



January 8, 2019

Michael Wiggins, Jr.  
Chief Blackbird Center  
P.O. Box 39  
Odanah, WI 54861

**Re: Bad River Gaming Regulatory Ordinance approved via  
Tribal Resolution No. 11-29-18-12**

Dear Chairman Wiggins:

This letter responds to your December 3, 2018 request on behalf of the Bad River Band of Lake Superior Tribe of Chippewa Indians for the National Indian Gaming Commission Chairman to review and approve the Band's amended gaming ordinance.

The amended gaming ordinance was approved by Tribal Council on November 29, 2018 and reflects comprehensive review and revisions of the previously approved 1993 ordinance.

Thank you for bringing the amended ordinance to our attention and for providing a copy. The ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions, please contact Senior Attorney Jennifer Lawson at (202) 632-7003.

Sincerely,

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

Jonodev O. Chaudhuri  
Chairman

# BAD RIVER BAND OF LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS

CHIEF BLACKBIRD CENTER

P.O. Box 39 • Odanah, Wisconsin 54861

RESOLUTION NO. 11-29-18-12

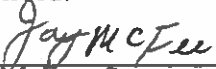
## Adopting Chapter 500 entitled - Gaming Regulatory Ordinance

- WHEREAS:** the Bad River Band of the Lake Superior Tribe of Chippewa Indians is organized under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, and the Bad River Tribal Council is the governing body of the Band pursuant to the Constitution of 1936, as amended; and
- WHEREAS:** Article VI, Section 1(m) of the Bad River Tribal Constitution authorizes the Bad River Tribal Council to adopt resolutions regulating the procedure of Tribal agencies including the proper operation and conduct of the Band's gaming operations; and
- WHEREAS:** in accordance with the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §2710 *et seq.*, tribes operating a gaming facility must have an ordinance approved by the National Indian Gaming Commission (NIGC) Chairman; and
- WHEREAS:** the Bad River Tribal Council adopted Resolution No. 9-16-93-81 on September 16, 1993 approving a document entitled "Gaming Control Ordinance" and such ordinance was approved by the NIGC Chairman on November 10, 1993; and
- WHEREAS:** the Bad River Band of the Lake Superior Tribe of Chippewa Indians now wishes to amend its gaming ordinance and entitle it as the "Gaming Regulatory Ordinance," a copy of which is attached hereto as Exhibit A; and
- WHEREAS:** upon the NIGC Chairman's approval of the attached gaming ordinance, all other gaming ordinances are hereby repealed.

**NOW THEREFORE BE IT RESOLVED**, that the Bad River Tribal Council hereby approves the amended gaming ordinance which is numbered as Chapter 500 and entitled "Gaming Regulatory Ordinance" and submits such gaming ordinance to the NIGC Chairman for approval.

### CERTIFICATION

I, the undersigned as Secretary of the Bad River Band of the Lake Superior Tribe of Chippewa Indians, an Indian Tribe organized under Section 16 of the Indian Reorganization Act, hereby certify that the Tribal Council is composed of seven members, of whom 6 members, constituting a quorum, were present at a meeting hereof duly called, noticed, convened, and held on the 29<sup>th</sup> day of November, 2018 that the foregoing resolution was duly adopted at said meeting by an affirmative vote of 6 members; 0 against; and 0 abstaining, and that the said resolution has not been rescinded or amended.

  
\_\_\_\_\_  
Jay McFee, Secretary  
Bad River Tribal Council

## CHAPTER 500 – GAMING REGULATORY ORDINANCE

### Section 1. Purpose

The Tribal Governing Board of the Bad River Band of Lake Superior Tribe of Chippewa Indians (“Tribe”), empowered by Article VI, Sections 1(g) and (j) of its Constitution and Bylaws to enact ordinances, hereby enacts this ordinance to govern and regulate the operation of Class II and Class III gaming operations on the Tribe’s Indian lands.

### Section 2. Findings

- A. The Tribe has a long history of conducting different forms of gaming within its sovereign territory. Prior to signing treaties with the United States, the Tribe practiced many traditional forms of gaming;
- B. Gaming on Bad River Indian Lands is a valuable means of generating revenues needed by the Tribe to enhance economic development and self-sufficiency, promote self-governance, increase Tribal member employment, and fund essential Tribal social programs and services; and
- C. Tribal regulation and control of gaming on Bad River Indian Lands is necessary to ensure the welfare and best interests of the Tribe, its members and patrons of the Tribe’s gaming enterprise(s), prevent any proliferation of organized crime and other corrupting influences, protect the fairness of gaming conducted on Bad River Indian Lands and preserve the political integrity of the Tribe.

### Section 3. Applicability

Unless specifically indicated otherwise, all provisions of this ordinance shall apply to Class II and Class III gaming on the Tribe’s Indian lands.

### Section 4. Definitions

The following terms shall have the same meaning and effect as those terms are defined in the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. §§ 2701 *et seq.*, and the National Indian Gaming Commission (“NIGC”) regulations, 25 C.F.R. §§ 500 *et seq.*, if they are defined in IGRA and the NIGC’s regulations.

- A. **“Applicant”** means an individual or an entity that applies for a gaming license or certification.
- B. **“Background investigation”** has the meaning given in 25 C.F.R. § 556.4.
- C. **“Board”** means the Board of Directors of the Tribal Gaming Commission.
- D. **“Chairperson”** means the Chair of the Board.

- E. **“Charitable gaming”** means any gaming conducted by an Indian charitable organization on Bad River Indian Lands.
- F. **“Class I gaming”** means:
1. Social games played solely for prizes of minimal value; or
  2. Traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.
- G. **“Class II gaming”** means:
1. Bingo or lotto (whether or not electronic, computer or other technologic aids are used) when players:
    - a. Play for prizes with cards bearing numbers or other designations;
    - b. Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
    - c. Win the game by being the first person to cover a designated pattern on such cards;
  2. Pull-tabs, punch boards, tip jars, instant bingo and other games similar to bingo, if played in the same location as bingo or lotto;
  3. Non-banking card games that:
    - a. State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
    - b. Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes;
  4. Individually owned Class II gaming operations:
    - a. That were operating on September 1, 1988;
    - b. That meet the requirements of 25 U.S.C. § 2710(b)(4)(B);
    - c. Where the nature and scope of the game remains as it was on October 17, 1988; and
    - d. Where the ownership interest or interests are the same as on October 17, 1988.
- H. **“Class III gaming”** means:
- All forms of gaming that are not Class I or Class II gaming, including, but not limited to:
1. Any house banking game, including but not limited to:
    - a. Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house-banking games); and
    - b. Casino games such as roulette, craps, and keno,
  2. Any slot machines, as defined in 15 U.S.C. § 1171(a)(1), and electronic or electromechanical facsimiles of any game of chance;
  3. Any sports betting and pari-mutuel wagering, including, but not limited to, wagering on horse racing, dog racing or jai alai; or
  4. Lotteries.

- I. **“Commission”** means the Bad River Tribal Gaming Commission established to perform regulatory oversight and to monitor compliance with tribal, federal, and applicable state regulations.
- J. **“Commissioner”** means a Tribal Gaming Commissioner.
- K. **“Compact”** means any Class III tribal-state gaming compact in effect between the Tribe and the State of Wisconsin to govern the conduct of certain Class III gaming activities on Bad River Indian Lands.
- L. **“Directly related to”** means a spouse, child, parent, grandparent, grandchild, aunt, uncle or first cousin.
- M. **“Facility License”** means a separate license issued by the Tribe to each place, facility or location on Bad River Indian lands where the Tribe elects to allow class II or class III gaming.
- N. **“Gaming Enterprise or Operation”** means each economic entity that is licensed by the Tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses.
- O. **“Indian Lands”** means:
  - 1. Land within the limits of the Bad River Band of Lake Superior Tribe of Chippewa Indian reservation or land within the limits of any other Indian reservation; or
  - 2. Land over which an Indian tribe exercises governmental power and that is either:
    - a. Held in trust by the United States for the benefit of any Indian tribe or individual; or
    - b. Held by an Indian tribe or individual subject to restriction by the United States against alienation.
- P. **“Key Employee”** means:
  - 1. A person who performs one or more of the following functions:
    - a. Bingo caller;
    - b. Counting room supervisor;
    - c. Chief of security;
    - d. Custodian of gaming supplies or cash;
    - e. Floor manager;
    - f. Pit boss;
    - g. Dealer;
    - h. Croupier;
    - i. Approver of credit; or
    - j. Custodian of gambling devices, including persons with access to cash and accounting records within such devices.
  - 2. If not otherwise included, a person who earns annual wages in excess of \$50,000; or
  - 3. Any other person designated by the tribe as a key employee.

- Q. **“Licensee”** means a tribally owned Class II or Class III gaming operation or a person licensed by the Tribal Gaming Commission as a primary management official, key employee or other gaming employee under the provisions of this ordinance.
- R. **“Net Revenues”** means gross gaming revenues of an Indian gaming operation less:
  - 1. Amounts paid out as, or paid for, prizes; and
  - 2. Total gaming-related operating expenses, 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.
- S. **“Non-Key Employee”** means any person employed by the gaming enterprise or tribal business who is not otherwise defined as a key employee or primary management official.
- T. **“Primary Management Official”** means:
  - 1. The person(s) having management responsibility for a management contract.
  - 2. Any person who has authority:
    - a. To hire and fire employees; or
    - b. To set up working policy for the gaming operation; or
    - c. The chief financial officer or other person who has financial management responsibility.
  - 3. Any other person designated by the Tribe as a primary management official.
- U. **“Tribal-State Compact”** means an agreement between a tribe and state about Class III gaming under 25 U.S.C. § 2710(d).
- V. **“Tribe”** means the Bad River Band of the Lake Superior Tribe of Chippewa Indians.
- W. **“Tribal Governing Board”** means the seven (7) elected officials of the Bad River Band of the Lake Superior Tribe of Chippewa Indians.

**Section 5. Gaming Authorized**

- A. Class II and Class III gaming are authorized to be conducted on the Tribe’s Indian Lands, if such gaming is conducted in accordance with this ordinance, the Indian Gaming Regulatory Act, the NIGC’s regulations, and any other applicable laws or regulations.

**Section 6. Ownership of Gaming**

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

**Section 7. Use of Net Gaming Revenues**

- A. Net revenues from Tribal gaming shall be used only for the following purposes:
  - 1. To fund Tribal government operations or programs;

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

#### **Section 8. Per Capita Payments**

- A. Net revenues from any Class II and Class III gaming activities conducted or licensed by the Tribe may be used to make per capita payments to Tribal members if:
  1. The Tribe has prepared a plan to allocate revenues to one or more of the five uses authorized by section 7(A) of this ordinance;
  2. The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in section 7(1) and 7(3) of this ordinance;
  3. The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person; and
  4. The per capita payments are subject to Federal taxation and the Tribe notifies its members of such tax liability when payments are made.

#### **Section 9. Gaming Commission**

- A. The Tribe's Gaming Commission is hereby established ("Commission") to regulate the Tribe's gaming operations. The Commission consists of the seven (7) members of the Bad River Tribal Governing Board. The Commission shall be responsible for the regulatory oversight and day-to-day management of the affairs of the Commission as well as overseeing the gaming facility and gaming operation for compliance with all applicable Federal, State and Tribal gaming laws and regulations.
- B. The Commission will conduct oversight to ensure compliance with Tribal, federal and, if applicable, state laws and regulations. It will serve as the licensing authority for individuals employed in the gaming operation and will administer or cause to be administered background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the gaming operation's internal controls and in tracking gaming revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operations and to all of its records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate. In all decisions, the Commission shall act to promote and ensure

integrity, security, honesty, and fairness of the operation and administration of gaming and ancillary activities of the gaming operation.

- C. Commissioner positions shall be filled by the Tribal Governing Board according to his/her elected position term limits.
  - a. All Commissioners shall submit to a background investigation within fourteen (14) days of his/her elected position on the Tribal Governing Board and must pass such criminal history check before taking part in any activity of the Gaming Commission; and
  - b. All Commission members who pass the criminal history check shall swear to an oath of office and sign a Confidentiality Statement before taking part in Commission business.
- D. The Tribal Governing Board shall require a criminal history check with appropriate law enforcement agencies for each Commissioner; shall review the applicant's criminal history check results; and shall make an appropriate eligibility determination. Any applicant who does not pass the criminal history check cannot be a Commission member and he/she will be notified of such by certified mail within five (5) days of receipt of the results. All results of any background investigations are confidential and shall not be shared with the public.
- E. Terms of office for Commissioners shall be according to the term limits of his/her elected position.
- F. The following individuals are not eligible to serve as Commissioners:
  - a. Current employees of the gaming operation;
  - b. Gaming contractors (including any principal of a management, or other, contracting company);
  - c. Persons directly related to, or sharing a residence with, any of the above; and
  - d. Persons ineligible to be key employees or primary management officials.
    - i. Tribal members previously convicted of any felony or misdemeanor offense of embezzlement, theft or any other offense related to money or honesty, such as fraud, will only be allowed to serve as a Commissioner if the Tribal governing body specifically finds that a significant amount of time has passed and the person is now of trustworthy character.
- G. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe requires that, at a minimum:



1. Members of the Commission are prohibited from gambling in the facility; and
  2. Commissioners are prohibited from accepting complimentary items from the gaming operation; and
  3. Commissioners may only be removed by the Tribal governing body, prior to the expiration of their respective terms, for neglect of duty, misconduct, malfeasance or other acts that would render a Commissioner unqualified for the position.
- H. The Tribal Gaming Commission shall:
1. Conduct background investigations, or cause such investigations to be conducted, for primary management officials and key employees;
  2. Review and approve all investigative work conducted in connection with the background investigations of primary management officials and key employees;
  3. Create and maintain investigative reports based on the background investigations of primary management officials and key employees;
  4. Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
  5. Make licensing eligibility determinations, which shall be signed by the Chair of the Commission.
  6. Submit a notice of results to the NIGC of the background investigations done for each primary management official and key employee applicant;
  7. Issue gaming licenses to primary management officials and key employees of the operation, if warranted by the eligibility determination;
  8. Establish standards for licensing Tribal gaming facilities;
  9. Issue gaming licenses to Tribal gaming facilities;
  10. Inspect, examine and monitor all of the Tribe's gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;
  11. Ensure compliance with all Tribal, state and federal laws, rules and regulations regarding Indian gaming;
  12. Investigate any suspicion of wrongdoing associated with any gaming activities;
  13. Hold hearings on patron complaints, in accordance with procedures established in this ordinance and the Tribal gaming regulations;
  14. Comply with any and all reporting requirements under IGRA, the NIGC's regulations and any tribal-state compact to which the Tribe is a party, and any other applicable law;
  15. Promulgate and issue regulations necessary to comply with applicable internal control standards;

16. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
  17. Promulgate and issue regulations on the levying of fines and/or the suspension or revocation of gaming licenses for violations of this ordinance or any Tribal, federal or state gaming regulations, if applicable;
  18. Establish a list of persons not allowed to game in the Tribe's gaming facilities in order to maintain the integrity of the gaming operation;
  19. Establish a list of persons who have voluntarily agreed to be excluded from the Tribal gaming facility, and create regulations for enforcing the exclusions;
  20. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, federal and state statutes, ordinances, regulations, codes or resolutions;
  21. Create a list of regulatory authorities that conduct background investigations of, and license vendors who are recognized as trustworthy;
  22. Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority; and
  23. Promulgate such regulations and guidelines as deemed appropriate to implement the provisions of this ordinance, so long as they are in furtherance of, and not in conflict with, any provisions of this ordinance.
- I. Before adopting, amending and repealing regulations, the Commission shall give notice of any such proposed action to the gaming operation and all other persons whom the Commission has reason to believe have a legitimate interest in the proposed action. The notice shall invite comments and describe the general nature of the proposed action and the manner in which comments on the proposed action shall be received by the Commission.
  - J. The Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel and/or others employed by the Tribal gaming operation on a need-to-know basis, for actions taken in their official capacities.
  - K. The confidentiality requirements in Section 8(J) above do not apply to requests for such records or information from any Tribal, federal, or state law enforcement or regulatory agency, or for the use of such records or information by the Commission and staff in the performance of their official duties.

- L. A majority of the Commission shall constitute a quorum. The concurrence of a majority of the Commissioners shall be required for any final determination by the Commission. The Commission may act in its official capacity, even if there are vacancies on the Commission as long as a quorum is reached.
- M. Commissioners shall be compensated at a level determined by the Tribal governing body. In order to ensure the Commission is not improperly influenced, a Commissioner's compensation shall not be based on a percentage of gaming revenue.
- N. The Commission shall keep a written record of all its meetings.

**Section 10. Audits**

- A. The Tribe shall cause to be conducted annual independent audits of gaming operations and shall submit the results of those audits to the NIGC.
- B. Annual audits shall conform to generally accepted auditing standards.
- C. All gaming-related contracts that result in the purchase of supplies, services or concessions for more than \$25,000 in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under Section 9(A) of this ordinance.
- D. Copies of the annual audit of each licensed gaming operation, and each audit for supplies, services or concessions of each gaming operation, shall be furnished to the NIGC within 120 days after the end of each fiscal year of the gaming operation.

**Section 11. Environment and Public Health and Safety**

- A. Each gaming facility shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public.
- B. The Gaming Commission, with the assistance of its attorney, shall identify and enforce laws, resolutions, codes, policies, standards, or procedures, which are applicable to each gaming place, facility or location, to ensure adequate protection of the environment and the health and safety of the public.

**Section 12. Patron Dispute Resolution**

Patrons with complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief with the Tribal Gaming Commission. Complaints shall be submitted in writing. The Commission shall hold a hearing within thirty (30) days of receipt of the petitioner's complaint. The petitioner may have counsel present at the hearing. The petitioner may be allowed to present evidence, at the discretion of the Commission. After the hearing, the Commission shall render a decision in a timely fashion. All such decisions will be final when issued. Any patron complaint must be submitted to the Commission within thirty (30) days of the incident giving rise to the complaint. All claims by patrons

shall be limited to a maximum recovery of \$100.00 per occurrence, and a cumulative limit of \$250.00 per patron in any 12-month period, except disputes relating to a patron's entitlement to a game prize, which shall be limited to the amount of such prize. The Commission's decision shall constitute the complainant's final remedy.

### **Section 13. Facility License**

- A. The Tribe shall issue a separate license to each place, facility or location on Indian lands where Class II or Class III gaming is conducted under this ordinance.
- B. The Tribal Gaming Commission is responsible for issuing new or renewed facility licenses to each place, facility or location.
- C. The Tribal Gaming Commission shall require that a facility license application be completed by the chief management official of the gaming facility for each gaming place, facility or location.
- D. The Tribal Gaming Commission shall identify the environmental, health and public safety standards with which the place, facility or location must comply, and specify the form, conditions and content of a facility license application. The application shall include:
  - 1. A legal description of the lands upon which the facility is located, and a certification that the site constitutes "Indian lands," as defined in IGRA, the NIGC's regulations, NIGC Office of General Counsel and DOI Solicitor Offices' Indian Lands legal opinions, judicial decisions and any other applicable law.
- E. The Tribal Gaming Commission shall only issue a facility license if the application includes the required information and documentation, and sufficiently satisfies any additional conditions deemed necessary by the Tribe.
- F. The Tribe or Tribal Gaming Commission shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Tribal Gaming Commission. This notice must be submitted at least 120 days before the opening of any new place, facility or location on Indian lands where Class II and/or Class III gaming will occur.
- G. The Tribal Gaming Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within thirty (30) days of issuance, along with any other required documentation.
- H. The Tribe shall notify the NIGC Chair within thirty (30) days if a facility license is terminated or expires, or if a gaming place, facility, or location closes or reopens.

### **Section 14. Agent for Service of Process**

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

### **Section 15. License Application Forms**

- A. The following notice shall be placed on the Tribe’s license application form for a key employee or a primary management official before it is filled out by an applicant:

“In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701 *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (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 being unable to license you for a primary management official or key employee position.

This disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.”  
*See, 25 C.F.R. § 556.2(a).*

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

“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).”  
*See, 25 C.F.R. § 556.3(a).*

#### **Section 16. License Fees**

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

#### **Section 17. Background Investigations**

- A. The Tribe shall perform a background investigation for each primary management official and key employee in its gaming operation. The investigation must be sufficient to allow the Tribal Gaming Commission to make an eligibility determination under Section 20 of this ordinance.

- B. The Tribal Gaming Commission is responsible for conducting the background investigations of primary management officials and key employees. The background investigations shall include a check of criminal history record information maintained by the Federal Bureau of Investigations (FBI).
- C. The Tribe shall request fingerprints from each primary management official and key employee. Fingerprints shall be taken by the Tribal Gaming Commission background investigator designee. Fingerprints will then be forwarded to the NIGC for processing through the Federal Bureau of Investigation (FBI) and the National Criminal Information Center to determine the applicant's criminal history, if any.
- D. The Tribal Gaming Commission shall obtain from each primary management official and key employee all of the following information:
  - 1. Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender and all languages (spoken and/or written);
  - 2. Currently, and for the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
  - 3. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (D)(2) of this section;
  - 4. Current business and residential telephone numbers, and all cell phone numbers;
  - 5. A description of any existing and previous business relationships with other tribes, including any ownership interests in the businesses;
  - 6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in the businesses;
  - 7. The name and address of any licensing or regulatory agency with which the person has filed an application for a license permit related to gaming, whether or not such license or permit was granted;
  - 8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date of disposition, if any;
  - 9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date of disposition, if any;
  - 10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application, and is not otherwise listed pursuant to paragraphs (D)(8) or (D)(9) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;

11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
  12. A photograph;
  13. Any other information the Tribe deems relevant; and
  14. Fingerprints obtained in accordance with procedures adopted by the Tribe pursuant to 25 C.F.R. § 522.2(h).
- E. When a primary management official or key employee is employed by the Tribe, a complete application file, containing all of the information listed in Section 17(D), shall be maintained.
- F. The Tribal Gaming Commission, and its investigators, shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.

#### **Section 18. Procedures for Conducting Background Investigations**

- A. The Tribal Gaming Commission, or its agent, shall employ or engage an investigator to conduct a background investigation of each applicant for a primary management official or key employee position. The investigator shall:
1. Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;
  2. Contact each personal and business reference provided in the license application, when possible;
  3. Conduct a personal credit check;
  4. Conduct a civil history check for past or outstanding judgments, current liens, past or pending lawsuits, and any other information deemed to be relevant;
  5. Conduct a criminal history check by submitting the applicant's fingerprints to the NIGC or to another law enforcement agency for forwarding to the FBI to perform a criminal history records check utilizing the FBI's data base;
  6. Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony and/or misdemeanor convictions or ongoing prosecutions within the past 10 years;
  7. Inquire into any previous or existing business relationships with the gaming industry, including with any tribes with gaming operations, by contacting the entities or tribes;
  8. Verify the applicant's history and current status with any licensing agency by contacting the agency; and
  9. Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

## **Section 19. Investigative Reports**

- A. The Tribe shall create and maintain an investigative report for each background investigation of a primary management official or key employee.
- B. Investigative reports shall include all of the following information:
  - 1. Steps taken in conducting the investigation;
  - 2. Results obtained;
  - 3. Conclusions reached; and
  - 4. The basis for those conclusions.

## **Section 20. Eligibility Determinations**

- A. Before a license is issued to a primary management official or key employee, an authorized Tribal official shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations.
- B. If the authorized Tribal official, in applying the standards adopted in this ordinance, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, he or she shall not license that person in a key employee or primary management official position.
- C. Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a primary management official or key employee.

## **Section 21. Notice of Results of Background Investigations**

- A. Before issuing a license to a primary management official or key employee, the Tribal Gaming Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.
  - 1. The notice of results must be submitted to the NIGC no later than 60 days after the applicant begins working for the Tribe.
- B. The notice of results shall include the following information:
  - 1. The applicant's name, date of birth, and social security number;
  - 2. The date on which the applicant began, or will begin, working as a primary management official or key employee;
  - 3. A summary of the information presented in the investigative report, including:
    - a. Licenses that have previously been denied;
    - b. Gaming licenses that have been revoked, even if subsequently reinstated;



- c. Every known criminal charge brought against the applicant within the last 10 years of the date of the application; and
  - d. Every felony offense of which the applicant has been convicted or any ongoing prosecution; and
4. A copy of the eligibility determination made in accordance with Section 20.

**Section 22. Granting Gaming Licenses**

- A. All primary management officials and key employees of the gaming operation must have a gaming license issued by the Tribe.
- B. The Tribal Gaming Commission is responsible for granting and issuing gaming licenses to primary management officials and key employees.
- C. The Tribal Gaming Commission may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by Section 21.
- D. The Tribal Gaming Commission shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days of issuance.
- E. The Tribe shall not employ an individual in a primary management official or key employee position who does not have a license after 90 days of beginning work at the gaming operation.
- F. The Tribal Gaming Commission must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within 30 days of the NIGC receiving a notice of results of the applicant's background investigation.
  - 1. The Tribal Gaming Commission shall take the NIGC's objections into account when reconsidering a license application.
- G. The Tribe will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.
- H. If the Tribal Gaming Commission has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee, as required by Section 24.

**Section 23. Denying Gaming Licenses**

- A. The Tribal Gaming Commission shall not license a primary management official or key employee if an authorized Tribal official determines, in applying the standards in Section 20 for making a license eligibility determination, that licensing the person:
  - 1. Poses a threat to the public interest;
  - 2. Poses a threat to the effective regulation of gaming; or

3. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.
- B. When the Tribal Gaming Commission does not issue a license to an applicant for a primary management official or key employee position, or revokes a previously issued license after reconsideration, it shall:
  1. Notify the NIGC; and
  2. Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

#### **Section 24. Gaming License Suspensions and Revocations**

- A. If, after a license is issued to a primary management official or a key employee, the Tribe receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Tribal Gaming Commission shall do the following:
  1. Immediately suspend the license;
  2. Provide the licensee with written notice of the suspension and proposed revocation; and
  3. Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.
- B. Following a revocation hearing, the Tribe shall decide whether to revoke or reinstate the license at issue.
- C. The Tribe shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

#### **Section 25. Records Retention**

- A. The Tribal Gaming Commission shall retain, for no less than three (3) years from the date a primary management official or key employee is terminated from employment with the Tribe, the following documentation:
  1. Application for licensing;
  2. Investigative Reports; and
  3. Eligibility Determinations.

#### **Section 26. Licenses for Vendors**

Vendors of gaming services or supplies, with a value of \$25,000 or more annually, must have a vendor license from the Tribal Gaming Commission in order to transact business with the Tribal gaming operation. Contracts for professional legal and accounting services are excluded from this Section.

## **Section 27. Submission of a Vendor License Application**

In order to obtain a gaming vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include those officers, directors, managers, owners, partners, and non-institutional stockholders that either own 10% or more of the business' stock or are the 10 largest stockholders, as well as the on-site supervisors or managers designated in an agreement with the Tribe, if applicable.

## **Section 28. Contents of the Vendor License Application**

- A. Applications for gaming vendor licenses must include the following:
1. Name of business, business address, business telephone number(s), federal tax identification number (or social security number, if a sole proprietorship), main office address (if different from business address), any other names used by the applicant in business, and type of service(s) applicant will provide;
  2. Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship or other entity;
  3. If the applicant is a corporation, the state of incorporation and the qualification to do business in the State of Wisconsin, if the gaming operation is in a different state than the state of incorporation;
  4. Trade name, other names ever used and names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
  5. General description of the business and its activities;
  6. Whether the applicant will be investing in, or loaning money to, the gaming operation, and, if so, how much;
  7. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
  8. A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial or management interests in any non-gaming activity;
  9. Names, addresses and telephone numbers of three (3) business references with whom the company has regularly done business for the last five (5) years;
  10. The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
  11. If the business has ever had a license revoked for any reason, the circumstances involved;
  12. A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;

13. A list of the business' funding sources and any liabilities of \$50,000 or more;
  14. A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles, and percentage of ownership in the company; and
  15. Any further information the Tribe deems relevant.
- B. The following notice shall be placed on the application form for a vendor and its principals:
- “Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Tribe’s vendor license.”
- C. A vendor may submit to the Tribal Gaming Commission a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit, in writing, any changes in the information since the other license application was filed, and any information requested by the Tribe not contained in the other application.

#### **Section 29. Vendor Background Investigations**

The Tribal Gaming Commission shall employ or otherwise engage an investigator to complete an investigation of a gaming vendor. This investigation shall include, at a minimum, the following steps:

- A. Verification of the vendor’s business incorporation status and qualifications to do business in the state where the gaming operation is located;
- B. Obtaining a business credit report, if available, and conducting a Better Business Bureau check on the vendor;
- C. Conducting a check of the vendor’s business’ credit history;
- D. Calling and questioning each of the references listed in the vendor application; and
- E. Conducting an investigation of the principals of the vendor’s business, including facilitating a criminal history check, obtaining criminal history check results, obtaining a credit report, and interviewing the personal references listed.

#### **Section 30. Vendor License Fees**

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

#### **Section 31. Vendor Background Investigation Reports**

The investigator shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals, and present it to the Tribal Gaming Commission.

**Section 32. Exemption for Vendors Licensed by Recognized Regulatory Authorities**

The Tribal Gaming Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors who have received a license from one of the named regulatory authorities.

**Section 33. Compliance with Federal Law**

The Tribe shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*

**Section 34. Miscellaneous**

- A. **Surveillance.** The Gaming Facility shall contain all surveillance equipment, supplies, and space deemed necessary by the Gaming Commission for the reasonable protection of patrons, employees, and Tribal assets. All surveillance systems, equipment, rooms, etc., shall be under the control and jurisdiction of the Gaming Commission. All surveillance staff shall be employees of and report only to the Gaming Commission. *See, § 542.33, § 542.42 and § 543.21.*
- B. **Security.** Each Gaming Facility must provide for reasonable security. All security personnel must be licensed by the Gaming Commission.
- C. **Sovereign Immunity.** Except as expressly provided herein, nothing in this Ordinance shall be construed as a waiver of sovereign immunity of the Bad River Band of Lake Superior Tribe of Chippewa Indians, including without limitation, its officers, employees, or Tribally owned entities.

**Section 35. Amendment**

All provisions of this Ordinance are subject to amendment by the Tribal Governing Board. All regulations promulgated by the Gaming Commission are subject to proper revision, repeal or amendment by the Gaming Commission.

**Section 36. Effective Date**

This ordinance shall take effect immediately upon its approval by the NIGC Chair. Upon receipt of such approval, this Ordinance shall repeal, supersede and replace any and all other Tribal Gaming Ordinances, laws or resolutions previously adopted or enacted by the Tribal Governing Board.