



March 22, 2023

VIA EMAIL

Sara Dutschke
Chairperson, Ione Band of Miwok Indians of California
9252 Bush Street
Plymouth, California, 95669

Re: Ione Band of Miwok Indians of California Amended Gaming Ordinance

Dear Chairperson Dutschke:

This letter responds to the January 27, 2023 submission on behalf of the Ione Band of Miwok Indians ("Tribe") informing the National Indian Gaming Commission that the Tribe amended its gaming ordinance. The amendments to the tribal gaming code were intended to eliminate the board of directors, thereby eliminating conflicts with a later enacted statute and to address the most recent NIGC regulations and reflect the compact that the Tribe entered into with the State in 2020.

Thank you for bringing these amendments to our attention. The amended ordinance, as noted above, is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC's regulations. If you have any questions or require anything further, please contact Rachel Hill at (918) 581-6214.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Sequoyah Simermeyer".

E. Sequoyah Simermeyer
Chairman

CC: John A. Maier, Attorney, Maier Pfeffer Kim Geary & Cohen, LLP

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**SECOND AMENDED AND RESTATED
TRIBAL GAMING ORDINANCE
OF THE
THE IONE BAND OF MIWOK INDIANS**



Ione Band
.....of.....
Miwok Indians

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**Second Amended and Restated Tribal Gaming Ordinance of
the Ione Band of Miwok Indians**

Section 1. Purpose

The Tribal Council of the Ione Band of Miwok Indians (“Tribe”), empowered by the Tribe’s Constitution to enact ordinances, hereby enacts this Second Amended and Restated Tribal Gaming Ordinance (“Ordinance”) to govern and regulate the operation of class II and class III gaming on the Tribe’s Indian lands; to promote tribal economic development, self-sufficiency and sovereignty; to shield the operation of gaming from organized crime and other corrupting influences; and to ensure that gaming is conducted fairly and honestly by both the operator and players.

Section 2. Applicability

Unless specifically indicated otherwise, all provisions of this Ordinance shall apply to class II and class III gaming on the Tribe’s Indian lands.

Section 3. Definitions

The following terms shall have the same meaning and effect as those same terms are defined in IGRA and the NIGC’s regulations, 25 C.F.R. §§ 500 *et seq.*, if they are defined in IGRA and the NIGC’s regulations.

- A. **Class II gaming.** Those gaming activities defined as “class II gaming” in IGRA at 25 U.S.C. § 2703(7), and the NIGC’s regulations at 25 C.F.R. § 502.3.
- B. **Class III gaming.** Those gaming activities defined as “class III gaming” in IGRA at 25 U.S.C. § 2703(8), and the NIGC’s regulations at 25 C.F.R. § 502.4.
- C. **Commission.** The Tribal Gaming Commission established pursuant to this Ordinance to perform regulatory oversight of gaming pursuant to IGRA and to monitor compliance with Tribal, federal, and applicable state regulations.
- D. **Commissioner.** A Tribal Gaming Commissioner.
- E. **Complimentary** shall have the meaning as set forth in 25 C.F.R. § 542.2(a).
- F. **Facility License.** A license defined as a “Facility License” in the NIGC’s regulations at 25 C.F.R. § 502.23. See also IGRA at 25 U.S.C. § 2710(b)(1) and (d)(1)(A)(iii).
- G. **Financial Source.** Any individual or entity who, directly or indirectly, extends financing to a Gaming Operation.

- H. **Gaming Enterprise.** The entities through which the Tribe conducts, regulates, and secures gaming on Indian lands with the Tribe's jurisdiction pursuant to IGRA.
- I. **Gaming Operation.** Each economic entity that is licensed by the Tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by the Tribe directly, or by a management contractor.
- J. **IGRA.** The Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 *et seq.*, and any and all regulations promulgated pursuant thereto.
- K. **Indian Lands.** Those lands defined as "Indian Lands" in IGRA at 25 U.S.C. § 2703(4) and the NIGC's regulations at 25 C.F.R. § 502.12. See also 25 U.S.C. § 2719 and 25 C.F.R. part 292.
- L. **Key Employee.**
1. A person who performs one or more of the following functions for the gaming operation:
 - (a) Bingo caller;
 - (b) Counting room supervisor;
 - (c) Chief of security;
 - (d) Floor manager;
 - (e) Pit boss;
 - (f) Dealer;
 - (g) Croupier;
 - (h) Approver of credit; or
 - (i) Custodian of gaming systems as defined in 25 C.F.R. § 547.2 and similar class III systems, gaming cash or gaming cash equivalents, or gaming system records;
 - (j) Custodian of surveillance systems or surveillance system records.
 2. Any person authorized by the gaming operation for unescorted access to restricted areas designated as restricted areas by the Commission.
 3. If not otherwise licensed as a key employee or primary management official, the four (4) persons most highly compensated by the gaming operation; or

4. Any other employee of the gaming enterprise designated by the Tribe as a key employee in this Ordinance.
- M. **Management Contract.** Any contract, subcontract or collateral agreement between an Indian tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.
- N. **Net Revenues.** Gross gaming revenues as defined as “Net Revenues” in IGRA at 25 U.S.C. § 2703(9) and the NIGC’s regulations at 25 C.F.R. § 502.16.
- O. **NIGC.** The National Indian Gaming Commission, established pursuant to IGRA at 25 U.S.C. § 2704.
- P. **Primary Management Official.**
1. Any person having management responsibility for a management contract; or
 2. Any person who has authority:
 - (a) To hire and fire employees of the gaming operation; or
 - (b) To establish policy for the gaming operation; or
 - (c) To supervise a key employee of the gaming operation.
 3. The chief financial officer or a position with duties similar to a chief financial officer.
 4. The general manager or a position with duties similar to a general manager.
 5. Any other employed management official of the gaming enterprise designated by the Tribe as a primary management official in this Ordinance.
- Q. **Recognized Regulatory Authority.** The following jurisdictions: other federally recognized tribes, Nevada, New Jersey, Colorado and Washington State.
- R. **Secretarial Procedures.** Procedures that may be prescribed by the Secretary of the Interior for the conduct of class III gaming in lieu of a Tribal-State Compact pursuant to IGRA at 25 U.S.C. § 2710(d)(7).
- S. **State Gaming Agency.** The entity or entities authorized to investigate, approve, regulate and license gaming pursuant to state law in the state in which any Gaming Facility is located.

- T. **Tribe.** The Ione Band of Miwok Indians of California, a federally recognized Indian tribe.
- U. **Tribal Council.** The governing body of the Tribe under the Tribe's Constitution.
- V. **Tribal Gaming Regulations.** Any gaming regulations issued by the Commission pursuant to this Ordinance relating to class II and/or class III gaming on the Tribe's Indian lands.
- W. **Tribal-State Compact.** The Tribal-State Compact Between the State of California and the Ione Band of Miwok Indians executed on August 3, 2020 and made effective as of December 11, 2020 (85 Fed.Reg. 80142) for for the conduct of class III gaming pursuant to IGRA at 25 U.S.C. § 2710(d), as such may be amended, amended and restated, or replaced with Secretarial Procedures from time to time. See also NIGC's regulations at 25 C.F.R. § 502.21.

Section 4. Gaming Authorized

Class II and class III gaming are authorized to be conducted on the Tribe's Indian lands, if such gaming is conducted in accordance with this Ordinance, IGRA, the NIGC's regulations, and any other applicable laws or regulations. Any class III gaming activities authorized under this Ordinance are limited to those gaming activities authorized under the Tribal-State Compact.

Section 5. Ownership of Gaming

- A. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any Gaming Operation authorized by this Ordinance.

Section 6. Use of Net Gaming Revenues

- A. Net Revenues from Tribal gaming shall be used only for the following purposes:
 - 1. To fund Tribal government operations or programs;
 - 2. To provide for the general welfare of the Tribe and its members;
 - 3. To promote Tribal economic development;
 - 4. To donate to charitable organizations; or
 - 5. To help fund operations of local government agencies.

Section 7. Per Capita Payments

- A. Net Revenues from any class II and/or class III gaming activities conducted or

licensed by the Tribe may be used to make per capita payments to Tribal members if—

1. The Tribe has prepared a plan to allocate revenues to one or more of the five uses authorized by **Section 6(A)** of this Ordinance;
2. The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in **Sections 6(1)** and **6(3)** of this Ordinance;
3. The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person; and
4. The per capita payments are subject to Federal taxation and the Tribe notifies its members of such tax liability when payments are made.

Section 8. [Intentionally Deleted]

Section 9. Gaming Commission

- A. The Tribe hereby establishes a Tribal Gaming Commission (“Commission”) as a non-political and independent unit of Tribal government for the exclusive purpose of regulating and monitoring the Gaming Operation on behalf of the Tribe. The Commission shall consist of three (3) to five (5) members, including a Chair, Vice-Chair and at least one additional Commissioner.
- B. The Commission will conduct oversight to ensure compliance with Tribal, federal and, if applicable, state laws and regulations. It will serve as the licensing authority for individuals employed in the Gaming Operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the Gaming Operation’s internal controls and in tracking gaming revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the Gaming Operation and to all of its records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.
- C. Commissioner positions shall be filled through appointment by the Tribal Council.
- D. The terms of office for Commissioners shall be as follows: the Chair shall serve an initial term of one (1) year, with subsequent Chairs serving 3-year terms; and the Vice-Chair and Commissioner(s) shall serve an initial term of two (2) years, with subsequent Vice-Chairs and Commissioner(s) serving 3-year terms.

- E. The following persons are not eligible to serve as Commissioners:
1. Tribal Council or Ione Band Economic Development Authority members, while serving as such;
 2. Current employees of the Gaming Operation;
 3. Gaming contractors (including any principal of a management, or other, contracting company);
 4. A spouse, child, parent, grandparent, grandchild, aunt, uncle or first cousin of, or person sharing a residence with, any of the above;
 5. Persons ineligible to be Key Employees or Primary Management Officials;
 6. Non-tribal members previously convicted of any felony or misdemeanor offense of embezzlement, theft or any other money-related or honesty-related misdemeanor offense, such as fraud, cannot serve as a Commissioner.
- F. Tribal members previously convicted of any felony or misdemeanor offense of embezzlement, theft or any other offense related to money or honesty, such as fraud, will only be allowed to serve as a Commissioner if the Tribal Council specifically finds that a significant amount of time has passed and the person is now of trustworthy character.
- G. The Tribal Council shall require a criminal history check with appropriate law enforcement agencies for each Commissioner candidate; shall review the candidate's criminal history check results; and shall make an appropriate eligibility determination before appointing an individual to the position of Commissioner.
- H. The Tribe recognizes the importance of an independent Commission in maintaining a well-regulated Gaming Operation. The Commission shall be independent of, and act independently and autonomously from, the Tribal Council in all matters within its purview. No prior, or subsequent, review by the Tribal Council of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Ordinance. To avoid potential conflicts of interest between the operation and regulation of the Gaming Operation and the Gaming Facility, the Tribe requires that, at a minimum:
1. Members of the Commission are prohibited from gambling in the Gaming Facility;
 2. Commissioners are prohibited from accepting Complimentary items from the Gaming Operation, excepting food and beverages valued under five (5) dollars;

3. Commissioners may only be removed from office by the Tribal Council, prior to the expiration of their respective terms, for neglect of duty, misconduct, malfeasance or other acts that would render a Commissioner unqualified for the position;
- I. Nominees for Commissioner positions must satisfy the eligibility standards set forth for Primary Management Officials and Key Employees found in the “**Eligibility Determinations**” Section of this Ordinance. All requisite background investigations shall be performed under the sole direction of the Tribe. Commissioners are not required to be licensed under this Ordinance.
 - J. The Commission shall:
 1. Conduct background investigations, or cause such investigations to be conducted, for Primary Management Officials and Key Employees;
 2. Review and approve all investigative work conducted in connection with the background investigations of Primary Management Officials and Key Employees;
 3. Create and maintain investigative reports based on the background investigations of Primary Management Officials and Key Employees;
 4. Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
 5. Make licensing eligibility determinations, which shall be signed by the Chair of the Commission;
 6. Submit a notice of results to the NIGC of the background investigations done for each Primary Management Official and Key Employee applicant;
 7. Issue gaming licenses to Primary Management Officials and Key Employees of the Gaming Operation, if warranted by the eligibility determination;
 8. Establish standards for licensing gaming facilities;
 9. Issue gaming Facility Licenses to gaming facilities;
 10. Inspect, examine and monitor all of the Tribe’s gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the Gaming Operation(s);
 11. Ensure compliance with all Tribal, state and federal laws, rules and regulations regarding Indian gaming;

12. Investigate any suspicion of wrongdoing associated with any Gaming Operation;
13. Hold hearings on patron complaints, in accordance with procedures established in this Ordinance and any Tribal Gaming Regulations;
14. Comply with any and all reporting requirements under IGRA, the NIGC's regulations and the Tribal-State Compact, and any other applicable law;
15. Promulgate and issue Tribal Gaming Regulations necessary to comply with applicable internal control standards;
16. Promulgate and issue Tribal Gaming Regulations on the levying of fees and/or taxes associated with gaming license applications;
17. Promulgate and issue Tribal Gaming Regulations on the levying of fines and/or the suspension or revocation of licenses for violations of this Ordinance or any Tribal, federal or state gaming regulations, if applicable;
18. Establish a list of persons not allowed to game in the Tribe's gaming facilities in order to maintain the integrity of the Gaming Operation(s);
19. Establish a list of persons who have voluntarily agreed to be excluded from the gaming facilities, and create Tribal Gaming Regulations for enforcing the exclusions;
20. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, federal or state statutes, ordinances, regulations, codes or resolutions;
21. Create a list of regulatory authorities that conduct background investigations of, and license, vendors who are recognized as trustworthy;
22. Draft and adopt Tribal Gaming Regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a Recognized Regulatory Authority;
23. Perform such other duties the Commission deems appropriate for the proper regulation of the Gaming Operation(s); and
24. Promulgate such Tribal Gaming Regulations and guidelines as deemed appropriate to implement the provisions of this Ordinance, so long as they are in furtherance of, and not in conflict with, any provisions of this Ordinance.

- K. Before adopting, amending or repealing Tribal Gaming Regulations, the Commission shall give notice of any such proposed action to the Tribal Council, the Gaming Operation(s) and all other persons whom the Commission has reason to believe have a legitimate interest in the proposed action. The notice shall invite comments and describe the general nature of the proposed action and the manner in which comments on the proposed action shall be received by the Commission.
- L. The Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel and/or others employed by the Gaming Operation(s) on a need-to-know basis, for actions taken in their official capacities.
- M. The confidentiality requirements in **Section 9(L)** above do not apply to requests for such records or information from any Tribal, federal, or state law enforcement or regulatory agency, or for the use of such records or information by the Commission and staff in the performance of their official duties.
- N. A majority of the Commission shall constitute a quorum. The concurrence of a majority of the Commissioners shall be required for any final determination by the Commission. The Commission may act in its official capacity, even if there are vacancies on the Commission.
- O. Commissioners shall be compensated at a level determined by the Tribal Council. In order to ensure the Commission is not improperly influenced, a Commissioner's compensation shall not be based on a percentage of gaming revenue.
- P. The Commission shall keep a written record of its meetings.

Section 10. Ethics

- A. The Tribe recognizes that the duties of the Tribal Gaming Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Gaming Commission shall be held to extremely high ethical standards. Before taking their positions on the Tribal Gaming Commission, the members of the Commission ("Members") shall agree to be bound by the following principles:
 - 1. Members shall not hold financial interests that conflict with the conscientious performance of their duties as managers and regulators.
 - 2. Members shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their

behalf to further any private interest.

3. Members shall not solicit or accept any gift or other item of monetary value, including Complimentary items or services, from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the Members' organization, or whose interests may be substantially affected by the performance or nonperformance of the Members' duties.
4. Members shall make no unauthorized commitments or promises of any kind purporting to bind the Tribe.
5. Members shall not use their positions for private gain.
6. Members shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons related to Members.
7. Members shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.
8. Members shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.
9. Members shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
10. Members shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.
11. Members shall disclose any real or apparent financial or personal conflicts. If there is a real conflict or the appearance of one, the member shall not take part in any decision related to the conflict.

Section 11. Complimentary Items

- A. The use of Complimentary items shall be governed by regulations established by the Tribal Gaming Commission.
- B. No Key Employee, Primary Management Official, Tribal Council member, member of the Gaming Board of Directors or Tribal Gaming Commission, or any person directly related to or sharing a residence with the above persons, shall be authorized to receive Complimentary items other than food and beverages valued at five (5)

dollars or less, or, if at a public event held at the gaming facility, the free food and beverages offered to the general public.

Section 12. Audits

- A. The Tribe shall cause to be conducted, independent audits of any and all Gaming Operations annually and shall submit the results of those audits to the NIGC.
 - 1. Annual audits shall conform to generally accepted auditing standards.
- B. All gaming related contracts that result in the purchase of supplies, services or concessions for more than \$25,000 in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under this Ordinance.
- C. Copies of the annual audit of each Gaming Operation, and each audit for supplies, services or concessions of each Gaming Operation, shall be furnished to the NIGC within 120 days after the end of each fiscal year of the Gaming Operation.

Section 13. Environment and Public Health and Safety

- A. Each gaming facility shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public.
- B. The Commission shall identify and enforce laws, resolutions, codes, policies, standards, or procedures, which are applicable to each gaming facility to ensure adequate protection of the environment and the health and safety of the public.

Section 14. Tribal Internal Control Standards

The Tribe shall adopt and implement Tribal Internal Control Standards (“TICS”) for the operation of its Tribal Gaming Operation(s) in accordance with applicable law. The TICS shall be set out in separate regulations to be reviewed and approved by the Tribal Council.

Section 15. Patron Dispute Resolution

Patrons with complaints against the Gaming Operation shall have the right to file a petition for relief with the Commission in accordance with regulations for the resolution of patron disputes promulgated by the Commission pursuant to 25 C.F.R. § 522(f) and section 10.0 of the Tribal-State Compact.

Section 16. Facility Licenses

- A. The Tribe shall issue a separate Facility License to each place, facility or location on Indian Lands where class II and/or class III gaming is conducted under this Ordinance

once every two (2) years.

- B. The Commission is responsible for issuing new or renewed Facility Licenses to each place, facility or location.
- C. The Commission shall require that a Facility License application be completed by the chief management official of the Gaming Operation for each place, facility or location.
- D. The Commission shall be responsible for ensuring the environmental, health and public safety standards adopted by the Tribe are complied with by each gaming facility, and shall specify the form, conditions and content of a Facility License application. The application shall include:
 - 1. A legal description of the lands upon which the facility is located, and a certification that the site constitutes "Indian lands," as defined in IGRA, the NIGC's regulations, the NIGC Office of General Counsel and the DOI Office of the Solicitor's Indian lands legal opinions, judicial decisions and any other applicable law.
- E. The Commission shall only issue a Facility License if the application includes the required information and documentation, and sufficiently satisfies any additional conditions deemed necessary by the Tribe.
- F. *Notice in Advance of Initial Facility License.* The Tribe or Commission shall submit to the NIGC Chair a notice that issuance of a Facility License is under consideration by the Commission. This notice must contain the information and documentation set out in 25 C.F.R. § 559.2(b) and be submitted at least 120 days before the opening of any new gaming place, facility or location on Indian lands. The Commission may request an expedited 60-day review of the notice.
- G. *Notice of Issuance.* The Commission shall submit a copy of each newly issued or renewed Facility License to the NIGC Chair within 30 days of issuance, along with an attestation as required by 25 C.F.R. § 559.4 and any other required documentation.
- H. The Tribe shall notify the NIGC Chair within 30 days if a Facility License is terminated or expires, or if a gaming place, facility or location closes or reopens.

Section 17. Agent for Service of Process

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

Section 18. Tribal Access to Financial Information

A copy of a Gaming Operation's annual audit will be made available for review, upon

request, to the Tribal Council.

Section 19. License Application Forms

A. *Privacy Notice.* The following notice shall be placed on the Tribe's license application form for a Key Employee or a Primary Management Official before it is filled out by an applicant:

1. 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 granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC 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 NIGC in connection with the issuance, denial, 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 being unable to license you for 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. The following additional notice shall be placed on the application form for a Key Employee or a Primary Management Official before it is filled out by an applicant:

1. A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

Section 20. License Fees

The Tribe may charge a license fee, in an amount to be set by the Commission, to cover its expenses in investigating and licensing Key Employees and Primary Management Officials of a Gaming Operation.

Section 21. Fingerprints

The Tribe shall perform a background investigation for each Primary Management Official and Key Employee of a Gaming Operation. The Tribe shall request fingerprints

from each Primary Management Official and Key Employee. Fingerprints shall be taken by the Commission. Fingerprints will then be forwarded to the NIGC for processing through the Federal Bureau of Investigation (“FBI”) and the National Criminal Information Center to determine the applicant’s criminal history, if any.

Section 22. Background Investigations

- A. The Tribe shall perform a background investigation for each Primary Management Official and Key Employee in its Gaming Operation(s).
- B. The Commission is responsible for conducting the background investigations of Primary Management Officials and Key Employees.
- C. The Commission shall obtain from each Primary Management Official and Key Employee all of the following information:
 - 1. Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender and all languages spoken and/or written);
 - 2. Currently, and for the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver’s license numbers;
 - 3. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (C)(2) of this Section;
 - 4. Current business and residential telephone numbers, and all cell phone numbers;
 - 5. A description of any existing and previous business relationships with other tribes, including any ownership interests in the businesses;
 - 6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in the businesses;
 - 7. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
 - 8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date of disposition, if any;

9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date of disposition, if any;
 10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application, and is not otherwise listed pursuant to paragraphs (C)(8) or (C)(9) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;
 11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
 12. A recent photograph;
 13. Any other information the Commission deems relevant; and
 14. Fingerprints obtained in accordance with procedures adopted by the Tribe pursuant to 25 C.F.R. § 522.2(h).
- D. When a Primary Management Official or Key Employee is employed by the Tribe, a complete application file, containing all of the information listed in **Section 22(C)**, shall be maintained.

Section 23. Procedures for Conducting Background Investigations

- A. The Commission, or its agents, shall employ or engage an investigator to conduct a background investigation of each applicant for a Primary Management Official or Key Employee position. The investigation must be sufficient to allow the Commission to make an eligibility determination under the “**Eligibility Determinations**” Section of this Ordinance. The investigator shall:
1. Verify the applicant’s identity through items such as a social security card, driver’s license, birth certificate or passport;
 2. Contact each personal and business reference provided in the license application, when possible;
 3. Conduct a personal credit check;
 4. Conduct a civil history check for past or outstanding judgments, current liens, past or pending lawsuits, and any other information deemed to be relevant;

5. Conduct a criminal history records check, including review of federal, state and tribal court records for review of any criminal activity or any other information deemed to be relevant;
6. Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony and/or misdemeanor convictions or ongoing prosecutions within the past ten (10) years;
7. Inquire into any previous or existing business relationships with the gaming industry, including with any tribes with gaming operations, by contacting the entities or tribes;
8. Verify the applicant's history and current status with any licensing agency by contacting the agency; and
9. Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

Section 24. Investigative Reports

- A. The Tribe shall create and maintain an investigative report for each background investigation of a Primary Management Official or Key Employee.
- B. Investigative reports shall include all of the following information:
 1. Steps taken in conducting the investigation;
 2. Results obtained;
 3. Conclusions reached; and
 4. The basis for those conclusions.

Section 25. Eligibility Determinations

- A. Before a license is issued to a Primary Management Official or Key Employee, an authorized Tribal official shall make a finding concerning the eligibility of that person for receiving a license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations.
- B. If the authorized Tribal official, in applying the standards adopted in this Ordinance, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, the

authorized Tribal official shall not license that person in a Key Employee or Primary Management Official position.

- C. Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a Primary Management Official or Key Employee.

Section 26. Notice of Results of Background Investigations

- A. Before issuing a License to a Primary Management Official or Key Employee, the Commission shall prepare a notice of results of the applicant’s background investigation to submit to the NIGC.

- 1. The notice of results must be submitted to the NIGC no later than 60 days after the applicant begins working for the Tribe.

- B. The notice of results shall include the following information:

- 1. The applicant’s name, date of birth, and social security number;
 - 2. The date on which the applicant began, or will begin, working as a Primary Management Official or Key Employee;
 - 3. A summary of the information presented in the investigative report, including:
 - (a) licenses that have previously been denied;
 - (b) gaming licenses that have been revoked, even if subsequently reinstated;
 - (c) every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
 - (d) every felony offense of which the applicant has been convicted or any ongoing prosecution; and
 - 4. A copy of the eligibility determination made in accordance with the **“Eligibility Determinations”** Section of this Ordinance.

Section 27. Limitation on State Reporting Requirements.

Notwithstanding any requirements to the contrary in this Ordinance, if the Tribe operates a gaming facility that offers only class II gaming and not class III gaming, or the Tribe is not otherwise subject to state reporting requirements, the Commission’s reporting and other obligations pursuant to this Ordinance shall be limited to those required under

applicable federal law. In such cases, the Commission's ability to issue a license shall not be dependent on receiving a determination of suitability from a State Gaming Agency unless otherwise required by applicable federal law.

Section 28. Granting Gaming Licenses

- A. All Primary Management Officials and Key Employees of a Gaming Operation must have a gaming license issued by the Tribe.
- B. The Commission is responsible for granting and issuing gaming licenses to Primary Management Officials and Key Employees.
- C. The Commission may license a Primary Management Official or Key Employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC.
- D. The Commission shall notify the NIGC of the issuance of a license to a Primary Management Official or Key Employee within 30 days of issuance.
- E. The Tribe shall not employ an individual in a Primary Management Official or Key Employee position who does not have a license after 90 days of beginning work at a Gaming Operation.
- F. The Commission must reconsider a license application for a Primary Management Official or Key Employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within 30 days of the NIGC receiving a notice of results of the applicant's background investigation.
 1. The Commission shall take the NIGC's objections into account when reconsidering a license application.
- G. The Commission will make the final decision whether to issue a license to an applicant for a Primary Management Official or Key Employee position.
- H. If the Commission has issued a license to a Primary Management Official or Key Employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee, as required by **Section 32**.

Section 29. Records Retention

- A. The Commission shall retain, for no less than three (3) years from the date a Primary Management Official or Key Employee is terminated from employment with the Tribe, the following documentation:
 1. Applications for licensing;

2. Investigative reports; and
3. Eligibility determinations.

Section 30. Temporary Licenses

If an applicant has completed a license application to the satisfaction of the Commission, and the Commission has conducted a preliminary background investigation, the Commission may issue a temporary license and impose such conditions thereon as it deems appropriate pending completion of the licensing process. Provided that, the Commission has no information suggesting the applicant would be automatically disqualified from obtaining a license or that would cause a reasonable person to investigate further before issuing a license. Temporary licenses shall expire upon ninety (90) days of issuance.

Section 31. Denying Gaming Licenses

- A. The Commission shall not license a Primary Management Official or Key Employee if an authorized Tribal official determines, in applying the standards in the **“Eligibility Determinations”** Section of this Ordinance for making a license eligibility determination, that licensing the person:
 1. Poses a threat to the public interest;
 2. Poses a threat to the effective regulation of gaming; or
 3. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.
- B. When the Commission does not issue a license to an applicant for a Primary Management Official or Key Employee position, or revokes a previously issued license after reconsideration, it shall:
 1. Notify the NIGC; and
 2. Forward copies of its eligibility determination and notice of results of the applicant’s background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

Section 32. Gaming License Suspensions and Revocations

- A. If, after a license is issued to a Primary Management Official or a Key Employee, the Tribe or the Commission receives notice from the NIGC that the Primary Management Official or Key Employee is not eligible for employment, the Commission shall do the following:

1. Immediately suspend the license;
 2. Provide the licensee with written notice of the suspension and proposed revocation; and
 3. Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.
- B. The right to a revocation hearing vests only when a license is granted under an ordinance that has been approved by the NIGC Chair. License revocation procedures shall be adopted by the Commission via separate policy/regulations.
- C. Following a revocation hearing, the Tribe shall decide whether to revoke or reinstate the license at issue.
- D. The Tribe shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a Primary Management Official or Key Employee is not eligible for employment.

Section 33. Licenses for Vendors

Vendor Licenses Required. Vendors of gaming services or supplies, with a value of \$25,000 or more annually, including vendors identified as a gaming resource suppliers or Financial Sources requiring licensure under the Tribal-State Compact, must obtain a vendor license from the Commission in order to transact business with the Tribe's Gaming Operation(s). Contracts for professional legal and accounting services are excluded from this Section. The Commission may, at its discretion, exclude from licensing those financial sources identified as not requiring a license under the circumstances specified under section 6.4.5(h) of the Tribal-State Compact.

Section 34. Submission of a Vendor License Application

In order to obtain a vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include those officers, directors, managers, owners, partners, and non-institutional stockholders that either own 10% or more of the business' stock or are the ten (10) largest stockholders, as well as the on-site supervisors or managers designated in an agreement with the Tribe or the Commission, if applicable.

Section 35. Vendor License Application and Background Investigations

The Tribal Council or Commission shall adopt, and the Commission shall implement, regulations providing for such licensing and background investigation requirements and procedures for vendors as it deems appropriate, provided that such requirements are at least as stringent as those contained in IGRA at 25 U.S.C. § 2710(b)(2)(F) and the NIGC's regulations at 25 C.F.R. Parts 556, 558, and 559, and the Tribal-State Compact.

The Tribal Council or Commission shall adopt standards for the required content of vendor license applications and determine the minimum steps to be taken by an investigator in completing vendor background investigations. These standards shall be adopted by separate ordinance or tribal policy.

Section 36. Vendor License Fees

The Tribe may charge a reasonable license fee, in an amount to be set by the Commission.

Section 37. Vendor Background Investigation Reports

The investigator shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals, and present it to the Commission.

Section 38. Exemption for Vendors Licensed by Recognized Regulatory Authorities

The Commission may adopt Tribal Gaming Regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors who have received a license from one of the named regulatory authorities.

Section 39. Compliance with Federal Law

The Tribe shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*

Section 40. Severability

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

Section 41. Amendments

This Ordinance may be amended upon approval by the Tribal Council and approval by the Chair of the NIGC.

Section 42. Interim Gaming Commission

Until such time as the Tribal Gaming Commission is appointed by the Tribal Council, the Tribal Council shall act as the Interim Gaming Commission and shall be authorized to perform all functions of the Tribal Gaming Commission set forth in and in accordance with this Gaming Ordinance except that the Interim Gaming Commission will not be in violation of any and all provisions of this Gaming Ordinance which prohibit Tribal

Council or Ione Band Economic Development Authority members or their relatives from serving on the Tribal Gaming Commission.

Section 43. Effective Date

This Ordinance shall take effect immediately upon its approval by the NIGC Chair.


CERTIFICATION

We, the undersigned duly elected officials of the Ione Band of Miwok Indians, certify that this foregoing Tribal Gaming Ordinance of the Ione Band of Miwok Indians was approved and adopted at a duly-called meeting of the Tribal Council on January 14, 2023, at which a quorum was present, by a vote of 4 for, 0 against, and 0 abstentions, as embodied in Tribal Council Resolution 2023-02.

By:



Sara Dutschke
Chairperson



Tracy Tripp
Acting Secretary