



August 20, 2019

**Via email: <leif@steffensandrasmussen.com>
and First Class Mail**

Leif E. Rasmussen, Esq.
Steffens & Rasmussen
465 Southdale Office Centre
6600 France Avenue South
Edina, MN 55435

Re: White Earth Reservation Gaming Ordinance, Resolution No. 090-19-01

Dear Mr. Rasmussen:

This letter serves to inform you that the White Earth Reservation Gaming Ordinance enacted via Resolution No. 090-19-01 by the White Earth Reservation Business Committee, White Earth Band of Chippewa Indians, and submitted to the NIGC on May 20, 2019, is approved by operation of law.

Pursuant to the Indian Gaming Regulatory Act of 1988, the NIGC Chair has 90 days from the date of submission to either approve or disapprove a gaming ordinance.¹ Any ordinance not acted upon at the end of the 90-day period is considered to have been approved by the Chair, but only to the extent it is consistent with the provisions of IGRA.² Because the NIGC Chair is currently vacant, no action was taken by an NIGC Chair within the 90-day period. Therefore, the Band's ordinance is considered approved to the extent that it is consistent with IGRA.

It is the opinion of the Office of General Counsel that the following provisions contained in the ordinance are not consistent with IGRA and NIGC regulations:

IGRA or NIGC requirement	White Earth Band Gaming Ordinance
If an ordinance defines any terms, the definitions of said terms must be consistent with those contained in IGRA or NIGC regulations.	§ II(o) ("croupier" and "approver of credit" must be included in the definition of "key employee", and "Primary Management Official" must be removed from definition of "key employee").
The ordinance must require that the specific Privacy Act notice language set out in 25 CFR § 556.2 be incorporated in	§ XVIII(a) (the Privacy Act language must be changed to exactly incorporate the NIGC regulatory language: "The purpose of the

¹ 25 U.S.C. § 2710(e).

² *Id.*

<p>the application form for a PMO or key employee.</p>	<p>requested information is to determine the eligibility of individuals <i>to be employed</i> in a gaming operation. ... or when necessary pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the <i>hiring or firing of an employee, the issuance or revocation of a gaming license</i>, or investigation of activities while associated with a Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe being unable <i>to hire you</i> in a primary management official or key employee position.”)</p>
<p>The ordinance must require that the specific false statement notice language set out in 25 CFR § 556.3 be incorporated in the application form for a PMO or key employee.</p>	<p>§ XVIII(b) (the false statement notice language must be changed to exactly incorporate the NIGC regulatory language: “A false statement on any part of your application may be grounds for not <i>hiring you, or for firing you</i> after you begin work.”)</p>
<p>The ordinance must require the tribe, as part of the background investigation of each PMO and each key employee, to request certain specific information from an applicant, including: for each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition, if any;</p>	<p>§ XXI(b)(8) (this time limitation in the ordinance must be removed: “For each felony for which there was an ongoing prosecution or a conviction, <i>within 10 years of the date of the application,...</i>”)</p>
<p>The ordinance must require that the tribe keep confidential the identity of each person interviewed in the course of conducting a background investigation.</p>	<p>§ IX(j) (“The Gaming Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing and employment process.”)</p>
<p>The ordinance must require the tribe to maintain an individual’s complete application file containing all of the information listed in § 556.4(a)(1)-(a)(14) when it employs the individual in a PMO or a key employee position.</p>	<p>This provision is missing from WEB ordinance and must be included.</p>
<p>The ordinance must require the tribe, before issuing a license to a PMO or to a key employee, to submit a notice of</p>	<p>§ XXV (current language in the ordinance: “The Gaming Commission shall forward the completed investigative report to the National Indian</p>

<p>results of the applicant’s background investigation to the Commission no later than 60 days after the applicant begins work, that includes:</p> <ul style="list-style-type: none"> • the applicant’s name, date of birth, and SSN; • date on which the applicant began or will begin work as a PMO or key employee; • a summary of the information presented in the investigative report, including: <ul style="list-style-type: none"> • license(s) that have previously been denied; • gaming licenses that have been revoked, even if subsequently reinstated; • every known criminal charge brought against the applicant within the last 10 years of the date of the application; and • every felony of which the applicant has been convicted or any ongoing prosecution. • a copy of the eligibility determination made under § 556.5. 	<p>Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.”)</p>
	<p>The WEB ordinance must state that the notice of results includes this information.</p>
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<p>The ordinance must provide that the tribe may license a PMO or key employee after it has submitted a notice of results to the NIGC.</p>	<p>§ XXVI(a) (“If, within a thirty (30) day period after the NIGC receives a report, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the NIGC, the Gaming Commission, acting for the Tribe, may issue a license to such applicant.”)</p>
<p>The ordinance must require the tribe to notify the NIGC of the issuance of a license to a PMO or key employee within 30 days of its issuance.</p>	<p>This provision is missing from WEB ordinance and must be included.</p>
<p>The ordinance must require the tribe to retain the following documentation for no less than three years from the date of a</p>	<p>§ XXV(e) (“Eligibility determinations” is mission from the following ordinance provision: “With respect to all employees ..., the Gaming Commission shall retain applications for</p>

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<p>PMO's or key employee's termination of employment:</p> <ul style="list-style-type: none">• applications for licensing;• investigative reports; and• eligibility determinations.	<p>employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his/her designee for no less than three (3) years from the date of termination of employment.”</p>
<p>The ordinance must provide that the right to a revocation hearing vests only upon receipt of a license granted under an ordinance approved by the NIGC Chair.</p>	<p>This provision is missing from WEB ordinance and must be included.</p>
<p>The ordinance must require the tribe to notify the NIGC of its decision to revoke or to reinstate a license within 45 days of receiving notification from the NIGC that a PMO or key employee is not eligible for employment.</p>	<p>This provision is missing from WEB ordinance and must be included.</p>

We recommend that the next time that the Band's ordinance is amended, it include the above-listed IGRA and NIGC requirements.

If you have any questions, please feel free to contact me or Rea Cisneros, NIGC Associate General Counsel, at (202) 632-7003.

Sincerely,



Michael Hoenig
General Counsel

WHITE EARTH RESERVATION



GAMING ORDINANCE

APPROVED May 15, 2019

Amended RBC approved July 6, 2009

Amended RBC approved September 25, 2006

Amended RBC approved July 14, 1999

Established RBC approved October 1, 1993

NIGC approved October 23, 2009

NIGC approved November 17, 2006

NIGC approved December 22, 1999

NIGC approved November 8, 1993

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WHITE EARTH BAND OF CHIPPEWA INDIANS
CLASS II AND CLASS III GAMING ORDINANCE

SECTION I – Purpose

The White Earth Band of Chippewa Indians, empowered by the Minnesota Chippewa Tribe's Constitution to enact ordinances, hereby enacts this ordinance in order to govern Class II and Class III gaming operations within the boundaries of the White Earth Reservation to:

- a) Regulate all forms of permissible and authorized gaming within the jurisdiction of the White Earth Reservation.
- b) Safeguard all persons from unscrupulous and illegal operations of any type of gaming.
- c) Protect all persons from any infiltration of organized crime into any gaming operation within the jurisdiction.
- d) Provide for tribal audit system on all gaming operations.
- e) Provide that the Tribe will have primary regulatory authority over all forms of gaming on the White Earth Reservation subject only to applicable federal law.
- f) Provide for system of investigations of all persons associated with gaming.
- g) Provide a system of licensing for any gaming activities subject to the provisions of this Ordinance that occur within the White Earth Reservation boundaries.
- h) To allow Tribal government to use the revenues generated for tribal self-determination, to provide additional Tribal services, employment, and for general economic development and individual self-sufficiency; for donations to charitable organizations; and/or to help fund operations of local government agencies.
- i) To harmonize with and adhere to the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2467-88 25 U.S.C. § 2701 et seq. as enacted by the United States Congress on October 17, 1988.
- j) To cooperate and agree on a sovereign to sovereign basis with the State of Minnesota and any other concerned or affected states to enter into compacts or other agreements for gaming operation, regulation and/or coordination.
- k) To establish a commission within the Tribal organization to oversee and regulate gaming consistent with this ordinance and within the precepts established by the White Earth Reservation Tribal Council.

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SECTION II – Definitions

Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as defined in the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 and its regulations, 25 C.F.R. § 501-599. Specifically:

- a) Charitable Gaming Operation means a specifically designated gaming operation where all proceeds are for the benefit of a charitable organization.
- b) Class I Gaming means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.
- c) Class II Gaming means:
 1. bingo or lotto (whether electronic, computer, or other technologic aids are used) when players:
 - i) Play for prizes with cards bearing numbers or other designations;
 - ii) Cover numbers or designations when object, similarly numbered or designated, are drawn or electronically determined; and
 - iii) Win the game by being the first person to cover a designated pattern on such cards;
 2. If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;
 3. Nonbanking card games that:
 - i) State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
 - ii) 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 –
 - i) That were operating on September 1, 1986;
 - ii) That meet the requirements of 25 U.S.C. 2710(b)(4)(B);
 - iii) Where the nature and scope of the game remains as it was on October 17, 1988; and
 - iv) Where the ownership interest or interests are the same as on October 17, 1988.
- d) Class III gaming means all forms of gaming that are not class I gaming or class II gaming, including but not limited to:
 1. Any house banking game, including but not limited to –
 - i) Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
 - ii) 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;

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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.
- e) Commission or Gaming Commission means the Tribal Gaming Commission established to perform regulatory oversight and to monitor compliance with Tribal, Federal, and applicable State regulations on gaming within the boundaries of the White Earth Reservation.
- f) Compact means a Tribal-State Compact concerning class III gaming approved by the Secretary of the Interior and published in the Federal Register pursuant to 25 U.S.C. § 2710(d).
- g) Complimentary means a service or item provided at no cost, or at a reduced cost, to a customer.
- h) Gaming Commissioner or Commissioner means a Member of the White Earth Tribal Gaming Commission.
- i) Fund Raising Event means a fund-raising event sponsored by a bona fide religious, charitable or non-profit organization at which gaming activities will be conducted under the regulation of the White Earth Reservation Tribal Gaming Commission.
- j) Gaming Operation means any gaming enterprise operated by the Tribe.
- k) Gross Gaming Revenue means the total amount of cash wagered on Class II and Class III games and admission fees (including table or card fees), less any amounts paid out as prizes or paid for prizes awarded.
- l) Indian Lands means:
1. All lands within the limits of the Tribe's reservation;
 2. Any lands title to which is either held in trust by the United States for the benefit of the Tribe or individual or held by the Tribe or individual subject to restriction by the United States against alienation and over which the Indian Tribe exercises governmental power; and
 3. For all lands acquired into trust for the benefit of an Indian tribe after October 17, 1988, the lands meet the requirements set forth in 25 U.S.C. § 2719.
- m) Indian Tribe or Tribe means the White Earth Band of Chippewa Indians, its authorized officials, agents and representatives.
- n) Internal Audit means persons who perform an audit function of a gaming operation that are independent of the department subject to audit.
- o) Key employee means:
1. A person who performs one or more of the following functions:
 - i) Bingo caller;
 - ii) Counting room supervisor;

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- iii) Director of Security;
 - iv) Custodian of gaming supplies or cash;
 - v) Shift Manager;
 - vi) Floor Supervisor
 - vii) Pit boss;
 - viii) Dealer;
 - ix) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
 - x) Primary management official; or
 - xi) Operator or manager of video games.
2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year;
 3. If not otherwise included, the four most highly compensated persons in the gaming operation; or
 4. If not otherwise included, licensees shall at their discretion, designate certain other positions as key positions within that particular establishment.
- p) Management contract means any contract, subcontract, or collateral agreement between an Indian tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.
- q) Net revenues mean gross gaming revenues of a gaming operation less amounts paid out as, or paid for, prizes; and total gaming-related operating expenses, excluding management fees.
- r) NIGC means the National Indian Gaming Commission.
- s) Non-Tribally Owned Gaming Enterprise or NTOGE means a licensed gaming operation not owned by the Tribe.
- t) Payout means a transaction associated with a winning event.
- u) Per capita payment means the distribution of money or other thing of value to all members of the Tribe, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity.
- v) Permit means an acknowledgement from the Gaming Commission that a one-time bona fide fundraising event has been reported to the Tribe.
- w) Primary management official means:
1. The person(s) having management responsibility for a management contract;
 2. Any person who has the authority:
 - i) To hire and fire employees; or
 - ii) To set up working policy for the gaming operation; or
 3. The chief financial officer or other person who has financial management responsibility.
- x) Small Gaming Operation are those tribally-licensed gaming establishments where the annual gross gaming revenue realized in a calendar year does not exceed \$2 million.

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- y) State means the State of Minnesota, its authorized officials, agents and representatives.
- z) White Earth Tribal Council a/k/a White Earth Reservation Business Committee means the elected governing body of Tribe.

SECTION III – Gaming Authorized

- a) Class II and Class III gaming are hereby authorized, including Non-Tribally owned Class II and Class III gaming, small gaming operations, and charitable gaming operations.
- b) No person, entity, corporation, organization or government, except the Tribe, shall authorize any form of Class II or Class III gaming within the exterior boundaries of the White Earth Reservation. Such gaming shall be consistent with:
 - 1. the Indian Gaming Regulatory Act;
 - 2. a Tribal-State Compact; and/or
 - 3. a license issued by the Gaming Commission.
- c) The Tribe shall enact rules and regulations regarding the licensing of Class II and Class III games which shall be consistent with the provisions of the Indian Gaming Regulatory Act and the laws of the White Earth Reservation.
- d) Any person, entity, corporation, organization or government that conducts Class II or Class III gaming within the boundaries of the White Earth Reservation without a license issued by the Gaming Commission, or that purports to authorize such gaming in violation of the laws or regulations of the White Earth Band of Chippewa Indians commits a civil infraction, in addition to any further applicable criminal penalties.
- e) Any person, entity, corporation, organization or government found to have committed a civil infraction by failing to comply with the laws of the White Earth Band of Chippewa Indians shall be subject to a civil fine in addition to other legal and equitable remedies available in civil cases.
- f) The White Earth Reservation Tribal Council hereby reserves the right to license other and further gaming activities if and when such other and further gaming satisfies the requirements of the Indian Gaming Regulatory Act, 25 U.S.C. §§2701 et seq.

SECTION IV – Gaming Not Authorized

All gaming activities not authorized by this Act, including, but not limited to, those activities commonly known as bookmaking, betting, card parlors, bunco or confidence games, pyramid clubs or schemes, chain letters and three card monte, are unlawful and prohibited.

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SECTION V – 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, unless non-Tribally owned gaming, small gaming operations, or charitable gaming is approved and licensed under this ordinance.
- b) In order to be licensed by the Gaming Commission, individual owners, in addition to the requirements of this ordinance, shall also be required to:
 - 1. Pay to the Tribe not less than 60 percent of the non-tribally owned gaming operation's net gaming revenues, to be used only for the purposes set forth in this Ordinance at Section VII.
 - 2. Comply with eligibility standards of a State license for the same activity, so that if the individual is ineligible to receive a State license to conduct the same activity within that jurisdiction, a Tribal license shall be denied.
 - 3. Pay NIGC annual fees, as applicable.
- c) The Tribe shall have the sole regulatory responsibility for the conduct of all gaming within the exterior boundaries of the White Earth Reservation.

SECTION VI – Non-Tribally Owned Gaming Enterprises (NTOGE)

- a) The Gaming Commission shall license and regulate all Class II and Class III gaming within the exterior boundaries of the White Earth Reservation, pursuant to this Ordinance, including those Class II and Class III gaming operations that are not Tribally owned.
- b) Non-Tribal persons or entities shall not be eligible to receive a tribal license to own a Class II gaming activity conducted within the exterior boundaries of the White Earth Reservation if such person or entities would not be eligible to receive a gaming license from the State of Minnesota to conduct the same activity within the jurisdiction of the State.
- c) Any person or entity other than the Tribe that is permitted by the Tribe to operate Class III gaming within the exterior boundaries of the White Earth Reservation must be fully compliant with the terms of the applicable Tribal/State Compact.

SECTION VII – Use of Gaming Revenue

Net revenues from tribally regulated gaming shall be used only for the following purposes:

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

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SECTION VIII – Per Capita Payments

If the Tribe elects to make per capita payments to tribal members from revenues derived from its gaming operations, it shall ensure that the following requirements of 25 C.F.R. Part 290 are met:

- a) The Tribe shall authorize and issue such payments only in accordance with a revenue allocation plan submitted to and approved by the Secretary of the Interior under 25 U.S.C. § 2710(b)(3)(B).
- b) The Tribe shall ensure that the interests of minors and other legally incompetent persons who are entitled to receive any per capita payments under a Tribal per capita payment plan are protected and preserved, and that 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, under a plan approved by the Tribe and the Secretary of the Interior. The Tribe must also establish criteria and a process for withdrawal of funds by the parent or legal guardian.
- c) The Tribe shall designate or create a Tribal court system, forum, or administrative process for resolution of disputes concerning the allocation of net gaming revenues and the distribution of per capita payments and will explain how it will correct deficiencies.
- d) The Tribe shall ensure that the Tribal revenue allocation plan reserves an adequate portion of net gaming revenues from the tribal gaming activity to do one or more of the following purposes: fund Tribal government operations or programs; provide for the general welfare of the Tribe or its members; promote tribal economic development; donate to charitable organizations; or to help fund operations of local government.
- e) The Tribe shall ensure that distributions of per capita payments are made according to specific eligibility requirements.
- f) The Tribe shall ensure that Tribal members are notified of the tax liability for per capita payments and how taxes will be withheld.

SECTION IX – Tribal Gaming Commission

- a) The Tribe hereby establishes a Tribal Gaming Commission whose duty it is to regulate gaming operations. The Gaming Commission is an agency of the White Earth Tribal Council and is subject to review and oversight by the White Earth Tribal Council. The Gaming Commission shall consist of 5 members appointed by White Earth Tribal Council.
- b) The purpose of the Gaming Commission is to regulate licensed gaming operations within the jurisdiction of the Tribe. Regulation of gaming operations shall be the sole responsibility of the Gaming Commission.
- c) Gaming Commissioners must hold a valid gaming license and shall be required to successfully pass a background investigation, which shall include a review of the Commissioner's financial, criminal and employment history.

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- d) Gaming Commissioners may not be elected officials of the Tribe. Commissioners may not be an employee of or have a financial interest in any gaming facility or gaming operation.
- e) The White Earth Tribal Council may decide not to employ someone as a Gaming Commissioner who has been convicted or is currently being prosecuted for any crime of moral turpitude or any felony.
- f) Open positions on the Gaming Commission shall be filled through the current hiring policy of the White Earth Reservation Human Resources Department. The White Earth Tribal Council shall appoint each Commissioner by official action at a duly convened meeting.
- g) Positions on the Gaming Commission may include the following:
 - 1. Commission Chair: The Commission Chair shall establish the meeting agenda and preside over meetings and shall be the official representative of the Gaming Commission. The Commission Chair is responsible for monitoring Commission staff and occurrences within gaming facilities located on the White Earth Reservation, reporting to the Tribal Council on a regular basis and voting at the commission meetings.
 - 2. Commission Vice Chair: The Commission Vice Chair shall assume the role of Commission Chair in the event the Commission Chair is absent, disabled or otherwise unable to complete the duties of Commission Chair, including voting at the Commission meetings.
 - 3. Commission Secretary: The Commission Secretary shall be the official custodian of all files and records of the Gaming Commission and shall be responsible for recording the minutes of all meetings. The Commission Secretary shall be responsible for submitting annual budget requests to the White Earth Tribal Council and overseeing expenditures of the Commission and voting at Commission meetings.
 - 4. Commissioner. The two (2) Commissioner positions not filled by the Chair, Vice Chair or Secretary shall be filled by two Commissioners, who shall be responsible for attending and voting at Commission meetings.
- h) Management oversight of a Tribally-Owned gaming operation is left to the discretion of the White Earth Tribal Council. The Gaming Commission shall not have any oversight over management of gaming operation(s).
- i) The Gaming Commission will conduct regulatory oversight to ensure compliance with applicable Tribal, Federal, and applicable State laws and regulations and shall be responsible for the following at all gaming operations within the exterior boundaries of the White Earth Reservation;
 - 1. Review of all gaming equipment and other devices used in gaming operations to ensure compliance with this Ordinance;
 - 2. Ensure the integrity of gaming devices, equipment, supplies, etc.

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3. Investigate evidence that gaming equipment or related equipment, supplies, etc. have been tampered with or altered in any way;
4. Conduct or cause background investigations to be conducted on, at a minimum primary management officials and key employees;
5. Conduct or cause backgrounds investigations to be conducted on all applicable contractors and vendors of gaming operations;
6. Serve as the licensing authority for facilities, individuals, employees, contractors, and vendors of gaming operations.
7. Report results of background investigations to the NIGC
8. Obtain and process fingerprints, or designate an agency to obtain and process fingerprints;
9. Make licensing suitability determinations, which shall be signed by the Chair of the Gaming Commission.
10. Issue gaming licenses to management officials and employees of the operation consistent with the suitability determination;
11. Establish standards for licensing facilities, individuals, employees, contractors, and/or vendors of gaming operations;
12. Ensure wager limits are within the standards established by the Tribe;
13. Insure that facilities where gaming occurs are properly constructed and maintained and that the operation of the game is conducted in a manner which adequately protects the environment and the public health and safety;
14. Inspect, examine and monitor gaming activities and have immediate access to review, inspect, examine, photocopy, and audit all records of the gaming establishment;
15. Investigate any suspicion of wrongdoing associated with gaming activities;
16. Comply with any, and all reporting requirements under the IGRA, Tribal-State compact to which the Tribe is a party, and any other applicable law or ordinance;
17. Review and report on internal control policies and procedures for safeguarding gaming assets and revenues, including recording of cash and evidences of indebtedness and mandatory count procedures;
18. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications for facilities, individuals, employees, contractors and vendors;
19. Promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming ordinance, or any other Tribal, Federal, or State, if applicable, gaming regulations;
20. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, Federal, or State statute, ordinance, or resolution;
21. Perform such other duties the Commission deems appropriate for the proper regulation of gaming under this Ordinance; and
22. Promulgate such regulations and guidelines as it deems appropriate to implement the provisions of the Ordinance.

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- j) The Gaming Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing and employment process. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel, or others employed by the gaming operation on a need-to-know basis for actions taken in their official capacities.
- k) This section does not apply to requests for such information or records from any Tribal, Federal, or State law enforcement or regulatory agency, or for the use of such information or records by the Commission and staff in the performance of their official duties.
- l) Three (3) members of the Gaming Commission, or a simple majority of currently seated and appointed Commissioners shall constitute a quorum. For the purpose of conducting business, all official actions of the Commission shall be taken by majority vote of the Commissioners present at a meeting at which a quorum is present. The Chairperson may vote on any issue. The Commission may act in its official capacity even if there are vacancies on the Commission.
- m) The Gaming Commission shall be compensated at a level determined by the White Earth Tribal Council.
- n) The Commission shall keep a written record of all meeting and actions.
- o) The Gaming Commission shall meet at least monthly. Due to the nature of meetings, they shall not be open to the public but will be open to any Tribal Council Member.
- p) The Gaming Commission shall submit all meeting minutes in writing to the White Earth Tribal Council no later than 14 calendar days after a meeting is held in a format defined by the Tribal Council.
- q) The Gaming Commission shall report to the White Earth Tribal Council and the Members of the Tribe on a quarterly basis in a format defined by the Tribal Council.
- r) A Gaming Commissioner shall be terminated immediately by the Tribal Council upon the filing or conviction of any felony or misdemeanor related to gambling or moral turpitude, or any other charge or conviction that the Tribal Council finds may relate to the Commissioner's honesty or ability to fulfill their duties.
- s) A Gaming Commissioner may be removed for violating any provision of this Ordinance or for other just cause by a majority vote of the White Earth Tribal Council and shall be subject to employment policies and ramifications thereof.
- t) Commissioners shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual.

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SECTION X – Ethics

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

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

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SECTION XI – Audit

- a) The Gaming Commission shall cause an annual independent audit of Tribally Owned Gaming, Charitable Gaming, and Small Gaming operations to be conducted, and shall submit the resulting audit reports to the National Indian Gaming Commission.
- b) All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection (a) above.

SECTION XII - Minimum Age

- a) Under no circumstances will anyone under the age of 18 years be eligible for a gaming license.
- b) No person below the age of 18 on the date of gaming shall be permitted to play any Class II or Class III game. If any person below the age of 18 plays and otherwise qualifies to win any games which requires notice and payout by the operator of the facility, the prize shall not be paid, and the estimated amount wagered during the course of the game shall be returned to the minor.

SECTION XIII – General Gaming Operation Requirements

- a) Each gaming employee or operator of a Non-Tribally Owned Gaming, Small Gaming, and/or Charitable Gaming operations (including owners), prior to beginning work or conducting Class II or Class III gaming, shall be required to be licensed, at least on a temporary or conditional basis as provided in this Ordinance, as referenced in Section XVII .
- b) Operators or employees in charge of Class II or Class III gaming shall provide required reports, audits, contracts for service or supplies as requested by the Gaming Commission.
- c) Any operator or employee of any Class II or Class III gaming shall deposit the proceeds of the gaming operation according to applicable rules and regulations adopted by the Gaming Commission.
- d) Any operator or employee may request the assistance of the Gaming Commission in obtaining training or instruction for the benefit of the Class II or Class III gaming operation, or in ascertaining the intent of this Ordinance.

SECTION XIV – Tribal Internal Control Standards

- a) The Tribe gives responsibility to the Gaming Commission to conform with 25 C.F.R. § 543 to adopt and implement Tribal Internal Control Standards (TICS) for the operation of Tribally Owned and Non-Tribally Owned gaming operations in accordance with applicable law.

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- b) Each Gaming Operation shall have particular TICS according to the following:
1. Small Gaming Operations with annual gross gaming revenues below \$3,000,000 are exempt from this requirement but must follow any applicable policies and procedures adopted by the Gaming Commission pursuant to 25 C.F.R § 543.5(a).
 - a. Small Gaming Operations are exempt from the White Earth Class II Gaming Minimum Internal Control Standards.
 - b. Small Gaming Operations must comply with the alternate procedures included in the White Earth Class II Gaming Tribal Internal Control Standards which are designed to
 - i. Protect the integrity of the games offered;
 - ii. Safeguard the assets used in connection with the operations; and
 - iii. Create, prepare and maintain records in accordance with Generally Accepted Accounting Principles.
 2. Charitable Gaming Operations are exempt from this requirement provided:
 - a. all net gaming revenues are for the benefit of a charitable organization;
 - b. the operation is operated wholly by the charitable organization's agents; and
 - c. the annual gross gaming revenues are below \$3,000,000 must follow any applicable policies and procedures adopted by the Gaming Commission pursuant to the 25 C.F.R § 543.4(b), Small Gaming Operation policies and procedures shall apply.
 - d. Nothing in this section exempts gaming operations conducted by independent operators for the benefit of a charitable organization.
 3. Tier A Gaming Operations with more than \$3,000,000 annual gross gaming revenues, but less than \$8,000,000 are subject to 25 C.F.R. § 543.1 to 543.49.
 4. Tier B Gaming Operations with more than \$8,000,000 annual gross gaming revenues, but less than \$15,000,000 are subject to 25 C.F.R. § 543.1 to 543.49
 5. Tier C Gaming Operations with more than \$15,000,000 annual gross gaming revenues are subject to 25 C.F.R. § 543.1 to 543.49
- c) The TICS shall be set out in separate regulations to be reviewed and approved by the Gaming Commission.

SECTION XV – Facility License

- a) The Gaming Commission shall issue a separate license to each place, facility, or location where Class II and/or Class III gaming is conducted under this ordinance. The valid period of the license shall not exceed a time period of three years.
- b) The Tribe hereby authorizes the issuance of a temporary facility license not to exceed 7 days. The Licensing Director may renew temporary licenses for 7-day periods.
- c) The Tribe shall submit to the Chairman of the National Indian Gaming Commission a notice that a facility license is under consideration for issuance at least 120 days before opening

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any new place, facility, or location where Class II or Class III gaming will occur. The notice shall contain the following information:

1. The name and address of the property;
 2. A legal description of the property;
 3. The tract number for the property as assigned by the Bureau of Indian Affairs or Land Title and Records Offices;
 4. If not maintained by the Bureau of Indian Affairs, Department of the Interior, a copy of the trust or other deed(s) to the property or an explanation as to why such documentation does not exist; and
 5. If not maintained by the Bureau of Indian Affairs, Department of the Interior, documentation of the property's ownership.
- d) The Tribe does not need to submit a notice that a facility license is under consideration for issuance for occasional charitable events lasting not more than a week.
- e) The Tribe must submit to the Chairman a copy of each newly issued or renewed facility license within 30 days of issuance.
- f) The Tribe must notify the Chairman within 30 days if a facility license is terminated or not renewed or if a gaming place, facility, or location closes or reopens.
- g) Each licensed facility shall prominently display the license for viewing by the public.
- h) The Tribe shall provide Indian lands or environmental and public health and safety documentation that the Chairman may in his or her discretion request.

SECTION XVI – Gaming Permits

Class II Gaming may be authorized by the Gaming Commission for charitable fund-raising events provided that a permit is obtained prior to the event. Gross gaming revenues for a single permitted fundraiser must not exceed \$3,000,000.

SECTION XVII – Licenses for Key Employees and Primary Management Officials

- a) The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any gaming enterprise operated within the boundaries of the White Earth Reservation. The Gaming Commission will issue licenses and perform background investigations according to requirements at least as stringent as 25 C.F.R. Parts 556 and 558.
- b) Notwithstanding anything herein to the contrary, if the Applicant has completed a License Application, the Gaming Commission may immediately issue a temporary license if:

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1. The Gaming Commission has conducted a preliminary, local, background investigation; and
2. Based on the preliminary investigation, the information does not indicate that the Applicant has a criminal history.
3. A temporary license shall not exceed 90 days.

SECTION XVIII – License Application Forms

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

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

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

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

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment.

- c) The Gaming Commission shall notify in writing existing key employees and primary management officials who have not completed an application containing the notices set forth above that they shall either:

1. Complete a new application form that contains both the Privacy Act and false statement notices; or
2. Sign a statement that contains the Privacy Act and false statement notices and consent to the routine uses described in that notice.

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SECTION XIX – License Fees

The Tribe authorizes the Gaming Commission, to charge a license fee in order to cover its expenses in investigating and licensing Key Employees and Primary Management Officials of the gaming operation.

SECTION XX – Fingerprints

Each applicant for a Key Employee or Primary Management Official shall be required to have fingerprints taken as part of the license application procedure. Fingerprints shall be taken by the Tribe's Licensing Department. Fingerprints will then be forwarded to the NIGC for processing through the FBI to determine the applicant's criminal history, if any.

SECTION XXI – Background Investigations

- a) The Gaming Commission is responsible for conducting background investigations and suitability determinations.
- b) The Gaming Commission shall request from each primary management official and from each key employee all of the following information:
 1. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written).
 2. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license number(s).
 3. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (b) (2) of this section;
 4. Current business and residence telephone numbers;
 5. A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;
 6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 7. The name and addresses of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
 8. For each felony for which there was an ongoing prosecution or a conviction, within 10 years of the date of the application, the charge, the name and address of the court involved and the date and disposition;
 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 and disposition;

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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 paragraph (b) (8) or (b) (9) of this section, the criminal charge, the name and address of the court involved and the date and disposition.
11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
12. A photograph taken within the last year; and
13. Any other information the Tribe deems relevant.

SECTION XXII – Procedure for Conducting a Background Investigation on Applicants

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

- a) Verify the applicant's identity through items such as a social security card, driver's license, birth certificate, or passport;
- b) Contact each personal and business reference provided in the License Application, when possible;
- c) Obtain a personal credit check;
- d) Conduct a civil history check;
- e) Conduct a criminal history check via the submission of the applicant's fingerprints to the NIGC, and further obtain information from the appropriate court regarding past felony and/or misdemeanor convictions and criminal charges within the last ten years;
- f) Inquire into any previous or existing business relationships with the gaming industry and Indian Tribes by contacting the entities or Tribes;
- g) Verify the applicant's history and status with any licensing agency by contacting the agency; and
- h) Take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted.

SECTION XXIII – Eligibility Determination

- a) The Gaming Commission shall review a person's prior activities, criminal record, if any, reputation, habits, associations and any other findings from the background investigation to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation.

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- b) If the Gaming Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and/or activities in the conduct of gaming, the gaming operation shall not employ that person in a key employee or primary management official position.
- c) The Gaming Commission shall not license any key employee or primary management official to work with Class II or Class III Gaming who has been:
 - 1. Convicted of a felony within five years of starting employment with the Gaming Operation; or
 - 2. Convicted of a felony or gross misdemeanor involving fraud, misrepresentation or gambling; or
 - 3. Ever convicted of a felony involving gambling.

SECTION XXIV – Procedures for Forwarding Applications and Reports to the National Indian Gaming Commission

- a) When a key employee or primary management official is employed to work at a gaming operation authorized by this ordinance, the Gaming Commission shall forward to the National Indian Gaming Commission the summary and results of eligibility from the background investigation, as well as a completed application for employment, if required.
- b) The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

SECTION XXV – Report to the National Indian Gaming Commission

- a) The Gaming Commission shall prepare and forward a report on each background investigation to the National Indian Gaming Commission. An investigation report shall include all of the following:
 - 1. Steps taken in conducting a background investigation;
 - 2. Results obtained;
 - 3. Conclusions reached; and
 - 4. The basis for those conclusions.
- b) The Gaming Commission shall forward the completed investigative report to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.
- c) The Gaming Commission shall submit, with the investigative report, a copy of the eligibility determination, unless the NIGC shall have advised the Tribe that the submission of the eligibility determination is not necessary. This determination shall include:
 - 1. A statement describing how the information submitted by the applicant was verified;
 - 2. A statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations;
 - 3. A statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the

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- applicant) in order to provide a basis for the Gaming Commission to make a finding concerning the eligibility for licensing required for employment in a gaming operation;
4. Any other findings from the background investigation; and
 5. A statement documenting the disposition of all potential problem areas noted and disqualifying information obtained.
- d) If a license is not issued to an applicant, the Gaming Commission:
1. Shall notify the NIGC; and
 2. Shall forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.
- e) With respect to all employees and in particular key employees and primary management officials, the Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his/her designee for no less than three (3) years from the date of termination of employment.

SECTION XXVI – Granting a Gaming License

- a) If, within a thirty (30) day period after the NIGC receives a report, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the NIGC, the Gaming Commission, acting for the Tribe, may issue a license to such applicant.
- b) The Gaming Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (a) in this section until the Chairman of the National Indian Gaming Commission receives the additional information.
- c) If, within the thirty (30) day period described above, the NIGC provides the Tribe with a Statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the NIGC.
- d) The Tribe shall make the final decision whether to issue a license to any applicant.

SECTION XXVII – License Renewal

- a) All gaming licenses issued will expire annually commencing with the date of employment. Licensees must contact the Licensing Department for renewal at least 30 days before expiration.
- b) As a part of the renewal, background investigations will be conducted for conformance of this Ordinance.

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SECTION XXVIII – License Suspension/Revocation

- a) If, after the issuance of a gaming license, the Gaming Commission receives reliable information indicating that a key employee or primary management official is not eligible for employment, the Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension, proposed revocation, and the right to request a hearing.
- b) The Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- c) After a revocation hearing, the Gaming Commission shall decide to revoke or to reinstate a gaming license. The Gaming Commission shall notify the NIGC of its decision.

SECTION XXIX – Appeal of Decision of the Commission

- a) If the Gaming Commission denies a person a license, or if the Commission revokes a license which was previously granted, the Commission shall do so in writing, outlining the reason(s) for such decision, and deliver such notice to the person via certified mail, return receipt requested.
- b) If a person has been aggrieved by a licensing decision of the Gaming Commission, they may appeal the decision to the White Earth Tribal Court within 15 calendar days of the date the notice was received by the U.S. Postal Service or other carrier as evidenced by a dated receipt for same.
- c) The appeal shall be only on the record and shall not be heard de novo.
- d) If Tribal Court concludes that the order of the Commission was issued arbitrarily and capriciously, clearly erroneously, or in violation of the Constitution of the Minnesota Chippewa Tribe or the constitutional rights of Indians (25 U.S.C. §§ 1301-1303), made upon unlawful procedure or some other clear error of law, the Court shall vacate the same and remand the issuance or re-issuance of a license.
- e) If the Tribal Court concludes that none of the reasons for reversing the decision of the Gaming Commission are present, the denial shall be upheld.
- f) The Tribal Gaming Commission shall notify NIGC of any decision to revoke a gaming license.

SECTION XXX – Licenses for Vendors

- a) Vendors of gaming services or supplies must have a vendor license from the Gaming Commission in order to transact business with any gaming operation located on the White Earth Reservation. Contracts for professional legal and accounting services are excluded from this section.

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- b) Gaming Vendors are vendors who provide gaming supplies or services, including cash-related services.
- c) 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 its officers, directors, management, owners, partners, non-institutional stockholders that either own 10% or more of the stock or are the 10 largest stockholders, and the on-site supervisor or manager under the agreement with the Tribe, if applicable.

SECTION XXXI – Contents of the Vendor License Application

- a) Applications for gaming vendor licenses must include the following:
 - 1. Name of business, business address, business phone, federal tax ID number (or Social Security Number if a sole proprietorship), main office address if different from the business address, and any other names the applicant has done business under;
 - 2. The type of service the applicant will provide;
 - 3. Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;
 - 4. If the applicant is a corporation, the state of incorporation, and the qualification to do business in the State of Minnesota if the gaming operation is in a different state than the state of incorporation.
 - 5. Trade name, other names ever used, names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
 - 6. General description of the business and its activities;
 - 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 non-gaming activities;
 - 9. Name, addresses, and phone numbers of three business references with whom the company had 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. List 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 and telephone numbers, title, 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.*

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SECTION XXXII – Vendor Background Investigations

- a) The Gaming Commission shall complete an investigation of the gaming vendor. This investigation shall contain, at a minimum, the following steps:
 - 1. Verification of the business' incorporation status and qualification to do business in the State where the gaming operation is located;
 - 2. Obtain a business credit report, if available, and conduct a Better Business Bureau check on the vendor;
 - 3. Conduct a check of the business' credit history;
 - 4. Contact the references listed in the vendor application; and
 - 5. Conduct an investigation of the principals of the business, including a criminal history check, a credit report, and any other relevant information.
- b) A Vendor License from the Gaming Commission will require that any vendor for Class III Video Games have a valid license from either the State of Minnesota, New Jersey, Nevada or South Dakota.
- c) The Gaming Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors which have received a license from one of the named regulatory authorities.

SECTION XXXIII – Vendor License Fee

The Tribe may charge a license fee to be set by the Gaming Commission, to cover its expenses in investigating and licensing vendors of gaming operations located on the White Earth Reservation.

SECTION XXXIV – Vendor Background Investigation Report

- a) The Gaming Commission shall review a vendor, the principals of the business, their history, credit, associations and any other relevant information deemed necessary for consideration of a vendor license;
- b) The Gaming Commission shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals;
- c) If the Gaming Commission determines that the vendor license would pose a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and/or activities in the conduct of gaming, the vendor license may not be granted.

SECTION XXXV – Licenses for Non-Gaming Vendors

For non-gaming vendors, the Gaming Commission is authorized to create a less stringent vendor licensing process, including a due diligence check rather than a full background investigation.

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The Gaming Commission may investigate such vendors when appropriate and may conduct audits in addition to monitoring Tribal purchases.

SECTION XXXVI – Inspection of Premises

- a) The premises where authorized gaming activities are being conducted shall be subject to inspection and audit at any reasonable time by persons designated by the Gaming Commission (or designee), with or without notice as follows:
 - 1. If the items or records to be inspected or audited are maintained at the location where gaming is conducted, any portion of which is regularly open to the public or members and guests, then at any time when the premises are so open;
 - 2. If the items or records to be inspected or audited are not located upon a premises set out in subsection (1) above, then at any time between the hours of 8:00 a.m. and 9:00 p.m., Monday through Friday.
- b) The Gaming Commission shall be provided, at such reasonable intervals as the Commission shall determine, with a certified report detailing all receipts and disbursements in connection with such gaming activities together with such other reasonable information as required in order to determine whether such activities comply with this Ordinance and other applicable laws, rules and/or regulations.
- c) Any agent of the Gaming Commission is required to prominently display an identification card while performing service on behalf of the Commission.

SECTION XXXVII – Environment and Public Health and Safety

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

Each facility is subject to a annual environmental and public health and safety inspections by the Gaming Commission designee. Any deficiencies noted from the inspection will be provided to the operator, and such deficiencies must be corrected within 30 days. Failure to correct deficiencies within 30 days will result in penalties up to and including closure.

SECTION XXXVIII – Violations and Sanctions

- a) Any person who engages in Gaming or Gaming related activities on property subject to the provisions of this Ordinance without a gaming license, or in violation of the terms imposed by a Gaming License, or in violation of the terms of a suspension imposed by the Gaming Commission on that Gaming License, or in violation of any other provision of this Ordinance and regulations promulgated hereunder, or amendments hereto, shall be in violation of the Ordinance. This provision shall apply to any person who is upon any premises licensed by this Ordinance without the consent of the licensee and/ or the Gaming Commission.

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- b) Violation of any provision of this Ordinance or any of the Gaming Commission's Regulations by a Licensee, his or her agent or employee:
1. Shall be deemed contrary to the public safety, good order, and general welfare of the Band and its members;
 2. May be grounds for refusing to grant or renew a License, or for suspension or revocation of a license;
 3. May be grounds for filing a complaint with the National Indian Gaming Commission, may be grounds for filing criminal charges and/or a civil action in a court of competent jurisdiction on behalf of the Gaming Commission; and
 4. In the case of a licensee being convicted of a felony, shall be grounds for immediate revocation of the License.
- c) Acceptance of a License or renewal thereof or condition imposed thereon by a Licensee constitutes agreement of the part of the Licensee to be bound by all the regulations and/or conditions of the Gaming Commission and by the provisions of this Ordinance, and the regulations promulgated hereunder, and as the same may informed of the contents of all such regulations, provisions, and conditions, and ignorance thereof will not excuse the violations.
- d) Any person in violation of this Ordinance shall be subject to sanctions under this Ordinance. The following provisions shall govern the response of the Gaming Commission to violations:
1. Each day of violation may constitute a separate count or violation of this Ordinance. Separate violations shall be heard as separate offenses before the Gaming Commission and/or prosecuted by a court of appropriate jurisdiction;
 2. All property used in each and every separate violations of this Ordinance may become the property of the Band. All property used in each and every separate violation of this Ordinance may be subject to forfeiture following a hearing;
 3. Violators may also be required to pay court costs, storage fees, and auction or sales fees;
 4. Persons may be excluded or ejected from Gaming Enterprises or prohibited from trespassing on premises licensed under this Ordinance and may be subjected to civil penalties or sanctions for violating any provision of this Ordinance;
 5. Licenses may be suspended, revoked, or limited and/or Gaming Establishments may be forcibly closed;
 6. Winnings found to have been received in violation of this ordinance may be confiscated and may, following a hearing, be forfeited and become the property of the Tribe;
 7. Civil penalties may be imposed as additional sanctions, in the amounts prescribed and in accordance with the hearing procedures set forth in the Ordinance.
- (e) Any of the above actions may be taken at the discretion of the Gaming Commission.

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SECTION XXXIX – Civil Penalty Provisions

It shall be a civil violation of the laws of the Tribe to disobey the provisions of this Ordinance or any regulations promulgated by the Gaming Commission, or any proper order issued under the authority of this Ordinance. Any person or Licensee found to be guilty of such violation may be assessed a civil penalty.

Civil penalties may be imposed pursuant to and in compliance with the provisions of this Ordinance, and any regulations promulgated by the Gaming Commission under the authority provided in this Ordinance. Civil penalties may be imposed in addition to the imposition of any other sanctions permitted under this Ordinance, including but not limited to suspension or revocation of the Gaming License for a period not to exceed one year. Civil penalties may be imposed up to the amount of \$25,000.00 for each individual violation, exclusive of any restitution.

SECTION XL – Exclusion of Individuals from Gaming Activities

- a) Any operator shall have the authority and discretion to exclude from gaming activities or gaming facilities, any individual who:
 - 1. Appears to be under the influence of intoxicants;
 - 2. Appears to be losing an unreasonable amount of money at gaming activities;
 - 3. Appears to be violating rules or regulations governing gaming activities as established by the Commission or the Operator; or
 - 4. By virtue of his condition or activities, disturbs the peaceful participation of other individuals in gaming activities or disrupts the orderly conduct of the gaming activity;
- b) An operator may make reasonable inquiries of individuals in the course of determining whether any of the activities defined in paragraph (a) above are occurring;
- c) An operator who excludes any individual pursuant to this section shall not incur any liability, criminal or civil, as a result of an exclusion under this section.

SECTION XLI – Patron Dispute Resolution

The Gaming Commission, as established in this Ordinance, is authorized to oversee and regulate all gaming activities authorized by this Ordinance, including decision-making authority in regard to any disputes that may arise by the gaming public.

- a) Any person having a dispute with a Gaming Operator or Management Company licensed by the Tribe may request that the Gaming General Manager resolve the dispute within seven (7) days of the occurrence.
- b) If dissatisfied with the results received from the Gaming General Manager or Operator, the person may request the Gaming Commission review the incident. A decision shall be issued within fourteen (14) business days of receipt of the written request.

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- c) A grievant who disagrees with the decision of the Gaming Commission, may appeal the decision to the White Earth Tribal Court within 14 days of the notification from the Gaming Commission.

SECTION XLII - Sovereign Immunity

The White Earth Tribal Council acting for and on behalf of the Tribe by this enactment, does expressly retain and does not in any way waive its sovereign immunity as expressed in treaties, laws or in any other manner.

SECTION XLIII – Agent for Service of Process

The Tribe hereby designates the Tribal Chair as agent for service of process, who may be contacted at:

Tribal Chair
White Earth Reservation Tribal Office
35500 Eagle View Road
P.O. Box 418
White Earth, MN 56591

SECTION XLIV – Compliance with Federal Law and Tribal-State Compact

The Tribe will comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 as well as the Tribal-State Compact.

SECTION XLV – Repeal

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

SECTION XLVI – Savings Clause

If any clause, provision or section of this ordinance shall be ruled invalid or unenforceable by any court of competent jurisdiction by final order after all appellate jurisdiction is exhausted, such judgment shall not invalidate or render unenforceable any other remaining provisions of this ordinance. Until such final order is entered and review exhausted, the questioned provisions shall be valid absent an enforceable injunction to the contrary.

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WHITE EARTH RESERVATION BUSINESS COMMITTEE
WHITE EARTH BAND OF CHIPPEWA INDIANS

Resolution No. 090-19-01

WHEREAS, the White Earth Reservation Business Committee is the duly elected governing body of the White Earth Reservation pursuant to Article VI, Section 1, of the revised constitution of the Minnesota Chippewa Tribe, as amended, and organized under Section 16, of the Act of June 18, 1934 (48 Stat. 984), and

WHEREAS, the White Earth Reservation Business Committee is the duly authorized governing body of the White Earth Band, and


WHEREAS, The White Earth Band of Chippewa Indians has the inherent right to regulate Class I gaming within the exterior boundaries of the Reservation and can regulate Class II and Class III Gaming in conformity with the Indian Gaming Regulatory Act 25 U S C §2703 et Seq. and


WHEREAS, the White Earth Band of Chippewa Indians has determined it is necessary to amend the existing Gaming Ordinance to establish an independent Gaming Commission.

THEREFORE BE IT RESOLVED, that the White Earth Reservation Business Committee hereby adopts the attached White Earth Reservation Gaming Ordinance (dated May 15, 2019) subject to the review and approval of the National Indian Gaming Commission.

NOW, THEREFORE IT IS HEREBY RESOLVED, that the Secretary/Treasurer is hereby instructed to forward a copy of the White Reservation Gaming Ordinance (dated May 15, 2019) and this Resolution to the National Indian Gaming Commission forwith.

We do hereby certify that the foregoing resolution was adopted by a vote of 3 for, 0 against, 0 silent, a quorum being present at a special meeting of the White Earth Reservation Business Committee held on May 14th, 2019 in Cass Lake, Minnesota.


Eugene "Umsy" Tibbetts, Vice Chairman


Leonard Alan Roy, Secretary/Treasurer