



March 22, 2021

VIA EMAIL

Joseph Rupnick, Chairman
Prairie Band Potawatomi Nation Tribal Counsel
Prairie Band Potawatomi Nation
16281 Q. Road
Mayetta, KS 66509
josephrupnick@pbpnation.org

Re: Prairie Band Potawatomi Nation Gaming Ordinance Amendment

Dear Chairman Rupnick:

This letter responds to your December 23, 2020 request on behalf of the Prairie Band Potawatomi Nation (Nation) for the Chairman of the National Indian Gaming Commission (NIGC) to review and approve the Nation's amendments to its gaming ordinance. The amendments were adopted by Tribal Council Resolution No. 2020-363 on December 9, 2020, and reflect comprehensive review and revisions.

Thank you for bringing these amendments to our attention and providing us with a thorough submission of the Nation's gaming laws and regulations. The amended ordinance is approved as consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions or require anything further, please contact Staff Attorney James A. Lewis at (202) 632-7103.

Sincerely,

A handwritten signature in blue ink that reads "E. Sequoyah Simermeyer".

E. Sequoyah Simermeyer
Chairman

Cc: Russell Brien, Esq. via email at: Russ@brienlawllc.com

MAILING ADDRESS: NIGC/DEPARTMENT OF THE INTERIOR 1849 C Street NW, Mail Stop #1621 Washington, DC 20040 Tel: 202.632.7003 Fax: 202.632.7066

REGIONAL OFFICES Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK; Oklahoma City, OK; Rapid City, SD

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**PRAIRIE BAND POTAWATOMI NATION
TRIBAL COUNCIL RESOLUTION No. 2020-363**

Amendments to Potawatomi Law and Order Code Title 12 Gaming Ordinance

- WHEREAS:** The Prairie Band Potawatomi Nation (the "Nation") is a duly organized Indian Tribal entity, with a Constitution approved by the U.S. Secretary of the Interior and last amended on December 6, 2007; and
- WHEREAS:** Pursuant to Article V of the Prairie Band Potawatomi Nation Constitution, the Nation's Tribal Council (the "Tribal Council") is the governing body with the enumerated powers to promote and protect the peace, health, education, morals and welfare of the Nation and its members; and
- WHEREAS:** The Tribal Council has determined that it is in the best interests of the Nation and its members to amend Title 12 of the Law and Order Code in order to update the Nation's gaming ordinance; and
- WHEREAS:** The amended ordinance, in the form attached hereto as Exhibit A, provides for repeal and replacement of current Title 12 effective upon approval of the amended ordinance by the Chair of the National Indian Gaming Commission.


NOW, THEREFORE, BE IT RESOLVED, that the Prairie Band Potawatomi Tribal Council does hereby approve amending Title 12 of the Law and Order Code in the form attached hereto as Exhibit A.

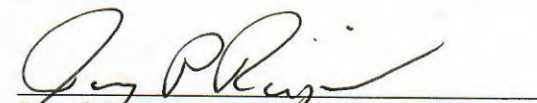
FURTHER RESOLVED, that the Prairie Band Potawatomi Tribal Council does hereby order that such amendments shall take effect immediately upon approval by the Chair of the National Indian Gaming Commission and, upon such approval, such amendments shall be submitted to Code Publishing Company for publication.

CERTIFICATION

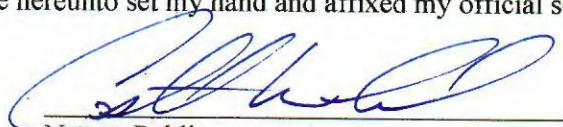
The foregoing resolutions were duly adopted on December 9, 2020, at a Meeting of the Prairie Band Potawatomi Tribal Council, during which (7) members were present, constituting a quorum, by a vote of (6) for, (0) opposed, (0) abstaining, (0) absent from voting and the Chair not voting.

ATTEST:


Camilla Chouteau, Secretary


Joseph P. Rupnick, Chairman

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.


Notary Public



POTAWATOMI LAW AND ORDER CODE

TITLE 12 GAMING

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**CHAPTER 12-1
LEGISLATIVE FINDINGS,
POLICY, AND PURPOSE**

Section 12-1-1. Repeal of Prior Ordinance.

This enactment shall be known as the Prairie Band Potawatomi Gaming Act of 2020 and shall be codified as Title XII of the Prairie Band Potawatomi Nation Law and Order Code. It shall become effective immediately upon its approval by the Chair of the National Indian Gaming Commission and shall supersede, replace, and repeal in its entirety the content of Title XII as last amended on February 24, 2012. All other laws of the Nation inconsistent with the provisions of this Title and existing as of the effective date of this Title are hereby repealed, including all inconsistent laws, codes, ordinances, and resolutions. Repeal by this Title of any law, code, ordinance, or resolution shall not have the effect of reviving any prior law, code, ordinance, Title, or resolution heretofore repealed or suspended by such repealed code.

The Prairie Band Potawatomi Nation (“Nation”) retains continuing authority to amend this Title, or to enact and promulgate additional statutory or regulatory provisions relating to the conduct of Gaming within the jurisdiction of the Nation to protect the public health and safety, provided, that:

- (A) Amendment of any provision of this Title shall be effective only if such provision(s) is/are approved by the Chairman of the National Indian Gaming Commission (“NIGC”) as provided in 25 U.S.C. §§ 2701, *et seq.*; and
- (B) No subsequent enactment or amendment of any Nation law, ordinance, resolution, or regulation shall conflict with or be interpreted to conflict with any provision of this Title and/or the regulations issued pursuant thereto unless the same be approved by the Chairman of the NIGC as provided in 25 U.S.C. § 2710.
- (C) The regulations of the Tribal Gaming Commission current on the effective date of this Title may remain in full force and effect for up to eighteen (18) months unless inconsistent with any provision of this Title or earlier superseded by duly adopted regulations pursuant to this Title.

Section 12-1-2. Severability.

The provisions of this Title are severable and if any part or provision hereof shall be held void by a court of competent jurisdiction, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this Title.

Section 12-1-3. Sovereign Powers and Responsibilities.

This Title is enacted pursuant to the inherent sovereign powers of the Nation expressly delegated to the Tribal Council in Article V, Sections 1(a), (c), (f), (g), (i), (l), (m), (p), (q) and (r)

of the Nation's Constitution, which authorizes the Tribal Council to negotiate, consult, and contract with Federal, State, and local governments, to charter and regulate subordinate organizations, appoint subordinate committees and representatives, to promulgate and enforce ordinances providing for the maintenance of law and order and the administration of justice on the Reservation, manage and otherwise deal with Nation Lands and property, to exclude by ordinance from the restricted lands of the Reservation people not legally entitled to reside therein, to regulate the conduct of trade and the use and disposition of property upon the Reservation, to engage in any business that will promote the health, peace, morals, education, and welfare of the Nation and its members, to administer tribal matters in accordance with accounting, property control, and personnel procedures established by the Tribal Council, to make expenditures from available Nation funds for tribal purposes, and to delegate to subordinate boards or Nation officials forgoing powers, subject to review by the Tribal Council.

Section 12-1-4. Federal Policy of Tribal Self-Determination.

In 1970, President Nixon announced the policy of the United States government to promote self-determination for Indian tribes. At the heart of the federal policy is a commitment by the Federal Government to foster and encourage Tribal self-government, economic development, and self-sufficiency. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act, Public Law 93-638, 88 Stat. 2203, 25 U.S.C. §§ 450-450n. In 1983, President Reagan reaffirmed that commitment in his Indian policy statement, encouraged tribal governments to reduce their dependence on federal funds by generating more of their own revenues, and pledged to assist tribal governments in that endeavor.

The federal commitment was furthered in 1988 by passage of the Indian Gaming Regulatory Act (IGRA), Public Law 100-497, 102 Stat. 2467, 25 U.S.C. §§ 2701, *et seq.* (1988), through which the Federal Government recognized the inherent sovereign right of tribal governments to conduct and regulate gaming on their reservations and preempted state authority in the area of Indian gaming.

Section 12-1-5. Potawatomi Tribal Policy of Self-Government.

The Nation is firmly committed to the principle of tribal self-government. Consistent with federal policy, the Nation's government provides a wide range of public services on the Reservation, including general governmental services, the maintenance of peace and good order, the establishment of educational systems and programs, and the promotion and regulation of economic activities within the sovereign jurisdiction of the Nation.

Section 12-1-6. Tribal Alcohol Rehabilitation Program.

Among the governmental services provided by the Nation's government is its alcohol rehabilitation program which is funded entirely by the Federal Government. Because of the deficiency of federal funding of the program, on-Reservation shelters are not available for resident members of the Nation with alcohol problems. Thus, although this program combats the most serious medical and social problem on the Reservation and is essential to the health and welfare of the Nation, the program is badly in need of additional Nation funding.

Section 12-1-7. Land Consolidation Program.

As recognized by Congress in the Act of January 25, 1983, Public Law 94-459, Title I, the continued existence of reservations as permanent homelands for Indian tribes, and as necessary foundations for continued self-determination, requires that the Tribes consolidate and increase the trust land base in their reservations and prevent further loss of trust land. Accordingly, the Nation needs to establish a Land Consolidation Program but cannot do so until adequate Nation funding is available.

Section 12-1-8. Tribal Need for Governmental Revenue and Additional Economic Development.

The Nation desires to pursue its goal of self-determination vigorously through the development of manufacturing and farming enterprises. Because of the modest income level of the Nation, cutbacks in federal funding and increasing costs of self-government, it is essential that the Nation develop additional economic activities on the Reservation to support general governmental programs, the Alcohol Rehabilitation Program, and a Land Consolidation Program, and to provide employment for Tribal membership.

Section 12-1-9. Tribal Gaming Policy.

The establishment, promotion, and operation of Gaming is necessary and desirable, provided that such Gaming be regulated and controlled by the Nation pursuant to tribal and federal law and the Tribal-State Gaming Compact, and that the proceeds of such Gaming be used exclusively for the purposes of the Nation government pursuant to tribal law and the IGRA. Gaming provided hereunder is authorized by State law, and when operated in accordance with tribal and federal law and the Tribal-State Gaming Compact, such Gaming will be conducive to the general welfare of all residents of the Reservation.

Section 12-1-10. Purposes of Title.

(A) The purposes of this Title are:

- (1) To regulate, monitor, control, and license the operation of all Gaming within the Reservation and on all other Prairie Band Potawatomi Nation Lands constituting “Indian lands” as defined by 25 U.S.C. § 2703(4);
- (2) To promote and strengthen the Nation’s economic development, independence, and self-determination;
- (3) To generate revenue to strengthen and improve tribal self-government and the provision of governmental services; and
- (4) To enhance employment opportunities for Tribal membership.

- (B) In all of its regulatory decisions, policies, and actions, the Tribal Gaming Commission shall consider and balance the purposes and benefits of the specific regulatory activity involved with the burdens and costs of complying with such regulation. The purpose of this Title and the Tribal Gaming Commission is to provide for the reasonable regulation of Gaming in a way that considers and balances these interests. Prior to adoption or amendment of any regulation, the Tribal Gaming Commission shall provide each Gaming Enterprise notice and reasonable opportunity to comment upon its proposed regulatory change(s).
- (C) The Tribal Gaming Commission shall focus upon the regulation of Gaming activity at each Gaming Facility. It shall not involve itself with operational matters, business decisions, Ancillary Facilities, Ancillary Activities, other non-Gaming activities, or Non-Gaming Employees except as may be clearly necessary to perform a specific regulatory function authorized pursuant to this Title.

CHAPTER 12-2 GENERAL PROVISIONS

Section 12-2-1. Definitions.

In this Title, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings:

- (A) **Ancillary Activity.** “Ancillary Activity” means a non-Gaming economic activity owned, operated, or managed by a Gaming Enterprise to support Gaming activities or to provide amenities or services to or for patrons as a means of encouraging or promoting patronage of the Gaming Facility, including, for example, lodging, food and beverage, retail, and any other non-Gaming economic activity operated by the Gaming Enterprise or a tenant of the Gaming Enterprise.
- (B) **Ancillary Facilities.** “Ancillary Facilities” mean any physical structure or internal or external area of the premises of a Gaming Facility where Ancillary Activities or other non-Gaming activities are operated, which may include, without limitation, hotels, restaurants, VIP lounges, RV parks, event centers, gift shops, parking lots, retail outlets, environmental services or maintenance areas, food, beverage, amenity or other service areas, and/or other areas where no Gaming activity is conducted.
- (C) **Applicable Law.** “Applicable Law” means, as pertinent:
 - (1) The Constitution and all laws and regulations of the Nation pertaining to its Gaming activities, including this Title and the regulations of the Tribal Gaming Commission;
 - (2) All federal laws and regulations that may now or hereafter apply to the Nation’s Gaming activities; and

- (3) The terms of any Tribal-State Gaming Compact that may now or hereafter be in effect between the Nation and any State.
- (D) **Bingo.** “Bingo” means the Game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of each card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and in which the Game is won by the first Player covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) Pull-Tabs, Lotto, Punchboards, Tip Jars, instant bingo, and other Games similar to bingo.
- (E) **Charitable Gaming Ticket.** “Charitable Gaming Ticket” means any Game piece used in the play of a paper Pull-Tab Game, jar ticket Game, or Raffle, the proceeds from which are to be used exclusively for a charitable purpose.
- (F) **Cheating.** “Cheating” means a Person’s operating or playing in any Game in a manner in violation of the written or commonly understood rules of the Game, with the intent to create for himself, or someone In Privity With him/her, an advantage over and above the chance of the Game.
- (G) **Compensation.** “Compensation” means any wages, salaries, bonuses, and all other forms of remuneration for services rendered.
- (H) **Electronic Game of Chance.** “Electronic Game of Chance” means any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the Player in playing a gambling Game which is presented for play by the machine or application of the element of chance, or both, may deliver or entitle the Player playing the machine to receive cash, premiums, merchandise, tokens, or other thing of value, whether the payoff is made automatically from the machine or in any other manner.
- (I) **Game or Gaming.** “Game” or “Gaming” means any activity, operation, or game of chance in which any valuable consideration may be Wagered upon the outcome determined by chance, skill, speed, strength, or endurance, and in which any valuable prize is awarded to the Player so Wagering, including, but not limited to, lotteries, keno, Pull-Tabs, pari-mutuel Wagering, slot, poker, or other mechanical or electronic gaming, and the like, as well as those relying on satellites, computers, or cable television, and any activity in furtherance thereof, including owning, financing, managing, Participating in, conducting, or assisting in any way in any such activity at the site at which it is being conducted, directly or indirectly, whether at the site in-person or off the Reservation.

- (J) **Gaming Employee.** “Gaming Employee” means any natural Person eighteen (18) years or older employed in the operation or management of any Gaming activity or operation, whether employed by or contracted to the Nation or by any Person or enterprise providing on or off-site services to the Nation within or outside the Gaming Facility regarding any Gaming activity or operation, including, but not limited to, Gaming operations managers and assistant managers, accounting personnel, surveillance personnel, cashier supervisors, dealers or croupiers, box men, floor men, pit bosses, shift bosses, cage personnel, collection personnel, Gaming consultants, Management Contractors and their Principals, and any other natural Person whose employment duties require or authorize access to a Restricted Area of the Gaming Facility. An employee shall not be considered a Gaming Employee as a result of access to non-public areas of the Gaming Facility unless the Person’s employment duties require or authorize access to a Restricted Area of the Gaming Facility.
- (K) **Gaming Enterprise.** “Gaming Enterprise” means the entity responsible for operation of a Gaming Facility which conducts any Gaming activity or operation subject to the provisions of this Title.
- (L) **Gaming Equipment.** “Gaming Equipment” means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any Gaming activity, whether or not specifically designed for the purpose, but excluding tables and chairs normally used in the occupancy of any Gaming Facility.
- (M) **Gaming Facility.** “Gaming Facility” means any location, establishment, or structure, stationary or movable, wherein Gaming is permitted, promoted, performed, conducted, or operated. The term “Gaming Facility” does not include the site of a fair, carnival, exposition, or similar occasion.
- (N) **Gaming Vendor.** “Gaming Vendor” means any Person or entity that provides Gaming or Gaming-related goods and/or services, including, for example, Gaming Equipment and supplies, cash-related services, Player tracking/rewards systems, accounting software, ticket redemption systems, kiosks, back-of-house software systems, currency processing equipment, or any equipment, device, or service directly or indirectly supporting Gaming activities. The term “Gaming Vendor” also includes any entity that meets the definition of manufacturer or distributor as defined in a Tribal-State Gaming Compact.
- (O) **General Council.** “General Council” means all enrolled members of the Prairie Band of Potawatomi Indians who are eighteen (18) years of age or older meeting in a general council.
- (P) **IGRA.** “IGRA” means the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2467, 25 U.S.C. §§ 2701, *et seq.* (1988), as amended.
- (Q) **Immediate Family.** “Immediate family” means, with respect to the Person under consideration, any husband, wife, father, mother, son, daughter, brother, sister, father-

in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother or half-sister.

(R) In Privity With. “In privity with” means any relationship involving one who acts jointly with another, or as an accessory before the fact to an act committed by the other, or as a co-conspirator with the other.

(S) IRS. “IRS” means the United States Internal Revenue Service.

(T) Key Employee. “Key Employee” means:

(1) Any Person within one or more of the following descriptions:

- (a)** Bingo caller;
- (b)** Counting room supervisor;
- (c)** Chief of security;
- (d)** Custodian of Gaming supplies or cash;
- (e)** Floor manager;
- (f)** Pit boss;
- (g)** Dealer;
- (h)** Croupier;
- (i)** Approver of credit;
- (j)** Custodian of Gaming Equipment, including people with access to cash and accounting records within such devices; or
- (k)** An employee in the finance and accounting offices.

(2) If not otherwise included any other Person whose total cash Compensation is in excess of \$50,000 per year; or

(3) If not otherwise included the four (4) most highly compensated people in the Gaming Enterprise; or

(4) Any employee of the Gaming Enterprise whom the Tribal Gaming Commission may, by written notice or regulation, classify as a Key Employee.

- (U) **License.** “License” means any official, legal, and revocable permission granted by the Tribal Gaming Commission to an applicant to conduct any Gaming activity or operation on Nation Lands.
- (V) **Licensee.** “Licensee” means:
- (1) A Class II or Class III Gaming Facility owned by the Nation; or
 - (2) A Person licensed by the Tribal Gaming Commission as a Primary Management Official, Key Employee, Standard Gaming Employee, or Gaming Vendor under the provisions of this Title.
- (W) **Lotto or Lottery.** “Lotto” or “Lottery” means any Gaming in which the proceeds derived from the sale of tickets or chances are pooled, and such proceeds or parts thereof are allotted by chance to one (1) or more Players. The amount of cash prizes or winnings are determined by the Operator conducting the “lottery”, and a progressive pool is permitted. Tele-lottery means that the drawing is televised for use in a cable television broadcast.
- (X) **Management Contractor.** “Management Contractor” means any Person or entity conducting any Class II or Class III Gaming activity or operation on behalf of the Nation pursuant to a management contract approved by the Chairman of the National Indian Gaming Commission.
- (Y) **Nation.** “Nation” means the Prairie Band Potawatomi Nation, recognized by the Federal Government and operating pursuant to the Tribal Constitution and By-laws; and “tribal” means belonging or pertaining to the Nation.
- (Z) **Nation Land.** “Nation Lands” or “Nation Land” means:
- (1) Any land within the limits of the Reservation of the Prairie Band of Potawatomi Indians of Kansas, together with any accretions thereto, which are located within the State of Kansas;
 - (2) Any land, title to which is either held in trust by the United States for the benefit of the Nation or an individual of the Nation, or held by the Prairie Band of Potawatomi Indians or an individual subject to a restriction by the United States against alienation and over which the Nation exercises governmental power; or
 - (3) Any land within or without the State of Kansas which may be acquired by the Nation in the future and which meets the criteria and definitions set forth in 25 U.S.C. § 2719 and 25 C.F.R. § 502.12 with regard to Indian lands.

- (AA) National Indian Gaming Commission or NIGC.** “National Indian Gaming Commission” or “NIGC” means the commission by that name established by the IGRA.
- (BB) Net Revenues.** “Net revenues” mean adjusted gross Gaming revenues, less amounts paid out as, or paid for, prizes, and total Gaming-related operation expenses, excluding management fees.
- (CC) Non-Gaming Employee.** “Non-Gaming Employee” means a natural Person whose employment duties do not require or authorize access to Restricted Areas of the Gaming Facility; and
- (1)** Who is employed in an Ancillary Facility; or
 - (2)** Who is employed in an area of Gaming activity but is not actually employed in the operation or management of any Gaming activity.
 - (3)** Non-Gaming Employees who meet this definition include, without limitation, hotel and convention center employees, food and beverage preparers, servers, cashiers, valet employees, recreational vehicle park employees, coat check and wardrobe employees, and maintenance and janitorial employees.
- (DD) Non-Gaming Vendor.** “Non-Gaming Vendor” means any Person or business entity that provides services or goods to a Gaming Enterprise that is not directly related to or used in connection with Gaming activities or the handling, processing, and/or accounting of cash or cash equivalents from the Gaming activities. Non-Gaming Vendors are those whose dealings or transactions with the Gaming Enterprise pose negligible risk of detrimentally affecting the integrity of the Nation’s Gaming activities or operation. Examples of non-Gaming goods and services include, but are not limited to, airlines, hotels used for business travel, subscription newspapers and periodicals, laundry services, food, beverages, cleaning supplies, gardening services, general purpose equipment or items such as light bulbs, vacuum cleaners, decorations, goods and services provided by phone companies or a publicly regulated utility company, and providers of entertainment services. Additionally, the term “Non-Gaming Vendor” shall include certified public accountants, attorneys, and their respective firms to the extent they are providing by contract services covered by their professional licenses, but who shall not be required to register.
- (EE) Operator.** “Operator” means a Person contracted, appointed, or hired by the Nation to perform, promote, conduct, or operate any lawful, tribally Licensed Gaming activity or operation on Nation Land at a Gaming Facility. In the case of a Gaming activity owned and operated solely by the Nation, this Person shall be the senior Gaming management official employed to operate its Gaming activities. In the case of a Gaming Facility operated by a Gaming Enterprise which is a wholly owned subsidiary of the Nation, such Gaming Enterprise shall be the Operator of such Gaming Facility and of

each Gaming Activity at such Gaming Facility directly operated by such Gaming Enterprise. In the case of Gaming activities operated pursuant to a management contract, that Person shall be the Management Contractor.

- (FF) Participate.** “Participate” in any Gaming activity means operating, directing, financing, or in any way assisting in the establishment of or operation of any class of Gaming, or any site at which such Gaming is being conducted, directly or indirectly, whether at the site in-person or off the Reservation.
- (GG) Person.** “Person” means any individual, partnership, joint venture, corporation, joint stock company, company, firm, association, trust, estate, club, business trust, municipal corporation, society, receiver, assignee, trustee in bankruptcy, political entity, and any owner, director, officer or employee of any such entity, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, provided that the term “Person” does not include the Federal Government or any agency thereof, the government of the Nation, any governmental entity of the Nation, or any of the above listed forms of business entities that are wholly owned or operated by the Nation.
- (HH) Player.** “Player” means any natural Person taking part in any Gaming activity with the chance of winning money or other benefit, but does not include an Operator, or any assistant of an Operator or any other Person that is Participating in such Gaming activity.
- (II) Primary Management Official.** “Primary Management Official” means:
- (1)** Any Person having management responsibility for a management contract;
 - (2)** Any Person who has authority to:
 - (a)** Hire and fire employees; or
 - (b)** Set up working policy for the Gaming Enterprise; or
 - (3)** The chief financial officer or other Person who has financial management responsibility.
- (JJ) Principal.** “Principal” means with respect to a Gaming Vendor, its sole proprietor or any partner, trustee, beneficiary, shareholder holding five percent (5%) or more of its beneficial or controlling ownership, or any officer director, Primary Management Official, including its Chief Financial Officer or other Person who has financial management responsibility as an employee or under contract, or Key Employee thereof; and with respect to any Management Contractor:
- (1)** Each of its officers and directors;

- (2) Each of its Principal Management Officials, including any chief executive officer, chief financial officer, chief operating officer, or General Manager;
 - (3) Each of its owners or partners, if it is an unincorporated business;
 - (4) Each of its shareholders who own more than ten percent (10%) of the shares of the corporation, if a corporation; and
 - (5) Each Person, other than a banking institution, who has provided financing for the Gaming Enterprise constituting more than ten percent (10%) of the total financing of the Gaming Enterprise.
- (KK) Pull-tabs, Punchboards, and Tip Jars.** “Pull-tabs,” “Punchboards,” and “Tip Jars” each mean any Gaming utilizing preprinted cards bearing symbols or numbers in random order, which are uncovered by random choice in expectation of cash prizes whenever prescribed combinations of symbols and numbers are revealed.
- (LL) Raffle.** “Raffle” means any Gaming in which each Player buys a ticket for a chance to win a prize with the winner determined by a random method. The term “Raffle” does not include a slot machine.
- (MM) Registration List.** “Registration List” means a list maintained by the Tribal Gaming Commission which contains the names of Non-Gaming Vendors that are permitted to provide certain services to a Gaming Enterprise subject to this Title, the authority of the Tribal Gaming Commission.
- (NN) Reservation.** “Reservation” means the Potawatomi Indian Reservation including all lands, islands, waters, roads, and bridges, or any interests therein, whether in trust or non-trust status, and notwithstanding the issuance of any patent or right-of-way, within the boundaries of Reservation as established in Article 4 of the Treaty of July 23, 1846, 9 Stat. 853, and such other lands, islands, waters, or any interest therein thereafter added to the Reservation at any time.
- (OO) Restricted Area.** “Restricted Area” means those areas within the Gaming Facility or on the premises of the Gaming Facility that are not open to the public, such as the cage, count room, surveillance room, vault, and such other areas so designated, and to which access is restricted to Gaming Employees. The term “Restricted Area” does not include public or non-public Ancillary Facilities, including employee or service corridors, kitchens, food or beverage service areas, restrooms, wardrobe rooms, coat rooms, employee locker rooms, janitorial rooms, or areas in Ancillary Facilities designated as unrestricted.
- (PP) Standard Gaming Employee.** “Standard Gaming Employee” means any Gaming Employee, other than a Key Employee or Primary Management Official. All references to “employee” in this Title with reference to employment in any Gaming Enterprise or Gaming Facility shall refer to Key Employees, Primary Management

Officials, and Standard Gaming Employees, unless the context clearly requires otherwise.

- (QQ) Tribal Gaming Commission.** “Tribal Gaming Commission” means the Potawatomi Tribal Gaming Commission described in Chapter 12-3 of this Title.
- (RR) Tribal Council.** “Tribal Council” means the Tribal Council existing and functioning pursuant to the Constitution of the Prairie Band Potawatomi Nation.
- (SS) Tribal Court.** “Tribal Court” means the Judicial Council of the Prairie Band Potawatomi Nation existing and functioning pursuant to the Constitution of the Prairie Band Potawatomi Nation.
- (TT) Tribal Law Enforcement Agency.** “Tribal Law Enforcement Agency” means the tribal police established and maintained by the Nation pursuant to the Nation’s powers of self-government to carry out law enforcement within Nation Lands.
- (UU) Tribal-State Gaming Compact.** “Tribal-State Gaming Compact” means a Tribal-State compact, as defined in 25 C.F.R. § 502.21.
- (VV) Twenty-One or Blackjack.** “Twenty-One,” also known as “Blackjack” means the card Game played by a maximum of seven (7) Players and one (1) dealer wherein each Player plays his hand against the dealer’s hand with the object of obtaining a higher total card count than the dealer by reaching 21 or as near 21 as possible without exceeding 21. The cards have the following value:
- (1)** Aces count either one (1) or eleven (11), at any Player’s option;
 - (2)** Kings, queens, and jacks each count ten (10); and
 - (3)** All other cards are counted at their face value.
- (WW) Wager.** “Wager” means a bet made in any Game of chance.
- (XX) Work Permit.** “Work Permit” means a permit issued by the Tribal Gaming Commission to Non-Gaming Employees, subject to requirements and restrictions of this Title.

Section 12-2-2. Tribal Gaming Commission Account Established.

- (A)** There is hereby authorized and directed to be established an account in a federally insured financial institution to be known as the Tribal Gaming Commission Account.
- (B)** The Tribal Gaming Commission Account shall be an interest-bearing account and funds therein may be invested and reinvested only as approved by the Tribal Council.

- (C) No monies shall be released or expended from the Tribal Gaming Commission Account except upon written resolution of the Tribal Council appropriating a specific amount of the monies contained therein for the use of the Tribal Gaming Commission to cover the costs and expenses for the administration and enforcement of this Title.
- (D) All income, fees, penalties, interest, charges, or other monies collected by the Tribal Gaming Commission in the administration and enforcement of this Title shall be deposited in the Tribal Gaming Commission Account.

Section 12-2-3. Allocation and Use of Gaming Revenue.

- (A) The Nation shall receive not less than sixty percent (60%) of the annual Net Revenue of any Class II or III Gaming activity on the Reservation or any other Nation Lands.
- (B) Net Revenues from tribal Gaming shall be used only for the following purposes:
 - (1) To fund the Nation government operations or programs;
 - (2) To provide for the general welfare of the Nation and its members;
 - (3) To promote tribal economic development;
 - (4) To provide donations for charitable organizations; and
 - (5) To help fund operations of local government agencies.
- (C) Net Revenues from the Nation's Gaming activities may only be used to make per capita payments if such payments are made pursuant to a revenue allocation plan authorized by resolution or other enactment of the Tribal Council, and approved by the Secretary of the United States Department of the Interior.

Section 12-2-4. Audit.

- (A) The Tribal Gaming Commission shall allow for an independent financial audit of Gaming operations to be conducted annually and such other annual audits as may be required by the National Indian Gaming Commission by regulations, and shall submit resulting 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 12-2-4(A) of this Title.

Section 12-2-5. Protection of the Environment and Public Health and Safety.

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

Section 12-2-6. Gaming Facility License Required.

The Nation shall issue or cause to be issued a separate License to each place, facility, or location where Gaming is conducted under this Title. Every Gaming Facility shall display in a prominent place a current and valid License for that location.

Section 12-2-7. Management Contracts.

No management contract may be executed by or on behalf of the Nation with any third-party unless authorized by a duly adopted resolution of the Tribal Council and in full compliance with all applicable provisions of IGRA, particularly, 25 U.S.C. § 2711, and regulations issued pursuant thereto.

Section 12-2-8. Compliance with Applicable Federal Laws.

In addition to its authority to administer and enforce compliance with this Title and regulations issued hereunder, the Tribal Gaming Commission is hereby delegated the authority to monitor, enforce, and sanction violations of all federal laws and regulations applicable to the Nation's Gaming activities including, without limitation, the pertinent provisions of Title 25 of the United States Code and the Code of Federal Regulations, Title 26 of the United States Code and the Code of Federal Regulations, and Title 31 of the U.S. Code and Code of Federal Regulations, among others.

Section 12-2-9. Consent to Jurisdiction.

Any Person who:

- (A) Applies for and/or is granted a License under this Title;
- (B) Applies for employment in any Gaming Facility regulated under this Title;
- (C) Enters into any contract, engagement, or agreement related to Gaming regulated under this Title; and/or
- (D) Enters upon the premises of any Nation Gaming Facility as a patron, customer, guest, visitor, or for any other purpose,

is subject to the civil jurisdiction of the Nation, the Tribal Gaming Commission, the Tribal Courts, and a Person's performance of any of these acts shall constitute consent to the Nation's exercise of such jurisdiction.

Section 12-2-10. Noncompliance.

Failure to comply with any of the requirements in this Title, or the regulations promulgated hereunder by the Tribal Gaming Commission shall constitute a violation of this Title.

Section 12-2-11. Description of Procedures for Resolving Disputes.

All disputes between members of the Gaming public and the Gaming Enterprise must be promptly, and to the extent practicable, amicably resolved by an authorized agent of the Gaming Enterprise. In cases where the dispute cannot be promptly and amicably resolved or settled between an authorized agent and patron, the regulations adopted by the Tribal Gaming Commission and/or applicable internal control standards and procedures approved by the Tribal Gaming Commission shall be followed.

Section 12-2-12. Sole Proprietary Interest.

The Nation shall have the sole proprietary interest in and responsibility for the conduct of any Gaming Enterprise authorized by this Title.

Section 12-2-13. No Authorization for Individually-Owned Gaming.

The Nation does not authorize individually-owned Gaming.

**CHAPTER 12-3
TRIBAL GAMING
COMMISSION**

Section 12-3-1. Establishment.

The Nation hereby charts, creates, and establishes the Prairie Band Potawatomi Tribal Gaming Commission ("Tribal Gaming Commission") as a governmental subdivision of the Nation.

Section 12-3-2. Authority of the Commission.

The Tribal Gaming Commission is hereby delegated exclusive authority to independently regulate all Gaming activities, Facilities and Gaming operations under the provisions of this Title.

Section 12-3-3. Location and Place of Business.

The Tribal Gaming Commission shall be a resident of and maintain its headquarters, principal place of business, and office on the Reservation. The Tribal Gaming Commission may, however, establish other places of business and offices in such other locations as the Tribal Gaming Commission may from time to time determine to be in the best interest of the Nation.

Section 12-3-4. Duration.

The Tribal Gaming Commission shall have perpetual existence and succession in its own name unless dissolved by the Tribal Council pursuant to Nation law as duly enacted.

Section 12-3-5. Attributes.

As a governmental subdivision of the Nation, the Tribal Gaming Commission is hereby delegated the substantial governmental function of regulating tribal Gaming pursuant to the IGRA, the Nation's laws, applicable federal laws, and any effective Tribal-State Gaming Compact. It is the purpose and intent of the Tribal Council, in creating the Tribal Gaming Commission, that its operations be conducted on behalf of the Nation and for the sole benefit and interest of the Nation. Notwithstanding any authority delegated to the Tribal Gaming Commission under this Title, the Nation reserves to itself the right to bring suit against any Person or entity in its own right, on behalf of the Nation or on behalf of the Tribal Gaming Commission, whenever the Nation deems it necessary to protect the sovereignty, rights, and interests of the Nation or the Tribal Gaming Commission.

Section 12-3-6. Recognition as a Political Subdivision of the Nation.

The Tribal Council, on behalf of the Tribal Gaming Commission, recognizes that the Tribal Gaming Commission is a political subdivision of the Nation, and shall take all necessary steps to acquire recognition of the Tribal Gaming Commission as a governmental subdivision of the Nation, and recognized by all branches of the United States Government as having been delegated the right to exercise one or more substantial governmental functions of the Nation.

Section 12-3-7. Sovereign Immunity of the Tribal Gaming Commission.

The Tribal Gaming Commission is hereby cloaked with all the privileges and immunities of the Nation, except as specifically limited by this Title or other Nation law, including sovereign immunity from suit in any state, federal or tribal court. Except as provided in Section 12-3-8 of this Title, nothing in this Title nor any action of the Nation or the Tribal Gaming Commission shall be deemed or construed to be a waiver of sovereign immunity from suit by the Tribal Gaming Commission, or to be a consent of the Nation or the Tribal Gaming Commission to jurisdiction over the Tribal Gaming Commission by the United States or by any state or any other tribal nation with regard to the business or affairs of the Nation or the Tribal Gaming Commission, or to be a consent of the Nation or the Tribal Gaming Commission to any cause of action, case or controversy, or to the levy of any judgment, lien, or attachment upon any property of the Nation or the Tribal Gaming Commission, or to be a consent of the Nation or the Tribal Gaming

Commission to suit in respect to any Nation Lands, or to be a consent of the Nation or the Tribal Gaming Commission to the alienation, attachment, or encumbrance of any such land(s).

Section 12-3-8. Limited Waiver of Sovereign Immunity of the Tribal Gaming Commission.

The sovereign immunity of the Tribal Gaming Commission may be waived only by a resolution of the Tribal Council after consultation with its attorney(s), provided that the Tribal Gaming Commission shall have the authority, without further process, to execute contracts containing a limited waiver of its own sovereign immunity strictly limited to proceedings before the Tribal Court to compel arbitration or to enforce an arbitration award. All waivers of sovereign immunity must be preserved with the resolutions of the Tribal Gaming Commission and/or the Tribal Council to be of continuing force and effect. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Tribal Gaming Commission. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Tribal Gaming Commission subject thereto, court having jurisdiction pursuant thereto, and law applicable thereto. Neither the power to sue and be sued provided in Subsection 12-3-20 (JJ) of this Title, nor any express waiver of sovereign immunity by resolution of the Tribal Council shall be deemed a consent to the levy of any judgment, lien, or attachment upon property of the Tribal Gaming Commission other than property specifically pledged or assigned, or a consent to suit in respect of any Nation Lands, or a consent to the alienation, attachment, or encumbrance of any such land.

Section 12-3-9. Sovereign Immunity of the Nation.

All inherent sovereign rights of the Nation as a federally recognized Indian tribe with respect to the existence and activities of the Tribal Gaming Commission are hereby expressly reserved, including sovereign immunity from suit in any state, federal or tribal court. Except as provided in Section 12-3-8 of this Title, nothing in this Title nor any action of the Tribal Gaming Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Nation, or to be a consent of the Nation to the jurisdiction of the United States or of any state or any other tribal nation with regard to the business or affairs of the Tribal Gaming Commission or the Nation, or to be a consent of the Nation to any cause of action, case or controversy, or to the levy of any judgment, lien, or attachment upon any property of the Nation, or to be a consent to suit in respect to any Nation Lands, or to be a consent to the alienation, attachment, or encumbrance of any such land.

Section 12-3-10. Credit of the Nation.

Except as provided in this Title and in any Gaming management contract entered into by the Nation pursuant to the IGRA, nothing in this Title, nor any activity of the Tribal Gaming Commission, shall implicate or in any way involve the credit of the Nation.

Section 12-3-11. Credit of the Tribal Gaming Commission.

Except as provided in this Title, nothing in this Title, nor any activity of the Tribal Gaming Commission, shall implicate or in any way involve the credit of the Tribal Gaming Commission.

Section 12-3-12. Assets of the Tribal Gaming Commission.

The Tribal Gaming Commission shall have only those assets specifically assigned to it by the Tribal Council or acquired by it on its own behalf. Except as provided in this Title, no activity of the Tribal Gaming Commission nor any indebtedness incurred by it shall implicate or in any way involve any assets of the Nation not specifically assigned to the Tribal Gaming Commission, nor any assets of the Tribal Gaming Commission other than property specifically pledged or assigned by the Tribal Gaming Commission therefor.

Section 12-3-13. Membership; Qualifications of Commissioners.

- (A) **Number of Commissioners.** The Tribal Gaming Commission shall consist of three (3) members at large of the Nation, all of whom shall be elected by the General Council. Members of the Tribal Gaming Commission shall select a Chairperson, Secretary, and Treasurer.
- (B) **Qualifications of Commissioners; Background Investigation.** Prior to the time that any Tribal Gaming Commission member takes office on the Tribal Gaming Commission, the Nation shall perform or arrange to have performed a comprehensive background investigation on each prospective member. No Person shall serve as a member of the Tribal Gaming Commission if:
 - (1) He/She is currently a member of the Tribal Council; or
 - (2) His/Her prior activities, criminal record, if any, or reputation, habits, or associations:
 - (a) Pose a threat to the public interest; or
 - (b) Threaten the effective regulation and control of Gaming; or
 - (c) Create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of Gaming or the carrying on of the business and financial arrangements incidental thereto; or
 - (3) He/She has been convicted of, or entered a plea of *nolo contendere* to, a felony or any Gaming offense in any jurisdiction, or to a misdemeanor involving dishonesty or moral turpitude; or
 - (4) He/She has a present interest in the conduct of any Gaming Enterprise.

- (C) **Disqualification Due to Conflict of Interest.** In addition to the terms of the foregoing Sub-section (B), no Person shall be eligible to serve as a member of the Tribal Gaming Commission if he/she, or any member of his/her Immediate Family, has an ownership, partnership or other financial interest, other than a regular salary interest, in any business entity conducting business with the Gaming Enterprise, or if he has any other personal or legal relationship which creates a conflict of interest.
- (D) **Date of Appointment.** Each member of the Tribal Gaming Commission shall take office no later than one (1) week after the swearing in of a new Tribal Gaming Commission following a Tribal Gaming Commission election.

Section 12-3-14. Term of Office.

Tribal Gaming Commission members shall be elected in regular elections as set out by the Election Ordinance and shall each serve a four (4)-year term, or until their successor is elected and installed in office.

Section 12-3-15. Ex-Officio Members.

If duly authorized by the Tribal Council, and with prior notice to the Tribal Gaming Commission, any member of the Tribal Council, any employee of the Nation, or any other Person may be designated to take part, without vote, in Tribal Gaming Commission meetings.

Section 12-3-16. Meetings.

- (A) **Regular Meetings.** The Tribal Gaming Commission shall hold at least one (1) regular monthly meeting which shall take place on the first Tuesday of each month, or as otherwise determined by the Tribal Gaming Commission.
- (B) **Special Meetings.** Special meetings may be called at the request of the Tribal Council, the Chairperson of the Tribal Gaming Commission, or two (2) or more members of the Tribal Gaming Commission.
- (C) **Compensation of Commissioners.** Tribal Gaming Commissioners shall be salaried.
- (D) **Quorum.** A quorum shall comprise of two (2) Tribal Gaming Commission members.
- (E) **Voting.** All questions arising in connection with the action of the Tribal Gaming Commission shall be decided by majority vote with each Tribal Gaming Commission member having one (1) vote.

Section 12-3-17. Organization.

The Tribal Gaming Commission shall develop its own operating procedures, which shall become effective upon final action of the Tribal Gaming Commission.

Section 12-3-18. Removal of Members; Vacancies.

(A) Removal. The following are causes for removal from the Commission:

- (1)** Malfeasance in the regulation of Gaming and enforcement of applicable controls;
- (2)** Neglect of duty;
- (3)** Abuse of power;
- (4)** Unexcused absence from three (3) consecutive scheduled Tribal Gaming Commission meetings;
- (5)** Conviction of a Gaming-related offense;
- (6)** Noncompliance with this Title;
- (7)** Acceptance of a bribe; or
- (8)** Conviction of a felony. Any member of the Tribal Gaming Commission who, during the term for which he or she is elected, is convicted of any felony shall automatically forfeit his or her office effective on the date of the initial court conviction.

(B) Procedure for Removal. Any Tribal Gaming Commission member who, during the term for which he is elected, is charged with any of the offenses listed in this Section may be removed from office for cause by a majority vote of the eligible Tribal membership attending any General Council meeting duly called for the removal of a Tribal Gaming Commissioner, provided that a quorum of the General Council is present.

(C) Calling a Removal Meeting. Action to initiate removal of a Tribal Gaming Commission member shall be taken by the General Council in the form of a resolution, stating the charges against the accused, the date of the duly called General Council meeting for the removal procedure, and the rights of the accused. A separate notice, stating only “Removal of Gaming Commissioner” shall constitute notice of the General Council removal meeting to Tribal membership, and shall be posted at least thirty (30) days prior to the General Council removal meeting.

(D) **Notification to the Accused.** A copy of the call for a removal resolution shall be provided to the accused by certified mail at least thirty (30) days prior to any General Council removal meeting.

(E) **Petition for General Council Removal Meeting.**

- (1) A request for a General Council removal meeting to consider removal of a Tribal Gaming Commissioner shall be by petition which shall contain at least three-hundred (300) signatures of eligible Tribal membership.
- (2) A clear statement of the purpose of the petition and the cause for removal shall be provided on each sheet of the petition.
- (3) Only an enrolled member of the Nation shall be permitted to circulate the petition.
- (4) After validation of sufficient signatures on the petition by the Election Board, the Tribal Secretary shall certify the petition to the General Council which shall act upon the petition as provided in Subsection 12-3-18(C) of this Title.

(F) **Rights of the Accused.**

- (1) **Answering Charges.** Before the vote of the Tribal membership at a duly called General Council removal meeting, the accused shall be afforded the opportunity to hear and answer all charges of cause for removal included in the petition.
- (2) **Documentation of Charges.** All charges of cause for removal must be documented at the General Council removal meeting. In the absence thereof, the accused shall be allowed to continue his term of office as a Tribal Gaming Commissioner.
- (3) **Evidence.** The accused shall be permitted to have an attorney, submit evidence on his or her behalf, and to call witnesses to testify on his or her behalf, and may present such affidavits, statements, and pertinent documents as he/she deems necessary to refute the charges of cause for removal.
- (4) **Confrontation of Accusers.** The accused shall be afforded the opportunity to confront and question witnesses who speak against him at the General Council removal meeting.
- (5) **Failure of the Accused to Appear.** Failure of the accused to appear at the duly called General Council removal meeting shall be deemed a waiver of his/her right to a hearing unless an excuse satisfactory to the General

Council for such failure is furnished to the General Council not less than five (5) days prior to the meeting. In the event no petitioners appear at such meeting, the removal action shall be considered null and void. The vote of the General Council upon the matter shall be conclusive.

(G) Tribal Gaming Commissioner Removal by the Commission.

- (1)** The Tribal Gaming Commission shall have the power to propose, by resolution, the removal of any of its members for cause by the affirmative vote of the majority of a quorum at a meeting called for that purpose, if such member is determined to be culpable of any of the following:
 - (a)** Abuse of authority;
 - (b)** Commission of an offense of moral turpitude or one involving untruthfulness or dishonesty;
 - (c)** Nonfeasance, misfeasance, or malfeasance in office;
 - (d)** Gross neglect of duty;
 - (e)** Misconduct reflecting on the dignity and integrity of the Nation's government;
 - (f)** Embezzlement of Nation property or assets; or
 - (g)** Any other cause listed in this Section in Subsection (A).

The member charged with any of these offenses shall be given a written statement detailing the facts alleged at least ten (10) days before the meeting at which the Tribal Gaming Commission is to consider the charges and may be suspended with pay pending the outcome of the meeting. He or she shall be given an opportunity to appear and answer the charges at the meeting with the Tribal Gaming Commission and may be represented by an attorney at the meeting at his or her own expense. The Tribal Gaming Commission member subject to removal shall not take part in the deliberations of, or vote on, the resolution proposing his or her removal from the Tribal Gaming Commission. The removal of only one (1) Tribal Gaming Commission member may be considered at any meeting.

- (2)** If the Tribal Gaming Commission votes to remove a member, its resolution proposing removal shall be delivered to the Chairperson and all other members of the Tribal Council. If the Tribal Gaming Commission votes on the resolution of removal fails, the proposed removal action shall be deemed dismissed. In the event of a tie vote, the removal action will fail.

- (3) Upon receipt of the Tribal Gaming Commission's removal resolution, the Tribal Council shall by resolution within ten (10) days of the date of receipt of the Tribal Gaming Commission resolution concur or non-concur in the proposed removal. If the Tribal Council concurs in the removal by resolution, the Tribal Gaming Commission member shall be considered removed from office. If the Tribal Council by resolution votes for non-concurrence within ten (10) days of the date of receipt of the Tribal Gaming Commission resolution, the Tribal Gaming Commission member shall not be removed at that time.
- (H) **Vacancies.** In the event of a vacancy on the Tribal Gaming Commission for any reason, the Tribal Gaming Commission shall, as soon as practicable, notify the Tribal Council in writing. Upon receipt of such notice, the Tribal Council shall declare the position vacant and shall appoint a qualified Person to fill such position. The term of office of each Person appointed to fill a vacancy shall be for the balance of any unexpired term for such position, provided that any such appointee must meet the qualifications established by this Title.
- (I) **Prohibition on Serving on Tribal Gaming Commission Until After Original Term Expires.** Any member of the Tribal Gaming Commission removed from office pursuant to this section shall not be eligible to be elected or appointed to serve on the Tribal Gaming Commission until four (4) years after the end of the term in which he or she was serving at the time of removal.
- (J) Removal of a Gaming Commissioner pursuant to this Section 12.3.18 shall be final and shall not be subject to appeal to the Tribal Court.

Section 12-3-19. Conflict of Interest.

- (A) No Tribal Gaming Commissioner shall preside over or take part in any matter before the Tribal Gaming Commission where a personal conflict of interest is present. When a Tribal Gaming Commissioner recognizes the existence of a conflict of interest, he/she shall inform the other Tribal Gaming Commission members in writing of the presence and nature of the conflict of interest, and thereafter he/she shall be recused from taking part in the matter.
- (B) Where a Tribal Gaming Commissioner has been recused, the unaffected Tribal Gaming Commission members may preside over or otherwise take part in the matter; or, where circumstances dictate, the Tribal Gaming Commission may appoint a hearing examiner pursuant to Section 12-3-25 of this Title to hear and decide the matter. Where two (2) or more members of the Tribal Gaming Commission have a conflict of interest, the Tribal Gaming Commission shall appoint a hearing examiner to decide the matter pursuant to Section 12-3-25 of this Title.

Section 12-3-20. Powers of the Tribal Gaming Commission.

In furtherance, but not in limitation, of the Tribal Gaming Commission's purposes and responsibilities, and subject to any restrictions contained in this Title or any other Applicable Law, the Tribal Gaming Commission is hereby authorized to exercise the following powers in addition to all powers already conferred by this Title:

- (A) To enact and enforce such rules and regulations regarding its activities and governing its internal affairs as it may deem necessary and proper to effectuate the powers granted and duties imposed by this Title and any other Applicable Law;
- (B) To publish and maintain copies of this Title and Tribal Gaming Commission rules and regulations and any Tribal Council, Tribal Gaming Commission, or Tribal Court decisions regarding Gaming matters;
- (C) To prepare and submit proposals, including budget and monetary proposals, to the Tribal Council for its approval to enable the Nation to carry forth the policies and intent of this Title;
- (D) To work with the Tribal Council, the staff of any department, program, project, or operation of the Nation in regard to Gaming issues;
- (E) To maintain and keep current a record of new developments in the area of Indian Gaming;
- (F) To obtain and publish a summary of federal revenue laws relating to Gaming and to ensure compliance therewith.;
- (G) To consider any Gaming matter brought before it by any Person, organization, or business, and any matter referred to it by the Tribal Council;
- (H) To engage with such advisors as it may deem necessary; advisors may include, but are not limited to the Tribal Law Enforcement Agency officials, general or special counselors, Gaming professionals, and the Nation's accountants;
- (I) To establish and maintain such bank accounts as may be necessary or convenient;
- (J) To require by regulation the filing of any records, forms, reports, and all other information desired by the Tribal Gaming Commission for implementation of this Title relating to any Gaming activity or operation, or any investigation as required by the Nation's law and the IGRA;
- (K) To provide for an internal system of record keeping with adequate safeguards for preserving confidentiality as deemed necessary by the Tribal Gaming Commission. All applications, background investigations, and Tribal Gaming Commission decisions

shall be retained in the Tribal Gaming Commission files for a period of at least ten (10) years;

- (L) To adopt a schedule of fees to be charged for Gaming Licenses pursuant to the IGRA;
- (M) To adopt a schedule of fees and charges for services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files, and records;
- (N) To delegate to an individual member of the Tribal Gaming Commission, or to an individual member of the Tribal Council, or, with the approval of the Tribal Council, to the Tribal Gaming Commission or Nation staff, such of its functions as may be necessary to administer this Title efficiently; provided that the Tribal Gaming Commission may not re-delegate its power to exercise any substantial governmental function of the Nation or its power to promulgate rules and regulations; and provided further, that it may not delegate to anyone except the Tribal Council or Tribal Court the power to revoke a Gaming License permanently;
- (O) To seek recourse before, or to request the assistance of, the Tribal Court or Tribal Appellate Court in conducting Gaming hearings, or in any other matter for which the Tribal Gaming Commission deems such assistance to be necessary or proper;
- (P) To establish and use a Tribal Gaming Commission Seal;
- (Q) By written notification to the National Indian Gaming Commission, to designate an agent for service of any official determination, order, or notice of violation from the National Indian Gaming Commission;
- (R) To supervise, inspect, and regulate all Gaming activities within the jurisdiction of the Nation;
- (S) To promote the full and proper enforcement of this Title and any other Applicable Law regarding Gaming activities within the jurisdiction of the Nation, including approved Tribal-State Gaming Compacts;
- (T) To promulgate rules and regulations to implement and further the provisions of this Title, provided that all Gaming regulations shall be adopted pursuant to Applicable Law;
- (U) To issue regulations for the oversight of Gaming promotions.
- (V) To conduct or cause background investigations to be conducted on all applicants for a Gaming License, and to report notice of results of background investigations to the National Indian Gaming Commission;
- (W) To obtain and process fingerprints or designate a law enforcement agency to obtain and process fingerprints;

- (X)** To make licensing eligibility determinations;
- (Y)** To make recommendations to the Tribal Council regarding the hiring of all Primary Management Officials;
- (Z)** To approve or disapprove any application for a Gaming License, registration, or permit, and issue, renew, suspend, condition, or revoke any such License, registration, or permit;
- (AA)** To make, or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property, books, records, papers, vouchers, accounts, documents, and financial statements of any Gaming Enterprise operating, or suspected to be operating, within the jurisdiction of the Nation. In undertaking such investigations, the Tribal Gaming Commission may request the assistance of Nation Gaming Employees, federal and local law enforcement officials, legal counsel, and other third-parties;
- (BB)** To maintain a surveillance log recording all surveillance activities in the monitoring room of each Gaming Facility, and to maintain a security log recording all unusual occurrences in any Gaming Facility as required by the Tribal-State Gaming Compact;
- (CC)** To issue orders of exclusion and establish a list of Persons barred from entering the premises of the Nation's Gaming Facilities because of their criminal history or association with career offenders or career offender organizations as required by the Tribal-State Gaming Compact, or for the purpose of maintaining the integrity of Gaming and/or ensuring the public health and safety of patrons and employees;
- (DD)** To conduct hearings, administer oaths, and to examine under oath, either orally or in writing, in hearings or otherwise, any Person, agent, officer, or employee of any Person, or any other witness, with respect to any matters related to this Title, and to compel by subpoena the attendance of witnesses and the production of any books, records, and papers with respect thereto;
- (EE)** To issue such orders and directives as may be necessary to ensure the Nation's compliance with all Applicable Laws, including, but not limited to, notices of violation, orders to compel, and orders to cure, and to compel obedience to its lawful orders by proceedings of mandamus or injunction or other proper proceedings, in the name of the Nation in the Tribal Court or any other court having jurisdiction of the parties or of the subject matter;
- (FF)** To discipline any Licensee or other Person Participating in any Gaming activity or operation by ordering immediate compliance with this Title or Tribal Gaming Commission regulations, and to issue an order of temporary suspension of any License issued under this Title, whenever the Tribal Gaming Commission is notified of a violation by any such Person of this Title or any other Applicable Law;

- (GG)** To issue an order of temporary closure of any Gaming activity or Gaming Facility in the event the Tribal Council determines that immediate closure is necessary to protect assets or activities of the Nation, pursuant to Tribal Gaming Commission regulations;
- (HH)** To close permanently, after notice and a hearing, any Gaming activity or Gaming Facility which is operated in violation of this Title or any other Applicable Law;
- (II)** Whenever necessary or appropriate, to request the assistance and utilize the services of the courts, law enforcement, government officials and agencies, and private parties, in exercising its powers and carrying out its responsibilities;
- (JJ)** To arbitrate, litigate, compromise, negotiate, or settle any dispute to which it is a party relating to the Tribal Gaming Commission's authorized activities;
- (KK)** Upon prior express written consent of the Tribal Council, to sue or be sued in courts of competent jurisdiction within the United States and Canada, subject to the provisions of this Title and other applicable Nation laws relating to sovereign immunity;
- (LL)** To enter into an agreement with the Tribal Law Enforcement Agency or other law enforcement agencies whereunder those agencies will report to the Tribal Gaming Commission any activities of any Person who is in violation of the provisions of this Title, or any other Applicable Law regarding any Gaming activity;
- (MM)** To purchase, lease, take by gift, devise, bequest, or otherwise acquire, own, hold, improve, and use property and assets of every description, real and personal, tangible or intangible, including money, securities, or any interests therein, rights and services of any kind and description or any interest therein; provided that the Tribal Gaming Commission shall have authority to purchase any interest in real property, whether located on or off the Reservation, only with the prior express written consent of the Tribal Council and title to such real property and property which is to become a fixture or permanent improvement or part of the real property shall be taken in the name of the Nation or in the name of the United States in trust for the Nation, and title to all trust and restricted real property shall remain in trust or restricted status;
- (NN)** To sell, mortgage, pledge, lease, exchange, transfer, or otherwise dispose of all or any part of its personal property and assets;
- (OO)** To deal in inventions, copyrights, and trademarks; to acquire by application, assignment, purchase, exchange, lease, hire, or otherwise and to hold, own, use, license, lease, and sell, either alone or in conjunction with others, the absolute, or any partial or qualified interest, in and to inventions, letters patent and applications therefor, licenses, formulas, privileges, processes, copyrights and application therefor, trademarks and applications therefor, and trade names, provided that title to all such interests shall be taken in the name of the Nation;

- (PP) With the prior express written consent of the Tribal Council, to borrow money and to make, accept, endorse, execute, and issue bonds, debentures, promissory notes, guarantees, and other obligations of the Tribal Gaming Commission for moneys borrowed, or in payment for property acquired or for any of the purposes of the Tribal Gaming Commission and to secure payment of any obligations by secured interest, mortgage, pledge, deed, indenture, agreement or other instrument of trust or by other lien upon, assignment of or agreement in regard to all or part of the property, rights or privileges of the Tribal Gaming Commission, excluding real property of the Nation held in trust or restricted status;
- (QQ) To enter into, make, perform, and carry out any agreement, or other undertaking with any federal, state or local governmental agency, tribal nation, Person, partnership, corporation, or other association or entity for any lawful purpose pertaining to the functions of the Tribal Gaming Commission or which is necessary or incidental to the accomplishment of the purposes of the Tribal Gaming Commission;
- (RR) To purchase insurance;
- (SS) Upon prior express written approval of the Tribal Council, to make application and accept grants and other awards from private and governmental sources in carrying out or furthering the purposes of the Tribal Gaming Commission or the Nation;
- (TT) To develop a cooperative working relationship with federal and state agencies and officials;
- (UU) To arrange for training of Tribal Gaming Commission members, employees of the Nation, and others in areas relating to the regulation or operation of Gaming;
- (VV) To become self-regulating whenever the Nation becomes eligible for a certificate of self-regulation under the IGRA; and
- (WW) To conduct such audits as may be necessary for the proper control and financial oversight of Gaming activities, including, but not limited to, financial and operational audits, internal control audits, revenue tracking, and monitoring the integrity of information technology systems through auditing, testing, and other appropriate procedures.

Section 12-3-21. Annual Budget.

The Tribal Gaming Commission shall prepare an annual operating budget for all Tribal Gaming Commission activities and present it to the Tribal Council by August 15th of each year for approval. The Tribal Gaming Commission shall cause professionally audited annual financial statements to be prepared for all of its financial activity, including statements of all revenues, expenses, and balance sheets. Copies of these financial statements shall be delivered to all members of the Tribal Council immediately after they have been prepared. Upon request of the Tribal Council or its Treasurer, at any time, the Commission shall also deliver to the Tribal

Council Chairperson and Treasurer information, records, or documents that concern the Commission's finances, budgets, accounting, or operations. All funds of the Tribal Gaming Commission that have been transferred to it and remain unexpended for operating or capital expense at the end of a calendar year shall be transferred to the Nation's government general fund account on August fifteenth (15th) of each year at the direction of the Nation's Treasurer.

Section 12-3-22. Tribal Gaming Commission Regulations.

- (A) Tribal Gaming Commission regulations necessary to carry out the orderly performance of its duties and powers shall include, but shall not be limited to, the following:
 - (1) Internal operational procedures of the Tribal Gaming Commission and its staff;
 - (2) Interpretation and application of this Title as may be necessary to carry out the Tribal Gaming Commission's duties and exercise its powers, including the establishment of licensing, registration, and permit programs for Gaming and Non-Gaming Employees and Non-Gaming Vendors;
 - (3) A regulatory system for all Gaming activity, including accounting, contracting, management, and supervision;
 - (4) Reports or other information required by, or necessary to, implement this Title; and
 - (5) The conduct of inspections, investigations, hearings, enforcement actions, and to carry out all other powers of the Tribal Gaming Commission authorized by this Title.
- (B) Except as may otherwise be provided herein, no regulation of the Tribal Gaming Commission shall be of any force or effect unless it is adopted by the Tribal Gaming Commission by written resolution and subsequently approved by a resolution of the Tribal Council and both filed for record in the Office of the Tribal Secretary and in the Office of the Clerk of the Tribal Court;
- (C) All Class II and Class III Gaming regulations shall be adopted pursuant to and in compliance with the provisions of the IGRA and its implementing regulations.
- (D) The Tribal Court and any other court of competent jurisdiction shall take judicial notice of all Tribal Gaming Commission regulations adopted pursuant to this Title.

Section 12-3-23. Right of Entrance; Monthly Inspection.

The Tribal Gaming Commission and duly authorized officers and employees of the Tribal Gaming Commission, during all hours of operation, may enter upon any premises of any Operator or Gaming Facility for the purpose of making inspections and examining the

accounts, books, papers, and documents of any such Operator or Gaming Facility. Such Operator shall facilitate such inspection or examinations by giving every reasonable aid to the Tribal Gaming Commission and to any other properly authorized officer or employee.

A Tribal Gaming Commission member, or a member of the Tribal Gaming Commission's staff, shall visit each Gaming Facility owned or operated by the Nation at least once every two (2) weeks during any hour of operation for the purpose of monitoring its operation. Such visits shall be unannounced. Such Tribal Gaming Commission visits shall be in addition to, and distinct from, the functions of the Tribal Gaming Commission's Gaming inspectors.

Section 12-3-24. Investigations.

- (A) **Investigations Generally.** The Tribal Gaming Commission, upon complaint, its own initiative, or whenever it may deem it necessary in the performance of its duties or the exercise of its powers, may investigate and examine the operation and premises of any Person who is subject to the provisions of this Title. In conducting such investigation, the Tribal Gaming Commission may proceed either with or without a hearing as it may deem best, but it shall make no order without affording any affected party notice and an opportunity for a hearing pursuant to Tribal Gaming Commission regulations. During any investigation prior to the issuance of formal written notice concerning an apparent violation, no employee or agent of the Tribal Gaming Commission shall orally or in writing discuss with or suggest to a Gaming Enterprise or Licensee the potential suspension or revocation of a License or other possible adverse action by the Tribal Gaming Commission.
- (B) **Investigation of Non-Gaming Employees.** The Tribal Gaming Commission may investigate suspected misconduct of Non-Gaming Employees. If the Tribal Gaming Commission determines that the conduct of any Non-Gaming Employee poses a threat to the effective regulation of Gaming or creates or enhances the dangers of unfair or illegal practices, methods, and activities in the conduct of Gaming, the Tribal Gaming Commission shall notify all interested parties of such concerns and, after a hearing, may order the modification or termination of the Non-Gaming Employee's Work Permit.
- (C) **Investigation of Non-Gaming Vendors.** The Tribal Gaming Commission may investigate suspected misconduct of Non-Gaming Vendors. If the Tribal Gaming Commission determines that the conduct of any Non-Gaming Vendor poses a threat to the effective regulation of Gaming or creates or enhances the dangers of unfair or illegal practices, methods, and activities in the conduct of Gaming, the Commission shall notify all interested parties of such concerns and, after a hearing, may order the Non-Gaming Vendor's suspension or removal from the Registration List.
- (D) **Effect of Removal from Registration List.** Any Non-Gaming Vendor removed from the Registration List pursuant to Section 12-3-24(C) may no longer provide goods or services to the Gaming Enterprise or the Gaming Facilities subject to its authority unless and until the vendor is reinstated on the Registration list in good standing.

Section 12-3-25. Hearings; Examiner.

- (A) Pursuant to its regulations, the Tribal Gaming Commission may hold any hearing it deems to be reasonably required in the administration of its powers and duties under this Title. Whenever it shall appear to the satisfaction of the Tribal Gaming Commission that all of the interested parties involved in any proposed hearing have agreed concerning the matter at hand, the Tribal Gaming Commission may issue its order without a hearing or enter into a consent order resolving the matter.
- (B) The Tribal Gaming Commission may conduct hearings as a body, or it may designate one (1) of its members to act as examiner for the purpose of holding any such hearing. Alternatively, the Tribal Gaming Commission may appoint another natural Person to act as examiner under Section 12-3-26 of this Title. The Tribal Gaming Commission shall provide reasonable notice and the right to present oral or written testimony to all people interested therein as determined by the Tribal Gaming Commission.
- (C) An employee or agent of the Tribal Gaming Commission who, prior to the hearing, is directly involved in the investigation of factual issues in a case may not, in that or a factually related case, take part or advise in the decision or recommended decision except as witness or counsel in public proceedings or in determining applications for initial Licenses.

Section 12-3-26. Appointment of Examiner; Power of Examiner.

The Tribal Gaming Commission may appoint any natural Person qualified in the law or possessing knowledge or expertise in the subject matter of the hearing to act as examiner for the purpose of holding any hearing which the Tribal Gaming Commission is authorized to hold. Any such appointment shall constitute a delegation to such examiner of all powers of a Tribal Gaming Commission member under this Title with respect to any such hearing.

Section 12-3-27. Bank Account of Gaming Facility.

The Tribal Gaming Commission shall ensure that sufficient separate bank accounts are established for each Gaming Facility, and that all proceeds of each such facility shall be deposited therein.

Section 12-3-28. Quarterly Summary Report of Tribal Enterprise Managers' Reports.

The Tribal Gaming Commission shall file a summary report to the Tribal Council quarterly summarizing reports received from each manager of any Gaming Enterprise, and making such comments as it deems necessary to keep the Tribal Council fully informed as to the status of all its Gaming Enterprises.

Section 12-3-29. Designation of Agent to Accept Service.

On behalf of the Nation, the Tribal Gaming Commission shall serve as the designated agent for service of process for any official determination, order, or notice of violation from the National Indian Gaming Commission.

CHAPTER 12-4 CLASSES OF GAMING; AUTHORIZED GAMES

Section 12-4-1. Classes of Gaming.

Gaming activities shall be authorized and classified as follows:

- (A) Class I.** "Class I" means social Games played solely for prizes of minimal value, or traditional forms of Indian Gaming engaged in by individuals as part of, or in connection with, tribal ceremonies or celebrations, which require permission only of the tribal community in which they are conducted. Class I Gaming includes Raffles for charitable purposes, and with prizes of minimal value.
- (B) Class II.** "Class II" means bingo of every kind if played at the same location, whether or not electronic, computer, or other technologic aids are used in connection therewith, Pull-Tabs, Lotto, Punchboards, Tip Jars, instant bingo and other Games similar to bingo; also card Games, and only those banking card Games which were played on the Reservation under tribal authority on May 1, 1988, and any Class II Games as defined by 25 C.F.R. § 502.3.
- (C) Class III.** "Class III" means all forms of Gaming that are not Class I, or Class II Gaming as defined in the IGRA, 25 C.F.R. § 502.4.

Section 12-4-2. Authorized Games.

Consistent with all Applicable Law, the Nation authorizes the Licensing of the following Games of Chance:

- (A)** Bingo;
- (B)** Any other non-banking card Game explicitly authorized by Kansas law or which is not explicitly prohibited by Kansas State law that is played at any location in the State, but only if such card game is played in conformity with Kansas State laws and regulations regarding hours or periods of operation and limitations on Wagers or pot sizes; and

(C) The following additional Games are authorized subject to the terms and conditions of the Nation's Tribal-State Gaming Compact with the State of Kansas:

- (1) Blackjack;
- (2) Poker;
- (3) All other banking and non-banking card Games;
- (4) Craps;
- (5) All other banking and non-banking dice Games;
- (6) Roulette;
- (7) Baccarat;
- (8) Chemin de Fer;
- (9) Wheel of Fortune;
- (10) Keno;
- (11) Electronic Games of Chance;
- (12) Games of chance relying on satellite, computer or cable television;
- (13) All other Class III Games of chance authorized by the State of Kansas in a Tribal-State Gaming Compact with any other Indian Nation; and
- (14) Any Class III Game authorized in a Tribal-State Gaming Compact approved by the Secretary of the Interior between the Nation and a State.

CHAPTER 12-5 REGULATION OF GAMING

Section 12-5-1. Applicability; Gaming Regulated.

This Title shall apply to any Person engaged in Gaming within the jurisdiction of the Nation. No Person shall operate Class II or Class III Gaming or Participate in any Class II or Class III Gaming activity within the jurisdiction of the Nation without a License therefor. Any application for a License pursuant to this Title, and Participation in any Gaming within the jurisdiction of the Nation, shall be deemed to be a consent to the jurisdiction of the Nation and the Tribal Court in all matters arising from Participation in such Gaming, and all matters arising under any of the provisions of this Title or any other Applicable Law.

Section 12-5-2. Tribal Ownership of Class II and Class III Gaming.

The Tribal Council reserves to the Nation the sole proprietary interest in and responsibility for the conduct of all Class II and Class III Gaming activities and operations authorized under this Title and any Tribal-State Gaming Compact.

CHAPTER 12-6 GAMING LICENSES

Section 12-6-1. Types of Licenses.

Gaming Licenses issues by the Tribal Gaming Commission shall comprise of the following types:

- (A) **Series A.** A Series A Gaming Facility License shall be required for every Gaming Facility where Gaming activities are conducted.
- (B) **Series B.** A Series B Gaming License shall be required for every Key Employee or Primary Management Official.
- (C) **Series C.** A Series C Gaming License shall be required for every Standard Gaming Employee.
- (D) **Series D.** A series D Gaming License shall be required for every Gaming Vendor.

Section 12-6-2. No License Requirement for Class I Gaming.

A Gaming License shall not be required for any Class I Gaming activity provided, however, that each Class I Gaming activity must have written permission of the Tribal Gaming Commission, and such permission must be on file with the Tribal Secretary before any such Class I Gaming is conducted.

Section 12-6-3. Application for Series A Gaming Facility License.

For each proposed new place, facility, or location in which Class II and/or Class III Gaming activities will be conducted on Nation Lands, the Tribal Council or its designee shall file with the Tribal Gaming Commission an application for a Series A Gaming Facility License, which shall contain the name of the proposed Gaming Facility and all pertinent information required by Tribal Gaming Commission regulations.

Section 12-6-4. Review Procedure for Series A Gaming License Application.

Before issuing a Series A Gaming Facility License, the Tribal Gaming Commission shall:

- (A) Review the proposed Gaming activities to be conducted at the Gaming Facility to ensure that all criteria required by this Title shall be met;
- (B) Review and approve the accounting procedures to be used in such Gaming activities;
- (C) Take any additional steps necessary to ensure the environment, public health, safety, and integrity of the Gaming Facility and the Gaming activities to be conducted therein; and
- (D) In the case of Class III Gaming, review all aspects of the proposed Gaming activities and the related Operator to ensure that they will comply with the provisions of the applicable Tribal-State Gaming Compact.

Section 12-6-5. Criteria for Series A Gaming License.

The Tribal Gaming Commission shall issue a Series A Gaming Facility License only if all the following criteria are met:

- (A) Documentation is provided demonstrating that the proposed Gaming Facility is, or will be, located on land that constitutes the Indian lands of the Nation, as defined in the IGRA, 25 U.S.C. § 2703(4);
- (B) The proposed Gaming activities to be played are Class II or Class III Gaming as defined by this Title and the IGRA and, if Class III Gaming, are authorized by the relevant Tribal-State Gaming Compact;
- (C) The proposed Gaming activities are authorized by a Tribal Council resolution;
- (D) The Nation will have the sole proprietary interest and the exclusive responsibility for the conduct of the proposed Gaming activities;
- (E) The building housing the Gaming Facility is of sound physical structure with adequate and safe plumbing, electrical, heating, cooling, and ventilation systems in place, and is operational in accordance with all applicable environment, public health, and safety standards;
- (F) The Gaming Facility is adequate in all respects to accommodate the Gaming intended to be carried on within the structure and to physically secure the Nation's property and financial assets;
- (G) The Gaming Facility is equipped with security and surveillance equipment meeting or exceeding provisions set forth in applicable minimum internal control standards;
- (H) The Gaming Facility has been inspected by the Tribal Gaming Commission, or by a qualified building and fire inspector designated by the Tribal Gaming Commission, to

carry out such inspections under the authority of the Tribal Gaming Commission and is determined to be in compliance with fire safety standards;

- (I) The Gaming Facility Operator has prepared, and the Gaming Facility is subject to, an emergency preparedness plan approved by the Tribal Gaming Commission; and
- (J) The Gaming Facility Operator has provided such other information as the Tribal Gaming Commission shall require by regulation.

Section 12-6-6. Application for Series B Gaming License.

- (A) Any natural Person seeking a Series B Gaming License shall file with the Tribal Gaming Commission an application therefor which shall contain the following information:
 - (1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, and all languages (spoken or written);
 - (2) Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
 - (3) The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (A)(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 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;
 - (8) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved, and the date and disposition;
 - (10) For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph (A)(8) or (A)(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 of the applicant taken within the previous year;
 - (13) Any other information the Tribal Gaming Commission deems relevant;
 - (14) Fingerprints consistent with procedures adopted by the Tribal Gaming Commission according to 25 C.F.R. §522.2(h); and
 - (15) Written permission giving the Tribal Gaming Commission the right to obtain an investigation by the State of Kansas or by a commercial company of the applicant's background, including his criminal record, civil and criminal judgments against the applicant, and credit history.
- (B) Each application shall be accompanied by the applicant's commitment to provide any additional information as may be required by the Nation or the State.
- (C) Each application shall be accompanied by a sworn statement that if the Gaming License is issued, the applicant will submit to the jurisdiction of the Nation and the Tribal Court.
- (D) For Key Employees and Primary Management Officials performing duties pertaining solely to Class II Gaming activities, fingerprints shall be taken and be forwarded to the National Indian Gaming Commission for processing through the FBI to determine the applicant's criminal history, if any. For Key Employees and Primary Management Officials performing duties pertaining solely to Class III Gaming activities, fingerprints shall be taken and forwarded to the appropriate State Gaming Agency in accordance with the terms specified in the applicable Tribal-State Gaming Compact.
- (E) Each application shall be accompanied by a sworn statement that the applicant will abide by this Title and any other applicable law.
- (F) Each application shall be accompanied by a written statement that the applicant has read, understands, and approves of the following Privacy Act Notice:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701, *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Nation 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 the Nation or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with the Nation or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Nation 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 an SSN may result in errors in processing your application.

- (G) Each application shall be accompanied by a written statement that the applicant has read, understands, and approves of the following notice:

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 (18 U.S.C. § 1001).

Section 12-6-7. Review Procedure for Series B Gaming License Application.

- (A) The Tribal Gaming Commission will issue Licenses and perform background investigations according to requirements at least as stringent as those contained in the applicable provisions of 25 C.F.R. Parts 556 and 558, and the Tribal-State Gaming Compact(s), as applicable. To the extent any applicable Tribal-State Gaming Compact provision for the licensure of Class III employees differs from the process described herein, the term of the applicable Tribal-State Gaming Compact shall prevail.
- (B) In conducting a background investigation, the Tribal Gaming Commission shall keep confidential the identity of each Person interviewed in the course of the investigation.
- (C) Before issuing a Series B Gaming License, the Tribal Gaming Commission shall:
- (1) Perform or arrange to have performed the necessary background investigation on the applicant required by the IGRA, and obtain an investigative report thereof;

- (2) Ensure compliance with all reporting requirements under IGRA, the National Indian Gaming Commission regulations, the Tribal State Gaming Compact, and all other Applicable Law;
- (3) Review a Person's prior activities, criminal record, if any, and reputation, habits, and associations and make a finding concerning the eligibility of the applicant. If the Tribal Gaming Commission, in applying the standards adopted in this Title, 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 activities in the conduct of Gaming, the Tribal Gaming Commission shall not issue a Series B Gaming License to that Person;
- (4) Create and maintain an investigative report on each background investigation that includes all of the following:

 - (a) Steps taken in conducting a background investigation;
 - (b) Results obtained;
 - (c) Conclusions reached; and
 - (d) The basis for those conclusions;
- (5) Submit a Notice of Results to the National Indian Gaming Commission that includes:

 - (a) Applicant's name, date of birth, and social security number;
 - (b) Date on which applicant began or will begin work as Key Employee or Primary Management Official;
 - (c) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:

 - (i) Any application for a License that has 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 application; and

- (iv) Every felony of which the applicant has been convicted or any ongoing prosecution; and
- (d) A copy of the eligibility determination made under 25 C.F.R. § 556.5;
- (6) If, within thirty (30) days of receiving the Notice of Results, the National Indian Gaming Commission provides the Nation with a statement itemizing objections to the issuance of such License, the Nation shall reconsider a License application for the Key Employee or Primary Management Official. In doing so, the Nation shall take into account the provided statement itemizing the objections; and
- (D) After providing a Notice of Results to the NIGC, and if the NIGC provides no objections, the Tribal Gaming Commission may determine the eligibility of the applicant and notify the applicant of the Tribal Gaming Commission's decision in writing. If the Tribal Gaming Commission votes to deny the License, it shall include within this notification the specific reasons for its decision.
- (E) When the Nation issues a License to a Key Employee or a Primary Management Official, it must notify the National Indian Gaming Commission or the State Gaming Agency, as applicable, within thirty (30) days of its issuance. If the Nation has issued a License before receiving a statement itemizing objections from the National Indian Gaming Commission, a hearing shall be provided to the Licensee as provided in Section 12-7-12(C) of this Title.

Section 12-6-8. Employment of Key Employee or Primary Management Official Prior Issuance of Class B Gaming License.

- (A) A Key Employee or Primary Management Official may be hired immediately upon the filing of an application for a Class B Gaming License.
- (B) The Tribal Gaming Commission shall maintain for all hired Key Employees or Primary Management Officials the complete application file containing all the information in Section 12-6-6 of this Title.
- (C) The Tribal Gaming Commission shall submit the Notice of Results described in Section 12-6-7(C)(5) of this Title within sixty (60) days after such applicant begins work and such applicant shall be terminated if he has not obtained a Class B Gaming License within ninety (90) days of his/her employment.

Section 12-6-9. Application for Series C Gaming License.

Any natural Person seeking a Series C Gaming License shall file with the Tribal Gaming Commission an application therefor which shall be identical to the application for a Series B Gaming License.

Section 12-6-10. Review Procedure for Series C Gaming License Application.

Before issuing a Series C Gaming License the Tribal Gaming Commission shall:

- (A) Review the application and determine whether it is necessary to perform or arrange to have performed a background investigation on the applicant and obtain an investigative report thereof;
- (B) Ensure compliance with all reporting requirements under the Tribal-State Gaming Compact and all other Applicable Law; and
- (C) Determine the eligibility of the applicant and notify the applicant of the Tribal Gaming Commission's decision in writing. If the Tribal Gaming Commission votes to deny the License, it shall include within this notification the specific reasons for its decision.

Section 12-6-11. Employment of Standard Gaming Employee Prior to Issuance of Class C Gaming License.

A Standard Gaming Employee may be hired immediately upon the filing of an application for a Class C Gaming License, subject to termination after the Tribal Gaming Commission reviews the application or obtains a background investigation of such applicant and determines the applicant to be ineligible for such License.

Section 12-6-12. Application for Series D Gaming License.

- (A) Gaming Vendors must have a Series D Gaming License from the Tribal Gaming Commission prior to transacting business with any Gaming Enterprise and/or Gaming Facility licensed by the Tribal Gaming Commission. Any Gaming Vendor seeking a Series D Gaming License shall file with the Tribal Gaming Commission a complete application and submit to background checks of itself and its Principals. A Series D Gaming License application shall contain the following information:
 - (1) The applicant's formal business name, including all other names used, business address, and telephone number;
 - (2) If the applicant is incorporated, the State of incorporation and a current list of officers, directors, and ten-percent (10%) or greater shareholders; in such a case a copy of the articles of incorporation shall be filed with the application;
 - (3) Criminal history of the applicant or any director, officer, ten-percent (10%) or greater shareholder, or partner (other than misdemeanor traffic offenses), including:
 - (a) Any arrest, including the date, place and details;

- (b) Whether taken into custody and details;
 - (c) Whether held for questioning and details;
 - (d) Whether charged by any law enforcement authority and details; and
 - (e) Disposition of any charges;
- (4) A complete disclosure of any civil or criminal judgment or administrative proceeding order rendered against the applicant, including the case number, a description of the judgment or administrative proceeding order, and the name and address of the court or administrative agency involved;
 - (5) A complete disclosure of any pending or anticipated civil or criminal action or administrative proceeding against the applicant, including the name and address of the law enforcement agency involved and the court or administrative agency involved;
 - (6) Whether the applicant has held a Gaming-related license issued by any state or Indian tribe, the jurisdiction in which the license was issued, the type of license, the license number, the details surrounding any suspension, revocation, or other disciplinary action based on the license; and if the license is not current, the reason it is not current; and whether the applicant has ever applied for such a license and been denied the license;
 - (7) A description of any current or past non-employee business arrangement which the applicant has had with an Indian Tribe, including the name of the Tribe involved and the name and address of a Person who can attest to the accuracy of the information provided;
 - (8) Written permission giving the Tribal Gaming Commission or its designee the right to investigate the applicant's background and that of its Principals, including criminal record, civil and criminal judgments, and credit history; and
 - (9) Any other information which might bring into question the applicant's fitness to serve as a Gaming Vendor for a Gaming Enterprise operating a licensed Gaming Facility.
- (B) Each application shall be accompanied by the applicant's commitment to provide any additional information as may be required by the Nation or the applicable State, if any.
 - (C) Each application shall be accompanied by a written release of liability and grant of authority to disclose information to the Kansas Bureau of Investigation and the Federal Bureau of Investigation.

- (D) Each application shall be accompanied by a sworn statement that if the License is issued, the applicant will submit to the jurisdiction of the Nation and the Tribal Court.
- (E) Each application shall be accompanied by two (2) sets of fingerprints of all Principals on forms from the Federal Bureau of Investigation or the Kansas State Patrol.
- (F) Each application shall be accompanied by a sworn statement that the applicant will abide by this Title and any other Applicable Law.
- (G) Each application shall be accompanied by a statement as to whether the applicant has ever been denied a license by any State.

Section 12-6-13. Review Procedure for Series D Gaming License Application.

Before issuing a Series D Gaming License the Tribal Gaming Commission shall:

- (A) Perform or arrange to have performed the necessary background investigation on the applicant and the applicant's Principals;
- (B) Ensure compliance with all reporting requirements under the applicable Tribal-State Gaming Compact, if any, and all other Applicable Law; and
- (C) Determine the eligibility of the applicant and notify the applicant of the Tribal Gaming Commission's decision in writing. If the Tribal Gaming Commission votes to deny the license, it shall include within this notification the specific reasons for its decision.

Section 12-6-14. Gaming Licenses and Investigations of Non-Gaming Employees.

A Gaming License shall not be required for Non-Gaming Employees. However, the Tribal Gaming Commission is authorized to create and issue regulations implementing a Non-Gaming Employee Work Permit process, which may entail a simpler due diligence check rather than a full background investigation for Non-Gaming Employees. At its discretion, the Tribal Gaming Commission may further investigate any non-Gaming Work Permit applicants or permittees when appropriate, and may require or conduct a full background check when it determines that circumstances related to the applicant or position applied for warrant such action.

Section 12-6-15. Non-Gaming Vendors Do Not Require Series D Gaming License.

Only vendors that meet the definition of "Gaming Vendor" as defined in this Title are subject to the Series D Gaming License requirements.

Section 12-6-16. Registration for Non-Gaming Vendors.

The Tribal Gaming Commission is authorized to create and issue regulations implementing a registration process for Non-Gaming Vendors who provide services that do not have the ability

to impact the integrity of Gaming activity or the Gaming Enterprise, such as media advertising, facility maintenance workers, linen and laundry services, and food and beverage suppliers. Except as otherwise provided in this Title, all Non-Gaming Vendors must appear on the Registration List maintained by the Tribal Gaming Commission in order to do business with a Gaming Enterprise of the Nation.

Section 12-6-17. Exemptions.

The Tribal Gaming Commission may, in its discretion, exempt from the Licensing or Registration requirements any vendor who:

- (A) Is a Tribal, Local, State, or Federal government agency;
- (B) Does not require access to restricted Gaming areas;
- (C) Has no continuing or ongoing relationship with the Gaming Enterprise;
- (D) Provides goods or services used in the course of business travel;
- (E) Provides utilities or similar services essential to the conduct of business; or
- (F) Will provide goods of insubstantial or insignificant amounts or quantities.

CHAPTER 12-7 PROVISIONS OF GENERAL APPLICABILITY TO ALL LICENSEES

Section 12-7-1. Gaming License & Permit Application Fees.

- (A) **Series A License.** No application fee shall be required for a Series A Gaming Facility License.
- (B) **Series B License.** The application fee for a Series B Gaming License shall be set by the Tribal Gaming Commission.
- (C) **Series C License.** The application fee for a Series C Gaming License shall be set by the Tribal Gaming Commission.
- (D) **Series D License.** The application fee for a Series D Gaming License shall be set by the Tribal Gaming Commission.
- (E) **Non-Gaming Work Permits; Non-Gaming Vendor Registrations.** The application fee for Non-Gaming Employee Work Permit applications and for Non-Gaming Vendor registration applications shall be set by the Tribal Gaming Commission.

Section 12-7-2. Gaming License Tax.

No annual License tax shall be required for a Gaming Enterprise.

Section 12-7-3. Form and Display of Gaming License.

Every License issued by the Tribal Gaming Commission shall contain the following data:

- (A) The name and address of the authorized Licensee; and
- (B) The signature of an officer of the Tribal Gaming Commission.

Section 12-7-4. Terms of Gaming License.

- (A) **Series A.** A Series A Gaming Facility License shall be valid for a period of five (5) years from the date of issuance.
- (B) **Series B.** A Series B Gaming License shall be valid for a period of two (2) years from the date of issuance.
- (C) **Series C.** A Series C Gaming License shall be valid for a period of two (2) years from the date of issuance.
- (D) **Series D.** A Series D Gaming License shall be valid for a period of two (2) years from the date of issuance.
- (E) **Non-Gaming Work Permits.** Non-Gaming Work Permits shall be valid for a period determined by the Tribal Gaming Commission, provided that no permit shall be valid for a period of more than two (2) years.
- (F) **Non-Gaming Vendor Registration.** Non-Gaming Vendors must renew registration annually. The Non-Gaming Vendor Registration List must be updated periodically and inactive Non-Gaming Vendors and those failing to renew their registration will be deleted from the list. Delisted Non-Gaming Vendors may reapply to be included on the Registration list.

Section 12-7-5. Gaming License, Work Permit, and Non-Gaming Vendor Registration Renewal.

- (A) **Renewal Authorized.** Each Gaming License, Work Permit, and Non-Gaming Vendor registration may be renewed.
- (B) **Renewal Fees.** No renewal fee shall be required for a Series A Gaming Facility License. Renewal fees for Series B, C, and D Gaming Licenses as well as non-Gaming

Employee Work Permits and Non-Gaming Vendor registrations shall be set by the Tribal Gaming Commission.

- (C) **Renewal Application.** In order to obtain a renewal of a Gaming License, Work Permit, or Non-Gaming Vendor registration, the Operator of a Gaming Facility, for a Series A Gaming Facility License, or the Licensee, for a Series B, C or D Gaming License, or a holder of a non-Gaming Work Permit, or the Non-Gaming Vendor, for a Non-Gaming Vendor registration, shall submit to the Tribal Gaming Commission a written renewal application on the form provided by the Tribal Gaming Commission no later than sixty (60) days before the License, Work Permit, or registration expires. Such form shall require the updating of all information contained in the original application.
- (D) **Report Requirement.** No renewal application for a License issued with respect to particular Gaming Facility shall be approved until the annual report, required by Section 12-7-8 of this Title with respect to such Gaming Facility and its Operator, has been properly filed.
- (E) **Approval.** All complete renewal applications shall be approved in thirty (30) days or less unless the Tribal Gaming Commission has reasonable grounds to believe that there may be credible grounds for denial of the License, Work Permit or Non-Gaming Vendor Registration or, additionally with respect to a Series A Gaming Facility License, the Gaming Enterprise has been or will be operated in violation of this Title or any other Applicable Law; or otherwise where exigent circumstances are present.

Section 12-7-6. Scope of Gaming License, Work Permit, or Non-Gaming Vendor Registration.

- (A) **Series A.** A Series A Gaming Facility License shall be effective only for the Gaming Facility specified in the application.
- (B) **Series B.** A Series B Gaming License shall be effective only for the Person to whom it is issued and only with respect to the Gaming Facility specified in the application unless otherwise authorized by the Tribal Gaming Commission. Any such License may be transferred to a new Gaming Facility upon prior approval of the Tribal Gaming Commission, upon written request which details the proposed new Gaming Facility, its location, and proposed Operator thereof.
- (C) **Series C.** A Series C Gaming License shall be effective only for the natural Person to whom it is issued and only with respect to the Gaming Facility specified in the application unless otherwise authorized by the Tribal Gaming Commission. Any such License may be transferred to a new Gaming Facility upon prior approval of the Tribal Gaming Commission, upon written request which details the proposed new Gaming Facility, its location, and proposed Operator thereof.

- (D) **Series D.** A Series D Gaming License shall be effective only for the Gaming Vendor to which it is issued. A Series D Gaming License may not be transferred to any other entity, including affiliates and legal successors.
- (E) **Non-Gaming Work Permits.** A Non-Gaming Employee Work Permit shall be effective only for the Non-Gaming Employee to which it is issued and is not transferrable.
- (F) **Non-Gaming Vendor Registrations.** A Non-Gaming Vendor registration shall be effective only for the registered Person or entity identified on the Registration List.

Section 12-7-7. Posting of Gaming License.

Each Gaming Enterprise shall post the Series A Gaming Facility License issued for the Gaming Facility it operates in a conspicuous location at such Gaming Facility. If a Gaming Enterprise operates more than one (1) Gaming Facility, it must obtain and post a separate Series A Gaming Facility License for each such Gaming Facility. Any Person licensed to sell Raffle tickets outside a Gaming Facility shall carry a copy of the Gaming License under which he is employed.

Section 12-7-8. Annual Report of Series A Gaming Facility Licensee.

The Operator of any Gaming Facility which possesses a Series A Gaming Facility License must file an annual report with the Tribal Gaming Commission and the Tribal Council before the fifteenth (15th) day of the last month of the term of such License. The report shall be submitted on the annual report form provided by the Tribal Gaming Commission and shall include, at a minimum, the following information:

- (A) The name, address, and telephone number of the Operator;
- (B) The names, addresses, and titles of its current General Manager and all of its sub-managers;
- (C) A description of the Gaming that has been operated and the total gross sales for the previous year;
- (D) A written copy of any changes it proposes to initiate in its rules;
- (E) A statement of the specific dates and times during which the Gaming will be operated for the next License period;
- (F) The name and address of the natural Person who will serve as General Manager for the next License period;
- (G) A statement of any changes in the Primary Management Officials or Key Employees who will operate the Gaming activity for the next License period;

- (H) Written proof that the Gaming Enterprise has paid the National Indian Gaming Commission such fees as federal and Nation law may require;
- (I) Proof that the Gaming Enterprise has complied with IRS regulations, including written notice of customer winnings;
- (J) The address of any Gaming Facility at which Gaming activity has been conducted and the address of any new Gaming Facility that will be established during the next License period;
- (K) The number of full-time equivalent people, on an annualized basis, employed by the Gaming Enterprise during the previous twelve (12) months, together with a projection of the number of full-time equivalent people who are expected to be employed during the next License period;
- (L) The total gross revenue of the Gaming Enterprise over the previous year;
- (M) If the Gaming is managed by a Management Contractor, the name, address, and signature of the agent who resides on the Reservation and who will accept service of process on behalf of the Management Contractor; and
- (N) If, in the case of a Management Contractor, such Management Contractor is a corporation, a copy of any amendment to its articles of incorporation, properly certified by the incorporating government, unless a current copy is already on file with the Tribal Gaming Commission.

Section 12-7-9. Procedure to Remedy Gaming License Violation.

If the Tribal Gaming Commission finds that any Gaming activity of any Licensee is in violation of this Title or any other Applicable Law, or otherwise presents a threat to the public, the Tribal Gaming Commission shall immediately take such steps as it deems necessary to bring such activity into compliance, which may include the suspension or revocation of any Gaming License.

Section 12-7-10. Requirement of Producing Series B or C Gaming License or Work Permit Upon Request.

Any natural Person who obtains a Series B or C Gaming License or Non-Gaming Employee Work Permit must carry such License or Work Permit upon his person during all working hours at any Gaming Facility under the jurisdiction of the Nation and must produce such License or Work Permit upon the request of any law enforcement official or agent of the Nation, the State, or the National Indian Gaming Commission.

Section 12-7-11. Temporary Suspension of Series B or C Gaming License.

- (A) Grounds for Temporary Suspension of Class B or C Gaming License.** Any Series B or C Gaming License may be temporarily and immediately suspended by the Tribal Gaming Commission or the Tribal Court if any of the following have occurred:
- (1)** The Licensee has been charged with a violation of this Title or any other Applicable Law;
 - (2)** The Licensee's continued employment as a Primary Management Official, Key Employee, or Standard Gaming Employee of a Gaming Enterprise poses a threat to the general public;
 - (3)** The Licensee has made a materially false statement in his License application;
 - (4)** The Licensee has Participated in Gaming activity unauthorized by his Gaming License;
 - (5)** The Licensee has refused to comply with any order of the Tribal Gaming Commission, the Tribal Council, the Tribal Court, or the National Indian Gaming Commission; or
 - (6)** The National Indian Gaming Commission notifies the Tribal Gaming Commission that the Licensee is not eligible for employment.
 - (a)** If the National Indian Gaming Commission notifies the Tribal Gaming Commission that the Licensee is not eligible for employment, the Tribal Gaming Commission must immediately suspend the License and provide the Licensee with written notice of suspension and proposed revocation in accordance with Section 12-7-12(C) of this Title.
- (B) Procedure for Temporary Suspension of Series B or C Gaming License.** In the event the Tribal Gaming Commission determines that any Licensee meets any of the criteria stated in Subsections 12-7-11(A)(1) through 12-7-11(A)(6) of this Title, or that his or her non-compliance with this Title is a direct and immediate threat to the peace, safety, morals, health, or welfare of the community, the Tribal Gaming Commission shall issue a written order of temporary suspension of such Licensee's Series B or C Gaming License and shall serve such notice upon the Licensee immediately. The order shall state the grounds upon which it is issued and the Licensee's right to a show cause hearing. The Licensee shall cease and desist operating in his/her position pursuant to his/her License immediately upon receipt of the order, but the Licensee may file a notice of appeal with the Tribal Gaming Commission pursuant to the show-cause

hearing provisions of Subsection 12-7-12(C) of this Title, which shall govern such appeal in all respects.

Section 12-7-12. Denial or Revocation of Series B or C Gaming License.

(A) **Grounds for Denial or Revocation.** The Tribal Gaming Commission may deny any Series B or C Gaming License without a hearing, if notice and an opportunity for a hearing is provided for after the denial, or it may revoke any Series B or C Gaming License after notice and an opportunity for a hearing, for any of the following reasons:

- (1) The Licensee has withheld pertinent information on the Gaming License application;
- (2) The Licensee has made false statements on the Gaming License application;
- (3) The Licensee has Participated in Gaming activity which was not authorized by the Gaming License;
- (4) The Licensee has attempted to bribe or unduly influence a Tribal Council member(s), Tribal Gaming Commission member(s), or any other official or Licensee in an attempt to avoid or circumvent this Title or any other Applicable Law;
- (5) The Licensee has offered something of value or accepted a loan, financing, or other thing of value from a Tribal Gaming Commission member, a subordinate employee of the Tribal Gaming Commission or Gaming Enterprise, or any Person Participating in any Gaming activity in order to impose or exact undue influence on that individual, or for any other improper purpose;
- (6) The Licensee has knowingly promoted, played, or Participated in any Gaming activity operated in violation of this Title or any other Applicable Law;
- (7) The Licensee has been knowingly involved in the falsification of books or records which relate to a transaction connected with the operation of Gaming activity;
- (8) The Licensee has violated any provision of this Title or any other Applicable Law;
- (9) The Licensee has been convicted of, or has entered a plea of *nolo contendere* to, any crime involving Gaming, fraud, theft, embezzlement, or other activity which, if perpetrated at any Gaming Facility on the Reservation, would injure or pose a threat to the public interest, or the integrity of the Gaming activity, or the effective regulation of Gaming, or

enhance the dangers of unfair, unsuitable, or illegal practices in the conduct of Gaming;

- (10) The Licensee has refused to comply with any order, inquiry, or directive of the Tribal Gaming Commission, the Tribal Council, the Federal Government, the State, or any court of competent jurisdiction;
 - (11) The Licensee has been convicted of, or entered a plea of *nolo contendere* to, a crime involving the sale of illegal narcotics or controlled substances; or
 - (12) The Licensee has been determined to have present or prior criminal activities, a criminal record, or reputation, habits, or associations which pose a threat to the public interest or to the effective regulation of Gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices in the conduct of Gaming.
- (B) If the Tribal Gaming Commission issues a denial to a prospective Class II Gaming Licensee, it shall notify the National Indian Gaming Commission and forward copies of its eligibility determination and notice of results to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Record System.
- (C) **Procedure for Revocation of Series B or C Gaming License.** Whenever it is brought to the attention of the Tribal Gaming Commission that any Person has failed to comply with any condition of his Gaming License or has failed to obtain a License, the Tribal Gaming Commission may either undertake an investigation of the Gaming Enterprise, or serve upon such Person or any agent of such Person an order to show cause why such Person's License should not be revoked, or why such Person should not be enjoined from conducting Gaming activities within the jurisdiction of the Nation. Such notice shall state the reason for the order, the time and place for the show cause hearing before the Tribal Gaming Commission, and that the Person shall have an opportunity to present testimony, cross examine opposing witnesses, and to present any other evidence as to why a revocation order or injunction should not be issued. The right to a hearing under this Section shall vest only upon receipt of a License granted under this Title. The hearing shall be set for not less than thirty (30) days nor more than forty-five (45) days from the date of the notice or receipt by the Tribal Gaming Commission of any appeal filed pursuant to Subsection 12-7-11(B) of this Title. The hearing shall be governed in all respects in accordance with the Nation's laws and Tribal Gaming Commission regulations. After a revocation hearing, the Tribal Gaming Commission shall decide whether to revoke or to reinstate a Gaming License. The Tribal Gaming 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.

Section 12-7-13. Temporary Suspension of Series D Gaming License.

- (A) **Grounds for Temporary Suspension of Series D Gaming License.** Any Series D Gaming License may be temporarily and immediately suspended by the Tribal Gaming Commission or the Tribal Court if any of the following have occurred:
- (1) The Licensee has been charged with a violation of this Title or any other Applicable Law;
 - (2) The Licensee has made a materially false statement in his License application;
 - (3) The Licensee has Participated in Gaming activity unauthorized by his Gaming License; or
 - (4) The Licensee has refused to comply with any order of the Tribal Gaming Commission, the Tribal Council, the Tribal Court, or the National Indian Gaming Commission.
- (B) **Procedure for Temporary Suspension of Series D Gaming License.** In the event the Tribal Gaming Commission determines that any Licensee meets any of the criteria stated in Subsections 12-7-13(A)(1) through 12-7-13(A)(4) of this Title, or that his non-compliance with this Title is a direct and immediate threat to the peace, safety, morals, health, or welfare of the community, the Tribal Gaming Commission shall issue an order of temporary suspension of such Licensee's Series D Gaming License, and shall serve such notice upon the Licensee immediately. The order shall state the grounds upon which it is issued and the Licensee's right to a hearing. The Licensee shall cease and desist operating in his position pursuant to his License immediately upon receipt of the order, but the Licensee may file a notice of appeal with the Tribal Gaming Commission pursuant to the show-cause hearing provisions of Subsection 12-7-14(B) of this Title, which shall govern such appeal in all respects.

Section 12-7-14. Denial or Revocation of Series D Gaming License.

- (A) **Grounds for Denial or Revocation of Series D Gaming License.** The Tribal Gaming Commission may deny any Series D Gaming License without a hearing if notice and an opportunity for a hearing is provided for after the denial, or it may revoke any Series D Gaming License after notice and an opportunity for a hearing, for any of the following reasons:
- (1) The Licensee has withheld pertinent information on the Gaming License application;
 - (2) The Licensee has made false statements on the Gaming License application;

- (3) The Licensee has Participated in Gaming activity which was not authorized by the Gaming License;
- (4) The Licensee has attempted to bribe a Tribal Council member(s), Tribal Gaming Commission member(s), or any other Person in an attempt to avoid or circumvent this Title or any other Applicable Law;
- (5) The Licensee has offered something of value or accepted a loan, financing, or other thing of value from a Tribal Gaming Commission member, a subordinate employee of the Tribal Gaming Commission or Gaming Enterprise, or any Person Participating in any Gaming activity for the purposes of imposing or exacting undue influence on that individual, or for any other improper purpose;
- (6) The Licensee has knowingly promoted, played, or Participated in any Gaming activity operated in violation of this Title or any other Applicable Law;
- (7) The Licensee has been knowingly involved in the falsification of books or records which relate to a transaction connected with the operation of Gaming activity;
- (8) The Licensee has violated any provision of this Title or any other Applicable Law;
- (9) The Licensee or any director, officer, ten percent (10%) or greater shareholder or partner thereof has been convicted of, or has entered a plea of *nolo contendere* to, any crime involving Gaming, fraud, theft, embezzlement or other activity which, if perpetrated at any Gaming /facility on the Reservation, would injure or pose a threat to the public interest, or the integrity of the Gaming activity, or the effective regulation of Gaming, or enhance the dangers of unfair, unsuitable, or illegal practices in the conduct of Gaming;
- (10) The Licensee has refused to comply with any order, inquiry or directive of the Tribal Gaming Commission, the Tribal Council, the Federal Government, the State, or any court of competent jurisdiction;
- (11) The Licensee or any director, officer, and ten percent (10%) or greater shareholder or partner thereof has been convicted of, or entered a plea of *nolo contendere* to, a crime involving the sale of illegal narcotics or controlled substances; or
- (12) The Licensee or any director, officer, and ten percent (10%) or greater shareholder or partner thereof has been determined to have present or prior activities, criminal record, if any, or reputation, habits, and associations

which pose a threat to the public interest or to the effective regulation of Gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices in the conduct of Gaming.

- (B) **Procedure for Revocation of Series D Gaming License.** Whenever it is brought to the attention of the Tribal Gaming Commission that any Licensee has failed to comply with any condition of his Series D Gaming License or has failed to seek and obtain a License, the Tribal Gaming Commission may either undertake an investigation of such Licensee or serve upon such Licensee, or any agent of such Licensee, an order to show cause why such Licensee's License should not be revoked or why such Licensee should not be enjoined from conducting Gaming activities within the jurisdiction of the Nation. Such notice shall state the reason for the order, the time and place for the show cause hearing before the Tribal Gaming Commission, and that the Licensee shall have an opportunity to present testimony, cross examine opposing witnesses, and present any other evidence as to why a revocation order or injunction should not be issued. The hearing shall be set for not less than thirty (30) days nor more than forty-five (45) days from the date of the notice or receipt by the Tribal Gaming Commission of any appeal filed pursuant to Subsection 12-7-13(B) of this Title. The hearing shall be governed in all respects in accordance with the Nation's laws and Tribal Gaming Commission regulations.

Section 12-7-15. Gaming Licenses are Site-Specific.

Each Gaming License shall be applicable only to the Gaming Facility specified on such License, provided that the Tribal Gaming Commission may issue a dual License to a Key Employee, Primary Management Official, or Standard Gaming Employee of a Gaming Enterprise charged with duties in relation to multiple Gaming Facilities operated by the same Gaming Enterprise.

Section 12-7-16. Gaming Licenses are not Transferable.

No Gaming License shall be sold, loaned, assigned, or otherwise transferred in violation of this Title.

Section 12-7-17. Gaming Licenses are Personal.

A Gaming License shall be issued only to the Person who qualifies for it under this Title, or to the Nation, or a tribal subdivision.

Section 12-7-18. Title 12 and Regulations Available for Inspection.

Each Gaming Enterprise shall keep a copy of this Title and all applicable regulations of the Tribal Gaming Commission readily available for inspection by any Person at each authorized Gaming Facility operated by such Gaming Enterprise.

Section 12-7-19. Gaming Age Limitations.

No Person under eighteen (18) years of age shall be permitted to be a Player in any Class II Gaming activity, excluding charity bingo nights. No Person under twenty-one (21) years of age shall be permitted to be present in any Gaming area of any Class III Gaming Facility, nor be permitted to place any Class III Wager, directly or indirectly, provided that any Person under twenty-one (21) years of age shall have the right of ingress and egress through Gaming areas as is necessary to use a non-Gaming area of any such Gaming Facility such as a restaurant, meeting room, restroom, gift shop, or any other such area, the use of which is ancillary to another non-Gaming use, and provided, further, that any Person over eighteen (18) years of age but under the age of twenty-one (21) may, upon approval in accordance with Licensing provisions, be employed in the Gaming Facility in a capacity not involving the service of alcoholic beverages.

Section 12-7-20. Gaming Rules Available for Inspection.

Each Gaming Enterprise shall post in its Gaming Facility, in a conspicuous location near any Gaming activity being played, or shall otherwise provide the public with, an explanation of the rules of play of every specific Game operated in such Gaming Facility.

Section 12-7-21. Renting or Lending Gaming Equipment.

Each Gaming Enterprise is prohibited from renting or lending Gaming Equipment to any Person without prior express written approval of the Tribal Gaming Commission.

Section 12-7-22. Exchange of Pull-Tabs, Punchboards, Etc.

Each Gaming Enterprise is prohibited from exchanging Pull-Tabs, Punchboards, sports pools, and twenty-one boxes with any other Person except with prior approval of the Tribal Gaming Commission. All other Gaming Equipment may be exchanged without prior approval. Any request for approval shall be made to the Tribal Gaming Commission at least five (5) days prior to the propose date of such exchange.

Section 12-7-23. Permission Required for Making Gaming Equipment.

Any Gaming Enterprise which anticipates the printing, manufacture, or construction of any Gaming Equipment shall first notify the Tribal Gaming Commission of its intention, and shall have the finished product approved by the Tribal Gaming Commission before it is placed in service.

Section 12-7-24. Full Value Required for Gaming Chips and Tokens.

Gaming chips and other tokens of value shall only be sold and redeemed by the Gaming Enterprise that issued them, and only for full value.

Section 12-7-25. Retention of Gaming and Licensing Records.

- (A) Each Gaming Enterprise shall maintain, and keep in hard copy or in an electronic media storage format, for not less than five (5) years all permanent books of accounts and records, including inventory records of Gaming supplies, sufficient to establish to gross and net income, deductions, expenses, receipts, and disbursements of the Gaming Enterprise.
- (B) The Nation shall retain the following for inspection by the Chair of the National Indian Gaming Commission, or his or her designee, for no less than three (3) years from the date of termination of employment of Key Employees and Primary Management Officials:
 - (1) Applications for Licensing;
 - (2) Investigative reports; and
 - (3) Eligibility determinations.

Section 12-7-26. Facility Agreement Requirement.

Each Gaming Enterprise being conducted in a Gaming Facility not owned by the Nation shall file with the Tribal Gaming Commission, prior to conducting any such Gaming activity, a written agreement, attested to by both the General Manager of the Gaming Enterprise and the owner of such Gaming Facility, setting forth the terms under which the Gaming Enterprise is permitted the use of such Gaming Facility. Documents submitted to the Tribal Gaming Commission shall contain, at a minimum, the following information, provisions, and conditions:

- (A) The name of the legal owner of the Gaming Facility. If the Operator is a sub-lessee, the name of the lessee must also be included;
- (B) The name of the Gaming Enterprise and its General Manager;
- (C) The term of such use of the Gaming Facility;
- (D) The monetary consideration to be paid for such use of the Gaming Facility;
- (E) A precise description of the premises granted to or leased by the Operator within the Gaming Facility;
- (F) A prohibition of any advertising of the Gaming activity by the grantor;
- (G) The following provision:

The (grantor/lessor) hereby agrees that neither he, his spouse, nor any employee or agent of the (grantor/lessor) shall participate in the selling, distributing, conducting, assisting, or participating in gaming activity at the facility herein (granted/leased) without the prior written approval of the Tribal Gaming Commission;

- (H) The rental provision of such agreement must establish a fixed monthly rental dollar amount unless otherwise approved in writing by the Tribal Gaming Commission;
- (I) A graduated lease rate for use of the Gaming Facility is prohibited unless approved in writing by the Tribal Gaming Commission;
- (J) Other remuneration, in lieu of money, for use of the Gaming Facility is prohibited unless approved in writing by the Tribal Gaming Commission;
- (K) A percentage lease rate for use of the Gaming Facility is prohibited unless approved in writing by the Tribal Gaming Commission;
- (L) No Gaming activity shall be operated in conjunction with the conduct of any other business operation unless approved in writing by the Tribal Gaming Commission; and
- (M) Any renegotiated agreement shall be furnished to the Tribal Gaming Commission prior to its effective date.

Section 12-7-27. Liquor Approval Requirement.

There shall be no sale of liquor at any Gaming Facility without prior approval of the Tribal Council through a duly enacted resolution.

Section 12-7-28. Cash or Cash Equivalents Required for Gaming.

Consideration for the chance to play in any Gaming activity shall be only cash, cash equivalents, or, where allowed, a personal check, and shall be presented at the time such Gaming is conducted. Other form of consideration shall not be allowed unless the Tribal Gaming Commission gives prior written approval.

Section 12-7-29. Form of Win or Loss Documentation.

Evidence of any win or loss incurred by a Player must, upon request, be provided to such Player in such form as will be acceptable to the IRS.

Section 12-7-30. Fee and Report Filing Requirement.

Each Gaming Enterprise shall pay all required fees and file all required reports in a timely manner as established by the Tribal Gaming Commission.

Section 12-7-31. Response to Law Enforcement Agencies.

Each Gaming Enterprise shall respond immediately to and obey all inquiries, subpoenas, or orders of the Tribal Gaming Commission, the Tribal Council, the Tribal Court, or the National Indian Gaming Commission.

Section 12-7-32. Facility Maintenance.

- (A) The Nation shall ensure that each Gaming Facility is constructed, maintained, and operated in a manner that adequately protects the environment and the public health and safety, and the Gaming Enterprise shall, at all times, maintain an orderly, clean, and neat Gaming Facility, both inside and out.
- (B) The Tribal Gaming Commission shall verify and, where needed, cause to be conducted public health and safety inspections, which shall be conducted at the expense of the Gaming Enterprise. Such inspections shall be conducted in accordance with the standards established by the Nation or regulations of the Tribal Gaming Commission.

Section 12-7-33. Security Requirement.

Each Gaming Enterprise shall provide adequate security to protect the public before, during, and after any Gaming activity.

Section 12-7-34. Cooperation with Tribal Law Enforcement Agency.

Each Gaming Facility shall be subject to patrol by the Tribal Law Enforcement Agency for the purpose of enforcing the Nation's laws, and each Licensee shall cooperate at all times with the Tribal Law Enforcement Agency.

Section 12-7-35. Inspection of Books and Records.

Each Gaming Enterprise shall keep accurate books and records and make its premises, books, and records available for inspection by the Tribal Gaming Commission pursuant to Section 12-3-23 of this Title, the National Indian Gaming Commission, and in compliance with any applicable terms of a Tribal-State Gaming Compact.

Section 12-7-36. Determination of Class II Gaming Holidays.

The Tribal Gaming Commission reserves the right to determine that no Class II Gaming shall be conducted on a given day or during a given event or holiday.

Section 12-7-37. Anti-Discrimination Requirement.

No Gaming Enterprise may discriminate on the basis of sex, race, color, or creed in the conduct of any Gaming activity, provided that this provision shall not be construed to prohibit the establishment of an Indian hiring preference policy.

Section 12-7-38. Compliance with Applicable Revenue Reporting Laws.

Every Gaming Enterprise shall comply with any applicable Nation, state, and federal revenue reporting laws.

Section 12-7-39. Violation of Tribal Law.

It shall be a violation of the Nation's laws to violate any provision of this Title, any regulation of the Tribal Gaming Commission, any order of the Tribal Gaming Commission, or any order of the Tribal Court.

Section 12-7-40. Drug Suspensions.

Each Gaming Enterprise shall immediately suspend any employee who is charged with an offense described in subsection 12-9-4(CC) of this Title, or any offense related to the sale, possession, manufacture, and/or transport of illegal drugs. The General Manager of any Gaming Enterprise shall also immediately notify the Tribal Gaming Commission in writing of the name of the Person and the pending charge(s) and advise the Tribal Gaming Commission of the outcome of the case. An employee who is convicted or who pleads *nolo contendere* to, any such charge, shall be terminated and shall be subject to the revocation of his/her License or permit.

**CHAPTER 12-8
OPERATION OF GAMES**

Section 12-8-1. General Manager.

Each Licensed Gaming Enterprise shall designate one (1) Person who shall serve as the General Manager to be responsible for managing and overseeing the day-to-day operations of the Gaming Enterprise. The designee shall obtain a Series B Gaming License before commencing such work.

Section 12-8-2. General Manager's Monthly Report.

The General Manager shall present a written monthly report to the Tribal Gaming Commission which details the number of patrons served, the amount of income generated, the numbers of employees working at the Gaming Facility, a detailed description of any patron complaints and other problems experienced at the Gaming Facility, a list of all bills which are thirty (30) days or more past due, and a written statement of any changes in Key Employees or Primary Management Officials.

Section 12-8-3. Form of Payment of Winnings.

Any patron's winnings in an amount under five hundred dollars (\$500.00) shall be paid in cash or cash equivalent on the date on which it is won. Any patron's winnings in an amount over five hundred dollars (\$500.00) or more shall be paid in cash or cash equivalent, or check, or both, in accordance with the patron's request, and within two (2) hours of the patron's request to cash out unless extenuating circumstances are present.

Section 12-8-4. Advice of Patron Complaint Process.

The General Manager shall propose, subject to the approval of the Tribal Gaming Commission, a patron complaint process. Each General Manager shall post at least one (1) sign in each Gaming room informing patrons that they may file complaints directly with the Tribal Gaming Commission and advising them of the Tribal Gaming Commission's address and phone number.

Section 12-8-5. Liability Insurance.

Each Licensed Gaming Facility shall carry sufficient liability insurance to protect the public in the event of an accident. The Tribal Gaming Commission shall determine the amount of liability insurance required for each Gaming Facility.

Section 12-8-6. Posting of Rules of Play.

Each General Manager shall post the rules of play of each Game in a conspicuous place in the Gaming Facility and shall make written copies available to the general public upon request.

Section 12-8-7. Responsibility for Compliance with Applicable Law.

The General Manager shall be personally responsible for seeing that Gaming activity is managed in accordance with Nation and federal law, and that such Gaming activity complies with all IRS reporting requirements.

Section 12-8-8. Audits.

- (A) **Annual Audit.** An audit by an independent Certified Public Accountant of the Tribal Gaming Commission's choice, shall be performed annually for each Licensed Gaming Enterprise and on each contract for supplies, services or, concessions in excess of \$25,000 annually, except for contracts for professional legal or accounting services relating to any such Gaming activity or operation. Any such audit shall be conducted in accordance with generally accepted auditing standards and shall be conducted at the expense of the subject Gaming Enterprise.
- (B) **Additional Audits.** Additional audits, as may be deemed necessary by the Tribal Gaming Commission, shall be performed from time to time.

- (C) **Audits Furnished to the National Indian Gaming Commission.** The annual audit of each licensed Gaming Enterprise and each audit for supplies, services, or concessions of each such operation shall be furnished to the National Indian Gaming Commission within one hundred-twenty (120) days after the end of each fiscal year pursuant to the IGRA and regulations of the National Indian Gaming Commission thereunder.
- (D) **Audits Furnished to the State.** The annual audit of each Licensed Class III Gaming Enterprise and each audit for supplies, services, or concessions of each such operation may be made available to the State pursuant to the Tribal-State Gaming Compact.

Section 12-8-9. Management Contracts – Generally.

- (A) Any management contract entered into between the Nation and a Management Contractor shall be valid only upon approval by the National Indian Gaming Commission. Any Person or entity desiring a management contract with the Nation shall agree to pay for any costs incurred for background investigations for each entity, Key Employee, Primary Management Official, director, officer, and ten percent (10%) or greater shareholder or partner of the proposed Management Contractor, and each Person proposed to possess an ownership interest in such management contract.
- (B) Each management contract shall be approved by the Tribal Council with the advice and comment of the Tribal Gaming Commission. Before the Tribal Council considers any management contract, each Key Employee, Primary Management Official, director, officer, and ten percent (10%) or greater shareholder or partner of the proposed Management Contractor, and each Person proposed to possess an ownership interest in such management contract, shall apply for a Series B Gaming License, and each Person proposed to be a Standard Gaming Employee shall apply for a Series C Gaming License. The Tribal Gaming Commission shall complete the application review process and submit its written findings to the Tribal Council. Before giving final consideration to any such proposed management contract, the Tribal Council shall direct the Tribal Gaming Commission to take the following steps and provide the Tribal Council with all information obtained thereby:
 - (1) Obtain a complete financial statement of the applicant, and if the applicant is a corporation, a complete financial statement of each director, officer, ten percent (10%) or greater shareholder, or partner;
 - (2) Contact each of the tribal governments and licensing agencies referred to in any application referred to the Subsection 12-8-9(B) of this Title to determine the performance history of the proposed Management Contractor or any such applicant for a Series B Gaming License;
 - (3) Arrange to have the proposed Management Contractor investigated to learn his personal attributes and to determine whether the Management

Contractor or any of the people referred to in Subsection 12-8-9(B) of this Title have prior criminal records or any pending criminal charges;

- (4) Obtain an independent verification of each financial statements obtained pursuant to Subsection 12-8-9(B)(1) of this Title; and
 - (5) Undertake any additional steps needed to determine the character and reputation of each such proposed Management Contractor.
- (C) If the Tribal Council, after reviewing the above described information, desires to enter into a management contract with the proposed Management Contractor, such management contract shall be placed in writing and submitted to the Nation's legal counsel for review before the Tribal Council approves it.
- (D) After the Tribal Council is satisfied with the information it receives and enters into a management contract, it shall submit the proposed management contract, together with all of the above described information, to the Chairman of the National Indian Gaming Commission for approval.

Each Management Contractor or Operator of any Gaming Enterprise, shall, by written notification to the National Indian Gaming Commission, designate an agent for service of any official determination, order, or notice of violation from such.

Section 12-8-10. Management Contracts – Required Provisions.

Any management contract approved by the Tribal Council must contain, at a minimum, the following with respect to the Gaming Enterprise to which the contract is applicable:

- (A) **Governmental Authority.** A provision that all Gaming covered by the contract shall be conducted in accordance with this Title;
- (B) **Assignment of Responsibilities.** Provisions enumerating the responsibilities of the Management Contractor and the Nation for each of the following identifiable functions:
 - (1) Maintaining and improving the Gaming Facility;
 - (2) Providing operating capital;
 - (3) Establishing operating days and hours;
 - (4) Hiring, firing, training, and promoting employees;
 - (5) Maintaining the Gaming Enterprise's financial statements and reports;
 - (6) Preparing the Gaming Enterprise's financial statements and reports;

- (7) Hiring and scheduling the auditors;
- (8) Hiring and supervising security personnel;
- (9) Providing fire protection services;
- (10) Settling advertising budget and the placement of advertising;
- (11) Paying bills and expenses;
- (12) Establishing and administering employment practices;
- (13) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage; and
- (14) Complying with all applicable provisions of law, including this Title and implementing regulations, the Internal Revenue Code and other applicable Nation and federal laws as well as the applicable Tribal-State Gaming Compact;

(C) **Accounting.** Provisions for establishment and maintenance of satisfactory accounting systems and procedures which shall, at a minimum:

- (1) Include an adequate system of internal accounting controls;
- (2) Mandate the preparation of financial statements in accordance with generally accepted accounting principles;
- (3) Require a monthly financial accounting of the Gaming Enterprise's income and expenses to be provided to the Gaming Commission and Tribal Council;
- (4) Be subject to annual audits by an independent auditor chosen by the Tribal Gaming Commission;
- (5) Allow the Gaming Enterprise, the Nation, and the National Indian Gaming Commission to calculate the annual fee due the Commission under Section 18 of the IGRA, 25 U.S.C. § 2717;
- (6) Permit the calculation and payment of the Management Contractor's fee; and
- (7) Provide for the allocation of operating expenses or overhead expenses among the Nation, the Gaming Enterprise, the Management Contractor, and any other user of shared facilities and services;

- (D) **Reporting.** Provisions which shall require any Management Contractor to provide the Tribal Council on a monthly basis with verifiable financial reports or all information necessary to prepare such reports;
- (E) **Access.** Provisions which shall require any Management Contractor to provide immediate access to the Gaming Enterprise, including its books and records, by appropriate Nation officials, who shall have:
 - (1) Absolute access to the daily operation of the Gaming Enterprise and to its books, and the absolute right to verify the daily gross revenues of the Gaming Enterprise at any time; and
 - (2) Access to any other Gaming-related information the Nation deems appropriate;
- (F) **Guaranteed Payment to Nation.** Provisions which shall require any Management Contractor to pay a minimum guaranteed monthly payment in a sum certain to the Nation that has preference over the retirement of development and construction costs;
- (G) **Development and Construction Costs.** Provisions which shall establish an agreed upon maximum dollar amount for the recoupment of development and construction costs;
- (H) **Term Limits.** Provisions which shall limit any such contract to a term not to exceed five (5) years unless, upon the request of the Nation for a longer term, the Chairman of the National Indian Gaming Commission is satisfied that the capital investment required and the income projections for the particular Gaming Enterprise require the additional time, and authorizes a contract term that does not exceed seven (7) years;
- (I) **Compensation.** Provisions which shall detail the method of compensating and reimbursing any Management Contractor and provide that if a management contract provides for a percentage fee, such fee shall be either:
 - (1) Not more than thirty percent (30%) of the Net Revenues of the Gaming Enterprise if the Chairman of the National Indian Gaming Commission determines that such percentage is reasonable in light of the circumstances; or
 - (2) Not more than forty percent (40%) of the Net Revenues if the Chairman of the National Indian Gaming Commission is satisfied that the capital investment required and income projections for the Gaming Enterprise require that additional fee;
- (J) **Termination Provisions.** Provisions which shall establish the grounds and mechanisms for modifying or terminating the contract;

- (K) **Dispute Resolution.** Provisions which shall contain a mechanism to resolve disputes between:
- (1) The Management Contractor and customers, consistent with the procedures in this Title;
 - (2) The Management Contractor and the Nation; and
 - (3) The Management Contractor and the employees of the Gaming Enterprise;
- (L) **Assignments and Subcontracting.** Provisions which shall indicate whether and to what extent contract assignments and subcontracting are permissible; and
- (M) **Ownership Interest.** Provisions which shall indicate whether, and to what extent, changes in the ownership interest in the management contract require advance approval by the Nation.

CHAPTER 12-9 ENFORCEMENT

Section 12-9-1. Criminal Enforcement.

- (A) **Indians.** In enforcing this Title, the Nation shall exercise concurrent criminal jurisdiction with the State over Indians in accordance with 18 U.S.C. § 3243, subject to the provisions of the Tribal-State Gaming Compact.
- (B) **Non-Indian.** In enforcing the terms and provisions of this Title, the State shall exercise exclusive criminal jurisdiction over non-Indians in accordance with 18 U.S.C. § 3243.

Section 12-9-2. Civil Enforcement.

In enforcing this Title with respect to all transactions or activities which relate to Gaming on the Reservation, the Nation shall exercise civil jurisdiction over Indians and non-Indians.

Section 12-9-3. Cross-Deputization Agreement.

To the extent permitted by law, the Nation and the State agree to enter into such cross-deputization agreements as may be necessary and proper to facilitate cooperation between the Tribal Law Enforcement Agency and state law enforcement personnel.

Section 12-9-4. Prohibited Acts.

With respect to the jurisdiction the Nation exercises in this Title, in addition to other civil and criminal offenses provided for herein, the following acts are prohibited and subject any violator to either civil or criminal penalties, whichever is applicable, or both, as specified herein:

- (A) Participating in any Class II or Class III Gaming activity which is not authorized by this Title and Licensed by the Tribal Gaming Commission;
- (B) Knowingly making a false statement in an application for any Gaming License, employment with any Operator, or with the Tribal Gaming Commission;
- (C) Knowingly making a false statement in connection with any contract to Participate in any Gaming activity;
- (D) Attempting to bribe any Person Participating in any Gaming activity;
- (E) Offering or accepting a loan, financing, or other thing of value between a Tribal Gaming Commission member or employee thereof and any Person Participating in any Gaming activity;
- (F) Failing to keep sufficient books and records to substantiate receipts, disbursements, and expenses incurred or paid from any Gaming activity;
- (G) Falsifying any books or records which relate to any transaction connected with any Gaming activity;
- (H) Conducting or Participating in any Gaming activity which in any manner results in Cheating or misrepresentation, and which allows any other disreputable tactics which detract from the fair nature and equal chance of involvement between Gaming Players, or which otherwise creates an advantage over and above the chance of such Gaming activity and which affects its outcome;
- (I) Using bogus or counterfeit cards or dice, or substituting or use any Game cards or dice that have been tampered with, altered, or marked;
- (J) Employing, or having on one's person or otherwise being within one's control, any device which may be used to facilitate Cheating in a Gaming activity;
- (K) Conducting Gaming activity with, or allowing taking part in Gaming activity by or with, an intoxicated or disorderly Player;
- (L) Allowing or taking part in the sale of liquor at Gaming Facilities in violation of this Title;
- (M) Accepting consideration other than money, personal checks, or other approved consideration for the chance to play or take part in any Gaming activity;
- (N) Using bogus or counterfeit chips or Charitable Gaming Tickets, or substituting or using any cards, Charitable Gaming Tickets, or Gaming Equipment that has been marked or tampered with;

- (O)** Tampering with any Gaming Equipment or device, to manipulate the outcome or the payoff of the Gaming Equipment or device;
- (P)** Claiming, collecting, taking, or attempting to claim, collect, or take money or anything of value in or from a Gaming Facility to which one is not entitled; or claiming, collecting, or taking an amount greater than the amount actually won in a Game;
- (Q)** Falsifying, destroying, wrongfully altering, or failing to produce any books, data, records, or other information relating to the Gaming Enterprise required to be produced under Applicable Law;
- (R)** Offering or attempting to offer anything of value, to a Licensee in an act that is an attempt to induce, or may be perceived as an attempt to induce, the Licensee to act in a manner contrary to the official duties of that Licensee;
- (S)** Acceptance by a Licensee of anything of value with the expectation that the receipt of value is intended, or may be perceived as intended, to induce the Licensee to act in a manner contrary to their official duties;
- (T)** Converting for personal enrichment any assets or property of the Gaming Enterprise, or diverting Gaming revenues for any purpose not authorized by the Nation;
- (U)** Defrauding the Nation, the Gaming Enterprise, any Gaming Licensee, or any Game participant in relation to any Gaming activity or promotion;
- (V)** Placing unlicensed or unauthorized Gaming Equipment on the Gaming floor and permitting its play;
- (W)** Refusing to comply with any lawful order, directive, or command of the State Gaming Agency or Tribal Gaming Commission;
- (X)** Altering or counterfeiting a Gaming License;
- (Y)** Knowingly aiding, abetting, or conspiring with another Person, or knowingly causing any Person to violate any provision of this Title or any rule or regulation adopted thereunder;
- (Z)** Operating, using, or making available to the public any illegal Gaming Equipment, device, apparatus, material, or equipment;
- (AA)** Selling, holding out for sale, or transporting into or out of the jurisdiction of the Nation any illegal Gaming Equipment, device, apparatus, or material;
- (BB)** Assisting or allowing any Person who is underage to take part in a Game of chance;

- (CC) Possessing any illegal narcotics or controlled substances on any licensed Gaming Facility;
- (DD) Stealing or attempting to steal funds or other items of value from any Gaming Facility or from the Tribal Gaming Commission;
- (EE) Conspiring with or inducing any Person to violate any of the provisions of this Title or any Nation or federal law; or
- (FF) Knowingly employing any Person who has been convicted of, or entered a plea of *nolo contendere* to, a crime of theft, embezzlement, fraud, a Gaming crime, or any other crime which, if perpetrated on the Operator's premises, would threaten the fairness or integrity of the Game or create a threat to the public.

Section 12-9-5. Criminal Violation.

Any Indian who violates any provision of the Title or any order or decision of the Tribal Gaming Commission, shall be guilty of a crime and may be required to pay a fine not to exceed \$5,000 or be incarcerated for not to exceed two (2) years. Each day during which any such violation continues shall constitute a separate violation of this Title.

Section 12-9-6. Civil Violation.

Any non-Indian, who violates any provision of this Title or any order or decision of the Tribal Gaming Commission, shall be liable for a civil fine not to exceed \$5,000 for each such violation. Each day during which any such violation continues shall constitute a separate violation of this Title. The amount of any such civil fine may be recovered in a civil action in the Tribal Court.

Section 12-9-7. Cumulative Remedies.

All remedies provided for in this Title shall be cumulative and the imposition of one such remedy shall not bar or affect imposition of any other, nor bar the power of the Tribal Court to punish for contempt or impose any criminal remedy upon any offender.

Section 12-9-8. Purpose of Civil Penalties.

Civil fines imposed pursuant to this Title are intended to be remedial and not punitive, and are designed to compensate the Nation for the damage done to the peace, security, economy, and general welfare of the Nation and the Reservation, and to compensate the Nation for costs incurred by the Nation in enforcing this Title. Civil fines imposed pursuant to this Title are also intended to coerce all people into complying with this Title and any other Applicable Law and not to punish such people for violation thereof.

Section 12-9-9. Civil Action of Penalties.

In enforcing the civil penalty provisions of this Title, the Tribal Gaming Commission shall proceed, in the name of the Nation, against a Person for violation of any such provision by civil complaint pursuant to the provisions of this Title. The Tribal Gaming Commission in such action shall have the burden of showing, by the preponderance of the evidence, that such Person violated the applicable provision of this Title or any other Applicable Law.

Section 12-9-10. Seizure of Property.

All property utilized in violation of this Title shall be subject to seizure by order of the Tribal Court.

Section 12-9-11. Reporting of Offenders.

The Clerk of the Tribal Court shall, upon final conviction of any Person under this Title, report the name of such Person to the Tribal Gaming Commission and, in the case of conviction of an Indian with regard to Class III gaming, to the State.

Section 12-9-12. Appeal of Final Tribal Gaming Commission Decisions to Tribal Court.

The Tribal Gaming Commission's final decision(s) concerning the enforcement and application of this Title may be appealed to the Tribal Court in accordance with the rules of the Tribal Court within thirty (30) days from the date of the Tribal Gaming Commission's action or decision, excluding actions and decisions made pursuant Section 12-3-18 of this Title, which are not subject to appeal to the Tribal Court. The Tribal Court may reverse an action or decision of the Tribal Gaming Commission upon finding that the action or decision of the Tribal Gaming Commission was arbitrary and capricious or contrary to the law.