



February 11, 2016

By First Class Mail

Ms. Kerry Patterson  
Counsel to Jamul Indian Village  
Lewis Roca Rothgerber LLP  
201 E. Washington Street, Suite 1200  
Phoenix, AZ 85004-2595

Re: Jamul Indian Village Gaming Ordinance Amendment, Resolution 2015-43

Dear Ms. Patterson:

This letter responds to your request, on behalf of the Jamul Indian Village ("Village"), for the National Indian Gaming Commission Chairman to review and approve an amendment to the Village's gaming ordinance. The amendment modifies the qualifications necessary to serve on the Village's Gaming Commission by empowering the Executive Committee to waive the listed qualifications as they pertain to certain candidates "on a case-by-case basis as deemed appropriate and necessary."

Thank you for bringing the amendment to our attention. The amendment is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions, please feel free to contact Staff Attorney Andrew Mendoza at 202-632-7003.

Sincerely,

A handwritten signature in black ink, which appears to read "Jonodev O. Chaudhuri".

Jonodev O. Chaudhuri  
Chairman

**FIRST AMENDMENT TO JAMUL INDIAN VILLAGE  
AMENDED GAMING ORDINANCE**

**Resolution 2015 - 43**

**RESOLUTION OF GENERAL COUNCIL  
TO AMEND JAMUL INDIAN VILLAGE  
AMENDED GAMING ORDINANCE**

**WHEREAS**, the Jamul Indian Village (the "Tribe") is a federally recognized Indian tribe possessing inherent powers of self-government, governing itself according to its Constitution duly approved on May 9, 1981, and amended on August 31, 1996; and

**WHEREAS**, the General Council of the Jamul Indian Village (the "General Council") has the power under Article 8, Section 1(h) of the Constitution of the Jamul Indian Village to administer Tribal assets and manage all economic affairs of the Tribe including the power to adopt this Resolution No. 2015-43 (this "Resolution"); and

**WHEREAS**, the General Council approved the Jamul Indian Village Gaming Ordinance pursuant to Resolution No. 2013-07, dated April 3, 2013 (the "Gaming Ordinance"); and

**WHEREAS**, consistent with the requirements of Indian Gaming Regulatory Act ("IGRA") and the National Indian Gaming Commission ("NIGC"), the NIGC approved the Gaming Ordinance on July 1, 2013; and

**WHEREAS**, Section 5.5 (b) of the Gaming Ordinance sets forth the qualifications to serve on the Jamul Indian Village Gaming Commission; and

**WHEREAS**, the General Council desires to amend the Gaming Ordinance to allow the qualifications for the Commissioners to be waived as needed and determined by the Executive Committee; and

**WHEREAS**, the NIGC regulations, 25 C.F.R. Part 522, describe the submission and approval requirements for a tribal gaming ordinance under IGRA; and

**WHEREAS**, the Executive Committee desires to obtain NIGC review and approval of this amendment with all due speed; and

**NOW THEREFORE BE IT RESOLVED** that the General Council hereby approves and adopts the following as Section 5.5(e) of the Gaming Ordinance:



EMAIL: [info@jamulindianvillage.com](mailto:info@jamulindianvillage.com)

TEL: 619.669.4785

FAX: 619.669.4817

ADDR: P. O. Box 612

Jamul, CA 91935

[jamulindianvillage.com](http://jamulindianvillage.com)



“(e) The Commission qualifications set forth in this Ordinance may be waived on a case-by-case basis as deemed appropriate and necessary by the Executive Committee.”

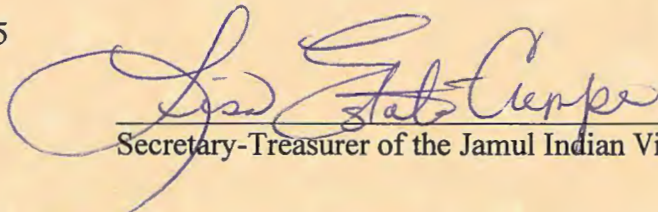
**BE IT FURTHER RESOLVED**, the Chairwoman of the Tribe is hereby authorized, empowered and instructed (i) to submit this Resolution 2015- 43 (Resolution to Amend Jamul Indian Village Amended Gaming Ordinance) to the NIGC pursuant to 25 U.S.C. § 2710, and (ii) to take all necessary actions to comply with the NIGC submission requirements; and

**BE IT FURTHER RESOLVED**, that the Chairwoman of the Tribe is hereby authorized, empowered and instructed to take all actions to facilitate and ease the speedy submission and approval of this amendment.

#### CERTIFICATION OF SECRETARY-TREASURER

I, Lisa Cumper, Secretary-Treasurer of the Jamul Indian Village, pursuant to Article 12, Section 3 of the Constitution, I hereby certify that the foregoing document Resolution 2015-43 (Resolution to Amend Jamul Indian Village Amended Gaming Ordinance), and the certification following is an exact copy of the document, as it exists in the records of the Tribe.

Signed this 13<sup>th</sup> day of December, 2015

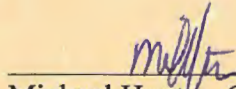
  
Secretary-Treasurer of the Jamul Indian Village

#### CERTIFICATION BY EXECUTIVE COMMITTEE

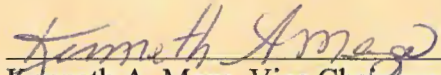
This is to certify that this Resolution 2015- 43 (Resolution to Amend the Jamul Indian Village Gaming Ordinance) was adopted by the Jamul General Council at a duly called meeting with a quorum present on December 13<sup>th</sup>, 2015, by a vote of 13 FOR, 0 OPPOSED, and 0 ABSTAINING.



Erica M. Pinto, Chairwoman  
Jamul Executive Committee



Michael Hunter, Council Member  
Jamul Executive Committee



Kenneth A. Meza, Vice Chairman  
Jamul Executive Committee



Christopher Pinto, Council Member  
Jamul Executive Committee



Carlene Chamberlain, Council Member  
Jamul Executive Committee



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DWL info@jamulindianvillage.com

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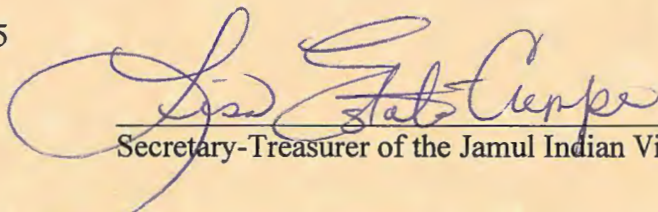
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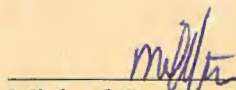
  
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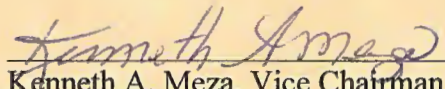
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Jamul Executive Committee



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Jamul Executive Committee



Carlene Chamberlain, Council Member  
Jamul Executive Committee

**JAMUL INDIAN  
VILLAGE**

**GAMING ORDINANCE**

**ORDINANCE**

**2013-05**

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## 1. Purpose, Policy and Sole Proprietary Interest

1.1 *Purpose and Policy* The purpose of this Ordinance is to set forth the laws of the Tribe regarding all Gaming Activities conducted on the Tribe's Indian Lands. The Ordinance is intended to govern the Gaming Activities of all individuals, employees, consultants, business entities, vendors, boards, committees, commissions and administrative review bodies on the Tribe's Indian Lands. The purpose of this Ordinance is to ensure that the Gaming Activities conducted on the Tribe's Indian Lands are conducted fairly and honestly, and that all internal departments, enterprises, officials and employees of the Tribe work cooperatively to advance the best interests of the Tribe in protecting its Gaming Activities as well as its Patrons. It is the intent of the Tribe that this Gaming Ordinance and provisions within shall be interpreted in a manner so as to comply with the terms of the Compact, IGRA and applicable NIGC regulations.

1.2 *Sole Proprietary Interest.* The Tribe shall have the sole proprietary interest in and responsibility for the conduct of all Gaming Activities authorized by this Ordinance; provided, however, that the Tribe may, in accordance with IGRA, enter into a management contract for management of all or part of the Gaming Operation.

1.3 *Name.* This Ordinance shall be known as the Jamul Indian Village Gaming Ordinance.

## 2. Gaming Authorization

2.1 *Jurisdiction.* This Ordinance is applicable to all Indian Lands under the jurisdiction of the Tribe.

2.2 *Class II and Class III Authorization.* Class II and Class III Gaming are each hereby authorized on the Tribe's Indian Lands.

2.3 *Unauthorized or Unapproved Gaming.* Class II and Class III Gaming by any individual on the Tribe's Indian Lands except as authorized pursuant to this Ordinance is prohibited.

## 3. Definitions

This Section shall govern the definitions of words and phrases used in this Ordinance. All words or phrases not defined in this Section are used in their ordinary and everyday sense.

3.1 *Affiliate* means, with respect to any specified Person, any other Person who directly or indirectly, through one or more intermediaries, controls, is or becomes controlled by, or is or comes under common control with the specified Person. For purposes of this definition, "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or other interests, by contract, governmental authority or otherwise.

3.2 *Applicant* means any Person filing an Application for a Gaming License, Gaming Facility License, Financial Source License or Supplier License pursuant to Sections 11, 12, 13, and 14 of this Ordinance.

3.3 *Application* means any application for a Gaming License, Gaming Facility License, Financial Source License, or Supplier License.

3.4 *Bond* means any security within the meaning of the Securities Act of 1933 (15 U.S.C. § 77a *et seq.*) that constitutes an evidence of indebtedness issued pursuant to a trust indenture between the issuer of the security and a trustee who has a right to enforce the terms of the bonds on behalf of all holders of the bonds.

3.5 *Class I Gaming* means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, Tribal ceremonies or celebrations.

3.6 *Class II Gaming* means:

(a) The game of chance commonly known as bingo (whether or not electronic, computer or other technologic aids are used in connection therewith) in which:

- (1) The game is played for prizes, including monetary prizes, with cards bearing numbers or other designations.
- (2) The holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined.
- (3) The game is won by the first individual covering a previously designated arrangement of numbers or designation 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.

(b) Card games which:

- (1) Are explicitly authorized by the laws of the State; or
- (2) 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. Class II Gaming does not include any banking card games, including baccarat, chemin de fer, or blackjack (twenty-one), or electronic or electro-mechanical facsimiles of any game of chance or slot machines of any kind.

3.7 *Class III Gaming* means all forms of Gaming that are not Class I or Class II.

3.8 *Commission* means the Jamul Gaming Commission as established by this Ordinance.

3.9 *Commissioner* means a duly appointed member of the Jamul Gaming Commission.

3.10 *Compact* means the Gaming compact between the Tribe and the State of California including all subsequent amendments thereto, authorized by IGRA or other applicable law.

3.11 *Compliance Certificate* means a certificate issued by a qualified building and safety expert which states that the construction of the Gaming Facility complies with the Tribe's applicable building and safety codes.



3.12 *Definitive Agreement* means any contract or instrument between the Tribe and the Manager or its Affiliates which is not a Management Agreement.

3.13 *Executive Committee* means the elected governing body of the Tribe exercising authority pursuant to Article 8, Section 1(h) of the Constitution of the Jamul Indian Village.

3.14 *Financial Source* means a Person extending or guaranteeing financing, directly or indirectly, for the purpose of constructing, developing, maintaining, equipping, or operating the Gaming Facility or Gaming Operation.

3.15 *Financial Source License* means the permit granted by the Commission to a Financial Source.

3.16 *Games, Gaming, or Gaming Activity* means any activity, operation, or game of chance which is considered Class II or Class III Gaming.

3.17 *Gaming Device* has the same meaning as defined in the Compact.

3.18 *Gaming Employee* means any individual who (a) operates, maintains, repairs, assists in any Gaming Activity, or is in any way responsible for supervising any such Gaming Activity or individuals who conduct, operate, account for, or supervise any such Gaming Activity, (b) is an employee of the Commission with access to confidential information, or (c) is an individual whose employment duties require or authorize access to areas of the Gaming Facility that are not open to the public.

3.19 *Gaming Equipment* means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any Gaming Activity, whether or not specifically designed for that purpose, but excluding tables and chairs normally used in the occupancy of a Gaming Facility.

3.20 *Gaming Facility* means any building on the Tribe's Indian Lands in which Gaming Activities or Gaming operations occur, or in which the business records, receipts, or other funds of the Gaming Operation are maintained (but excluding offsite facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including parking lots and walkways, a principal purpose of which is to serve the activities of the Gaming Operation.

3.21 *Gaming Facility License* means the official and revocable permission granted by the Commission to the Gaming Facility allowing the conduct of Gaming.

3.22 *Gaming License* means the official and revocable permission granted by the Commission to an Applicant in order to be a Primary Management Official, Key Employee, or Gaming Employee. Nothing herein shall create a property interest in the issuance or retention of a Gaming License.

3.23 *Gaming Operation* means the Tribe's business enterprise that offers and operates Gaming Activities.

3.24 *Gaming Personnel* means any individual employed by the Gaming Operation.

3.25 *Gaming Resources* means any goods or services provided or used in connection with Gaming Activities, whether exclusively or otherwise, including, but not limited to, equipment, furniture, gambling devices and ancillary equipment, implements of Gaming Activities such as playing cards and dice, furniture designed primarily for Gaming Activities, maintenance or security equipment and services, and Class III Gaming consulting services. "Gaming Resources" does not include professional accounting and legal services.

3.26 *Gaming Resource Supplier* means any Person who, directly or indirectly, manufactures, distributes, supplies, vends, leases, or otherwise purveys Gaming Resources to the Gaming Operation or Gaming Facility, provided that the definition of Gaming Resource Supplier does not include a purveyor of equipment or furniture that is not specifically designed for, and is distributed generally for use other than in connection with, Gaming Activities, if the purveyor is not otherwise a Gaming Resource Supplier, the compensation received by the purveyor is not grossly disproportionate to the value of the goods or services provided, and the purveyor is not otherwise a person who exercises a significant influence over the Gambling Operation.

3.27 *Incident* means an accident, event or omission involving any individual on the premises of the Gaming Facility which results in injury, damage to property, loss of revenue or any unusual interruption in the conduct of any Game.

3.28 *Indian Gaming Regulatory Act* or *IGRA* means Public Law 100- 497, 102 Stat. 2426, 25 U.S.C. § 2701, *et seq.*, as amended.

3.29 *Indian Lands* means all lands within the exterior boundaries of the reservation of the Tribe and 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 Tribe exercises governmental power.

3.30 *Institutional Investor* means any:

- (a) bank as defined in Section 3(a)(6) of the Federal Securities Exchange Act;
- (b) banking, chartered, or licensed lending institution;
- (c) insurance company as defined in Section 2(a)(17) of the Investment Company Act of 1940, as amended;
- (d) chartered or licensed life insurance company or property and casualty insurance company;
- (e) investment company registered under Section 8 of the Investment Company Act of 1940, as amended;
- (f) investment advisor registered under Section 203 of the Investment Advisors Act of 1940, as amended;
- (g) collective trust funds as defined in Section 3(c)(11) of the Investment Company Act of 1940, as amended;
- (h) closed end investment trust;



(i) employee benefit plan or pension fund that is subject to the Employee Retirement Income Security Act of 1974, as amended;

(j) a state or federal government pension plan; or

(k) such other Person that the Commission determines is an Institutional Investor;

that acquires voting or nonvoting units in the ordinary course of its investment business and holds those units for investment purposes only and not for the purpose of causing, directly or indirectly, the election of a majority of the board of directors or any change in the corporate charter, bylaws, management, policies, or operations of the business entity in which it holds those securities.

3.31 *Jamul Tribal Court* means the Intertribal Court of Southern California or such other court as may be designated by the Executive Committee.

3.32 *Key Employee* means an individual employed by the Gaming Operation in a supervisory capacity or empowered to make discretionary decisions who regulate gambling operations, including, without limitation:

(a) Pit bosses;

(b) Shift bosses;

(c) Credit executives;

(d) Cashier operations supervisors;

(e) Gambling operation managers and assistant managers; or

(f) Managers or supervisors of security employees.

(g) Bingo caller;

(h) Custodian of Gaming supplies or cash;

(i) Floor manager;

(j) Dealer;

(k) Croupier;

(l) Custodian of Gaming Devices, including individuals with access to cash and/or accounting records within such Gaming Devices;

(m) If not otherwise included in Section 3.32(a)-(l), any other individual whose total cash compensation is in excess of fifty thousand dollars (\$50,000) per year; or

(n) If not otherwise included in Section 3.32(a)-(m), the four most highly compensated employees of the Gaming Operation.

3.33 *License* shall mean a Gaming License, Gaming Facility License, Financial Source License or Supplier License issued pursuant to the provisions of this Ordinance.

3.34 *Licensee* means any Person who has been issued a valid and current License.

3.35 *Major Gaming Resource Supplier* means any Gaming Resource Supplier who provides in excess of \$500,000.00 of equipment, goods, supplies or services to the Gaming Operation or Gaming Facility in any consecutive twelve month period.

3.36 *Management Agreement* means an NIGC approved contract between the Tribe and a Manager that provides for management of all or part of the Gaming Operation.

3.37 *Manager* means any Gaming Resource Supplier with whom the Tribe has entered into a Management Agreement.

3.38 *Net revenues* means gross Gaming revenues of the Gaming Operation less (a) amounts paid out as, or paid for, prizes, and (b) total Gaming-related operating expenses, including all those expenses of the Gaming Operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

3.39 *NIGC* means the National Indian Gaming Commission.

3.40 *Non-Key Gaming Employee* means a Gaming Employee who is not a Key Employee.

3.41 *Ordinance* means the Jamul Indian Village Gaming Ordinance, as it may from time to time be amended.

3.42 *Patron* means any individual who participates as a player in Gaming Activity at the Gaming Facility.

3.43 *Person* means any person or entity, whether a natural person, trustee, corporation, general partnership, limited partnership, limited liability company, limited liability partnership, trust, estate, business association, Indian tribe (including the Tribe), commission, instrumentality, firm, joint venture, governmental authority, Affiliate of the Tribe, or otherwise.

3.44 *Primary Management Official* means:

- (a) The individual(s) having management responsibility for a Management Agreement;
- (b) Any individual who has authority to (i) hire and fire Key Employees, or (ii) to set operations policy for the Gaming Operation, including employment policies; or
- (c) The chief financial officer or other individual who has financial management responsibility.

3.45 *Providers of Non-Gaming Services* means a Gaming Resource Supplier that does not provide Gaming Equipment or services directly related to Gaming Activities. Providers of Non-Gaming Services provide goods or services to the Gaming Facility including, but not limited to equipment, transportation, food, linens, janitorial supplies, and maintenance or security services.

3.46 *Regulation* means a Gaming regulation adopted by the Commission in accordance with the terms of this Ordinance.

3.47 *Related Person* means an officer, director, shareholder (if the shareholder directly holds more than 5% of the outstanding shares), manager, or member of the Manager or the Manager's Affiliates.

3.48 *Senior Gaming Management* means the Gaming Operation's general manager, assistant general managers, Gaming directors and assistant Gaming directors.

3.49 *State* means the State of California.

3.50 *State Gaming Agency* means the entities authorized to investigate, approve, and regulate gaming licenses pursuant to the Gambling Control Act (Chapter 5, commencing with Section 19800) of Division 8 of the California Business and Professions Code, and includes, but is not limited to, the California Gambling Control Commission.

3.51 *Supplier License* means the permit granted by the Commission to a Gaming Resource Supplier.

3.52 *Tribal* means of or pertaining to the Tribe.

3.53 *Tribe* means the Jamul Indian Village.

#### **4. Executive Committee: Powers and Duties**

4.1 *Delegation of Duties.* The Executive Committee delegates certain duties and responsibilities to the Commission under Section 5 of this Ordinance.

4.2 *Registered Agent.* The Chairperson of the Tribe shall be the designated and registered agent to receive notice of violations, orders, or determinations which are issued pursuant to IGRA or the Compact.

#### **5. Jamul Gaming Commission**

5.1 *Establishment and Purpose.* There shall be a Commission whose purpose is to exercise the delegated authority and responsibilities enumerated in this Ordinance. The Commission shall be primarily responsible for carrying out the Tribe's regulatory responsibilities under IGRA and this Ordinance. It is the responsibility of the Commission to conduct on-site regulation of the Gaming Operation in order to enforce the terms of the Compact, IGRA and this Ordinance.

5.2 *Duration and Attributes.* The Commission shall have perpetual existence and succession in its own name, unless dissolved under Tribal law. The Tribe reserves unto itself the right to bring suit against any Person in its own right, on behalf of the Tribe, or on behalf of the Commission, whenever the Tribe considers it necessary to protect the sovereignty, rights, and interests of the Tribe or the Commission.

5.3 *Sovereign Immunity of the Tribe.* The Commission irrevocably waives its right to assert sovereign immunity in connection with any of the following proceedings or situations: (a) an administrative hearing or arbitration contemplated under this Ordinance; (b) as an objection or

defense to an arbitration panel's jurisdiction contemplated pursuant to Section 11.19 of this Ordinance; (c) in any action (1) to enforce an obligation to arbitrate in the manner provided within this Ordinance, or (2) to confirm, correct, modify, or vacate the arbitral award rendered in an arbitration provided for in Sections 11.17, 11.18 and 11.19 of this Ordinance; (d) to enforce or execute a judgment based upon the arbitral award issued pursuant to Sections 11.17, 11.18 and 11.19 of this Ordinance; or (e) in any appeal to the Jamul Tribal Court and any courts to which the decisions of the Jamul Tribal Court may be appealed.

5.4 *Assets of the Commission.* The Commission shall have only those assets specifically assigned to it by the Tribe or acquired in its name by the Tribe. No activity of the Commission shall implicate or involve assets of Tribal members or the Tribe which are not assigned to the Commission in writing. Nothing in this Ordinance or any activity of the Commission shall implicate or in any way involve the credit of the Tribe.

5.5 *Number of Commissioners; Qualifications; Background Investigation.*

- (a) **Number of Commissioners.** The Commission shall be comprised of three Commissioners appointed by a majority vote of the Executive Committee. There shall be among them a Chairperson, a Vice-Chairperson and one other Commissioner.
- (b) **Qualifications.** To serve on the Commission, an individual:
  - (1) Must be an enrolled member of the Tribe;
  - (2) Must be at least 21 years of age; and
  - (3) Must meet all other qualifications set forth in this Ordinance or in the bylaws of the Commission.
- (c) **The following individuals may not serve as Commissioners:**
  - (1) Gaming Personnel;
  - (2) Individuals related to any Financial Source or Gaming Resource Supplier (including any principal thereof);
  - (3) Individuals that would not qualify for a tribal gaming license; and
  - (4) Members of the Executive Committee.
- (d) **The Commissioner qualifications set forth in this Ordinance may be modified by the Executive Committee if a vacancy persists on the Commission for more than three months due to a lack of qualified applicants.**

5.6 *Gaming Commission Background Investigation.* All Commissioners shall submit to a thorough background investigation conducted by the Executive Committee, or its designee. Members of the Commission may not participate in matters relating to their background investigation. All candidates shall disclose all current or possible conflicts of interest as part of



such background investigation. No individual shall be eligible for appointment to, or continue services on, the Commission, if:

- (a) He or she has been convicted of, or entered a plea of guilty or *nolo contendere* to any of the following offenses and the conviction has not been pardoned by the Tribe or otherwise removed from the record by executive pardon or state court order:
  - (1) A felony;
  - (2) Any offense involving fraud or misrepresentation;
  - (3) Any gaming related offense, including a violation of the provisions of any state gaming law made applicable to the Tribe pursuant to federal law or the Compact; or
- (b) His or her prior activities, criminal record, or reputation, habits, or associations pose a threat to the public interest, threaten the effective operation of Gaming, or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of Gaming; or
- (c) He or she has a present interest in the conduct of any Gaming enterprise (other than in the Gaming Operation by virtue of his or her membership in the Tribe), or in any business which provides goods or services to the Gaming Facility or Gaming Operation, or he or she has any personal, business, or legal relationship which places him or her in a conflict of interest; or
- (d) He or she has been convicted of a crime involving theft, fraud, or conversion.

5.7 *Term of Office.* After enactment of this Ordinance, the Executive Committee shall appoint the Chairperson of the Commission for an initial term of four years. After receiving recommendations from the Commission Chairperson, the Executive Committee shall appoint the remaining members of the Commission. Appointments of the Commissioners shall be for a period of four years. Except that, for purposes of the terms of the initial Commission members, one shall be appointed for four years, and the remainder shall be appointed for two years, which shall result in staggered appointments and provide continuity on the Commission. The Commissioners may be reappointed for successive terms.

5.8 *Bylaws.* The Commission shall adopt bylaws approved by the Executive Committee consistent with Tribal law.

5.9 *Removal.* Commissioners shall serve at the pleasure of the Executive Committee and may be removed from office before the expiration of their terms by a majority vote of the Executive Committee.

5.10 *Vacancies.* If any Commissioner shall die, resign, be removed, or otherwise be unable to serve, the Executive Committee shall declare his or her position vacant and shall appoint a successor to fill the position. The term of office of any individual so appointed shall be for the balance of the unexpired term for such position.

5.11 *Duties, Powers and Responsibilities.* The Commission shall perform all duties, exercise all powers, promulgate all Regulations, assume and discharge all responsibilities and carry out and affect all purposes of this Ordinance relating to the regulation of the Gaming Operation. In all decisions, the Commission shall act to promote and ensure the integrity, security, honesty and fairness of the Gaming Operation and administration of all Gaming Activity. No Commissioner shall act independently of the Commission. Any such acts may be grounds for removal. Subject to any restrictions contained in this Ordinance or in any other applicable law, the Commission is authorized to exercise, by majority vote or by delegation to the Executive Director, the following responsibilities:

- (a) To draft internal Commission bylaws and operating procedures appropriate to implement the provisions of this Ordinance, including conflicts of interest, codes of conduct and operating procedures that identify the method by which the Commission will monitor and investigate compliance with applicable Gaming laws;
- (b) To consult with and make recommendations to the Executive Committee regarding changes in Tribal Gaming laws and Regulations;
- (c) To correspond with the NIGC regarding compliance with the rules and regulations of that agency. The Commission shall coordinate with the Executive Committee regarding correspondence with the NIGC on any matter;
- (d) To ensure that all fees assessed by the NIGC are paid on a timely basis;
- (e) To prepare proposals, including budgetary and monetary proposals, the purpose of which is to enable the Tribe to carry out the purpose and intent of this Ordinance, and to submit the same for consideration by the Executive Committee; provided, however, that no such proposal shall have any force or effect unless it is approved by the Executive Committee;
- (f) To enforce the requirements of this Ordinance and the Compact with respect to the Gaming Operation and Facility;
- (g) To monitor and investigate the place of business, equipment, facilities, tangible personal property, and the books, records, papers, vouchers, accounts, documents, and financial statements of the Gaming Operation, including the inspection of Gaming Equipment and any premises where Gaming Equipment is distributed, provided that all monitoring and investigations must be conducted pursuant to policies and procedures adopted in conformance with Tribal law and that all monitoring and investigations are for the purpose of determining compliance with applicable Gaming laws;
- (h) To draft and implement licensing procedures, including the establishment and imposition of licensing fees, for all Primary Management Officials, Key Employees, Gaming Employees, Financial Sources, and Gaming Resource Suppliers;
- (i) To approve or disapprove the Gaming License of any Applicant;

- (j) To suspend or revoke any Gaming License consistent with this Ordinance;
- (k) To develop procedures for the establishment and maintenance of a list of individuals banned from the Gaming Facility;
- (l) To approve the rules, Regulations and procedures for each Game;
- (m) To approve the Gaming Operation's surveillance floor plan;
- (n) To conduct administrative reviews pursuant to this Ordinance;
- (o) To license Gaming Facilities pursuant to this Ordinance;
- (p) To arrange for the training of Commissioners and staff members;
- (q) To act as the designated agent to receive all regulatory notices, other than those notices addressed in Section 4.2 of this Ordinance;
- (r) To ensure that all Gaming Activity is conducted honestly and fairly;
- (s) To ensure that the Gaming Facility is constructed in a manner that adequately protects the environment and the public health and safety;
- (t) To issue subpoenas and compel the attendance of witnesses for regulatory proceedings before the Commission;
- (u) To administer oaths and to require testimony under oath before the Commission;
- (v) To impose fines, up to \$5,000 for each violation of this Ordinance, with each day that a violation continues being a separate violation and subject to a commensurate fine; and
- (w) To seize any money received or obtained by a Patron in violation of this Ordinance pending a civil forfeiture of such seizure.

The Commission shall not have jurisdiction over, or authority to hear or adjudicate, any claim by or against the Manager or its Affiliates for breach or alleged breach of a Management Agreement or Definitive Agreement.

**5.12 Meetings.** Meetings of the Commission shall be held at least once each month and additionally as directed by the Chairperson of the Commission. Additional meetings shall be held if requested by the Chairperson or by at least two other Commissioners. Meetings may be called at any time, by any means, with unanimous consent of the Commissioners.

**5.13 Full-time or Part-time Exclusivity.** The Commission shall identify the appropriate work schedule for its members and employees. Each Commissioner and the Executive Director shall perform his or her duties and responsibilities on a full-time or part-time basis, as determined by the Commission, and will not, during his or her tenure in office, be engaged in any other profession or business activity that may impede the Commissioner or Executive Director's ability to perform duties on behalf of the Commission or that competes with the Tribe's interests.

5.14 *Reporting Requirements.* The Commission shall adhere to the following reporting requirements:

- (a) The Commission shall meet with the Executive Committee upon request, and no less than quarterly.
- (b) Minutes of all Commission meetings shall be filed with the Secretary of the Executive Committee within thirty days of their approval.
- (c) Summary reports of all matters pertaining to the business of the Commission shall be provided to the Executive Committee.

5.15 *Compensation and Annual Budget.* The Executive Committee shall determine Commissioner compensation. Compensation shall be established by the Executive Committee in a manner consistent with the Tribe's internal rules and bylaws. At least ninety days prior to the end of each fiscal year, the Commission shall prepare a budget for the next year's operation and shall submit the budget to the Executive Committee. The Executive Committee shall review the operating budget of the Commission in the same fashion as all other Tribal budgets. In preparing the annual budget, all actual and anticipated surplus funds of the Commission shall be taken into account. The Executive Committee may adopt, amend or replace the annual budget.

5.16 *Gaming Commission Staff.* Commission staff shall be supervised by the Executive Director. Any staff position, including the position of Executive Director, may only be held by an individual who meets the standards and qualifications set forth in Section 11.6.

5.17 *Ethics.*

- (a) Commissioners and Commission staff shall not hold financial interests that conflict with the conscientious performance of their duties.
- (b) Commissioners and Commission staff 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.
- (c) Commissioners and Commission staff shall not solicit or accept any gift or other item of monetary value, including complimentary items or services, from any individual seeking official action or inaction from, doing business with, or conducting activities regulated by the Commission, or whose interests may be substantially affected by the Commission. This restriction does not apply to items of *de minimis* value or items or services available to all members of the Tribe or to all members of the Commission.
- (d) Commissioners and Commission staff shall not use their positions for private gain.
- (e) Commissioners and Commission staff 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 individuals related to Commissioners or Commission staff.



- (f) Commissioners and Commission staff shall not engage in outside employment (including seeking or negotiating for future employment) or any other activity which conflicts with their Commission duties and responsibilities.
- (g) Commissioners and Commission staff shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
- (h) Commissioners and Commission staff shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed in this Section 5.17.
- (i) Commissioners and Commission staff shall fully comply with internal Commission bylaws governing conflicts of interest and codes of conduct.
- (j) Commissioners shall disclose to the Executive Committee any conflicts of interest. The Executive Director shall disclose to the Commission any conflicts of interest. Commission staff members shall disclose to the Executive Director any conflicts of interest. If there is a real or apparent conflict of interest related to any matter before the Commission, the Commissioner subject to the conflict of interest shall not take part in a decision related thereto.

## 6. *Executive Director.*

6.1 *Qualifications.* The position of Executive Director of the Commission is hereby created. The Commission shall appoint the Executive Director, subject to confirmation of the appointment by the Executive Committee.

- (a) *Qualifications.* To serve as the Executive Director, an individual:
  - (1) Must be at least 21 years of age;
  - (2) Must have a minimum of five years in any combination of the following:
    - (A) Post-secondary education;
    - (B) Gaming training;
    - (C) Gaming experience in one or more of the following areas:
      - (i) Gaming laws or regulations;
      - (ii) Gaming operations;
      - (iii) Gaming licensing;
      - (iv) Auditing;
      - (v) Indian law;
      - (vi) Administrative reviews;

- (vii) Background investigations;
  - (viii) Surveillance;
  - (ix) Law enforcement; or
  - (x) Business administration or business management.
- (3) Must meet all other qualifications set forth in this Ordinance, including the standards and qualifications set forth in Section 11.6.
- (b) The following individuals may not serve as the Executive Director:
  - (1) Gaming Personnel;
  - (2) Individuals related to any Financial Source or Gaming Resource Supplier (including any principal thereof);
  - (3) Individuals who would not qualify for a tribal gaming license;
  - (4) Members of the Commission or the Executive Committee; and
  - (5) Individuals holding any other elected office within the Tribal government.
- (c) The Executive Director qualifications set forth in this Ordinance may be modified by the Executive Committee if a vacancy persists for more than three months due to a lack of qualified applicants.
- (d) The Executive Director shall devote his or her entire time and attention to the duties imposed under this Ordinance and the business of the Commission and shall not pursue any other business or occupation unless approved by the Commission.
- (e) The Executive Director shall not have any pecuniary interest in any business or company holding a License under this Ordinance.

## 6.2 *Authority of Executive Director.*

- (a) The Executive Director shall furnish to the Commission such services that the Commission delegates to the Executive Director to carry out the Commission's functions;
- (b) The Executive Director shall have authority to hire such professional, clerical, technical and administrative personnel as may be necessary;
- (c) The Executive Director may:
  - (1) Carry out all responsibilities delegated by the Commission;

- (2) Negotiate and execute any and all contracts for the purchase of goods and services as directed by the Commission. Such purchases shall be in accordance with the procurement policies and procedures of the Tribe;
- (3) Hire such staff as appropriate, consistent with the Commission budget; and
- (4) Perform all other duties as delegated by the Commission.

## **7. Gaming Personnel**

7.1 *Age.* All Gaming Personnel positions shall be filled by individuals who are at least 21 years of age.

7.2 *Compact and Employment Laws.* All Gaming Personnel are subject to the Compact and all employment laws and requirements that are otherwise applicable to employees of the Gaming Facility or Gaming Operation.

## **8. Files and Records to be Maintained by the Commission; Confidentiality of Information.**

8.1 *Confidentiality of Documents.* The Commission shall ensure that all records and information obtained pursuant to the exercise of its authority and responsibilities shall remain confidential and shall not be disclosed to individuals who are not directly involved in the regulation and oversight of the Gaming Operation. The Commission shall maintain a file of all Applications and supporting materials submitted pursuant to this Ordinance, together with a record of all actions taken with respect to those Applications.

8.2 *Scope of Confidentiality.* All information and data:

- (a) Included within any Application for a License and any supporting materials;
- (b) Required by the Commission to be furnished to it under this Ordinance or which may otherwise be obtained relative to the finances, earnings or revenue of any Applicant or Licensee;
- (c) Pertaining to an Applicant's criminal record, antecedents or background which have been furnished to or obtained by the Commission from any source; and
- (d) Provided to the members of the Commission or his employees by a governmental agency or an informant or on the assurances that the information will be held in confidence and treated as confidential;

(hereinafter, collectively "Application Information") is confidential and may be reviewed only by the Commission, the Commission staff, and, as necessary, by the NIGC and the State Gaming Agency. The Commission agrees that the Application Information will be treated as confidential and that releasing the Application Information to anyone other than the Commission staff, the NIGC or the State Gaming Agency, as necessary, will require: (1) the prior written voluntary consent of the Applicant, but only if that consent has been obtained not more than seven days before the disclosure, or in the time agreed to by the Applicant in the written consent, or (2) a valid subpoena, court order or other compulsory legal process authorizing the release of the Application Information to someone other than the Commission. Any Application Information provided by

the Commission to the NIGC or the State Gaming Agency will be governed by the applicable confidentiality and privacy statutes pertaining to the NIGC and State Gaming Agency.

Unless required to be retained by subpoena, court order, or other compulsory legal process, or because of an ongoing criminal investigation, all records and Application Information retained by the Executive Director or the Commission shall be retained for a period of five years, after which such records may be destroyed or returned to the Applicant or Licensee. It is a violation of this Ordinance for an individual to falsify, destroy, erase or alter any records of any kind or other information relating to the Gaming Operation in a manner other than as provided in this Ordinance, applicable Regulations or Commission policy.

## **9. Gaming Surveillance: Powers, Duties and Limitations**

9.1 *Purpose.* The purpose of surveillance is to assist in safeguarding the Gaming Operation's assets, to deter and detect criminal acts and regulatory violations, and to maintain public confidence and trust that Gaming at the Gaming Operation is conducted honestly and free of criminal elements and activity. Gaming Operation surveillance shall include a closed-circuit television surveillance system consistent with industry standards for gaming facilities of the type and scale operated by the Tribe, which system shall be approved by, and may not be modified without the approval of, the Commission.

9.2 *Responsibilities.* Surveillance shall be responsible for all Gaming surveillance activities including, but not limited to, purchase and maintenance of surveillance equipment. Surveillance is responsible for the:

- (a) Development, implementation, and maintenance of written policies and procedures for the conduct and integrity of the surveillance department, subject to approval of the Commission;
- (b) Development, implementation, and maintenance of additional procedures governing the use and release of the surveillance recordings or reports, subject to approval of the Commission; and
- (c) Maintenance of the Gaming Facility surveillance floor plan required pursuant to the Compact, subject to approval of the Commission. The surveillance floor plan will address Commission access to the surveillance system, which may include dedicated access, at the Commission's discretion.

9.3 *Surveillance Records.* Surveillance personnel shall provide to Senior Gaming Management and the Commission a copy of any time-recorded video and accompanying audio (if available) as soon as reasonably practicable after request, and in no event later than twenty-four hours of such request. Surveillance shall retain video recordings for at least seven (7) days from the date of original recording or such shorter period of time as the Commission shall direct.

## **10. Gaming Security: Powers, Duties and Limitations**

10.1 *Purpose.* The purpose of Gaming security is to assist in safeguarding the Gaming Operation's assets and to protect the Gaming Personnel and Patrons by deterring and detecting criminal acts and regulatory violations.



10.2 *Investigations.* Gaming security shall be responsible for conducting all investigations and reports of Incidents at the Gaming Facility consistent with the Compact and all applicable Tribal law.

10.3 *Reports.* Gaming security shall provide to Senior Gaming Management and the Commission a complete copy of all Incident reports. The procedure for recording of all Incidents shall be consistent with the requirements of the Compact.

10.4 *Responsibilities.* Gaming security is responsible for the:

- (a) Development, implementation, and maintenance of written policies and procedures for the conduct and integrity of Gaming security, subject to approval of the Commission; and
- (b) Development, implementation, and maintenance of additional procedures governing the use and release of Incident reports, subject to approval of the Commission.

## **11. Licensing of Primary Management Officials, Key Employees and Gaming Employees**

11.1 *Summary of Licensing Principles.* All persons in any way connected with the Gaming Operation or Facility who are required to be licensed or to submit to a background investigation under IGRA and the Compact, including, but not limited to, all Gaming Employees and Gaming Resource Suppliers, and any other person having a significant influence over the Gaming Operation must be licensed by the Commission.

11.2 *Licenses.* The Commission shall issue Licenses for all Persons for which a License is required under IGRA and the Compact, including:

- (a) Class II and Class III Gaming Facilities;
- (b) Key Employees;
- (c) Primary Management Officials;
- (d) Gaming Employees;
- (e) Financial Sources; and
- (f) Gaming Resource Suppliers.

11.3 *Current and Valid Gaming License Required.* All Primary Management Officials and Key Employees employed by the Gaming Operation must possess a valid Gaming License or have an Application for a Gaming License pending.

11.4 *Application Procedure for Gaming License.* Every individual seeking employment as a Primary Management Official or as a Key Employee shall submit a Gaming License Application and additional supplemental information to the Commission on such forms or in such manner as the Commission may require. At a minimum, Applications for Primary Management Official and Key Employee shall contain the following information.

- (a) The Applicant's full name, including all other names used (oral or written), current home and work addresses and telephone numbers, gender, Social Security Number, place of birth, date of birth, citizenship, and driver's license number(s) and the addresses of his or her residences over the past five years.
- (b) The position for which the Applicant is applying.
- (c) The names, current addresses, and telephone numbers of three references who are not related to the Applicant and who were acquainted with the Applicant when the Applicant resided at each of the addresses listed under paragraph (a) above.
- (d) A list of the Applicant's current and previous jobs over the preceding five years, including the names, addresses, and telephone numbers of his or her employers, and the positions held.
- (e) The names and addresses and a brief description of all businesses in which the Applicant currently holds, or has within the last five years held, an ownership or financial interest.
- (f) A description of any existing and any previous employment relationship with the Tribe or any other Indian tribe, including the position held, the name of the tribe, and the name and address of an individual who can attest to the accuracy of the information provided.
- (g) A description of any current or past non-employee business relationship which the Applicant has had with the Tribe or any other Indian tribe, including the name of the tribe and the name and address of an individual who can attest to the accuracy of the information provided.
- (h) A statement as to whether the Applicant has had any past employment with, or ownership interest in, any gaming-related business. If so, the Applicant shall provide a written statement describing his or her position, the dates during which the position was held, a description of the Applicant's ownership interest (when applicable), job responsibilities, the name, address, and telephone number of the business, and the name and address of an individual who can attest to the accuracy of the information provided.
- (i) A list of all gaming-related licenses for which the Applicant has applied, whether or not those licenses were granted, and the name, address and telephone number of the regulatory agencies involved.
- (j) A list of all professional and business licenses for which the Applicant has applied, whether or not those licenses were granted, and the name, address and telephone number of the regulatory agency involved.
- (k) A list of all languages which the Applicant can write or speak.
- (l) Written permission giving the Commission the right to investigate the Applicant's background, including his or her criminal record, civil and criminal judgments, and credit history.

- (m) A complete disclosure of any pending civil or criminal action (including any misdemeanor) against the Applicant, including the name, and address of the police department and court involved.
- (n) A statement as to whether or not the Applicant has ever been charged with a crime (including any misdemeanor), and if so, the charge, the name and address of the court involved, the final disposition of the case, and the date of final disposition.
- (o) A disclosure of any civil or criminal judgments rendered against the Applicant, including the case number, a description of the judgment, and the name and address of the court involved.
- (p) Any other information which might bring into question the Applicant's fitness to be employed within a Gaming Facility.
- (q) Each Application shall include an affirmative consent of the Applicant to the jurisdiction of the Commission for purposes of processing the Application.
- (r) Each Application shall be accompanied by a sworn statement that the Applicant will abide by all applicable Tribal and federal laws, Regulations and policies.
- (s) Each Application shall be accompanied by a written statement that the Applicant has read, understands and approves of notices and NIGC requirements related to:
  - (1) The Privacy Act of 1974;
  - (2) False statements; and
  - (3) Credit reporting.
- (t) Each Application shall be accompanied by a photograph of the Applicant and a complete set of fingerprints of the Applicant taken by a All Applicants for a Primary Management Official License or Key Employee License are required to submit fingerprint cards. The Commission is hereby identified as the law enforcement agency responsible for taking fingerprints. Following receipt of an Applicant's fingerprint cards, the Commission will forward an Applicant's fingerprint cards to the NIGC for a criminal history check through the Federal Bureau of Investigation National Crime Information Center.

The Commission shall amend the Application and investigation procedure for a Gaming License in the event that the Tribe receives notice that the Application and investigation procedure must be modified to conform to the standards of the NIGC.

11.5 *Non-Key Gaming Employee Licensing.* Non-Key Gaming Employees must be licensed by the Commission. Non-Key Gaming Employee Applicants will submit an Application for a Non-Key Gaming Employee license to the Commission on such a form or in such manner as the Commission may require. The Application for a Non-Key Gaming Employee license shall contain all information necessary for the Commission to investigate the Non-Key Gaming Employee's background, including his or her criminal record, civil and criminal judgments, and credit history, but shall not require all of the information detailed in Section 11.4 for Primary

Management Officials and Key Employees. If the Commission determines that the Applicant is suitable for licensure based on the Commission's review of the Application and the results of the criminal history check, the Commission will license the Non-Key Gaming Employee. Non-Key Gaming Employees are not required to undergo the complete investigation procedures set forth in Section 11.9 of this Ordinance.

11.6 *Qualifications.* The Commission shall conduct a criminal history check on all Applicants.

- (a) Eligibility for Licensure. The Commission shall review an Applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a determination, pursuant to this Ordinance, concerning the suitability for licensure of Applicants. No license shall be issued to an Applicant if it is determined that employment of an Applicant would pose 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.
- (b) No individual shall be licensed as a Primary Management Official, Key Employee or Gaming Employee if:
  - (1) He or she is under the age of 21;
  - (2) He or she has been convicted of, or entered a plea of guilty or *nolo contendere* to any of the following offenses and the conviction has not been pardoned by the Tribe or otherwise removed from the record by executive pardon or state court order:
    - (A) A felony;
    - (B) Any offense involving fraud or misrepresentation; or
    - (C) Any Gaming related offense;
  - (3) His or her prior activities, criminal record, if any, and reputation, habits, and associations pose a threat to the public interest, threaten the effective operation and regulation of Gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of Gaming;
  - (4) He or she is not an individual of good character, honesty or integrity; or
  - (5) His or her application to the State Gaming Agency for licensure or a determination of suitability, or for a renewal of such a licensure or determination, has been denied or has expired without renewal.
- (c) Each Person who has a License shall have a continuing obligation to inform the Commission immediately upon the occurrence of any circumstance or event which may disqualify the Person from obtaining or retaining a License. Failure to report any such occurrence may result in suspension or revocation of the Application or License and immediate termination from employment.



~~12.7 Temporary Licensure.~~ Temporary Licensure. The Commission shall develop standards and procedures for the temporary licensure of Applicants who have filed an Application for a License. An Applicant who has submitted an Application as a Primary Management Official or Key Employee may be given a temporary License for a period of ~~eighteen months~~ ninety days. No Primary Management Employee or Key Employee shall continue to be employed if that Primary Management Employee or Key Employee does not have a license within ninety days from the start of employment with the Gaming Operation. For purposes of temporary licensure, the Commission shall rely upon a state gaming license or finding of suitability previously issued to the Applicant from either a California, Iowa, Illinois, Nevada, New Jersey, Ohio, or Pennsylvania state gaming agency for purposes of satisfaction of a preliminary background investigation. The Commission shall not delay or deny the issuance of a temporary license if: (a) a California, Iowa, Illinois, Nevada, New Jersey, Ohio or Pennsylvania state gaming agency has issued a license to, or made a determination of suitability with respect to, such Applicant, and (b) no state gaming agency has revoked or withdrawn such license or determination of suitability.

11.8 *Reliance on Previously Issued License.* In lieu of completing its own background investigation, and to the extent that doing so does not conflict with or violate IGRA or the Compact, the Commission may contract with the State Gaming Agency for the conduct of background investigations, may rely on a state finding of suitability previously issued under a gaming compact involving another tribe, or may rely on a State gaming license previously issued to the Applicant, to fulfill some or all of the Commission's background investigation obligation for licensing Applicants.

11.9 *Investigation.* When an individual submits an Application for a Primary Management Official or a Key Employee License, the Commission shall:

- (a) Conduct a background investigation of the Applicant: and create and maintain an investigative report as to findings and conclusions of the foregoing background investigation, including, but not limited to:
  - (1) Steps taken in conducting the background investigation;
  - (2) The results obtained from the background investigation;
  - (3) The conclusions reached as a result of the background investigation; and
  - (4) The basis for those conclusions.

Based upon the results of the background investigation and the written investigative report, the Commission shall determine the eligibility of the Applicant to receive a Gaming License.

- (b) Upon completion of the background investigation and a determination of eligibility for a Gaming License, the Commission shall forward the Applicant's completed Application materials and an investigative report with a determination as to whether the Commission intends to license the Applicant to the NIGC (to the extent required by 25 CFR Part 556) and the State Gaming Agency (to the extent required by the Compact): no later than sixty (60) days after the Applicant begins work as a

Key Employee or Primary Management Official (the "Notice of Results"). The Notice of Results shall contain:

- (1) Applicant's name, date of birth, and social security number;
  - (2) Date on which Applicant began or will begin work as a Key Employee or Primary Management Official;
  - (3) A summary of the information presented in the investigative report, which shall at a minimum include a listing of: (i) license applications filed by Applicant that have previously been denied; (ii) gaming licenses held by Applicant that have been revoked, even if subsequently reinstated; (iii) every known criminal charge brought against the Applicant within the last ten (10) years of the date of the Application; and (iv) every felony of which the Applicant has been convicted or any ongoing prosecution of Applicant for a felony; and
  - (4) A copy of the eligibility determination made under 25 CFR § 556.5.
- (c) For a thirty day period, beginning when the NIGC receives a report submitted pursuant to Section 11.9(b) above, the Chairman of the NIGC may request additional information from the Commission concerning the individual who is the subject of a report. Such a request shall suspend the thirty day period until the Chairman receives the additional information.
- (d) If, within the thirty day period described in Section 11.9(c) above, the NIGC notifies the Commission that it has no objection to the issuance of a License, the Commission may grant the License to the Applicant.
- (e) If, within the thirty day period described in Section 11.9(c) above, the NIGC provides the Commission with a statement itemizing objections to the issuance of a License, the Commission shall reconsider the Application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a License to the Applicant.
- (f) All Applications, background investigations, investigative reports, suitability determinations, findings and decisions of the Commission shall be retained in the Commission's files for a period of at least five years.
- ~~(g) In the event that the Applicant is determined to be ineligible for a Gaming License, the Commission shall forward the name of the Applicant to the NIGC.~~
- (g) In the event that the Commission does not license an Applicant, the Commission shall notify the NIGC and forward copies of the Commission's eligibility determination and Notice of Results to the NIGC.
- (h) Within thirty (30) days after the issuance of a License to a Primary Management Official or to a Key Employee, the Commission shall notify the NIGC of its issuance.

11.10 *License Issuance; Renewals.* Any Gaming License issued pursuant to the requirements of this Section 11 shall be effective from the date of issuance and shall state on its face the name of the Gaming Employee, and the date that the Gaming License became effective. Such a Gaming License shall be effective for two years from the date of issuance and shall be renewed every two years thereafter. Applicants for a renewal of a Gaming License shall provide to the Commission updated materials, as requested, on the appropriate renewal Applications. Applicants for a renewal shall not be required to resubmit historical data already available to the Commission. Additional background investigations shall not be required of Applicants for a renewal unless the Commission determines, based upon the disclosure or discovery of new information, that there is a need for further information concerning the Applicant's continuing eligibility for a Gaming License.

11.11 *Badge.* Any individual who holds a Gaming License issued pursuant to this Ordinance must wear in plain view at all times while in the Gaming Facility an identification badge issued by the Commission. The badge must display, at a minimum, a photograph of the individual and an identification number that is adequate to enable the Commission to readily identify the individual and determine the validity and date of expiration of his or her Gaming License.

11.12 *Suspension or Revocation of License.*

- (a) *Grounds for Suspension or Revocation.* The Commission may suspend or revoke any License it has issued, but only after notice and opportunity for review and cure, for any of the following reasons if such reasons are material (in light of the scope of the Gaming Operation and the investment risk undertaken by the Manager and the Manager's Affiliates with respect to the Gaming Operation):
  - (1) The Licensee has willfully withheld pertinent information or has made false statements on an Application;
  - (2) The Licensee has willfully promoted, played, or participated in any Gaming Activity operated in violation of Tribal, state or federal law, or has violated any provision of this Ordinance;
  - (3) The Licensee has improperly offered something of value to a Commissioner or any other individual in an attempt to avoid or circumvent any applicable law;
  - (4) The Licensee has willfully been involved in the falsification of books or records which relate to the operation of Gaming Activity;
  - (5) The Licensee has been convicted of, or has entered a plea of guilty or *nolo contendere* to, any crime involving gaming, fraud, theft, embezzlement or other activity which, if it had been perpetrated at his or her place of employment, would injure or pose a threat to the public interest, the integrity of the Gaming Activity, or the effective operation of Gaming, or would enhance the dangers of unfair, unsuitable, or illegal gaming practices;
  - (6) The Licensee has willfully refused to comply with any lawful directive of the Tribe, the federal government, or any court of competent jurisdiction;

- (7) The Licensee has been determined to have present or prior activities, criminal record, or reputation, habits or associations which pose a threat to the public interest or to the effective operation of Gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices or methods or activities in the conduct of Gaming;
- (8) The Licensee no longer meets the explicit License qualifications set forth in this Ordinance; or
- ~~(9) The Commission receives written information from the NIGC that the Licensee is unsuitable for a License; or~~
- (9) ~~(10)~~ The Commission receives reliable information from the State Gaming Agency that the Licensee is unsuitable for a License.

It is the intent of the Tribe when adopting this Ordinance that the Commission shall consider the gravity of an offense and whether such offense occurred on multiple occasions or was an isolated instance, when considering whether it is appropriate to suspend or revoke a License under this Ordinance.

- (b) Procedure for Suspension or Revocation. Whenever the Commission shall have cause to believe that any of the reasons under Section 11.12(a) apply to any Person who holds a License issued by the Commission, the Commission shall serve upon the Person an order to show cause why the License should not be suspended or revoked. The order to show cause shall state with specificity the grounds upon which it is based, including citations to the relevant sections of this Ordinance, the time and place for the administrative review, and notice that the Person shall have the opportunity to present documentation and any other relevant information. The administrative review shall be set for not less than ten days or more than fourteen days from the date of the order to show cause. No Subject to Section 11.12(e), no License will be suspended or revoked for the reasons set forth in Section 11.12(a) until the administrative review by the Commission is concluded and a final written decision is rendered by the Commission.
- (c) Notice and Opportunity to Cure for Manager. Before issuing any order to show cause to the Manager or any of its Affiliates under Section 11.12(b), the Commission shall give the Manager or its Affiliate notice of any alleged violation of this Ordinance by the Manager or any of its Affiliates and one hundred twenty (120) days opportunity to cure before the Commission may take any action based on such alleged violation. If the Manager or any of its Affiliates cures any such alleged violation or if such violation is not susceptible of being cured within such 120-day period or if the Commission determines in good faith that the Manager or any of its Affiliates is diligently continuing to take action to cure the alleged violation, the Commission shall grant an additional 120-day extension of time to cure the alleged violation, and during such time the Commission shall not take any further action against the Manager or any of its Affiliates based upon such alleged violation. Further, the Commission shall notify the Manager or any of its Affiliates in writing of any concerns brought to the Commission's attention so that such concerns may be addressed in a timely fashion. For purposes of clarity, this

Section is meant to address alleged violations by the Manager or any of its Affiliates regarding the operations of the Gaming Facility, rather than day-to-day regulatory issues involving isolated Gaming Personnel. For example, provided that the Manager or any of its Affiliates promptly removes any individual subject to Section 11.12(d) from any duties or responsibilities which requires such individual to apply for or maintain a Gaming License until such time, if any, as the Commission modifies its determination with respect to such individual, such removal shall constitute a cure and shall not be grounds for suspension or termination of the License issued to the Manager or any of its Affiliates.

- (d) **Removal.** If the Commission has rendered a final decision, after the exhaustion of all appeals, related to the denial, suspension, revocation, termination or failure to renew the License of any individual, the applicable Manager or its Affiliate shall promptly remove such individual from any duties or responsibilities which require such individual to apply for or maintain a License until such time, if any, as the Commission modifies its determination.
- (e) Suspension Due to Notice of Information from NIGC. Notwithstanding anything else herein to the contrary, if, after the issuance of a License, the NIGC notifies the Commission of reliable information indicating that a Key Employee or Primary Management Official is not eligible for employment pursuant to 25 CFR § 556.5 (the "NIGC Notification"), the Commission shall immediately suspend the License and shall provide the Licensee with written notice of suspension and the reasons for the proposed revocation. The Commission shall notify the Licensee of the time and place for a hearing on the proposed revocation of the License. After a revocation hearing conducted by the Commission, the Commission shall decide to revoke or to reinstate the License. The Commission shall notify the NIGC of its decision within 45 days from the date of receipt of the NIGC Notification.

**11.13 Temporary Suspension of an Individual's License.** Temporary suspension of an individual's License is appropriate when the individual's continued presence in the Gaming Facility or Gaming Operation poses a direct and immediate threat to the general public or to the safety, health and welfare of the Tribe.

- (a) **Grounds for Temporary Suspension.** The Commission may suspend the License of any individual for not more than thirty days if the Commission has good and reliable cause to believe:
  - (1) that any of the grounds for suspension or revocation listed in Section 11.12(a) have occurred; and
  - (2) that the individual's continued presence in the Gaming Facility or Gaming Operation a direct and immediate threat to the general public or to the safety, health and welfare of the Tribe.
- (b) **Procedure for Temporary Suspension.** The Commission may issue a notice of temporary suspension of a License if the Commission has cause to believe that any of the reasons in Section 11.12(a) above apply to the individual. The Commission shall provide written notice to the individual that states with specificity the grounds



upon which it is based, including citations to the relevant provisions of this Ordinance, and the individual's right to administrative review. The individual has the right to file a request for review with the Commission within five calendar days of receipt of the notice of temporary suspension. The Commission shall hold an administrative review on the notice of temporary suspension within fourteen calendar days of its receipt of the notice of request for review. At the administrative review, the individual shall have an opportunity to present documentation and any other information as to the License should not be temporarily suspended. After such administrative review, and in no event later than thirty days from the issuance of the notice of temporary suspension, the Commission shall issue a final decision regarding the temporary suspension. Any final decision of the Commission to condition, grant, deny, suspend or revoke a License may be appealed pursuant to Sections 11.16, 11.17, 11.18 and 11.19 of this Ordinance, as applicable.

11.14 *Notice to Executive Committee.* Prior to any suspension or revocation of the License of any member of Senior Gaming Management, or Related Person (provided that the Commission has knowledge that such individual is a Related Person), the Commission shall provide written notice to the Executive Committee and the Manager seventy-two (72) hours prior to the issuance of the suspension or revocation.

11.15 *Record of Proceedings.* The Commission shall maintain a complete and accurate record of all proceedings relating to the issuance, denial, temporary suspension, suspension, revocation of all Licenses and of the imposition of any fines on a Licensee or imposition of a condition on a License. Records pertaining to the issuance, denial, temporary suspension, suspension, revocation of a License and of the imposition of any fines on a Licensee or imposition of a condition on a License shall be confidential and be handled in compliance with Section 8.

11.16 *Appeals.* Any Person, other than the Manager, the Manager's Affiliates, a Financial Source, a Major Gaming Resource Supplier or a Related Person appealing an Adverse Commission Action or Manager Adverse Commission Action pursuant to Sections 11.17 and 11.18, aggrieved by a final decision of the Commission to condition, grant, deny, suspend or revoke a License or impose any fines on a Licensee may appeal the decision to the Jamul Tribal Court, as well as any courts to which the decisions of the Jamul Tribal Court may be appealed, which decisions shall be binding upon the Commission and aggrieved Person. A temporary suspension of an individual's license will be reviewed pursuant to Section 11.13(b) prior to any appeal.

11.17 *Appeals for Major Gaming Resource Suppliers and Financial Sources.* Major Gaming Resource Suppliers and Financial Sources may appeal any of the following Commission actions: (a) imposition of a fine on the Major Gaming Resource Supplier or Financial Source; (b) denial of an Application for a License of the Major Gaming Resource Supplier or Financial Source; or (c) suspension, revocation, or imposition of conditions on a License issued to the Major Gaming Resource Supplier or Financial Source after an administrative hearing pursuant to Section 11.12(b) of this Ordinance (each, an "Adverse Commission Action"). For purposes of this Section 11.17, any Major Gaming Resource Supplier or Financial Source requesting an appeal is referred to as an "Aggrieved Major Vendor." Any Adverse Commission Action must be communicated by the Commission to the Aggrieved Major Vendor in writing. Within ten business days after the Commission's written notice of the Adverse Commission Action is

received, the Aggrieved Major Vendor must send written notice of appeal by certified mail, return receipt requested, to the attention of the Executive Director at the Commission office. The Aggrieved Major Vendor and the Executive Director shall meet and confer in a good faith attempt to resolve the dispute through negotiation not later than ten days after receipt of the notice by the Executive Director, unless both parties agree in writing to an extension of time. The Aggrieved Major Vendor may request that the dispute be settled by binding arbitration under the commercial arbitration rules of the American Arbitration Association (the "AAA"). The arbitration shall be conducted pursuant to Section 11.19. Should any Aggrieved Major Vendor inadvertently miss a deadline under this Section 11.17 by a period not to exceed three business days, such missed deadline shall not be considered a bar to the Aggrieved Major Vendor's right to appeal the Adverse Commission Action.

Any party dissatisfied with the decision of the arbitration panel may at that party's election appeal the decision to the Jamul Tribal Court, as well as any courts to which the decisions of the Jamul Tribal Court may be appealed, which decisions shall be binding upon the parties.

For purposes of this Section 11.17, the Commission will stay the effects of any Adverse Commission Action from the time that an Aggrieved Major Vendor requests an administrative hearing pursuant to Sections 11.12(b) until the time that the arbitration decision and any appeal thereof is final.

**11.18 Appeals for Manager and Manager's Affiliates.** The Manager and the Manager's Affiliates and their Related Persons may appeal any of the following Commission actions: (a) imposition of a fine on Manager, Manager's Affiliate or Related Person; (b) denial of an Application for a License of Manager, Manager's Affiliate or Related Person; or (c) suspension, revocation, or imposition of conditions on a License of Manager, Manager's Affiliate, or Related Person after an administrative hearing pursuant to Sections 11.12(b) or 11.13(b) of this Ordinance (each, a "Manager Adverse Commission Action"). For purposes of this Section 11.18, any of the Manager, Manager's Affiliates or Related Person requesting an appeal are referred to as a "Manager Aggrieved Person." Any Manager Adverse Commission Action must be communicated by the Commission to the Manager Aggrieved Person in writing. Within ten business days after the Commission's written notice of the Manager Adverse Commission Action is received, the Manager Aggrieved Person must send written notice of appeal by certified mail, return receipt requested, to the attention of the Executive Director at the Commission office. The Manager Aggrieved Person and the Executive Director shall meet and confer in a good faith attempt to resolve the dispute through negotiation not later than ten days after receipt of the notice by the Executive Director, unless both parties agree in writing to an extension of time. The Manager Aggrieved Person may request that the dispute be settled by de novo binding arbitration under the commercial arbitration rules of the AAA. The arbitration shall be conducted pursuant to Section 11.19. Should any Manager Aggrieved Person inadvertently miss a deadline under this Section 11.18 by a period not to exceed three business days, such missed deadline shall not be considered a bar to the Manager Aggrieved Person's right to appeal the Manager Adverse Commission Action.

In an arbitration involving a Manager Aggrieved Person, any party to the arbitration dissatisfied with the decision of the arbitration panel may at that party's election request that the decision be reviewed through de novo binding arbitration by a different arbitration panel under the commercial arbitration rules of the AAA ("Manager Arbitration Appeal"). The Manager Arbitration Appeal shall be conducted pursuant to Section 11.19.

For purposes of this Section 11.18, the Commission will stay the effects of any Manager Adverse Commission Action, other than the temporary suspension of a Related Person license held by an individual pursuant to Section 11.13, from the time that a Manager Aggrieved Person requests an administrative hearing pursuant to Sections 11.12(b) or 11.13(b) until the time that the arbitration decision or any appeal thereof is final.

11.19 *Arbitration.* Arbitration shall be conducted before a panel of three arbitrators selected as follows: within ten business days following the date on which a list of arbitrators is provided by the AAA, the Aggrieved Major Vendor or Manager Aggrieved Person, as applicable, and the Commission shall each select an arbitrator from such list and so advise the AAA and the other party ("Arbitrator Selection Notice"). Each party will disclose in such Arbitrator Selection Notice the name, qualifications, past experience and any other information that the disclosing party reasonably believes could form the basis of any conflicts or reasons for disqualification. The other party will have three calendar days from the Arbitrator Selection Notice to lodge any objections. If any objections are lodged, the parties will promptly attempt in good faith to remediate any such objections. If the parties cannot remediate the objections, the arbitrator subject to the objection will be withdrawn and a new arbitrator will be promptly identified and vetted in accordance with these same procedures. Within fifteen calendar days after the selection of the two arbitrators is completed, such two arbitrators shall select a third arbitrator, who shall chair the arbitration panel.

Any arbitrator identified and appointed by the parties shall be impartial, shall have significant experience in federal Indian law and the legal issues surrounding the gaming industry and shall be generally willing and available to attend any hearing in San Diego County, California. The arbitrator will not be a current or former employee, agent, or consultant of either party or any of its current or former Affiliates, joint ventures, or subsidiaries. Notwithstanding the foregoing, if any arbitrator appointed by a party is disqualified by the AAA subsequent to his or her appointment because of a conflict of interest, the party who appointed such arbitrator shall be given five business days from the date of such disqualification to appoint a replacement arbitrator. The disqualification of any arbitrator appointed by a party to the arbitration shall not affect the prior appointment of the chair of the arbitration panel and the chair shall continue to serve.

Depositions may be taken and discovery obtained in arbitration proceedings in the manner provided in Section 1283.05 of the California Code of Civil Procedure, provided that no discovery authorized by that section may be conducted without leave of the arbitration panel. The arbitration panel shall determine whether the Adverse Commission Action was arbitrary, capricious, an abuse of discretion or inconsistent with law or policy, because, by way of example and not by way of limitation, the Commission failed to adopt written findings, the findings are not supported by substantial evidence in light of the whole record, the findings do not support the Commission's determination, or the Commission failed to proceed in the manner required by law. If the arbitration panel determines that the Adverse Commission Action was arbitrary, capricious, an abuse of discretion or inconsistent with law or policy, the arbitration panel shall adopt written findings and remand the matter to the Commission for reconsideration of its determination consistent with the arbitration panel's written findings. If necessary, the arbitration panel may direct the Commission to issue a License to the Aggrieved Major Vendor or Manager Aggrieved Person, as applicable, which License may contain such limitations as the arbitration panel determines are appropriate. The arbitration panel will have no power to award

damages. The decision of the arbitration panel shall be in writing and shall provide reasons for the decision.

The cost and expenses of such arbitration shall be initially borne by the Aggrieved Major Vendor or Manager Aggrieved Person, as applicable, but the arbitration panel shall award to the substantially prevailing party its costs and expenses, including costs of the arbitration and arbitration panel.

11.20 *Reconsideration.* In the event the Commission suspends, conditions, revokes, terminates or fails to renew a License after an administrative hearing or appeal, and such Person is thereafter able to obtain a license or determination of suitability from a state gaming agency, such Person shall have a right to request that the Commission reconsider its prior determination. In such event, the Commission shall promptly reconsider its prior determination in good faith.

## **12. Gaming Facility License**

12.1 *Compliance with Applicable Standards.* The construction and maintenance of any Gaming Facility, and the operation of Gaming Activities, shall be conducted in a manner which adequately protects the environment and the public health and safety, and shall comply with requirements of the Gaming Compact and all other applicable health, safety, and environmental standards.

12.2 *Licensing Requirement.* The Commission is responsible for licensing the Gaming Facility located on the Indian Lands after receiving information regarding the following:

- (a) The Gaming Facility meets all applicable health and safety standards.
  - (1) To show compliance with applicable health and safety standards, Senior Gaming Management shall submit certified copies of Compliance Certificates.
  - (2) If health and safety standards are not met, proof must be submitted by Senior Gaming Management of the process of improvements which will place the Gaming Facility in compliance with the applicable standards.
- (b) The Commission shall forward all Compliance Certificates to the State Gaming Agency within ten days of issuance.

12.3 *Threshold Licensing Criteria.* The Commission may issue a Gaming Facility license if:

- (a) The Gaming Facility is located on Indian Lands;
- (b) The Gaming Activity to be conducted at the Gaming Facility is Class II or Class III Gaming as defined by this Ordinance and IGRA; and
- (c) The Gaming Facility is authorized by a resolution of the Executive Committee.

12.4 *Display of Gaming License.* A current valid Gaming Facility License shall be prominently displayed at each Gaming Facility.

12.5 *License Duration.* A Gaming Facility License shall be issued for a period of two years, and shall be reviewed and renewed, if appropriate, every two years thereafter.

12.6 *Submission of License to NIGC and State Gaming Agency.* The Commission shall submit to the NIGC and the State Gaming Agency a copy of each Gaming Facility License

12.7 *Notice of Illegal Gaming Activity.* If the Commission finds that the Gaming Facility is operating in violation of this Ordinance, or otherwise presents a threat to the public, the Commission shall immediately notify the Executive Committee and the Manager.

### 13. Financial Source License

13.1 *Licensing Process.* Financial Sources shall be licensed by the Commission. If the State by tribal-state gaming compact, rule or other written determination agrees that licensure of a Person as a Financial Source is not necessary or otherwise waives such requirement, then the Commission shall not require licensure of such Person.

13.2 *Exemptions.* The following Persons do not need to file Applications for a Financial Source License:

- (a) Gaming Resource Suppliers. A licensed Gaming Resource Supplier who provides financing exclusively in connection with the sale or lease of Gaming Resources obtained from that supplier shall not be required to obtain a separate Financial Source license.
- (b) A federally regulated or state-regulated bank, savings and loan, or other federally- or state-regulated lending institution;
- (c) Any agency of the federal, state, or local government;
- (d) Any investor who, alone or in conjunction with others, holds less than 10% of any outstanding indebtedness evidenced by Bonds issued by the Tribe.

13.3 *Registration for Holders of Tribal Bonds.* Pursuant to the State Gaming Agency Uniform Tribal Gaming Regulations, including CGCC-1, CGCC-2, any of the following entities that is an actual or prospective holder of any Bond issued by the Tribe may register with the Commission on comparable forms utilized by the State Gaming Agency:

- (a) Any federal-regulated or state-regulated bank or savings association or other federal- or state-regulated lending institution;
- (b) Any company that is organized as an insurance company, the primary and predominant business activity of which is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to supervision by the Insurance Commissioner of California, or a similar official or agency of another state;
- (c) Any investment company registered under the federal Investment Company Act of 1940 (15 U.S.C. § 80a-1 et seq.);



- (d) Any retirement plan established and maintained by the United States, an agency or instrumentality thereof, or by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees;
- (e) Any employee benefit plan within the meaning of Title I of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1001 *et seq.*);
- (f) Any securities dealer registered pursuant to the federal Securities Exchange Act of 1934 (15 U.S.C. § 78a *et seq.*); and
- (g) Any entity, all of the equity owners of which individually meet the criteria of this subsection 13.3.

Registration and renewal of registration under this Section 13.3 shall constitute a finding of suitability in compliance with the Compact.

13.4 *Submission of License to State Gaming Agency.* The Commission shall submit to the State Gaming Agency a copy of each Financial Source License.

13.5 *Application Form and Procedures.* The Commission shall adopt Financial Source Application forms to license Financial Sources. At a minimum, the Financial Source Application form shall contain the following information:

- (a) The name of the Applicant, including any trade name to be used and the Applicant's principal place of business.
- (b) Whether the Applicant is a corporation, limited liability company, limited partnership or privately-held business entity, including the state in which the Applicant is organized and a general description of the nature of the Applicant's principal business.
- (c) The name, telephone number and mailing address for the contact person responsible for the Applicant's accounts payable and billing information.
- (d) The tax reporting status of the Applicant.
- (e) A list of all Persons that directly hold more than 10% of the ownership interests of the Applicant.
- (f) A list of the Applicant's officers and directors.
- (g) If a publicly-traded company, the Applicant's ticker symbol and a list of all exchanges on which the Applicant's shares are traded
- (h) A list of any state or federal government agencies by which the Applicant is regulated.
- (i) A list of any gaming licenses held by the Applicant.

An Applicant for a Financial Source License will be required to provide evidence that the Applicant is eligible for licensure as a Financial Source (if applicable), and a statement committing the Applicant to notify the Commission and the State Gaming Agency promptly of any termination of the Applicant's eligibility as a Financial Source.

13.6 *Financial Source Application Forms and Procedures – Individual.* The Financial Source Application form for individuals shall contain the following information:

- (a) The Applicant's full name, including all other names used (oral or written), current home and work addresses and telephone numbers, gender, Social Security Number, place of birth, date of birth, citizenship, marital information, educational and military background and driver's license number(s) and the addresses of his or her residences over the past five years.
- (b) The names, current addresses, and telephone numbers of three references who are not related to the Applicant and who were acquainted with the Applicant when the Applicant resided at each of the addresses listed under paragraph (a) above.
- (c) A list of the Applicant's current and previous jobs over the preceding five years, including the names, addresses, and telephone numbers of his or her employers, and the positions held.
- (d) A statement as to whether the Applicant has had any past employment with, or ownership interest in, any gaming-related business. If so, the Applicant shall provide a written statement describing his or her position, the dates during which the position was held, a description of the Applicant's ownership interest (when applicable), job responsibilities, the name, address, and telephone number of the business, and the name and address of an individual who can attest to the accuracy of the information provided.
- (e) A list of all gaming-related licenses for which the Applicant has applied, whether or not those licenses were granted, whether any disciplinary actions (including fines or temporary suspensions) were taken with respect to such gaming-related licenses, and the name, address and telephone number of the regulatory agencies involved.
- (f) A list of all professional and business licenses for which the Applicant has applied, whether or not those licenses were granted, and the name, address and telephone number of the regulatory agency involved.
- (g) A complete disclosure of any pending civil or criminal action against the Applicant, including the name, and address of the police department and court involved.
- (h) A statement as to whether or not the Applicant has ever been charged with a crime and if so, the charge, the name and address of the court involved, the final disposition of the case, and the date of final disposition.
- (i) A disclosure of any civil or criminal judgments rendered against the Applicant, including the case number, a description of the judgment, and the name and address of the court involved.

13.7 *Reliance on Previously Issued License.* In lieu of completing its own background investigation, and to the extent that doing so does not conflict with or violate IGRA or the Compact, the Commission may contract with the State Gaming Agency for the conduct of background investigations, may rely on a state finding of suitability previously issued under a gaming compact involving another tribe, or may rely on a State gaming license previously issued to the Applicant, to fulfill some or all of the Commission's background investigation obligation.

13.8 *Duration; Renewal Process.* A Financial Source License shall be issued for a period of two years, and shall be renewed every two years thereafter. Applicants for a renewal of a Financial Source License shall provide to the Commission updated materials, as requested, on the appropriate renewal Applications. Applicants for a renewal shall not be required to resubmit historical data already available to the Commission. Additional background investigations shall not be required of Applicants for a renewal unless the Commission determines, based upon the disclosure or discovery of new information, that there is a need for further information concerning the Applicant's continuing eligibility for a License.

13.9 *Dispute Resolution.* Any Person aggrieved by a final decision of the Commission to grant, or deny an Application for a Financial Source License, or to suspend or revoke a Financial Source License may utilize the dispute resolution procedures set forth in Sections 11.16 and 11.17, as applicable.

#### **14. Gaming Resource Supplier License**

14.1 *Licensing Process.* Any Gaming Resource Supplier who provides, has provided, or has an agreement to provide at least \$25,000 in Gaming Resources in any twelve month period, or who has received as compensation for providing Gaming Resources to the Gaming Facility or Gaming Operation valued at \$25,000 or more in any consecutive twelve month period within the twenty-four month period immediately preceding application, shall be licensed by the Commission prior to the sale, lease, or distribution of any such Gaming Resources to the Gaming Facility or Gaming Operation.

14.2 *Submission of License to State Gaming Agency.* The Commission shall submit to the State Gaming Agency a copy of each Supplier License.

14.3 *Application Forms and Procedures.* The Commission shall adopt:

- (a) Manager Application forms consistent with the standards set forth in Sections 13.5 and 13.6 for Financial Source and Financial Source – Individuals.
- (b) Major Gaming Resource Suppliers Application forms consistent with the standards set forth in Sections 13.5 and 13.6 for Financial Source and Financial Source – Individuals.
- (c) Gaming Resource Supplier Application forms for Gaming Resource Suppliers that are not Major Gaming Resource Suppliers consistent with the forms and procedures utilized by the State Gaming Agency for Gaming Resource Suppliers.

All Supplier License Application forms shall, at a minimum, require the name of the Applicant, the address of the Applicant's principal place of business, and evidence that the Applicant is eligible for licensure as a Gaming Resource Supplier.

14.4 *Exemptions.* The Commission may exclude Providers of Non-Gaming Services from the Supplier License requirement (a) if the Providers of Non-Gaming Services provide services or purvey equipment or furniture that is not specifically designed for, and is distributed generally for use other than in connection with, Gaming Activities, (b) if the Provider of Non-Gaming Services does not additionally provide Gaming Equipment to the Gaming Facility or Gaming Operation, (c) if the compensation received by the Provider of Non-Gaming Services is not grossly disproportionate to the value of the goods or services provided, and (d) if the Provider of Non-Gaming Services is not otherwise a Person who exercises a significant influence over the Gaming Operation. The Commission may adopt separate Application forms and procedures to license or otherwise register Providers of Non-Gaming Services than those used by Gaming Resource Suppliers.

14.5 *Manager Licensing Process.* The Manager and those Affiliates and Related Persons required to be licensed pursuant to Section 16 of this Ordinance shall submit Applications to the Commission in the manner provided within Section 14.3(a) within 120 days of submission of a Management Agreement to the NIGC. The Commission shall, after its background investigation of such Applicant, render a decision as to whether such Applicant is eligible for licensure within 120 days of receipt of the aforementioned Applications.

The Commission shall not delay, deny, suspend, condition, revoke, terminate or fail to renew a License that has been issued to the Manager or a Manager Affiliate based upon the following:

- (a) any matter, condition or circumstance, other than those specified in Section 11.12(a);
- (b) any matter, condition or circumstance which has been corrected or cured;
- (c) any breach or alleged breach of a Management Agreement or Definitive Agreement;
- (d) the unsuitability, action or omission of any Person if the Manager or Affiliate, as the case may be, promptly removes such Person from any duties or responsibilities which require such Person to apply for or obtain a License from the Commission, unless the Manager or Affiliate, as the case may be, has engaged in a pattern of gross negligence and lack of oversight of Persons who have engaged in theft, misappropriation, misuse or abuse of Tribal assets.

14.6 *Reliance on Previously Issued License.* In lieu of completing its own background investigation, and to the extent that doing so does not conflict with or violate IGRA or the Compact, the Commission may contract with the State Gaming Agency for the conduct of background investigations, may rely on a state finding of suitability previously issued under a gaming compact involving another tribe, or may rely on a State gaming license previously issued to the Applicant, to fulfill some or all of the Commission's background investigation obligation.

14.7 *Duration; Renewal Process.* A Supplier License shall be issued for a period of two years, and shall be reviewed and renewed, if appropriate, every two years thereafter. Applicants for a renewal of a Supplier License shall provide to the Commission updated materials, as requested, on the appropriate renewal Applications. Applicants for a renewal shall not be required to resubmit historical data already available to the Commission. Additional background investigations shall not be required of Applicants for a renewal unless the Commission determines, based upon the disclosure or discovery of new information, that there is a need for further information concerning the Applicant's continuing eligibility for a License.

14.8 *Dispute Resolution.* Any Person aggrieved by a final decision of the Commission to grant, or deny an Application for a Supplier License, or to suspend or revoke a Supplier License may utilize the dispute resolution procedures set forth in Section 11.16, 11.17 or 11.18, as applicable.

## **15. Fees**

15.1 *License and Application and Renewal Fees.* The Commission shall establish a fee schedule for Applications and License renewals. Unless specifically waived by the Commission, all Persons applying for a License shall be required to pay application and investigation fees when due, including a reasonable deposit for costs that may be incurred in connection with the License investigation. Estimates of investigation costs will be provided to Applicants upon request. The Commission will set the Application fees and any applicable License renewal fees at amounts reflecting the actual cost to the Commission of enforcing this Ordinance and conducting investigations.

## **16. Entities**

16.1 *Licensing Criteria.* For Applicants who are business entities, the licensing provisions of this Ordinance shall apply to the entity as well as:

- (a) each of its officers and directors;
- (b) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, and general manager;
- (c) each of its owners or partners, if an unincorporated business;
- (d) each of its shareholders who owns more than 10% of the shares of the corporation, if a corporation, or members who own more than a 10% membership interest of the limited liability company, if a limited liability company; and
- (e) Each Person (other than a Financial Source exempt under Section 13.2 of this Ordinance) that, alone or in combination with others, has provided financing in connection with any Gaming Activity at the Gaming Operation, if that Person provided more than 10% of:
  - (1) the start-up capital;
  - (2) the operating capital over a 12-month period; or



- (3) a combination thereof.

For purposes of this Section, where there is any commonality of the characteristics identified in (a) through (e) inclusive between any two or more entities, those entities may be deemed to be a single entity.

**16.2 Institutional Investor.** In the event an Institutional Investor directly or indirectly holds shares of a corporation or membership interests in an Applicant or Licensee or parent company of an Applicant or Licensee through its Affiliates, then such Institutional Investor shall not be required to submit an Application unless such Institutional Investor indirectly holds, through its Affiliates, more than 25% of the issued and outstanding shares or membership interests of an Applicant or Licensee or parent company of an Applicant or Licensee.

## **17. Games**

**17.1 Who May Not Play.** It is the policy of the Tribe that particular Gaming Personnel, governmental officials and independent contractors may not participate in Gaming Activities conducted at the Gaming Facility. At a minimum, members of the Executive Committee, the Commission, the Executive Director, and members of Senior Gaming Management may not participate in any Gaming Activity on the Tribe's Indian Lands. Senior Gaming Management shall develop and maintain a standard operating procedure that identifies other positions and any applicable restrictions on Gaming Activity conducted at Tribal Gaming Facilities on file with the Commission.

**17.2 Patron Disputes.** Any Patron of the Gaming Facility who has a dispute, disagreement or other grievance that involves any Gaming Activity offered at the Gaming Facility shall have their dispute resolved in the following manner.

- (a) Any Patron with a Gaming dispute shall be notified of the Patron's right to submit a written statement of the facts or circumstances surrounding the dispute with Senior Gaming Management. Such written statement must be submitted within five days of the day on which the dispute occurred. Senior Gaming Management shall have five days to provide a written response to the Patron. If the dispute is not resolved to the satisfaction of the Patron, the Patron has the right to contact the Commission to resolve the dispute within thirty days of the day on which the dispute occurred. If the Patron contacts the Commission to resolve the dispute, Senior Gaming Management will provide to the Commission copies of the Patron's statement and Senior Gaming Management's response.
- (b) All disputes which are submitted to the Commission for resolution shall be decided by the Commission based on information provided by the Patron and Senior Gaming Management. The decision of the Commission shall be in writing copied to the Patron and to Senior Gaming Management, and shall be issued within fifteen days of submission of the matter to the Commission. The decision of the Commission regarding any Patron dispute shall be final and shall not be subject to further review by any court in any jurisdiction.

## 18. Miscellaneous

18.1 *Gaming Rules.* Gaming operated under this Ordinance shall be consistent with the Compact and any amendments thereto.

- (a) All rules, Regulations and procedures for Games, including the method of play and the odds and method of determining amounts paid to winners, shall be approved and maintained by the Commission.
- (b) Information regarding betting limits, the method of play, odds and payoff determinations shall be visibly displayed or available to Patrons in written form in the Gaming Facility.

18.2 *Use of Net Gaming Revenues.* Net Revenues from the Gaming Operation may only be used for the following purposes: (a) to fund Tribal government operations or programs; (b) to provide for the general welfare of the Tribe and its members; (c) to promote Tribal economic development; (d) to donate to charitable organizations; and (e) to help fund operations of local government agencies.

18.3 *Minimum Internal Control Standards.* The Commission shall promulgate Regulations for the minimum internal control standards of the Gaming Operation. The minimum internal control standards shall:

- (a) Contain standards for currency transaction reporting that comply with 31 CFR Part 103; and
- (b) Establish internal control standards for all Class II and Class III Gaming Activities consistent with the requirements of this Ordinance, IGRA, the Compact, and the State Gaming Agency's Uniform Tribal Gaming Regulations.

The Commission shall require the Gaming Operation to implement a system of internal controls which complies with the minimum internal control standards adopted by the Commission. The Commission shall monitor and enforce compliance with the minimum internal control standards adopted by the Commission.

18.4 *Annual Audit.* An annual audit of the Gaming Operation shall be conducted by an independent, certified public accounting firm in accordance with the auditing and accounting standards for audits of casinos of the American Institute of Certified Public Accountants. Copies of the annual audit will be provided to the Executive Committee, the Commission and Senior Gaming Management. The Commission shall submit the annual audit to the NIGC upon receipt. All gaming related contracts for supplies, services, or concessions in excess of twenty-five thousand dollars (\$25,000) shall be included in the scope of this audit. Contracts for legal services and accounting services are exempt from this requirement.

18.5 *Commission Right to Conduct Audits.* The Commission may require audits of the financial statements of the Gaming Operation and of any Gaming Activity. The Commission shall require such audits to occur when necessary to ensure the integrity, security, honesty and fairness of the Gaming Operation and all Gaming Activity. The Commission shall take reasonable steps to coordinate the timing of these audits with the annual audit, provided that the

Commission may require audits to occur at other times if necessary to preserve the assets of the Tribe or ensure the integrity, security, honesty and fairness of the Gaming Operation or any Gaming Activity. Such audits may:

- (a) Be made by an independent CPA authorized to practice public accounting in the State of California;
- (b) Include an opinion (qualified or unqualified), or if appropriate, disclaim an opinion on the financial statements taken as a whole in accordance with standards of the accounting profession established by rules and requirements of the California State Board of Accountancy and the American Institute of Certified Public Accountants;
- (c) Disclose whether the accounts, records and control procedures maintained by the Gaming Operation are as required by the Compact, Ordinance or Regulations; and
- (d) Provide for a review of the Gaming Operation's system of internal controls to disclose any deviation from prescribed rules, requirements, or industry practice and report such finding to the Commission and Senior Gaming Management.

18.6 *Gaming Device Technical Standards.* The Commission shall adopt technical standards and specifications for the operation of Gaming Devices and other games consistent with the Compact and any amendments thereto.

18.7 *Exclusion or Ejection of Individuals.* The Commission shall provide for the establishment of a list of individuals who are to be excluded or ejected from the Gaming Facility. The list shall include any individual whose presence in the Gaming Facility is determined by the Commission to pose a threat to the integrity of Gaming Operation, a threat to the health, safety or welfare of Gaming Personnel or Patrons, interests of the Tribe, or State of California. Race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age, or sexual orientation must not be grounds for placing the name of an individual on the list. The Commission shall promulgate Regulations providing due process to any individual whose name the Commission is considering placing on the exclusion list. It shall be a violation of this Ordinance for any Licensee to knowingly fail to exclude or eject from a Gaming Facility any individuals placed on the exclusion list. It shall be a violation of this Ordinance for any individual whose name appears on the exclusion list to enter into or engage in any Game at the Gaming Facility.

18.8 *Emergency Evacuation and Preparedness Plans.* For the purpose of ensuring the physical safety of the Gaming Operation and its Patrons and Gaming Personnel, and any other individuals present in the Gaming Facility, the Commission shall develop and implement an Emergency Evacuation and Preparedness Plan in compliance with the State Gaming Agency's Uniform Tribal Gaming Regulations.

18.9 *Minors.* The Gaming Operation shall not permit individuals under the age of 18 to be present in any room in which Gaming Activities are being conducted unless the individual is enroute to a non-Gaming area of the Gaming Facility. The Gaming Operation shall prohibit individuals under the age of 21 to be present in any area in which Gaming Activities are being conducted and in which alcoholic beverages may be consumed, unless the individual is en route to a non-Gaming area of the Gaming Facility.

18.10 *Severability.* Should a provision of this Ordinance or the application of a provision of this Ordinance be determined to be invalid, the invalidity shall not affect the other provisions of this Ordinance.

18.11 *Repeal.* This Ordinance shall repeal and supersede all previous Gaming ordinances adopted by the Tribe. This Ordinance shall also repeal and supersede all other Tribal policies, regulations, rules, motions, memoranda, and other similar acts which are inconsistent with this Ordinance. Specifically, the Jamul Indian Village Class II Gaming Ordinance, adopted on August 3, 1993, approved by the NIGC on January 4, 1994, notice of which was published in the Federal Register on January 29, 1999, is repealed by this Ordinance.

18.12 *Amendments.* All provisions of this Ordinance are subject to amendment by the Executive Committee. All amendments to this Ordinance shall be effective upon the date of passage by the Executive Committee and approval by the Chairman of the NIGC. In the event that the Tribe or the Commission enact any law, ordinance or regulation (including amendments to this Ordinance) which is more stringent or burdensome than applicable federal or State legal requirements or the terms of the Compact, then the provisions of this Ordinance shall apply to the Manager and its Affiliates, and any new or amended provision shall not apply to any action or determinations of the Commission, unless such new or amended law, ordinance or regulation is required by IGRA or is agreed to by the Manager.

18.13 *Effective Date.* This Ordinance shall take effect immediately upon its approval by the Chairman of the NIGC.