



MAY 19 2008

Mr. Ivan Smith, Chairman  
Tonto Apache Tribe  
Tonto Apache Reservation #30  
Payson, AZ 85541

Re: Request for Approval of Amendment to the Tonto Apache Tribe Gaming Ordinance

Dear Chairman Smith:

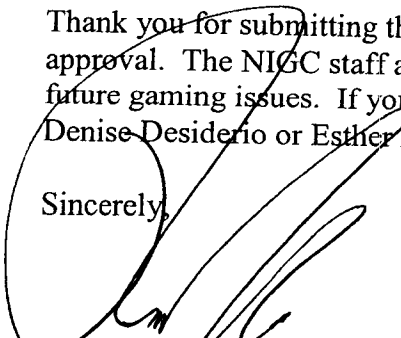
This letter responds to your request to the National Indian Gaming Commission (NIGC) to review and approve the amended Tonto Apache Gaming Ordinance, enacted by the Tonto Apache Tribal Council by Resolution No. 2-08 on January 23, 2008, and received by the NIGC on March 3, 2008.

This letter constitutes approval of the amended Ordinance under the Indian Gaming Regulatory Act (IGRA). It is important to note, however, that approval is granted for gaming only on Indian lands, as defined in IGRA, over which the Nation has jurisdiction.

Please note that the Tribe has agreed to revise an incorrect reference on page 13 of the amended ordinance. The reference should be changed to "section 124 above" instead of "section 207 above."

Thank you for submitting the amended Tribal Gaming Ordinance for our review and approval. The NIGC staff and I look forward to working with you and the Nation on future gaming issues. If you have any questions or require assistance, please contact Denise Desiderio or Esther Dittler in the Office of the General Counsel, at 202-632-7003.

Sincerely,



Philip N. Hogen  
Chairman

cc: Glenn M. Feldman, Esq.  
Mariscal, Weeks, McIntyre & Friedlander, P.A.



# *Tonto Apache Tribe*

Tonto Apache Reservation #30  
Payson, Arizona 85541  
Telephone: (928) 474-5000  
Fax: (928) 474-9125

MAR - 3 2002

RESOLUTION NO. 2-08  
OF THE GOVERNING BODY OF THE  
TONTO APACHE TRIBE  
(A Federally Recognized Indian Tribe)  
PAYSON, ARIZONA

**WHEREAS**, the Tonto Apache Tribe (the "Tribe") is a federally recognized tribal government; and

**WHEREAS**, under Article IV, Section 1 of the Tribe's Constitution, the Tonto Apache Tribal Council (the "Council") is the governing body of the Tribe; and

**WHEREAS**, by prior resolution, the Council has approved a Tonto Apache Tribal Gaming Ordinance to authorize and regulate gaming activities on the Tonto Apache Reservation, which ordinance has been in effect for many years; and

**WHEREAS**, the Tribal Gaming Commission of the Tonto Apache Tribe has now recommended that the Council adopt a revised Tonto Apache Tribal Gaming Ordinance (the "Ordinance") to provide better and more effective regulation of tribal gaming activities; and

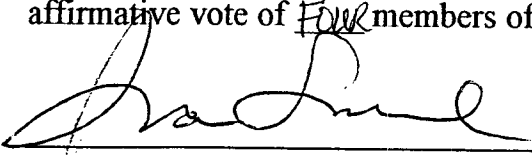
**WHEREAS**, the Council has now determined that it is in the Tribe's best interest to adopt the revised Ordinance.

**NOW THEREFORE BE IT RESOLVED** by the Tonto Apache Tribal Council that:

1. The revised Tonto Apache Tribe Gaming Ordinance, as attached to this Resolution, is hereby approved; and
2. The Tribal Chairperson shall take such actions as are necessary to obtain approval of the revised Ordinance by the Chairman of the National Indian Gaming Commission.

CERTIFICATION

I, the undersigned, as Chairperson of the Tonto Apache Tribal Council do hereby certify that the Tribal Council of the Tonto Apache Tribe at Payson, Arizona, is composed of five (5) members of whom Four were present at a Regular/Special Meeting, held on this 23rd day of January, 2008, and that the foregoing Resolution was duly adopted by the affirmative vote of Four members of the Tribal Council.



Ivan Smith, Tribal Chairperson

Attested by:



Sabrina Campbell, Tribal Council Secretary

# TONTO APACHE TRIBAL GAMING ORDINANCE

(REVISED AS OF JANUARY 23, 2008)

MAR - 3 2008

## Section 101. Purpose

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

## Section 102. 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.*, or in the Compact. Specifically:

(a) **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:
  - (A) any banking card games, including baccarat, chemin de fer, or blackjack (21), or

(B) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

(b) **Class III gaming** means all forms of gaming that are not class I gaming or class II gaming and that are authorized under the Compact.

(c) **Commission** means the Tonto Apache Tribal Gaming Commission established to perform regulatory oversight and to monitor compliance with Tribal, Federal, and applicable Compact regulations.

(d) **Commissioner** means a Tribal Gaming Commissioner.

(e) **Compact** means the Tribal-State Compact between the Tribe and the State of Arizona concerning class III gaming approved by the Secretary of the Interior and published in the Federal Register pursuant to 25 U.S.C. § 2710(d).

(f) **Complimentary** shall have the meaning as set forth in 25 C.F.R. §542.2(a).

(g) **Directly related to** means a spouse, child, parent, grandparent, grandchild, aunt, uncle, or first cousin.

(h) **Indian lands** means:

(1) all lands within the limits of the Tribe's reservation;

(2) any lands title to which is either held in trust by the United States for the benefit of the Tribe or individual or held by the Tribe or individual subject to restriction by the United States against alienation and over which the Indian Tribe exercises governmental power; and

(3) for all lands acquired into trust for the benefit of the Tribe after October 17, 1988, the lands meet the requirements set forth in 25 U.S.C. § 2719.

(i) **Indian Tribe** or **Tribe** means the Tonto Apache Tribe

(j) **Key Employee** means:

(1) A person who performs one or more of the following functions:

(A) Bingo caller;

(B) Counting room supervisor

(C) Chief of security;

(D) Custodian of gaming supplies or cash;

(E) Floor manager;

(F) Pit boss;

(G) Dealer;

(H) Croupier;

- (I) Approver of credit; or
- (J) Custodian of gambling devices including persons with access to cash and accounting records within such devices;

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

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

(k) **Net Revenues** means gross gaming revenues of an Indian gaming operation less:

- (1) Amounts paid out as, or paid for, prizes; and
- (2) Total gaming-related operating expenses, excluding management fees.

(l) **Primary Management Official** means

- (1) The person (s) having management responsibility for a management contract;
- (2) Any person who has authority:
  - (A) To hire and fire employees; or
  - (B) To set up working policy for the gaming operation; or
  - (C) The chief financial officer or other person who has financial management responsibility.

### **Section 103. Gaming Authorized**

Class II and Class III gaming are hereby authorized.

### **Section 104. Ownership of Gaming**

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

### **Section 105. Use of Gaming Revenue**

(a) Except as authorized under Section 106, below, net revenues from tribal gaming shall be used only for the following purposes:

- (1) to fund tribal government operations and programs;
- (2) to provide for the general welfare of the Tribe and its members;
- (3) to promote tribal economic development;
- (4) to donate to charitable organizations; or
- (5) to help fund operations of local government agencies.

## **Section 106. Per Capita Payments**

(a) "Per Capita Payment" means the distribution of money or other thing of value to all members of the Tribe, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity.

(b) If the Tribe elects to make per capita payments to tribal members from revenues derived from its gaming operations, it shall ensure that the requirements of 25 U.S.C. § 2710(b)(3) and 25 C.F.R. Part 290 (or any successor statute or regulation) are met.

## **Section 107. Tribal Gaming Office**

(a) There is hereby established a Tribal Gaming Office which shall exercise the civil regulatory authority of the Tribe over Class II and Class III gaming activities by the Tribe.

(b) The Tribal Gaming Office shall consist of the Tribal Gaming Commission, an Executive Director and such other personnel as are necessary and required to carry out the functions of the Tribal Gaming Office under this Ordinance and the Compact.

(c) The Tribal Gaming Office, and the Executive Director, shall have such powers and authority as are provided for them under this Ordinance, the Compact, and the rules and regulations promulgated by the Tribal Gaming Commission.

(d) The Tribal Gaming Commission may delegate to the Executive Director such of its power and authority as it deems necessary and appropriate for the day to day operation of the Tribal Gaming Office.

## **Section 108. Gaming Commission**

(a) There is hereby established a Tonto Apache Tribal Gaming Commission composed of five (5) members, of whom two (2) shall be Tonto Apache tribal members. The Commission shall meet as often as deemed necessary as determined by a majority vote of the Commission members. All Commission action shall be taken based on a majority vote of the Commission.

(b) The purpose of the Tribal Gaming Commission is regulatory, not managerial. The Commission will conduct oversight to ensure compliance with Tribal, Federal, and, if applicable, State laws and regulations. The Commission will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the internal controls for the gaming operation and in tracking revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license when appropriate.

(c) The Tribe recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated gaming operation. The Commission shall act independently and autonomously from the Tribal Council in all matters within its purview. No prior or subsequent

review by the Tribal Council of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Ordinance. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe hereby finds that, at a minimum:

- (1) No member of the Tribal Council or employee of the Tribal gaming operation may serve on the Gaming Commission;
  - (2) Members of the Gaming Commission and employees of the Tribal Gaming Office are prohibited from playing wide area progressive slot machines in the gaming facility.
- (d) Tribal Gaming Commissioner positions shall be filled in the following manner:  
Each Commissioner shall be appointed by a majority vote of the Tribal Council.
- (e) The Tribal Gaming Commission shall:
- (1) Conduct or cause background investigations to be conducted on, at a minimum, primary management officials and key employees;
  - (2) Review and approve all investigative work conducted;
  - (3) Report results of background investigations to the NIGC;
  - (4) Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
  - (5) Make licensing suitability determinations, which shall be signed by the Chairman of the Gaming Commission;
  - (6) Issue gaming licenses to management officials, vendors and employees of the operation, consistent with the suitability determination;
  - (7) Establish standards for licensing Tribal gaming operations;
  - (8) Issue facility gaming licenses to Tribal gaming operations;
  - (9) Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;
  - (10) Ensure compliance with all Tribal, State, and Federal laws, rules, and regulations regarding Indian gaming;
  - (11) Investigate any suspicion of wrongdoing associated with any gaming activities;
  - (12) Hold hearings on patron complaints, in compliance with procedures established in the gaming ordinance and other Tribal gaming regulations;
  - (13) Comply with any and all reporting requirements under the IGRA, Tribal-State compact to which the Tribe is a party, and any other applicable law;
  - (14) Promulgate and issue regulations necessary to comply with applicable internal control standards;



- (15) Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
- (16) Promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming ordinance, or any other Tribal, Federal, or State, if applicable, gaming regulations; and
- (17) Establish a list of persons not allowed to game in Tribal gaming facilities in order to maintain the integrity of the gaming;
- (18) Be empowered to detain persons who may be involved in illegal acts in or around the gaming facility for the purpose of notifying appropriate law enforcement authorities.
- (19) Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, Federal, or State statutes, ordinances, or resolutions;
- (20) Create a list of regulatory authorities that conduct vendor background investigations and licensing which the Commission recognizes as trustworthy;
- (21) Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation.
- (22) Promulgate such rules, regulations and guidelines as it deems appropriate to implement the provisions of this Ordinance.

(f) The Gaming Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel or others employed by the tribal gaming operation on a need-to-know basis for actions taken in their official capacities.

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

(g) Terms of Office for Tribal Gaming Commissioners shall be as follows:

- (1) Tribal Gaming Commissioners shall serve staggered terms of three (3) years or until a Commissioner's successor is appointed. All terms shall begin on January 1<sup>st</sup>.
- (2) In order to establish staggered terms for the existing Commissioners, at the time this Revised Gaming Ordinance is adopted, the Tribal Council shall designate one Commissioner's term as expiring on December 31, 2008, two Commissioners' terms as expiring on December 31, 2009 and two Commissioners' terms as expiring on December 31, 2010. Thereafter, all appointments of Commissioners shall be for three (3) year terms.

(h) The following persons are not eligible to serve as Tribal Gaming Commissioners: 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. Non-tribal members 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 Tribal Gaming Commissioners. Tribal members previously convicted of a felony, of embezzlement, of theft, or of any other money-related crime or honesty-related crime (such as fraud) will only be allowed to serve as Tribal Gaming Commissioners if the Tribal Council specifically finds a significant amount of time has passed and that the person is now of trustworthy character. The Tribal Council shall require the Tribal Gaming Office to conduct a criminal history check with appropriate law enforcement agencies and the Tribal Council shall review this criminal history report and make an appropriate suitability determination before appointing an individual to a position as a Tribal Gaming Commissioner.

(i) The independence of the Tribal Gaming Commission is essential to a well-regulated gaming operation. For that reason, Commissioners may only be removed from office by the Tribal Council prior to the expiration of their respective terms for neglect of duty, misconduct, malfeasance, missing three (3) consecutive Commission meetings, or other acts that would render a Commissioner unqualified for his/her position. Any allegations of neglect of duty, misconduct, malfeasance, or other acts that would render him or her unqualified for his/her position must be substantiated by a preponderance of the evidence. Commissioners will be given a hearing before the Tribal Council and an opportunity to provide evidence rebutting the grounds for their proposed removal before the removal is finalized. A vote of the Tribal Council on the validity of the removal shall be final and not subject to further appeal. A wrongful removal shall entitle the affected Commissioner to compensation for expenses incurred in an appeal and any pay withheld.

(j) A majority of the Commission shall constitute a quorum. The concurrence of a majority of the members appointed to the Commission 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.

(k) Tribal Gaming Commissioners shall be paid a per diem amount as determined by the Tribal Council.

(l) The Commission shall keep a written record of all its meetings.

#### **Section 109. Ethics**

(a) The Tribe recognizes that the duties of the Tribal Gaming Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Gaming Commission shall be held to extremely high ethical standards. Prior to taking their positions on the Commission, the Commissioners shall agree to be bound by the following principles:

(1) Commissioners shall not hold financial interests that conflict with the conscientious performance of their duties as regulators.

- (2) Commissioners shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest.
- (3) Commissioners shall not solicit or accept any gift or other item of monetary value, including complimentary items or services (see Section 110, below), from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the Commissioner, or whose interests may be substantially affected by the performance or nonperformance of the Commissioners' duties.
- (4) Commissioners shall make no unauthorized commitments or promises of any kind purporting to bind the Tribe.
- (5) Commissioners shall not use their positions for private gain.
- (6) Commissioners shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons related to Commissioners.
- (7) Commissioners shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.
- (8) Commissioners shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.
- (9) Commissioners shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
- (10) Commissioners shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.
- (11) Commissioners shall disclose any real or apparent financial or personal conflicts. If there is a real conflict or the appearance of one, the Commissioner shall not take part in any decision related to the conflict.

#### **Section 110. Complimentary Items**

(a) The use of complimentary items shall be governed by regulations established by the Gaming Operation and approved by the Tribal Gaming Commission.

(b) No Key Employee, Primary Management Official, or member of the Tribal Gaming Commission shall be authorized to receive complimentary items other than acceptance of the standard Tribal Employee Discount on food, beverage or gift shop purchases at the gaming facility, or, if at a public event held at the gaming facility, the free food and beverages offered to the general public, or, if a member of the Players Club, acceptance of usual and customary rewards offered to all Players Club members.

**Section 111. Audit**

(a) The Commission shall cause an annual outside independent audit of gaming operations to be conducted, and shall submit the resulting audit reports to the National Indian Gaming Commission. The audit shall comply with all applicable requirements of the Indian Gaming Regulatory Act and the Compact.

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

**Section 112. 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.

**Section 113. Patron Dispute Resolution**

Patron disputes shall be resolved in accordance with Section 14 of the Compact (or any successor thereto) and with Section 10 of the Rules and Regulations of the Commission (or any successor thereto).

**Section 114. Tribal Internal Control Standards**

The Tribe shall adopt and implement Internal Control Standards (ICS) for the operation of its Tribal gaming operation in accordance with applicable law and the Compact. The Tribe's ICS shall be set out in separate regulations to be reviewed and approved by the Tribal Gaming Commission.

**Section 115. Facility Licenses**

The Tribal Gaming Commission shall issue a separate license to each place, facility, or location on Indian lands where class II and/or Class III gaming is conducted under this ordinance, in accordance with the requirements of Section 4(a) of the Compact.

**Section 116. Compliance with Federal Law**

In connection with the gaming activities authorized herein, the Tribe will comply with all applicable federal law, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*

**Section 117. Repeal**

To the extent that they are inconsistent with this ordinance, all prior Tribal gaming ordinances are hereby repealed.

**Section 118. Licenses for Key Employees and Primary Management Officials**

The Commission shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any gaming enterprise operated on Indian lands. The Commission will issue licenses and perform background investigations according to requirements at least as stringent as 25 C.F.R. Parts 556 and 558.

**Section 119. License Application Forms**

(a) The following notice shall be placed on the application form for a key employee or a primary management official:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by the Tribe and 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 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 necessary pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigation 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 hire you in a primary management official or key employee position.

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

(b) The following additional notice shall be placed on the application form for a key employee or a primary official:

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, section 1001)

(c) The Commission 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.

### **Section 120. License Fees**

The Tribe may charge a license fee, to be set by the Tribal Gaming Commission, to cover its expenses in conducting background investigations and issuing tribal gaming licenses.

### **Section 121. Fingerprints**

Each applicant for a tribal gaming license shall be required to have fingerprints taken as part of the license application procedure. Fingerprints shall be taken by the Tribal Gaming Office. Fingerprints will then be forwarded to the NIGC for processing through the FBI and NCIC to determine the applicant's criminal history, if any.

### **Section 122. Background Investigations**

(a) The Tribal Gaming Commission is responsible for conducting background investigations and suitability determinations.

(b) The Tribal Gaming Commission shall request from each primary management official and from each key 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 or written);
- (2) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
- (3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (b)(2) of this section;
- (4) Current business and residence telephone numbers;
- (5) A description of any existing and previous business relationships with Indian Tribes, 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 which 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; and
- (13) Any other information the Tribe deems relevant.

**Section 123. Procedures for Conducting a Background Check on Applicants**

(a) As part of its review procedure, the Commission or its agent shall conduct a background investigation on each applicant sufficient to allow the Gaming Commission to make an eligibility determination under subsection G below. The investigator shall:

- (1) Verify the applicant's identity through items such as a social security card, drivers license, birth certificate, 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, and further obtain information from the appropriate court regarding past felony and/or misdemeanor convictions and criminal charges within the last ten years;
- (6) Inquire into any previous or existing business relationships with the gaming industry and Indian tribes by contacting the entities or tribes;
- (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 Gaming Commission and its investigator shall promise to keep confidential the identity of each person interviewed in the course of the investigation, other than disclosure as required under Federal, Tribal, or State law.

**Section 124. Eligibility Determination**

The Tribal Gaming Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of an applicant for employment in a gaming operation. If the Tribal Gaming Commission 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, or is otherwise deemed unsuitable for licensing, a tribal gaming operation shall not employ that person.

**Section 125. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission**

(a) When a key employee or primary management official is employed to work at a gaming operation authorized by this ordinance, the Commission shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Section 207, above.

(b) The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

**Section 126. Report to the National Indian Gaming Commission**

(a) The Tribal Gaming Commission shall prepare and forward a report on each background investigation conducted under Section 208 to the National Indian Gaming Commission. 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.

(b) The Commission shall forward the completed investigative report to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

(c) The Commission shall submit, with the investigative report, a copy of the eligibility determination, unless the NIGC shall have advised the Tribe that the submission of the eligibility determination is not necessary.

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

- (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.



(e) With respect to all employees, and in particular key employees and primary management officials, the Tribal Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

#### **Section 127. Granting a Gaming License**

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

(b) The Tribal Gaming Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (a) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

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

#### **Section 128. License Suspension**

(a) If, after the issuance of a gaming license, the Tribal Gaming Commission receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment, the Tribal Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

(b) The Tribal Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(c) After a revocation hearing, the Tribal Gaming Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision.

## **Section 129. Licenses for Vendors**

Manufacturers and distributors of gaming devices, suppliers of gaming services and management contractors shall be licensed by the Commission in accordance with the requirements of the Compact.

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

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