



May 6, 2016

Shannon Holsey, Tribal President  
Stockbridge-Munsee Community  
N8476 Moh He Con Nuck Road  
Bowler, WI 54416

RE: Stockbridge-Munsee Community Gaming Ordinance and Resolution No. 029-16

Dear President Holsey:

I am writing with respect to your February 17, 2016, request to the National Indian Gaming Commission to review and approve the Stockbridge-Munsee Community's amendments to its gaming ordinance. The amendments were adopted by Resolution No. 029-16 of the Tribal Council to better meet the Tribe's regulatory needs and to comply with NIGC regulatory updates.

Thank you for providing the amended gaming ordinance for our review. The ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations. If you have any questions concerning this letter, please contact Staff Attorney Austin Badger at (202) 632-7003.

Sincerely,

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

Jonodev O. Chaudhuri  
Chairman

cc: Bridget Swanke, Senior Counsel, Stockbridge-Munsee Community

# ***Stockbridge-Munsee Community***

**BAND OF THE MOHICAN INDIANS  
TRIBAL COUNCIL OFFICES**

## **RESOLUTION**

February 16, 2016

No. 029-16

- WHEREAS,** The Stockbridge-Munsee Community is a federally recognized Indian tribe with inherent sovereign powers, and is governed by the Stockbridge-Munsee Tribal Council pursuant to the 1937 Constitution, as amended;
- WHEREAS,** The Stockbridge-Munsee Community has the authority under its Constitution and its inherent rights as a sovereign nation to adopt and amend Ordinances;
- WHEREAS,** The Tribe is authorized to conduct gaming activities on the Stockbridge-Munsee Reservation in accordance with federal gaming law and its Gaming Compact with the State of Wisconsin;
- WHEREAS,** The Tribe regulates such gaming activities through Chapter 25, the Gaming Ordinance, which was approved by National Indian Gaming Commission as required under federal law;
- WHEREAS,** Revisions to Chapter 25 were identified that included changes to the definitions of ancillary facility, key employees and primary management officials, additional language for addressing disputes in relation to changes to operating procedures, additional bases for suspension or denial of a gaming license, among others contained in the attached version of the Revisions showing all additions and deletions;
- WHEREAS,** Such revisions were adopted by the Tribal Council in Resolution 02-16 and, on October 13, 2015, were submitted to the National Indian Gaming Commission for approval;
- WHEREAS,** The National Indian Gaming Commission identified technical corrections to Chapter 25 that were required by federal regulation;
- WHEREAS,** On November 18, 2015, the Tribal Council submitted a letter withdrawing its October 13, 2015 request for approval of Chapter 25;
- WHEREAS,** The Tribe made additional amendments to Chapter 25 that include changes to the 2015 revisions as well as the changes required by federal regulation;

**WHEREAS,** Such amendments were adopted by the Tribal Council in Resolution 018-16 and, on January 7, 2016, were submitted to the National Indian Gaming Commission for approval;

**WHEREAS,** The National Indian Gaming Commission has identified additional technical corrections to Chapter 25 that are required by federal regulation;

**WHEREAS,** On the Tribal Council intends to withdraw its January 7, 2016 request for approval of Chapter 25; and

**WHEREAS,** The Tribe made additional amendments to Chapter 25 that include new technical corrections, as well as the original 2015 revisions and the January 2016 corrections;

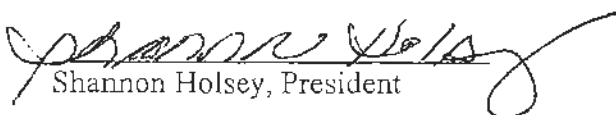
**NOW THEREFORE BE IT RESOLVED,** the Stockbridge-Munsee Tribal Council hereby adopts the following amendments to Chapter 25:

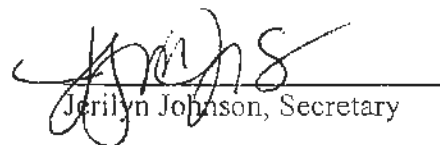
- Renumbering of entire ordinance.
- Addition of Table of Contents.
- Changes or additions to Sections: 25.4(A), (I), (R), (S), (X), (Z) and (EE); 25.8(N); 25.9(H)(2)(b) and (e); 25.9(H)(3)(a) and (c); 25.9(K)(1); 25.9(L); 25.9(L)(1), (16), (20), (29), (30), (31)(d), (32)(a), (32)(a)(iv), (32)(c), 32(c)(i)-(iii) and (38); 25.9(M)(1)(b); 25.9(N); 25.9(O); 25.10(D)(1), (4), (4)(a)-(b); 25.10(E)(1)-(3); 25.10(F) and (F)(1), 25.10(G), (H), (J) and (K); 25.11(F), (F)(2) and (F)(5); 25.14(P); 25.15(B); 25.15(C)(2)(o), (C)(8) and (C)(9); 25.15(D)(1) and (a)-(d); 25.15(E); 25.15(J)(6); 25.15(K) and (1)-(3); 25.15(L)(1)-(8); 25.15(N); 25.15(S); 25.16(C); 25.17(A), (A)(1)-(2), (A)(7) and (A)(8); and 25.21(A).
- Deletion of Sections: 25.4(R); 25.15(C)(6); 25.16(P)(10); and 25.15(R)(8).
- Addition of new Sections: 25.4 (S), (T) and (U); 25.7(G); 25.15(D)(2); 25.15(J)(10); and 25.15(T).
- Minor language clarifications in Sections: 25.1(D); 25.8(B), (G), (K) and (O); 25.9(D); 25.9(L)(3), (6), (11), (14), (19), (24), (25), (32)(1)(iii), and (33); 25.10; 25.12(A); 25.14(A), (D), (E)(2)(b), (F)(2), (G) and (O); 25.15(C)(4); 25.15(D)(3)-(4); 25.15(J); 25.15(P)(6); 25.17(A)(4); 25.17(B); and 25.21(C)(1).

**BE IT FURTHER RESOLVED,** the Stockbridge-Munsee Tribal Council directs that the amendments to Chapter 25 be forwarded to the National Indian Gaming Commission for approval pursuant to 25 U.S.C. § 2710(e).

#### CERTIFICATION

I, the undersigned, as Secretary of the Stockbridge-Munsee Tribal Council, hereby certify that the Council is composed of 7 members, of whom 6, constituting a quorum, were present at a meeting duly called, noticed, and held on the 16<sup>th</sup> day of February, 2016, that the foregoing resolution was duly adopted at such meeting by a vote of 5 for, 0 against, and 0 abstaining.

  
Shannon Holsey, President

  
Jerilyn Johnson, Secretary

**CHAPTER 25**  
**STOCKBRIDGE-MUNSEE TRIBAL LAW**  
**GAMING ORDINANCE**

Section 25.1	Findings, Purposes And Policy	Section 25.14	Licensing Of A Gaming Facility
Section 25.2	Interpretation	Section 25.15	Employee Gaming Licenses
Section 25.3	Ownership Of Gaming	Section 25.16	Tribal Gaming Services Vendor License
Section 25.4	Definitions	Section 25.17	General Provisions Governing Operation Of Tribally Owned Or Tribally Operated Gaming Facility
Section 25.5	Use Of Gaming Revenue	Section 25.18	Conflict Of Interest
Section 25.6	Handling Of Gaming Receipts	Section 25.19	Conduct Of Games
Section 25.7	General Provisions	Section 25.20	Sale Of Alcohol
Section 25.8	Tribal Council, Powers And Duties	Section 25.21	Jurisdiction And Enforcement
Section 25.9	Mohican Gaming Commission	Section 25.22	Notice For Service
Section 25.10	Powers, Duties And Limitations: Casino General Manager	Section 25.23	Severability
Section 25.11	Compliance Department		
Section 25.12	Audit		
Section 25.13	Protection Of The Environment And Public Health And Safety		

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A law to authorize, license and regulate certain forms of gaming, including Class II and Class III gaming, within the jurisdiction of the Stockbridge-Munsee Community on its Wisconsin Reservation.

**SECTION 25.1 FINDINGS, PURPOSES AND POLICY**

(A) Findings. The Stockbridge-Munsee Tribal Council on behalf of the Stockbridge-Munsee Tribe finds that:

- (1) Tribal regulation and control of gaming activity within the jurisdiction of the Stockbridge-Munsee Tribe is essential for the protection of public health and welfare, and the interests of the Tribe and the residents of and visitors to the tribal community, and such other areas as may be used for tribal gaming.
- (2) The Tribe has the legal authority to license and regulate all gaming activity not specifically prohibited by federal law and which is not, as a matter of criminal law and public policy, prohibited by state law, within the jurisdiction of the Tribe.
- (3) It is essential that the Tribe regulate gaming in a manner commensurate with applicable federal and tribal law and policy, including any Tribal/State Gaming Compact.
- (4) Tribal needs include employment opportunities, job and skills training, housing, quality health care, educational opportunities, social services, law and order, public safety and judiciary, infrastructure, and economic diversification.

(5) Tribal operation and licensing of gaming activities within the jurisdiction of the Tribe are one means of generating revenue to address the needs of the Tribe.

(B) Purposes. The purposes of this Ordinance are to:

(1) Regulate, control and license the operation of all gaming within the jurisdiction of the Stockbridge-Munsee Tribe.

(2) Make clear and explicit that a tribal license to operate a gaming activity, to provide gaming related services or equipment or to work as a key employee is a revocable privilege, not a right or a property interest.

(3) Ensure that the operation of tribally regulated gaming will continue as a means of generating tribal revenue.

(4) Ensure that tribally regulated gaming is conducted fairly and honestly by both gaming operators and players and that it remains free from corrupt, incompetent, unconscionable and dishonest persons and practices.

(5) Promote, strengthen and diversify tribal economic development and self-determination and enhance employment opportunities for its members.

(6) Generate revenue to strengthen and improve tribal self-government and the provision of tribal governmental services.

(7) Ensure that the tribal gaming laws are strictly and fairly enforced against all persons involved in gaming activities within the jurisdiction of the Tribe.

(8) Ensure that the Tribe provides a fair and impartial forum for the resolution of gaming disputes.

(C) Tribal Policy of Self-Government. The Tribe is firmly committed to the principle of tribal self-government. Consistent with federal policy, tribal government provides a wide range of public services, including general governmental services, maintenance of peace and good order establishment of educational systems and programs and promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

(D) Tribal Gaming Policy. The establishment, promotion and operation of gaming is necessary and desirable, provided that such gaming is regulated and controlled by the Tribe pursuant to tribal and federal law and any tribal-state gaming compact entered into pursuant to the IGRA, and that all proceeds of such gaming are used for the benefit of the Tribe as required by the IGRA and tribal law. When operated in accordance with the provisions of this Ordinance, such gaming will be conducive to the general welfare of all residents in the community where such gaming is conducted.

## **SECTION 25.2 INTERPRETATION**

This Ordinance shall be deemed a reasonable and proper exercise of police power of the Stockbridge-Munsee Tribe for the protection of the public health, welfare and safety of the people

living on lands under the jurisdiction of the Stockbridge-Munsee Tribe and all those who enter said lands for lawful purposes. The provisions of this Ordinance shall be liberally construed for accomplishment of this purpose.

### **SECTION 25.3 OWNERSHIP OF GAMING**

The Stockbridge-Munsee Tribe shall be the sole operator, conductor, manager and owner of all gaming enterprises on tribal lands, except that in those cases where the Tribe may deem it appropriate to enter into a management contract, it shall have the authority to do so, in a manner consistent with federal laws governing the terms and approval of such contracts, and provisions of this Ordinance that may apply.

### **SECTION 25.4 DEFINITIONS**

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

(A) "Ancillary Facility" means any non-gaming facility attached to or related to the Gaming Facility, such as a retail shop, restaurant, hotel, campground or other supporting facilities under the control of the General Manager. Ancillary Facilities are subject to regulation by the Stockbridge-Munsee Community, but are not gaming activities subject to regulation under the Indian Gaming Regulatory Act, the Tribal/State Gaming Compact, or by the Gaming Commission.

(B) "Barring Offense" means convictions or circumstances pertaining to an individual or a vendor that prevents them from obtaining or retaining an employee gaming or vendor license, more fully described in the licensing sections of this Ordinance particularly the Standards of Denial of a Primary Gaming License at Section 25.15 (J).

(C) "Cheating" means operating or playing any game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for oneself or for someone in privity with one an advantage over and above the chance of the game, and is subject to civil and administrative penalties consistent with this Ordinance.

(D) "Class II gaming" means:

(1) The game of chance commonly known as bingo (whether or not electronic, computer or other technologic aids are used in connection therewith):

- (a) Which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,
- (b) In which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and
- (c) In which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in same location) pull-tabs, lotto, punch boards, tip jars, instant bingo and other games similar to bingo, and

(2) Non-Banking Card games that:

- (a) Are explicitly authorized by the laws of the State, or
- (b) Are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games. Class II gaming does not include any banking card games, including baccarat, chemin de fer, or blackjack (21), or electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

(E) "Class III gaming" means all forms of gaming that are not Class I gaming or Class II gaming, and for purposes of Stockbridge-Munsee Gaming facilities, any of the Class III games permitted by a Tribal/State Compact entered into by the Tribe with a state.

(F) "Compact" means a gaming compact between the Tribe and the State of Wisconsin, or such other state as might apply, authorized by the Indian Gaming Regulatory Act.

(G) "Compliance Department" means an investigative entity created by the Tribal Council to conduct background investigations for the tribal gaming licensing process, and other investigations as directed by Council. The Compliance Department is deemed to be an agent of the Commission while carrying out its investigative activities for licensing purpose and while conducting any other duties at the request of the Commission

(H) "Council" or "Tribal Council" means the duly elected governing body of the Stockbridge-Munsee Tribe.

(I) "Fraud" means intentional deception resulting in an injury to another. Included in this definition, but not limited to, are those crimes and misdemeanors involving bad check writing, embezzlement, insurance fraud and welfare fraud.

(J) "Gaming Commission" means the Mohican Gaming Commission as established pursuant to this Ordinance.

(K) "Gaming Enterprise" or "Gaming Facility" means the Mohican North Star Gaming and Resort, and any other tribal gaming facility in Wisconsin that shall be operated by the Tribe, pursuant to its Constitution, adopted under Section 16 of the Indian Reorganization Act. No tribal gaming enterprises are nor shall be organized under the Federal Corporate Charter.

(L) "Gaming Operator" means the Stockbridge-Munsee Community, represented by the duly elected Tribal Council, or any entity licensed by the Commission to operate gaming facilities for the Stockbridge-Munsee Community.

(M) "Gaming Related Contract" means any agreement under which the Tribe procures for gaming any materials, supplies, equipment or services that are unique to the operation of gaming and not common to ordinary tribal operations, consistent with the Tribal/State Compact.

(N) "Gaming Related Contractor" means any contractor, service provider or vendor, individual or entity, that provides gaming materials, supplies, equipment or services that are unique to the operation of gaming and not common to ordinary Tribal operations.

(O) "Gaming Services Vendor" see "Gaming Related Contractor."

(P) "General Manager" or "Manager" is a Tribal Council hired position responsible for managing the day-to-day business of a tribal gaming enterprise. Each gaming facility shall have a General Manager.

(Q) "Gross Gaming Proceeds" means any money collected or received from any gaming activity.

(R) "Gaming Management Contract" means any contract, subcontract or collateral agreement between the Tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

(S) "IGRA" refers to the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2426, 25 U.S.C. Section 2710, et. seq. (1988), as amended.

(T) "Key Employee" for the purposes of this Ordinance means any person employed by a Gaming Facility, but shall not include any person employed by an Ancillary Facility. This definition includes the following employees:

(1) Employees who perform one or more of the following functions:

- (a) Bingo caller and Bingo Department personnel;
- (b) Slot Department personnel;
- (c) Director of Security and all security guards working within the Gaming Facility;
- (d) All surveillance officers;
- (e) Custodian of gaming supplies or gaming cash, including Cage/Vault personnel;
- (f) Pit boss;
- (g) Table games dealer and personnel;
- (h) Casino hosts;
- (i) Custodian of gambling devices including persons with access to gaming cash and accounting records within such devices (including Finance, Count, and Slots personnel);
- (j) Floor Manager and other gaming directors or gaming managers;
- (k) Croupier; and
- (l) Count room supervisor.

(2) If not otherwise included, any person working in the Gaming Facility whose total cash compensation is in excess of \$50,000 per year;



- (3) If not otherwise included, any person with supervisory authority over key employees;
  - (4) If not otherwise included, any employee with access to gaming supplies, gaming cash, confidential records, confidential reports, or other confidential information about the Gaming Facility or key employees; and
  - (5) If not otherwise included, any other person identified by the Tribe as a key employee.
- (U) "NIGC" refers to the federal National Indian Gaming Commission.
- (V) "Net Gaming Revenues" for purposes of this Gaming Ordinance and as consistent with the definition in IGRA, means gross gaming revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.
- (W) "Primary Gaming License" means a permanent gaming license subject to the renewal requirements, revocation/suspension provisions, and administrative penalties of this Ordinance.
- (X) "Primary Gaming Management Official" means:
- (1) The person having Gaming management responsibility for a Gaming management contract;
  - (2) Any person who has authority over gaming;
    - (a) To hire and fire key employees, or
    - (b) To set up working policy for the gaming operation; or
  - (3) The chief financial officer or other person who has financial management responsibility; or
  - (4) The four (4) most highly compensated employees at the Gaming Facility
- (Y) "Provisional Gaming License" means the "temporary gaming license" issued to a key employee by the Commission pursuant to Section 25.15 (F) of this Ordinance.
- (Z) "Suitable" means if a person, through a background investigation is determined by the Commission to be a person whose prior activities, criminal record if any, or reputation, habits, and associations do not pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unobjectionable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the gaming business and financial arrangements incidental thereto **or means** that an individual or vendor has met the requirements set forth by the Commission to obtain or retain an employee gaming or vendor license.

(AA) "Tribe" means the Stockbridge-Munsee Community, a federally recognized Indian Tribe acting through a duly elected Tribal Council pursuant to the tribal constitution, unless the context clearly indicates a general meaning.

(BB) "Tribal Court" means the Stockbridge-Munsee Tribal Court system.

(CC) "Tribal Lands" means:

(1) all lands within the limits of any Indian reservation; and

(2) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

(DD) "Tribal Gaming Waiver" means a waiver issued by the Tribal Council pursuant to the Tribal Gaming Waiver Policy.

(EE) "Tribal Gaming Waiver Policy" means that policy approved by the Tribal Council and implemented by the Mohican Gaming Commission and the Compliance Department, that waives a gaming applicant's criminal conviction(s) that would otherwise act as a bar to obtaining or retaining an employee gaming license.

## **SECTION 25.5      USE OF GAMING REVENUE**

(A) Net revenues from Class II and Class III Gaming shall be used only for the following purposes:

(1) To fund tribal government operations and programs.

(2) To provide for the general welfare of the Tribe and its members.

(3) To promote tribal economic development.

(4) To donate to charitable organizations.

(5) To help fund operations of local government agencies.

(B) If the Tribe elects to make per capita payments to tribal members, it shall authorize such payment only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. Section 2710(b)(3).

## **SECTION 25.6      HANDLING OF GAMING RECEIPTS**

(A) All monies collected or received from the operation of a tribal gaming enterprise shall be deposited in a special bank account(s) of that gaming enterprise, which shall contain only such money. All operating expenses shall be withdrawn from such account(s) by consecutively numbered checks duly signed by the Casino General Manager or his or her Commission-approved designee, and a person(s) designated by the Tribal Council.

(B) Any cash prize may be paid by check. Such checks shall be signed by the Casino General Manager and a person(s) designated by the Tribal Council.

(C) The Casino General Manager shall ensure that the gaming enterprise complies with the provisions of Section XIII of the Tribal-State Gaming Compact pertaining to taxes.

(D) The Casino General Manager shall insure that the gaming facility complies with the applicable provisions of Title 31 as amended (The Bank Secrecy Act).

## **SECTION 25.7 GENERAL PROVISIONS**

(A) Authority and Sovereign Powers and Responsibilities. This Ordinance is enacted pursuant to the inherent sovereign powers of the Tribe and powers expressly delegated to the Tribal Council pursuant to the terms of the Stockbridge-Munsee Tribal Constitution.

(B) Application of Federal Policy. In 1970, President Nixon announced the policy of the United States Government to promote self-determination for Indian tribes. At the heart of this 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. Sections 450-450n. In 1983, President Reagan reaffirmed that commitment in his Indian Policy Statement, encouraged tribes to reduce their dependence on federal funds by generating more of their own revenues and pledged to assist tribes in that endeavor. In 1988 the federal commitment to promote tribal economic development, tribal self-sufficiency and strong tribal government was expressly legislated in the Indian Gaming Regulatory Act ("IGRA"), Public Law 100-497, 102 Stat. 2426, 25 U.S.C. Section 2710, et. seq. (1988), which recognized the inherent sovereign right of tribes to operate and their exclusive right to regulate on Indian lands gaming that is not specifically prohibited by federal law and is conducted within a state that does not, as a matter of criminal law and public policy, prohibit such gaming, and provided a federal statutory basis for operation and regulation of Indian gaming.

(C) Stockbridge-Munsee Policy of Self-Government. The Tribe is firmly committed to the principal of tribal self-government. Consistent with federal policy, tribal government provides a wide range of public services, including general governmental services, the maintenance of peace and good order and the promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

(D) Title, Repeal of Prior Laws, and Effect of Repeal. This Ordinance may be cited as the Stockbridge-Munsee Gaming Ordinance. The Ordinance shall be appropriately inserted in the Stockbridge-Munsee Book of Tribal Ordinances. All Ordinances of the Tribe that pertain to gaming and are in effect as of the effective date of this revised Ordinance are hereby repealed, and all other tribal laws or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed. Repeal of this Ordinance or any portion thereof shall not have the effect of reviving any prior tribal law heretofore repealed or suspended, unless otherwise stated in this Ordinance.

(E) Construction. In construing the provisions of this Ordinance, unless the context otherwise requires, the following rules shall apply:

(1) This Code shall be liberally construed to effect its purpose and to promote substantial justice.

(2) Words in the present tense include the future and past tenses.

(3) Words in the singular number include the plural, and words in the plural number include the singular.

(4) Words of the masculine gender or neutral gender include masculine and feminine genders and the neuter.

(F) Severability. If any section of this Ordinance is invalidated by a court of competent jurisdiction, the remaining sections shall not be affected thereby.

(G) Amendments. All amendments to this ordinance shall have prospective effect and any amendment to this ordinance shall not have any effect on the employment status of any employee at the time the amendment is approved.

#### **SECTION 25.8 TRIBAL COUNCIL, POWERS AND DUTIES**

(A) This Ordinance is authorized and adopted by the Stockbridge-Munsee Tribal Council pursuant to its powers under the tribal constitution.

(B) The Stockbridge-Munsee Tribal Council may further delegate responsibilities under the constitution to subordinate organizations in order to carry out the purposes and terms of this Ordinance and to assure compliance with the IGRA, the Tribal/State Compact and all other regulations, policies and procedures promulgated therefrom.

(C) The Stockbridge-Munsee Tribal Council shall retain the exclusive power to enter into agreements or compacts with the federal government, states, tribes, counties, municipalities and other local governments or entities.

(D) The Stockbridge-Munsee Tribal Council shall retain the exclusive power to waive sovereign immunity and nothing in this Ordinance is intended to be a waiver of sovereign immunity by the Tribal Council to permit itself or its agents acting on its behalf to be sued in any court.

(E) The Stockbridge-Munsee Tribal Council shall retain the exclusive power to enter into contracts and agreements effecting any sale, lease, encumbrance or other disposition of tribal lands, interest in lands or other assets of the Tribe.

(F) The Stockbridge-Munsee Tribal Council shall retain the exclusive power to enter into business contracts and agreements pertaining to the operation of gaming, except in those cases where that power has been expressly delegated to another entity, and in such cases of delegation, by the Tribal Council shall have review of said contracts prior to signing.

(G) The Tribal Council shall establish the use of gaming revenues transferred from the gaming enterprises in accordance with this Ordinance and applicable laws for use of such gaming revenues according to tribal needs and requirements for continued growth.

(H) The Tribal President shall be the spokesperson for the Tribe for all gaming matters and shall respond to the media on gaming issues, but may delegate this role as necessary and reasonable.

(I) The Tribal Council has authority to employ and dismiss Gaming Commissioners, pursuant to the standards for employment and dismissal set forth in Section 25.9 (K).

(J) The Tribal Council shall retain authority to hire the Casino General Manager, and to approve any management contractors. The Tribal Council shall also retain authority to terminate or discipline this position, such termination not to be arbitrary but done pursuant to criteria set forth in this Ordinance or in separate policies and procedures, or pursuant to an approved management contract.

(K) The Tribal Council shall review all monthly financial reports forwarded from the Gaming Management or other designated entity, and have final approval of the annual gaming operating budget, as well as revisions that may be recommended by Gaming Management or another designated entity.

(L) The Tribal Council shall have final approval over any proposed structural changes to facilities in which the gaming enterprise is operated.

(M) The Tribal Council, consistent with an approved gaming waiver policy, shall have the final authority in granting or denying a waiver request from a key employee or applicant with a bar to licensing.

(N) The Tribal Council shall create a Compliance Department to perform background investigations and other gaming related duties as requested by the Tribal Council or Gaming Commission. All Compliance employees shall be subject to the same background investigation standards as the Gaming Commissioners. Compliance Employees shall be deemed to be agents of the Gaming Commission while carrying out their duties related to gaming license background investigations, and any other duties requested by the Tribal Council or Gaming Commission. The Compliance Department may also be used in other tribal regulatory or investigative processes as directed by the Tribal Council, so long as such activities are not in conflict with their gaming related duties.

(O) All policies and regulations developed pursuant to this Ordinance shall be subject to final approval by Tribal Council resolution before becoming law. The Tribal Council, acting on behalf of the Tribe by virtue of its elected positions, is deemed to be the "Gaming Operator" for purposes of this Ordinance. As Gaming Operator, the Tribal Council is responsible for complying with all Gaming Operator licensing requirements required by federal law, and those requirements and regulations officially adopted by the Commission. Failure to comply with said requirements and any duly adopted regulations may result in fines against the Tribal Council, suspension and or revocation of their Gaming Operator's License.

Revocation of a Gaming Operator License will subject the Tribe to the jurisdiction of the NIGC which has the authority to close a game or operation for failure to comply with gaming laws

and the Tribal Council will strive to avoid subjecting the Tribe to enforcement actions from the NIGC.

## **SECTION 25.9 MOHICAN GAMING COMMISSION**

(A) **Establishment.** The Tribe hereby creates and establishes the Mohican Gaming Commission (hereinafter "Commission"), a subordinate organization, as a governmental subdivision of the Tribe, while reserving the right to review actions of this body.

(B) **Location and Place of Business.** The Commission shall be a resident of and maintain its headquarters, principal place of business and office(s) on the Stockbridge-Munsee Reservation or lands held in trust for the benefit of the Stockbridge-Munsee Community.

(C) **Duration.** The Commission shall have perpetual existence and succession in its own name, unless dissolved by the Tribal Council pursuant to Tribal law.

(D) **Attributes.** As a governmental subdivision of the Tribe, the Commission has been delegated the right to exercise one or more of the substantial governmental functions of the Tribe, including rule making authority for the purpose of regulation of tribal gaming pursuant to the IGRA, tribal law and the Tribal/State Compact. It is the purpose and intent of the Tribe in creating the Gaming Commission that the operations of the Commission be conducted on behalf of the Tribe for the sole benefit and interests of the Tribe, its members and the residents of the Reservation and communities surrounding the tribal gaming enterprises. In carrying out its purposes under this Ordinance, the Commission shall function as a branch of the tribal government. Notwithstanding any authority delegated to the Commission under this Ordinance, the Tribe reserves to itself the right to bring suit against any person or entity in its own right, on behalf of the Tribe or on behalf of the Commission whenever the Tribe deems it necessary to protect the sovereignty, rights and interests of the Tribe or the Commission.

(E) **Sovereign Immunity of the Commission.** The Commission and their duly appointed agents are hereby clothed with all the privileges and immunities of the Tribe, except as specifically limited by this Ordinance or other tribal law, including sovereign immunity from suit in any tribal, federal or state court. Except as provided in this section, nothing in this Ordinance nor any action of the Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Commission or its duly appointed agents, or to be a consent of the Tribe or the Commission to the jurisdiction of the United States or of any state or any other tribe with regard to the business affairs of the Tribe or the Commission to any cause of action, case or controversy, or to the levy of any judgment, lien or attachment upon any property of the Tribe or of the Commission, or to be a consent of the Tribe or the Commission or its duly appointed agents, to suit in respect to any Indian land, or to be a consent of the Tribe or the Commission to the alienation, attachment or encumbrance of any such land. The Tribal Council retains authority to waive the sovereign immunity of the Commission and its agents.

(F) **Sovereign Immunity of the Tribe.** All inherent sovereign rights of the Tribe as a federally recognized Indian tribe with respect to the existence and activities of the Commission are hereby expressly reserved, including sovereign immunity from suit in any tribal, federal or state court. Nothing in this Ordinance nor any action of the Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribe, or to be a consent of the Tribe to the

jurisdiction of the United States or of any state or of any other tribe with regard to the business or affairs of the Commission or the Tribe, or to be a consent of the Tribe to any cause of action, case, or controversy, or to the levy of any judgment, lien, or attachment upon any property of the Tribe, or to be a consent to suit in respect to any Indian land, or to be a consent to the alienation, attachment, or encumbrance of any such land.

(G) Assets of the Commission. The Commission shall have only those assets specifically assigned to it by the Tribal Council or acquired in its name by the Tribe or by the Commission on its own behalf. No activity of the Commission nor any indebtedness incurred by it shall implicate or in any way involve or effect any assets of tribal members or the Tribe not assigned in writing to the Commission.

(H) Membership.

(1) Number of Commissioners. The Tribal Council shall employ the number of Commissioners necessary to perform the duties of the Commission.

(2) Qualification of Commissioners.

- (a) Shall be an enrolled member at least twenty-one (21) years of age.
- (b) Shall have at least three to five (3-5) years of experience in at least one of the following areas:
  - (i) Business Management
  - (ii) Economic Development
  - (iii) Marketing
  - (iv) Law
  - (v) Finance/Accounting
  - (vi) Security/Law Enforcement
  - (vii) Gaming
- (c) Shall not serve in any elected government position in the Stockbridge-Munsee Tribe.
- (d) No individual shall be eligible for employment with or to continue services on the Commission who has any direct financial interest in, or management responsibility for any gaming activity operated by the Tribe, or any direct or indirect interest in any gaming-related contract with the Tribe.
- (e) No individual shall be eligible for employment with or to continue services on the Commission who has any conflict of interest as defined in this Ordinance, UNLESS such conflict has been fully disclosed to the entire Tribal Council and the Tribal Council has agreed, in writing, to permit the individual to be appointed or to continue with his or her term.
- (f) No individual shall be eligible for employment with or to continue services on the Commission who is an employee of any tribal gaming enterprise or of another gaming enterprise outside the Tribe's ownership and/or management.

(3) Background Check. Prior to the time any Commissioner takes office on the Commission, the Tribe shall perform a comprehensive background check on each prospective member. No person shall serve as a Commissioner if:

- (a) His or her prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest; or threaten the effective regulation and control of gaming; enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the gaming business and gaming financial arrangements incidental thereto; or
- (b) If he or she has been convicted of or entered a plea of guilty or nolo contendere (no contest) to a felony or any gaming offense in any jurisdiction or to a misdemeanor involving dishonesty, fraud, misrepresentation in any connection or any offense involving moral turpitude.
- (c) Applicants for the Commission shall not be eligible for the Commission if their background investigation shows a criminal history. A tribal gaming waiver shall not act to rehabilitate the applicant for consideration for the Commission. Criminal history, for purposes of this section shall mean any felony, any misdemeanor involving theft, fraud, misrepresentation or gambling related offenses.

(I) Meetings.

(1) Regular Meetings. The Commission shall hold at least one regular monthly meeting that shall take place on the date determined by the Commission by-laws, or as otherwise determined by the Commission.

(2) Special Meetings. Special meetings may be called at the request of the Tribal Council, Gaming Management, the Chairperson of the Commission, the Compliance Department or at least a majority of the members of the Commission.

(3) Compensation of Commissioners. Commissioners shall receive a salary set by the Tribal Council.

(4) Quorum. A quorum for all meetings shall consist of a simple majority of Commission members.

(5) Voting. All questions arising in connection with the action of the Commission shall be decided by majority vote.

(6) Executive Session. No decisions shall be made in Executive Session. Use of executive session shall include, but not be limited to matters of personnel or other issues of a confidential or privileged nature.

(J) Organization. The Commission shall develop its own operating procedures and shall elect from within itself a Chairperson to direct meetings, and such other officers as the Commission requires.



**(K) Removal of Members and Filling Vacancies.**

(1) Removal. A Commissioner may be removed by the Tribal Council for inefficiency, neglect of duty, misconduct in office, or for any conduct that threatens the honesty or integrity of the Commission or otherwise violates the letter or intent of this Ordinance. Except as provided below, no Commissioner may be removed without notice and an opportunity for a hearing before the Tribal Council, and then only after the Commissioner has been given written notice of the specific charges at least ten days prior to such hearing.

At any such hearing, the Commissioner shall have the opportunity to be heard in person or by counsel and to present evidence on his or her behalf. If the Tribal Council determines that immediate removal of a Commissioner is necessary to protect the interests of the Tribe, the Tribal Council may immediately remove the Commissioner temporarily, and the question of permanent removal shall be determined thereafter pursuant to Commission hearing procedures.

A written record of all removal proceedings together with the charges and findings thereon shall be kept by the Tribal Secretary for at least seven (7) years.

(2) Vacancies. If any Commissioner shall die, resign, be removed, or for any reason be unable to serve as a Commissioner, the Tribal Council shall declare his or her position vacant and shall hire another person to fill the position.

**(L) Powers and Duties of the Commission.** In furtherance, but not in limitation, of the Commission's purposes and responsibilities, and subject to any restrictions contained in this Ordinance or other applicable law, the Commission shall have the authority to issue citations and assess fines for violations of applicable gaming laws and to refer violations of the Ordinance to the Tribal Prosecutor for enforcement, consistent with this Ordinance and regulations drafted for that purpose and approved by the Tribal Council. All proposed citations or assessments of fines shall be reviewed by legal counsel and the Commission for legal sufficiency. The Commission is also authorized to exercise by majority vote the following powers in addition to all powers already conferred by this Ordinance:

(1) Jurisdiction to issue, restrict, suspend, revoke and renew any licenses issued by the Commission.

(2) To insure that investigations are conducted and to receive and review investigative reports from the Compliance Department, said Department created by the Tribal Council to conduct background investigations on applicants for licenses issued by the Commission or as otherwise may be required. Where necessary, to request additional information from the Compliance Department regarding such investigations in the regulatory process.

(3) To insure that completed gaming applications and completed investigative reports for gaming management officials and key employees are forwarded to the NIGC prior to issuing a gaming license.

(4) To review a person's prior activities, criminal record if any, reputation, habits and associations to make a finding concerning the suitability for licensing, to work for or do business with the tribal gaming enterprise(s) or to continue such employment or business

relationship. Such review shall include investigative reports provided to the Commission by the Compliance Department.

(5) To issue separate license to each place, facility or location on tribal lands where the Stockbridge-Munsee Tribe elects to allow gaming.

(6) The Commission shall obtain annual independent outside audits, pursuant to the terms of the Tribal/State Compact, and submit these audits to the NIGC as required by federal regulations, and to the State Gaming Board as required by the Compact, consistent with Section 25.12.

(7) To ensure that net revenues from any gaming activities are used for the limited purposes set forth in the Tribal Gaming Ordinance.

(8) To promulgate gaming regulations pursuant to tribal law and consistent with Section 25.9 (M)(2) of this Ordinance.

(9) To monitor and regulate all tribal gaming activities to ensure compliance with tribal law/regulations. The Commission shall have such access to tribal gaming facilities and to key employees as necessary in order to carry out this responsibility.

(10) To interact with other regulatory and law enforcement agencies regarding the regulation of gaming, as necessary to fulfill their duties.

(11) To be completely familiar with the IGRA, the federal regulations promulgated thereunder, the Tribal Gaming Ordinance, the Tribal/State Compact and related laws and to monitor the facility for compliance with those laws.

(12) To conduct investigations of possible violations of any gaming laws or regulations and take appropriate action as authorized through this Ordinance or in regulations duly promulgated by the Commission and approved by the Tribal Council.

(13) To provide independent information to the Tribe on the status of the Tribe's gaming activities. See Section 25.9 (L)(24) on reporting for more detail.

(14) To issue oaths, take testimony and conduct hearings on regulatory matters, including all matters related to primary gaming management officials and key employee licenses or any other licenses issued by the Commission under this Ordinance. Hearings may also be held for licensing of gaming services vendors.

(15) Be familiar with the minimum internal control standards or procedures for all tribal gaming operations, including credit policies and procedures for acquiring supplies and equipment.

(16) Establish any supplementary criteria for the licensing of primary gaming management officials, key employees and other employees, vendors or contractors subject to the approval of the Tribal Council.

- (17) Establish or approve standards for and issue licenses or permits to persons and entities who deal with the gaming operation(s) such as manufacturers and suppliers of machines, equipment and supplies, such license to be called a "gaming services vendor license."
- (18) To maintain records on licensees and on persons denied licenses including persons otherwise prohibited from engaging in gaming activities within the tribe's jurisdiction, consistent with federal law, the Tribal/State Compact requirements and this Ordinance.
- (19) To perform audits of gaming business transactions to ensure compliance with gaming regulations.
- (20) To establish, review, and if applicable, approve rules of new games consistent with the requirements of the Tribal/State Compact and other applicable laws, and audit games, tables, equipment, machines, cards, dice and chips or tokens used in the gaming operation. To audit the video surveillance standards.
- (21) To insure that a mechanism is in place to resolve patron disputes, and other problems, pursuant to the Tribal Gaming Ordinance and other tribal regulations and policies that may be in place regarding those issues.
- (22) With prior 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 Commission or the Tribe.
- (23) To exercise all authority delegated to it or conferred upon it by law and to take all action that shall be reasonably necessary and proper for carrying into execution the foregoing powers and all of the powers vested in this Ordinance as permitted by the purposes and powers herein stated and that are deemed to be in the best interests of the Tribe, exercising prudent and good judgment, all in compliance with applicable law.
- (24) To require by regulation the filing of any records, forms and reports and all other information desired by the Council for implementation of this Ordinance relating to any gaming activity or gaming operation or any investigation as required by tribal law and the IGRA. The Commission shall submit to the Tribal Council on a regular basis minutes from all meetings and a monthly status report on the tribal gaming enterprise(s).
- (25) To provide for an internal system of record keeping with adequate safeguards for preserving confidentiality as deemed necessary by the Commission. All applications, background investigations shall be retained by the Compliance Department for at least seven years from the termination of employment or business relationship and Commission decisions related to the licensing of primary gaming management officials, key employees or any other entity licensed by the Commission, shall be retained in Commission files for a period of at least seven (7) years from termination of employment or business relationship.
- (26) To adopt a schedule of fees to be charged for gaming licenses issued pursuant to this Ordinance.

(27) 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.

(28) To compel obedience of its lawful orders by proceedings of mandamus or injunction or other proper proceedings in the name of the Tribe in Tribal Court or in any other court having jurisdiction of the parties and of the subject matter; provided that no suit shall be brought by the Commission without the prior explicit written approval of the Tribal Council after consultation with the Tribal attorney(s). This provision is not to be interpreted as a waiver of sovereign immunity by the Tribal Council for suit in Tribal Court but is intended to address all cases except those that might involve the Tribal Council as a Gaming Operator.

(29) To discipline any licensee or other person participating in any gaming activity by ordering immediate compliance with this Ordinance or applicable regulations and to issue an Order of Temporary Suspension of any license issued under this Ordinance, consistent with the terms under this Ordinance governing such suspension, whenever the Commission is notified of a violation by any such person of this Ordinance or any other applicable law. The Commission shall provide notice to the Tribal Council prior to suspension to the General Manager.

(30) To issue an order of cease and desist to any primary gaming management official or key employee engaged in activities that may be detrimental to the gaming facilities, tribal gaming assets, public health and safety or any other interest of the Tribe.

(31) Notice of Violation. The Commission may issue a written notice of violation to any person for violations of any provision of this Ordinance, applicable federal law, applicable tribal law or the Tribal State Compact. A Notice of Violation shall contain:

- (a) A citation to tribal, federal or state requirement that has been or is being violated;
- (b) A description of the circumstances surrounding the violation, set forth in common and concise language;
- (c) Measures required to correct the violation;
- (d) A time no less than 15 days and no greater than 30 days for the recipient to complete the corrective measures referenced in subsection (c) above if the respondent cannot take measures to correct the violation immediately; and
- (e) Notice of rights of appeal.

(32) Order of Temporary Closure.

- (a) With notice to the Tribal Council and simultaneously with, or subsequently to, the issuance of a notice of violation under Section 25.9(L)(31) of this part, the Commission may issue an order of temporary closure of all or part of the Gaming Facility operations if one or more of the following substantial violations are present:
  - (i) The respondent fails to correct violations within the time permitted in a notice of violation.
  - (ii) The gaming operation operates for business without a license.

- (iii) The gaming operation operates for business without either background investigation having been completed for, or tribal licenses granted to all key employees and primary gaming management officials as provided for in this Ordinance.
    - (iv) The gaming operation refuses to allow an authorized representative of the Commission or another authorized tribal official to enter or inspect a gaming operation.
    - (v) The gaming operation's facility is constructed, maintained or operated in a manner that threatens the environment or the public health and safety, in violation of a tribal ordinance, applicable federal law, or the Tribal State Compact.
  - (b) Order effective upon service. The Tribal Council shall close the gaming operation, or that part of the operation indicated by the order, upon service of an order of temporary closure, unless the order provides otherwise.
  - (c) Informal expedited review. Within seven (7) days after service of an order of temporary closure, the respondent may request, orally or in writing, informal expedited review by the Commission.
    - (i) The Commission and if needed to assist the Commission, a Compliance Officer or Internal Auditor shall complete the expedited review provided for by this paragraph within two (2) days after receipt of a timely request.
    - (ii) The Commission shall, within two (2) days after the expedited review provided for by this paragraph:
      - (aa) Decide whether to continue an order of temporary closure; and
      - (bb) Provide the respondent with an explanation of the basis for the decision.
    - (iii) Whether or not a respondent seeks informal expedited review under this paragraph, within thirty (30) days after the Commission serves an order of temporary closure the respondent may appeal the order to the Tribal Court under the Tribal Administrative Appeals Ordinance.
- (33) To suspend or revoke the Gaming Operator's License held by the Tribal Council, consistent with suspension and revocation procedures, and to report the suspension or revocation of said license to the NIGC who has the authority to close tribal gaming facilities for failure to comply with federal regulations.
- (34) To carry out the procedures necessary to obtain a certificate of self-regulation under the IGRA, upon request and approval by the Tribal Council.
- (35) Annual Budget. The Commission shall prepare an annual operating budget for all Commission activities and present it to the Tribal Council within the required time frame.
- (36) Confidentiality. The Commission shall maintain confidentiality of information specified as confidential, including information gathered in the background and licensing process and any financial information regarding performance of the gaming enterprise. Violation of this confidentiality provision shall be subject to disciplinary action from the

Tribal Council and may be deemed "cause" for suspension or termination from the Commission.

(37) **Gaming Waiver Hearings.** The Compliance Department shall accept applications for gaming waivers from those persons interested in obtaining or retaining an Employee Gaming License, but who have a bar to licensing. The Compliance Department shall provide to the Commission a report stating whether the applicant is eligible for a gaming waiver. The Commission shall conduct the gaming waiver hearing if necessary or requested by the applicant and forward a recommendation to the Tribal Council regarding the applicant's suitability to receive a gaming waiver. The Tribal Council shall make the final decision on waiver applications.

(38) **Advisors.** To retain professional advisors such as attorneys, consistent with Tribal law and practices.

**(M) Commission Regulations.**

(1) Commission Regulations necessary to carry out the orderly performance of its duties and powers shall include, but shall not be limited to:

- (a) Internal operational procedures of the Commission and its staff;
- (b) A regulatory system to monitor all gaming activity, including accounting, contracting, gaming management and supervision, not to be confused with day-to-day management activities. The Commission shall meet the standards of 25 CFR Part 518 to become a self-regulated entity for purposes of regulating Class II gaming. Upon successful approval by the NIGC, the Commission shall regulate Class II gaming as a self-regulated entity;
- (c) The conduct of inspections, hearings, enforcement actions and other powers of the Commission authorized by this Ordinance.

(2) No regulation of the Commission shall be of any force or effect unless it is adopted by the Commission by written resolution and subsequently approved by a resolution of the Tribal Council and filed for record both in the office of the Tribal Secretary and in the Office of the Clerk of the Tribal Court.

(3) The Tribal Court and any other court of competent jurisdiction shall take judicial notice of all Commission regulations adopted pursuant to this Code, and not inconsistent with any other tribal or federal law.

**(N) Right of Entrance; Inspection of Books and Records.** The Commission and duly authorized officers, employees and agents of the Commission, may enter upon any premises of any Gaming Operator, Gaming Facility or Ancillary Facility for the purpose of making inspections and examining the accounts, books, papers and documents of such party with the proper sign in and out along with escort in secured areas. The Gaming Operator, Gaming Facility or Ancillary Facility shall facilitate such inspection or examinations by giving every reasonable aid to the Commission and to any properly authorized officer, employee or agent of the Commission.

**(O) Right of Entrance; Inspections of Gaming Operations.** A Commissioner or a member of the Commission's staff shall visit each tribally owned or tribally operated Gaming Facility regularly during normal hours of operation for the purpose of monitoring its operation. Such visits shall be unannounced.

**(I) Commission Audits.** The Commission and Internal Auditor shall be provided necessary access and cooperation from all Gaming Facility and Ancillary Facility personnel when conducting both scheduled and unscheduled audits or investigations.

**(P) Investigations.** The Commission or its designated agent, upon complaint or upon 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 facility that is subject to the provisions of this Ordinance. The investigation may be conducted by the Commission itself, or by any entity the Commission may deem best suited for the specific investigation. If the Commission designates a separate entity to conduct an investigation on its behalf, such entity shall be considered an agent of the Commission while carrying out its designated duties.

**(Q) Hearings.** Pursuant to Commission Hearing Proceedings, the Commission may hold any hearing it deems to be reasonably required in administration of its powers and duties under this Ordinance. No hearing shall be held without affording the appropriate due process rights.

**(R) Appointment of Examiner; Power of Examiner.** The Commission may appoint any 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 Commission or any member thereof has power or authority to hold. Any such appointment shall constitute a delegation to such examiner of all powers of a Commissioner under this Ordinance with respect to any such hearing. The Commission remains responsible for rendering the decision.

**(S) Bank Account for Tribally Owned or Tribally Managed Gaming Facility.** The Commission shall ensure that the Tribe opens a separate bank account for each tribally owned or tribally managed gaming activity, and all money of such facility shall be deposited in that account. The Commission shall ensure that the check writing authority designated in Section 25.6 of this Ordinance is followed. Check writing authority shall not include wire transfer authority.

**(T) Quarterly Report of Gaming General Manager Reports.** The Commission shall file a quarterly report with the Tribal Council and make such comments as it deems necessary to keep the Council fully informed as to the status of its various gaming activities.

**(U) Travel.** The Gaming Commission shall notify the Tribal Council and Gaming Management regarding travel plans. Travel plans shall be made taking into consideration the best duties and responsibilities of the Commission, the best interest of the gaming enterprise and the amount of money for such travel available in the Commission's operating budget. All travel shall be subject to review by the Tribal Council.

## **SECTION 25.10 POWERS, DUTIES AND LIMITATIONS: CASINO GENERAL MANAGER**

(A) Each tribal gaming enterprise shall have a Casino General Manager ("Manager") authorized to manage the gaming enterprise on a day-to-day basis and to facilitate quick and efficient business decision-making, while respecting the broad guidelines of the Commission and the Tribal Council. The General Manager shall have such authority as the Tribal Council shall delegate.

The General Manager shall be hired by the Tribal Council.

The General Manager shall undergo a background check by the Compliance Department and a licensing determination through the Commission. The General Manager shall obtain a Provisional Gaming License prior to commencing work and a Gaming License in accordance with this Ordinance.

The General Manager may be removed by the Tribal Council for cause. Grounds for removal must be clear and strictly limited to objective evidence of mismanagement or failure to adhere to policies and procedures or to tribal and federal laws and regulations.

The General Manager shall be subject to a semi-annual and an annual review by the Tribal Council or an entity designated by the Council for that purpose.

(B) Purpose. The purpose of the General Manager and the management structure s/he creates, is to oversee the day-to-day activities, make the day-to-day business decisions and to create a successful gaming enterprise.

(C) Qualifications. The General Manager shall have the experience and demonstrated skills necessary to manage a growing gaming enterprise according to the job description. The General Manager shall not be eligible to serve on Tribal Council while employed as Casino General Manager.

(D) Responsibilities.

(1) The General Manager shall be required to respond to all Commission notices pertaining to compliance with Minimum Internal Control Standards, System Internal Control Standards and Tribal/State Compact within 15 working days, which time shall not be unreasonable. The General Manager may request additional time.

(2) Day-to-day business management, including, but not limited to such things as hiring, contracting, payroll and scheduling. Contracting is subject to applicable sections of this Ordinance.

(3) Hiring staff pursuant to the process adopted in the Personnel Policies and Procedures for the gaming enterprise.

(4) Operating Policies and Operating Procedures. Operating Policies must be reviewed by the Commission and subsequently submitted to the Tribal Council for approval before becoming effective. However, Operating Procedures only require the review of the Commission to ensure that the proposed changes will not result in a violation of the Tribe's Compact or applicable standards or internal control prior to gaming management implementing new procedures or procedural changes. Notwithstanding any other provision of this section, when applicable law requires that the Commission review and approve a



policy or procedure, the Commission shall have that authority. Unless applicable law requires otherwise, the Commission shall have thirty days to complete its review.

- (a) In the event that the Commission has an objection to changes to the Operating Procedures proposed by the General Manager, due to a perceived violation as described in subsection (4) above, the Commission shall inform the General Manager of their concerns prior to meeting and then meet with the General Manager to discuss those concerns.
- (b) If the concerns are not resolved within 20 days of the informal discussion, the parties shall participate in a mediation process approved by both parties. . Such process shall use a third party as a mediator and be conducted in an informal and timely fashion.

(5) Budget Revisions. Any expenditures in excess of the approved operating and/or capital budgets shall be submitted by management to the Tribal Council for approval. General Manager may reallocate funds within an approved Budget consistent with Council approved guidelines.

(6) Accounting for Gaming Funds. The General Manager is responsible for keeping accurate, up-to-date financial records and accounts of all business and for hiring or contracting with necessary resources to do so (subject to the terms of the Tribal/State Compact, this Ordinance and Federal law), except that the Tribal Council shall retain hiring authority over the Chief Financial Officer for all tribal gaming enterprises. The General Manager shall participate in the hiring process for the Chief Financial Officer, even though the Tribal Council retains the hiring authority.

(7) The General Manager shall be familiar with all terms of the Compact and be directly responsible for managing the gaming enterprise in compliance with the Compact.

(8) The General Manager shall be familiar with the terms of the NIGC regulations, as then in effect, and any amendments or updates thereto, and operate all games in compliance with said regulations.

(9) The General Manager may delegate that authority necessary to ensure compliance with rules and regulations for a more efficient and productive operating environment.

(10) The General Manager shall be present at the time of the Financial Audit and Security Audit presentations to the Tribal Council.

**(E) Surveillance.**

(1) The Gaming Management shall, in accordance with a Council approved budget, provide all gaming surveillance equipment, gaming supplies, and space as deemed necessary by the Commission for the reasonable protection of patrons, employees, and Tribal assets. All gaming surveillance systems, gaming equipment, gaming rooms, etc., shall be under the control and jurisdiction of the Commission. All gaming surveillance staff shall be employees of the Tribe and report to the Commission.

(2) The General Manager, shall provide any and all desired plans for equipment installation, removal, modification, of facility layout changes to the Commission for review, prior to any change.

(3) The gaming facility management shall comply with any additional requirements of the Commission with regard to gaming equipment, coverage or gaming layout, in order to adequately protect the security of gaming assets, and the security and safety of patrons, vendors and employees.

(F) Reporting. The General Manager shall provide the Commission and the Tribal Council with a monthly report that details the number of patrons served, the amount of income generated, the numbers of employees working at the facility, a detailed description of any patron complaints and other problems experienced at the facility. The report shall also contain a detailed financial report, a written statement of any changes in key employees or primary gaming management officials, a listing of all bills that are thirty (30) days or more past due and any other information the Tribal Council may require. The General Manager has an obligation to provide all reports requested by the Tribal Council or the Commission.

(1) Annual Plan of Operation. The General Manager shall submit an Annual Plan to the Tribal Council for review and approval. The Plan shall be submitted by the first day of September, to the Tribal Council and a copy shall be available for the Commission for review purposes only. The Plan shall contain the following unless otherwise decided by Tribal Council:

- (a) Operating budget.
- (b) Capital budget.
- (c) Growth target.
- (d) Staffing requirements, including training requirements.
- (e) Expense and revenue projections.

(G) Travel. The General Manager shall notify the Commission regarding travel plans. Travel plans shall be made by the General Manager based on the best interest of the gaming enterprise.

(H) Patron's Complaint Process. The General Manager shall develop and implement a patron's complaint process. Each tribally owned and tribally operated gaming facility shall post at least one sign in each gaming establishment informing patrons of the established process.

(I) Confidentiality. The General Manager shall maintain confidentiality of information specified as confidential, including information gathered in the hiring process and any financial information regarding performance of the gaming enterprise. Violation of this confidentiality provision shall be subject to disciplinary action from the Tribal Council and may be deemed "cause" for suspension or termination.

(J) The General Manager shall cooperate and shall assist with all Gaming Facility and employees to cooperate with Commission requests, investigations, orders and enforcement actions.

(K) Any employee who is aware of malfeasance (Misconduct) or a suspicion of malfeasance regarding the General Manager's activities in relation to the integrity of the gaming operation has an obligation to report such information to the Tribal Council.

## **SECTION 25.11 COMPLIANCE DEPARTMENT**

(A) Establishment. The Tribal Council created the Compliance Department as a subordinate organization, a department within the tribal gaming regulatory structure, to carry out specific duties as requested either by the Tribal Council or the Commission. Employees of the Compliance Department share the Tribe's sovereign immunity while performing their job duties.

(B) Purpose. The primary purpose of the Compliance Department is to perform background investigations for tribal gaming licensing purposes, in accordance with the provisions of this Ordinance and any regulations promulgated hereunder. The Compliance Department may also perform other investigations for the Tribe, including those for Elder/Youth licensing and as requested by the Tribal Council when such investigations do not conflict with their gaming responsibilities, but the Compliance Department has no independent investigatory powers.

(C) Qualifications. Any employee hired in the Compliance Department shall meet the following qualifications:

(1) Employees of the Compliance Department shall not serve in any elected government position in the Stockbridge-Munsee Tribe;

(2) No individual shall be eligible for employment with or to continue services with the Compliance Department who has any financial interest in, or management responsibility for any gaming activity operated by the Tribe, or any direct or indirect interest in any gaming-related contract with the Tribe.

(3) No individual shall be eligible for employment with or to continue services with the Compliance Department who has any conflict of interest as defined in this Ordinance, UNLESS such conflict has been fully disclosed to the entire board of Commissioners and to the Tribal Council and both entities have agreed, in writing, to permit the individual to be hired or to continue with his or her employment.

(4) No individual shall be eligible for employment with or to continue services with the Compliance Department who is an employee of any tribal gaming enterprise or of another gaming enterprise outside the Tribe's ownership and/or management.

(5) Shall be an enrolled member of the Stockbridge-Munsee Community, who is at least 21 years of age.

(D) Background Check. Prior to the time any employee with the Compliance Department begins employment, the Tribe shall perform a comprehensive background check on each prospective employee. No person shall be employed in the Compliance Department if:

(1) His or her prior activities, criminal record, if any, or reputation,

habits or associations pose a threat to the public interest; or threaten the effective regulation and control of gaming; enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto; or

(2) If he or she has been convicted of or entered a plea of guilty or nolo contendere (no contest) to a felony or any gaming offense in any jurisdiction or to a misdemeanor involving dishonesty, fraud, misrepresentation in any connection or any offense involving moral turpitude.

(3) Applicants for the employment with the Compliance Department shall not be eligible for employment with the Compliance Department if their background investigation shows a criminal history. A tribal gaming waiver shall not act to rehabilitate the applicant for consideration for employment with the Compliance Department. Criminal history, for purposes of this section shall mean any felony, any misdemeanor involving theft, fraud, misrepresentation or gambling related offenses, any drug related conviction involving possession, sale, use or manufacture of a controlled substance.

(E) Powers and Duties. The Compliance Department is delegated no regulatory or enforcement authority. Employees of the Compliance Department are governed by the job descriptions under which they are hired, by the Tribe's Personnel Policies and Procedures, and by any provisions of this Ordinance that directly applies.

The Compliance Department is supervised by the Tribal Council. Although the Commission is not in a supervisory position over Compliance, the Ordinance provides that the Commission may request the Compliance Department to assist in investigating gaming issues pursuant to this Ordinance.

(F) Records/Files. It is the duty of the Compliance Department to protect, safeguard and maintain the confidentiality of the background investigations performed for licensing purposes and to prepare summary reports of said investigations, consistent with Section 25.15 (D), for review and action by the Commission. Compliance Department is to release background files to the Commissioners on a need to know basis only, such basis generally arises in cases where the investigative report was unclear or ambiguous.

(1) Records/files shall be kept under lock and key, accessible only to Compliance Department Staff. The files shall not be removed from the Compliance Department except for hearing purposes or in accordance with applicable law. When possible, the investigating officer of the file in question shall be present for hearings.

(2) Background files shall be viewed in the presence of at least one staff member of the Compliance Department. Review of Compliance Department gaming records/files by anyone other than Commission must be approved by the Tribal Council.

(3) Duplication or reproduction of any Compliance Department records/files is not allowed except as provided herein or in accordance with law. Exceptions to this restriction are limited to official hearings, reviews, reports, or Court proceedings. Other exceptions may include copies to the employee who is the subject of the records/file of items which the subject previously submitted to the Compliance Department or when copies are authorized

in writing by the Compliance Officer and accompanied by the signature of at least one (1) Commissioner.

(4) Gaming background investigation files shall not be shared with outside agencies without express prior written consent from the Commission and coordination with the Legal Department.

(5) The Compliance Department is authorized to destroy background investigation files pursuant to a properly Tribal Council approved policy. However, files on current employees shall be maintained for at least the term of their employment.

#### **SECTION 25.12 AUDIT**

(A) The Commission shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the NIGC, the Tribal Council and the State Gaming Board. Copies shall also be forwarded to the General Manager. The Tribal/State Compact terms for both financial and security audits shall be followed for the audit of Class III games. The Commission shall be responsible for keeping track of deadlines regarding audits, shall submit requests for proposals to eligible audit firms and shall have the authority to engage an audit firm to comply with the terms of the Compact. All provisions of the Compact shall be adhered to in this process.

(B) All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of twenty-five Thousand Dollars, (\$25,000.00) annually, except contracts for professional legal and accounting services, shall be included within the scope of the audit that is described in Section 25.12 (A).

#### **SECTION 25.13 PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY**

Class II and Class III Gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety. Terms of the Tribal/State Compact regarding construction shall be adhered to.

#### **SECTION 25.14 LICENSING OF A GAMING FACILITY**

(A) Applicability. This Ordinance applies to all persons engaged in gaming within the jurisdiction of the Tribe. Any application for license pursuant to this Ordinance except application for an Operator's License made by the Tribe, and participation in any gaming activity within the jurisdiction of the Tribe shall be deemed to be a consent to the jurisdiction of the Tribe and the Tribal Court in all matters arising from the conduct of such gaming and all matters arising under any of the provisions of this Ordinance or other tribal laws.

(B) License Required. Only the Tribe is authorized under this Ordinance to operate Class II and Class III gaming. The Tribe is required to apply to the Commission annually for an Operator's license.

(C) Types of Licenses. The Commission shall issue each of the following types of gaming licenses:

(1) **Tribally Owned or Tribally Operated Class II.** This license shall be required of all tribally owned or tribally operated gaming facilities operating one or more Class II games of chance.

(2) **Tribally Owned or Tribally Operated Class III.** This license shall be required for all tribally owned or operated gaming facilities operating any games of chance other than Class I or Class II gaming.

(D) No License Requirement for Class I Gaming. A tribal license shall not be required for any Class I gaming activity or operation; however, any person or group engaging in a Class I activity shall register their activity with the Commission. It is the Commission's responsibility to make a determination, using the IGRA, Federal Regulations and Tribal Law and practice to determine whether an activity is in fact Class I.

(E) Applications Procedures: Facility License.

(1) Application for Gaming License. For any proposed Class II or Class III gaming activity, the Tribal Council shall file annually with the Mohican Gaming Commission an application for a tribally owned or tribally operated Class II or Class III gaming license, which shall contain the name of the proposed enterprise, its location and all other pertinent information required by this Ordinance and Commission regulations.

(2) Tribally Owned or Tribally Operated Class II. Before issuing a license to a tribally owned or operated Class II gaming facility the Commission shall:

- (a) Review the proposed gaming operation to ensure that all criteria required by this Ordinance is met.
- (b) Insure that the necessary background checks on management contractors, primary gaming management officials and key employees required by this Ordinance are being performed according to this Ordinance.
- (c) Review the accounting procedures used in such gaming activity.

(F) Tribally Owned or Tribally Operated Class III. Before issuing a license to a tribally owned or operated Class III gaming facility, the Commission shall:

- (1) Review the proposed gaming activity to ensure that all criteria required by this Ordinance is met, or that good faith efforts are being used to meet that criteria;
- (2) Insure that the necessary background checks on gaming management contractors, primary gaming management officials and key employees required by this Ordinance are being performed according to this Ordinance;
- (3) Review the accounting procedures used in such gaming activity.

(4) Review all aspects of the proposed gaming operation to ensure compliance with the provisions of the Tribal/State Compact.

**(G) Criteria That a Potential Gaming Operator Must Meet.** The Commission shall issue the above license to any tribally owned or tribally operated Class II or Class III proposed gaming operation only if all of the following criteria are met:

(1) The proposed gaming activity or facility is to be located on tribally owned land or land held in trust for the Tribe, within the exterior boundaries of the tribal reservation, prior to October 17, 1988; or on after acquired lands that meet the requirements of Section 2719 of the IGRA for after acquired lands, and appropriate amendments to the Tribal/State Compact, if required, are made.

(2) The proposed gaming activity is to be played as Class II gaming as defined by this Ordinance and the IGRA or as Class III gaming authorized by a Tribal/State Compact.

(3) The proposed gaming activity is authorized by Tribal Council Resolution.

(4) The Tribe will have the sole proprietary interest and the exclusive responsibility for the conduct of the proposed gaming activity.

(5) The Resolution authorizing the proposed gaming activity provides that:

- (a) The revenues of the proposed gaming activity shall be audited annually and copies of those audits shall be provided to the General Manager, Commission and the NIGC.
- (b) The proposed gaming activity shall comply with all applicable IRS reporting and filing requirements.
- (c) All of the net proceeds of the proposed gaming activity shall be used for the purposes stated in Section 25.5 of this Ordinance.
- (d) All contracts for gaming supplies, gaming services or concessions for an amount in excess of twenty-five Thousand Dollars (\$25,000.00) (except for contracts for legal and consulting services) shall be subject to an annual independent audit.
- (e) The construction or maintenance of the gaming facility and the operation of the proposed gaming activity shall be conducted in a manner that the Commission finds will adequately protect the environment and the public health and safety.
- (f) The General Manager, all primary gaming management officials and all key employees have passed the background investigations and obtained the tribal gaming licenses required by this Ordinance. Each application must state in writing that all future primary gaming management officials and key employees will be required to pass background investigations and obtain gaming licenses within a reasonable time of hire with continued employment being made contingent upon the successful licensing of said individual.
- (g) The Commission shall have the authority to regulate the proposed Class II gaming activity.

- (h) The proposed gaming activity shall pay to the NIGC and to the State such fees as federal law and the Tribal/State Compact may require to be paid.
- (i) If the gaming activity is Class III gaming, such gaming activity meets all other criteria established by the Tribal-State Compact.

**(H) License Application Fees.** No application fee shall be required for a tribally owned or tribally operated Class II or Class III gaming activity.

**(I) License Tax.** No annual license tax shall be required for a tribally owned or tribally operated Class II or Class III gaming activity.

**(J) Form of Gaming License.** Every gaming license issued by the Commission shall include the name and address of the authorized licensee and the signature of an authorized officer of the Commission.

**(K) Scope of Gaming License.** A gaming license issued by the Commission shall be effective only for the gaming activity and location specified in the application. Such license may be transferred only upon prior approval of the Commission upon written request that details the proposed new gaming activity, its location and proposed gaming operator.

**(L) Term of License.** A tribally owned or operated Class II and Class III Gaming Operator's license shall be valid for a period of one year from the date of issuance.

**(M) Posting of Licenses.** Each gaming operator shall post its tribal gaming license in a conspicuous location at the gaming operator's gaming facility. If a gaming operator has more than one gaming facility, the gaming operator must obtain and post a separate license for each gaming facility.

**(N) Gaming License Renewals.** Each tribal gaming license must be renewed annually. No renewal fee shall be required for a tribally owned or tribally operated Class II or Class III license. In order to obtain a renewal of a license, the gaming operator shall submit a written renewal application to the Commission on the form provided by the Commission. No renewal application shall be approved until the Annual Report required by subsection 25.14 (O) has been properly filed. All renewal applications submitted by a tribally owned Class II or Class III gaming activity shall be approved within a reasonable time unless the Commission determines, based on reasonable grounds, that the enterprise has been or will be operated in violation of tribal, federal or other applicable law or the terms of the Tribal/State Compact.

**(O) Annual Reports.** Each gaming operator who possesses a Class II or Class III tribal gaming license must file an annual report (not to be confused with the Annual Plan of Operation) with the Commission 15 days prior to the expiration of each such license. The report shall be submitted to the Commission on the annual report form provided by the Commission and shall include the following information:

- (1) The name, address and telephone number of the gaming operator;



- (2) A description of each gaming activity that it operates and the total gross proceeds of each;
- (3) A written copy of any changes the gaming operator proposes to initiate in its operating rules or policies;
- (4) A statement of the specific dates and times during which the gaming activity will be operated during the next license period;
- (5) A statement of any changes in the general manager or in the primary gaming management officials or key employees who will operate the gaming activity over the next license period;
- (6) The names and addresses of any key employees who the Commission may identify to be primary gaming management officials during review of the application;
- (7) Written proof that the Gaming Operator has paid to the NIGC such fees as federal and tribal law may require it to pay, and will continue to do so;
- (8) Written proof that the Gaming Operator has paid to the State such fees as the Tribal/State Compact may require it to pay;
- (9) A sworn statement that the Gaming Operator has complied with the Internal Revenue Code and regulations, including written notice of customer winnings, and a statement that the Gaming Operator shall continue to obey all tribal and federal laws and shall hold the Commission and the Tribe harmless for failure to do so;
- (10) The description of any location at which the gaming activity has been conducted and any new location that is expected to be established during the next license period;
- (11) The number of full-time equivalent persons, on an annualized basis, employed by the operation during the past twelve (12) months, together with a projection of the number of full-time equivalent persons who are expected to be employed during the next license period;
- (12) The total gross proceeds of the gaming operator attributable directly or indirectly to tribally licensed gaming activity over the proceeding twelve (12) months;

(P) Procedure to Remedy Gaming License Violation. If the Commission finds that a tribally owned or operated gaming activity is being operated in violation of this Ordinance or otherwise presents a threat to the Tribe or to the public, the Commission shall immediately take all information to Tribal Council before taking necessary steps to bring such gaming activity into compliance. Compliance means issuing a warning citation, and, if not in compliance after warning issuing a citation, charging a fine, suspending the operator's license, revoking the operator's license and or reporting such violation to the NIGC. The Commission may take all necessary steps as authorized under this law to remedy an emergency violation. In a case of revocation of the operator's license, the Commission shall provide notice to the NIGC, subjecting the Tribe to

potential closure action. Nothing contained in this Section or in this Ordinance shall be construed as affecting a waiver of sovereign immunity.

## **SECTION 25.15           EMPLOYEE GAMING LICENSES**

**(A) Scope of Employee Gaming License.** Background and licensing procedures will be no less stringent than those required under current federal regulations. An employee 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. Any such license may be transferred to a new gaming facility only upon prior approval of the Commission, upon written request of the licensee identifying the proposed new gaming facility, its location and the proposed gaming operator thereof.

**(B) Current and Valid Employee Gaming License Required.** Every primary gaming management official and every key employee of any Class II or Class III gaming activity subject to this Ordinance shall possess a current, valid employee gaming license issued by the Tribe. Eligibility for and obtaining a valid employee gaming license is a requirement of continued employment. The General Manager shall not employ persons who refuse to voluntarily cooperate with the licensing process. Any employee receiving an employee gaming license must carry that license upon his or her person during all working hours and must produce the license upon the request of any official with jurisdiction over the gaming activity.

**(C) Application for Employee Gaming License.**

(1) A person seeking an employee gaming license must be at least eighteen (18) years of age. All applicants shall submit an application to the Compliance Department on such form and in such manner as the Commission may require. These gaming applications shall provide the basis for background investigations performed by the Compliance Department and shall be kept confidential.

(2) Such application shall include, but is not limited to the following information:

- (a) The applicant's full name, including all other names used (oral or written), current home and work addresses and telephone numbers, social security number (optional), place of birth, date of birth, citizenship and gender, all languages (spoken or written);
- (b) Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers' license numbers;
- (c) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed in subsection (b);
- (d) Current business and residence telephone numbers;
- (e) A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;
- (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

- (g) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit relating to gaming, whether or not such license or permit was granted;
- (h) For each gaming offense and for each felony for which there is an ongoing prosecution or a conviction, the name and address of the court involved, the charge, and the dates of the charge and of the disposition;
- (i) For each misdemeanor conviction ever received or ongoing misdemeanor prosecution (excluding minor traffic violations) the name and address of the court involved, and the dates of the prosecution and the disposition;
- (j) For each criminal charge (excluding minor traffic charges) ever received, whether or not there is a conviction, if such criminal charge is not otherwise listed pursuant to subsections (h) and (i) of this section, the criminal charge, the name and the address of the court involved and the date and disposition;
- (k) Any ordinance violation involving crimes against a person, theft, fraud or misrepresentation;
- (l) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license, permit or certificate, whether or not such license, permit or certificate was granted;
- (m) A recent photograph;
- (n) Any other information the Commission or its agents may deem necessary and relevant to the licensing process;
- (o) Fingerprints consistent with procedures adopted by the Tribe and Section 25.15 (D)(1); and
- (p) Written permission giving the Commission through the Compliance Department or other duly appointed agent(s) the right to investigate information including but not limited to the applicant's background, including his or her criminal record, civil and criminal judgments, educational record, employment record; military record and credit history.

(3) Each application shall be accompanied by a sworn statement that the applicant will abide by this Ordinance and all other applicable laws.

(4) Each application shall contain or be accompanied by a written statement that the applicant has read and understands 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 to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance, denial, or revocation of a gaming license or investigations of activities while associated with a tribe or a gaming operation. **Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to***

*license you for a primary gaming management official or key employee position.* (Emphasis added.) *The disclosure of an applicant's social security number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing the application.*

(5) Each application for an employee gaming license shall, if required, be accompanied by a nonrefundable application fee to be established by the Commission.

(6) Each application shall contain a False Statement notice as follows:

*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 a fine or imprisonment (U.S. Code, title 18, section 1001).*

(7) If another tribe has previously employed the applicant, the Commission or its agent may request investigative information from the other tribe.

(8) The Commission, its employees and agents, and the Tribe, and its employees and agents, shall follow the confidentiality act. The identity of each person interviewed in the course of an investigation on an applicant for an employee gaming license will be kept confidential, as required by 25 CFR 556.4(c). The background investigation shall include interviews with a sufficient number of knowledgeable people, such as former employers and personal references, so as to insure a comprehensive description of the applicant's character. Compliance Department background investigation files shall be presented to the Commissioners on a need to know basis only.

(9) When a primary management official or key employee is employed by the Tribe, a complete application, with all of the information required under this Section 25.15 (C), shall be maintained.

**(D) Review Procedure for Employee Gaming License Application.** Before issuing employee gaming license, the Commission will follow the procedure set forth below:

(1) Perform or arrange to have performed the necessary background investigation for each primary gaming management official and key employee as required by this Ordinance.

(a) Such investigation shall include contacting each reference provided in the application and taking all appropriate steps to verify the accuracy of information contained in the application.

(b) Fingerprints shall be taken by the Compliance Department.

(c) Fingerprints will then be forwarded to either the State or to the NIGC for processing through the Federal Bureau of Investigation and the National Criminal Information Center to determine the applicant's criminal history, if any.

(d) The Commission may require asset and liability disclosure for key employees and primary gaming management officials to adequately protect the gaming enterprise and determine the suitability of a particular individual for licensing, license renewal or continued suitability for retaining a license.

(2) The Commission, or designated agent thereof, shall create and maintain an investigative report for each background investigation of a primary gaming management official or key employee. The report shall include all of the following information:

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

(3) Make the required reportings, outlined in subsection 25.15(K) and (L), to the NIGC prior to issuing a determination on the findings.

(4) Review the person's prior activities, criminal record, if any, reputation, habits, and associations to make a finding concerning the suitability of an individual for licensing. Certain acts or other incidents may pose a bar to obtaining a gaming license as more fully described in Section 25.15(E). Where the Commission determines that licensing of the person poses a threat to the public interests or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary gaming management official position.

(5) Provide an opportunity for a hearing on the denial of a license, or for such other cause as the Commission may determine. The Commission's decision on licensing is final although the applicant may petition the Commission for re-hearing in cases where they have new evidence to submit, or where they can demonstrate that the Commission made an error in their decision.

(E) **Standards of Suitability.** The Gaming Facility shall not employ an individual if there is evidence and documented history of unsuitability or if they pose a threat to the integrity and/or safety of the gaming operation or its employees. The Commission shall create policy regarding additional standards of suitability and the application of those standards. The following minimum standards and criteria shall be applied when determining an individual's suitability to obtain or retain a gaming license from the Commission. These standards may be applied in any case where there is cause to question an individual's suitability, whether the cause arises from an individual's criminal history or from his/her reputation, habits and associations identified during the background investigation process.

(1) **Criminal Offenses:** The Commission will view suitability for a license as diminishing in direct correlation to the increased severity of the offense or offenses that appear in one's record. The Commission will take into account the severity of the crime and the number of crimes and other offenses that a person's background investigation reveals. Some offenses are identified in the Gaming Ordinance as being an automatic bar to a gaming license. In the event an individual's background investigation reveals a barring offense, they will be denied a gaming license. They may be eligible to apply for, and obtain, a Tribal Gaming Waiver.

(2) Non-Criminal Offenses: In considering suitability where the background contains unconscionable acts, offenses and incidents other than those listed as a bar in the Gaming Ordinance, the Commission will consider any offense, situation or incident that could present a threat to the integrity of the gaming operation or present some threat of harm to the employees or patrons of the gaming establishment. These include but are not limited to violent acts against persons; verified reports or documented evidence of violence against persons without a criminal conviction; dishonest acts against an employee, person or institution with or without a criminal or ordinance violation; any type of verifiable wrongdoing that may present a threat or harm to the gaming establishment, its patrons or employees.

(3) Length of Time Since the Occurrence in Question: The length of time since the date of conviction(s), charge(s), release from incarceration or dismissal from employment for dishonest acts shall be taken into consideration when determining suitability for licensing. Additional arrests within that time span will also be taken into consideration.

(F) Issuance of Provisional Gaming License. A Provisional Gaming License is issued by the Commission to an individual when the following requirements are met:

- (1) The Compliance Department has completed a preliminary State criminal background check and informs appropriate human resource department that the individual is eligible for a Provisional License.
- (2) The Commission has reviewed the individual's preliminary background check.
- (3) The Commission has no notice of suitability concerns at this stage.
- (4) The individual is offered employment by the Human Resource Department at the Tribe's gaming facility.
- (5) The individual has passed his/her drug test.
- (6) The appropriate licensing fees have been paid to the Compliance Department.
- (7) The individual has provided fingerprints for his/her file.
- (8) The individual has returned a gaming license application to the Compliance Department.

(G) The Provisional Gaming License shall be valid for no longer than (3) months from the date of issuance.

(H) The Provisional Gaming License becomes void upon the receipt of a Primary Gaming License. If after the Compliance Department has completed a full investigation and the Commission finds the individual not suitable for a Primary Gaming License, the Provisional Gaming License shall be revoked and the licensing process shall cease.

(I) The Commission shall not license individuals under the age of eighteen (18), except that, the Tribe may approve summer youth positions provided that those positions do not involve any duties

performed within the actual gaming facility. These positions would not be considered “key employee” positions and would be excluded from the licensing process.

**(J) Standards for Denial of a Primary Gaming License.** The Commission shall not license as a key employee or primary gaming management official in connection with Class II or Class III gaming, any person who:

- (1) Is under the age of eighteen (18);
- (2) Is currently cited or charged with or has been convicted of or entered a plea of guilty or no contest to: a gambling-related offense, theft, fraud or misrepresentation in any connection, the manufacturing and/or selling of illegal drugs or a violation of any provision of chapters 562 or 565, Wis. Statutes, a rule promulgated by the Lottery Board or Wisconsin Racing Board, or Section 25.21 (B). This provision shall not apply if that person has been pardoned by the Governor of the State where the conviction occurred or has been granted a waiver by the Tribal Council pursuant to the Tribal Gaming Waiver policy;
- (3) Is currently charged with or has been convicted of or entered a plea of guilty or no contest to any felony, other than those mentioned in Section 25.15 (J)(2), within the immediately preceding ten (10) years, unless the Tribal Council waives such restriction pursuant to the Tribal Gaming Waiver policy.
- (4) If person has participated in organized crime or unlawful gambling or is a person whose prior activities, criminal record, reputation, habits and/or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming or to the carrying on of the business and financial arrangements incidental to the conduct of gaming.
- (5) Is found to have intentionally supplied false or misleading material information or has intentionally omitted material information on his/her license application or application for employment.
- (6) Provided further that the Commission may, by regulations, add additional limitations and conditions for denial of said license, subject to the approval of the Tribal Council.
- (7) Applicant or employee with a Deferred Judgment for a barring offense is ineligible for an Employee Gaming License until such Deferred Judgment is dismissed or applicant or employee is granted a Tribal Gaming Waiver pursuant to the Tribal Gaming Waiver Policy.
- (8) Is found to have been convicted of possession and/or use of illegal drugs, unless the Commission deems that the individual does not present a threat to the public interest or threaten the effective regulation and control of gaming during a show-cause hearing.
- (9) The applicant or employee violates any part of Section 25.21 (B).
- (10) The applicant currently holds a valid gaming license from another gaming facility, or has a financial interest in or management responsibility for a gaming related contractor.



**(K) Notice of Results of Background Investigations.**

- (1) Before issuing a Primary Gaming License to a key employee or primary gaming management official, the Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.
- (2) The notice of results must be submitted to the NIGC within sixty (60) days after the applicant begins working for the Tribe.
- (3) The notice of results shall include the following information:
  - (a) The applicant's name, date of birth, and social security number;
  - (b) The date on which the applicant began, or will begin, working as a primary gaming management official or key employee;
  - (c) A summary of the information presented in the investigative report, including:
    - (i) Licenses that have previously been denied;
    - (ii) Gaming licenses that have been revoked, even if subsequently reinstated;
    - (iii) Every known criminal charge brought against the applicant within the last 10 years of the date of the application; and
    - (iv) Every felony offense of which the applicant has been convicted or any ongoing prosecution; and
  - (d) A copy of the suitability determination made by the Commission.

**(L) Report to the NIGC.**

- (1) The Commission may license a primary gaming management official or key employee after submitting a notice of results of the applicant's background investigation to the NIGC as required by Section 25.15 (K).
- (2) The Commission shall notify NIGC of the issuance of a license to a primary gaming management official or key employee within 30 days of issuance.
- (3) Tribe shall not employ an individual in a primary gaming management official or key employee position who does not have a license after 90 days of beginning work at the gaming operation.
- (4) If, within thirty (30) days of the submittal of the notice of results of the applicant's background investigation, the NIGC provides the Tribe with a statement of itemized objections to the issuance of a license to a key employee or to a primary gaming management official, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC.
- (5) The Commission shall make the final decision whether to issue a license to an applicant for a primary gaming management official or key employee position.



(6) If the Commission has issued a license to a primary gaming management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee per Section 25.15 (D)(5).

(7) If a license is not issued to an applicant, the Tribe or the Commission shall:

- (a) Notify the NIGC; and
- (b) Forward copies of its suitability determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

(8) With respect to key employees and primary gaming management officials, the Commission or their designee shall retain applications for employment, license applications, reports and suitability determinations for seven (7) years from the date of termination of employment. These records will be made available to NIGC consistent with federal regulations and the State Gaming Commission consistent with the Tribal State Gaming Compact.

**(M) Employee Gaming License Badge.**

(1) **Primary Gaming License.** A gaming license badge will be issued to an employee who satisfactorily meets the licensing criteria. The badge shall include but not be limited to the following information:

- (a) Photo of the employee;
- (b) Identification number assigned by the Compliance Department;
- (c) Full legal name, including middle initial (no nicknames);
- (d) Employee's position title;
- (e) License issuance and expiration date (two-year licensing period);
- (f) Seal of the Commission;
- (g) Signature of a Commission representative;
- (h) Color coordination between departments;
- (i) Identification of license status as "primary" or "provisional";
- (j) Return address of the Commission.

**(N) Licensing Period.** A Primary Gaming License issued pursuant to this Ordinance shall be effective for a period of two years from the date of issuance and shall state on its face the date when the license became effective and the date that it expires. This license shall be subject to periodic as well as annual reviews. A Primary Gaming License shall automatically expire on the date the holder of said license is no longer employed by the Gaming Facility.

**(O) Renewals.** A holder of a Primary Gaming License shall apply to the Commission for a renewal before his/her Primary Gaming License has expired, updating all information contained in the Renewal Gaming License Application.

**(P) Standards for Suspension of Provisional or Primary Gaming License.** The Commission may suspend an Employee Gaming License for reasons including but not limited to the following:

- (1) The employee has been charged with, convicted of, or entered a plea of guilty or no contest to any offense that may result in a bar to obtaining or retaining a gaming license or any other activity that would injure or pose a threat to the integrity of gaming, or the effective regulation thereof, or enhance the dangers of unfair, unsuitable or illegal gaming practices.
- (2) The employee is currently cited or charged with or has been convicted of or entered a plea of guilty or no contest to any misdemeanor involving theft or fraud.
- (3) The employee is currently cited or charged with or has been convicted of or entered a plea of guilty or no contest to any felony.
- (4) The employee has supplied false or misleading material information or has omitted material information on his/her gaming license application or application for employment
- (5) The employee has participated in gaming activity unauthorized by his or her employee gaming license;
- (6) The employee's continued employment as a primary gaming management official or key employee of a gaming enterprise or gaming activity poses a threat to the general public;
- (7) The employee refuses to comply with any lawful order or directive from the Commission;
- (8) The employee has failed to provide the Commission with changes in status of the material originally submitted in their gaming application.
- (9) The employee violates any part of Section 25.21 (B) "Prohibited Acts" of this Ordinance.

**(Q) Immediate Suspension.** The Commission shall immediately suspend an employee gaming license when they have reason to believe the employee presents a threat to the gaming facility, gaming patrons or to employees of the gaming facility, or when such person threatens the effective regulation, integrity and or assets of the Tribe.

**(R) Standards for Revocation of Provisional or Primary Gaming License.** The Commission may permanently revoke an employee gaming license, after notice and an opportunity for a hearing, for any of the following reasons:

- (1) The employee violates any part of Section 25.21 (B) "Prohibited Acts" of this Ordinance.
- (2) The employee is currently charged with or has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, theft, fraud or misrepresentation in any connection, or a violation of any provision of chapters 562 or 565, Wis. Statutes, or a rule

promulgated by the Wisconsin Department of Administration, Division of Gaming. Is currently charged with or has been convicted of or entered a plea of guilty or no contest to a Felony "Crimes Against Persons". This provision shall not apply if that person has been pardoned by the Governor of the State where the conviction occurred or has been granted a gaming waiver by the Tribal Council pursuant to the Tribal Gaming Waiver Policy.

(3) The employee is currently charged with or has been convicted of or entered a plea of guilty or no contest to any felony, other than those mentioned in Section 25.15(R)(2), within the immediately preceding ten (10) years, unless the Tribal Council waives restriction pursuant to the Tribal Gaming Waiver policy.

(4) The employee has been convicted of, or has entered a plea of guilty or no contest to any offense that is a bar to obtaining or retaining a gaming license or any other activity that would injure or pose a threat to the integrity of the Tribe or its gaming operations, or the effective regulation thereof, or enhance the dangers of unfair, unsuitable, or illegal gaming practices;

(5) The employee has participated in organized crime or unlawful gambling or is a person whose prior activities, criminal record, reputation, habits and/or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming or to the carrying on of the business and financial arrangements incidental to the conduct of gaming.

(6) The employee refuses to comply with any lawful request, investigation, order or enforcement action of the Commission regarding his or her gaming license and/or the licensing process.

(7) Provided further that the Commission may, by regulations, add additional limitations and conditions for revocation of said license with Tribal Council approval.

**(S) Appeal Rights.** The Licensee has the right to appeal any decision of the Commission by filing a Notice of Appeal to the Commission within five (5) working days of the Commission action. Upon receipt of the Notice of Appeal, the Commission shall hold a hearing within fourteen (14) days from the date of the Notice, unless the parties mutually agree upon another date. The hearing shall be governed in all respects in accordance with the tribal law and Commission regulations. The applicant or licensee may petition the Commission for rehearing of a negative hearing result in the event that the applicant or licensee has new information to present to the Commission, or if the applicant or licensee can demonstrate that the Commission made an error in their decision.

**(T) NIGC Notice of Gaming License Suspensions and Revocations.**

(1) If, after a license is issued to a primary gaming management official or a key employee, the Tribe receives notice from the NIGC that the licensee is not eligible for employment, the Commission shall do the following:

(a) Immediately suspend the license;

- (b) Provide the licensee with written notice of the suspension and proposed revocation; and
  - (c) Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.
- (2) The right of a revocation hearing vests only when a license is granted under an ordinance approved by the NIGC chair.
- (3) Following a revocation hearing, the Tribe shall decide whether to revoke or reinstate the license at issue.
- (4) The Tribe shall notify NIGC of its decision to revoke or reinstate a license within 45-days of receiving notification of NIGC that a primary gaming management official or key employee is not eligible for employment.

#### **SECTION 25.16 TRIBAL GAMING SERVICES VENDOR LICENSE**

(A) Requirement for Gaming Services Vendor License. No person or entity may provide gaming services, gaming apparatus or gaming equipment to any gaming facility or gaming operator unless such person or entity is the holder of a valid and current gaming services vendor license issued by the Commission; provided, however, that such vendor may automatically be granted said license if:

(1) The person or entity has a current, valid license or certificate or pending application to provide the same type of gaming services, apparatus or equipment to tribes from the State of Wisconsin; provided that consent is given to the Commission or its agent(s) to review all evidence supporting the issuance of such license or certificate, and provided further that consent is given to pursue a separate investigation should the Commission find cause.

(a) A gaming services vendor may be eligible for a provisional gaming services vendor license upon presentation of proof of a complete gaming certificate application having been filed with the State.

(2) Any license granted under Section 25.16 may be revoked or suspended by the Commission in the same manner and for the same reasons as provided elsewhere in this Section.

(B) Application for Gaming Services Vendor License. The application for this license shall contain such information, documentation and assurances as may be required by the Commission.

(C) Fee for License. Any person or entity filing an application for a gaming services vendor license pursuant to this Section shall pay to the Commission a fee, set by the Commission with Tribal Council approval.

(D) Background Investigation of Applicants. Upon receipt of an application for a gaming services vendor license, the Commission or designated Commission agent shall conduct an

investigation of the applicant and each of its principals and shall include a criminal records check on the applicant and on each of the applicant's principals.

(E) Action by Commission. Except as provided in subsection 25.16(A)(1), the Commission shall, as soon as practicable after completion of the background investigation under subsection 25.16 (D), either grant or deny the license. The Commission may deny license to any applicant upon a determination that the applicant, or any principal identified with such applicant:

(1) Is a person or entity whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods and activities in the conduct of the gaming activities permitted hereunder; or

(2) Has failed to provide information required to investigate the applicant's suitability for a license or has failed to reveal any fact material to such application or has furnished any information that is untrue or misleading in connection with such application.

(F) Duration of License and Renewal. Any gaming services vendor license issued by the Commission shall be effective for not more than two years and shall expire on the date two years from the date of issuance, provided, that a licensee that has applied for renewal prior to expiration may continue to provide services under the expired license until the Commission takes final action on the renewal application.

(G) Revocation or Suspension of License. The Commission may investigate any licensed person or entity or any principal of any entity at any time and the Commission may suspend, modify or revoke any license issued under this Section if new information concerning any facts not available to the Commission at the time a license was issued or any renewal thereof, is presented to the Commission, and if such new information would justify revocation of an original license or any renewal thereof pursuant to this Section. No license shall be revoked except after notice and an opportunity for a hearing. A licensed person or entity shall be entitled to any payment due for services provided or for goods delivered prior to the effective date of suspension or revocation of its license.

(1) When the Commission believes that a person or entity holding a valid gaming services vendor license did not qualify for said license or that the person or entity or any principal of the entity has engaged in activities that would justify denial of the renewal of said license, the Commission or its designee shall issue a notice of suspension of such person or entity's license, which shall be served upon the licensee by personally serving or by certified mail, at its principal place of business. This notice shall state the grounds upon which such temporary suspension is ordered and provide that the person or entity shall have an opportunity to present relevant evidence and to cross-examine opposing witnesses, and to present any other evidence as to why a suspension should not be issued. Such hearing shall be governed in all respects by this Ordinance and Commission regulations.

(2) When the Commission suspends a license under this subsection, the licensee shall immediately cease and desist from all gaming services to tribally licensed gaming operators and facilities. Decisions of the Commission pursuant to this Section, following any

administrative review or appeal allowed under this Ordinance or otherwise permitted by the Commission, constitute final Commission action.

(H) Regulation of Non-Gaming Persons and Entities. Any person or entity that provides goods or services to a tribally licensed gaming operation or facility, other than gaming services or gaming equipment shall cooperate with the Commission and the Tribal and federal law enforcement in any investigation by either the Commission or the federal government relative to the fitness of such enterprise or organization to engage in business with a gaming operation or facility. The Commission may bar such person or entity from providing goods or services to a tribally licensed gaming operation or facility upon a determination that such person or entity, or principal thereof is a person or entity whose prior activities, criminal record if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the dangers of unfair or illegal practices, methods and activities in the conduct of gaming. The Commission may bar anyone who may cause any licensed employee to violate any provisions of this Ordinance or any applicable tribal, federal or state law. Any person or entity affected by a bar under this subsection shall have a right to notice and hearing as provided in subsection 25.16 (G).

#### **SECTION 25.17 GENERAL PROVISIONS GOVERNING OPERATION OF TRIBALLY OWNED OR TRIBALLY OPERATED GAMING FACILITY**

(A) Maintenance of Records. The Commission shall insure that all accounting records of each tribally licensed Gaming Facility are kept on a double entry system of accounting, maintaining detailed, supporting, subsidiary records. The Commission shall also insure that the following records are maintained for not less than seven (7) years:

- (1) Revenues, expenses, assets, liabilities and equity by game at each location where any component of Class II & III gaming, including ticket sales, is conducted.
- (2) Daily cash transactions for each game at each location at which any component of Class II & III gaming is conducted, including but not limited to transactions relating to each gaming table bank, game drop box and gaming room bank.
- (3) For electronic games of chance, analytic reports that, by each machine, compare actual hold percentages to theoretical hold percentages.
- (4) Contracts, correspondence and other transaction documents relating to all gaming vendors and gaming contractors.
- (5) Records of all tribal enforcement activities relating to gaming operated under the Tribal/State Compact and other tribal laws.
- (6) All audits prepared by or on behalf of the Tribe.
- (7) Personnel information on all Class III and Class II key employees or gaming agents, including complete sets of each employee's fingerprints, employee photographs, and employee profiles and background investigations after the completion of employment, except that employee work schedules shall be maintained for a period of at least two (2) years from the date of the schedule.

(8) Applications for employment, records of background investigations and suitability determinations for licensing shall also be maintained consistent with the requirements under Section 25.15 (L)(8).

(9) The Commission shall also be responsible for all the above information pertaining to Class II Gaming owned or operated by the Tribe.

**(B) Management Contracts.** Each gaming management contract shall fully comply with applicable federal regulations and is subject to the prior approval of the NIGC. Before submission to the NIGC, each gaming management contract shall be approved by the Tribal Council with the advice and comment of the Commission. Before giving final consideration to any proposed gaming management contract, the Tribal Council shall direct the Commission to conduct a complete background investigation of persons and entities with a financial interest in, or having gaming management responsibility for, the gaming management contract, including requiring the submission of all information required under 25 CFR Section 537.1, as amended, incorporated herein by this reference.

(1) Background information on the proposed gaming management contractor including: its name; address; the names and addresses of each person or entity having a direct financial interest or management responsibility for the proposed management contractor; and in case of a corporation, the names and addresses of each member of its board of directors and all stockholders who hold directly or indirectly ten (10%) percent or more of its issued or outstanding stock.

(2) A description of any previous experience that each person listed in subsection 25.17(B)(1) above has had with other gaming contracts with Indian tribes or with any gaming activity or operation wherever located, including the name and address of any tribal government or licensing agency with which such person has applied, or held a contract, license, or other agreement or permit relating to gaming, whether granted or not.

(3) A complete financial statement of each person listed in subsection 25.17(B)(1) for the past three (3) years.

(4) The Commission shall contact each of the tribal governments and licensing agencies in subsection 25.17(B)(2) to determine the performance history of the proposed gaming management contractor.

(5) The Commission shall arrange to have each proposed gaming management contractor investigated to learn of his or her personal attributes and to determine whether he or she has a prior criminal record or any pending criminal charges.

(6) The Commission shall obtain an independent verification of the completed financial statements of the proposed gaming management contractor.

(7) The Commission shall undertake any additional steps it can to determine the character and reputation of the proposed gaming management contractor and each person listed in subsection 25.17(B)(1).

(8) If the Tribal Council, after reviewing the information described above, still desires to enter into a management contract with the proposed gaming management contractor, such gaming management contract shall be made in writing and submitted to the Tribe's attorney(s) for review.

(9) Any gaming management contract approved by the Tribal Council must include at a minimum, with respect to the gaming activity to which the contract is applicable, all of the required provisions contained in 25 CFR Section 531.1, as amended, incorporated herein by this reference.

(10) All persons who possess an ownership or management position in the proposed gaming management contract shall apply for an employee gaming license under this Ordinance. No gaming management contract shall be approved by the Tribal Council until all employee gaming license applications have been reviewed and the Commission has submitted written findings on such application(s) to the Tribal Council.

(11) If the Council is satisfied with the information it receives, it shall submit the proposed contract along with all of the above described information to the Chairman of the NIGC for approval.

(C) Each tribally owned or tribally operated gaming facility shall carry sufficient liability insurance to protect the public in the event of an accident, and in any event, such coverage must meet the level required by the Tribal/State Compact.

#### **SECTION 25.18 CONFLICT OF INTEREST**

(A) No person employed by the gaming enterprise may have a direct or indirect interest in any gaming-related contract with the Tribe, nor may they be employed by any person who has a Gaming-Related Contract with the Tribe, as defined under Section 25.4. A direct or indirect interest is one in which the employee has an economic interest or receives personal gain from the transaction in question.

(B) An employee of the Gaming Enterprise may have an interest in a non-gaming related contract with the Tribe or with the Gaming Enterprise if such employee makes a full disclosure to the Commission prior to such contract and the Commission finds that the contract is not unfair to the Gaming Enterprise and is satisfied that the contract is non-Gaming Related. This clause seeks to avoid the appearance of a conflict of interest while not altering the original conflict of interest prohibition contained in the Tribal/State Compact.

#### **SECTION 25.19 CONDUCT OF GAMES**

(A) The conduct of Class III games shall be as provided for in the Tribal/State Compact.

(B) Electronic Games of Chance shall be governed by Section XV of the Tribal/State Compact and Blackjack shall be governed by Section XVI of the Tribal/State Compact or in a manner determined by both the Tribe and the State, consistent with any amendment to the Compact that may occur over time.



(C) The premises where any gaming is conducted shall at all times be open to inspection by the Stockbridge-Munsee Tribal Council and the Commission, and such other inspections as may be required by federal regulations or the Tribal/State Compact.

(D) Gaming may be conducted each and every day of the week at any hour of the day or night, at the discretion of the Commission and the Casino General Manager and consistent with any applicable provisions of the Tribal/State Compact.

#### **SECTION 25.20 SALE OF ALCOHOL**

The sale of alcohol shall be governed by the Stockbridge-Munsee Liquor Ordinance and Section V.F. of the Tribal/State Compact.

#### **SECTION 25.21 JURISDICTION AND ENFORCEMENT**

(A) **Jurisdiction.** Except as provided in this Ordinance or in any Tribal/State Compact under the IGRA, the Commission shall have jurisdiction over all violations of this Ordinance with the right for appeal.

(B) **Prohibited Acts.** In addition to other civil and criminal offenses provided for in this Ordinance or under other applicable law, the following acts are prohibited and may subject any violator to the civil, administrative or criminal penalties and/or revocation of Employee Gaming License specified herein, and may require a Tribal Gaming Waiver if convicted or entered a plea of guilty or no contest to these acts pursuant to the Tribal Gaming Waiver Policy.

(1) Is found to have intentionally supplied false and/or misleading material information or has omitted material information on his/her license application or application for employment with any gaming operator or with the Commission.

(2) Knowingly making a false statement in connection with any contract with the Gaming Facility or Ancillary Facilities.

(3) Bribing or attempting to bribe a Tribal Council member, Commissioner, Compliance Officer or other person in an attempt to avoid or circumvent this Ordinance or any other applicable law;

(4) Offering or accepting a loan, financing or other thing of value between a Commission member, Compliance Officer, key employee or tribal government official and any person participating in any gaming activity, excluding tribal programs like the loan program.

(5) Falsifying, altering or failing to keep sufficient books and records to substantiate receipts, disbursements and expenses incurred or paid from, but not limited to, any gaming activity authorized pursuant to this Ordinance.

(6) Falsifying any books or records that relate to any transaction connected with any gaming activity pursuant to this Ordinance.

- (7) Conducting or participating in any gaming activity that in any manner results in cheating or misrepresentation or that allows any other disreputable tactics that detract from the fair nature and equal chance of participation between gaming players, or that otherwise creates an advantage over and above the chance of such gaming activity and that affects its outcome. The employee has knowingly promoted, played or participated in any gaming activity operated in violation of this Ordinance or any other applicable law.
- (8) To conduct a gaming activity with or to allow participation in a gaming activity by an intoxicated or disorderly player.
- (9) To allow or participate in the sale of liquor at gaming sites if such sale is prohibited by tribal law; to allow the sale of alcohol to anyone below the age of twenty-one (21), or below the age permitted under Wisconsin State law.
- (10) To accept consideration other than money, personal checks or other approved consideration for the chance to play, to provide services or participate in any gaming activity.
- (11) To solicit, directly or indirectly, or to use inside information on the nature or status of any gaming activity for the benefit of any person.
- (12) To tamper with a gaming device or conspire to tamper or manipulate the outcome or the payoff of a gaming device, or otherwise interfere with the proper functioning of the machine.
- (13) To alter or counterfeit a gaming license.
- (14) To aid, abet or conspire with another person knowingly, or knowingly to cause any person to violate any provision of this Ordinance or any rules and regulations adopted hereunder.
- (15) To operate, use or make available to the public any illegal gaming device, apparatus, material or equipment.
- (16) To sell or hold out for sale or transport into or out of the jurisdiction of the Tribe any illegal gaming device, apparatus, material or equipment.
- (17) To assist or allow a person who is under age to participate in any gaming activity.
- (18) To possess any illegal narcotics or illegal controlled substances on any licensed gaming site.
- (19) To steal or attempt to steal funds or other items of value from the Tribe or any gaming facility or ancillary facility.
- (20) To conspire with or induce any person to violate any of the provisions of this Ordinance or any tribal, federal or applicable state law.

(21) No Gaming Operator or any of his or her employees, agents or vendors shall engage in any act, practice, or course of operation that could result in a fraud or deceit upon any person.

(22) To use bogus or counterfeit chips, or to substitute or use any game, cards, or gaming equipment that have been marked or otherwise altered.

(23) To bring onto tribal lands, to employ or have on tribal property any device to facilitate cheating in any game of chance.

(24) To knowingly use any fraudulent scheme or technique, or to solicit, provide or receive inside information about any gaming activity with the intent of benefiting any person.

(25) To take, solicit or encourage any action that undermines the integrity of any game of chance.

(26) To participate in any gaming activity that was not authorized by this Ordinance.

(C) Civil Violations. Any person or entity who violates any provision of the Ordinance, Tribal/State Compact, adopted Minimum Internal Control Standards or any rule or regulation authorized hereunder, or fails or neglects to comply with any order of the Commission, may be liable for civil or administrative fine not to exceed five thousand dollars (\$5,000). Each day during which such violation or failure to comply continues shall constitute a separate violation of this Ordinance. Fines issued by the Commission are governed by the Commission's "Regulations on Fines and Enforcement Policy for Tribal Gaming Entities and their Employees."

(I) Any person who violates any provision of this Ordinance or any rule or regulation authorized hereunder shall be subject to the IGRA, 27 U.S.C. 2713, which states that civil penalties for such violations of tribal law or the federal act may result in fines not to exceed twenty-five thousand (\$25,000) against a tribal operator or management contractor.

(D) Purpose of Civil and Administrative Penalties. The civil and administrative fines imposed under this Ordinance are intended to be remedial and not punitive and are designed to compensate the Tribe for the damage done to the peace, security, economy and general welfare of the Tribe and the tribal community and to compensate the Tribe for costs incurred by the Tribe in enforcing this Ordinance. The civil and administrative fines under this Ordinance are also intended to coerce persons into complying with this Ordinance and the Commission regulations and not to punish such persons for violation of such laws and regulations.

(E) Seizure and Forfeiture of Property. All property utilized in violation of this Ordinance shall be subject to seizure and forfeiture by order of the Commission, pursuant to tribal law, or by the State if prosecution proceeds under State criminal law.

(F) Criminal Violations. State criminal law shall apply as mandated under P.L. 280 and as specifically addressed in the Tribal/State Compact. In those areas where the state has no criminal statutes to cover the criminal violation that occurs on tribal property, pertaining to a gaming-related incident, the Tribe and the state shall work together to devise a means of enforcement against the

specific violation. Where cooperation is not forthcoming from the state, the Commission shall seek assistance from Federal agents for enforcing tribal gaming laws and any applicable federal laws.

## **SECTION 25.22 NOTICE FOR SERVICE**

Any legal notice required to be served on the Stockbridge-Munsee Community shall be served on the Tribal President at N8476 Moh He Con Nuck Road, Bowler, Wisconsin 54416.

## **SECTION 25.23 SEVERABILITY**

In the event that any section or provision of this Ordinance is held invalid, it is the intent of the Tribal Council that the remaining sections or provisions of this Ordinance shall continue in full force and effect.

### **LEGISLATIVE HISTORY**

1. Bingo Ordinance (No. 8) approved July 17, 1982.
2. Resolution No. 0817, July 26, 1982.
3. Resolution No. 0928, dated May 7, 1985, rescinds Resolution 0817 and enacts ordinance for purpose of authorizing and regulating gaming. Approved by BIA June 5, 1985.
4. Resolution No. 1009 dated December 2, 1986 amends ordinance re. bingo.
5. Resolution No. 1064, dated December 29, 1987, amends ordinance re. bingo.
6. Resolution No. 1081, dated May 17, 1988, amends ordinance re. royalty fees.
7. Council action to change sections 5 and 6, November 1, 1988.
8. Resolution No. 1147, May 16, 1989, revised section 6 and added definitions.
9. Gaming Ordinance entitled "An ordinance relating to the regulation of gaming activity on the Stockbridge-Munsee Reservation" passed by Council 1992.
10. Resolution No. 1338-92, November 3, 1992, enacts amended Bingo ordinance and amended gaming ordinance to provide for the merging of the Bingo Board and Gaming Board into one Board.
11. May 1993, Gaming Roles and Responsibilities approved and added to ordinance.
12. Resolution No. 1370-93, June 1, 1993, approved gaming ordinance revised in its entirety.
13. Ordinance combined both Class II and Class III gaming, approved by Tribal Council August 19, 1993 by Resolution. Approved by National Indian Gaming Commission and published in Federal Register December 14, 1993.
14. March 21, 1995, Ordinance revised in its entirety, creating a Gaming Commission instead of a Gaming Board to regulate the gaming enterprise.
15. May 24, 1995, Council adopted Resolution 1498-95 approving revisions to Gaming Ordinance and forwarded to NIGC on June 2, 1995 for review and approval.
16. Council approved amendments to ordinance to reflect creation of Compliance Department and restructuring of Gaming Commission, June 28, 1995 - August 9, 1995. Those changes not affecting federally mandated provisions do not need NIGC approval and neither the Gaming Commission nor the Compliance Department are mandated by federal law.
17. July 14, 1995. Revised ordinance approved by NIGC.
18. June 28, 1995, Amendments finalized on August 22, 1995, Resolution 1525-95.

19. 1997 amendment finalized on February 18, 1997, resolution number 111-97, amending to add new section 20.1.1.
20. Revisions approved on July 1, 1997, resolution number 232-97.
21. Revisions approved by Tribal Council on June 2, 1998, resolution number 227-98
22. Revisions approved by Tribal Council on April 20, 1999, resolution number 026-99.
23. Complete Revision adopted on April 1, 2003 by the Tribal Council, by Resolution Number 015-03.
24. Sections 4.4.2, 4.23, 4.27, 14.6.4, 14.6.5.6, 15.1, 15.3.29, 15.3.2.10, 15.3.6, 15.4.1, 15.6, 15.7, 15.8, 15.12.1.2, 15.12.7, 13.1, 15.14, 15.15, 15.16, 15.18 amended, Section 25.22 newly created, and Section 25.23 renumbered from 25.22. Adopted by Tribal Council by Resolution Number 043-03, on October 7, 2003. Approved by NIGC on December 11, 2003.
25. Amended by the Tribal Council on June 2, 2009, by Resolution No. 057-09. Amendments submitted to NIGC for approval on June 3, 2009 and subsequently withdrawn. On June 8, 2009, through Resolution No. 060-09, the Tribal Council revoked the amendments approved on June 2, 2009 and approved corrected amendment to Section 4.20. Amendment of Section 4.20 submitted to NIGC for approval and approved on June 12, 2009.
26. Amendments adopted by the Tribal Council on December 6, 2011, by Resolution No. 012-12. The amendments to Chapter 25 are as follows:
  - Changes or additions to Sections: Preamble; 4.1; 4.2; 4.5; 4.11; 4.18; 8.3.3; 9.12.1; 9.12.2; 9.12.30; 9.12.32.1.4; 9.14; 9.15; 9.15.1; 10.1; 10.4.4; 10.4.6; 10.4.8; 10.4.9; 10.10; 11.2; 11.5; 11.6.1; 11.6.3; 11.6.4; 15.2; 15.4.1; 15.5; 15.10.2; 15.10.3; 15.15; 15.18.3; 15.18.4; 16.8; 17.1; 21.2.2; 21.2.3; 21.2.4; 21.2.5; 21.2.10; 21.2.19; 21.2.21; and 21.2.26;
  - Deletion of Sections: 14.14.2 and 14.14.6 (with 14.14 then renumbered accordingly); and 16.9;
  - Addition of new Sections: 4.18.1 .1-.12; 4.18.2; 4.18.3; 4.18.4; 4.22.4; 10.4.4.1; 10.4.4.2; 10.4.10; 10.11; 11.3.5; 15.10.8; 15.10.9; 15.16.2 and 15.16.3 (with 15.16 then renumbered accordingly); and 15.18.6 (with 15.18.7 then renumbered); and
  - Minor language clarifications in Sections: 4.2.3; 4.2.5; 7.1; 9.2; 9.3; 9.12.8; 9.12.13; 15.3.2.3; 15.3.2.10; 15.4.3; 15.4.4; 15.6.7; 15.11.2; 15.12.1; 15.12.4; 15.18.2; 15.18.5; 16.1.2; and 16.5.

Amendments submitted to NIGC for approval. Tribe informed by NIGC that corrections needed to Sections 25.15.3.4 and 25.15.3.7 so that language matches federal regulations. Corrected amendments, which included changes to Sections 25.15.3.4 and 25.15.3.7, re-adopted by the Tribal Council on January 30, 2012, by Resolution No. 017-12. Corrected amendments submitted to NIGC for approval and approved on March 5, 2012.

27. Revisions adopted by the Tribal Council on October 6, 2015, by Resolution No. 02-16. The revisions included a renumbering of the entire Ordinance to be consistent with format of other ordinances; changes to the definitions of ancillary facility, key employees and primary management officials, additional language for addressing disputes in relation to changes to operating procedures, and additional bases for suspension or denial of a gaming license. Revised ordinance submitted to NIGC for approval on October 13, 2015. NIGC informed Tribe that additional corrections needed to update ordinance so that language satisfies federal regulations. Tribe withdrew ordinance from review by NIGC by letter dated November 18, 2015.

Amendments, incorporating the original 2015 revisions plus additional changes, adopted by the Tribal Council on January 5, 2016 by Resolution No. 018-16. Tribal Council did not feel an additional comment period was necessary since changes primarily incorporated technical corrections required per NIGC. Amendments submitted to NIGC for approval on January 7, 2016. NIGC informed Tribe that additional corrections were needed so that language satisfies federal regulations. Tribe withdrew ordinance from review by NIGC on February 17, 2016.

Tribal Council adopted 2<sup>nd</sup> round of amendments, which incorporated the original 2015 revision and the January 2016 amendments, on February 16, 2016, by Resolution No. 029-16. Tribal Council waived an additional posting period since changes are technical corrections required per NIGC. The adopted amendments are as follows:

- Renumbering of entire ordinance.
- Addition of Table of Contents.
- Changes or additions to Sections: 25.4(A), (I), (R), (S), (X), (Z) and (EE); 25.8(N); 25.9(II)(2)(b) and (e); 25.9(H)(3)(a) and (c); 25.9(K)(1); 25.9(L); 25.9(L)(1), (16), (20), (29), (30), (31)(d), (32)(a), (32)(a)(iv), (32)(c), 32(c)(i)-(iii) and (38); 25.9(M)(1)(b); 25.9(N); 25.9(O); 25.10(D)(1), (4), (4)(a)-(b); 25.10(E)(1)-(3);

25.10(F) and (F)(1), 25.10(G), (H), (J) and (K); 25.11(F), (F)(2) and (F)(5); 25.14(P); 25.15(B); 25.15(C)(2)(o), (C)(8) and (C)(9); 25.15(D)(1) and (a)-(d); 25.15(E); 25.15(J)(6); 25.15(K) and (1)-(3); 25.15(L)(1)-(8); 25.15(N); 25.15(S); 25.16(C); 25.17(A), (A)(1)-(2), (A)(7) and (A)(8); and 25.21(A).

- Deletion of Sections: 25.4(R); 25.15(C)(6); 25.16(P)(10); and 25.15(R)(8).
- Addition of new Sections: 25.4 (S), (T) and (U); 25.7(G); 25.15(D)(2); 25.15(J)(10); and 25.15(T).
- Minor language clarifications in Sections: 25.1(D); 25.8(B), (G), (K) and (O); 25.9(D); 25.9(L)(3), (6), (11), (14), (19), (24), (25), (32)(1)(iii), and (33); 25.10; 25.12(A); 25.14(A), (D), (E)(2)(b), (F)(2), (G) and (O); 25.15(C)(4); 25.15(D)(3)-(4); 25.15(J); 25.15(P)(6); 25.17(A)(4); 25.17(B); and 25.21(C)(1).

Amendments submitted to NIGC for approval on February 17, 2016. Approved by NIGC on \_\_\_\_\_.