



April 28, 2023

VIA EMAIL

Chairwoman Glenda Nelson
Estom Yumeka Maidu Tribe of the Enterprise Rancheria
2133 Monte Vista Avenue
Oroville, CA 95966

Re: Estom Yumeka Maidu Tribe of the Enterprise Rancheria Amended Gaming Ordinance

Dear Chairwoman Nelson:

This letter responds to the February 21, 2023 submission on behalf of the Estom Yumeka Maidu Tribe of the Enterprise Rancheria ("Tribe") informing the National Indian Gaming Commission that the Tribe amended its gaming ordinance. The amendments to the tribal gaming code were intended to reflect the Tribe's current practices and needs and recent regulatory changes.

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 that reads "E. Sequoyah Sinnermeyer".

E. Sequoyah Sinnermeyer
Chairman

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

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REGIONAL OFFICES Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK; Oklahoma City, OK; Rapid City, SD

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Estom Yumeka Maidu Tribe

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GENERAL COUNCIL RESOLUTION NO.: GC-23-01

RESOLUTION TO: (i) APPROVE THE SECOND AMENDED AND RESTATED GAMING ORDINANCE, (ii) DELEGATE AND GRANT THE TRIBAL COUNCIL THE AUTHORITY TO APPROVE CHANGES TO THE ORDINANCE AS MAY BE REQUIRED FOR THE ORDINANCE TO BE APPROVED BY THE NIGC CHAIR, AND (iii) AUTHORIZE THE TRIBE'S LEGAL COUNSEL TO SUBMIT THE ORDINANCE TO THE NIGC FOR APPROVAL.

WHEREAS: The Estom Yumeka Maidu Tribe of the Enterprise Rancheria is a federally recognized Indian tribe listed in the Federal Register as the Enterprise Rancheria of Maidu Indians of California (the "Tribe") and organized pursuant to the Constitution of the Enterprise Rancheria Estom Yumeka Maidu, as amended, revised and ratified on June 4, 2016 (the "Constitution"); and

WHEREAS: Article IV, Section 3 of the Constitution provides that the governing body of the Tribe is the General Council; and

WHEREAS: Article VI, Section 3 provides that the Tribal Council has the power to promulgate and pass legislative rules and regulations; and

WHEREAS: Article VI, Section 3 of the Constitution specifies that the official gaming related ordinances of the Tribe shall be approved by the General Council; and

WHEREAS: The Tribe owns and operates a class III gaming facility, the Hard Rock Hotel & Casino Sacramento at Fire Mountain (the "Casino"), on its Indian lands pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 *et seq.* ("IGRA"), including the class III gaming procedures issued by the Secretary of the Interior on August 12, 2016 (the "Secretarial Procedures") and the Amended and Revised Gaming Ordinance No. 2013-01 (the "2013 Ordinance") approved on August 13, 2013, by the Chairwoman of the National Indian Gaming Commission ("NIGC"); and

WHEREAS: The 2013 Ordinance established the Enterprise Rancheria Gaming Commission (the "ERGC") as a non-political and independent arm of the Tribal government with jurisdiction over the regulation of the Tribe's gaming operations and related facilities and enterprises; and

WHEREAS: The ERGC has identified the need to amend and update the 2013 Ordinance to better reflect ERGC's regulatory practices and structure and changes made to the NIGC's regulations since 2013, and to address other issues; and

WHEREAS: In consultation with the Tribal Council and the Tribe’s legal counsel, the ERGC has prepared an amended and restated gaming ordinance (the “Second Amended and Restated Gaming Ordinance” or “Ordinance”) that conforms with the Secretarial Procedures and updated regulations promulgated by the NIGC pursuant to IGRA; and

WHEREAS: The Second Amended and Restated Gaming Ordinance and other documentation required under 25 C.F.R. Part 522 must be submitted to the NIGC for approval by the Chairman of the NIGC before it takes effect under IGRA; and

WHEREAS: The NIGC may request minor changes to the Second Amended and Restated Gaming Ordinance to ensure that the Ordinance conforms to IGRA before the NIGC Chairman approves the Ordinance.

NOW, THEREFORE BE IT RESOLVED THAT the General Council hereby approves the Second Amended and Restated Gaming Ordinance.

BE IT FURTHER RESOLVED THAT the General Council hereby delegates and grants the Tribal Council the authority to approve changes to the Second Amended and Restated Gaming Ordinance as may be required for Ordinance to be approved by the NIGC Chairman.

BE IT FURTHER RESOLVED THAT the General Council hereby authorizes the Tribe’s legal counsel, Maier Pfeffer Kim Geary & Cohen, LLP, to submit the Second Amended and Restated Gaming Ordinance and other documentation as required to the NIGC for approval.

CERTIFICATION

We the undersigned to hereby certify that the foregoing resolution GC-23-01 was duly adopted by the General Membership on the 11th day of February 2023, at a General Council meeting at which a quorum of the registered voters was present by a vote of 106 for, 0 opposed, and 1 abstaining, and that said Resolution has not been rescinded or amended in any way.



Glenda Nelson, Tribal Chairperson

ATTEST:



Cindy Smith, Tribal Secretary

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**ESTOM YUMEKA MAIDU TRIBE
OF THE
ENTERPRISE RANCHERIA**

SECOND AMENDED AND RESTATED GAMING ORDINANCE

Effective Date: _____, 2023

**CHAPTER ONE
AUTHORITY, PURPOSE, AND SHORT TITLE**

SECTION:

1.1 Authority. This Ordinance is enacted by the Tribal Council and approved by the General Council pursuant to Article VI, Section 3(r) of the Constitution of the Enterprise Rancheria Estom Yumeka Maidu, as amended and ratified on June 4, 2016 (the “Constitution”), and the inherent sovereign authority of the Tribe.

1.2 Purpose. This Ordinance is enacted 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.

1.3 Short Title. This Statute shall be known and cited as the “Enterprise Rancheria Second Amended and Restated Gaming Ordinance.”

**CHAPTER TWO
DEFINITIONS**

SECTION:

2,1 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:

Class II gaming means those gaming activities as 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.

Class III gaming means those gaming activities as 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.

Facility license means a separate license issued by the Tribe to each place, facility or

location on Indian lands where the Tribe elects to allow class II or III gaming.

FBI means the Federal Bureau of Investigation, an agency of the United States Department of Justice.

Financial source means any person or entity who, directly or indirectly, extends financing to the gaming facility or gaming operation as defined in the Secretarial Procedures.

Gaming Commission means the Enterprise Rancheria Gaming Commission as established herein to perform regulatory oversight of gaming conducted pursuant to IGRA and to monitor compliance with tribal, federal, and applicable state regulations.

Gaming enterprise means the entities through which the Tribe conducts, regulates, and secures gaming on Indian lands within the Tribe’s jurisdiction pursuant to IGRA.

Gaming operation means 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.

Gaming resources means any goods or services provided or used in connection with gaming activities, whether exclusively or otherwise, including, but not limited to, equipment, furniture, class III slot machines, and ancillary equipment, implements of class III gaming activities such as playing cards, furniture designed primarily for class III gaming activities, maintenance or security equipment and services, and class III gaming consulting services, or as otherwise defined under the Secretarial Procedures. “Gaming resources” does not include professional accounting and legal services.

General Council means the governing body of the Tribe comprised of duly enrolled lineal members of the Tribe who are eighteen (18) years or older pursuant to Article IV and Article V of the Constitution.

IGRA means the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 *et seq.*, and any and all regulations promulgated pursuant thereto.

Indian lands means:

- (a) Land within the limits of an Indian reservation; or
- (b) Land over which an Indian tribe exercises governmental power and that is either:
 - (1) Held in trust by the United States for the benefit of any Indian tribe or Individual; or

- (2) Held by an Indian tribe or individual subject to restriction by the United States against alienation.

Key Employee means:

- (a) Any person who performs one or more of the following functions for the gaming operation:
 - (1) Bingo caller;
 - (2) Counting room supervisor;
 - (3) Chief of security;
 - (4) Floor manager;
 - (5) Pit boss;
 - (6) Dealer;
 - (7) Croupier;
 - (8) Approver of credit; or
 - (9) 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;
 - (10) Custodian of surveillance systems or surveillance system records.
- (b) Any person authorized by the gaming operation for unescorted access to restricted areas designated as restricted areas by the Gaming Commission;
- (c) If not otherwise licensed as a key employee or primary management official, the four (4) persons most highly compensated by the gaming operation.
- (d) Any other employee of the gaming enterprise designated by the Tribe as a key employee in this Ordinance.

Licensee means a tribally owned class II or class III gaming operation, or a person licensed by the Gaming Commission as a Key Employee or a Primary Management Official, gaming vendor, or vendor representative under the provisions of this Ordinance;

Management Contract means 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.

Net revenues means gross gaming revenues of an Indian gaming operation less:

- (a) Amounts paid out as, or paid for, prizes; and
- (b) Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

NIGC means the National Indian Gaming Commission established pursuant to IGRA, 25 U.S.C. § 2704.

Person means any natural person or entity, including, but not limited to, corporations, gaming resource suppliers, vendors, partnerships, and trusts.

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 of the gaming operation; or
 - (2) To establish policy for the gaming operation; or
 - (3) To supervise a key employee of the gaming operation.
- (c) The chief financial officer or a position with similar duties to a chief financial officer.
- (d) The general manager or a position with duties similar to a general manager.
- (e) Any other employed management official of the gaming enterprise designated by the Tribe as a primary management official in this Ordinance.

Secretarial Procedures means the procedures prescribed for the Tribe by the Secretary of the Interior on August 12, 2016, pursuant to 25 U.S.C. § 2710(d)(7), as may be amended, under which the Tribe may conduct class III gaming on its Indian lands in lieu of a Tribal-State compact. If the Secretarial Procedures are replaced with a Tribal-State compact,

then Secretarial Procedures means that Tribal-State compact and any amendments thereto.

State means the State of California.

State Gaming Agency means the entity or entities authorized to investigate, approve, regulate and license gaming pursuant to State law under the Secretarial Procedures or, alternatively, if the Tribe enters into a Memorandum of Understanding with the Chair of the NIGC pursuant to section 8.2(e) of the Secretarial Procedures, refers to the NIGC.

Tribal court means any court established by the Tribe to hear disputes of civil or criminal nature relating to the jurisdiction of the Tribe, pursuant to Article VIII of the Constitution.

Tribal Council means the legislative body of the Tribe which consists of seven (7) members, each elected by the General Council for a term of four (4) years, pursuant to Article VI of the Constitution.

Tribal member means any duly enrolled member of the Tribe who meets all membership requirements pursuant to Article III of the Constitution.

Tribe means the Estom Yumeka Maidu Tribe of the Enterprise Rancheria, a federally recognized Indian tribe listed in the Federal Register as the Enterprise Rancheria of Maidu Indians of California.

CHAPTER THREE GENERAL PROVISIONS

SECTION:

3.1 Gaming Authorized. Class II and class III gaming are hereby 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 conducted under this Ordinance are limited to those gaming activities authorized under Secretarial Procedures.

3.2 Ownership of Gaming. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of class II and class III gaming activities authorized by this Ordinance.

3.3 Use of Net Gaming Revenues. Net revenues from 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 Tribal members;
- (c) To promote Tribal economic development;
- (d) To donate to charitable organizations; or
- (e) To help fund local government agencies.

3.4 Per Capita Payments. 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--

- (a) The Tribe has prepared a plan to allocate revenues to one or more of the five uses authorized by Section 3.3 of this Chapter;
- (b) The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses regarding funding for tribal governmental operations or programs and for promoting tribal economic development;
- (c) 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
- (d) The per capita payments are subject to federal taxation and the Tribe notifies its Tribal members of such tax liability when payments are made.

CHAPTER FOUR GAMING COMMISSION

SECTION:

4.1 Establishment of the Gaming Commission. The Tribe hereby establishes the Enterprise Rancheria Gaming 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. No member of the Tribal Council may serve on the Gaming Commission, whose purpose is regulatory, not managerial. By separate ordinance, statute, or resolution, the Tribal Council shall establish the number of members of the Gaming Commission, the length and staggering of terms for such members, staffing, quorum requirements, compensation, and related organizational matters for the Gaming Commission.

4.2 Role of Gaming Commission. The Gaming Commission shall have jurisdiction over the regulation of the Tribe's gaming operations and related facilities and enterprises. The

Gaming Commission shall 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 Gaming 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 Gaming Commission shall have unrestricted access to all areas of the gaming operation, including all of the gaming operation's books, records, databases, communications, software, computers, mobile phones and other electronic and storage devices related to the gaming operation. The Gaming Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.

4.3 Background Checks on Gaming Commission. The Tribe, through its human resources department, shall conduct, or cause to be conducted, a background investigation on each prospective member of the Gaming Commission. Each prospective member of the Gaming Commission shall satisfy the eligibility standards set forth for primary management officials and key employees found in Chapter Six of this Ordinance.

4.4 Powers and Responsibilities of Gaming Commission. The Gaming Commission shall:

- (a) Conduct background investigations, or cause such investigations to be conducted, for, at a minimum, primary management officials and key employees;
- (b) Review and approve all investigative work conducted in connection with the background investigations of primary management officials and key employees;
- (c) Create and maintain investigative reports based on the background investigations of primary management officials and key employees;
- (d) Obtain and process fingerprints;
- (e) Make licensing eligibility determinations;
- (f) Submit a notice of results to the NIGC of the background investigations done for each primary management official and key employee applicant;
- (g) Issue gaming licenses to primary management officials and key employees of the gaming operation if warranted by the eligibility determination;
- (h) Establish standards for licensing Tribal gaming facilities;
- (i) Issue gaming licenses to Tribal gaming facilities;

- (j) 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 facilities and operations;
- (k) Ensure compliance with all Tribal, state, and federal laws, rules and regulations regarding Indian gaming;
- (l) Investigate any suspicion of wrongdoing associated with any gaming activities;
- (m) Hold hearings on patron complaints, in accordance with procedures established in this Ordinance and the Tribe's gaming regulations, or the Secretarial Procedures;
- (n) Comply with any and all reporting requirements under IGRA, the NIGC's regulations, the Secretarial Procedures and any other applicable law;
- (o) Promulgate and issue regulations necessary to comply with applicable internal control standards;
- (p) Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
- (q) Promulgate and issue regulations on the levying of fines and/or the suspension or revocation of gaming licenses for violations of this Ordinance or any Tribal, federal or state gaming regulations, if applicable;
- (r) Maintain 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) Maintain a list of persons who have voluntarily agreed to be excluded from the Tribal gaming facilities, and create regulations for enforcing the exclusions;
- (t) 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;
- (u) Create a list of regulatory authorities that conduct background investigations of, and license, vendors who are recognized as trustworthy;
- (v) Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
- (w) Perform such other duties that the Gaming Commission deems appropriate for the proper regulation of the Tribal gaming operation; and

- (x) Promulgate such 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.

4.5 Process for Adopting, Amending and Repealing Regulations. Before adopting, amending and repealing regulations, the Gaming Commission shall give notice of any such proposed action to the Tribal Council, the gaming operation and all other persons whom the Gaming 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 Gaming Commission.

4.6 Confidentiality. The Gaming 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 may be disclosed to members of management, human resource personnel and/or others employed by the Tribal gaming operation on a need-to-know basis, for actions taken in their official capacities. The confidentiality requirements 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 Gaming Commission and staff in the performance of their official duties.

4.7 Code of Ethics and Conflicts of Interests. Members of the Gaming Commission shall be free from corruption, undue influence, compromise, and conflicting interests in the conduct of their duties. Prior to accepting a position as a member of the Gaming Commission, members shall agree to be bound by the following principles:

- (a) Members shall not be employed by, or have any direct or indirect pecuniary interest in, any entity that is a party to a management contract or other gaming-related contract with the Tribe.
- (b) Members shall not be employed by any gaming operation or related facilities.
- (c) Members shall not participate in the approval, denial or renewal of any application for a gaming license by, or participate in the revocation or suspension of, any license granted hereunder to any parent, spouse, sibling, or children of such member.
- (d) Members shall not engage in any business, transaction or professional activity, incur any obligation of any nature, or hold financial interests which conflicts with the proper discharge of his or her official duties as regulators.
- (e) 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 Gaming Commission, or whose interests may be substantially affected by the performance or nonperformance of the members' duties.

- (f) Members shall not use their positions for private gain.
- (g) Members shall act impartially, in accordance with applicable laws, and shall not give preferential treatment to any private organization or individual, including to any persons related to the members.
- (h) Members shall not engage in outside employment or activities, including seeking or negotiating future employment, which conflict with their official duties and responsibilities.
- (i) 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.

4.8. Participation in Gaming Prohibited.

- (a) No primary management official or employee of the gaming operation shall participate as a player in any class II or class III games conducted by the Tribe in the department where they are employed. The Gaming Commission shall be responsible for (with Tribal Council approval) creating regulations for the restrictions on use of class II and class III gaming activities by employees of the gaming operation.
- (b) No employee of the gaming operation or Gaming Commission who is employed in the surveillance and compliance areas may participate in any class II or class III games.
- (c) No blackjack, floor person, pit boss, dealer, shift supervisor, or trainer shall participate in the play of blackjack or any other house banked table game.
- (d) No primary management official, employee of the gaming operation or member of the Gaming Commission may participate in any class II or class III marketing or promotional programs offered by the gaming operation.
- (e) No member of the Gaming Commission may participate in any of the Tribe's games of chance, whether class II or class III.

**CHAPTER FIVE
FACILITY AND OPERATIONAL REQUIREMENTS**

SECTION:

5.1 Audit. The Tribe shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC. Annual audits shall conform to generally accepted auditing standards and be conducted by a recognized independent accounting firm.

- (a) All gaming relating contracts that result in the purchase of supplies, services, or concessions in excess of \$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 section.
- (b) Copies of the annual audit of each licensed 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.

5.2 Environment and Public Health and Safety. 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.

- (a) No person under the age of twenty-one (21) shall be present in any area in which any class III gaming activities are being conducted unless that person is en route to a non-gaming area of the facility or is employed at the gaming facility in a capacity other than as a primary management official or key employee.
- (b) The possession of firearms by any person in the gaming facility is prohibited at all times, except for federal, state, tribal, or local law enforcement or security personnel authorized by tribal law and federal or state law to possess firearms at the gaming facility.
- (c) The Gaming Commission shall identify and enforce laws, resolutions, codes, policies, standards, or procedures which are applicable to each gaming place, facility or location, to ensure adequate protection of the environment and the health and safety of the public.

5.3. Facility Licenses. The Tribe shall issue a separate license to each place, facility or location on Indian lands where class II and/or class III gaming is conducted under this Ordinance.

- (a) *Issuance of Gaming Facility License.* The Gaming Commission is responsible for issuing new or renewed facility licenses to each place, facility or location in compliance with this section, and any additional requirements specified under the

NIGC's regulations at 25 C.F.R. Part 559 or the Secretarial Procedures. Each license shall be reviewed and renewed every two (2) years provided that the facility remains in compliance with the standards set forth herein.

- (b) The Gaming Commission shall require that a facility license checklist be completed by the chief management official of the gaming facility for each gaming place, facility or location.
- (c) The Gaming Commission shall identify the environmental, health and public safety standards with which the place, facility or location must comply, and 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, NIGC Office of General Counsel and Department of the Interior Solicitor Offices' Indian lands legal opinions, judicial decisions and any other applicable law.
- (d) The Gaming 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.
- (e) *Notice in Advance of Initial Facility License.* The Tribe or the Gaming Commission shall submit to the Chair of the NIGC notice that the initial facility license is under consideration at least 120 days before opening any new place, facility, or location on Indian lands where class II and/or class III gaming will occur. The Gaming Commission may request an expedited 60-day review of the notice. The notice shall contain the following:
 - (1) The name and address of the property;
 - (2) A legal description of the property;
 - (3) The tract number for the property as assigned by the Bureau of Indian Affairs, Land Title and Records Offices, or, if not maintained by the Bureau of Indian Affairs, Department of the Interior, a copy of the trust or other deed(s) to the property or an explanation as to why such documentation does not exist;
 - (4) If not maintained by the Bureau of Indian Affairs, Department of the Interior, documentation of the property's ownership; and
 - (5) A certification that the property constitutes "Indian lands," as set forth above in paragraph (c)(1) of this section.

- (f) *Notice of Issuance.* The Gaming Commission shall submit to the Chair of the NIGC a copy of each newly issued or renewed facility license within 30 days of issuance. The license shall be accompanied by an attestation certifying that by issuing the facility license, the Gaming Commission has determined that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in accordance with the laws, resolutions, codes, policies, standards or procedures applicable to the gaming facility and in a manner which adequately protects the environment and the public health and safety.

The Gaming Commission shall also submit to the State Gaming Agency a copy of each newly issued or renewed facility license for a gaming facility that offers class III gaming within 20 days after issuance of the license or renewal in accordance with the Secretarial Procedures and post the facility license in a conspicuous and public place in the gaming facility at all times.

- (g) *Renewals.* Each subsequent application for the renewal of such facility license shall identify any changes or additions to the legal description of the property and applicable environmental, health and safety standards, and include current certifications of compliance therewith. The Gaming Commission shall only issue such licenses if the corresponding applications include the required information and certifications and such further conditions as the Gaming Commission shall have specified.

5.4 Service of Process. The Tribe designates the Tribe's Chairperson as the agent for service of any official determination, order, or notice of violation.

5.5 Procurement. All purchases of services or supplies shall comply with the tribally adopted procurement policies and procedures for the gaming operation and related facilities.

5.6 Indian Preference. Where applicable, any contract pertaining to the gaming operation must make provisions for complying with any Indian hiring preferences adopted by the Tribe.

5.7 Patron Disputes. Patrons with disputes over the play or operation of any game, including any refusal by the gaming operation to pay to a patron any alleged winnings from any gaming activities, shall have the right to request resolution of the dispute by the Gaming Commission pursuant 25 C.F.R. § 522(f) and section 10.0 of the Secretarial Procedures, and in accordance with regulations promulgated by the Gaming Commission at ERGC III-004 as may be amended from time to time.

5.8 Tribal Minimum Internal Control Standards. The Tribe shall adopt and implement minimum internal control standards for the conduct of class II gaming activities to the extent such standards are required under federal law and for the conduct of class III gaming

activities to the extent such standards are required under the Secretarial Procedures.

CHAPTER SIX LICENSING AND BACKGROUND INVESTIGATIONS

SECTION:

6.1 General Licensing Requirements. The following persons and entities are required to be licensed by the Gaming Commission:

- (a) All employees, including key employees and primary management officials, employed at any class II and/or class III gaming enterprise operated under this Ordinance;
- (b) Vendors of gaming services or supplies (other than for professional legal and accounting services) with a value of \$25,000 or more, including, but not limited to, vendors identified as gaming resource suppliers under the Secretarial Procedures; and
- (c) Any financial source that is not otherwise excluded from licensing at the discretion of the Gaming Commission pursuant to the Secretarial Procedures.

6.2 License Application Forms.

- (a) *Privacy Notice.* The following notice shall be placed on the license application form for 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 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) *Notice Regarding False Statements.* The following additional notice shall be placed on the application form for a key employee or primary management official before it is filled out by an applicant.

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).

6.3 License Fees. The Gaming Commission shall establish a fee schedule for licenses to cover its expenses in investigating and licensing key employees and primary management officials of the gaming operation. Application fees shall be nonrefundable, regardless of whether or not a license is issued. Such fees shall be made payable to the Tribe.

6.4 Fingerprints. The Tribe shall perform a background investigation for each primary management official and key employee of the gaming operation. The Tribe shall request fingerprints from each primary management official and key employee.

6.5 Background Investigations.

- (a) *Investigations Required.* The Tribe shall perform a background investigation for each primary management official and key employee in its gaming operation. The Gaming Commission is responsible for conducting the background investigations of primary management officials and key employees.
- (b) *Conducting Investigations.* The Gaming Commission shall conduct or cause to be conducted an investigation sufficient to make an eligibility determination finding an applicant eligible for a gaming license under this Ordinance. The Gaming Commission shall request from each applicant all of the following information:
- (1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
 - (2) Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence 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 (b)(2) of this section;
- (4) Current business and residence telephone numbers, and all cell phone numbers;
- (5) A description of any existing and previous business relationships with Indian tribes, including 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 and 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 and 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 paragraph (b)(8) or (b)(9) of this section, the criminal charge, the name and address of the court involved and the date and 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 current photograph;
- (13) Fingerprints obtained in accordance with procedures adopted by the Tribe pursuant to 25 C.F.R. § 522.2(h); and
- (14) Any other information the Tribe deems relevant.

- (c) *Retention of Information.* When a primary management official or key employee is employed by the Tribe, a complete application file, containing all of the information listed in paragraph (b) of this section, shall be maintained.
- (d) *Confidentiality.* The Gaming Commission and its investigators shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.

6.6 Procedures for Conducting Background Investigations. The Gaming Commission 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 Gaming Commission to make an eligibility determination under Section 6.8 of this Chapter. The investigator shall:

- (a) Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;
- (b) Contact each personal and business reference provided in the license application, when possible;
- (c) Conduct a personal credit check;
- (d) Conduct a civil history check for past or outstanding judgments, current liens, past or pending lawsuits, and any other information deemed to be relevant;
- (e) Conduct a criminal history records check by submitting the applicant's fingerprints to the NIGC or to another law enforcement agency for forwarding to the FBI to perform a criminal history records check utilizing the FBI's data base;
- (f) 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 10 years;
- (g) 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;
- (h) Verify the applicant's history and current status with any licensing agency by contacting the agency; and
- (i) Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

6.7 Investigative Reports

- (a) The Tribe shall create and maintain an investigative report for each background investigation of a primary management official or key employee. Investigative reports shall include all of the following information:
 - (1) Steps taken in conducting the background investigation;
 - (2) Results obtained;
 - (3) Conclusions reached; and
 - (4) The basis for those conclusions.
- (b) *Prior Results.* If, in the course of a background investigation, the Gaming Commission discovers that applicant has a notice of results on file with the NIGC from a prior investigation and the Gaming Commission has access to the earlier investigative materials, the Gaming Commission may rely on those materials and update the investigation and investigative report to be provided to the NIGC under Section 6.8 of this Chapter.

6.8 Eligibility Determinations.

- (a) Before a license is issued to a primary management official or key employee, the Gaming Commission shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations. A license may not be issued unless the Gaming Commission is satisfied the applicant is a person of good character, honesty and integrity. In making findings concerning the eligibility of license applicants, the Gaming Commission shall take into consideration any of the following circumstances:
 - (1) If the applicant knowingly and intentionally provided false statements or information or omitted relevant information on the application, or otherwise misrepresented or failed to disclose a material fact to the Gaming Commission;
 - (2) If the prior activities, criminal record, reputation, habits and associations of the person indicate that the person may be a threat to the public interest or to the effective regulation and control of gaming;
 - (3) If association with or employment of this applicant creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

- (4) If the applicant has violated, failed, or refused to comply with the provisions, requirements, conditions, limitations, or duties imposed by any provision of this Ordinance or the Secretarial Procedures, or possesses knowledge that such violation has occurred upon any premises occupied or operated by any such person or over which he or she has/had substantial control;
 - (5) If the applicant knowingly caused, aided, abetted, or conspired with another to cause any person or entity to violate any of the laws of any jurisdiction, the provisions of this Ordinance or the Secretarial Procedures;
 - (6) If the applicant has ever obtained a license by fraud, misrepresentation, concealment, or through inadvertence or mistake;
 - (7) If the applicant has ever been convicted of, or forfeited bond upon a charge of, or plead guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payment or reports to any Tribal, State, or U.S. Government agency at any level, or filed false reports therewith, or of any similar offense(s), or of bribing or otherwise unlawfully influencing a public official or employee of a Tribe, a State, or the U.S. Government, or of any felony or misdemeanor involving any gaming activity, physical harm to individuals or moral turpitude;
 - (8) If the applicant is subject to current prosecution, pending charges, or a conviction under appeal for any of the offenses listed above. Upon request of the applicant, the Gaming Commission may defer decision on the application pending the results of such prosecution or appeal;
 - (9) If the applicant has demonstrated a willful disregard for compliance with a gaming regulatory authority in any jurisdiction or has ever had a gaming license issued by any State, Tribe or foreign gaming regulatory agency suspended, revoked or denied; or
 - (10) If the applicant has failed to provide any information requested by the Gaming Commission within fourteen (14) days of the request for the information.
- (b) If the Gaming Commission, 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 dangers of unsuitable, unfair, or illegal practices, methods and/or activities in the conduct of gaming, the Gaming Commission 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.

6.9 Notice of Results of Background Investigations.

- (a) Before issuing a license to a key employee or primary management official, the Gaming 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 appropriate Regional Office of 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 applicant began or will begin work as a key employee or primary management official;
 - (3) A summary of the information presented in the investigative report, including:
 - (i) licenses that have been previously denied;
 - (ii) gaming licenses that have been revoked, even if subsequently reinstated;
 - (iii) every known criminal charge brought against the applicant within the last 10 years of the date of the application; and
 - (iv) every felony of which the applicant has been convicted or any ongoing prosecution.
 - (4) A copy of the eligibility determination made in accordance with Section 6.8 of this Chapter.

6.10 Reporting to State Gaming Agency.

- (a) *Notice of Intent to License.* With respect to gaming employees, upon receipt of a completed license application and a determination to issue a temporary or permanent license, the Gaming Commission shall transmit within twenty-one (21) days to the State Gaming Agency for a determination of suitability for licensure

under the California Gambling Control Act a notice of intent to license the applicant, together with all of the following:

- (1) A copy of all tribal license application materials and information received by the Gaming Commission from the applicant which is not otherwise prohibited or restricted from disclosure under applicable federal law or regulation;
 - (2) A complete set of fingerprint impressions, rolled by a certified fingerprint roller, which may be on a fingerprint card or transmitted electronically;
 - (3) A current photograph; and
 - (4) Except to the extent waived by the State Gaming Agency, such releases of information, waivers, and other completed and executed forms as have been obtained by the Gaming Commission.
- (b) *List of Gaming Employees.* Upon request, the Gaming Commission shall provide the State Gaming Agency with the name, badge identification number (if any), and job title of all gaming employees.
- (c) *Gaming Resource Suppliers.* Within twenty-one (21) days of the issuance of a license to a gaming resource supplier, the Gaming Commission shall transmit to the State Gaming Agency a copy of the license and a copy of all tribal license application materials and information received by it from the applicant which is not otherwise prohibited or restricted from disclosure under applicable federal law or regulation.
- (d) *Financial Sources.* Within twenty-one (21) days of the issuance of a license to a financial source, the Gaming Commission shall transmit to the State Gaming Agency a copy of the license. Upon issuance of a license, the Gaming Commission shall direct the financial source licensee to transmit to the State Gaming Agency within twenty-one (21) days a copy of all license application materials and information submitted to the Gaming Commission.
- (e) *Renewals.* Prior to renewing a license, the Gaming Commission shall forward to the State Gaming Agency copies of all information and documents received in connection with the application for renewal of the Tribal gaming license, which is not otherwise prohibited or restricted from disclosure under applicable federal law or regulation, for purposes of the State Gaming Agency's consideration of renewal of its determination of suitability.
- (f) *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 Gaming Commission's reporting and other obligations pursuant to this Ordinance shall be limited to those required under applicable federal law. In such case, the Gaming Commission's ability to issue a license shall not be dependent on receiving a determination of suitability from the State Gaming Agency unless otherwise required by applicable federal law.

6.11 Granting a Gaming License.

- (a) All primary management officials and key employees of the gaming operation must have a gaming license issued by the Tribe.
- (b) The Gaming Commission is responsible for granting and issuing gaming licenses to primary management officials and key employees.
- (c) The Gaming 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 as required under this Ordinance.
- (d) The Gaming 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 the gaming operation.
- (f) The Gaming 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 Gaming Commission shall take the NIGC's objections into account when reconsidering a license application.
- (g) The Tribe 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 Gaming Commission has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and hearing shall be provided to the licensee pursuant to the procedures in this Ordinance and consistent with the requirements under 25 C.F.R. Part 558.

6.12 Temporary Licenses. If an applicant has completed a license application to the satisfaction of the Gaming Commission, and the Gaming Commission has conducted a preliminary background investigation, the Gaming Commission may issue a temporary license

and impose such conditions thereon as it deems appropriate pending completion of the licensing process, provided that the Gaming Commission has no information suggesting the applicant would either be automatically disqualified from obtaining a license or that would cause a reasonable person to investigate further before issuing a license.

6.13 Denying Gaming Licenses.

- (a) The Gaming Commission shall not license a primary management official or key employee if the Gaming Commission determines, in applying the standards under Section 6.8 of this Chapter 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 Gaming 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.

6.14 Gaming License Suspensions and Revocations.

- (a) If, after a license is issued to a primary management official or a key employee, the Tribe receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Gaming 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 revocation hearing vests only when a license is granted under an ordinance approved by the NIGC Chair.
- (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.
- (e) In the event the State Gaming Agency denies an applicant a determination of suitability or refuses to renew a determination of suitability, the Gaming Commission shall revoke any temporary or conditional license issued to the applicant and deny the applicant a license subject to any exceptions permitted under the Secretarial Procedures and subject to the applicant's appeal rights available under state law.
- (f) The Gaming Commission shall suspend, revoke, or deny a license upon the occurrence of any of the following:
 - (1) Notification by the NIGC as set forth in this section, or by any other reliable source, that the licensee is not eligible for a license under this Ordinance;
 - (2) Notification by the State Gaming Agency that it intends to deny an application for a determination of suitability or a renewal of determination of suitability;
 - (3) The Gaming Commission has probable cause to believe that the licensee has, by act or omission, violated provisions of this Ordinance or the Secretarial Procedures, the Tribe's gaming regulations, any condition of a conditional gaming license, or any other federal, State or Tribal laws or regulations;
 - (4) The Gaming Commission has reason to believe that the continued licensing of a person constitutes an immediate threat to the public health, safety or welfare;
 - (5) The Gaming Commission has reason to believe that the licensee is involved in any theft, misappropriation, misuse or abuse of Tribal assets;
 - (6) The licensee engages in any conduct that brings discredit or embarrassment to the Tribe's gaming operation or the Tribe, or interferes with the normal operation of the Tribe's gaming facilities;

- (7) The licensee fails to disclose any required information on any state or Tribal gaming license application;
- (8) The licensee fails to respond to a request from the Gaming Commission within fourteen (14) days of the date of the initial request; or
- (9) The licensee's employment with the Tribe's gaming operation is terminated, voluntarily or involuntarily.

6.15 Records Retention.

- (a) The Gaming 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.

6.16 Licenses for Vendors. Vendors of gaming services or supplies, with a value of \$25,000 or more annually, including vendors identified as a gaming resource supplier or a financial source requiring licensure under the Secretarial Procedures, must have a vendor license from the Gaming Commission in order to transact business with the Tribe's gaming operation. Contracts for professional legal and accounting services are excluded from this section.

- (a) *Gaming Resource Suppliers.* Every gaming resource supplier (as defined in the Secretarial Procedures) shall be licensed by the Gaming Commission prior to the sale, lease or distribution, or further sale, lease, or distribution, of any gaming resources to or in connection with the gaming operation or facility. Except as otherwise provided under the Secretarial Procedures, the gaming resource supplier shall also apply to, and the Gaming Commission shall require it to apply to, the State Gaming Agency for a determination of suitability at least thirty (30) days prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any gaming resources to or in connection with the Tribe's gaming operation or facility. If the State Gaming Agency denies or revokes a determination of suitability, the Gaming Commission shall immediately deny or revoke the license and shall not reissue any license to that gaming resource supplier unless and until the State Gaming Agency makes a determination that the gaming resource supplier is suitable.
- (b) *Financial Sources.* Every financial source (as defined in the Secretarial Procedures) subject to (and not excluded from) licensing by the Gaming Commission under the Secretarial Procedures shall, contemporaneously with the

filing of its tribal license application, apply to the State Gaming Agency for a determination of suitability. In the event the State Gaming Agency denies the determination of suitability, the Gaming Commission shall immediately deny or revoke the license. A gaming resource supplier who provides financing exclusively in connection with the provision, sale or lease of gaming resources obtained from that supplier may be licensed solely in accordance with licensing procedures applicable, if at all, to gaming resource suppliers and need not be licensed as a financial source under the Secretarial Procedures.

6.17 Submission of a Vendor License Application. To obtain a gaming 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 10 largest stockholders, as well as the on-site supervisors or managers designated in an agreement with the Tribe or gaming operation, if applicable.

6.18 Contents of the Vendor License Application.

(a) Applications for a gaming vendor license must include the following:

- (1) Name of business, business address, business telephone number(s), federal tax identification number (or social security number, if a sole proprietorship), main office address (if different from business address), any other names used by the applicant in business, and type of service(s) applicant will provide;
- (2) Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship or other entity;
- (3) If the applicant is a corporation, the state of incorporation and the qualification to do business in the State, if the gaming operation is in a different state than the state of incorporation.
- (4) Trade name, other names ever used and names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
- (5) General description of the business and its activities;
- (6) Whether the applicant will be investing in, or loaning money to, the gaming operation, and, if so, how much;
- (7) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

- (8) A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial or management interests in any non-gaming activity;
 - (9) Names, addresses and telephone numbers of three business references with whom the company has regularly done business for the last five (5) years;
 - (10) The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
 - (11) If the business has ever had a license revoked for any reason, the circumstances involved;
 - (12) A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;
 - (13) A list of the business' funding sources and any liabilities of \$50,000 or more or such higher amount as the Gaming Commission may establish by regulation;
 - (14) A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles, and percentage of ownership in the company; and
 - (15) Any further information the Tribe or the Gaming Commission deems relevant.
- (b) The following notice shall be placed on the application form for a vendor and its principals:
- Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Tribe's vendor license.*
- (c) A vendor may submit to the Gaming Commission a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit, in writing, any changes in the information since the other license application was filed, and any information requested by the Tribe not contained in the other application.

6.19 Vendor Background Investigations. The Gaming Commission shall employ or otherwise engage an investigator to complete an investigation of a gaming vendor. This investigation shall include, at a minimum, the following steps:

- (a) Verification of the vendor's business incorporation status and qualifications to do business in the state where the gaming operation is located;
- (b) Obtaining a business credit report, if available, and conducting a Better Business Bureau check on the vendor;
- (c) Conducting a check of the vendor's business' credit history;
- (d) Calling and questioning each of the references listed in the vendor application; and
- (e) Conducting an investigation of the principals of the vendor's business, including facilitating a criminal history check, obtaining criminal history check results, obtaining a credit report, and interviewing the personal references listed.

6.20 Vendor License Fees. The Tribe may charge a license fee, to be set by the Gaming Commission, to cover its expenses in investigating and licensing vendors of the gaming operation.

6.21 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 Gaming Commission.

6.22 Exemption of Vendors Licensed by Recognized Regulatory Authorities. The Gaming Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process from vendors who have received a license from one of the named regulatory authorities. The Gaming 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(g) of the Secretarial Procedures.

6.23 Identification Cards. All persons who are required to be licensed pursuant to this Ordinance shall be required to wear, in plain view at all times while in a gaming facility licensed by the Gaming Commission, identification badges issued by the Gaming Commission. The identification badges must display the person's photograph, identification number, name, and expiration date of his or her license.

6.24 Due Process. The denial, suspension or revocation of a license pursuant to this Ordinance shall require:

- (a) Written, certified, return receipt requested or personally hand-delivered notification of the denial, suspension or proposed revocation be given to the licensee ten (10) days in advance of the proposed action.

- (b) Such written notification shall include information concerning the licensee's right to a hearing, shall specify the date, time and place for the hearing, and shall also advise the licensee that failure to appear for a scheduled hearing shall forfeit any further right to appeal.
- (c) The Gaming Commission shall make a ruling within three (3) days, and the licensee shall be notified in writing, within three (3) days of the ruling, of the ruling and the licensee's right to file a petition with the Gaming Commission for a rehearing within fifteen (15) days of the receipt of the written notification.
- (d) If the licensee files a petition for a rehearing within fifteen (15) days of receipt of the written notification described in the preceding paragraph, the Gaming Commission shall review any additional information submitted by the licensee with the petition and notify the licensee in writing of its decision, which shall be a final decision.
- (e) If the licensee is providing management services to the gaming facility pursuant to a management contract approved by the NIGC, said licensee may file a request for a rehearing directly with the Tribal Council following an adverse ruling issued by the Gaming Commission subsequent to a hearing or rehearing. The Tribal Council is authorized to reverse the adverse decision if the Tribal Council determines, by a majority vote where a quorum is present, any of the following:
 - (1) The Gaming Commission's decision was unreasonable, arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable Tribal, federal and State laws;
 - (2) The Gaming Commission exceeded its jurisdiction, authority, or limitations, under applicable Tribal laws; or
 - (3) The Gaming Commission's decision is unsupported by substantial evidence or unwarranted by the facts presented, either orally or substantively.
- (f) Notwithstanding subparagraph (a) above, the Gaming Commission may suspend or revoke a license without advance notice if, in the opinion of the Gaming Commission, the continued licensing of the person:
 - (1) falsified a license application;
 - (2) poses an immediate threat to the integrity of the gaming operation;
 - (3) poses a threat to public health or safety; or
 - (4) violates the Gaming Commission's licensing standards.

6.25 Duration and Renewal. All regular licenses shall be issued for a specified period not to exceed two (2) years from the date of issue, except that an entity providing management services to the gaming facility pursuant to a management contract approved by the NIGC may be licensed for a period of no more than seven (7) years, provided such management contractor continues to apply for renewal of a determination of suitability by the State Gaming Agency at least every two (2) years in accordance with the Secretarial Procedures. Renewal applications must be received by the Gaming Commission at least thirty (30) days prior to the expiration of the license. Upon receiving a renewal application, the Gaming Commission shall inform the applicant of his or her obligation, if any, to apply to the State Gaming Agency for renewal of his or her determination of suitability. Any licensee applying for renewal may continue to be employed or engaged under the expired license for not more than 90 days following the expiration of the license. Applicants for renewal shall provide updated material as requested by the Gaming Commission on the appropriate renewal forms but, at the discretion of the Gaming Commission, may not be required to resubmit information already available to the Gaming Commission. Additional background investigations may be performed at the discretion of the Gaming Commission. Updated criminal history checks are required.

Prior to renewing a license, the Gaming Commission shall forward to the State Gaming Agency copies of the renewal application and related documents as required under the Secretarial Procedures. With respect to gaming facilities, the Gaming Commission shall provide verification to the State Gaming Agency that it has reviewed and, if appropriate, renewed a gaming facility's license.

6.26 Additional Requirements. The Tribal Council shall adopt, and the Gaming Commission shall implement, regulations providing for such additional licensing and background investigation requirements and procedures as it deems appropriate, provided that such additional 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 Secretarial Procedures.

CHAPTER SEVEN MISCELLANEOUS PROVISIONS

SECTION:

7.1 Enforcement. The Tribal Council shall promulgate regulations authorizing the Gaming Commission or other agent of the Tribe to investigate reported violations of this Ordinance, other Tribal gaming ordinances or regulations, IGRA, or the Secretarial Procedures, and to impose fines or other sanctions within the Tribe's jurisdiction against persons who interfere with the Tribe's obligations under this Ordinance, other Tribal gaming ordinances or regulations, IGRA, or the Secretarial Procedures.

7.2 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.*

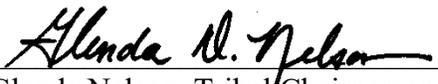
7.3 Severability. If any provision of this Ordinance shall in the future be declared invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

7.4 Amendments. This Ordinance may be amended by the General Council upon approval by the Chair of the NIGC.

7.5 Effective Date. This Ordinance shall take effect immediately upon its approval by the Chair of the NIGC.

CERTIFICATION

We the undersigned do hereby certify that the foregoing Enterprise Rancheria Second Amended and Restated Gaming Ordinance was duly adopted by the General Membership pursuant to Resolution No. GC-23-01 on the 11th day of February, 2023, at a General Council meeting at which a quorum of the registered voters was present, by a vote of 106 for 0 opposed, and 1 abstaining, and that said Resolution has not been rescinded or amended in any way.



Glenda Nelson, Tribal Chairperson

ATTEST:



Cindy Smith, Tribal Secretary