NATIONAL
INDIAN
GAMING
COMMISSION

APR 30 1996

Frank Ettawageshik
Tribal Chairman
Little Traverse Bay Bands
of Odawa Indians
Post Office Box 246
Petoskey, MI 49770

Dear Chairman Ettawageshik:

This letter responds to your request to review and approve the tribal gaming ordinance, Ordinance No. 1996003, adopted on March 3, 1996, by the Little Traverse Bay Bands of Odawa Indians (Tribe). 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 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 Traverse Bay Bands of Odawa 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,

Harold A. Monteau
Chairman

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WAGANAKISING ODAWAK STATUTE 1996003

GAMING REGULATORY ORDINANCE

MAR 6 1996

SECTION I: PURPOSE

The Little Traverse Bay Bands of Odawa Indians (hereinafter, "Tribe"), acting through its Tribal Council in the exercise of its inherent sovereign power to enact ordinances 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. This Ordinance rescinds and replaces the Gaming Regulatory Ordinance enacted on September 24, 1995, being Waganakising Odawak Statute 1995016.

SECTION II: DEFINITIONS

A. "Tribal Council" means the elected governing body of the Little Traverse Bay Bands of Odawa Indians called the Board of Directors in the Tribe's Constitution and Bylaws.

B. "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.

C. "Primary management official" means

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

(b) Any person who has authority:

(1) To hire and fire employees; or
(2) To set up working policy for the gaming operation; or

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

SECTION III: GAMING AUTHORIZED

A. Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(7)(A) ("IGRA") and by regulations lawfully promulgated by the National Indian Gaming Commission ("NIGC") that now or hereafter may be in effect is hereby authorized.

B. Class III gaming as defined in IGRA, 25 U.S.C. Section 2703(8) and by regulations promulgated by the NIGC that now or hereafter may be in effect is hereby authorized, provided such gaming is also authorized by and consistent with a Tribal-State Compact that has been approved by the Secretary of the Interior and is in effect, or otherwise has been authorized by the Secretary of the Interior or federal law.

SECTION IV. OWNERSHIP OF GAMING FACILITIES AND/OR ENTERPRISES

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming facilities and/or enterprise(s) authorized by this ordinance.

SECTION V. USE OF GAMING REVENUE

A. Except as specifically authorized pursuant to Subsection B of this Section, net revenues from

Class II and Class III gaming shall be used only for the following purposes:

1) to fund Tribal government operations and programs;
2) 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.

B. If the Tribe elects to make per capita payments to Tribal members, it shall authorize such payments only in conformity with a plan submitted to and approved by the Secretary of the Interior pursuant to applicable law.

SECTION VI. AUDIT

A. The Tribe shall cause to be conducted at least annually an independent audit of all gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission, and to such other agencies as may be required by the terms and conditions of any Class III compact or other document authorizing Class III gaming.

B. All gaming-related contracts that result in the purchase of supplies, services, or concessions in excess of $25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in Subsection A above.

SECTION VII: PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

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

SECTION VIII: LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any class II and/or Class III gaming enterprise. The Gaming Regulatory Commission has the authority to determine

additional job classifications and/or positions as ones which will require licensure. The Gaming Regulatory Commission has to demonstrate that such additional determination is reasonable and prudent and in the best interest of the Tribe.

A. Application Forms

1. The following notice shall be placed on the application form of a 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 or prosecutions, or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.
>
> The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

2. Existing key employees and primary management officials shall be notified in writing that they shall either:

   a. Complete a new application form that contains a Privacy Act notice; or

   b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

3. 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. (18 U.S.C. §1001).

4. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

a. Complete a new application form that contains a notice regarding false statements; or

b. Sign a statement that contains the notice regarding false statements.

B. Background Investigations

1. The Tribe shall perform background investigations and issue licenses for key employees and primary management officials according to requirements that are at least as stringent as those in 25 C.F.R. parts 556 and 558.

2. The Tribe shall conduct an investigation sufficient to make a determination under Subsection C. below. In conducting a background investigation, the Tribe or its agent(s) shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

C. Eligibility Determination

The Tribe shall review an applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribe determines that employment of the person 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 gaming operation shall not employ that person in a key employee or primary management official position.

D. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

1. When a key employee or primary management official begins work at a gaming operation authorized by this Ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Subsection C of this Section.

2. The Tribe shall forward the report referred to in Subsection E of this Section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.

3. The gaming operation shall not employ as a key employee or primary management official a person who after 90 days does not have a license pursuant to section VIII F. of this Ordinance.

E. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in Subsection D of this Section, the Tribe 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:

a. Steps taken in conducting the background investigation;

b. Results obtained;

c. Conclusions reached; and

d. The bases for those conclusions.

2. The Tribe shall submit, with the report, a copy of the eligibility determination made under Subsection C of this Section.

3. If a license is not issued to an applicant, the Tribe:

a. Shall notify the National Indian Gaming Commission; and

b. 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.

4. With respect to key employees and primary management officials, the Tribe shall retain applications for 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 or denial of employment.

F. Granting a Gaming License

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

2. The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under Subsection G.1. of this Section until the Chairman of the National Indian Gaming Commission receives the additional information.

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

4. If the NIGC provides no response within the thirty (30) day period described above, the Tribe may issue a license based on its own findings on a temporary basis contingent on the

contents of a final report from the NIGC.

G. License Suspension

1. If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission, or from its own sources, reliable information indicating that a key employee or a primary management official is not eligible for employment under Subsection C above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Gaming Regulatory Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

3. After a revocation hearing, the Tribe shall decide whether to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

SECTION IX: LICENSING OF GAMING PLACES, FACILITIES AND LOCATIONS

A separate license shall be required for each place, facility, or location on Indian lands where Class II and/or Class III gaming is to be conducted.

SECTION X. CREATION OF GAMING REGULATORY COMMISSION

A. There is hereby created the Gaming Regulatory Commission, which shall consist of three persons who would themselves qualify for licensing under this Ordinance. Pending organization of said Commission, the Tribal Council shall serve as the Commission, and shall promulgate and implement interim regulations to govern gaming until such time as the Commission adopts permanent regulations.

B. The members of the Gaming Regulatory Commission shall be appointed by the Tribal Council as follows:

1. Initial appointment. Immediately upon passage of this ordinance, the Tribal Council may publicize, to the extent reasonable and practical, that it will be appointing a three (3) member Gaming Regulatory Commission seeking both applicants for appointment and nominations of individuals to be appointed. At the next regularly scheduled meeting, or as soon thereafter as the Tribal Council

identifies qualified Tribal members willing to serve on the Gaming Regulatory Commission, the Tribal Council shall appoint three (3) members to the Gaming Regulatory Commission. Provided that in any event the appointments shall be made within sixty (60) days of the date of execution of the Management Agreement.

2. Term and compensation. Members of the Gaming Regulatory Commission shall be appointed to serve for three (3) year terms. Members may be reappointed for additional terms without limitation. Provided, to stagger terms, when the Tribal Council makes initial appointments, one person shall be appointed to a one (1) year term, one person shall be appointed to a two (2) year term, and one person shall be appointed to a three (3) year term. All appointments thereafter shall be for three (3) year terms. There shall be a Chairperson of the Gaming Regulatory Commission, who shall be selected by the members of the Commission from the Commission members for a one year term. The Tribal Council shall determine and authorize the compensation to be paid to members of the Gaming Regulatory Commission based upon the Tribal Council's determination of the time required to be expended upon Commission duties and the qualifications of the appointed Commissioners.

3. Future Appointments. At least two (2) weeks prior to any meeting during which appointments to the Gaming Regulatory Commission will be made, the Tribal Council shall publicize that it will be making such appointments and shall seek applicants for appointment and nominations of individuals to be appointed.

4. Oath of Office. Immediately upon appointment, the Tribal Chairman shall administer the oath of office to the members of the Gaming Regulatory Commission which oath of office shall include a commitment to uphold the Constitution and laws of the Little Traverse Bay Bands of Odawa Indians and to perform faithfully and diligently the duties and responsibilities set forth in this ordinance.

5. In the event a vacancy occurs in the Gaming Regulatory Commission, by virtue of death, resignation or removal, the vacancy shall be filled in the following manner:

a. If one year or less remains of the term of office which has become vacant, the Tribal Council shall appoint a qualified member of the Little Traverse Bay Bands of Odawa Indians to fill the remaining term of office without seeking applications or nominations therefor.

b. If more than one year remains of the term of office which has become vacant, the Tribal Council shall comply with the requirements of Section III(C)(3) prior to appointing a qualified member of the Little Traverse Bay Bands of Odawa Indians to fill the remaining term of office.

6. Removal. Members of the Gaming Regulatory Commission shall not be removed during their terms of office except for misconduct, neglect of duties or other acts that would render such persons unqualified for licensure hereunder. The procedure for removal shall be as follows:

a. In the event the Tribal Council has cause to suspect that a member may be subject to removal for one or more of the reasons specified in this section, or upon receipt of a petition signed by at least twenty (20) members of the Little Traverse Bay Bands of Odawa Indians alleging the same, or receipt of a petition by two members of the Gaming Regulatory Commission alleging the same, the Chairman of the Little Traverse Bay Bands of Odawa Indians shall call a special meeting of the Tribal Council to deal with a request to remove the member.

b. In the event the Tribal Council determines that a sufficient number of valid signatures are affixed to the petition and that the charges set forth in the petition, if verified, constitute grounds for removal of a Commissioner from his or her appointed position, the Tribal Council shall set a date for hearing the charges on the petition and shall provide notice to the member of the Gaming Regulatory Commission whose removal is being sought.

c. Notice to the member whose removal is being sought shall be served no later than two (2) weeks prior to the date set for the hearing, shall include the date, time and location of the hearing, shall attach a full and complete copy of a statement of the Tribal Council or the petition seeking removal, and shall attach a copy of the rules to be followed during the hearing. Upon good cause shown, the Tribal Council may postpone the hearing to a later date. Notice shall also advise the recipient of the availability of Tribal Council subpoena power to require the presence of any witness or the production of any document which the recipient deems necessary in order to attempt to defend against the charges contained in the petition.

d. The Tribal Council shall also provide copies of the notice to the other members of the Gaming Regulatory Commission and to each member of the Little Traverse Bay

Bands of Odawa Indians who signed the petition, advising each of them of the opportunity to appear and to present evidence, either in support of the charges against the member of the Gaming Regulatory Commission whose removal is sought or in support of the defense of such member. Any person who has properly signed such petition shall have the ability to request the Tribal Council to issue a subpoena to require the presence of witnesses or production of documents deemed necessary to support the charges contained in the petition.

e. The Tribal Council shall preside at the hearing of the charges contained in any such petition and shall allow as much time as necessary for the testimony of witnesses and presentation of evidence in support of the charges, as much time as necessary for the testimony of witnesses and presentation of evidence to refute the charges, and such time as the Tribal Council deems appropriate for summary statements and arguments. At any time, the Tribal Council may recess the hearing until a later time certain. At the request of the member whose removal is at issue, the hearing may be held in closed session. The Tribal Council also may elect to receive in closed session any evidence public disclosure of which might compromise any on-going law-enforcement investigation.

f. Upon the conclusion of the presentation of evidence and of summary statements and arguments, the Tribal Council shall deliberate in closed session and shall either dismiss the petition or shall remove the member charged in the petition from the Gaming Regulatory Commission, upon such findings of fact as may be appropriate. The decision of the Tribal Council shall be final, and no appeal to any other tribunal shall be available.

C. The Tribal Gaming Regulatory Commission shall be authorized and hereby is directed to promulgate, subject to review and approval by the Tribal Council, detailed and comprehensive regulations for the implementation and enforcement of this Ordinance. Said regulations shall describe and establish the rules for each specific Class II and Class III gaming activity to be authorized to be conducted, and no form of such gaming may be conducted without prior approval by the Gaming Regulatory Commission.

D. The Gaming Regulatory Commission, independent of the Tribal Council, shall have full authority to monitor compliance with this Ordinance and its Regulations, and to investigate and act

to prevent any violation(s) thereof. The Gaming Regulatory Commission shall have the authority to subpoena witnesses and documents if needed to help render licensing and permitting decisions and rule on appeals of those decisions.

E. Subject to the approval of the Tribal Council and the appropriation of funds therefor, the Gaming Regulatory Commission shall be authorized to employ such staff as reasonably may be required to fulfill its responsibilities under this Ordinance. Compensation of Commission employees shall be limited to that which is comparable to compensation paid to persons performing similar duties in other governmental gaming regulatory agencies.

F. Subject to the approval of the Tribal Council, the Gaming Regulatory Commission hereby is authorized to establish and impose upon gaming facilities, permittees, applicants and licensees such application, permit and license fees as may be necessary to fully reimburse the Tribe for its actual costs of operating the Gaming Regulatory Commission, enforcing this Ordinance and Gaming Regulatory Commission regulations, processing of licensing and permit applications, and otherwise fulfilling its regulatory responsibilities under IGRA. All such fees shall be collected by the Gaming Regulatory Commission and hereby are continuously appropriated solely for the purposes enumerated in this Subsection.

G. Failure to timely pay any gaming-related fee imposed by the Tribal Council or the Gaming Regulatory Commission, or to comply with any Commission regulation or order, or any other violation of this Ordinance or the terms of any Class III gaming compact authorizing and regulating gaming, shall be grounds for suspension or revocation of any license or permit issued pursuant to this Ordinance, exclusion of any non-member of the Tribe from the Tribe's Reservation, and imposition of such other sanctions as the Gaming Regulatory Commission may deem appropriate.

SECTION XI: RESOLUTION OF DISPUTES BETWEEN THE GAMING PUBLIC AND TRIBE OR MANAGEMENT OFFICIAL

Disputes between the gaming public and Tribe or management official shall be resolved in accordance with procedures adopted by the Gaming Regulatory Commission. Such procedures shall at a minimum include: 1. The aggrieved member of the gaming public shall first bring his/her complaint either verbally or in writing to staff of the gaming facility. 2. If not satisfied with staff response, the complaining party may file a written complaint with the Gaming Regulatory Commission which shall take appropriate action on the complaint within thirty (30) days of

submission.

SECTION XII: SAVINGS CLAUSE

In the event that any phrase, provision, part, paragraph, subsection or section of this ordinance is found by a court of competent jurisdiction to violate the Constitution, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, paragraph, subsection or section shall be considered to stand alone and to be deleted from this ordinance, the entirety of the balance of the ordinance to remain in full and binding force and effect.

Certification

As Tribal Chairman and Tribal Secretary, the undersigned certify that this Gaming Regulatory Ordinance was duly enacted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on March 3, 1996, at which a quorum was present, by a vote of 4 in favor, 0 opposed and 0 abstentions as recorded by this roll call.

	In Favor	Opposed	Abstained	Absent
George Anthony	✓			
Patricia Dyer-Deckrow				✓
Frank Ettawageshik	✓			
Barry Laughlin	✓			
Shirley Oldman				✓
Janet Shomin				✓
Alice Yellowbank	✓			

Date: 3-3-1996

Frank Ettawageshik

Frank Ettawageshik, Tribal Chairman

Barry Laughlin

Barry Laughlin, Tribal Secretary