipt. If the Tribal Gaming Commission deems it necessary, it may hold a fact-finding hearing to investigate the complaint/grievance and any employee(s) involved in the incident. If the complaint /grievance involves an alleged violation of any law, this Ordinance or regulation of the Tribal Gaming Commission, the Gaming

Commission shall take final action on the complaint /grievance within 30 days of receipt of the complaint/grievance and may issue an order which includes any action authorized under this ordinance.

Section 14.08. *Limited Waiver of Sovereign Immunity by the Commission*. The Commission hereby expressly waives its sovereign immunity from suit in Tribal Court in the following specific instances:

(a) in any appeal of any licensing decision of the Commission or finding of the Commission pursuant to Sections 14 and 15 of this Ordinance, to the Tribal Court.

(b) in any suit against the Tribe, or any agency or instrumentality of the Tribe, or any official of the Tribe, in which the Commission may be deemed an interested party.

Section 14.09 *Limited Waiver of Sovereign Immunity by the Tribe*. The Tribe, acting through the Tribal Council by enactment of this Ordinance, hereby expressly waives its sovereign immunity from suit in any appeal of any licensing decision of the Commission or finding of the Commission pursuant to Sections 14 and 15 of this Ordinance in which the Tribe may be deemed an indispensable party, to the Tribal Court.

Section 15. Additional Penalties.

15.01. *Penalties Authorized*. Any individual who violates any provision of this ordinance, including provisions of the Compact or other Class III gaming regulations incorporated herein, shall be subject to civil penalties including exclusion from employment in any Gaming Operation, denial or revocation of any license, exclusion from attendance at any Gaming Facility, exclusion from the Tribe's Reservation if a non-member of the Tribe, or with respect to any person subject to the jurisdiction of the Tribe, a fine of not more than $5,000.00 for each such violation. Each calendar day that a violation occurs shall be deemed a separate violation. The Tribal Gaming Commission shall have the jurisdiction to impose such penalties on any person or entity within the jurisdiction of the Tribe to impose such penalties.

15.02. *Right to Appeal Penalty*. No action by the Tribal Gaming Commission to impose a penalty pursuant to this Section shall be valid unless the person or entity affected is given the opportunity to appeal and be heard before the Tribal Gaming Commission and the Tribal Court subject to the procedures set forth in subsection 14.01 and 14.04, concerning appeals or in subsection 14.06 concerning a Notice of Concern, either in person or through a representative or legal counsel, and to submit such evidence as the Tribal Gaming Commission deems relevant to the matter at issue. Notwithstanding the foregoing, if the

Tribal Gaming Commission deems it necessary to protect the public interest in the integrity of Indian Gaming, the Tribal Gaming Commission may take such action with immediate effect as it deems required, and shall thereupon provide notice and an opportunity to be heard to the affected person or entity as soon as is reasonably practicable following such action. The person or entity may file an immediate appeal with the Tribal Court of a decision of the Gaming Commission under this Section and the Tribal Court shall hear such appeal within 14 days of its receipt of the appeal.

Section 16. Repealer and Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance or the application of the provision to other persons or circumstances is not affected.

cc: William Brooks
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