

NATIONAL  
INDIAN  
GAMING  
COMMISSION

NOV 5 1993

Ann Williams, Esq., Senior Attorney  
Office of Tribal Attorney  
Hoopa Valley Tribe  
Neighborhood Facility Building  
Highway 96  
Hoopa, California 99546

Dear Chairman Garcia:

This letter responds to your request to review and approve the tribal gaming ordinance submitted on August 30, 1993, and amended on November 10, 1993, for the Hoopa Valley Tribe (the Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Hoopa Valley Tribe for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,  
Anthony J. Hope

Anthony J. Hope  
Chairman

**RESOLUTION OF THE HOOPA VALLEY TRIBE  
HOOPA VALLEY INDIAN RESERVATION  
HOOPA, CALIFORNIA**

RESOLUTION NO. 93-110

DATE APPROVED: November 5<sup>th</sup> 1993.

SUBJECT: ADOPTION OF TITLES 31A, 31B & 31C OF THE HOOPA VALLEY  
TRIBAL CODE

**WHEREAS:** The Hoopa Valley Tribe did on June 20, 1972, adopt a Constitution and Bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972, ratified by Act of Congress on October 31, 1988, and amended on June 19, 1990 and, by tribal law, the sovereign authority of the Tribe over the matter described herein is delegated to the Hoopa Valley Tribal Council, acting by law; and

**WHEREAS:** In Public Law 100-497, the Indian Gaming Regulatory Act, Congress has recognized the economic and governmental importance of gaming activities to Indian tribes, and particularly with respect to Class II gaming activities, has provided for substantial tribal regulatory authority over Class II gaming as a matter of inherent tribal sovereignty, subject to the oversight of the National Indian Gaming Commission; and

**WHEREAS:** The Tribe desires to establish a bingo and related Class II gaming operation, to be wholly owned by the Tribe, in order to generate tribal governmental revenues, to diversify the economic base of the Tribe and the general community, to provide employment and contracting opportunities to tribal members and other Indians, to provide gaming as a form of community recreation and social activity, and to exercise tribal regulatory and economic development rights to the maximum extent permitted under federal law; and

**WHEREAS:** The Tribe also desires to authorize the establishment of Class III gaming, as that term is used in the Indian Gaming Regulatory Act, and to authorize negotiations with the State of California for the execution of a Tribal-State Compact between the Hoopa Valley Tribe and

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**Resolution Adopting Titles 31A, 31B & 31C  
Hoopa Valley Tribal Code**

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the State of California, which must be approved by the Secretary of Interior, to provide for the types of Class III games to be offered and the manner of their regulation.

**THEREFORE BE IT NOW RESOLVED THAT:** The Hoopa Valley Tribal Council hereby adopts the following as Title 31 of the Hoopa Valley Tribal Code, consisting of three separate enactments described as: (1) Model Class II Gaming Ordinance of the Hoopa Valley Tribe, Title 31A of the Hoopa Valley Tribal Code ( consisting of §§ I. through X. and 8 pages ); (2) Model Class III Gaming Ordinance of the Hoopa Valley Tribe, Title 31B of the Hoopa Valley Tribal Code (consisting of §§ I. through X. and 8 pages ); and (3) Supplemental Gaming Regulatory Ordinance of the Hoopa Valley Tribe, Title 31C of the Hoopa Valley Tribal Code (consisting of §§ I. through VII. and 11 pages ); ( hereinafter the entirety of Title 31, Hoopa Valley Tribal Code is collectively referred to as "Ordinance" ), to establish a tribal gaming operation in which the Tribe holds sole proprietary interest, to immediately authorize the conduct of bingo and related Class II Gaming by this tribal operation, to provide for a system of tribal licensing, regulation, and enforcement, to authorize management by a contractor, in a manner that fully complies with the requirements of the Indian Gaming Regulatory Act, and to authorize the establishment of Class III Gaming on the Reservation and the negotiation of an appropriate Tribal-State Compact, which must be executed between the Hoopa Valley Tribe and the State of California and approved by the Secretary of Interior.

**BE IT FURTHER RESOLVED THAT:** Ordinance No. 2-92, establishing regulations for high stakes bingo and other Indian gaming activities, which was approved on May 18, 1992, after the enactment of the Indian Gaming Regulatory Act, but before the appointment of the National Indian Gaming Commission, is hereby repealed and shall be of no further force and effect, and is hereby replaced by this Ordinance. This Ordinance includes all of the gaming regulations of the Hoopa Valley Tribe, pursuant to 25 C.F.R. §522.2(d).

**BE IT FURTHER RESOLVED THAT:** This Ordinance, and any management contract entered into under its authority, shall be submitted to the National Indian Gaming Commission for approval pursuant to the requirements of the Tribal Constitution, the Indian Gaming Regulatory Act, and 25 U.S.C. § 81, and regulations by the National Indian Gaming

**Resolution Adopting Titles 3, 31B & 31C  
Hoopa Valley Tribal Code**

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Commission, and also submitted to the Bureau of Indian Affairs for its approval pursuant to the requirements of the Tribal Constitution and 25 U.S.C. §81. The Tribal Chairman, through the Office of Tribal Attorney, is authorized and directed to submit this Ordinance and any management contract to the National Indian Gaming Commission for its approval under the Indian Gaming Regulatory Act and to the Bureau of Indian Affairs.

**BE IT FURTHER RESOLVED THAT:** The full text of this Ordinance shall immediately follow this paragraph of this resolution and is fully incorporated by this reference herein and that the certification of this enacting resolution for the Ordinance shall be located on the last page of the Ordinance, known as page 11 of Title 31C, Hoopa Valley Tribal Code.

**CERTIFICATION LOCATED ON LAST PAGE OF ORDINANCE, KNOWN AS PAGE 11  
OF TITLE 31C, HOOPA VALLEY TRIBAL CODE**

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**APPROVED**

**MODEL CLASS II GAMING ORDINANCE OF THE HOOPA VALLEY TRIBE  
TITLE 31A  
HOOPA VALLEY TRIBAL CODE**

**I. Purpose**

The Hoopa Valley Tribal Council (hereinafter "Tribe"), empowered by the Hoopa Valley Tribal Constitution and Bylaws, adopted June 20, 1972, approved by the Commissioner of Indian Affairs on August 18, 1972, and confirmed and ratified by the U.S. Congress in October, 1988, in Public Law 100-580, The Hoopa-Yurok Settlement Act, to enact ordinances, hereby enacts this ordinance in order to set the terms for class II gaming operations on tribal lands.

**II. Gaming Authorized**

Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(7)(A) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. §. 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized.

**III. Ownership of Gaming**

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

**IV. Use of Gaming Revenue**

A. Net revenues from class II gaming shall be used only for the following purposes: to fund tribal government operations and programs; provide for the general welfare of the Tribe and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

B. If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3).

**V. Audit**

A. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.

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.

**VI. Protection of the Environment and Public Health and Safety**

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

**VII. Licenses for Key Employees and Primary Management Officials**

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any class II gaming enterprise operated on Indian lands:

**A. Definitions**

For the purposes of this section, the following definitions apply:

1. Key employee means

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

- (1) Bingo caller;
- (2) Counting room supervisor;
- (3) Chief of security;
- (4) Custodian of gaming supplies or cash;
- (5) Floor manager;
- (6) Pit boss;
- (7) Dealer;
- (8) Croupier;
- (9) Approver of credit; or
- (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices;

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

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

2. Primary management official means

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

(b) Any person who has authority:

- (1) To hire and fire employees; or
- (2) To set up working policy for the gaming operation; or
- (c) The chief financial officer or other person who has financial management responsibility.

B. Application Forms

1. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

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

2. Existing key employees and primary management officials shall be notified in writing that they shall either:
  - a. Complete a new application form that contains a Privacy Act notice; or
  - b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.
3. The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant.

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

4. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:
  - a. Complete a new application form that contains a notice regarding false statements; or
  - b. Sign a statement that contains the notice regarding false statements.

C. Background Investigations

1. The Tribe shall request from each primary management official and from each key employee all of the following information:
  - a. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
  - b. 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;
  - c. 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 (1) (b) of this section;
  - d. Current business and residence telephone numbers;
  - e. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
  - f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
  - g. 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;
  - h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

- i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1) (h) or (1) (i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- k. 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;
- l. A current photograph;
- m. Any other information the Tribe deems relevant; and
- n. Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h).

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

D. Eligibility Determination

The Tribe 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 key employee or primary management official for employment in a gaming operation. If the Tribe determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

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

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

2. The Tribe shall forward the report referred to in subsection F of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

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

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in subsection E of this section, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

- a. Steps taken in conducting a background investigation;
- b. Results obtained;
- c. Conclusions reached; and
- d. The bases for those conclusions.

2. The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.

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

- a. Shall notify the National Indian Gaming Commission; and
- b. May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

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

G. Granting a Gaming License

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

application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.

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

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

#### **H. License Suspension**

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

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

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

#### **VIII. License Locations**

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where class II gaming is conducted under this ordinance.

#### **IX. Repeal**

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

**MODEL CLASS III GAMING ORDINANCE OF THE HOOPA VALLEY TRIBE**  
**TITLE 31B**  
**HOOPA VALLEY TRIBAL CODE**

**I. Purpose**

The Hoopa Valley Tribal Council (hereinafter "Tribe"), empowered by the Hoopa Valley Tribal Constitution and Bylaws, adopted June 20, 1972, approved by the Commissioner of Indian Affairs on August 18, 1972, and confirmed and ratified by the U.S. Congress in October, 1988, in Public Law 100-580, The Hoopa-Yurok Settlement Act, to enact ordinances, hereby enacts this ordinance in order to set the terms for class III gaming operations on tribal lands.

**II. Gaming Authorized**

Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(8) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. §. 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized.

**III. Ownership of Gaming**

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

**IV. Use of Gaming Revenue**

A. Net revenues from class III gaming shall be used only for the following purposes: to fund tribal government operations and programs; provide for the general welfare of the Tribe and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

B. If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3).

**V. Audit**

A. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.

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.

**VI. Protection of the Environment and Public Health and Safety**

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

**VII. Licenses for Key Employees and Primary Management Officials**

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any class III gaming enterprise operated on Indian lands:

**A. Definitions**

For the purposes of this section, the following definitions apply:

1. Key employee means

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

- (1) Bingo caller;
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- (3) Chief of security;
- (4) Custodian of gaming supplies or cash;
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- (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices;

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

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

2. Primary management official means

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

(b) Any person who has authority:

- (1) To hire and fire employees; or
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The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

2. Existing key employees and primary management officials shall be notified in writing that they shall either:
  - a. Complete a new application form that contains a Privacy Act notice; or
  - b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.
3. The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant.

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4. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:
  - a. Complete a new application form that contains a notice regarding false statements; or
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C. Background Investigations

1. The Tribe shall request from each primary management official and from each key employee all of the following information:
  - a. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
  - b. 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;
  - c. 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 (1) (b) of this section;
  - d. Current business and residence telephone numbers;
  - e. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
  - f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
  - g. 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;
  - h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

- i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1) (h) or (1) (i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- k. 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;
- l. A current photograph;
- m. Any other information the Tribe deems relevant; and
- n. Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h).

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

D. Eligibility Determination

The Tribe 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 key employee or primary management official for employment in a gaming operation. If the Tribe determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

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

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

2. The Tribe shall forward the report referred to in subsection F of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

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

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in subsection E of this section, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

- a. Steps taken in conducting a background investigation;
- b. Results obtained;
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- d. The bases for those conclusions.

2. The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.

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

- a. Shall notify the National Indian Gaming Commission; and
- b. May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

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

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application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.

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

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

#### **H. License Suspension**

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

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

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

#### **VIII. License Locations**

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where class III gaming is conducted under this ordinance.

#### **IX. Repeal**

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

**GAMING REGULATORY ORDINANCE  
of the  
HOOPA VALLEY TRIBE**

**TITLE 31C  
HOOPA VALLEY TRIBAL CODE**

**I. SHORT TITLE, PURPOSE, CONFLICTS WITH TRIBE'S MODEL GAMING ORDINANCES AND INCORPORATION OF TRIBE'S MODEL GAMING ORDINANCE BY REFERENCE**

**A. Short Title.** This Ordinance shall be known as the **Gaming Regulatory Ordinance** and herein in Title 31C, Hoopa Valley Tribal Code, may also be referred to as "Ordinance".

**B. Purpose.** This Gaming Regulatory Ordinance, in conjunction with the Model Class II Gaming Ordinance of the Hoopa Valley Tribe, Title 31A, Hoopa Valley Tribal Code, and Model Class III Gaming Ordinance of the Hoopa Valley Tribe, Title 31B, Hoopa Valley Tribal Code, is intended to provide for the establishment of a tribal gaming operation in which the Hoopa Valley Tribe (hereinafter "Tribe") holds sole proprietary interest, to immediately authorize the conduct of existing bingo and related Class II Gaming by this tribal operation, and to authorize the development of Class III Gaming activities and negotiation of an appropriate Tribal-State Compact for Class III Gaming. It is also intended to provide for a coherent and comprehensive tribal regulatory system over on-reservation gaming, in order to maximize the Tribe's authority over matters of central concern to the Tribe that take place within the exterior boundaries of the Hoopa Valley Indian Reservation (hereinafter "Reservation") and to insure that the Tribe, under the oversight of the Bureau of Indian Affairs and the National Indian Gaming Commission, fully avails itself of the sovereign rights confirmed in the Indian Gaming Regulatory Act with respect to the regulation of on-reservation gaming. In addition, the regulatory mechanisms established hereby are intended to promote the Tribe's role as an effective regulator of Class III Gaming within the Reservation.

**C. Conflicts With Tribe's Model Gaming Ordinances.** If any provision or language within the Gaming Regulatory Ordinance, Title 31C, Hoopa Valley Tribal Code, is in conflict with any provision or language of the Model Class II Gaming Ordinance of the Hoopa Valley Tribe, Title 31A, Hoopa Valley Tribal Code (hereinafter "Model Class II Gaming Ordinance") or Model Class III Gaming Ordinance of the Hoopa Valley Tribe, Title 31B, Hoopa Valley Tribal Code (hereinafter "Model Class III Gaming Ordinance"), the provisions and language contained within the Tribe's Model Class II Gaming Ordinance and Model Class III Gaming Ordinance shall control.

**D. Incorporation By Reference Herein of Tribe's Model Class II Gaming Ordinance and Model Class III Gaming Ordinance.** The provisions and language of the Tribe's Model Class II Gaming Ordinance and Model Class III Gaming Ordinance (Titles 31A and 31B, respectively, of the Hoopa Valley Tribal Code) are hereby fully incorporated into the Tribe's Gaming Regulatory Ordinance at this Title of the Hoopa Valley Tribal Code, by this reference herein. Use of the terms "Ordinance" or "Gaming Regulatory Ordinance", as defined in §I.A., above, shall also include all provisions and language found in the Tribe's Model Class II Gaming Ordinance and Model Class III Gaming Ordinance, Titles 31A and 31B, respectively, of the Hoopa Valley Tribal Code.

## **II. DEFINITIONS FOR GAMING REGULATORY ORDINANCE**

**A. Class I Gaming.** Consistent with the provisions of the Indian Gaming Regulatory Act, 25 U.S.C. § 2703 (6), **Class I Gaming** shall mean 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.

**B. Class II Gaming.** Consistent with the provisions of the Indian Gaming Regulatory Act, 25 U.S.C. § 2703 (7), **Class II Gaming** shall be defined as follows:

1. **Bingo.** 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 or persons 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 of California, or
  - (b) are not explicitly prohibited by the laws of the State of California and are played at any location in the State of California, but only if such card games are played in conformity with the laws and regulations, if any, of

the State of California regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

3. 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, including bingo, or slot machines of any kind.

**D. Class III Gaming.** Consistent with the provisions of the Indian Gaming Regulatory Act, 25 U.S.C. § 2703 (8), **Class III Gaming** shall mean all forms of gaming that are not Class I Gaming or Class II Gaming.

**E. Net Revenues.** Consistent with Section 4 of the Indian Gaming Regulatory Act, 25 U.S.C. § 2703 (9), net revenues shall mean gross revenues of the tribal gaming operation established under this Ordinance (including but not limited to total amount of money wagered and revenue from concessions), less (1) amounts paid out as, or paid for, prizes and (2) total operating expenses, excluding management fees.

### III. GENERAL REQUIREMENTS; LICENSING AND OPERATIONS

**A. Establishment of Tribal Gaming Operation.** There is hereby established a tribal gaming operation; this gaming operation is hereby currently authorized to conduct bingo and related Class II Gaming activities, and may in the future conduct Class III Gaming activities subject to the terms of a Tribal-State Compact and the Model Class III Gaming Ordinance of the Hoopa Valley Tribe, codified at Title 31B, Hoopa Valley Tribal Code. The Tribe shall have sole proprietary interest in the gaming operation established hereby, and in any gaming activity within the exterior boundaries of the Reservation. Accordingly, the Tribe shall hold all assets and revenues of the gaming operation established hereby, except that the assets and revenues may be managed by an independent contractor as provided in Section 31C.IV. of this Ordinance and in the Indian Gaming Regulatory Act, and a portion of the net revenues may be paid as a management fee within the limits authorized under the Indian Gaming Regulatory Act and any management contract approved thereunder; provided that any accounts in which gaming revenues and assets are held shall be in the name of the Tribe. In addition, development of tribal Class III Gaming activities, and negotiation of an appropriate Tribal-State compact, is hereby authorized.

**B. Licensing Requirements.** The Tribe shall exercise the maximum regulatory authority permitted under federal law over Class II and Class III gaming activities within the exterior boundaries of the Reservation. The Tribal Chairman or his authorized representative shall have the authority to issue and regulate all tribal licenses or permits required under this Ordinance and the Indian Gaming Regulatory Act. Licenses and permits shall contain any conditions necessary to enforce the requirements of this

Ordinance or the Indian Gaming Regulatory Act, and may, subject to approval by the Hoopa Valley Tribal Council, provide for the assessment of license fees to be established by the Tribal Chairman's office. The Chairman or his representative shall retain supervisory authority over all licenses and permits, may hold hearings if in his discretion it is necessary to do so for the purposes of determining whether license or permit terms have been violated, and may modify, suspend, or revoke licenses or permits if he determines upon the advice of the Office of Tribal Attorney that there has been a significant or repeated violation of any provision of the license, permit, or this Ordinance.

Licenses shall be required as follows:

1. A separate license shall be required for each place, facility, or location within the Reservation at which Class II or Class III gaming is conducted.
2. A license shall be required for each management official and key employee of the gaming operation. This requirement is applicable whether the gaming operation is conducted by tribal employees or by management contractors.

**C. Class II Gaming Operations.**

1. Class II Gaming may be held on any and all days of the week and at any hour of the day or night at the discretion of the Tribe as provided in the license conditions.
2. There shall be no limit placed upon the amount of prize money available at any session, for any Class II game, or upon any bingo card, unless limited in the discretion of the Tribe under its licensing authority.
3. All persons operating or assisting in the operation or conduct of any Class II gaming activity shall wear a uniform approved by the Tribal Chairman or his representative which shall bear legible tags clearly showing their names.

**D. Prohibited Activities.** It shall be unlawful for any person or entity to own, perform, conduct, operate, maintain, or supervise a Class II or Class III gaming activity within the exterior boundaries of the Reservation, except the Tribe or its licensees as provided hereunder, and in accordance with the terms of any Class III Tribal-State Compact. Specifically, such prohibited activities shall include, but shall not be limited to, the conduct of any aspect of the California State Lottery and the sale of pull-tabs or the conduct of any bingo games.

**E. Purposes for which Net Revenues May be Used.** Net revenues from any tribal gaming are not to be used for purposes other than:

1. To fund tribal government operations or programs;

2. To provide for the general welfare of the Hoopa Valley Tribe and its members;
3. To promote tribal economic development;
4. To donate to charitable organizations; or
5. To help fund operations of tribal government agencies.

**F. Independent-Outside Audits.** There shall be an annual outside audit of tribal gaming operations, which may be performed by the existing independent tribal audit system, the results of which shall be provided to the Hoopa Valley Tribal Council, to the Bureau of Indian Affairs and to the National Indian Gaming Commission.

**G. Contracts-Subcontract Audits.** All contracts for supplies, services, or concessions for a contract amount in excess of \$25,000.00 annually (except contracts for professional legal or accounting services) relating to such gaming shall be subject to the auditing requirements of this Ordinance.

**H. Public Health and Safety.** The construction and maintenance of any gaming facility, and the operations of that gaming, shall be conducted in a manner which adequately protects the environment and the public health and safety.

**I. Investigations; Management Conduct.**

1. All primary management officials and key employees of the gaming operation established hereby, including management contractors, shall submit an application for a license meeting all the requirements found in the Tribe's Model Class II Gaming Ordinance or Model Class III Gaming Ordinance, whichever is applicable or both, to the Tribal Chairman or his representative, and shall be subject to a background investigation by the Department of Public Safety, including a Federal Bureau of Investigation report and a standard credit check. The Chairman or his representative shall advise the Bureau of Indian Affairs and the National Indian Gaming Commission, of the results of any background investigation before any license is issued. The Chairman shall also notify the Bureau of Indian Affairs and the National Indian Gaming Commission promptly whenever any license is issued hereunder. The Chairman or his representative may issue a license or permit hereunder if the complete results of the background investigation indicate that the applicant is eligible to receive one under the requirements of this Ordinance.

2. Any person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be

eligible to receive a tribal gaming license or to be employed in the tribal gaming operation.

**J. Net Revenues - Per Capita Payments.** Notwithstanding the authorization under the Indian Gaming Regulatory Act to make per capita distributions from the net revenues of the gaming operation, it shall be the policy of the Tribe that net revenues from gaming shall not be distributed per capita due to the provisions of the Indian Gaming Regulatory Act that subject such distributions to federal income taxation and due to the likelihood that such distributions would adversely effect eligibility for public entitlements. The Hoopa Valley Tribal Council shall allocate net revenues to the purposes set forth in Section 31C.III.E. hereof, in order to conserve tribal trust funds which may be distributed per capita pursuant to the immunities and protections available under federal law.

#### **IV. MANAGEMENT CONTRACTS**

**A. Management Contracts Authorized.** Pursuant to section 12 of the Indian Gaming Regulatory Act, 25 U.S.C. § 2711, the Tribe, or any tribal entity designated by the Hoopa Valley Tribal Council, may, subject to the approval of the Chairman of the National Indian Gaming Commission, enter into a management contract for the operation and management of the tribal gaming operation established under this Ordinance. The management contract shall contain all the provisions required by this Ordinance and by Section 12 of the National Indian Gaming Act. The term "management contract" includes all collateral agreements to such contract that relate to the gaming activity.

**B. Required Information.** During the negotiations of any management contract authorized hereunder, the proposed contractor shall submit to the Tribe all of the information required under Section 12 of the Indian Gaming Regulatory Act, 25 U.S.C. § 2711, and the Tribe shall facilitate its transmission to the Chairman of the National Indian Gaming Commission.

**C. Full Compliance With Tribal Laws.** Any management contractor shall comply fully with this Ordinance, and shall obtain all applicable licenses or permits required under Titles 31A, 31B and 31C of the Hoopa Valley Tribal Code. In its operation of the tribal gaming operation, the management contractor shall comply with all applicable tribal laws, including but not limited to the Tribal Employment Rights Ordinance.

**D. Undue Interference or Influence.** No management contractor or prospective management contractor shall attempt to unduly interfere with, or to influence for its gain or advantage, any decision or process of the Hoopa Valley Tribal Council relating to the Tribe's gaming operation established hereunder.

**V. AUTHORITY OF DEPARTMENT OF PUBLIC SAFETY AND OFFICE OF TRIBAL ATTORNEY**

**A. Investigations In General.** The Department of Public Safety, Hoopa Valley Tribe (hereinafter "Department of Public Safety"), is hereby authorized and directed to investigate, at the direction of the Tribal Chairman or his authorized representative or on the basis of any reliable information, any complaint or information that any provision of this Ordinance, or of any license or permit issued hereunder, has been violated. As may be reasonably necessary to the conduct of an investigation, the Department of Public Safety is authorized to enter any premises located on tribal lands or on privately owned lands of members and non-members of the Tribe, to the maximum extent permitted under federal law. The Office of Tribal Attorney, Hoopa Valley Tribe, (hereinafter "Office of Tribal Attorney") shall provide legal representation to the Tribal Chairman and Department of Public Safety at all stages of an investigation.

**B. Background Investigations.** The Department of Public Safety is hereby authorized and directed to conduct background investigations, including (but not limited to) the taking of fingerprints and conducting criminal history checks, pursuant to the provisions and language found in Titles 31A, 31B and 31C of the Hoopa Valley Tribal Code.

**C. Judicial Procedures.** The Office of Tribal Attorney and the Department of Public Safety may issue subpoenas in accordance with the procedures of the Hoopa Valley Tribal Court (hereinafter "Tribal Court") to obtain documents and records that must be disclosed under this Ordinance and to compel appearances in Tribal Court, and may apply to the Tribal Court for other Orders, including emergency Orders, necessary to enforce the provisions of this Ordinance or any licenses or permits issued hereunder.

**D. Transmission of Information.** The Office of Tribal Attorney and the Department of Public Safety are authorized and directed to transmit to the Bureau of Indian Affairs, the National Indian Gaming Commission, the U.S. Attorney, or any other agency with authority under the Indian Gaming Regulatory Act, any information required to be so transmitted under the Indian Gaming Regulatory Act, including information regarding violations of this Ordinance or of the Indian Gaming Regulatory Act, including its criminal provisions.

**E. Legal Representation.** At the discretion of the Tribal Chairman, the Office of Tribal Attorney may provide legal representation to enforce the terms of any management contract entered into under this Ordinance.

**F. Designated Agent.** The Senior Attorney of the Office of Tribal Attorney shall be the designated agent for service regarding this Ordinance or any matter involving application of Titles 31A, 31B or 31C of the Hoopa Valley Tribal Code. For purposes of physical service, the Office of Tribal Attorney is located at Neighborhood Facility Building, Highway 96, Hoopa Valley Tribe, Hoopa, California; and the Office of Tribal Attorney has a mailing address as follows: P.O. Box 188, Hoopa, California 95546.

## **VI. AUTHORITY OF THE HOOPA VALLEY TRIBAL COURT**

**A. Powers and Authority.** The Tribal Court, upon application by the Office of Tribal Attorney or the Department of Public Safety, may issue any order reasonably necessary to enforce the provisions of this Ordinance or any license or permit issued hereunder, including but not limited to: subpoenas requiring the production of documents or records that must be disclosed under this Ordinance or to compel appearances before the Court; orders suspending or revoking any license or permit issued under this Ordinance or compelling the payment of license fees; orders providing for seizure of equipment or inventory used in violation of this Ordinance; orders temporarily suspending or permanently closing gaming operations being conducted in violation of this Ordinance. Such Orders may, if reasonably necessary, provide for officers of the Department of Public Safety to enter onto any premises in order to carry out the terms of the Tribal Court's Orders, including premises that are privately owned by non-members of the Tribe to the maximum extent permitted under federal law. The Tribal Court may also assess civil fines for violations of this Ordinance in an amount reasonably related to the severity of the violation.

**B. Review.** The Tribal Court may review any decision of the Tribal Chairman or his representative to modify, suspend, or revoke any license or permit issued under this Ordinance. Such review shall be based on the record of the decision by the Chairman or his representative, and the decision shall be sustained if it is based on substantial evidence. If the record of decision is plainly inadequate for such a standard of review, the Tribal Court may address the issue de novo.

**C. Jurisdiction.** To the maximum extent permitted by federal law, the Tribal Court shall have exclusive jurisdiction to adjudicate any dispute arising under a management or other contract entered into under authority of this Ordinance, provided however, that no lawsuit may be filed against the Tribe or any of its entities unless the contract in question contains a limited waiver of sovereign immunity that references this subsection and is properly approved by the Hoopa Valley Tribal Council.

## **VII. MISCELLANEOUS PROVISIONS; AMENDMENTS; SOVEREIGN IMMUNITY PRESERVED**

**A. Amendments.** This Ordinance may be amended by the Hoopa Valley Tribal Council as tribal legislation is usually enacted or amended under the provisions of the Tribal Constitution and Bylaws and the Legislative Procedures Act.

**B. Sovereign Immunity Preserved.** Except as provided herein, nothing in this Ordinance or any contract entered into hereunder shall, at any time, be construed as waiving the sovereign immunity of the Hoopa Valley Tribe or any of its officers or entities.

**C. Principles of Construction; Severability.** To the maximum extent possible, the provisions of this Ordinance shall be interpreted in a manner consistent with any controlling provision of the Indian Gaming Regulatory Act or other applicable federal law. If any part or provision is held to be invalid by a court of competent jurisdiction, it is the intent of the Tribal Council that the remaining provisions shall be given effect to the maximum extent possible.

**D. Ordinance is Civil Regulatory.** Consistent with the principles that underlie Congressional regulation of Class II gaming, including those set forth in California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987), this Ordinance in its entirety is civil regulatory in nature, and therefore, subject to the approval of the Bureau of Indian Affairs and the National Indian Gaming Commission, may be enforced against non-members of the Tribe and upon private property within the Reservation.

**E. Submission to the Bureau of Indian Affairs and National Indian Gaming Commission.** Pursuant to provisions of Article IX of the Tribal Constitution, and pursuant to the Indian Gaming Regulatory Act, this Ordinance must be submitted to the Bureau of Indian Affairs and the National Indian Gaming Commission. The Bureau of Indian Affairs and National Indian Gaming Commission shall be requested by the Tribe to approve this ordinance.