



September 19, 2016

BY FIRST-CLASS MAIL
and E-MAIL: RReich@muckleshoot.nsn.us

Richard Reich, Tribal Attorney
Muckleshoot Indian Tribe
39015 172nd Avenue S.E.
Auburn, Washington 98092-9763

Re: Amended Tribal Gaming Ordinance of the Muckleshoot Indian Tribe

Dear Mr. Reich:

This letter responds to your request on behalf of the Muckleshoot Indian Tribe for the National Indian Gaming Commission to review and approve the Tribe's amended gaming ordinance.

The amended gaming ordinance was adopted on July 8, 2016 by Muckleshoot Tribal Council Ordinance No. 16-167 (*Ordinance to Amend and Reenact the Muckleshoot Gaming Ordinance*). Because the Tribe's existing gaming ordinance was last amended on April 19, 2002, and changes were made to the regulatory requirements in the interim, the ordinance was amended to comply with those regulations.

Thank you for submitting the amended gaming ordinance for review and approval. As it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations, the amended gaming ordinance is approved. If you have any questions, please feel free to contact Armando Acosta, Senior Attorney, at 202-632-7003.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonodev O. Chaudhuri".

Jonodev O. Chaudhuri
Chairman



MUCKLESHOOT TRIBAL COUNCIL

39015 172nd Avenue S.E. • Auburn, Washington 98092-9763
(253) 939-3311 • Fax (253) 931-8570



ORDINANCE NO. 16-167

ORDINANCE TO AMEND AND REENACT THE MUCKLESHOOT GAMING ORDINANCE

WHEREAS, the Muckleshoot Indian Tribal Council is the duly constituted governing body for the Muckleshoot Indian Reservation by the authority of, and is herein acting solely pursuant to, its constitution and by-laws approved May 13, 1936, by the Secretary of the Interior, as amended June 28, 1977, and not pursuant to its Indian Reorganization Act Corporate Charters; and,

WHEREAS, on March 11, 2016, the Tribal Council enacted Ordinance No. 16-068 amending the Muckleshoot Gaming Act of 1992, effective upon approval of the Ordinance by the Chairman of the National Indian Gaming Commission pursuant to 25 U.S.C. §2710 and 25 C.F.R. part 522, and,

WHEREAS, the Tribe has withdrawn its request for approval of Ordinance No. 16-068 by the Chairman of the National Indian Gaming Commission pending consideration of further amendments to the Gaming Act of 1992; and,

WHEREAS, the Muckleshoot Gaming Commission has recommended that the Tribal Council adopt further technical amendments to the Gaming Ordinance to insure compliance with National Indian Gaming Commission regulations implementing the Indian Gaming Regulatory Act;

NOW THEREFORE BE IT ENACTED by the Tribal Council of the Muckleshoot Indian Tribe that the Muckleshoot Gaming Act of 1992 is hereby amended and reenacted in its entirety as set forth in the attachment hereto, as Chapter 11.04 of the Muckleshoot Tribal Code which shall be titled the Muckleshoot Gaming Ordinance; and,

BE IT FURTHER RESOLVED, that this Ordinance supersedes Ordinance No. 16-068; and,

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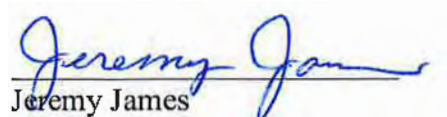
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Ordinance No. 16-167
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BE IT FURTHER RESOLVED, that this reenacted Muckleshoot Gaming Ordinance shall be effective upon approval of the Ordinance by the Chairman of the National Indian Gaming Commission pursuant to 25 U.S.C. §2710 and 25 C.F.R. part 522.

CERTIFICATION

As Secretary of the Muckleshoot Indian Tribal Council, I hereby certify that the above ordinance was adopted at a regular meeting of the Tribal Council on the 8th day of July, 2016, held on the Muckleshoot Indian Reservation, Auburn, WA, at which a quorum was present by a vote of 4 for, 0 against, and 1 abstentions.


Jeremy James
Secretary


Virginia Cross
Chairperson

TITLE 11. COMMERCE

Chapter 11.04

MUCKLESHOOT GAMING ORDINANCE*

Sections:

- 11.04.010 Title.
- 11.04.020 Findings and Policy.
- 11.04.030 Definitions.
- 11.04.040 Ownership of Gaming.
- 11.04.050 Establishment of Gaming Commission.
- 11.04.060 Permitted Gaming Activities.
- 11.04.070 Gaming Revenues.
- 11.04.080 Operation of Gaming Establishments.
- 11.04.090 Audits.
- 11.04.100 Contracts.
- 11.04.110 Licenses.
- 11.04.120 Application Forms.
- 11.04.130 Class III Gaming; Tribal-State Compacts.
- 11.04.140 Interest in Management Contracts by Tribal Officials.
- 11.04.150 Service of Process.
- 11.04.160 Tribal Gaming Corporation.
- 11.04.170 Repeal of Prior Gaming Act; Effective Date.
- 11.04.180 Severability.
- 11.04.190 Amendments.
- 11.04.200 Sovereign Immunity Preserved.

11.04.010 Title. The Muckleshoot Indian Tribe, a federally recognized Indian Tribe ("Tribe") hereby enacts the following Ordinance to amend the Muckleshoot Gaming Act of 1992, as Amended. This amended Act shall be known as the "MUCKLESHOOT GAMING ORDINANCE" ("Ordinance").

11.04.020 Findings and Policy.

This Ordinance is adopted by the Tribal Council, pursuant to its authority granted under the Tribe's Constitution, for the purpose of regulating gaming on the Reservation for tribal governmental, charitable, and other purposes, and to develop and operate such gaming consistent with the findings herein and in conformity with the federal Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.* ("IGRA")) and regulations promulgated thereunder.

* This ordinance was adopted from Ordinance No. 16-____, enacted _____, 2016, approved by the National Indian Gaming Commission, _____, 2016.

The Tribe finds that:

(a) Gaming on its Reservation is a valuable means of generating revenue that is needed for the support of the Tribe's government, to promote tribal self-sufficiency, economic development, employment, job training, and a strong tribal government, and to fund and ensure essential social programs and services;

(b) The Tribe desires to conduct certain forms of gaming to provide needed revenues for the Tribe, and to regulate and control such gaming in a manner that will protect the environment, the Reservation, the health, security and general welfare of the Tribe, the players, and the community; and

(c) The Tribe shall own all Class II and Class III gaming on lands subject to the Tribe's jurisdiction, and manage and regulate all gaming in a manner that will adequately address such special interests and needs of the Tribe.

11.04.030 Definitions.

Unless specified otherwise, terms used herein shall have the same meaning as in IGRA, including but not limited to references to "Net Revenues," "Class I," "Class II," and "Class III" gaming, except for references to "Commissioners", "Commission", or "Gaming Commission" which shall mean the Muckleshoot Gaming Commission or its Commissioners, established and described herein.

(a) "Closely Associated Independent Contractor" shall mean any contractor that shares common ownership, officers or Directors with any management principal or person related thereto.

(b) "Gaming" shall mean an activity in which a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event, not under his or her control or influence, upon an agreement or understanding that the person, or someone else, will receive something of value in the event of a certain outcome, but shall not include bona fide business transactions.

(c) "Gaming Activities" shall mean any Class I, Class II, or Class III gaming activity conducted by or under the jurisdiction of the Tribe, and shall include all activities of a Gaming Enterprise subject to the jurisdiction of the Tribe regardless of its nature.

(d) "Gaming Commission" shall mean the Muckleshoot Gaming Commission, as established herein to regulate and monitor Gaming Activities, investigate wrongdoing, conduct background investigations, issue licenses, and perform other duties as required for the regulation of Gaming on the Reservation.

(e) "Gaming Contractor" shall mean any person or entity that supplies gaming devices or gaming equipment, personnel, or services (including gaming management or consulting services) to any gaming activity or enterprise.

(f) "Gaming Enterprise" shall mean any gaming business, event, enterprise or activity conducted by or under the jurisdiction of the Tribe.

(g) "Immediate Family" shall mean and is limited to, the subject individual's spouse, children, and parents – adopted or biological.

(h) "Key Employee" shall mean a person who performs one or more of the following functions: bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, pit boss, dealer, croupier, approver of credit, or custodian of gaming devices including those persons with access to cash and accounting records within such

devices. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year, and the four (4) most highly compensated persons in the Gaming Enterprise are included in the definition of key employees. At the discretion of the Gaming Commission, other positions or persons may be included under and subject to the requirements for key employees.

(i) "National Indian Gaming Commission" ("NIGC") shall mean the Commission established under IGRA.

(j) "Person" shall mean any natural person or entity, including but not limited to corporations, partnerships and trusts.

(k) "Primary Management Official" shall mean the person who has management responsibility for a management contract; any person who has authority to hire and fire employees or to set up working policy for a Gaming Enterprise; or the chief financial officer or other person who has financial management responsibility. At the discretion of the Gaming Commission, other positions or persons may be included under and subject to the requirements for primary management officials.

(l) "Related to" shall refer to persons who are related as a father, mother, sister or brother.

(m) "Reservation" shall mean all lands under the jurisdiction and control of the Tribe.

(n) "State" shall mean the State of Washington.

(o) "Tribal Council" shall mean the governing body of the Tribe, as set forth in the Tribe's Constitution and Bylaws.

(p) "Tribal Court" shall mean any court established by the Tribe to hear disputes or, if there is none, the Tribal Council.

(q) "Tribal Gaming Agency" shall mean the administrative body of the Gaming Commission delegated to carry out regulatory functions.

(r) "Tribal Member" shall mean any duly enrolled member of the Tribe.

(s) "Vendor" shall mean any supplier, manufacturer, distributor, investor or any such entity doing business with a gaming enterprise.

11.04.040 Ownership of Gaming.

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of Class II and Class III gaming authorized by this Ordinance.

11.04.050 Establishment of Gaming Commission.

(a) There is established by the Tribe a Commission, acting under the authority of the Tribe, to be known as the Muckleshoot Gaming Commission. The Gaming Commission shall be composed of five (5) members of the Muckleshoot Tribe, all of whom shall be appointed by the Tribal Council. One (1) of the five (5) Gaming Commission members may be appointed from the Tribal Council.

(b) Disqualifications for Office. The following persons may not serve as Commissioners:

(1) Employees of any Gaming Enterprise on the Reservation;

(2) Except as provided in Section 11.04.050(a) above, members of the Tribal Council are not eligible to serve on the Gaming Commission during their term on the Tribal Council;

- (3) Persons related to any Gaming Contractor (including any principal thereof or Closely Associated Independent Contractor);
- (4) Persons who would not be eligible to be officers of the Tribe pursuant to the Tribe's Constitution and Bylaws; and,
- (5) Persons who due to criminal history or other reason do not meet the qualifications for issuance of an Employee gaming license.

(c) Terms of Office. The Commissioners shall serve for three (3) year terms, commencing on May 1 and ending on April 30, provided a Tribal Council member on the Gaming Commission shall serve only so long as he or she is also serving on the Tribal Council. Commissioners appointed to fill a vacancy that occurs prior to the end of a Commissioner's term of office shall be appointed for the remaining term of the vacant position. Upon expiration of a Commissioner's term of office, a Commissioner shall continue in office until a replacement has been appointed by the Tribal Council. The term of office of Commissioners holding office as of the effective date of this revised Ordinance that do not expire on April 30 shall be extended until April 30 immediately following the scheduled end of the Commissioner's term of office.

(d) Removal from Office. Commissioners may only be removed from office before the expiration of their terms by the Tribal Council for neglect of duty, malfeasance or other good cause shown, including but not limited to, failure to meet the qualifications for issuance and retention of a Employee gaming license. The procedure for removing a Commissioner shall be the same as for removing a member of the Tribal Council.

(e) Quorum. Three (3) members of the Gaming Commission shall constitute a quorum.

(f) Officers and Duties. A Tribal Council member representative on the Gaming Commission shall serve as Gaming Commission Chairman. In the event that a Tribal Council representative is not a member of the Gaming Commission, the Tribal Council shall select a member of the Commission to serve as Gaming Commission Chairperson. The Gaming Commission shall select, by majority vote, a Vice-Chairperson and Secretary. The Chairperson shall preside over meetings of the Gaming Commission and the Vice-Chairperson shall preside in absence of the Chairperson. The Secretary shall record in writing the minutes of all Gaming Commission meetings and all official actions taken by the Gaming Commission.

(g) Voting. All actions of the Gaming Commission shall be taken by majority vote. The Commission Chairperson shall vote on any issue only to break a tie vote.

(h) Meetings. Meetings shall be held at least once per month, on the second Tuesday of the month. Any Tribal member may attend Scheduled Meetings. Scheduled Meetings may be changed at any time by the Gaming Commission, with notice of such change to each of the Commissioner and posted prominently at least two (2) business days in advance at the Office of the Gaming Commission. Notice of meetings shall be given in writing to each Commissioner, served by email, first class mail or personal delivery at least two (2) business days prior to such meeting. Additional meetings shall be held as called by the Chairman or by at least three (3) other Commissioners. Meetings may be called at any time, by any means, with unanimous consent of the Commissioners. All Commission discussions, deliberations, and votes taken regarding specific license applications and related background investigations, or any other investigations, and any other matter the Commission deems must be kept confidential in order to preserve the integrity of the Gaming Enterprise or Tribe or to protect the privacy of the applicant, shall be held in Executive Session.

(i) Compensation for Serving; Fringe Benefits; Reimbursement of Expenses.

Commissioners shall be compensated for serving on the Commission at the rate of compensation established by the Tribal Council. Such compensation as established by the Tribal Council may include benefits as provided for other employees of the Tribe. Subject to approval by and in accordance with procedures to be adopted by the Tribal Council, Commissioners shall be reimbursed for expenses incurred in connection with the performance of their Commission duties.

(j) Powers and Duties.

The Gaming Commission shall have the power and duty to:

- (1) Hold such hearings, sit and act at such times and places, summon persons on the Reservation to attend and testify at such hearings, take such testimony, and receive such evidence as the Gaming Commission deems relevant in fulfilling its duties;
- (2) Administer oaths or affirmations to witnesses appearing before the Gaming Commission;
- (3) Hear disputes against the gaming establishment, in accordance with the procedures established in this Ordinance.
- (4) Hire such staff and support services as deemed necessary subject to a budget approved by the Tribal Council.
- (5) Issue such regulations and establish such internal controls, and policies, as it deems appropriate in order to implement the provisions of IGRA, Tribal-State Compact or this Ordinance;
- (6) Promulgate rules for each Class I, Class II or Class III game allowed under this Ordinance; such rules shall govern the conduct of such games; and
- (7) Inspect, examine and monitor Gaming Activities, including the power to demand access to and inspect, examine, photocopy and audit all papers, books and records respecting such Gaming Activities;
- (8) Investigate any suspicion of wrongdoing in connection with Gaming Activities;
- (9) Conduct, or cause to be conducted, such investigations as may be necessary to determine in connection with Gaming Activities, compliance with law or this Ordinance and applicable regulations, internal controls, and operating policies, or any contracts, agreements, goods, services, events, incidents, or other matters related to Gaming Activities;
- (10) Conduct, or cause to be conducted, background investigations regarding any person in any way connected with Gaming Activities and issue licenses to, at minimum, all Key Employees and Primary Management Officials according to requirements at least as stringent as those in 25 C.F.R. parts 556 and 558;
- (11) Implement and administer a system for investigating, licensing and monitoring employees and others connected with Gaming Activities, as described below, including the issuance of licenses to gaming facilities, individuals and entities as required under this Ordinance, Tribal-State Compact and IGRA;
- (12) To the extent required, comply with reporting requirements established under a Tribal-State Compact to which the Tribe is a party and other applicable law, including the IGRA.

(13) Approve all gaming equipment and devices utilized by a Gaming Enterprise; and

(14) Exercise the Tribe's inherent authority to detain persons engaged in criminal conduct at a location at which Gaming Activities subject to this Ordinance are conducted for a reasonable time for the purpose of delivery of such persons to an appropriate governmental authority; and

(15) Carry out such other duties with respect to Gaming Activities on the Reservation as the Tribal Council shall direct.

(k) Annual Reports. On or before January 31st of each year, the Gaming Commission shall provide to the Tribal Council an Annual Report summarizing its activities during the prior twelve (12) month period ending on December 31st, and accounting for all receipts and disbursements. The Tribal Council shall cause copies of the Annual Report to be made available to Tribal Members within thirty (30) days after receipt.

(l) Other Reporting Requirements. As required, the Gaming Commission shall comply with any reporting requirements established under a Tribal-State Compact to which the Tribe is a party, and other applicable law, including the IGRA and regulations promulgated thereunder.

11.04.060 Permitted Gaming Activities.

(a) Unauthorized Gaming Prohibited. All Gaming Activities on the Reservation (whether Class I, II or III) are prohibited except as expressly authorized under this Ordinance.

(1) Class I Gaming. Class I Gaming is hereby permitted to the extent consistent with tribal custom and practice. The Gaming Commission may prohibit and prevent any conduct which is claimed to be Class I gaming if the Gaming Commission finds that such conduct is not in accordance with tribal customs or practices or violates IGRA or any other law.

(2) Class II and Class III Gaming. Class II and Class III gaming on the Reservation is hereby authorized, provided the Tribe has the sole proprietary interest in and responsibility for the conduct of any gaming enterprise. Nothing herein shall prohibit the Tribe from engaging the services of non-tribal persons as employees thereof or engaging any person or entity to provide consulting or other technical assistance, or to manage Gaming Activities pursuant to a management agreement entered into under the provisions of IGRA. Class III gaming shall be conducted in accordance with any tribal-state compact between the Tribe and the State, or any alternative thereto as provided by IGRA. No activity for which a license or permit is required under chapter 9.46 RCW or rule shall be conducted or performed, or allowed to be conducted, played or performed, on any premises unless the operator of, or person conducting or performing, the activity first obtains the appropriate license or permit from the Commission.

11.04.070 Gaming Revenues.

(a) Tribal Property. Except as provided under the terms of an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, all revenues generated from any Class II or Class III gaming activity are the property of the Tribe. Any profits or net revenues from Gaming Activities shall be deposited into the Tribe's general treasury or such other tribal account as the Tribe shall determine. Once part of the treasury such funds shall lose any identity as

gaming revenue except to the extent necessary to identify them as such in order to comply with applicable law. No Tribal Member shall be deemed to have any interest in such profits or net revenues, provided that the Tribal Council may adopt rules for distributing gaming proceeds to Tribal Members on a per capita basis provided such plan meets the requirements of IGRA, 25 U.S.C. § 2710 (b)(3). Payments from general treasury funds to Tribal Members under other tribal programs, including those related to health, welfare, education, elderly care, and housing, shall not be deemed to be per capita payments.

(b) Use of Net Revenues. Net Revenues from Gaming Activities shall not be used for purposes other than:

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

11.04.080 Operation of Gaming Establishments.

(a) Gaming Permitted as Licensed. Except to the extent authorized by an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, Gaming shall only be conducted in tribally owned, operated and licensed facilities pursuant to the provisions of this Ordinance. Such activities shall be conducted in accordance with the terms and conditions of any license issued by the Tribe for such purposes as to each facility before any Gaming may occur therein. Such licenses shall specify the hours of operation, type and scope of Gaming allowed therein, permitted uses of the facility for other activities, rules of conduct for employees and patrons, regulation of alcoholic beverages, food handling and entertainment, and such other matters as the Gaming Commission or the Tribal Council may deem necessary to the conduct of Gaming Activities therein.

(b) Protection of Environment and Public. Any construction or maintenance of any gaming facility, and the operation of gaming therein, shall be conducted in a manner which adequately protects the environment and the public health and safety.

(c) Dispute Resolution. Patrons who have complaints against a gaming establishment, other than tort claims for personal injury or property damage, shall have as their sole remedy the right to file a petition for relief with the Gaming Commission. For such purposes, disputes with any management contractor or its employees shall be made to the Gaming Commission, and such shall be the exclusive remedy for patron complaints. Complaints shall be submitted in writing and, at the discretion of the Gaming Commission, the petitioner may be allowed to present evidence. The Gaming Commission will render a decision in a timely fashion and all such decisions will be final when issued. Any patron having a claim against the gaming establishment or a management contractor or its employees must submit such claim to the Gaming Commission within thirty (30) days of its occurrence. Except to the extent provided herein, all damage suits against any employee, officer, agent, manager or Director of the Tribe or any of its departments or divisions for disputes arising under this Ordinance or regulations promulgated hereunder, are prohibited.

11.04.090 Audits.

Annual outside auditing by a recognized independent accounting firm shall be conducted of each gaming activity and the results thereof reported to the Tribal Council, and, to the extent required by law, the Bureau of Indian Affairs and the National Indian Gaming Commission ("NIGC").

11.04.100 Contracts.

(a) **Audit Requirements.** All contracts for supplies, services, or concessions for a contract amount in excess of twenty-five thousand dollars (\$25,000) annually (except contracts for professional legal or accounting services) relating to Class II or Class III gaming on the Reservation shall be subject to independent audits, and such contracts shall so specify.

11.04.110 Licenses.

(a) **Licensing Requirements.** It is the declared policy of the Tribe that all Gaming Activities be licensed and controlled so as to protect the morals, good order and welfare of Tribal Members and other persons on the Reservation and to preserve the honesty, fairness and integrity of such Gaming Activities. Accordingly, no person shall engage in any Class II or Class III Gaming Activities on the Reservation without an appropriate and valid independent Class II or Class III license issued by the Gaming Commission. Any gaming license which is issued, or finding of suitability or approval by the Gaming Commission, shall be deemed a privilege subject to suspension or revocation. No license shall be issued that would place the Tribe in violation the IGRA and regulations promulgated thereunder and, as applicable, provisions of a tribal-state compact, or of any applicable law.

(b) **Burden on Applicant.** The burden of proving an applicant's qualification to receive any license hereunder is at all times on the applicant. Applicants must accept any risk of adverse public notice, embarrassment or other action which may result from the application process and expressly waive any claim for damages as a result thereof.

(c) **Applicant Claim of Privilege.** An applicant may claim any privilege afforded by law in connection with a gaming license application or investigation, but a claim of privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension or revocation.

(d) **Release of Information.** All persons applying for a license shall agree to release all information necessary in order for the Gaming Commission to achieve its goals under this Ordinance, and to furnish such information to the Bureau of Indian Affairs, the NIGC, or such other governmental agency as may be required by law.

(e) **Types of Licenses.** Two Types of licenses (Employees and Vendors) shall be issued to persons and entities associated with Gaming Activities.

(1) **Employee Licenses.** Before permitting any person to become permanently associated with Gaming Activities as an employee of a gaming facility such person shall obtain an Employee license. Minors shall not be employed as dealers or otherwise to operate or supervise the operations of games, or to serve liquor. The Gaming Commission shall conduct or cause to be conducted a background investigation to determine if such person has:

(a) Any criminal record or any reputation, prior activities, habits or associations which might pose a threat

to the public interest or to the effective regulation of gaming activities.

(b) Anything else in their background which might create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming activities.

Persons who do not meet the above qualifications shall be denied an Employee license.

(2) Vendor Licenses. All gaming vendors and all nongaming vendors exceeding \$25,000 in gross sales per year shall obtain a vendor license and any such persons working for said vendor shall obtain an Employee license. The Gaming Commission shall conduct or cause to be conducted a background investigation to determine if such person has:

(a) Any criminal record or any reputation, prior activities, habits or associations which might pose a threat to the public interest or to the effective regulation of gaming activities.

(b) Anything else in their background which might create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming activities.

Persons who do not meet the above qualifications shall be denied a Vendor license.

(f) Conditional Licenses. For good cause the Commission may impose conditions on any license issued necessary for a license to remain in good standing. Failure to comply with such licensing conditions may result in license suspension or revocation.

(g) License Renewal. Employee licenses shall be subject to renewal at least annually, and may be revoked or suspended upon the occurrence of any act which, if known during the application process, would have tended to disqualify such person for such a license.

(h) Temporary Licenses. Pending completion of an investigation for a license, temporary licenses of no more than ninety (90) days duration may be issued by the Gaming Commission if in its sole discretion it deems it appropriate to do so. Such licenses shall permit the licensee to engage in such activities and pursuant to such terms and conditions as may be specified by the Gaming Commission. Such temporary licenses shall expire ninety (90) days from date of issuance, upon issuance of a regular license, or until an earlier specified expiration date, whichever occurs first.

(i) License Investigations. The Gaming Commission may employ all reasonable means, including the engagement of outside services and investigators and the holding of hearings, to acquire the information necessary to determine whether or not a license should be issued, suspended or revoked. Applicants shall also agree to release all information necessary in order for the Gaming Commission to achieve its goals under this section and to furnish such information to the Bureau of Indian Affairs, the NIGC, or such other agency as may be required by law.

(j) License Fees. Unless specifically waived by the Gaming Commission, all license applicants shall be required to pay all applicable license fees and costs when due, including a reasonable deposit for costs incurred in obtaining information in connection with the license application. Applicants who are Tribal Members will not be charged a license fee or costs. Estimates of licensing costs shall be provided to applicants upon reasonable request. Payment for all fees and costs must be received by the Gaming Commission prior to issuance of the license.

(k) Standards. All persons engaged by or associated with any Gaming Activities on the Reservation shall conduct themselves with honesty, integrity, and with such decorum and manners as may be necessary to reflect positively on the Tribe, its members and the Gaming Activities involved. Any failure to abide by such standards, or any violation of any rule, ordinance, custom or tradition of the Tribe, the Reservation or the Gaming Activities, or the terms or conditions of the license, may be grounds for immediate suspension or revocation of any license issued hereunder.

(l) Appeals. All decisions of the Gaming Commission regarding the issuance or revocation of licenses shall be final and effective when issued. An applicant or licensee whose license is denied, or suspended may, within fifteen (15) days after the date of receipt of a written decision of the Gaming Commission, file a petition with the Gaming Commission requesting a hearing to reconsider the decision, if the Commission did not afford the person a hearing before making its decision. Any Tribal Member who is denied a license by the Gaming Commission may, within sixty (60) days of written notice of such denial, appeal the denial to the Gaming Commission, which shall have the power to reverse its prior decision and order that such license be issued, provided that no such license shall be issued for more than one (1) year, subject to the renewal procedures set forth herein, and provided further that no order of the Gaming Commission that a license be issued shall be valid if such issuance would place the Tribe in violation of any Tribal-State Compact to which the Tribe is a party, or of any applicable law.

(m) Background Investigations.

(1) The Gaming Commission shall request from each Primary Management Official and each Key Employee all of the information specified in subsections (a) through (n) below. Further, each other applicant for an Employee license, except as provided otherwise by the Gaming Commission, shall also submit the information specified in (a) through (n) below. The Gaming Commission reserves the right, at any time, to request additional information either prior to, during, or subsequent to any background investigation.

- (a) Full name, other names used (oral or written), social security number(s), date of birth, place of birth, citizenship, gender, all languages (spoken or written);
- (b) Currently and for at least the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses and drivers license number(s);
- (c) Names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence as listed under subsection (b) above;

- (d) Current business and residence telephone numbers;
- (e) Description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (f) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (g) Name and address of any licensing or regulatory agency with which the person has ever filed an application for a license or permit related to gaming, whether or not such license or permit was granted, and whether such license or permit was ever suspended, revoked, or the subject of disciplinary action;
- (h) For each felony for which there is an on-going prosecution or a conviction: the charge, the name and address of the court involved, and the date and disposition, if any, of the case;
- (i) For each misdemeanor conviction or on-going misdemeanor prosecution (excluding minor traffic violations classified as civil infractions under Washington law) within ten (10) years of the date of the application: the name and address of the court involved, and the date and disposition, if any, of the case;
- (j) For each criminal charge (excluding minor traffic charges classified as civil infractions under Washington law), whether or not there is or was a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed above pursuant to subsections (h) or (i) above: the criminal charge, the name and address of the court involved and the date and disposition, if any, of the case;
- (k) Name and address of any licensing or regulatory agency (federal, tribal, state, local or foreign) with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted, and whether or not such license or permit was ever suspended, revoked, or the subject of other disciplinary action;
- (l) Current photographs;
- (m) Any other information the Tribe or Gaming Commission deems relevant; and
- (n) Fingerprints consistent with procedures adopted by the Gaming Commission consistent with NIGC regulations.

(2) The Tribe shall conduct or cause to be conducted an investigation, through the Gaming Commission, sufficient to make a determination of eligibility as required under this Ordinance. The Commission may rely upon any information discovered in the course of its background investigation or otherwise brought to its attention, including but not limited, the information obtained from or the results of any prior investigation on file with the NIGC, or any state or tribal gaming regulatory agency. In conducting the

background investigation, the Gaming Commission and its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

(n) Investigative Report and Eligibility Determination.

(1) Before making an eligibility determination or issuing a license to a primary management official, key employee, or other Employee license applicant, the Commission shall create and maintain an investigative report on the applicant's background investigation. The investigative report shall include:

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

(2) The Gaming Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility for employment in a gaming operation and the Class of license sought. If the Gaming Commission determines that licensing of a person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming activities, the Gaming Commission shall not license that person in any other position for which a license is required.

(o) Notice of Employee Licensing Applications and Reports to NIGC and State Gaming Agency.

(1) Before issuing a license to a Key Employee or Primary Management Official or Employee licensee under this Ordinance, the Gaming Commission, acting on behalf of the Tribe, shall forward to the NIGC or the State Gaming Agency all of the information required by NIGC regulations and the State-Tribal Compact.

(2) Prior to issuing a license to a Primary Management Official or Key Employee, the Gaming Commission, acting on behalf of the Tribe, shall forward to the NIGC, together with a copy of the eligibility determination made under Section 11.04.110(n)(1) and (n)(2) above, an investigative report on each background investigation.

The investigative report shall include the following information:

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

(3) A Notice of Results on each background investigation shall be forwarded to the NIGC within sixty (60) days after the employee begins work, or within sixty (60) days of the approval of this Ordinance by the NIGC. The notice of results shall contain:

- (a) Applicant's name, date of birth, and social security number;
- (b) Date on which applicant began or will begin work as a key employee or primary management official;
- (c) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:
 - (i) Licenses that have previously been denied;

(ii) Gaming licenses that have been revoked, even if subsequently reinstated;

(iii) Every known criminal charge brought against the applicant with 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.

(d) A copy of the eligibility determination made under Section 11.04.110(n)(1) and (2) of this Ordinance.

(4) The Gaming Enterprise shall not employ or continue to employ any person as a Key Employee or Primary Management Official who does not have a license within ninety (90) days of beginning work.

(5) The Gaming Commission, acting on behalf of the Tribe, shall provide to the NIGC or other agency, any other reports and information required by IGRA and regulations promulgated thereunder or by State-Tribal Compact.

(6) With respect to licensed Key Employees and Primary Management Officials, the Gaming Commission shall maintain an individual's complete application file including all of the information listed in Section 11.04.110(m), as well as, retain applications for employment, reports (if any) of background investigations, and eligibility determinations for inspection by the NIGC for no less than three (3) years from the date of termination of employment.

(7) If a license is not issued to an applicant, the Gaming Commission shall notify the NIGC and shall forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

p. Granting a Gaming License.

(1) After providing the NIGC the Notice of Results of its background check under Section 11.04.110(o), the Commission may issue a license to a Key Employee or Primary Management Official. (2) The Gaming Commission shall notify the NIGC that it has issued a license to a Key Employee or Primary Management Official within 30 days of its issuance.

(3) The Gaming Commission shall provide any additional information requested by the NIGC concerning a Key Employee or Primary Management Official who is the subject of a report as required under this subsection. An NIGC request for additional information shall suspend the thirty (30) day period established under this subsection until the NIGC receives the additional information.

(4) If, within the thirty (30) day period established under this subsection, the NIGC provides a statement itemizing objections to issuance of a license to a Key Employee or Primary Management Official, the Gaming Commission shall reconsider the application, taking into account such objections. The Gaming Commission retains the right to make the final determination whether to issue the license to such applicant.

q. License Suspension, Revocations, and Fines.

(1) If, after issuance of a gaming license, the Tribe receives a statement of objections or other reliable information from the NIGC, the State of Washington, or other reliable source indicating that a licensee is not eligible for employment under the eligibility criteria established in Section 11.04.110(n) above, the Gaming Commission

shall suspend the license and shall notify the licensee in writing of the license suspension and proposed licensing action.

(2) If, after issuance of a gaming license, the Gaming Commission determines the licensee has committed any criminal, administrative violations or any actions that impact the integrity of Gaming Activities, the Gaming Commission may suspend the license and shall notify the licensee in writing of the license suspension and proposed licensing action to include fines and associated costs of investigation.

(3) The Gaming Commission shall notify the licensee of a time and place for a hearing on the proposed revocation of a license or other licensing action.

(4) After the hearing, the Gaming Commission shall determine whether to revoke, suspend, reinstate the gaming license, or take other licensing action. For actions taken in response to information provided by the NIGC, the Gaming Commission shall notify the NIGC of its decision within 45 days.

(5) A right to a hearing under this section shall vest only upon receipt of a license granted under an Ordinance approved by the NIGC Chair.

r. Facilities Licenses. Before Gaming Activities can be conducted therein, the Gaming Commission shall inspect and license each such facility in accordance with this Ordinance and any requirements of IGRA or Tribal-State Compact. Facilities in which Gaming Activities were taking place on the date this Ordinance was adopted shall be deemed to have qualified for and be operating under such a license upon adoption of this Ordinance.

11.04.120 Application Forms.

a. Each application form for a Key Employee or a Primary Management Official, as well as for all other Employee license applicants, unless otherwise specifically exempted by the Gaming Commission, shall contain the notices set forth in subsections (1) and (2) below:

(1) **Privacy Act Notice:**

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

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

(2) Notice Regarding False Statements.

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

b. Any existing Key Employee or Primary Management Official, or any other Class A licensee unless otherwise specifically exempted by the Gaming Commission, that has not completed an application form containing the language set forth in Section 11.04.120(a)(1) and (2) above, shall be notified that they must either:

(1) Complete a new application form that contains the Privacy Act Notice and the Notice Regarding False Statements; or

(2) Sign a statement that contains the Privacy Act Notice and consent to the routine uses described in that notice, and sign a statement that contains the Notice Regarding False Statements.

11.04.130 Class III Gaming; Tribal-State Compacts.

In addition to the provisions set forth above, no Class III gaming shall be engaged in on the Reservation unless a Tribal-State Compact has first been obtained in accordance with the IGRA. All negotiations for such compacts shall be conducted through the Tribal Council and shall be finalized in accordance with tribal law. To the extent any provision of a Tribal-State Compact is inconsistent with the provisions of this Ordinance, such compact shall prevail and shall be deemed incorporated by reference herein.

11.04.140 Interest in Management Contracts by Tribal Officials.

No elected official of the Tribe, including the Gaming Commission or any other committee or agency of the Tribe, shall have a financial interest in or management responsibility for, any management agreement entered into pursuant to IGRA, nor shall such elected official serve on the board of Directors or hold (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of any corporation, or ten percent (10%) or more of the beneficial interest in any partnership, trust, or other entity, in any such corporation, partnership, trust or other entity, having a financial interest in, or management responsibility for, such contract.

11.04.150 Service of Process.

The Tribe designates as its agent for the service of any official determination, order, or notice of violation, the Chairperson of the Tribe.

11.04.160 Tribal Gaming Corporation.

Nothing in this Ordinance shall prevent the Tribe, through its Tribal Council, from delegating the authority to conduct Gaming to one or more tribal corporations, so long as the tribal Gaming Enterprises to which such authority is delegated agree to meet all criteria and requirements established under this Ordinance.

11.04.170 Repeal of Prior Gaming Act; Effective Date.

This Ordinance and regulations promulgated thereunder shall constitute the entire gaming regulations of the Tribe. All prior gaming acts and ordinances of the Tribe are repealed, and this Ordinance shall become effective upon its adoption and approval by the National Indian Gaming Commission.

11.04.080 Severability.

If any provision or application of this Ordinance is determined by review to be invalid, such determination shall not be held to render such provision inapplicable to other persons or circumstances, nor shall such determination render invalid any other provision of this Ordinance.

11.04.190 Amendments.

All provisions of this Ordinance are subject to revision, repeal, or amendment by the Tribal Council at any time. Regulations promulgated by the Gaming Commission under this Ordinance are subject to revision, repeal or amendment by the Gaming Commission at any time.

11.04.200 Sovereign Immunity Preserved.

Nothing in this Ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Tribe; and no manager, officer or employee of the Gaming Commission or the Tribe shall be authorized, nor shall they attempt, to waive the immunity of the Tribe.