



May 11, 2020

VIA EMAIL

President Bernadine Burnette
Fort McDowell Yavapai Nation
P.O. Box 17779
Fountain Hills, Arizona 85269

Re: Fort McDowell Yavapai Nation Gaming Ordinance Amendments, Resolution 2020-018

Dear President Burnette:

This letter responds to your February 13, 2020 request on behalf of the Fort McDowell Yavapai Nation for the National Indian Gaming Commission Chairman to review and approve the Nation's amendments to its gaming ordinance.

The amendments, adopted by Tribal Council Resolution 2020-018 on February 04, 2020, reflect comprehensive revisions to the Nation's gaming ordinance. The changes include new definitions, clarification of the role of the gaming commission, changes to the tribal regulatory agency to reflect the NIGC model gaming ordinance, and a reorganization to the licensing section, among other changes.

Thank you for bringing these amendments to our attention and for providing us with a thorough submission of the Nation's gaming laws and regulations. The amended ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions or require anything further, please contact Josh Proper at (202) 632-0294.

Sincerely,

A handwritten signature in blue ink that reads "E. Sequoyah Simermeyer".

E. Sequoyah Simermeyer
NIGC Chairman

cc: Tim Bush, Executive Director, Fort McDowell Tribal Gaming Office
Simon Goldberg, Assistant General Counsel, Fort McDowell Yavapai Nation



Fort McDowell Yavapai Nation

P.O. Box 17779, Fountain Hills, AZ 85269 Phone (480) 789-7000 Fax (480) 837-1630



President Bernadine Burnette Vice President Paul J. Russell Treasurer Pamela Mott
Council Member Gerald Doka Council Member Ruben Balderas Council Secretary Verlene Enos

RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE REVISIONS TO THE FORT MCDOWELL YAVAPAI NATION'S TRIBAL GAMING ORDINANCE IN CHAPTER 21 OF THE LAW AND ORDER CODE

Resolution No. Ft. McD. 2020- 018

WHEREAS, the Fort McDowell Yavapai Nation ("Nation") is a federally recognized Indian tribe and a sovereign nation governed by its Constitution and laws; and,

WHEREAS, the Fort McDowell Yavapai Nation Tribal Council ("Tribal Council") is the governing body of the Nation; and,

WHEREAS, the Tribal Council has appointed the Law and Order Committee ("Committee") to review and recommend revisions to the Nation's Law and Order Code ("Code"); and,

WHEREAS, the Tribal Council is authorized to enact and enforce ordinances regulating gaming activities; and,

WHEREAS, the Committee recommends a number of changes to Chapter 21 of the Code based on a series of meetings between the Fort McDowell Casino, the Tribal Regulatory Agency, and the Office of General Counsel to discuss revisions to the Tribal Gaming Ordinance; and,

WHEREAS, the proposed changes were publicly posted for over sixty (60) days; and,

WHEREAS, the Tribal Council has reviewed the revisions, attached hereto as "Exhibit A"; and,

WHEREAS, the Tribal Council, based on the recommendation of the Committee, finds it to be in the best interest of the Nation to approve the revisions to Chapter 21 of the Code to be made effective on this date.

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council authorizes the President, or her designee, to sign and approve the revisions to the Tribal Gaming Ordinance or Chapter 21 of the Nation's Law and Order Code, as well as any other necessary documentation.

BE IT FURTHER RESOLVED, that the revisions shall be effective upon written approval by the National Indian Gaming Commission, and notice of the amendment shall be given to the Arizona Department of Gaming and the National Indian Gaming Commission as required.

CERTIFICATION

Pursuant to the authority contained in Article V, Section 13(A)(1), (3), (6), (24), and 13(B)(1) and (2) of the Constitution of the Fort McDowell Yavapai Nation ratified by the Tribe on October 19, 1999 and approved by the Secretary of the Interior on November 12, 1999, the foregoing Resolution No. 2020- 018 was adopted this 4 day of February, 2020 at a Special Tribal Council Meeting held at Fort McDowell at which a quorum of 3 members were present, 2 absent, by a vote of 2 for and 1 opposed and 0 abstained.

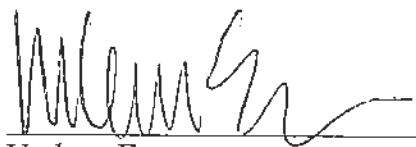
Vote of the Tribal Council:

Per the Nation's Constitution, Article V, the President only votes in a tie vote or under Article IX.

Bernadine Burnette, President	<u> </u> Absent	<input checked="" type="checkbox"/> for	<u> </u> opposed	<u> </u> abstained
Paul J. Russell, Vice President	<u> </u> Absent	<input checked="" type="checkbox"/> for	<u> </u> opposed	<u> </u> abstained
Pamela Mott, Treasurer	<input checked="" type="checkbox"/> Absent	<u> </u> for	<u> </u> opposed	<u> </u> abstained
Gerald Doka, Council Member	<u> </u> Absent	<u> </u> for	<input checked="" type="checkbox"/> opposed	<u> </u> abstained
Ruben Balderas, Council Member	<input checked="" type="checkbox"/> Absent	<u> </u> for	<u> </u> opposed	<u> </u> abstained


Bernadine Burnette
President, Tribal Council

Attested to:


Verlène Enos
Tribal Secretary

February 04, 2020
Date

Exhibit A

REVISED TRIBAL GAMING ORDINANCE
LAW AND ORDER CODE, CHAPTER 21

TRIBAL GAMING ORDINANCE
OF THE FORT MCDOWELL YAVAPAI NATION

TRIBAL GAMING ORDINANCE OF THE FORT MCDOWELL YAVAPAI NATION

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Chapter 21 - TRIBAL GAMING ORDINANCE OF THE FORT MCDOWELL YAVAPAI NATION

CHAPTER 1. FINDINGS AND PURPOSES

Sec. 101. - Legislative Findings.

The Tribal Council of the Fort McDowell Yavapai Nation hereby finds:

- (a) That the orderly and honest conduct of gaming activities within the Fort McDowell Yavapai Nation ("Nation") has been and will continue to be of vital importance to the economy of the Nation, and to the general welfare of the Nation's members;
- (b) That the continued growth and success of gaming within the Nation are dependent upon public confidence and trust that such activities are conducted honestly and that they are free from criminal and corrupt elements, and that the facilities in which such activities are conducted are designed and maintained to assure the safety and comfort of patrons of the gaming activities;
- (c) That such public confidence and trust can only be maintained by the comprehensive regulation of all people, practices, and activities related to the operation of the Nation's gaming facilities; and
- (d) All of the Nation's establishments where gaming is approved, and all people holding positions of responsibility with respect to any such activity, must therefore be licensed, and their activities monitored, to assure that the public health, safety, and general welfare of the inhabitants of the Nation and the patrons of its gaming facilities are fully protected, and so as to assure the economic success of gaming activities within the Nation.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 101, adopted 12-12-2006, eff. 12-12-2006)

Sec. 102. - Purposes.

In order to accomplish:

- (a) The maintenance of the highest standards of honesty and integrity in the operation of any and all gaming activities within the Nation;
- (b) The maintenance of public confidence and trust in the honesty and integrity of such gaming activities, and in the people engaged in such activities;
- (c) The maximum reasonable economic return to the Nation as the owner of gaming facilities within the Nation consistent with the fair and reasonable expectations of patrons of such activities and the assurance of their safety and comfort in participating in gaming activities; and
- (d) Compliance with all applicable laws of the Nation and the United States of America pertaining to gaming, including but not limited to the Indian Gaming Regulatory Act of 1988, and the Gaming Compact with the State of Arizona.

The Tribal Council, empowered by the Nation's Constitution to enact ordinances, hereby enacts this ordinance in order to govern Class II and Class III gaming operations on the Nation's Indian lands.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 102, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 2. DEFINITIONS

Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as defined in the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 *et seq.*, and its regulations, 25 C.F.R. § 500 *et seq.* and the Fort McDowell Yavapai Nation-State of Arizona Gaming Compact. Specifically, for purposes of this Ordinance:

- (a) "Act" means the Indian Gaming Regulatory Act, Public Law 100-497, 25 U.S.C. §§ 2701-721 and 18 U.S.C. §§ 1166-1168, and all regulations promulgated pursuant thereto.

- (b) "Class I Gaming" means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

[25 U.S.C. § 2703(6); 25 C.F.R. § 502.2]

- (c) "Class II Gaming" means:

- (1) The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith):
 - (A) Which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
 - (B) In which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - (C) In which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo; and
- (2) Card games that:
 - (A) Are explicitly authorized by the laws of the State; or
 - (B) Are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.
- (3) The term "Class II gaming" does not include any banking card games, including baccarat, chemin de fer, or blackjack (21).

[25 U.S.C. § 2703(7); 25 C.F.R. § 502.3]

- (d) "Class III Gaming" means all forms of gaming that are not Class I gaming or Class II gaming.

[25 U.S.C. § 2703(8); 25 C.F.R. § 502.4]

- (e) "Commissioner(s)" means the member(s) of the Nation's Gaming Commission.
- (f) "Tribal-State Compact" ("Compact") means the then existing agreement between the Nation and the State of Arizona pursuant to, 25 U.S.C. § 2710(d), including any amendments thereto.
- (g) "Constitution" means the Constitution of the Nation amended by the Nation and approved by the Secretary of Interior on November 12, 1999.
- (h) "Distributor" means a Person who distributes Gaming Devices and/or component parts of Gaming Devices.
- (i) "Executive Director" means the Executive Director of the Tribal Regulatory Agency.
- (j) "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.

[25 C.F.R. § 502.23]

- (k) "Gaming Activities" means any forms of Class II and Class III Gaming conducted within the territorial jurisdiction of the Nation.
- (l) "Gaming Commission" ("Commission") means the governmental entity of the Nation that reviews the Tribal Regulatory Agency's decisions and performance of regulatory oversight, wholly independent from the Nation's Gaming Operation and Tribal Regulatory Agency subject only to the Tribal Council.

- (m) "Gaming Device" or "Electronic Game of Chance" means a mechanical device, an electro-mechanical device or a device controlled by an electronic microprocessor or another manner, whether that device constitutes Class II Gaming or Class III Gaming, that allows a player or players to play games of chance, whether or not the outcome also is affected in some part by skill, and whether the device accepts coins, tokens, bills, coupons, ticket vouchers, pull tabs, smart cards, electronic in-house accounting system credits or other similar forms of consideration and, through the application of chance, allows a player to become entitled to a prize, which may be collected through the dispensing of coins, tokens, bills, coupons, ticket vouchers, smart cards, electronic in-house accounting system credits or other similar forms of value; or as modified by subsequent approved compact. Gaming Device does not include any of the following:
- (1) Those technological aids for bingo games that function only as electronic substitutes for bingo cards.
 - (2) Devices that issue and validate paper lottery products and that are directly operated only by Arizona State Lottery licensed retailers and their employees.
 - (3) Devices that are operated directly by a lottery player and that dispense paper lottery tickets, if the devices do not identify winning or losing lottery tickets, display lottery winnings or disburse lottery winnings.
 - (4) Devices that are operated directly by a lottery player and that validate paper lottery tickets for a game that does not have a predetermined number of winning tickets, if:
 - (A) The devices do not allow interactive gaming;
 - (B) The devices do not allow a lottery player to play the lottery for immediate payment or reward;
 - (C) The devices do not disburse lottery winnings; and
 - (D) The devices are not Video Lottery Terminals, as defined in the Compact.
 - (5) Player Activated Lottery Terminals, as defined in the Compact.
- (n) "Gaming Employee" means any individual employed as a Primary Management Official or Key Employee of a Gaming Operation of the Nation and any individual employed in the operation or management of a Gaming Operation, including, but not limited to, any individual whose employment duties require or authorize access to restricted areas of a Gaming Facility not otherwise open to the public; or as modified by subsequent approved compact.
- (o) "Gaming Employee License" means a license issued pursuant to the Compact and this Ordinance by the Tribal Regulatory Agency to an employee of the Gaming Facility.
- (p) "Gaming Facility" means the buildings or structures in which Gaming Activities are conducted.
- (q) "Gaming Facility Operator" means the Nation, an enterprise owned by the Nation, or such other entity of the Nation having full authority and responsibility for the operation and management of Class II and Class III Gaming Activities.
- (r) "Gaming Operation" means any Gaming Activity conducted within any Gaming Facility.
- (s) "Gaming Services" means the providing of any goods or services, except for legal services, to the Gaming Facility Operator in connection with the operation of Class II or Class III gaming in a Gaming Facility, including, but not limited to, equipment, transportation, food, linens, janitorial supplies, maintenance, or security services for the Gaming Facility, in an amount in excess of ten thousand dollars (\$10,000.00) in any single month; or as modified by subsequent approved compact.
- (t) "General Counsel" means the Office of General Counsel of the Nation.
- (u) "Indian lands" means:
- (1) All lands within the limits of the Nation's reservation;

- (2) Any lands title to which is either held in trust by the United States for the benefit of the Nation or individual or held by the Nation or individual subject to restriction by the United States against alienation and over which the Nation exercises governmental power; and
- (3) For all lands acquired into trust for the benefit of an Indian Nation after October 17, 1988, the lands meet the requirements set forth in 25 U.S.C. § 2719.

[25 U.S.C. § 2703(4); 25 U.S.C. § 2719; 25 C.F.R. § 502.12]

- (v) "Indian Nation" means any Indian tribe, band, nation, or other organized group or community of Indians that the Secretary recognizes as:
 - (1) Eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and
 - (2) Having powers of self-government.

[25 C.F.R. § 502.12]

- (w) "Key Employee" means:
 - (1) Any Gaming Employee of the Gaming Facility Operator who performs one (1) or more of the following functions: (i) Bingo caller; (ii) Counting room supervisor; (iii) Chief of security; (iv) Custodian of gaming supplies or cash; (v) Floor manager; (vi) Pit boss; (vii) Dealer; (viii) Croupier; (ix) Approver of credit; (x) Custodian of Gaming Devices including any individual with access to cash and accounting records within Gaming Devices;
 - (2) Any Gaming Employee of the Gaming Facility Operator whose total cash compensation from his or her employment by the Gaming Facility Operator exceeds fifty thousand dollars (\$50,000.00) per year;
 - (3) The four (4) most highly compensated employees of the Gaming Facility Operator; or
 - (4) Any other person designated by the TRA as a Key Employee, if Tribal Council approves of the addition, and the Gaming Facility Operator is notified.

[25 C.F.R. § 502.14]

- (x) "License" means any license issued by the Tribal Regulatory Agency, including a temporary license.
- (y) "Licensee" means any Person licensed by the Tribal Regulatory Agency.
- (z) "Management Contract" means a Management Contract within the meaning of 25 U.S.C. §§ 2710(d)(9) and 2711.
- (aa) "Management Contractor" means a Person who has entered into a Management Contract with the Gaming Facility Operator which has been approved pursuant to 25 U.S.C. §§ 2710(d)(9) and 2711.
- (bb) "Manufacturer" means a Person that manufactures Gaming Devices and/or component parts of Gaming Devices.
- (cc) "Nation" means the Fort McDowell Yavapai Nation.
- (dd) "National Indian Gaming Commission" or "NIGC" means the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.
- (ee) "Net Revenues" means the gross revenues of the Nation's Gaming Operations less amounts paid out as, or paid for, prizes, less total operating expenses including all expenses of the Gaming Operation commonly known as operating and non-operating expenses consistent with professional accounting pronouncements, excluding management fees, less principal payments on any loan, less reserves in amounts sufficient to comply with the financial covenants and contractual obligations set forth in the loan or any other of the Nation's obligations.

[25 U.S.C. § 2703(9); 25 C.F.R. § 502.16]

- (ff) "Ordinance" means this Ordinance for the regulation of Gaming Activities within the Nation which governs the conduct of Gaming Activities within the Nation, all amendments thereto, and all regulations promulgated thereunder.
- (gg) "Person" includes natural persons, as well as corporations, limited liability companies, partnerships, and other unincorporated associations, societies, firms, or any other entity.
- (hh) "Primary Management Official" means:
 - (1) The individual having management responsibility for a Management Contract;
 - (2) Any individual who has authority to hire and fire Gaming Employees or to set up working policy for the Gaming Operation;
 - (3) The chief financial officer or other individual who has financial management responsibility for a Gaming Operation; or
 - (4) Any other person designated by the TRA as a Primary Management Official, if Tribal Council approves of the addition, and the Gaming Facility Operator is notified.

[25 C.F.R. § 502.19]

- (ii) "President" means the President of the Tribal Council.
- (jj) "Principal" means with respect to any entity:
 - (1) Each of its officers and directors;
 - (2) Each of its principal management employees, including its chief executive officer, its chief financial officer, its chief operating officer, and its general manager;
 - (3) Each of its owners or partners, if an unincorporated business;
 - (4) Each of its shareholders who own more than ten (10) percent of the shares of the corporation, if a corporation;
 - (5) Each Person other than a banking institution who has provided financing for the entity constituting more than ten (10) percent of the total financing of the entity; and
 - (6) Each of the beneficiaries, or trustees of a trust.
- (kk) "Privacy Act" means the Privacy Act of 1974, as amended (P.L. 93-579, as amended; 5 U.S.C. § 552(a), and the obligations and responsibilities placed on the United States government under the Privacy Act as applied to the Commission pursuant to the Act.
- (ll) "State" means the State of Arizona, and its authorized officials, agents, and representatives.
- (mm) "State Gaming Agency" ("SGA") means the agency of the State which the Governor may from time to time designate by written notice to the Tribe as the single State agency which shall act on behalf of the State under this Compact.
- (nn) "Temporary License" means an approval, evidenced in writing or by a name tag, issued by the TRA, or the Executive Director or his/her delegate, to a Gaming Employee on a temporary basis pursuant to Section 1007 of this Ordinance.
- (oo) "Transfer Agreement" means a written agreement authorizing the transfer of Gaming Device Operating Rights between the Nation and another Indian Nation, in accordance with the provisions of the Compact.
- (pp) "Tribal Council" means the Tribal Council of the Nation as established and empowered under Articles IV and V of the Constitution of the Nation.
- (qq) "Tribal Regulatory Agency" ("TRA") means the Nation's regulatory department which shall have overall civil regulatory authority over Gaming Activities within the Nation and is independent from the Gaming Operation. The TRA is the designated Tribal Gaming Office under the Compact.

- (rr) "Vendor" means a Person who provides gaming-related goods or services in any amount to the Gaming Facility, including Distributors and Manufacturers.
- (1) "Class A Vendor" means a Manufacturer, Distributor, or Person who provides ten thousand dollars (\$10,000.00) or more of gaming-related goods or services in a single month.
- (2) "Class B Vendor" means a Person who provides less than ten thousand dollars (\$10,000.00) of gaming-related goods or services in a single month.
- (ss) "Vendor License" means a License that any Vendor must apply for from the Tribal Regulatory Agency.
- (1) "Class A Vendor License" means a License granted to a Manufacturer, Distributor, or Person who provides ten thousand dollars (\$10,000.00) or more of gaming-related goods or services in a single month.
- (2) "Class B Vendor License" means a License granted to a Person who provides less than ten thousand dollars (\$10,000.00) of gaming-related goods or services in a single month.

(Law & Order Code 2006, § 21-2; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, ch. 2, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 3. TRIBAL OWNERSHIP, AUTHORIZATION FOR GAMING ACTIVITIES, AND USE OF NET REVENUES.

Sec. 301. - Tribal Ownership of Gaming Activities.

All Gaming Activities within the Nation shall be owned entirely by the Nation and conducted and operated by the Gaming Facility Operator. In compliance with 25 U.S.C. § 2710(b)(2)(A), the Nation shall have the sole proprietary interest in and responsibility for the conduct of any Gaming Activity on its Indian Lands.

[25 U.S.C. § 2710(b)(2)(A); 25 C.F.R. § 522.4(b)(1)]

(Law & Order Code 2006, § 21-6; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 301, adopted 12-12-2006, eff. 12-12-2006)

Sec. 302. - Authorization for Gaming Activities.

- (a) **Forms of Class III Gaming Authorized.** The Nation may conduct or operate all forms of Class III Gaming authorized under the Compact; or as modified by subsequent approved compact.
- (b) **Authority for Class I and Class II Gaming.** The Nation may conduct or operate all forms of Class I and Class II Gaming.

[25 C.F.R. § 522.6(b)-(c)]

(Law & Order Code 2006, § 21-4; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 302, adopted 12-12-2006, eff. 12-12-2006)

Sec. 303. - Use of Net Revenues.

The Net Revenues from all Gaming Activities shall be used only for the following purposes:

- (a) To fund the Nation's government operations and programs;
- (b) To provide for the general welfare of the Nation and its members;
- (c) To promote the Nation's economic development;
- (d) To donate to charitable organizations; or
- (e) To help fund operations of local government agencies.

[25 U.S.C. § 2710(b)(2)(B); 25 C.F.R. §§ 522.4(b)(2), 522.6(b)]

Sec. 304. - Per Capita Payments.

If the Nation elects to make per capita payments to the Nation's members, the Nation shall authorize such payments in accordance with a revenue allocation plan submitted to and approved by the Secretary of the Interior in accordance with 25 U.S.C. § 2710(b)(3).

[25 U.S.C. § 2710(b)(3); 25 C.F.R. §§ 522.4(b)(2)(ii), 522.6(b)]

(Law & Order Code 2006, § 21-7; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 303, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 4. FORT MCDOWELL YAVAPAI NATION COMMISSION

The Nation hereby establishes the Fort McDowell Yavapai Nation Commission to oversee the regulating of the Nation's Gaming Operation and to provide review of actions of the Tribal Regulatory Agency (TRA). The Commission is a subordinate advisory commission of the Tribal Council. As an unincorporated governmental entity of the Nation, the Commission bears the responsibility of presenting recommendations to the Tribal Council and keeping the Tribal Council informed of any related Gaming Activities, regarding a threat, or potential threat, in any form to the Nation, and the Gaming Facility and surrounding areas.

Sec 401. - Membership.

The Commission shall consist of five (5) voting Commissioners who shall be appointed by the Tribal Council. This includes one (1) Chairman and four (4) other Commissioners.

- (a) Prior to appointing a Commissioner, the Nation shall conduct or cause to be conducted a background investigation of the person in accordance with the provision of Section 1010 of this Ordinance. All Commissioners shall consent to an annual background check.
- (b) All five (5) of the Commissioners, including the Chairman, shall be enrolled members of the Nation.
- (c) 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. None of the Commissioners shall be employees of the Gaming Operation or Gaming Facility Operator or elected officials of the Nation.
- (d) Each Commissioner shall serve for a term of three (3) years commencing on the date of his or her appointment. The appointment will remain in effect until the Commissioner is reappointed or the successor is appointed.
- (e) The compensation of Commissioners of the Nation's Gaming Commission shall be determined by the Tribal Council.
- (f) No Commissioner shall participate as a player in any Class II or Class III Gaming Activity conducted on the Nation.

Sec 402. - Resignation of Commissioners.

Any Commissioner may resign at any time by giving written notice which specifies the intended effective date of such resignation to the Tribal Council and, by copy, notice to the Executive Director of the Tribal Regulatory Agency and other members of the Commission. A Commissioner who resigns shall remain on the Commission until a replacement Commissioner is appointed, unless their license is no longer current.

Sec. 403. - Removal of Commissioners.

Commissioner(s) may be removed from office by the Tribal Council prior to the expiration of their respective terms for cause, and only for neglect of duty, misconduct, malfeasance, failure to comply with drug testing requirements, cause for removal as detailed in Article V, Section 3 of the Commission's Bylaws, or other acts that would render the Commissioner(s) unqualified for his/her position.

- (a) When the Tribal Council believes that a removal is appropriate, it shall so notify the Commissioner(s) and hold a hearing on the matter. The Tribal Council may opt to preliminarily remove the Commissioner(s) pending the hearing.
- (b) At the hearing the Commissioner(s) may provide evidence rebutting the grounds for his/her removal. A vote of the Tribal Council on the validity of the preliminary removal shall be final and not subject to further appeal.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, ch. 4, adopted 12-12-2006, eff. 12-12-2006)

Sec. 404. - Legal Advice.

The Commission may seek the advice of General Counsel.

CHAPTER 5. FORT MCDOWELL YAVAPAI NATION TRIBAL REGULATORY AGENCY

Sec. 501. - Establishment of the Tribal Regulatory Agency.

The Nation hereby establishes a TRA to regulate the Nation's Gaming Operations. The purpose of the TRA is to protect the public interest in the integrity of Gaming Activities and the integrity of the Gaming Facility Operator; to ensure that the Gaming Facility Operator is accountable for and able to protect its assets; to prevent improper or unlawful conduct in the course of Gaming Activities, financial accounting or money handling of the Gaming Facility Operator.

The TRA will conduct oversight to ensure compliance with Tribal, applicable Federal and State laws.

- (a) The TRA will serve as the licensing authority for Gaming Employees, Gaming Facilities, Vendors, Management Contractors, and Finance licenses and will administer background investigations as part of the licensing process.
- (b) The TRA will also have a role in monitoring compliance with the internal controls for the Gaming Operation and in tracking revenues.
 - (1) In order to carry out its regulatory duties, the TRA shall have unrestricted access to all areas of the Gaming Operation and to all records.
 - (2) The TRA shall have authority to take enforcement actions, including suspension or revocation of a License when appropriate.
 - (3) The TRA shall be regarded as a law enforcement agency for the purposes of accessing criminal history information and performing other duties as required by this Ordinance.
- (c) The Nation recognizes the importance of an independent TRA in maintaining a well-regulated gaming operation. The TRA shall be 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 TRA 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 Facility, the Nation hereby finds that, at a minimum:
 - (1) No member of the Tribal Council or Commission may serve on the TRA;
 - (2) If it is determined that TRA staff have a conflict of interest, the Tribal Government Human Resources Department will act to determine the existence of a conflict of interest and take appropriate measures to resolve the conflict of interest;
 - (3) Employees of the TRA are prohibited from gambling in the Gaming Facility;
 - (4) Employees of the TRA are prohibited from using his/her position to secure privileges or preferential treatment for themselves or others from the Gaming Operation. TRA employees are prohibited from accepting money, gratuity, or complimentary items from the Gaming

Operator and its patrons. Employees of the TRA may accept gratuities and discounts that have been approved by the Tribal Council.

(Law & Order Code 2006, § 21-10; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 501, adopted 12-12-2006, eff. 12-12-2006)

Sec. 502. - Tribal Regulatory Agency Staff.

The day-to-day function of the TRA shall be executed by staff or employees of the TRA. All employees of the TRA must qualify for and obtain a valid Tribal Gaming License in order to commence or continue to be employed in the TRA. TRA staff shall be supervised by an Executive Director who shall have overall responsibility for the administrative functions of the TRA and other responsibilities specified under this Ordinance. The TRA shall consist of an Executive Director, Investigators, Inspectors, Surveillance and other staff as may be necessary to fulfill the TRA's regulatory duties under this Ordinance and the Compact, as determined by the Executive Director, subject to funding provided by the Tribal Council. All positions within the TRA, including the Executive Director, must satisfy the suitability standards set forth in Section 1001 of this Ordinance. Background investigations shall be performed by the SGA. The Executive Director shall have the authority to direct expanded background investigations on personnel hired for positions within the TRA, which may be in addition to any background investigation conducted by the SGA.

Sec. 503. - Ineligible Persons.

The following Persons are not eligible to serve as TRA employees: Tribal Council members, while serving as such; employees of the Gaming Operation, while serving as such; gaming contractors (including any principal of a management or other contracting company); Persons ineligible to be Key Employees or Primary Management Officials. Persons previously convicted of a felony, of embezzlement, of theft, or of any other money-related crime or honesty-related crime (such as fraud) cannot serve as TRA employees. The TRA shall require a criminal history check, shall review this criminal history report, and shall make an appropriate suitability determination before appointing an individual to a position in the TRA.

- (a) All employees of the TRA shall act under the authority and supervision of the Executive Director.
- (b) No employee of the TRA shall be employed by the Gaming Facility Operator.
- (c) No employee of the TRA shall be employed by or hold, directly or indirectly, a financial interest in an organization or entity which:
 - (1) has entered into a Management Contract with the Gaming Facility Operator;
 - (2) is a Manufacturer or Distributor;
 - (3) provides Gaming Services; or
 - (4) provides financing to the Nation or the Gaming Facility Operator for purposes of conducting Gaming Operations within the Nation.

Sec. 504. - Appointment and Authority of Executive Director.

- (a) The Executive Director of the TRA shall be appointed by the Tribal Council of the Nation and shall serve at its pleasure. The Executive Director shall report to Tribal Council. The job performance of the Executive Director may be reviewed periodically by the Nation's President who shall submit a written report of each such evaluation to the Tribal Council for review and determination of performance.
- (b) The Executive Director shall be an individual (i) of the utmost honesty and integrity, (ii) who has not been convicted of any felony or of a misdemeanor involving theft or embezzlement or a crime involving moral turpitude, (iii) whose prior activities, reputation, habits, and associations do not pose a threat to the public interest or to the effective regulation of Gaming Activities, and (iv) who is qualified for and obtain a valid gaming license.
- (c) The Executive Director shall have the overall responsibility for the administrative functions of the TRA and other responsibilities as specified under this Ordinance.

- (d) The Executive Director shall be the Nation's designated agent for service of any official determination, order or notice of the State, NIGC, and/or the Commission, as specified in Chapter 14 of this Ordinance.
- (e) The Executive Director shall oversee Inspectors, Investigators, and Surveillance Officers hired by the TRA as well as such other TRA staff.
- (f) The Executive Director shall be responsible for coordination of TRA functions with the SGA and other federal, state and local agencies and shall serve as the formal liaison to the person holding a similarly titled position with the SGA.
- (g) The Executive Director may direct TRA staff to conduct an investigation on matters relating to Gaming Activities, licensing of Vendors, Gaming Employees, and applicants, violations of the Compact, violations of NIGC regulations, violations of Gaming Facility Internal Controls, and violations of this Ordinance, the imposition of any penalty, the investigation of any complaint, or any other action within the jurisdiction of the TRA.
- (h) The Executive Director may conduct an investigation or inquiry, compel the production of any information or documents, and otherwise exercise the investigative powers of the TRA, which the TRA may exercise under this Ordinance.

(Law & Order Code 2006, § 21-10; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 502, adopted 12-12-2006, eff. 12-12-2006)

Sec. 505. - Powers and Duties of the Tribal Regulatory Agency.

The TRA shall:

- (1) Have and exercise full responsibility for the regulation of Gaming Activities within the Nation, as provided in this Ordinance, the Act, and the provisions of the Compact;
- (2) Conduct or cause background investigations to be conducted on Gaming Employees;
- (3) Perform background investigations on every applicant for a Gaming Employee License or Vendor License under this Ordinance;
- (4) Review and approve all investigative work conducted in connection with the background investigations of Licensees;
- (5) Create and maintain investigative reports based on the background investigations of Licensees;
- (6) Obtain and process fingerprints and conduct a criminal history check that shall include a check of criminal history records information maintained by the Federal Bureau of Investigation;
- (7) Make licensing suitability determinations, which shall be signed by the Executive Director of the TRA or a designated representative;
- (8) Submit a notice of the results to the NIGC of the background investigations done for each Primary Management Official and Key Employee applicant;
- (9) Issue Licenses to Gaming Employees, Primary Management Officials, Key Employees, and Vendors if warranted by the eligibility determination;
- (10) Issue badges to the licensed Gaming Employee. The badges shall include a photograph, the employee's first and last name, a unique identification number, the Nation's seal, and an expiration date;
- (11) Approve or deny applications for Licenses or to limit, condition, restrict, revoke, or suspend any License which it has granted;
- (12) Establish standards for licensing Gaming Operations and Gaming Facilities;
- (13) Issue Licenses to Gaming Operations and Gaming Facilities;

- (14) Inspect, examine and monitor all Gaming Activities, and have immediate access to review, inspect, examine, photocopy and audit all records, excluding personnel files, of the Gaming Facilities and operations. The TRA shall be granted specific information from a Gaming Employee's personnel file if the Executive Director makes a written request that is (i) limited, (ii) related to an employment inquiry or concern, and (iii) not contrary to applicable law. Furthermore, the Gaming Employee shall be given advanced written notice of the TRA's inquiry;
- (15) Have authority to inspect the Gaming Facility at any time and have immediate and unrestricted access to any and all areas of a Gaming Facility and personnel employed within the Gaming Facility, which it may exercise directly or through such agents or employees as determined by the Executive Director; to enter the Gaming Facility at any time to inspect (1) the Gaming Facility, (2) its Gaming Employees and Gaming Operations, (3) its equipment and supplies, and (4) its business records, books of account, and any and all other financial records or documents pertaining to the business operations of the Gaming Operation (regardless of where those records or documents may be located) and to make summaries or copies of any and all such records or documents to ensure compliance with the provisions of this Ordinance, the Compact or the Act; to have an Inspector present in each Gaming Facility during all hours of Gaming Operation;
- (16) Ensure compliance with all Tribal, and applicable State, and Federal laws, rules, and regulations regarding Indian gaming;
- (17) Review any proposed Management Contract, Transfer Agreement or proposed lease of land for the site of a Gaming Facility to determine whether the contract, agreement or lease complies with all applicable laws and regulations and to make recommendations regarding the terms of any proposed Management Contract, Transfer Agreement or lease to the Nation's President, legal counsel and Gaming Facility Operator;
- (18) Investigate any suspicion, reported violation of wrongdoing, or report of failure, associated with any Gaming Activities or the Gaming Facility Operator;
- (19) Compel any Licensee or Person employed by or doing business with the Gaming Operation to appear before it and to provide such information, documents or other materials as may be in their possession to assist in any such investigation; direct the Gaming Facility Operator to correct violations of the Compact or this Ordinance upon such terms and conditions as the TRA may deem appropriate.
- (20) Receive and investigate any complaint from an employee of the Gaming Operation or any member of the public who is or claims to be adversely affected by an act or omission of the Gaming Operation or any employee thereof which is asserted to violate this Ordinance or the Compact and to investigate and resolve patron disputes in accordance with Section 14 of the Compact;
- (21) Require any Person whom the TRA determines has violated any provisions of this Ordinance to correct the violation upon such terms and conditions as the TRA determines to be appropriate;
- (22) Immediately seize, remove, or impound any equipment, supplies, documents, or records of the Gaming Operation or found in the Gaming Facility so that it may examine such items;
- (23) Process written complaints by patrons, in accordance with procedures established in this Ordinance and the TRA's gaming regulations;
- (24) Comply with any and all reporting requirements under the IGRA, the NIGC's regulations and any Tribal-State compact to which the Nation is a party, and any other applicable law;
- (25) Promulgate and issue regulations necessary to comply with applicable internal control standards;
- (26) Approve the rules of Gaming Activities prior to implementation by the Gaming Facility Operator, and, if deemed appropriate, issue a letter of approval or disapproval;
- (27) Confiscate or shut down any game of chance or gaming supplies that fail to conform to any required standards;

- (28) Approve the required system of internal controls prior to implementation by the Gaming Facility Operator, and to issue regulations addressing compliance with the approved system of internal controls;
- (29) Promulgate and issue regulations on the levying of fees and/or taxes associated with License applications;
- (30) Promulgate and issue regulations on the levying of fines and/or suspension or revocation of Licenses for violations of this Ordinance, or any other Tribal, applicable Federal or State gaming regulations;
- (31) Issue a notice of violation to any Person for violating provisions of this Ordinance, the Compact, or the Act and to impose civil penalties for such violations, in accordance with the provisions of this Ordinance;
- (32) Maintain a list of persons provided by the SGA who are not allowed to gamble in Gaming Facilities in order to maintain the integrity of the gaming;
- (33) Monitor a list of individuals who, because of their criminal history or their association with career offenders or career offender organizations, pose a threat to the integrity of Gaming Activities;
- (34) Establish a list of persons who have voluntarily agreed to be excluded from the Gaming Facility and create regulations for enforcing the exclusions;
- (35) Use best efforts to remove from any Gaming Facility and the surrounding premises controlled by the Gaming Facility Operator, any individual barred from the Nation's Gaming Facilities, and establish a list thereof;
- (36) 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;
- (37) Create a list of regulatory authorities that conduct background investigations, and license Vendors recognized as trustworthy;
- (38) Promulgate and issue regulations exempting Vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
- (39) Issue and enforce regulations limiting or restricting the access of Persons who are not Gaming Employees to the non-public areas of a Gaming Facility;
- (40) Require the Gaming Facility Operator to have a plan for the protection of public safety and the physical security of patrons in the Gaming Facilities, setting forth the respective responsibilities of the TRA, the security department of the Gaming Operation, any Tribal Police Department, and if appropriate, any State or local police agency;
- (41) Prepare an annual operating budget which shall be subject to the approval of the Tribal Council;
- (42) Perform such other duties the TRA deems appropriate for the proper regulation of the Gaming Operation;
- (43) 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;
- (44) The TRA shall ensure that all records and information obtained as a result of an employee background investigation, including but not limited to, the identity of each Person interviewed in the course of an investigation, shall remain confidential and shall not be disclosed to any Persons who are not directly involved in the licensing and employment processes.

Sec. 506. - Issuance of Regulations.

The TRA shall from time to time promulgate and issue regulations governing any aspect of its responsibilities under this Ordinance, so long as they are in furtherance of and not in conflict with any

provision of this Ordinance. Without limitation, the matters to be addressed by such regulations may include the following:

- (a) The time and manner for applying for a Gaming Facility Operator's License under this Ordinance, and the specific information to be provided in connection with such application, including information necessary for adequate assessment of the applicant's background, and the manner in which such applications will be processed;
- (b) The procedure by which applicants for Licenses under this Ordinance shall apply for such Licenses, including the information to be provided by the applicant necessary for adequate assessment of the applicant's background, and the manner in which such applications will be processed;
- (c) The specific types of accounting, internal controls, security, accessibility to non-public areas, record-keeping and reporting measures required by this Ordinance, the Compact or the Act to be in place and functioning at any Gaming Facility licensed under this Ordinance; and
- (d) Items listed under Section 505 of the Ordinance.

(Law & Order Code 2006, §§ 21-10, 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 505, adopted 12-12-2006, eff. 12-12-2006)

Sec. 507. - Investigations.

- (a) The Gaming Facility Operator shall report unusual occurrences and all violations or suspected violations of the Compact, its appendices, or this Ordinance by an employee or agent of the Gaming Facility Operator, or any Person in the Gaming Facility or on the surrounding premises, whether or not associated with Gaming Activities, to the TRA.
- (b) The TRA shall investigate unusual occurrences and any reported violation of this Ordinance, the Compact, its appendices, or the Act, when the TRA determines that an investigation is reasonably necessary to ensure the integrity of gaming, the protection of Persons and property, and compliance with the Compact.
- (c) The TRA shall make a written record of reported violations in accordance with the requirements of Section 6(e) of the Compact. The TRA shall make reports of its investigations available to the Arizona Department of Gaming in accordance with the requirements of Section 6(g) of the Compact.
- (d) The TRA may issue a written warning of its preliminary determination of violation to any Licensee alleged to have committed a violation and to the Gaming Facility Operator. The warning shall require the Licensee and/or the Gaming Facility Operator, as appropriate, to correct the violation upon such terms and conditions as the TRA determines are necessary and proper under the provisions of this Ordinance.
- (e) The Licensee and/or the Gaming Facility Operator, may file with the TRA, a written response to the warning within seven (7) days of receiving the warning. Following receipt of the responses, the TRA shall complete its investigation into the alleged violation and, if appropriate, issue a notice of violation. The Executive Director may issue a notice of violation if the TRA determines that a Person other than a Licensee violated or is violating the Ordinance, the Compact, the Act, or Gaming Facility Operator's Internal Controls. After receiving a notice of violation, the Licensee or Person may appeal the notice through the Commission Hearing process outlined in Section 1203.

Sec. 508. - Investigative Reports.

- (a) Before issuing a License to a Primary Management Official or Key Employee, the TRA shall create and maintain an investigative report for each background investigation of an applicant.

[25 U.S.C. § 2710(b)(2)(F); 25 C.F.R. §§ 522.4(b)(5), 556.6(b)(1)]

- (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.

[25 U.S.C. § 2710(b)(2)(F); 25 C.F.R. §§ 522.4(b)(5), 556.6(b)(1)]

Section 509. - Eligibility Determinations.

- (a) Before a Gaming Employee License or Vendor License is issued, an authorized TRA 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.

[25 U.S.C. § 2710(b)(2)(F); 25 C.F.R. §§ 522.4(b)(5), 556.5(a)]

- (b) If the authorized TRA 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 License shall not be granted.
- (c) Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before licensing a Primary Management Official or Key Employee.

[25 U.S.C. § 2710(b)(2)(F); 25 C.F.R. § 556.6(b)(2)]

Sec. 510. - Notice of Results of Background Investigations for Key Employees and Primary Management Officials.

- (a) Before issuing a License to a Primary Management Official or Key Employee, the TRA shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.
- (b) The notice of results for Primary Management Officials and Key Employees must be submitted to the NIGC no later than sixty (60) days after the applicant begins working for the Tribe.

[25 U.S.C. § 2710(b)(2)(F); 25 C.F.R. § 556.6(b)(2)]

- (c) The notice of results for Primary Management Officials and Key Employees 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) Licenses that have previously 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 Section 509.

[25 C.F.R. § 556.6(b)(2)(i)-(iv)]

Section 511. - License Renewal

All Licensees, including but not limited to the employees of the TRA, Vendors, Commissioners, and Gaming Employees, must apply for a License renewal from the TRA.

Section 512. - Records Retention

With respect to all Gaming Employees, the TRA shall retain, for no less than three (3) years from the date of termination of employment with the Nation, the following documentation:

- (a) Application for licensing;
- (b) Investigative Reports; and
- (c) Eligibility Determinations.

Additionally, all records of license revocation and denials shall be retained for the lifetime of the applicant or Licensee.

[25 C.F.R. § 558.3(e)]

(Law & Order Code 2006, § 21-10; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 504, adopted 12-12-2006, eff. 12-12-2006)

Sec. 513. - Records Confidentiality.

The TRA 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 persons who are not directly involved in the licensing and employment processes.

This Section does not apply to requests for such information or records from any Tribal, Federal or State law enforcement or regulatory agency having jurisdiction, or for the use of such information or records by the TRA and staff in the performance of their official duties.

[25 C.F.R. §§ 522.4(b)(5), 556.4(c)]

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 506, adopted 12-12-2006, eff. 12-12-2006)

Section 514. - Legal Advice.

The TRA may seek the advice of General Counsel.

CHAPTER 6. ANNUAL INDEPENDENT AUDIT

- (a) The Nation shall cause to be conducted independent audits of Gaming Operations annually and shall submit the results of those audits to the NIGC.

[25 U.S.C. § 2710(b)(2)(C); 25 C.F.R. § 522.4(b)(3)]

- (b) All gaming related contracts that result in the purchase of supplies, services, or concessions for more than twenty-five thousand dollars (\$25,000.00) in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under subsection (a) above.

[25 U.S.C. § 2710(b)(2)(D); 25 C.F.R. § 522.4(b)(4)]

- (c) The Gaming Facility Operator shall prepare financial statements for its operations in accordance with generally accepted accounting principles on a regular basis and shall provide the TRA with copies of those financial statements.
- (d) Within one hundred twenty (120) days after the end of each fiscal year, the Gaming Facility Operator shall provide the TRA with an audit of its financial statements for the prior year, along with any reports or management letter(s) the accountant has prepared. The audit shall be conducted by an independent certified public accountant in accordance with generally accepted auditing standards. Either the firm or all independent certified public accountants engaged to do audits pursuant to this Section shall be licensed by the Arizona State Board of Accountancy. The audit shall be prepared at the Gaming Facility Operator's expense. The auditor shall prepare an audit

report expressing an unqualified or qualified opinion on the financial statements or, if appropriate, disclaim an opinion on the financial statements taken as a whole. The examination and audit shall disclose whether the accounts, records, internal controls, and accounting procedures of the Gaming Facility Operator are in compliance with the Act. The audit shall comply with the requirements of Section 12(g) of the Compact; it shall audit and report the Nation's Class III Net Win. It shall also include or be supplemented with an attestation by the auditor that Class III Net Win is accurately reported consistent with the terms of Compact Appendix I.

- (e) To facilitate the completion of such audits, the Gaming Facility Operator shall make and maintain complete, accurate, and legible records of all transactions pertaining to any Gaming Activities and any other revenue producing activities conducted by the Gaming Facility Operator at or in conjunction with any Gaming Facility. The Gaming Facility Operator shall maintain its financial records in accordance with generally accepted accounting principles and shall keep those records in a form suitable for audit under the standards of the American Institute of Certified Public Accountants. The Gaming Facility Operator shall maintain the records, as well as all original entry transaction records, until the later of five (5) years from the date on which they are made or the term of record retention required by the Compact. The records shall be maintained at a Gaming Facility or in other locations approved by the TRA.
- (f) The Gaming Facility Operator shall maintain:
 - (1) Accurate, complete, legible and permanent records of all transactions pertaining to the Gaming Operation in a manner suitable for audit under the standards of the American Institute of Certified Public Accountants;
 - (2) General accounting records using a double entry system of accounting with transactions recorded on a basis consistent with Generally Accepted Accounting Principles;
 - (3) Detailed supporting and subsidiary records;
 - (4) Detailed records identifying revenues, expenses, assets, liabilities and fund balances or equity for the Gaming Operation;
 - (5) All records required by the internal control system including, but not limited to, those relating to any Gaming Activity authorized by the Compact;
 - (6) Journal entries for the Gaming Operation;
 - (7) Detailed records sufficient to accurately reflect gross income and expenses relating to its operations on a monthly and year-to-date basis;
 - (8) Detailed records of any reviews or audits, whether internal or otherwise, performed in addition to the annual audit required in this Section, including, but not limited to, management advisory letters, agreed upon procedure reviews, notices of non-compliance and reports on the internal control system; and
 - (9) Records of any proposed or adjusting entries made by an independent certified public accountant.
- (g) The TRA, when it deems necessary, may request additional information regarding the Gaming Facility Operator's financial statements, its audits, or both from the Gaming Facility Operator. The TRA also may require the Gaming Facility Operator to have its independent accountant provide such information to the TRA. If the Gaming Facility Operator receives any written communications from its independent accountant regarding internal control matters, the Gaming Facility Operator shall provide copies of those communications to the TRA within thirty (30) days after receiving the communications.
- (h) The TRA shall provide copies of the Gaming Facility Operator's annual reports and management letters setting forth the results of the annual audit to the Commission within one hundred twenty (120) days after the end of each fiscal year for the Gaming Facility Operator and to the State in accordance with the requirements of the Compact. The TRA shall cooperate with the Commission and the State with respect to any additional information the Commission or the State may request.

(Law & Order Code 2006, § 21-8; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, ch. 6, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 7. ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Gaming Facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety. The Nation shall adopt standards that assure adequate protection of the environment and the public health and safety.

[25 U.S.C. § 2710(b)(2)(E); 25 C.F.R. §§ 522.4(b)(7), 522.6(b), and 559.4]

(Law & Order Code 2006, § 21-9; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, ch. 7, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 8. PATRON DISPUTE RESOLUTION

- (a) **Refusal to Pay Winnings.** Whenever the Gaming Facility Operator refuses payment of alleged winnings to a patron or there is otherwise a dispute with a patron regarding that patron's wins or losses from Gaming Activity, and the Gaming Facility Operator and the patron are unable to resolve the dispute to the satisfaction of the patron:
 - (1) If the dispute involves five hundred dollars (\$500.00) or more, the Gaming Facility Operator shall immediately notify the TRA and shall inform the patron of his or her right to file a complaint with the TRA requesting that it investigate.
 - (2) If the dispute involves less than five hundred dollars (\$500.00), the Gaming Facility Operator shall inform the patron of his or her right to file a complaint with the TRA requesting that it investigate.
- (b) **Complaint.** If a patron files a written complaint with the TRA alleging that the Gaming Facility Operator has failed to pay winnings owed to the patron, the TRA shall promptly provide a copy of the complaint to the Gaming Facility Operator. Within fifteen (15) days after notifying the TRA of a patron dispute or within fifteen (15) days after receiving from the TRA a copy of a complaint filed by a patron, whichever is later, the Gaming Facility Operator shall file with the TRA a written report setting forth its position regarding the dispute. The TRA shall cause a full investigation to be made of the patron's allegations and the Gaming Facility Operator's response, and shall determine whether the patron's complaint is valid, whether the patron is entitled to any relief, and if so, the relief to which the patron is entitled.
- (c) **Notice to Patrons.** The TRA shall mail written notice by certified mail, return receipt requested, to the Gaming Facility Operator and the patron of its decision resolving the dispute within thirty (30) days after the date that the TRA is notified of a dispute by the Gaming Facility Operator or a request to conduct an investigation from the patron, whichever is later.
- (d) **Effective Date of Decision.** The decision of the TRA is effective on the date it is received by the aggrieved party as reflected on the return receipt, or three (3) days after the decision is sent via regular mail.
- (e) **Review of Decision.** Within thirty (30) days after the date of receipt of the written decision, the aggrieved party may file a petition with the TRA requesting a review of the decision. The TRA Executive Director will set a hearing on the matter before the Commission, or ask the Commission to make a decision based on the record previously developed and other documentation provided to it by the patron and the Gaming Facility Operator. The Commission shall then issue a written decision within sixty (60) days of the filing of the petition and mail it to the parties by certified and regular mail, return receipt requested. This written decision of the Commission shall be the final decision of the Commission, subject to the provision for judicial review.
- (f) **Tribal Court Review.** A patron whose dispute involves at least five hundred dollars (\$500.00), or other threshold as established by then-existing Compact, may file a complaint in Tribal Court within

sixty (60) days of receipt of the Commission's written decision. Disposition of the action in Tribal Court will be final and binding upon all parties in accordance with Tribal law.

- (1) The Tribal Court shall decide all relevant questions of law and regulations presented, interpret constitutional and statutory provisions, and determine the basis for the action of the TRA and/or the Commission. The Tribal Court shall uphold the action of the TRA and/or the Commission unless the court determines that the action was:
 - (A) Arbitrary, capricious, an abuse of discretion;
 - (B) Without observance of procedure required by this Ordinance; or
 - (C) Unsupported by substantial evidence.

(g) Procedures for the Disposition of Tort Claims Brought by Patrons.

- (1) Jurisdiction. All tort claims arising from alleged injuries to patrons of the Gaming Facilities brought against the Gaming Facility, Gaming Facility Operator, the TRA, the Commission, the Nation, or any member, employee, or agent of any of the foregoing may only be brought in the Nation's Tribal Court.
- (2) Procedures. All tort claims arising from alleged injuries to patrons of the Gaming Facilities brought against the Gaming Facility, Gaming Facility Operator, the TRA, the Commission, the Nation, or any member, employee, or agent of any of the foregoing shall be governed by the Nation's Tribal Tort Claims Act, Ch. 22, Art. III.

(Law & Order Code 2006, § 21-17; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, ch. 8, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 9. TRIBAL INTERNAL CONTROL STANDARDS

Sec. 901. - Adoption and Implementation.

The Gaming Facility Operator shall adopt and implement Internal Control Standards (ICS) for its Gaming Operation in accordance with applicable law.

- (a) The TRA shall by regulation approve minimum standards of internal control applicable to the Gaming Facility Operator and the Gaming Facilities that provide a level of control that equal or exceed the standards required by the Act and the Compact to provide reasonable assurance that the following objectives will be maintained:
 - (1) Assets are safeguarded and accountability over assets is maintained;
 - (2) Liabilities are properly recorded and contingent liabilities are properly disclosed;
 - (3) Financial records including records relating to revenues, expenses, assets, liabilities, and equity/fund balances are accurate and reliable;
 - (4) Transactions are performed in accordance with the general or specific authorization of the Gaming Facility Operator's management;
 - (5) Access to assets is permitted only in accordance with the specific authorization of the Gaming Facility Operator's management;
 - (6) Recorded accountability for assets is compared with actual assets at frequent intervals and appropriate action is taken with respect to any discrepancies; and
 - (7) Functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by qualified personnel.
- (b) The Gaming Facility Operator shall operate each Gaming Facility pursuant to a written internal control system in accordance with the requirements of Section 11 of the Compact. The Gaming Facility Operator shall adopt policies and procedures and a plan of organization to implement the minimum ICS approved by the TRA. The policies and procedures shall include a detailed system

for counting cash receipts at least daily, and shall be appropriate to the types of Gaming Activities carried on at the Gaming Facility. The plan of organization shall provide appropriate segregation of functional responsibilities and shall require sound practices to be followed in the performance of those duties by competent and qualified personnel. The plan of organization shall be diagrammatic and narrative describing the interrelationship of functions and the division of responsibilities upon which the system of internal control relative to gaming operations is based.

- (c) The Gaming Facility Operator shall provide the TRA with copies of its policies and procedures, plan of organization, and any proposed changes before implementation (or any part thereof) for the TRA to determine if any items are inconsistent with the minimum ICS. If the policies and procedures and plan of organization or any proposed changes (or any part thereof) are inconsistent with minimum ICS, the TRA shall issue a letter of disapproval, which shall set forth the inconsistencies in detail.
- (d) The minimum ICS may be modified by the TRA in the manner set forth in Section 505, or in the manner set forth below.
 - (1) The TRA may propose modifications to the minimum ICS by providing written notice of the proposed changes to the Gaming Facility Operator and the date the TRA proposes to have the changes be effective. The Gaming Facility Operator shall submit any comments on the proposed changes to the minimum ICS to the TRA within thirty (30) days after receiving notice of the proposed changes from the TRA. The TRA shall not issue a final regulation modifying the minimum ICS until it has reviewed and considered the Gaming Facility Operator's comments. The TRA's decision to modify any minimum ICS shall constitute final action of the TRA.
 - (2) The Gaming Facility Operator may propose changes to the minimum ICS by providing written notice of the proposed changes to the TRA and the date the Gaming Facility Operator proposes to have the changes be effective. The TRA shall review the proposed changes within thirty (30) days after receiving them from the Gaming Facility Operator and shall notify the Gaming Facility Operator in writing whether it approves or does not approve of the proposed changes. If the TRA approves the proposed changes, its notice of approval shall set forth the date on which the proposed changes will become effective. The TRA's decision to approve or disapprove any proposed changes shall constitute final action of the TRA.
- (e) The Gaming Facility Operator shall, upon request, provide written notice to the TRA identifying all bank accounts maintained by the Gaming Facility Operator by bank and account number and identifying by name all individuals with authority to sign on each account. The Gaming Facility Operator shall provide written notice to the TRA of any changes to this information within seven (7) business days of any changes.

(Law & Order Code 2006, § 21-10; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 901, adopted 12-12-2006, eff. 12-12-2006)

Sec. 902. - Notification.

- (a) The Gaming Facility Operator shall promptly notify the TRA of any non-compliance with the minimum ICS, the Ordinance, the Compact or the Act or any other matters adversely affecting the integrity of Gaming Activities or the integrity of the Gaming Facility Operator.
- (b) The Gaming Facility Operator shall promptly notify the TRA of any employee termination and the reason for the ICS.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 902, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 10. LICENSING

Division 1 – General Licensure

Sec. 1001. – Standards of Suitability.

The TRA shall not issue a License to any applicant under this Chapter if it determines that the Person:

- (a) Has been convicted of any felony or gaming offense;
- (b) Has knowingly and willfully provided materially important false statements or information or omitted materially important information on his or her License application;
- (c) Is an individual whose prior activities, criminal record, reputation, habits, or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; or
- (d) In the case of a Vendor, is financially insolvent or unsound.

Sec. 1002. - License application forms.

- (a) A notice in substantially the same form as below shall be placed on the Nation's License application form before it 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.

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

[25 C.F.R. § 556.2(a); 42 U.S.C. 405(c)(2)(C), 42 U.S.C. 653; 42 U.S.C. 654; 42 U.S.C. 666; A.R.S. § 25-320(P)]

- (b) The following additional notice shall be placed on the application form:

"A false statement on any part of your 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)."

[25 C.F.R. § 556.3(a)]

- (c) The TRA shall notify in writing existing Key Employees and Primary Management Officials who have not completed an application containing the notices set forth above that they shall either:

- (1) Complete a new application form that contains both the Privacy Act and false statement notices; or
- (2) Sign a statement that contains the Privacy Act and false statement notices and consent to the routine uses described in that notice.

[25 C.F.R. § 556.2(b); 25 C.F.R. § 556.3(b)]

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1004, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1003. - License fees.

The Nation may charge and collect a License fee, as approved by the Tribal Council, to be set by the TRA, to cover its expenses in investigating and licensing Licensees. The TRA shall collect fees in

connection with the processing of applications and the issuance of Licenses in accordance with the schedule of fees as published by the TRA. The TRA may modify the schedule of fees or prescribe other fees as approved by the Tribal Council.

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1005, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1004. - State certification.

Every Person required to be licensed under this Ordinance also shall comply with the state certification requirements of the Compact, if those requirements are applicable to the Person. Within the time requirements established by the Compact, the TRA shall forward to the Arizona Department of Gaming a report of final disposition of the licensing actions of the TRA. The TRA shall afford the Arizona Department of Gaming an opportunity for a hearing before an appropriate forum of the Nation, pursuant to Sections 5(q)(2) and 5(q)(3) of the Compact, to contest a licensing decision of the TRA or to recommend suspension or revocation of a License issued by the TRA. The decision of the tribal forum shall be final, except as provided in Section 5(q)(4) of the Compact.

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1008, adopted 12-12-2006, eff. 12-12-2006)

Division 2 – Gaming Facility Licensure

Sec. 1005. - Gaming Facility Licenses.

- (a) The TRA shall issue a separate Gaming Facility License to each place, facility, or location on Indian lands where Class II and/or Class III gaming is conducted under this Ordinance. The license issued shall be effective for one (1) year or as required by Compact .

[25 U.S.C. § 2710(b)(1)(B); 25 C.F.R. § 522.4(b)(6)]

- (b) The TRA shall specify the form, conditions and content for the application for such licenses, which shall be submitted by the General Manager of the Gaming Facility, and the application shall include a legal survey of the lands whereon the facility is located; a certification that said premises constitute "Indian lands" as specified in the Indian Gaming Regulatory Act; shall identify the environmental, health, and public safety standards with which the facility must comply, and; a certification that the facility is in compliance therewith. The TRA shall only issue such licenses if the applications therefore include the required information and certifications and such further conditions as the TRA shall have specified.
- (c) No Gaming Activities shall be conducted in any Gaming Facility unless the TRA first has issued a License for the Gaming Facility under the provisions of this Chapter.

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1001, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1006. - Standards for issuance of a Gaming Facility License.

The TRA shall not issue a Gaming Facility License for any facility at which Gaming Activities are to be offered unless the Gaming Facility meets the following requirements:

- (a) The Gaming Activities to be conducted within the Gaming Facility will lawfully be carried on by the Nation under the Compact and the Act, and the facilities are appropriate to the carrying on of such activities;
- (b) The Gaming Facility Operator will adequately staff and equip the Gaming Facility to ensure the safety, health and welfare of the patrons thereof, and the Gaming Facility Operator has taken adequate measures to provide for traffic, emergency service accessibility, food, drink and sanitary needs for patrons and employees, security, law enforcement and other concerns raised by the type of Gaming Activities proposed to be undertaken in compliance with this Ordinance, the Compact and the Act;

- (c) Any new or different Gaming Activities at a licensed location shall be played in compliance with this Ordinance, the Compact and the Act.

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1002, adopted 12-12-2006, eff. 12-12-2006)

Division 3 – Gaming Employee Licensure

Sec. 1007. - License Terms; Renewal; Temporary License.

- (a) The terms of a Gaming Employees License are as follows:
 - (1) Licenses for Gaming Employees who are not required to be certified by the SGA subject to Section 4(b) of the Compact shall be effective for two (2) years from the date of issuance and be renewed for subsequent two (2) year periods upon the timely submission of a completed application on the forms specified by the TRA.
 - (2) Licenses for Gaming Employees who must be certified by the SGA shall have a primary term of one (1) year and may be renewed for subsequent one (1) year periods upon the timely submission of a completed application on the forms specified by the TRA.
 - (3) Any infractions that could affect a Licensee's eligibility for a License must be reported to the TRA immediately, and any violation of this requirement is subject to the immediate revocation of the License. No Licensee shall have any vested right to renewal of any License issued under this Ordinance.
- (b) The TRA may issue a Temporary License to a Gaming Employee applicant within twenty (20) days after receiving a completed application for licensing unless:
 - (1) Grounds sufficient to disqualify the applicant are apparent on the face of the application;
 - (2) The background investigation undertaken by the TRA discloses that the applicant may have a criminal history sufficient to disqualify the applicant from holding a license, or
 - (3) The background investigation undertaken by the TRA discloses other information that may be sufficient to disqualify the applicant from holding a license.

A Temporary License shall become void and shall be of no effect upon (1) the issuance of a Gaming Employee License; (2) upon the issuance of a notice of denial of the Gaming Employee License in accordance with the provisions of this Ordinance; or (3) the expiration of ninety (90) after the issuance of a Temporary License.

[25 C.F.R. § 558.3(b)]

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, §1007, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1008 – Gaming Employee Licenses

- (a) Requirement of License. Every Gaming Employee of the Gaming Facility Operator shall be licensed by the TRA before commencing employment.
- (b) The Nation not employ any Primary Management Official or Key Employee who does not have a License within ninety (90) days of employment.
- (c) The Nation shall ensure that the policies and procedures set out in this section are implemented with respect to Gaming Employees employed at any gaming enterprise operated on Indian lands. The Nation will issue Licenses and perform background investigations according to requirements at least as stringent as 25 C.F.R. Parts 556 and 558.

[25 U.S.C. § 2710(b)(2)(F); 25 C.F.R. § 558.3; 25 U.S.C. § 522.4(b)(5)]

Sec. 1009. - Fingerprints.

Each Gaming Employee shall be required to have fingerprints taken as part of the License application procedure. Fingerprints shall be taken by the Licensing Section of the TRA. Fingerprints will then be forwarded to the appropriate agency for processing to determine the applicant's criminal history, if any.

[25 C.F.R. § 522.2(h); 25 C.F.R. § 556.4(a)(14)]

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1009, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1010. - Background Investigations.

- (a) The TRA is responsible for conducting background investigations and suitability determinations.
- (b) The TRA shall request from each Gaming Employee 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 and/or written);
 - (2) Currently, and for the previous ten (10) 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 Nations, including ownership interests in those businesses;
 - (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those 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 was 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), the name and address of the court involved and the date and disposition;
 - (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, 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;
 - (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 photograph taken within the last year;
 - (13) Any other information the Nation deems relevant; and
 - (14) Fingerprints obtained in accordance with procedures adopted by the TRA.

[25 U.S.C. § 2710(b)(2)(F); 25 C.F.R. §§ 522.2(h), 522.4(b)(5), 522.6(a), 556.4(a)(1)-(14)]

- (c) When a Gaming Employee is employed by the Nation, a complete application file shall be maintained.

[25 U.S.C. § 2710(b)(2)(F)]

- (d) The TRA, and its investigators, shall keep confidential the identity of each Person interviewed in the course of conducting a background investigation.

[25 C.F.R. §§ 522.4(b)(5), 556.4(c)]

- (e) The TRA may adopt different background investigation requirements for Gaming Employees who are not Key Employees or Primary Management Officials.

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1010, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1011. - Procedures for Conducting a Background Check on Applicants.

- (a) As part of its review procedure, the TRA, or its agent, shall conduct a background investigation on each applicant sufficient to allow the TRA to make an eligibility determination under Section 1012. The investigator shall:
 - (1) Verify the applicant's identity through items such as a social security card, driver's license, birth certificate, DD Form 214, or passport;
 - (2) Contact each personal and business reference provided in the License Application, when possible;
 - (3) Obtain a personal credit check;
 - (4) Conduct a civil history check;
 - (5) Conduct a criminal history check via the submission of the applicant's fingerprints to the NIGC, DPS, or similar law enforcement agency, and further obtain information from the appropriate court regarding past felony and/or misdemeanor convictions and criminal charges;
 - (6) Inquire into any previous or existing business relationships with the gaming industry and Indian Nations by contacting the entities or Nations;
 - (7) Verify the applicant's history and status with any licensing agency by contacting the agency; and
 - (8) Take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted.
- (b) The investigator shall create an investigative report noting the steps taken, information gained, potential problem areas, and disqualifying information.
- (c) The TRA and its investigator shall keep confidential the identity of each person interviewed in the course of the investigation, other than disclosure as required under applicable Federal, Tribal, or State law.

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1011, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1012. - Eligibility Determination.

The TRA shall review a Person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a Person for employment in a Gaming Operation. If the TRA determines that employment of the Person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the TRA shall not issue a License to that Person and a Tribal Gaming Operation shall not employ that Person.

[25 C.F.R. § 558.2]

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1012, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1013. - Procedures for forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

When a Key Employee or Primary Management Official is employed to work at a Gaming Operation authorized by this Ordinance, the TRA shall, within thirty (30) days, forward to the NIGC a completed application for employment and conduct the background investigation and make the determination referred to in Section 1012.

[25 C.F.R. § 558.3(a), (b)]

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1013, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1014. - Report to the National Indian Gaming Commission on Key Employees and Primary Management Officials.

(a) Before issuing a License, the TRA shall prepare and forward a report on each background investigation to the NIGC on a Key Employee or Primary Management Official. An investigative report shall include all of the following:

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

[25 C.F.R. § 556.5(a), (b)]

(b) The TRA shall forward the completed investigative report on Key Employees and Primary Management Officials to the NIGC within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this Ordinance by the Chairman of the NIGC.

[25 C.F.R. § 558.3(b)]

(c) The TRA shall submit, with the investigative report, a copy of the eligibility determination, unless the NIGC shall have advised the Nation that the submission of the eligibility determination is not necessary. This determination shall include a Statement describing how the information submitted by the applicant was verified; a Statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; a Statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the TRA to make a finding concerning the eligibility for licensing required for employment in a gaming operation; and a Statement documenting the disposition of all potential problem areas noted and disqualifying information obtained.

[25 C.F.R. § 556.5(c)]

(d) If a License is not issued to a Key Employee or Primary Management Official, the TRA:

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

[25 C.F.R. § 556.5(d)]

(e) If, within a thirty (30) day period after the NIGC receives a report, the NIGC notifies the Nation that it has no objection to the issuance of a Gaming Employee License pursuant to an application filed by a Key Employee or a Primary Management Official for whom the Nation has provided an

application and investigative report to the NIGC, the TRA, acting for the Nation, may issue a Gaming Employee License to such applicant.

[25 C.F.R. § 558.4(a)]

- (f) The TRA shall respond to a request for additional information from the Chairman of the NIGC concerning a Key Employee or a Primary Management Official who is the subject of a report. Such a request shall suspend the thirty (30) day period under paragraph (e) of this section until the Chairman of the NIGC receives the additional information.

[25 C.F.R. § 558.4(b)]

- (g) If, within the thirty (30) day period described under paragraph (e) of this section, the NIGC provides the Nation with a Statement itemizing objections to the issuance of a license to a Key Employee or to a Primary Management Official for whom the TRA has provided an application and investigative report to the NIGC, the Nation shall reconsider the application, taking into account the objections itemized by the NIGC. The Nation shall make the final decision whether to issue a License to such applicant.

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1014, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1015. Gaming Employee License Suspension and Revocation.

- (a) If, after a License is issued to a Gaming Employee, the TRA receives notice from the NIGC or information from DPS that the Gaming Employee is not eligible for employment, the TRA 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.

[25 C.F.R. § 558.4(a-c)]

- (b) After a revocation hearing, the TRA shall decide whether to revoke or to reinstate the License at issue.

[25 C.F.R. § 558.4(e)]

- (c) The TRA shall notify the NIGC of its decision to revoke or reinstate a license within forty-five (45) days of receiving notification from the NIGC that a Primary Management Official or Key Employee is not eligible for employment.

[25 CFR § 558.4(e)](Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1017, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1016. - Identification Cards.

Upon the issuance of a Gaming Employee License to a Person described in this Section, the TRA shall provide such Person with an identification card. The Gaming Facility Operator shall require all such Persons to wear in plain view such identification card which shall include a photograph of the Person, the first and last name of the Person, and an identification number unique to the individual Gaming Employee License. The identification card shall also include the seal of signature of the Nation and an expiration date. The actual issuance of a physical badge or identification card may be delegated by the Executive Director to the Security Department of the Gaming Facility, which shall notify the TRA of all cards and badges issued under this authority, including changes and additions or modifications thereto.

Division 4 – Vendor Licensure

Sec. 1017. Vendor Licenses

- (a) Requirement of License. Each Manufacturer and each Distributor of Gaming Devices, supplier of Gaming Services shall be licensed by the TRA before selling or leasing any Gaming Devices or Gaming Services to the Gaming Facility Operator. In addition, any Person extending or guarantying financing for a Gaming Operation or Gaming Facility shall be licensed by the TRA, unless the Person is an agency of the United States or a lending institution licensed and regulated by the State or the United States or other financial entities not required to be licensed under the Compact.
- (b) Standards of Suitability for Corporations, Partnerships, and Other Entities. In addition to the Standards of Suitability found in Section 1001 of this Ordinance, the TRA shall not issue a Vendor License under this Chapter to any corporation, partnership, or other entity unless the TRA is satisfied that the entity:
 - (1) Is in sound financial condition, as shown (at a minimum) by a financial statement certified by the entity's chief executive officer (or equivalent) to be a fair presentation in all material respects of the financial position and results of operations of the entity;
 - (2) Has established a reputation for financial integrity and sound business practices, or, if the entity was recently formed, that all Persons having a role in its formation, including its Principals, are qualified to be licensed individually under the terms of this Chapter; and
 - (3) Is in all other respects reliable and trustworthy, and whose involvement in Gaming Activities within the Nation will be in the best interests of the Nation as set forth in this Ordinance.
- (c) The TRA shall not issue a Vendor License under this Chapter to any corporation, partnership, or other entity unless the entity agrees to give the TRA notice within thirty (30) days of any change in its Principals, of any change in the location of its office(s), and of any material change in the information disclosed in its application for its License.
- (d) Each License issued by the TRA for Manufacturers and Distributors of Gaming Devices, and Persons providing Gaming Services, shall be effective for two (2) years from the date of issuance and may be renewed for subsequent two (2) year periods upon the timely submission of a completed application on the forms specified by the TRA. No Licensee shall have any vested right to renewal of any License issued under this Ordinance.

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1018, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1018 – Waiver

- (a) For a Class A Vendor, the TRA and the SGA may waive the requirement for a License if they mutually agree that licensing the Vendor is not necessary to protect the public interest.
- (b) For a Class B Vendor, the TRA may issue a waiver, without permission from the SGA, to an applicant after receiving a completed License application, unless there are grounds sufficient to disqualify the applicant on the face of the application.

Sec. 1019. - Submission of a Class A Vendor License Application.

In order to obtain a Vendor License, a Class A Vendor must complete a Vendor application and submit to background checks of itself and its principals. Principals of a business include its officers, directors, management, owners, partners, non-institutional stockholders that either own ten (10) percent or more of the stock or are the ten (10) largest stockholders, and the on-site supervisor or manager under the agreement with the Nation, if applicable.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1019, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1020. - Contents of the Vendor License Application.

- (a) Applications for Vendor Licenses must include the following:

- (1) Name of business, business address, business phone, federal tax ID number (or SSN 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 of Arizona, if the gaming operation is in a different State than the State of incorporation;
 - (4) Trade name, other names ever used, 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 Nations with which the Vendor has an existing or previous business relationship, including ownership, financial, or management interests in non-gaming activities;
 - (9) Names, addresses, and phone numbers of three (3) business references with whom the company had 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) List the business' funding sources and any liabilities of fifty thousand dollars (\$50,000.00) or more;
 - (14) A list of the principals of the business, their social security numbers, addresses and telephone numbers, titles, and percentage of ownership in the company; and
 - (15) Any further information the Nation 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 Nation's Vendor License.
- (c) A Vendor may submit to the TRA 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 Nation not contained in the other application.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1020, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1021. - Vendor Background Investigation.

The TRA shall employ or otherwise engage an investigator to complete an investigation of the gaming Vendor. This investigation shall contain, at a minimum, the following steps:

- (a) Verify the Vendor's business incorporation status and qualification to do business in the State where the gaming operation is located;

- (b) Obtain a business credit report, if available, and conduct a Better Business Bureau check on the Vendor;
- (c) Conduct a check of the Vendor's business credit history;
- (d) Call and question each of the references listed in the Vendor application; and
- (e) Conduct an investigation of the principals of the Vendor's business, including a criminal history check, a credit report, and interviews with the personal references listed.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1021, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1022. Vendor Background Investigation Report.

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

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1023, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1023. - Vendors Licensed by Recognized Regulatory Authorities.

The TRA may adopt regulations, or adopt those from the SGA, 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.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1024, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1024. - Licenses for Class B Vendors.

For Class B Vendors, the TRA is authorized to create a less stringent Vendor licensing process, including a due diligence check rather than a full background investigation as laid out in Section 1022. The TRA may investigate such Vendors when appropriate and may conduct audits in addition to monitoring Tribal purchases.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1025, adopted 12-12-2006, eff. 12-12-2006)

Division 5 – Management Contractor Licensure

Sec. 1025. – Management Contractor License.

- (a) License to a Management Contractor. The TRA shall not issue a License to a Management Contractor under this Chapter to a corporation, partnership, or other entity unless it is satisfied that the entity:
 - (1) Is organized and in good standing under the laws of the jurisdiction where it was established, and is qualified to do business within the nation and the State of Arizona;
 - (2) Is in sound financial condition, as shown by a financial statement certified by a certified public accountant to be a fair presentation in all material respects of the financial position and results of operations and cash flows of the entity in conformity with generally accepted accounting principles;
 - (3) Is not now and has not been in the past five (5) years the subject of any criminal investigation by any federal or state law enforcement authority, as shown by an affidavit of Principals of the entity having personal knowledge thereof;
 - (4) Has established a reputation for financial integrity and sound business practices, or, if the entity was recently formed, that all Persons having any role in its formation, including Persons

supplying, financing, are Persons qualified to be licensed individually under the terms of this Chapter; and

- (5) In all other respects will be reliable and trustworthy, and whose involvement in Gaming Activities within the Nation will be in the best interests of the Nation.
- (b) The TRA shall not issue a License to a Management Contractor under this Chapter to any corporation, partnership, or other entity unless the entity:
 - (1) Agrees to maintain an office within the Nation as a condition of maintaining its license; and
 - (2) Agrees to give the Gaming Office notice within ten (10) days of any change in its Principals, of any change in the location of its office(s), and of any material change in the information disclosed in its application for its License.
- (c) Each License issued by the TRA to Management Contractors shall be effective for one (1) year from the date of issuance and may be renewed for subsequent one (1) year periods upon the timely submission of a completed application on the forms specified by the TRA. No Licensee shall have any vested right to renewal of any License issued under this Ordinance.

Division 6 – Finance Licensure

Sec. 1026. – License for Person Providing Financing.

A Person who extends financing shall apply for a License from the TRA, unless the Person is an agency of the United States, a lending institution licensed and regulated by the State or the United States, or is otherwise exempt from licensing under the Compact. The License shall be effective for one (1) year and may be renewed for subsequent one (1) year periods.

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1015, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 11. GAMING OPERATION

Sec. 1101. - Scope of Permissible Gaming.

The Gaming Facility Operator may conduct only those Gaming Activities which may lawfully be carried on by the Nation under applicable provisions of federal law including, but not limited to, the Act, subject to any limitations which may be imposed by the Compact and this Ordinance.

(Law & Order Code 2006, § 21-4; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1101, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1102. - Employee and Player Age Limit.

Individuals under twenty-one (21) years of age shall not play or place any wager, directly or indirectly, in any Gaming Activities. The Gaming Facility Operator shall take reasonable steps to prevent underage individuals from playing or placing wagers in Gaming Activities. The Gaming Facility Operator shall not employ any individual under eighteen (18) years of age. The TRA shall not employ any individual under the age of twenty-one (21). The Gaming Facility Operator shall not permit any individual under twenty-one (21) years of age to serve alcoholic beverages at any Gaming Facility, unless otherwise permitted under State law. The TRA may by regulation establish measures by which the Gaming Facility Operator shall enforce the provisions of this section.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1102, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1103. Management; security; self-excluded and banned patrons.

- (a) The Gaming Facility Operator shall have the responsibility for the on-site operation, management and security of the Gaming Facility, and shall comply with all requirements of this Ordinance, the Compact and the Act. The Gaming Facility Operator shall adopt reasonable procedures, consistent

with this Ordinance, the Compact and the Act, designed to provide for the following: the physical safety of its employees; the physical safety of patrons in each Gaming Facility; the physical safeguarding of, and accountability for, assets transported to and from each Gaming Facility and each cashier's cage department; and the protection of the patrons' and the Gaming Facility Operator's property from illegal activity.

- (b) The Gaming Facility Operator shall adopt reasonable procedures, consistent with Section 3(v)(2) of the Compact, to advise individuals who inquire about the self-exclusion procedures established by the State. The Gaming Facility Operator shall, consistent with Section 3(v)(2) of the Compact: remove all self-excluded persons from all mailing lists and revoke any slot or player's cards; take reasonable steps to ensure that cage personnel check a person's identification against the Arizona Department of Gaming's list of self-excluded persons before allowing the person to cash a check or complete a credit card cash advance transaction; take reasonable steps to identify self-excluded persons who may be in a Gaming Facility and, once identified, promptly escort the self-excluded person from the Gaming Facility; and not pay any hand-paid jackpot to a person who is on the Tribal or State self-exclusion list. Any jackpot won by a person on the self-exclusion list shall be donated by the Gaming Facility Operator to an Arizona-based non-profit charitable organization.
- (c) The Gaming Facility Operator or TRA may temporarily or permanently ban individuals from the Nation's Gaming Facilities and the surrounding premises controlled by the Gaming Facility Operator for such reasons as the Gaming Facility Operator shall determine appropriate. If the Gaming Facility Operator requests that an individual leave a Gaming Facility or the surrounding premises for any reason and the individual refuses to do so, the Gaming Facility Operator shall request the Police Department to remove the individual.
- (d) If an individual appeals a ban or exclusion from the Gaming Facilities, the appeal shall be sent to the TRA via certified mail, and cannot be hand-delivered by the banned individual.
- (e) The TRA shall provide a list of individuals who have been banned from the Gaming Facilities, due to their criminal history or association, to the SGA on a monthly basis, including the reason for the ban, the banned patron's photograph, and driver's license to the extent that the TRA has such information.
- (f) The Gaming Facility Operator shall designate an agent for service of any official determination, order or notice of the Commission.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1103, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1104. - Play by Employees.

No Primary Management Official, the Casino General Manager, Chief Business Officer, Chief Financial Officer, Accounting Manager, Casino Manager, Revenue Supervisor, Slot Director, Slot Manager, Slot Technicians, Cage Manager, Internal Control Analyst, IT Staff, Revenue Audit Staff, member of the board of directors of the Gaming Facility Operator or Management Contractor, and no employee of the TRA or Tribal Gaming Commissioners, shall play or place any wager, directly or indirectly, in any Gaming Activities. The Gaming Facility Operator shall take reasonable steps to prevent such individuals from playing or placing wagers in Gaming Activities.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1104, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1105. - Financial Services at Gaming Facilities.

The Gaming Facility Operator is prohibited from:

- (a) Locating an automatic teller machine ("ATM") adjacent to, or in close proximity to, any Gaming Device;
- (b) Locating in a Gaming Facility an ATM that accepts electronic benefit transfer cards issued pursuant to a state or federal program that is intended to provide for needy families or individuals;

- (c) Accepting checks or other non-cash items issued pursuant to a state or federal program that is intended to provide for needy families or individuals; and
- (d) Extending credit to any patron of a Gaming Facility for Gaming Activities, but the Gaming Facility Operator shall be allowed to offer Patron credit to the extent permitted in a subsequent amended Compact between the Nation and the State of Arizona.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1105, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1106. - Advertising Guidelines.

In accordance with the requirements of Section 3(x)(3) of the Compact, the Gaming Facility Operator shall adopt and shall comply with guidelines for the advertising and marketing of Gaming Activities that are no less stringent than those contained in the American Gaming Association's general advertising guidelines.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1106, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 12. PROHIBITED ACTS; VIOLATIONS AND REMEDIES

Sec. 1201. - Violations.

It shall be a violation of this Ordinance for any Person to:

- (a) Conduct or operate any Gaming Activities within the Nation except as provided in this Ordinance;
- (b) Receive, distribute, apply or direct any property, funds, proceeds or other asset of any Gaming Activities to the benefit of any individual or other Person except as authorized by this Ordinance or by any duly enacted Resolution of the Tribal Council;
- (c) Tamper with any equipment used in the conduct of Gaming Activities with the intent to cause any Person to win or lose any wager other than in accordance with the publicly announced rules of such Gaming Activities;
- (d) Do any other act in connection with the conduct of any Gaming Activities with the intent to affect the outcome of any wager other than in accordance with the publicly announced rules of such Gaming Activities;
- (e) Alter or misrepresent the outcome or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;
- (f) Place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome;
- (g) Claim, collect or take, or attempt to claim, collect, or take, money or anything of value in or from a Gaming Device, with intent to defraud, without having made a wager thereon, or to claim, collect, or take an amount greater than the amount won;
- (h) Place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching and capping bets;
- (i) Reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet including pinching bets;
- (j) Manipulate, with the intent to cheat, any component of an Electronic Game of Change or Gaming Device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to manipulating a Gaming Device, with knowledge that the manipulation

affects the outcome of the game or with knowledge of any event that affects the outcome of the game;

- (k) Trespass on the Gaming Facility while currently excluded or banned, regardless of whether the person is self-excluded;
- (l) Possess, with the intent to use, any device to assist in projecting the outcome of the game, in keeping track of the cards played, in analyzing the probability of the occurrence of an event relating to the game, or in analyzing the strategy for playing or betting to be used in the game;
- (m) Use any device or means to cheat, or to possess any such device while at the Gaming Facility;
- (n) Knowingly to entice or induce another to go to any place where gaming is being conducted or operated in violation of the provisions of the Compact or this Ordinance, with the intent that the other person play or participate in that gaming;
- (o) Steal, embezzle, misappropriate, filch, pilfer, or take property or assets in any form belonging to the Gaming Facility, its employees, patrons, or the Nation, by any means of robbery, theft, fraud, cheating, or collusion;
- (p) To conduct Gaming Activities within the Nation without complying with the terms and conditions of the Ordinance, the Compact, or the Act;
- (q) Pose a threat to a Gaming Employee or Patron via verbal threat, physical intimidation or harm, or any action taken with the intent to terrify or reckless disregard of the risk of terrifying;
- (r) To intentionally misrepresent a material fact to the TRA or intentionally falsify any business records of the Gaming Facility Operator or report required by this Ordinance, the Compact or the Act; and
- (s) To fail to comply with any other provision of this Ordinance.

(Law & Order Code 2006, § 21-13; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1201, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1202. - Notice of Violation.

- (a) The TRA shall hand-deliver or send certified mail the notice of violation to the Person the TRA is charging with a violation of this Ordinance, the Compact or the Act. If certified mail is returned unsigned then the notice of violation shall be sent via regular mail, and it shall be deemed received three (3) days after mailing.

The TRA shall also deliver a copy of each notice of violation relating to a Gaming Facility (including any violation alleged to have been committed by an employee, Vendor, or patron) to the Gaming Facility Operator, with any redactions necessary to avoid disclosure of any information which the TRA is obligated to keep confidential under any applicable privacy laws, including Section 505(43) and Section 513 of this Ordinance.

- (b) A notice of violation shall contain:
 - (1) A citation to this Ordinance, the Compact, Tribal law, or applicable State or Federal law that has been or is being violated;
 - (2) A description of the circumstances surrounding the violation, set forth in common and concise language;
 - (3) Notice of any action that the TRA proposes must be taken to correct the violation, if the TRA determines that the violation is capable of being corrected;
 - (4) Notice of the time frame within which any action to correct the violation must be taken, unless the TRA determines that the violation is incapable of being corrected;
 - (5) Notice of any license suspension, revocation, or civil fine or other enforcement action that the TRA proposes to impose a result of the violation;

- (6) Notice that a written response to the notice of violation must be submitted to, and received by, the TRA within ten (10) days of the receipt of the notice of violation; and
 - (7) Notice that, if no written response to the notice of violation is submitted to the TRA within the time prescribed in Section 1202(b)(6), the TRA may issue its final decision regarding the violation alleged in the notice, and revoke or suspend one's License, and/or impose a civil fine or take the enforcement action set forth in the notice without hearing from the Person to whom the notice was issued or from the Gaming Facility Operator.
- (c) The Person(s) to whom a notice of violation is issued and the Gaming Facility Operator each may submit a written response to the TRA together with any additional written information the TRA should consider. A Person desiring to submit a written response and any supporting documentation must do so within ten (10) days after receiving notice of the alleged violation. The TRA shall issue a written decision within ten (10) days after receiving all written responses or, if no party submits a written response in a timely manner, within ten (10) days after the deadline for the submission of written responses. The written decision shall constitute final action of the TRA with respect to any notice of violation. Except as provided in Section 1202(d), the TRA shall take no action to enforce a notice of violation until it issues its written decision.
- (d) If the TRA determines that this Ordinance, the Compact, Tribal law, or applicable Federal or State law have been violated and the continued licensing of, or conduct by, a Person constitutes an immediate and substantial threat to: the public health, safety or welfare; the integrity of Gaming Activities; the integrity of the Gaming Facility Operator; the Gaming Facility Operator's ability to account for and protect its assets; or to the security of gaming proceeds, the TRA may:
- (1) Summarily suspend any license issued under this Ordinance;
 - (2) Summarily eject any Person who has violated this Section from the Gaming Facility or the surrounding premises controlled by the Gaming Facility Operator;
 - (3) Summarily seize the proceeds of any Gaming Activities not conducted by the Gaming Facility Operator;
 - (4) Summarily seize, remove, or impound any equipment, supplies, business records, books of account, or any and all other financial records or documents pertaining to the business operations of a Gaming Facility (regardless of where those records or documents may be located). If the TRA seizes, removes, or impounds any business records, books of account, or other financial records or documents of the Gaming Facility Operator, it shall provide the Gaming Facility Operator with a copy of any such items upon receiving a written request for copies from the Gaming Facility Operator; or
 - (5) Upon consultation with General Counsel, initiate in a civil action or criminal complaint in the Nation's Tribal Court to enforce this Ordinance, the Compact, or the Act, which action may include a request for an order permitting the TRA to seize a Gaming Facility or to seize the proceeds from Gaming Activities.

(Law & Order Code 2006, § 21-11; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1202, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1203. - Gaming Commission Review for Licensees

- (a) Any Licensee who has been issued a notice of violation by the Executive Director of the TRA in compliance with the provisions of Section 1202(c) of this Chapter has the right to request, in writing, a review of the decision regarding their alleged violation,
- (b) The Commission shall conduct all hearings under this section. A Licensee can appeal any written decisions from the Executive Director of the TRA regarding alleged violations that lead to a conditioning, suspension, or revocation of a License.
- (c) To apply for review by the Commission the Gaming Facility Operator or the Licensee desiring to appeal a final decision of the TRA must file an application for Commission review within fifteen (15)

business days after receiving notice from the TRA of its final decision. An application for review is a letter detailing the allegation and reasons that the TRA's written decision was erroneous.

- (d) The Commission shall grant the appeal within thirty (30) calendar days of receipt of the application for review, or at the next Commission meeting with a quorum.
- (e) The appellant shall have the following rights at a hearing before the Commission:
 - (1) An opportunity to appear before the Commission, and present oral, written, and documentary evidence relevant to the charged violation.
 - (2) Bring counsel, at their own expense, if the review involves the suspension or revocation of a License. However, appellant shall not be entitled to the recovery of attorney's fees, regardless of the result.
- (f) The Commission shall decide all relevant questions of facts presented, and determine whether the basis for the action of the TRA is in accordance with this Ordinance, the Compact, Tribal law, and applicable Federal and State laws. The Commission's decision shall include detailed findings of facts, the basis for its decisions, and the decision.
- (g) The Nation's Gaming Commission shall uphold the action of the TRA unless it determines that the TRA's action was:
 - (1) Arbitrary, capricious, an abuse of discretion;
 - (2) Without observance of procedure required by this Ordinance; or
 - (3) Unsupported by a preponderance of evidence.
- (h) All decisions of the Commission are final and are not subject to further appeal or review.
- (i) The Commission may request the presence, advice, and representation of General Counsel before and during the hearing process.

Sec. 1204. - Civil Penalties.

Any Person who violates any provision of this Ordinance, the Compact, or the Act is subject to civil penalties, including exclusion from any Gaming Facility, exclusion from the Nation if the Person is a not an enrolled member of the Nation, according to the Nation's Exclusion Ordinance or a civil fine of not more than ten thousand dollars (\$10,000.00) for each such violation.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1204, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1205. - Civil Remedies.

The TRA may in the name of the Nation bring any civil action in the courts of the Nation to enforce the provisions of this Ordinance, the Compact, Tribal law, or applicable Federal or State laws, or to enjoin or otherwise prevent any violation occurring within the territorial jurisdiction of the Nation.

(Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1205, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 13. TRANSITION PROVISIONS

Sec. 1301. - Existing Games Lawful.

Subject to the provisions of the Compact and notwithstanding any other provision of this Ordinance, any Gaming Facilities otherwise legally situated within the Nation, and Gaming Activities carried on at such facilities as of the date on which this Ordinance becomes effective shall be lawful.

(Law & Order Code 2006, § 21-4; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1301, adopted 12-12-2006, eff. 12-12-2006)

Sec. 1302. - Adoption of Compact.

The Compact is hereby incorporated within and enacted as an integral part of this Ordinance with respect to all forms of Class III Gaming, and the Compact, including the Appendices thereto, is incorporated and made a part of this Ordinance as if set forth in full herein; provided, however, that nothing, except as specifically stated in the Compact, herein shall be deemed to affect the operation by the Nation of any Class II Gaming, whether conducted within or without the Gaming Facilities, or to confer upon the State any jurisdiction over such Class II Gaming conducted by the Nation on its Indian Lands. In the event of a subsequently approved Compact with the State, the Ordinance shall be interpreted in line with the requirements of the Compact.

(Law & Order Code 2006, § 21-3; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, § 1302, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 14. AGENT FOR SERVICE OF PROCESS

The Nation hereby designates the following persons as agents for service of any official determination, order or notice of violation.

- a. President
Fort McDowell Yavapai Nation Tribal Council
17661 E. Yavapai Road
Fort McDowell, AZ 85264
- b. Executive Director
Fort McDowell Tribal Gaming Regulatory Agency
10424 N. Fort McDowell Road
Fort McDowell, AZ 85264
- c. General Counsel
Fort McDowell Yavapai Nation
17721 E. Yavapai Road
Fort McDowell, AZ 85264

[25 C.F.R. §§ 519.1, 522.2(g), 522.6(a)]

(Law & Order Code 2006, § 21-18; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, ch. 14, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 15. COMPLIANCE WITH FEDERAL LAW

The Nation will comply with all applicable federal law, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*

(Law & Order Code 2006, § 21-5; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, ch 15, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 16. REPEAL

Upon enactment of this Ordinance, any other Ordinances or Resolutions of the Nation which are inconsistent with this Ordinance, are hereby repealed.

(Law & Order Code 2006, § 21-20; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, ch. 16, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 17. SOVEREIGN IMMUNITY

No provision of this Ordinance or of the Compact shall be deemed to waive the sovereign immunity of the Nation, the Tribal Council or its members, the Tribal Gaming Commission or its members, the TRA or its members, or any entity owned or operated by the Nation in connection with its Gaming Activities.

(Law & Order Code 2006, § 21-16; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, ch. 17, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 18. AMENDMENTS

The terms of this Ordinance shall remain in effect until amended, modified, or repealed. Any amendments to this Ordinance shall be in writing and subject to the approval of the Tribal Council. The Ordinance may be amended by any duly enacted Resolution of the Tribal Council. The Tribal Council shall consult with the TRA prior to amending this Ordinance.

(Law & Order Code 2006, § 21-19; Ft. McD. Res. No. 2006-41, adopted 4-25-2006, eff. 4-25-2006; Ft. McD. Res. No. 2006-97, ch. 18, adopted 12-12-2006, eff. 12-12-2006)

CHAPTER 19. EFFECTIVE DATE

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

CERTIFICATION

The foregoing Fort McDowell Yavapai Nation Gaming Ordinance was duly adopted at a Special Council meeting of the Fort McDowell Yavapai Nation Tribal Council held on this 4 day of February, 2020, at which 3 members were present constituting the required quorum, 2 absent, by a vote of 2 for, 1 opposed, 0 abstained.

Attest:



President



Secretary