



April 2, 2018

Jeff L. Grubbe, Chairman  
Agua Caliente Band of Cahuilla Indians  
5401 Dinah Shore Drive  
Palm Springs, CA 92264

Re: Ordinance No. 15 Concerning Gaming, Amendment No. 1-B

Dear Chairman Grubbe:

I am writing with respect to your request on behalf of the Agua Caliente Band of Cahuilla Indians for review and approval of the Tribe's Ordinance No. 15 Concerning Gaming, Amendment No. 1-B. The ordinance was adopted by the Tribe's Council on February 6, 2018, and supersedes Ordinance No. 15 Concerning Gaming, Amendment No. 1-A which I approved on March 17, 2017.

Thank you for providing the ordinance for my review. Ordinance No. 15 Concerning Gaming, Amendment No. 1-B is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and National Indian Gaming Commission regulations. If you have any questions concerning this letter, please contact Staff Attorney Austin Badger at (202) 632-7003.

Sincerely,

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

Jonodev O. Chaudhuri  
Chairman

cc: John T. Plata, General Counsel, Agua Caliente Band of Cahuilla Indians



AGUA CALIENTE BAND OF CAHUILLA INDIANS  
TRIBAL COUNCIL

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JEFF L. GRUBBE CHAIRMAN • LARRY N. OLINGER VICE CHAIRMAN • VINCENT GONZALES III SECRETARY/TREASURER  
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AGUA CALIENTE BAND OF CAHUILLA INDIANS  
ORDINANCE NO. 15 AMENDMENT NO. 1-B  
TRIBAL ORDINANCE CONCERNING GAMING

I. INTRODUCTION

- A. **Title.** This Ordinance shall be titled and cited as the "**Gaming Ordinance.**"
- B. **Purpose.** The Tribal Council of the Agua Caliente Band of Cahuilla Indians empowered by Sections (a), (b), (f), and (i) of Article V of the Tribe's Constitution and By-Laws, as amended, to enact ordinances, hereby enacts this Ordinance in order to regulate Class II and Class III Gaming Operations on the "Indian lands" of the Agua Caliente Indian Reservation, as defined in 25 U.S.C. § 2703(4).

II. DEFINITIONS

Unless a different meaning is set forth below, the terms used in this Ordinance shall have the same meaning as defined in the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2467 (Oct. 17, 1988), 25 U.S.C. 2701 et seq., any lawful regulations promulgated thereunder by the National Indian Gaming Commission, and the Compact.

All references to "days" in this Ordinance shall refer to "calendar days" unless otherwise noted.

- A. **Applicant.** "Applicant" shall mean an individual or entity that applies for a Gaming License.
- B. **Association.** "Association" shall mean an association as that term is defined by the Compact.
- C. **CGCC.** "CGCC" shall mean the California Gambling Control Commission, or any successor agency of the State of California.
- D. **Commission.** "Commission" shall mean the Tribal Gaming Agency established pursuant this Ordinance.
- E. **Compact.** "Compact" shall mean the Class III gaming Tribal-State Compact entered into between the Tribe and the State of California pursuant to the IGRA, including any Appendices thereto.



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- F. Class II gaming.** "Class II gaming" shall mean Class II Gaming as defined at 25 U.S.C. §2703(7), and any lawful regulations promulgated thereunder by the National Indian Gaming Commission.
- G. Class III gaming.** "Class III gaming" shall mean Class III Gaming as defined at 25 U.S.C. § 2703(8), and any lawful regulations promulgated thereunder by the National Indian Gaming Commission.
- H. Class II Gaming Device.** "Class II Gaming Device" shall mean any "electronic, computer or other technologic aid" as defined by 25 C.F.R. § 502.7, as may be amended, renumbered, or re-designated from time to time.
- I. Class III Gaming Device.** "Class III Gaming Device" shall mean any "Gaming Device" as defined in the Compact.
- J. Gaming Asset.** "Gaming Asset" shall mean cash or cash equivalents including documents, financial instruments other than cash, or anything else of representative value to which the gaming operation has assigned a monetary value. A cash equivalent includes, but is not limited to, tokens, chips, coupons, vouchers, payout slips and tickets, and other items to which a gaming operation has assigned an exchange value.
- K. Gaming Employee.** "Gaming Employee" shall mean any natural person who (a) conducts, operates, maintains, repairs, accounts for, or assists in any Gaming Activities, or is in any way responsible for supervising such Gaming Activities or persons who conduct, operate, maintain, repair, account for, assist, or supervise any such Gaming Activities, (b) is in a category under federal or tribal gaming law requiring licensing, (c) is an employee of the Tribal Gaming Agency with access to confidential information, or (d) is a person whose employment duties require or authorize access to areas of the Gaming Facility in which any activities related to Gaming Activities are conducted but that are not open to the public.
- L. Gaming Facility or Facility.** "Gaming Facility" or "Facility" shall mean any building in which Gaming Activities or any Gaming Operations occur, or in which business records, receipts, or funds of the Gaming Operation are maintained (excluding offsite facilities primarily dedicated to storage of those records and financial institutions), and all rooms, buildings, and areas, including hotels, parking lots, and walkways, the principal purpose



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of which is to serve the Gaming Activities of the Gaming Operation and facilitate the provision of Gaming Activities rather than providing them with an incidental benefit.

- M. Gaming License.** "Gaming License" shall mean a license issued to an Applicant who has completed a background investigation and determined to be eligible for a Gaming License by the Commission.
- N. Gaming Operation.** "Gaming Operation" shall mean the business enterprise that offers and operates Gaming Activities, whether exclusively or otherwise.
- O. IGRA.** "IGRA" shall mean the Indian Gaming Regulatory Act (25 U.S.C. §§ 2701 et seq.), as may be amended, renumbered, or re-designated from time to time.
- P. Indian lands.** "Indian lands" shall mean Indian lands as defined by 25 U.S.C. § 2703(4), and any lawful regulations promulgated thereunder.
- Q. Key employee.** "Key employee" shall mean key employee as defined by 25 C.F.R. § 502.14, as may be amended, renumbered, or re-designated from time to time.
- R. Licensee.** "Licensee" shall mean any person or entity who has been issued a valid and current license pursuant to the provisions of this Ordinance.
- S. MICS.** "MICS" shall mean the Minimum Internal Control Standards adopted by the NIGC and promulgated in 25 C.F.R. Part 542 as they existed on October 10, 2008, and 25 C.F.R. Part 543, as both may be amended, renumbered, or re-designated from time to time.
- T. NIGC.** "NIGC" shall mean the National Indian Gaming Commission.
- U. Patron.** "Patron" shall mean any person who participates in Class II or Class III gaming or who is physically present on premises where Class II or Class III gaming is conducted.
- V. Primary management official.** "Primary management official" shall mean primary management official as defined by 25 C.F.R. § 502.19, as may be amended, renumbered, or re-designated from time to time.



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- W. Regulation.** "Regulation" or "Regulations" shall mean the authoritative rule or set of rules governing Class II and Class III gaming on tribal lands adopted and implemented by the Commission pursuant to this Ordinance.
- X. Temporary License.** "Temporary License" shall mean a license issued to an Applicant who is seeking employment in the Gaming Operation which allows the Applicant to be eligible for employment if he or she has passed a preliminary background check and is waiting for the results of a full background check.
- Y. Tribal Gaming Agency or TGA.** "Tribal Gaming Agency" or "TGA" shall mean the Commission.
- Z. TICS.** "TICS" shall mean the Tribal Internal Control Standards that the Commission establishes and implements to regulate Class II and Class III gaming pursuant to this Ordinance.
- AA. Tribe.** "Tribe" shall mean the Agua Caliente Band of Cahuilla Indians, a federally recognized Indian tribe acting through its duly constituted Tribal Council.
- BB. Vendor Gaming License.** "Vendor Gaming License" shall mean a license issued to a person or entity supplying gaming machines, gaming equipment or gaming supplies, or providing advertising and consulting services directly related to gaming at the Gaming Operation.
- CC. Vendor Non-Gaming License.** "Vendor Non-Gaming License" shall mean a license issued to a person or entity furnishing non-gaming related goods or services with a value that exceeds twenty-five thousand dollars (\$25,000) annually to the Gaming Operation.
- DD. Vendor One-Time Use License.** "Vendor One-Time Use License" shall mean a license issued to a person or entity engaged in one-time or emergency transactions with the Gaming Operation that have value of less than twenty-five thousand dollars (\$25,000) annually.

**III. GAMING AUTHORIZED**

- A. Types of Games.** Class II and Class III gaming is hereby authorized.



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- B. Class II and Class III Gaming Played Using Mobile Devices and/or the Internet.** The TGA may authorize the use of mobile devices and/or the internet to play Class II or Class III games on the Tribe's Indian lands provided the TGA issues regulations or standards that meet the requirements of subsections C and D of this part, but only if such bets or wagers do not violate any provision of:
1. The Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.);
  2. Chapter 178 of title 28 (commonly known as the "Professional and Amateur Sports Protection Act");
  3. The Gambling Devices Transportation Act (15 U.S.C. 1171 et seq.);
  4. The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.);
  5. The Compact; or
  6. Any other applicable laws.
- C. Age, Location and Data Security Requirements.** Before allowing the play of a Class II or Class III game using mobile devices and/or the internet, the TGA shall adopt standards or regulations to implement the following age, location and data security requirements, which are intended to comply with the safe harbor provisions of the Unlawful Internet Gaming Enforcement Act, 31 U.S.C. 5361 et seq.:
1. Only patrons who have provided their legal name, date of birth, address and contact information shall be allowed to establish an account for Class II or Class III gaming using mobile devices and/or the internet.
  2. Such information must be encrypted by the Gaming Operation and the patron must establish an account password or other authentication method approved by the TGA.
  3. The patron shall be required to authenticate his or her identity prior to accessing his/her account and/or placing a wager.
  4. The location of the patron on Indian lands must be verified by the Gaming Operation prior to the first wager in the patron session using a geolocation method that provides the latitude and longitude coordinates of the patron.
  5. The location of the patron must be verified on an ongoing basis and the patron session must be disabled any time the Gaming Operation is unable to verify the patron is present on Indian lands.
  6. The patron shall be allowed to create an account or withdraw funds from that account, other than for game play, only in person at a Gaming Facility.



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- D. Technical Standards.** Class II games played using mobile devices and/or the internet must comply with the requirements of 25 C.F.R Part 547, including any Alternative Standards adopted by the TGA and approved by the Chair of the National Indian Gaming Commission. Class III games shall comply with the standards set forth in the Compact.

**IV. OWNERSHIP OF GAMING**

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any Gaming Operation authorized by this Ordinance.

**V. TRIBAL GAMING COMMISSION**

- A. Established.** There is hereby created a Tribal Gaming Commission to be the primary regulator of the Tribe's Gaming Facilities, Gaming Operations and Class II and Class III gaming activities.
- B. Composition.** The Commission shall consist of five (5) members who shall be appointed by the Tribal Council. The Commission shall include at least two (2) Tribal Members, if available.
- C. Chairman and Officer Appointment.** The Tribal Council may designate a Chairman, Vice Chairman, and a Secretary.
- D. Appointment; Terms.** Each member of the Commission shall be appointed for a term of three years, commencing on the date each is appointed to the Commission.
- E. Key Employee Designation.** Each member of the Commission shall be deemed a "key employee" for the limited purpose of background investigations, eligibility determination, and issuance of a gaming license.
- F. Compensation.** The Tribal Council, from time to time, shall establish the current compensation of the members of the Commission.
- G. Removal.** The Tribal Council by a vote of no fewer than four (4) of its members may remove any Commission member at any time for the following:
1. Indictment for or conviction of a felony;



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2. Embezzlement;
  3. Filing of personal bankruptcy;
  4. Any behavior deemed by the Tribal Council to be inappropriate for a member of the Commission such that it would adversely affect the integrity, smooth functioning, or reputation of the Commission, Gaming Operations, Gaming Facility, or Tribal organization.
- H. Vacancy.** The Tribal Council shall, by a vote of no fewer than four (4) of its members, fill any vacancy on the Commission, within thirty (30) days of such vacancy, for the balance of the three (3) year term of any member whose position on the Commission becomes vacant for any reason.
- I. Powers and Duties of the Tribal Gaming Commission.** The powers, responsibilities and duties of the Commission shall include, at a minimum, the following:
1. Promulgate Regulations governing the conduct of Class II and Class III gaming activity.
  2. Issue orders of temporary and permanent closure of Class II and Class III gaming activities for violations of this Ordinance, Regulations, the Compact, IGRA and its implementing regulations and any other applicable law.
  3. Initiate civil and criminal actions in court to enforce provisions of this Ordinance, the Regulations, and the IGRA and its implementing regulations and any other applicable law.
  4. Issue, deny, suspend, and revoke licenses in accordance with this Ordinance.
  5. Make eligibility determinations.
  6. Impose fines or sanctions upon any licensee, subject to the hearing process set forth in Section XI.
  7. Monitor all Class II and Class III gaming activity conducted on the Tribe's Indian Lands on a continuing basis.
  8. Ensure that background investigations are conducted as required by this Ordinance, the Compact, and the IGRA and its implementing regulations.
  9. Demand access to and inspect, examine, copy and audit all papers, books and records concerning activities and revenues of any Class II and Class III gaming conducted on the Tribe's Indian Lands and any other matters necessary to carry out its duties under this Ordinance.





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10. Conduct such hearings as the Commission may deem appropriate in carrying out its duties, including administering oaths or affirmations to witnesses and issuing subpoenas for documents and/or to compel witnesses to appear at such hearings.
11. Approve all auditing standards applicable to the Gaming Operations.
12. Adopt a Tribal Gaming License application.
13. Within the limits of its budget, employ and fix the salaries of, or contract for the services of, such professional, technical and operational personnel and consultants as the execution of the Commission's duties may require.
14. Establish a regulation which identifies those Gaming Operation employee positions that are "Key Employee" or "Primary Management Officials".
15. Hire, supervise and direct the Executive Director; remove the Executive Director, with or without cause.
16. Delegate any of its duties to the Executive Director.
17. Approve the organizational structure of the Commission and TGA.
18. Supervise the activities of the TGA.
19. Conduct any necessary investigations into violations of this Ordinance, Regulations and the Compact, including the ability to hire and consult with external professionals and external third parties as part of its investigations.

**J. Regulation of Gaming Activity.** The Commission shall regulate in such a manner as to:

1. Protect the Gaming Assets of the Tribe.
2. Assure that the Tribe's Gaming Operations are conducted fairly and honestly to protect gaming Patrons.
3. Protect the Tribe and the Tribe's Patrons from any dishonest or corrupt practices.
4. Protect the health and safety of the Tribe's employees and Patrons.
5. Ensure compliance with the Compact, rules and regulations adopted by the Commission and the final rules and regulations adopted by the Association and the CGCC pursuant to the Compact.

**K. Operational Duties of Tribal Gaming Commission.** The Commission shall be responsible for the following, which it may delegate, in whole or in part, to the Executive Director:

1. Implement and enforce all applicable rules, procedures, policies, regulations adopted by the Commission, NIGC MICS, and all final rules and regulations adopted and published by the Association and CGCC pursuant to the Compact.



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2. Adopt an annual operating budget and submit to the Tribal Council for approval.
3. Oversight of all Commission employees and taking appropriate personnel action.
4. Take all licensing actions including issuance, renewal, suspension, and revocation for any Applicant or Licensee.
5. Coordinate with local, County, State and Federal law enforcement agencies and public health and safety agencies as required by the Compact and the final published rules and regulations of the NIGC.
6. Cooperate with the Gaming Operation's internal and external auditors to assure full compliance with the Compact and final MICS and/or TICS adopted by the Commission.
7. Create a system for the Tribe's Gaming Facilities and operations to best prevent or discover employee and/or Patron dishonesty.
8. Work with the Gaming Operation's primary management officials to make surveillance a management tool.
9. Work with the NIGC and CGCC on their audits of each Gaming Facility.
10. Alert appropriate Gaming Operation primary management officials of any suspicious, improper and/or dishonest activities by Gaming Facility employees, vendors and/or Patrons.
11. Ensure compliance of all Gaming Facilities with the Regulations and the Compact relating to public health and safety requirements, including food safety.
12. Review and approve all plans and signs for the evacuation of employees, Patrons and the public from each Gaming Facility.
13. Review, revise and approve all plans and surveillance systems for the gaming floor, gaming devices, electronic, computer, or other technologic aids, table games, cage, and Gaming Facilities.
14. Establish and implement TICS that shall: (i) provide a level of control that equals or exceeds those set forth in NIGC Regulations at 25 C.F.R. Part 500; (ii) contain standards for currency transaction reporting that comply with 31 CFR part 103; (iii) establish standards for games that are not addressed in NIGC Regulations; and (iv) establish deadlines for compliance with the TICS in accordance with NIGC regulations.
15. When information is received through audits or other investigations that indicates a violation of Tribal, or applicable federal law or state law, to treat as confidential and provide such information to the appropriate law enforcement officials.

- L. Civil and criminal actions.** In its own name, or in the name of the Tribe, the Commission may bring any civil action in any court of competent jurisdiction to enforce



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the provisions of this Ordinance or of any approved tribal-state compact governing the Tribe's gaming activities, or to enjoin or prevent any violation of this Ordinance, of federal law, or of applicable state law occurring on the Tribe's Indian lands. Similarly, the Commission, either in its own name or in the name of the Tribe may request appropriate federal or state authorities to bring criminal charges for violations of applicable federal or state law occurring on the Tribe's Indian lands.

- M. Operating Budget.** The Commission shall adopt an annual operating budget which shall be subject to the approval of the Tribal Council. The Commission may, in accordance with the budget, employ a staff as it deems necessary to fulfill its responsibilities under this Ordinance and may retain legal counsel, consultants, and other professional services, including investigative services, to assist the Commission with its responsibilities under this Ordinance. The expenses of the Commission identified in the annual operating budget shall be appropriated by the Council from the net revenues of the Gaming Facility.
- N. Orders.** The Commission may issue any order or decision, which the Commission has the power to issue, to any Gaming Facility, licensee, or to any other person within the jurisdiction of the Tribe, to take any action or cease and desist from any action as may be required to protect to the public interest in gaming.
- O. Procedures of Tribal Gaming Commission.**
1. **Regular Meetings.** Regular meetings of the Commission may be held upon such notice, or without notice, and at such time and place as shall from time to time be fixed by the Commission. Unless otherwise specified by the Commission, no notice of such regular meetings shall be necessary.
  2. **Special Meetings.** Special meetings of the Commission may be called by the Chairman of the Commission or may be held by teleconference or by polling. The Chairman shall fix the time and place of the special meeting. Neither the business to be transacted at, nor the purposes of, any regular or special meeting of the Commission need to be specified in the notice of the meeting.
  3. **Quorum.** Three (3) Commission members shall constitute a quorum for the transaction of business. 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. The Chairman shall preside at all meetings of the Commission



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unless the Chairman designates another member to preside in his or her absence.  
Approval of action by telephone or by polling is also authorized.

**VI. USE OF GAMING REVENUE**

- A. Authorized Uses.** Net revenue from Gaming Activities shall be used only for the following purposes:
1. To fund Tribal government operations 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, all in such amounts and on such terms as the Tribal Council may determine.
- B. Per Capita Payments.** Should the Tribe elect to make per capita payments to Tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior pursuant to 25 U.S.C. § 2710(b)(3), as such section may be amended, renumbered, or re-designated from time to time.

**VII. AUDIT**

- A. Annual Audit.** The Tribe shall cause to be included independent audits of Gaming Operations annually and shall submit the results of those audits to the NIGC.
- B. Inclusion of Gaming Related Contracts in Annual Audit.** All gaming-related contracts that result in the purchase of supplies, services or concessions in excess of \$25,000.00 in any year, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in Section VII.A. above.

**VIII. LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS**

- A. Confidentiality.** 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



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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. The confidentiality requirements of this Section 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.

**B. Granting a Gaming License.**

1. Responsibility. The Commission shall have the authority and duty to issue licenses to key employees and primary management officials.
2. License Required. All key employees and primary management officials shall obtain a license from the Commission to work in the Tribe's Gaming Operation.
3. Types of licenses.
  - i. Temporary License.
  - ii. Gaming License.
  - iii. Vendor Gaming License.
  - iv. Vendor Non-Gaming License.
  - v. Vendor One-Time Use License.

**C. License Application.**

1. The following notice shall be placed on the Commission 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 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



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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.

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

2. 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)."
3. Existing Employees. The Commission shall notify in writing existing key employees and primary management officials that they shall: (1) complete a new application form that contains a Privacy Act Notice or sign a statement that contains the Privacy Act Notice and consent to the routine uses described in that Notice; and (2) complete a new application form that contains the False Statement Notice or sign a statement that contains the False Statement Notice.

**D. License Fees.**

The Commission may charge a license fee to cover its expenses in investigating and licensing.

**E. Fingerprints.**

The Commission shall perform a background investigation for each primary management official and key employee of the Gaming Operation. The Commission shall request fingerprints from each primary management official and key employee. Fingerprints shall be taken by the Commission. 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.

**F. Background Investigations.**



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1. The Commission shall perform a background investigation for each primary management official and key employee in its Gaming Operation.
2. The Commission is responsible for conducting the background investigations of primary management officials and key employees.
3. The Commission shall obtain from each primary management official and key employee all of the following information:
  - a. 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).
  - b. 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.
  - c. 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 3.b. of this Section.
  - d. Current business and residential telephone numbers, and all cell phone numbers.
  - e. A description of any existing and previous business relationships with other tribes, including any ownership interests in the businesses.
  - f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in the businesses.
  - g. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted.
  - h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date of disposition, if any.
  - i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date of disposition, if any.
  - j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application, and is not otherwise listed pursuant to paragraphs 3.h. or 3.i. of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any.



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- k. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted.
  - l. A photograph.
  - m. Any other information the Commission deems relevant; and
  - n. Fingerprints obtained in accordance with procedures adopted by the Tribe pursuant to 25 C.F.R. § 522.2(h) , as may be amended, renumbered, or re-designated from time to time.
4. 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 F.3., shall be maintained.

**G. Procedures for Conducting Background Investigations.**

- 1. The 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 investigation must be sufficient to allow the Commission to make an eligibility determination under Section VIII.I of this Ordinance. The investigator 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. Conduct a personal credit check.
  - d. Conduct a civil history check for past or outstanding judgments, current liens, past or pending lawsuits, and any other information deemed to be relevant.
  - e. Conduct a criminal history records 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.
  - f. 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.





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- g. 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.
- h. Verify the Applicant's history and current status with any licensing agency by contacting the agency.
- i. Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

**H. Investigative Reports.**

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

**I. Eligibility Determinations.**

- 1. Before a license is issued to a primary management official or key employee, the Commission 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.
- 2. If the Commission 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.
- 3. 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.
- 4. Any felony convictions will find the Applicant ineligible for a Gaming License.

**J. Notice of Results of Background Investigations.**



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1. Before issuing a license to a primary management official or key employee, the Commission shall prepare a notice of results of the Applicant's background investigation to submit to the NIGC.
  - a. The notice of results must be submitted to the NIGC no later than sixty (60) days after the Applicant begins working for the Gaming Operation.
2. The notice of results shall include the following information:
  - a. The Applicant's name, date of birth, and social security number.
  - b. The date on which the Applicant began, or will begin, working as a primary management official or key employee.
  - c. A summary of the information presented in the investigative report, including:
    - i. Licenses that have previously been denied;
    - ii. Gaming Licenses that have been revoked, even if subsequently reinstated;
    - iii. Every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
    - iv. Every felony offense of which the applicant has been convicted or any ongoing prosecution; and
  - d. A copy of the eligibility determination made in accordance with Section VIII.I.

**K. Granting Gaming Licenses.**

1. All primary management officials, key employees and gaming employees of the Gaming Operation must have a Gaming License issued by the Tribe.
2. The Commission is responsible for granting and issuing Gaming Licenses to primary management officials and key employees.
3. The 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 VIII.J.
4. The Commission shall notify the NIGC of the issuance of a Gaming License to a primary management official or key employee within thirty (30) days of issuance.
5. The Tribe shall not employ an individual in a primary management official or key employee position who does not have a Gaming License after ninety (90) days of beginning work at the Gaming Operation.
6. The Commission must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing



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such a license from the NIGC, and those objections are received within thirty (30) days of the NIGC receiving a notice of results of the applicant's background investigation.

- a. The Commission shall take the NIGC's objections into account when reconsidering a license application.
7. The Commission will make the final decision whether to issue a license to an Applicant for a primary management official or key employee position.
8. If the 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 VIII.M.

**L. Denying Gaming Licenses.**

1. The Commission shall not license a primary management official or key employee if an authorized Tribal official determines, in applying the standards in Section VIII.I for making a license eligibility determination, that licensing the person:
  - a. Poses a threat to the public interest;
  - b. Poses a threat to the effective regulation of gaming; or
  - c. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.
2. When the 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:
  - a. Notify the NIGC; and
  - b. 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.

**M. Gaming License Suspensions and Revocations.**

1. If, after a license is issued to a primary management official or a key employee, the Commission receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Commission shall do the following:
  - a. Immediately suspend the license;
  - b. Provide the Licensee with written notice of the suspension and proposed revocation; and



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- c. Provide the Licensee with notice of a time and place for a hearing on the proposed revocation of the license.
2. The right to a revocation hearing vests only after a license is granted under this Ordinance.
3. Following a revocation hearing, the Commission shall decide whether to revoke or reinstate the license at issue.
4. The Commission shall notify the NIGC of its decision to revoke or reinstate a license within forty-five (45) days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

**N. Records Retention.**

1. The Commission shall retain, for no less than three years from the date a primary management official or key employee is terminated from employment with the Tribe, the following documentation:
  - a. Applications for licensing;
  - b. Investigative Reports; and
  - c. Eligibility Determinations.

**IX. PLACE, FACILITY AND LOCATION LICENSES**

- A. Individual Licenses. The Commission shall issue a separate license to each place, facility or location on Indian lands where Class II and/or Class III gaming is conducted under this Ordinance in accordance with 25 U.S.C. § 2710(b)(1)(B).

**X. PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY**

- A. Class II and Class III Gaming Facilities shall be constructed and maintained in a manner that adequately protects the environment and the health and safety of the public.
- B. Class II and Class III Gaming shall be operated in a manner which adequately protects the environment and the public health and safety.

**XI. ENFORCEMENT AND HEARINGS PROCEDURES.**



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- A. Any person who violates any provision of this Ordinance shall be subject denial, suspension or revocation of a Gaming License, and/or exclusion from attendance at any Gaming Facility. The Commission shall have the jurisdiction to enforce the provisions of this Ordinance on any person within the jurisdiction of the Tribe.
- B. Notice of Commission action. No action of the Commission to revoke a Gaming License shall be valid unless the person or entity affected is given written notice of the proposed action and the opportunity to appear and to be heard before the Commission, either in person or through a representative or legal counsel and to submit such evidence as the Commission deems relevant to the matter at issue at least nine (9) days before the hearing. No notice is necessary to suspend a Gaming License, but a revocation hearing must be held within thirty (30) days or the suspension shall be discharged automatically. These deadlines may be extended in the discretion of the Commission due to extenuating circumstances.
- C. Notice of Violation.
1. The Commission may issue a notice of violation to any person or entity for a violation of any provision of the Ordinance, Regulations, Compact, IGRA or other applicable Tribal or federal law or implementing regulations.
  2. A notice of violation shall contain:
    - a. A citation to the Tribal or federal requirement that has been or is being violated;
    - b. A description of the circumstances surrounding the violation, set forth in common and concise language;
    - c. Measures required to correct the violation;
    - d. A reasonable time for correction, if the respondent cannot take measures to correct the violation immediately; and
    - e. Notice of rights of appeal.
- D. Order of Temporary Closure.
1. Simultaneously with, or subsequent to, the issuance of a notice of violation, the Commission may issue an order of temporary closure of all or part of a Gaming Operation for substantial violations of Tribal and/or federal law.
  2. The operator shall close the Gaming Operation upon service of an order of temporary closure, unless the order provides otherwise.



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3. Informal expedited review. Within one (1) day after service of an order of temporary closure, the respondent may request, orally or in writing, informal expedited review by the Commission.
  - a. The Commission shall complete the expedited review provided for by this paragraph as soon as is practical and no later than one (1) day after receipt of a timely request.
  - b. The Commission shall, as soon as is practicable and no later than one (1) day after the expedited review provided for by this paragraph, decide whether to continue an order of temporary closure and provide the respondent with an explanation of, and the factual basis for, that decision.
  - c. Whether or not a respondent seeks informal expedited review under this paragraph, within thirty (30) days after the Commission serves an order of temporary closure, the respondent may appeal the order to the full Commission under Section IX.F. Otherwise, the order shall remain in effect unless rescinded by the Commission for good cause.
  
- E. Civil Fine Assessments.
  1. The Commission may impose a fine of not more than \$2,500.00 for each violation.
  2. The Commission shall review each notice of violation and order of temporary closure to determine whether a civil fine will be assessed, the amount of the fine, and, in the case of continuing violations, whether each daily illegal act or omission will be deemed a separate violation for purposes of the total civil fine assessed.
  3. Within fifteen (15) days after service of a notice of violation, or such longer period as the Commission may grant for good cause, the respondent may submit written information about the violation to the Commission. The Commission shall consider any information so submitted in determining the facts surrounding the violation and the amount of the civil fine.
  4. The Commission shall serve a copy of the proposed assessment on the respondent within thirty (30) calendar days after the notice of violation was issued, when practicable.
  5. The Commission may review and reassess any civil fine, if necessary, to consider facts that were not reasonably available on the date of issuance of the proposed assessment.



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6. If the respondent fails to request a hearing as provided in Subsection F of this Section, the proposed civil fine assessment shall become a final order of the Commission. Civil fines assessed under this Section shall be paid by the person assessed and shall not be treated as an Operating Expense of the Gaming Operation.
  
- F. Appeals Before the Commission.
  1. A respondent may request a hearing to contest a notice of violation, order of temporary closure, civil fine assessment or order of exclusion by submitting a notice of appeal to the Commission within thirty (30) days after service of:
    - a. A notice of violation;
    - b. A proposed civil fine assessment or reassessment;
    - c. An order of temporary closure; or
    - d. An order barring a person or employee from one or more Gaming Facility.
  2. A notice of appeal shall reference the notice or order from which the appeal is taken.
  3. Within five (5) days after filing a notice of appeal, the Commission shall schedule a hearing for no later than thirty (30) days from date of notice of appeal. Notice of hearing shall include the time, date and place of the hearing and shall be served to the respondent by first class mail at his or her last known address.
  4. At the hearing, the respondent is entitled to call witnesses and present evidence.
  5. Within ten (10) days after the respondent receives notice of the hearing, the respondent shall file with the Commission a supplemental statement that states with particularity the relief desired and the grounds therefor.
    - a. The supplemental statement should include, when available, supporting evidence in the form of affidavits. If the respondent wishes to present oral testimony or witnesses at the hearing, the respondent shall include notice of this in the supplemental statement.
      - i. The notice shall specify the names and job titles of proposed witnesses, and state whether a closed hearing is requested and, if so, why.
  6. The respondent may waive in writing his or her right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions.
  7. The full Commission shall decide the matter by majority vote. A written decision by the Commission shall be issued to all parties within thirty (30) days from the



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hearing date. The decision of the Commission shall be based upon the whole record and shall include findings of fact and conclusions of law upon each material issue of fact or law presented on the record.

8. In deciding such appeals, the Commission shall apply a preponderance of the evidence standard.
  9. The decision of the Commission on the appeal shall be final and not subject to judicial review.
- G. License Hearings.
1. The Commission can take the following licensing actions:
    - a. Suspension of any license;
    - b. Revocation of any license;
  2. The Executive Director shall summarily suspend the tribal Gaming License of any employee or vendor if the Commission determines that the continued licensing of the person or entity could constitute a threat to the public health or safety or may summarily suspend the license of any employee or vendor if the Commission determines that the continued licensing of the person or entity may violate the Tribal Gaming Agency's licensing or other standards and shall notify the holder of the suspended license in writing about proposed licensing action and hearing date, time and location within twenty-four (24) hours from suspension.
  3. For licensing actions other than the summary suspension addressed in G.2 above, the Executive Director shall provide the Licensee or Vendor written notice of the proposed suspension or revocation within three (3) days of the decision to take such licensing action. The notice shall include the date, time and location of a License Hearing to review the proposed licensing action no later than thirty (30) days from date of notice to suspend or revoke a gaming license.
  4. The Licensee or Vendor shall be given at least nine (9) days written notice of the License Hearing.
  5. The notice shall be sent by regular mail to the Licensee at their last known address and shall contain the date, time and location of the hearing a detailed statement of the allegations that are the basis for the suspension and proposed licensing action, and identify any evidence that the Commission intends to consider during the hearing, including the identity of all witnesses who will testify before the Commission concerning the proposed action.
  6. The Licensee shall be given the opportunity to review the evidence and take notes at the Commission premises. No material shall be removed from those premises.





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7. The Commission may issue subpoenas.
8. The Licensee may appear in person or be represented by an attorney or other representative.
9. The Licensee may submit written briefs, argument or relevant evidence prior to or at the Hearing.
10. Requests for a continuance or to reschedule the Hearing shall be granted at the Commission's discretion. Such permission shall not be unreasonably withheld.
11. At the hearing, the Licensee or Representative shall have an opportunity to present evidence and arguments concerning the proposed revocation and cross examine witnesses.
12. If either party fails to testify on their behalf in response to any question, the Commission may infer that such testimony or answer would not support that party's position.
13. Failure to appear at the hearing without obtaining a written waiver of appearance shall constitute admission of all allegations contained in the notice. The Commission may take further action without additional notice to the Licensee.
14. Except for good cause shown, the Commission shall reach a decision within five (5) business days of the License Hearing and mail the written decision to the Licensee at their last known address.
15. The decision of the Commission shall be final and is not subject to judicial review.
16. All adverse licensing decisions shall be reported to Gaming Operation management.

**XII. PATRON DISPUTES**

- A. 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.
- B. Any Patron may file an oral or written complaint concerning the play and operation of any gaming activity at any Gaming Facility. This includes any refusal by the Gaming Operation to pay a Patron any alleged winnings from any Gaming Activities.
- C. The Patron shall have three (3) days from the date of the incident giving rise to the complaint to file an oral or written complaint with the Gaming Operation.



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- D. The General Manager or designee is responsible for contacting the Patron with any proposed resolution or settlement. If the proposed resolution or settlement is accepted by the Patron, the General Manager or designee and Patron shall execute a final Release and Settlement and all parties shall receive a signed copy.
- E. If the Patron's Initial Complaint is not resolved to the Patron's satisfaction by the Gaming Operation's management, the Patron shall be given written notice by the Gaming Operation that the Patron has the right to request in writing resolution of their complaint by the Tribal Gaming Agency. The Patron must make their request to the Tribal Gaming Agency within fifteen (15) days of receiving the Gaming Operation's written notification.
- F. If the Patron is not provided with the required written notice of their right to request resolution by the TGA by the Gaming Operation within thirty (30) days of the Patron's submission of the Initial Complaint, then the Patron may seek resolution of the complaint by the Tribal Gaming Agency up to one hundred eighty (180) days after submission of the Initial Complaint.
- G. If the Patron is dissatisfied with the Tribal Gaming Agency's resolution, the Patron may seek resolution in either the Tribe's tribal court system, once established, or through binding arbitration of the dispute.
- H. An explanation of the dispute resolution process shall be posted or otherwise made available in each Gaming Facility.
- I. Upon receipt of the Patron's written request for a resolution of the Patron's complaint, the Tribal Gaming Agency shall conduct an appropriate investigation, shall provide to the Patron a copy of any regulations concerning Patron complaints, and shall render a decision in accordance with industry practice.
- J. The decision shall be issued within sixty (60) days of the Patron's request, shall be in writing, shall be based on the facts surrounding the dispute, and shall set forth the reasons for the decision.
- K. If the Patron is dissatisfied with the decision of the Tribal Gaming Agency issued pursuant to subdivision (b), or no decision is issued within the sixty (60) day period, the Patron may request that the dispute be settled either in the Tribe's tribal court system, once established, or by binding arbitration before a JAMS arbitrator, in accordance with



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the Streamlined Arbitration Rules and Procedures of JAMS (or if those rules no longer exist, the closest equivalent) (hereafter "JAMS Streamlined Arbitration"). Resolution of the Patron's dispute before the tribal court system, once established, shall be at no cost to the Patron (excluding Patron's attorney's fees). The cost and expenses of the JAMS Streamlined Arbitration shall be initially borne equally by the Tribe and the Patron (for purposes of this section, the "parties") and both parties shall pay their share of the arbitration costs at the time of election of the arbitration option, but the arbitrator shall award to the prevailing party its costs and expenses (but not attorney's fees).

- L. Upon a Patron's request, the Tribe and its Gaming Operation shall consent to tribal court adjudication or JAMS Streamlined Arbitration of the matter, and agree to abide by the decision of the JAMS arbitrator; provided, however, that if any alleged winnings are found to be a result of a mechanical, electronic or electromechanical failure and not due to the intentional acts or gross negligence of the Tribe or its agents, the tribal court or JAMS arbitrator shall deny the Patron's claim for the winnings but shall deem the Patron the prevailing and shall award reimbursement of the amount wagered by the Patron which was lost as a result of any said failure.
- M. Any party dissatisfied with the award of the tribal court or JAMS arbitrator may at the party's election invoke the JAMS Optional Arbitration Appeal Procedure (and if those rules no longer exist, the closest equivalent); provided that the party making such election shall bear all costs and expenses of JAMS and the JAMS arbitrators associated with the JAMS Optional Arbitration Appeal Procedure, regardless of the outcome.
- N. To effectuate its consent to the tribal court system, once established, or JAMS Streamlined Arbitration and JAMS Optional Arbitration Appeal Procedure, the Tribe shall, in the exercise of its sovereignty, waive its right to assert sovereign immunity solely in connection with the tribal court's jurisdiction and the JAMS arbitrator's jurisdiction and only in any action to (i) enforce the Tribe's or the Patron's obligation to arbitrate, (ii) confirm, correct, modify, or vacate tribal court award or the arbitral award rendered in the arbitration, or (iii) enforce or execute a judgment based upon the award.

**XIII. PROHIBITED ACTS**

It shall be a violation of this Ordinance for any person to:



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- A. Conduct or participate in any gambling on Indian lands other than at an authorized and licensed place, location or facility.
- B. Receive, distribute, apply or divert any property, funds, proceeds, or other assets of a Gaming Facility, except as authorized by this Ordinance No. 15, IGRA, the Compact, and/or any regulations or requirements approved by the Commission.
- C. Tamper with any Class III Gaming Device, Class II Gaming Device, or gaming equipment used in the conduct of any gaming activity.
- D. Do any other act in connection with the conduct of a Gaming Facility, Gaming Operation and/ or gaming activity to affect, in any manner, the outcome of any wager.
- E. To alter or misrepresent the outcome of other events on which wagers have been made after the outcome is made sure but before it is revealed to the players.
- F. To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome.
- G. To claim, collect or take, or attempt to claim, collect or take, money, property, assets or anything else of value in or from any Class III gaming device, Class II Gaming Device, table game, or gaming equipment, without having made a wager thereon, or to claim, collect or take an amount greater than the amount won.
- H. To place or increase a wager or bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets.
- I. To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets.
- J. To manipulate any component of a Class III gaming device or Class II gaming device, in a manner contrary to its design and its normal operational purpose including, without



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limitation, manipulating a gaming device or Class II gaming device, to affect the outcome of the gaming activity.

- K. To use other than currency approved by the Commission and lawful coin and legal tender of the United States of America.
- L. To possess and/or use at a Gaming Facility any device, tool, instrument or means to dishonestly affect any game, gaming device and/or gaming activity.
- M. To attempt to either persuade or induce, or to either induce or persuade another person to go to a Gaming Facility to engage in activities prohibited by this Ordinance.
- N. Commit any act of theft or dishonesty.

**XIV. AGENT FOR SERVICE OF PROCESS**

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

**XV. REPEAL**

Any and all prior gaming ordinances or interim ordinances are hereby repealed, and superseded by this Ordinance. If any TICS, Commission regulation or policy or procedure conflicts with this Ordinance, the terms of this Ordinance shall control.

**XVI. SOVEREIGN IMMUNITY**

Nothing said or not said in this Ordinance is intended to waive, in any manner, the sovereign immunity of the Tribe with the sole exception of the Patron Dispute Section XII.

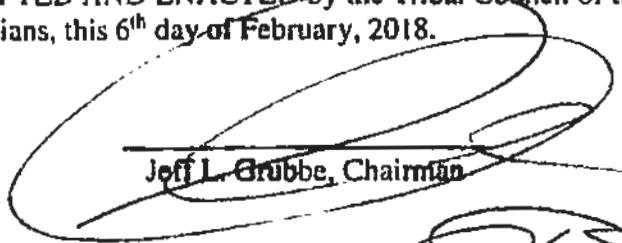


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**XVII. AMENDMENTS**

This Ordinance may be amended only by a majority vote of the Tribal Council.

BE IT ADOPTED AND ENACTED by the Tribal Council of the Agua Caliente Band of Cahuilla Indians, this 6<sup>th</sup> day of February, 2018.

  
Jeff L. Grubbe, Chairman

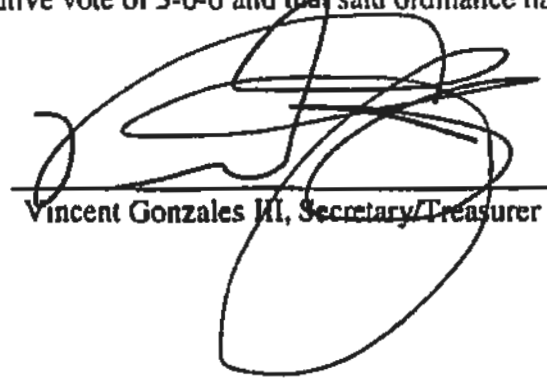
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ABSENT  
Larry N. Olinger, Vice-Chairman

  
Vincent Gonzales III, Secretary/Treasurer

  
Reid D. Milanovich, Member

  
Anthony W. Purnel, Member

I, the undersigned, the Secretary-Treasurer of the Agua Caliente Band of Cahuilla Indians, hereby certify that the Tribal Council is composed of five members of whom 4, constituting a quorum, were present at a meeting whereof, duly called, noticed, convened and held on this 6<sup>th</sup> day of February 2018; that the foregoing ordinance was duly adopted at such meeting by the affirmative vote of 3-0-0 and that said ordinance has not been rescinded or amended in any way.

  
Vincent Gonzales III, Secretary/Treasurer