



August 22, 2013

By First Class Mail

B. Cheryl Smith, Tribal Chief
Jena Band of Choctaw Indians
P.O. Box 14
Jena, LA 71342-0014

Re: *Jena Band of Choctaw Indians* Amended Class II and Class III Gaming Ordinance, JBC 2013-0618

Dear Chief Smith:

This letter responds to your request on behalf of the Jena Band of Choctaw Indians for the National Indian Gaming Commission Chairwoman to review and approve the Nation's amendments to the Nation's gaming ordinance.

The amendments were passed on June 18, 2013 by the Tribal Council of the Jena Band of Choctaw Indians, JBC 2013-0618. The amendments include updating the privacy notice provision and false statement provision, adding a definition for "directly related to" which loosens the restrictions on who can serve as a gaming commissioner, and makes technical edits and reorganizes the chapter and section structure of the ordinance.

Thank you for bringing the amendments to our attention and for providing us with a copy. The amendments are approved as they are consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions, please feel free to contact Senior Attorney Michael Hoenig at 202-632-7003.

Sincerely,

A handwritten signature in blue ink, appearing to read "L Stevens".

Tracie L. Stevens
Chairwoman



Jena Band of Choctaw Indians

P. O. Box 14 • Jena, Louisiana 71342-0014 • Phone: 318-992-2717 • Fax: 318-992-8244

TRIBAL COUNCIL RESOLUTION

JBC 2013- 0618

WHEREAS, the Jena Band of Choctaw Indians is a sovereign federally recognized Indian tribe, Acknowledged as a Sovereign Indian Nation by the United States Government; and

WHEREAS, the Tribal Council of the Jena Band of Choctaw Indians (the "Tribal Council") is the governing body of the Jena Band of Choctaw Indians (the "Tribe"); and

WHEREAS, the Tribal Council is authorized by the Tribal Constitution to act and exercise Tribal Authority on behalf of the Tribe; and

WHEREAS, the Tribal Council has the duly authorized right to promote self-government on the Jena Band of Choctaw Tribal Lands; and

WHEREAS, on April 2, 2007, pursuant to the authorities granted by the Reorganization Act, the Secretary of the Department of the Interior proclaimed all lands held in trust by the United States of America to be the reservation of the Tribe; and

WHEREAS, the Tribal Council desires to amend the First Amended Class II, Class III Gaming Ordinance adopted and enacted on June 17, 2008 and approved by the National Indian Gaming Commission on June 26, 2008 ("Ordinance"), including but limited to revisions to amend the privacy notice provision and false statement provision to correctly reflect the newly adopted language in the applicable regulations, i.e. 25 C.F.R. § 556.2 and 25 C.F.R. § 556.3, respectively.

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council does hereby adopt the Jena Band of Choctaw Indians Second Amended Class II/Class III Gaming Ordinance dated June 18, 2013 to authorize and regulate all classes of gaming on the Tribe's Indian Lands.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Tribal Council does hereby authorize the Tribal Chief, B. Cheryl Smith, to submit to the National Indian Gaming Commission for approval within fifteen (15) days of this date, this Second Amended Class II/Class III Gaming Ordinance dated June 18, 2013.

CERTIFICATION

The stated resolution was enacted and adopted on the 18th day of June, 2013
by the Jena Band of Choctaw Indians Tribal Council, with a quorum present; the vote was 4
(for), 0 (against) 1 (absent).

B. Cheryl Smith

B. Cheryl Smith

Christy Murphy

Christy Murphy

Ricky Jackson

Ricky Jackson

Dana Masters

Dana Masters

Leon Allen

**THE JENA BAND OF CHOCTAW INDIANS
SECOND AMENDED CLASS II/CLASS III GAMING ORDINANCE
JUNE 18, 2013**

An Ordinance to authorize, license, and regulate all classes of gaming on lands of the Jena Band of Choctaw Indians and to create a Tribal Gaming Commission.

**CHAPTER 1
GENERAL PROVISIONS**

Section 101. Purpose.

The Tribal Council of the Jena Band of Choctaw Indians (the "Tribe") is empowered by the Tribe's Constitution to enact ordinances. The Tribal Council of the Jena Band of Choctaw Indians hereby enact this Second Amended Class II/Class III Gaming Ordinance ("Ordinance") in order to govern Class II and Class III gaming operations on the Tribe's Indian lands.

Section 102. Declaration of Policy.

The policy of the Jena Band of Choctaw Indians in promulgating this Ordinance is as follows:

- (a) That all classes of gaming shall be permitted upon the Tribe's Indian Lands.
- (b) That gaming on the Tribe's Indian Lands shall be regulated in a manner that adequately protects the environment, the public health, welfare and morals of all persons residing on the Indian Lands, all invitees to the gaming establishment and the Tribe from any adverse effects that may derive from unregulated gaming;
- (c) That there shall be continuing effort to maximize the potential for revenue from any Tribal gaming establishment and to sustain the highest achievable levels of that revenue in order:
 - (1) to fund tribal government operations and programs;
 - (2) to provide for the general welfare of the Tribe and its members;
 - (3) to promote tribal economic development;
 - (4) to donate to charitable organizations; or
 - (5) to help fund operations of local government agencies.
- (d) That the Tribe shall have the sole proprietary interest in and responsibility for the conduct of all gaming activities on the Indian Lands; and
- (e) That the conduct of gaming activities provided for within this Ordinance shall comply with the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701, *et seq.*, and any relevant regulations promulgated by the National Indian Gaming Commission ("NIGC") or the

Bureau of Indian Affairs (“BIA”).

Section 103. Definitions.

Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as defined in the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. § 2701 *et seq.*, and its regulations, 25 C.F.R. § 500 *et seq.* Specifically:

- (a) **Class I gaming** means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as part of, or in connection with, tribal ceremonies or celebrations.
- (b) **Class II gaming** means:
 - (1) the game of chance commonly known as bingo (whether or not electronic, computer, or other technological 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 the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and
 - (2) card games that:
 - (A) are explicitly authorized by the laws of the State of Louisiana; or
 - (B) are not explicitly prohibited by the laws of the State of Louisiana 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.
 - (3) The terms “Class II Gaming” does not include:
 - (A) any banking card games, including baccarat, chemin de fer, or blackjack (21), or
 - (B) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

- (c) **Class III gaming** means all forms of gaming that are not Class I or Class II Gaming.
- (d) **Commission** means the Tribal Gaming Commission established to perform regulatory oversight and to monitor compliance with Tribal, Federal, and applicable State regulations.
- (e) **Commissioner** means a Tribal Gaming Commissioner.
- (f) **Compact** means a Tribal-State Compact concerning Class III Gaming approved by the Secretary of the Department of the Interior and published in the Federal Register pursuant to 25 U.S.C. § 2710(d).
- (g) **Complimentary services and items** shall have the same meaning set forth in 25 C.F.R. § 543.2 (Class II) and 25 C.F.R. § 543(a) (Class III), as applicable.
- (h) **Directly related to** means a spouse, child, or parent.
- (i) **Facility or Facilities** means each place, facility, or location on Indian Lands where Class II and/or Class III gaming is conducted, including the buildings, improvements, and permanent fixtures .
- (j) **Gaming device** means any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used remotely or directly in connection with any gaming which affects the result of a wager by determining or predicting the outcome of such game or the odds of winning or losing such game. The term shall be broadly construed to promote the purposes of this Ordinance and shall also include any devices, machines, components or contrivances which do or are capable of affecting, in any f that, for consideration, assists or allows a player to play a game of chance. The term shall be broadly construed to promote the purposes of this Gaming Ordinance and shall include any such machine or device whether the game played is a Class II or a Class III game.
- (k) **Gaming Operation or Operations** means all Class II Gaming and Class III Gaming conducted at any Gaming Facility, including all commercial operations that are related to or that support the gaming operations; *provided* that no convenience store or gasoline station owned by the Tribe or a tribal entity shall be considered part of the Gaming Operations, unless gaming occurs on the premises of such store or station.
- (l) **Indian Lands** means:

All lands proclaimed on April 2, 2007, pursuant to the authorities granted by the Indian Reorganization Act, to be the reservation of the Jena Band of Choctaw Indians (72 Fed. Reg. 15711) are Indian Lands eligible for gaming and are:

- (1) all lands within the limits of the Tribe's reservations;
 - (2) any lands title to which is either held in trust by the United States for the benefit of the Tribe or individual or held by the Tribe or individual subject to restriction by the United States against alienation and over which the Indian Tribe exercises governmental power; and
 - (3) for all lands acquired into trust for the benefit of an Indian tribe after October 17, 1988, the lands meet the requirements set forth in 25 U.S.C. § 2719.
- (m) **Key Employee** means:
- (4) A person who performs one or more of the following functions:
 - (A) Bingo caller;
 - (B) Counting room supervisor;
 - (C) Chief of security;
 - (D) Custodian of gaming supplies or cash;
 - (E) Floor manager;
 - (F) Pit boss;
 - (G) Dealer;
 - (H) Croupier;
 - (I) Approver of credit; or
 - (J) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
 - (5) If not otherwise included, any other person whose total cash compensation is in excess of fifty thousand dollars (\$50,000.00) per year;
 - (6) If not otherwise included, the four (4) most highly compensated persons in gaming operation; or
 - (7) Any other person designated by the Tribal Council as a key employee.
- (n) **Management Contract or Agreement** means any contract, subcontract, or collateral agreement between the Tribe or a tribal entity 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.
- (o) **Management Contractor** means the person designated by the management contract as having management responsibility for the Gaming Operation, or a portion thereof.
- (p) **Net Revenues** mean gross gaming revenues of an Indian gaming operation less

- (1) Amounts paid out as, or paid for, prizes; and
 - (2) Total gaming-related operating expenses, excluding management fees.
- (q) **Patron** means any person who participates in gaming or who is physically present on premises wherein or whereon gaming is conducted.
- (r) **Person Having a Direct or Indirect Financial Interest in a Management Contract** means
- (1) When a person is a party to a management contract, any person having a direct financial interest in such management contract;
 - (2) When a trust is a party to a management contract, any beneficiary or trustee;
 - (3) When a partnership is a party to a management contract, any partner;
 - (4) When a corporation is a party to a management contract, any person who is a director or who holds at least ten percent (10%) of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child, or sibling; or
 - (5) When an entity other than a natural person has an interest in a trust, partnership or corporation that has an interest in a management contract, all parties of that entity are deemed to be persons having a direct financial interest in a management contract.
- (s) **Primary Management Official** means
- (1) The person(s) having management responsibility for a management contract;
 - (2) Any person who has authority:
 - (A) To hire and fire employees; or
 - (B) To set up working policy for the gaming experience;
 - (3) The Chief Financial Officer or other person who has financial management responsibility.
- (t) **Tribal Gaming Authority** means the Jena Choctaw Indian Gaming Authority.
- (u) **Tribe** means the Jena Band of Choctaw Indians.

Section 104. Gaming Authorized.

Class II and Class III gaming are hereby authorized.

Section 105. Ownership of Gaming.

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

Section 106. Use of Gaming Revenue.

Net Revenues from Gaming Operations shall be used only for the following purposes:

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

Section 107. Per Capita Payments.

- (a) “Per Capita Payment” means the distribution of money or other thing of value to all members of the Tribe, or to identified groups of members, which is paid directly from the Net Revenues of any Gaming Operation.
- (b) If the Tribal Council elects to make Per Capita Payments to tribal members from Net Revenues, it shall ensure that the following requirements of 25 C.F.R. Part 290 are met:
 - (1) The Tribal Council shall authorize and issue Per Capita Payments only in accordance with a revenue allocation plan submitted to and approved by the Secretary of the Department of the Interior under 25 U.S.C. § 2710(b)(3).
 - (2) The Tribal Council shall ensure that the interests of minors and other legally incompetent persons who are entitled to receive any Per Capita Payments under a Tribal Per Capita Payment plan are protected and preserved, and that the Per Capita Payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person, under a plan approved by the Tribal Council and the Secretary of the Department of the Interior. The Tribal Council must also establish criteria and a process for a withdrawal of funds by the parent or legal guardian.
 - (3) The Tribal Council shall designate or create a Tribal court system, forum, or administrative process for resolution of disputes concerning the allocation of Net Revenues and the distribution of Per Capita Payments.
 - (4) The Tribal Council shall ensure that the Tribal revenue allocation plan reserves an

adequate portion of net gaming revenues from the tribal gaming activity to do one or more of the following purposes: fund Tribal government operations or programs; provide for the general welfare of the Tribe or its members; promote tribal economic development; donate to charitable organizations; or to help fund operations of local government.

- (5) The Tribal Council shall ensure that distributions of Per Capita Payments are made according to specific eligibility requirements.
- (6) The Tribal Council shall ensure that Tribal members are notified of the tax liability for Per Capita Payments and how taxes will be withheld.

Section 108. Tribal Internal Control Standards.

The Tribal Council shall adopt and implement Internal Control Standards (ICS) for the operation of its Tribal gaming operation in accordance with applicable law. The Tribe's ICS shall be set out in separate regulations.

Section 109. Audit.

- (a) The Tribal Council shall cause an annual outside independent audit of gaming operations to be conducted, and shall submit the resulting audit reports to the National Indian Gaming Commission.
- (b) All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of twenty-five thousand (\$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 subsection (a) above.
- (c) All financial and accounting aspects of Gaming Operations shall be in compliance with the operational procedures established by the Tribal Council.

Section 110. Environment and Public Health and Safety.

- (a) Gaming Facilities shall be constructed, maintained, and operated in a manner that adequately protects the environment and the public health and safety.
- b) The Tribal Council shall adopt standards that assure adequate protection of the environment and the public health and safety.

CHAPTER 2

TRIBAL GAMING COMMISSION

Section 201. Commission Established.

(a) The Tribal Council hereby establishes a Tribal Gaming Commission which shall be known as the Jena Band of Choctaw Indians Gaming Commission and whose duty it is to regulate tribal gaming operations. The Commission shall consist of three (3) members selected by the Tribal Council. There shall be among them a Chairperson, Vice-Chairman, and one additional Commissioner. The Chairman and the Vice Chairman shall have signatory authority for the Commission.

(b) The purpose of the Commission is regulatory, not managerial. The Commission will ensure compliance with Tribal, Federal, and, if applicable, State laws and regulations. The Commission shall serve as the licensing authority for individuals employed in the Gaming Operations and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with internal controls for the Gaming Operations and in tracking revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the Gaming Operations and to all records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate and in accordance with the procedures established by the Tribal Council.

Section 202. Appointment of Commissioners; Terms of Office; Filling of Vacancies.

(a) Tribal Gaming Commissioner positions shall be filled through appointment by the Tribal Council. The Tribal Council shall require a criminal history check with appropriate law enforcement agencies or investigation service and shall review this criminal history report and make an appropriate eligibility determination before appointing an individual to a position as a Commissioner.

(b) Nominees for positions of Tribal Gaming Commission must satisfy the eligibility standards set forth for Management Contractors, Key Employees and Primary Management Officials found in Section 406 of this Ordinance. Such background investigations shall be performed either directly or indirectly by the Tribal Police Department or, if the Tribal Police Department has not been established, the Tribal Attorney, who shall report directly to the Tribal Council. Upon completion of the background investigation, the Tribal Council shall, by a majority vote, (i) either approve by Council Resolution the appointment of a Commissioner or (ii) notice the Commissioner for a hearing before the Tribal Council. If the Tribal Council has reason to believe that a licensed Commissioner fails at any time to meet the license requirements under this Ordinance or that the Commissioner has violated this Ordinance, the rules, tribal law, a compact, or the IGRA and regulations promulgated thereunder, or any other applicable law, the Tribal Council shall direct an investigation to be conducted and may notice the Commissioner for

a hearing before the Tribal Council. Any action to remove a Commissioner from office for malfeasance, misfeasance, or nonfeasance in office shall be conducted in compliance with Subsection (d) below.

(c) Terms of Office for Commissioners shall be as follows: the Chair shall serve an initial term of three years, with subsequent Chairs serving three-year terms. The Vice-Chair shall serve an initial term of two (2) years, with subsequent Vice-Chairs serving three-year terms. The Commissioner shall serve an initial term of one year, with subsequent Commissioners serving three-year terms.

(d) The independence of the Commission is essential to a well-regulated Gaming Operation. For that reason, Commissioners may only be removed from office by the Tribal Council prior to the expiration of their respective terms for neglect of duty, misconduct, malfeasance, or other acts that would render a Commissioner unqualified for his/her position. Any allegations of neglect of duty, misconduct, malfeasance, or other acts that would render him or her unqualified for his/her position must be substantiated by a preponderance of the evidence. Commissioners will be given an opportunity to provide evidence rebutting the grounds for their proposed removal before the removal is considered. A vote of the Tribal Council on the validity of the removal shall be final and not subject to further appeal. A wrongful removal shall entitle the affected Commissioner to compensation for expenses incurred in an appeal and any pay withheld.

Section 203. Meetings; Quorum.

Meetings shall be held at such times and places as may be necessary for the proper discharge of the Commission's duties. A majority of the Commission shall constitute a quorum. The concurrence of a majority of the members appointed to the Commission shall be required for any final determination by the Commission. The Commission may act in its official capacity even if there are vacancies on the Commission. The Commission shall keep a written record of all its meetings.

Section 204. Salaries of Commissioners.

The Commissioners shall be compensated at a level determined by the Tribal Council. Commissioner compensation shall not be based on a percentage of gaming revenue to ensure the Commission is not improperly influenced.

Section 205. Certain Persons Ineligible to be Commissioners.

The Tribe recognizes the importance of an independent Commission in maintaining a well-regulated Gaming Operation. The Commission shall be and act independently and autonomously from the Tribal Council in all matters within its purview. No prior or subsequent review by the Tribal Council of any actions of the Commission shall be required or permitted

except as otherwise explicitly provided in this Ordinance. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribal Council hereby finds that, at a minimum the following individuals may not serve on the Gaming Commission:

- (1) A member of the Tribal Council or Tribal Gaming Authority;
- (2) A member directly related to or living with any Tribal Council member, Tribal Gaming Authority member, or gaming contractors;
- (3) Employees of the Gaming Operation, while serving as such;
- (4) Gaming contractors (including any principal of a management or other contracting company);
- (5) Persons directly related to or sharing a residence with any of the above;
- (6) Persons ineligible to be Key Employees, Management Contractor, or Primary Management Officials; and
- (7) Persons previously convicted of a felony, of embezzlement, of theft, or of any other money-related crime or honesty-related crime (such as fraud).

Section 206. Files and Records to be Maintained by the Commission.

- (a) The Commission shall maintain a file of all applications for licenses under this Ordinance, together with a record of all actions taken with respect to those applications.
- (b) The Commission may maintain such other files or records as they deem desirable.
- (c) The following information and data are confidential and may only be revealed in whole or in part in the course of the necessary administration of this Ordinance or upon the lawful order of a court of competent jurisdiction:
 - (1) Required by the Commission to be furnished to them under this Ordinance or which may otherwise be obtained relative to the finances, earnings, or revenue of any applicant or licensee;
 - (2) Pertaining to an applicant's criminal record, antecedents and background which have been furnished to or obtained by the Commission from any source;
 - (3) Provided to the members of the Commission or its employees by a governmental agency or an informer or on the assurances that the information will be held in confidence and treated as confidential; or

- (4) Obtained by the Commission from a supplier relating to the manufacturing of gaming devices or gaming goods.

Section 207. Commissioners Prohibited from Participating in Gaming Operations Owned or Operated by the Tribe and from Accepting Complimentary Items.

No Commissioner shall be permitted to participate in any gaming activity within any Gaming Operation except for any such participation engaged in solely for educational or instructional purposes. Commissioners are prohibited from accepting Complimentary services or items from the Gaming Operation, except food and beverages valued under twenty-five dollars (\$25.00) or, if at a public event held at the Facility, the free food and beverage offered to the general public.

Section 208. Ethics.

The Tribe recognizes that the duties of the Commission include making decisions on highly sensitive issues. As such, the Tribe has determined that the Commission shall be held to extremely high ethical standards. Prior to taking their positions on the Commission, each Commissioner shall agree to be bound by the following principles:

- (1) Commissioners shall not hold financial interests that conflict with the conscientious performance of their duties as managers and regulators.
- (2) Commissioners shall not engage in financial transactions using non-public information or allow the improper use of such information by others on their behalf to further any private interest.
- (3) Commissioners shall not solicit or accept any gift or other item of monetary value, including complimentary items or services (see Section 207 above), from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the Member's organization, or whose interests may be substantially affected by the performance or nonperformance of the Commissioners' duties;
- (4) Commissioners shall make no unauthorized commitments or promises of any kind purporting to bind the Tribe;
- (5) Commissioners shall not use their positions for private gain.
- (6) Commissioners shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons not related to Commissioners.

- (7) Commissioners shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.
- (8) Commissioners shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.
- (9) Commissioners shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
- (10) Commissioners shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.
- (11) Commissioners shall disclose any real or apparent financial or personal conflicts. If there is a real conflict or the appearance of one, the Member shall not take part in any decision related to the conflict.

Section 209. Penalty for Divulging Certain Information.

Any Commissioner who divulges any fact or information coming to his or her knowledge not generally known by the public respecting any aspect of his or her duties as a Commissioner, except insofar as he or she may be authorized by the Commission or a court of competent jurisdiction, or a judge thereof, is guilty of a class C misdemeanor.

Section 210. Powers and Duties of the Commission.

- (a) The rights, powers, authority, jurisdiction, and duties conferred by this Chapter upon the Commission shall be exclusive and shall be exercised so far as they may be exercised consistently with the Constitution of the Jena Band of Choctaw Indians and all other Tribal law.
- (b) The Tribal Gaming Commission shall have the authority and responsibility to:
 - (1) Conduct or cause background investigations to be conducted on, at a minimum, Management Contractor, Primary Management Officials, and Key Employees;
 - (2) Review and approve all investigative work conducted;
 - (3) Report results of background investigations to the NIGC;
 - (4) Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;

- (5) Make licensing eligibility determinations, which shall be signed by the Chairman or the Vice Chairman of the Commission;
- (6) Issue gaming licenses to management officials and employees of any Gaming Operation, consistent with the eligibility determination;
- (7) Establish standards for licensing Gaming Operations;
- (8) Issue and renew facility gaming licenses to Gaming Operations;
- (9) Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the Gaming Operation;
- (10) Ensure compliance with all Tribal, State, and Federal laws, rules, and regulations regarding Indian gaming;
- (11) Investigate any suspicion of wrongdoing associated with any Class II Gaming or Class III Gaming, as applicable, in compliance with procedures established in this Ordinance and other Tribal gaming regulations established by the Tribal Council;
- (12) Hold hearings on violations of this Ordinance, in compliance with procedures established in this Ordinance and other Tribal gaming regulations enacted by the Tribal Council;
- (13) Comply with any and all reporting requirements under the IGRA, Tribal-State compact to which the Tribe is a party, and any other applicable law;
- (14) Promulgate and issue regulations necessary to comply with applicable internal control standards;
- (15) Promulgate and issue regulations on the collection of fees and/or taxes associated with gaming license applications as established by the Tribal Council;
- (16) Promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming ordinance, or any other Tribal, Federal, or State, if applicable, gaming regulations in compliance with procedures established in this Ordinance and other Tribal gaming regulations enacted by the Tribal Council; and
- (17) Establish a list of persons not allowed to game in Tribal gaming facilities in order to maintain the integrity of the Class II Gaming or Class III Gaming, as applicable;

- (18) Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, Federal, or State statutes, ordinances, or resolutions;
- (19) Enforce and administer all provisions of this Ordinance;
- (20) Revoke, suspend, condition, or deny an application or gaming license for any reason specified within this Ordinance in compliance with procedures established in this Ordinance and other Tribal gaming regulations enacted by the Tribal Council;
- (21) May require the bonding of Primary Management Officials, Key Employees, or other employees as deemed necessary by the Commission in consultation with the Tribal Council;
- (22) Investigate and resolve all patron disputes not governed by the Tribal Tort Claims Act in accordance with procedures adopted by the Commission.
- (23) Certify that all Gaming Devices purchased, leased, or otherwise acquired by any Gaming Operation meet the technical equipment standards set forth by the Commission or NIGC;
- (24) Perform such other duties the Commission deems appropriate for the proper regulation of the Gaming Operation; and
- (25) Promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Ordinance.

(c) The Gaming Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to the Tribal Council, legal staff, members of management, human resource personnel or others employed by the Gaming Operation on a need-to-know basis for actions taken in their official capacities.

This Section does not apply to requests for such information or records from any Tribal, Federal or State law enforcement or regulatory agency, or for the use of such information or records by the Commission and staff in the performance of their official duties.

CHAPTER 3 CIVIL ENFORCEMENT, HEARINGS, AND APPEALS

Section 301. Civil Enforcement.

- (a) The Commission may, after complying with Subsection (c) below and upon consultation with the Tribal Council, take any one or a combination of the following actions with respect to any person who violates any provision of this Ordinance:
 - (1) Impose a civil penalty to the maximum extent allowable under Tribal law. If such violation is a continuing one, each day of such violation may be deemed a separate offense.
 - (2) Suspend or revoke any gaming license issued by the Commission in compliance with procedures established in this Ordinance and other Tribal gaming regulations enacted by the Tribal Council.
 - (3) The Commission has the authority to impose one or more of the following sanctions:
 - (i) seizure of any gaming apparatus, proceeds or other property of a licensee connected with the gaming activities engaged in by the licensee;
 - (ii) in the case of any nonmember of the Tribe, expulsion from the Tribe's Indian Lands;
 - (iii) collection of any unpaid fees, interest, or penalties;
 - (iv) execution on any nonexempt property of a violator located within the exterior boundaries of the Tribe's Indian Lands;
 - (v) a penalty of one hundred dollars (\$100.00) per day for failure to file any report when due and one thousand dollars (\$1000.00) per day for failure to file such report after notice and demand; or
 - (vi) any other action deemed necessary or appropriate by the Tribal Court.
- (b) Every person who applies for and accepts a gaming license shall be deemed responsible for reading and adhering to all rules and regulations relating to the conduct of Class II Gaming and Class III Gaming on Indian Lands.
- (c) Before taking any action regarding a possible violation of this Ordinance, the Commission shall provide written notice of violation(s) to the Management Contractor, Key Employee, or Primary Management Official. The notice shall include:

- (1) A citation to the rule, tribal, or federal requirement that has been violated;
- (2) A short and plain statement of the facts involving the alleged violation; and
- (3) A statement of the time, place, and nature of the hearing on the alleged violation.

The Tribal Council shall also be provided with a copy of the written notice of violation(s).

Section 302. Hearings.

- (a) Other than as set forth in Section 410 herein, before taking any action regarding a possible violation of this Ordinance or any other Tribal law, the Commission shall hold a hearing allowing the violator an opportunity to be heard.
- (b) The Commission shall employ its best efforts to notify the alleged violator, in person or by letter delivered to his or her last known address, of the charges against him or her. If the alleged violator fails to respond, or cannot be found, the Commission may proceed with a hearing notwithstanding, and take such action as it deems appropriate. The hearing shall not be scheduled sooner than 48 hours from the date the notice is received, if in person, and no sooner than 5 days if provided by other delivery.
- (c) The Commission shall notify the alleged violator in writing of its decision. The writing shall specifically identify the action of the Commission and the factual basis for the action.

Section 303. Appeals

- (a) Any person aggrieved by a decision made or action taken by the Commission after notice and opportunity for a hearing, may petition the Tribal Council in writing for a rehearing. Such petition shall specifically set forth the reasons for aggrievement, and be filed with the Tribal Council no later than fourteen (14) days after the Commission's decision and action.
- (b) The Commission's decision shall be upheld unless it is arbitrary and capricious, an abuse of discretion, not supported by substantial evidence or authorized by law; provided that there shall be de novo review on all questions of law.
- (c) Upon establishment of the Tribal Court, the appeal of Commission decisions shall be made to the Tribal Court in accordance with Subsection (a) above and the procedures adopted by the Tribal Court.

CHAPTER 4 FACILITY AND GAMING LICENSES

Section 401. Facility Licenses.

The Commission shall issue a separate license under this Ordinance once every three (3) years to each Facility. A separate license shall also issue for each class of gaming sought to be licensed. The Commission shall specify the form, conditions and content for the application for such licenses, which shall be submitted by the chief management official of the Facility, and the initial application shall include a legal description of the lands whereon the Facility is located, and a certification that said premises constitute "Indian lands" as specified in IGRA, and shall identify the environmental, health, and public safety standards with which the Facility must comply, and a certification that the Facility is in compliance therewith. Each subsequent application for the renewal of such Facility license shall identify any changes or additions to said legal description and applicable environmental, health, and public safety standards, and include current certifications of compliance therewith. The Commission shall only issue such licenses if the applications therefor include the required information and certifications and such further conditions as the Commission shall have specified.

Section 402. Licenses for Management Contractors, Key Employees and Primary Management Officials.

- (a) A Tribal gaming license shall be required of all employees of a Gaming O including each Key Employee, Primary Management Official and alternate Primary Management Official, and any Management Contractor.
- (b) All licenses issued under this Ordinance to a Management Contractor must be posted by the licensees and kept posted at all times in a conspicuous place in the establishment for which issued until replaced by a place at all times while working in the Gaming Operation.
- (c) The Tribal Council and Commission shall ensure that the policies and procedures set out in this Chapter are implemented with respect to Key Employees, Primary Management Officials, and Management Contractors employed at any Gaming Operation operated on Indian Lands. The Commission will issue licenses and perform background investigations according to requirements at least as stringent as 25 C.F.R. Parts 556 and 558. The licensing requirements set forth in 25 C.F.R. Parts 556 and 558 do not apply to any license that is intended to expire within 90 days of issuance.

Section 403. License Application Forms.

- (a) Each applicant for an initial gaming license shall complete an application. Such application shall request and contain the information specified in this Ordinance. Each applicant

seeking renewal of an existing license shall also complete an application, however, such application shall require less detail. All applications shall be signed by the applicant.

(b) Before a Management Contractor can be issued a gaming license, a background investigation must be successfully completed on each person having a direct or indirect financial interest in a management contract. In the event of a proposed change in the persons having a direct or indirect financial interest in a management contract, the Commission must be immediately notified and a background investigation shall be conducted on the proposed person prior to any change.

(c) In addition to the information requested in subsection (a), an application shall also request the following information;

- (1) The location of where a Management Contractor will operate a Gaming Operation or where a Primary Management Official or a Key Employee will be employed; and
- (2) If the applicant is a corporation, association, partnership or other group, the names and interests of any person having a direct or indirect financial interest in the business; and
- (3) Each applicant for a license who has or will have a contract with the Tribe to manage a Gaming Operation shall state whether or not applicant has a management contract to operate a Gaming Operation that competes for Patrons within the market area of the Gaming Operation, which shall be deemed to be the area within a 400 mile radius of the Gaming Operation; and
- (4) Each applicant for a license who has or will have a contract with the Tribe to manage a Gaming Operation shall file an organizational chart of its management organization; and
- (5) Such other information and details as the Commission may require in order to properly discharge its duties.

(e) Each application shall be submitted to the person indicated on such application accompanied by payment of the appropriate non-refundable application fee as specified in Section 404.

(f) The following notice shall be placed on the application form for a Key Employee or a Primary Management Official:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701 et seq. The purpose of the requested information is to determine the

eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a Gaming Operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position.

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

(g) The following notice shall be placed on the application form for a Key Employee, a Management Contractor, or a Primary Management Official:

A false statement on any part of your license application may be grounds for denying a license or the suspension for revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

Section 404. License Fees.

The Commission may charge a license fee, to be set by the Tribal Council, to cover the expenses incurred in investigating and licensing Management Contractors, Key Employees and Primary Management Officials of the Gaming Operation.

Section 405. Fingerprints.

Each applicant for a license, including Management Contractors, Key Employees or Primary Management Officials and anyone else deemed necessary by the Tribal Council or the Commission, shall be required to submit fingerprints as part of the license application procedure. The Commission is hereby identified as the enforcement agency to take fingerprints. and The Commission shall forward the applicant's fingerprints to the NIGC for processing through the Federal Bureau of Investigation National Criminal Information Center for a criminal history check. Reports obtained from such fingerprint processing shall be incorporated into the applicant's license file.

Section 406. Background Investigations.

(a) Unless a tribal-state compact assigns responsibility to an entity other than the Tribe, the Commission is responsible for conducting background investigations and for making eligibility determinations for licensing Management Contractors, Primary Management Officials, and Key Employees.

(b) The Commission shall request from each Management Contractor, from each Primary Management Official and from each Key Employee all of the following information:

- (1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written)
- (2) Currently and for previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (3) The names and current addresses of at least 3 personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (b)(2) of this Section;
- (4) Current business, residence, and cell telephone numbers;
- (5) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (8) For each felony for which there was an ongoing prosecution or a conviction within 10 years of the date of the application, the charge, the name and address of the court involved, and the date and disposition, if any;
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the charge, the name and address of the court involved, and the date and disposition;
- (10) For each criminal charge (excluding minor traffic charges), whether or not there is

a conviction, if such charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraphs (b)(8) or (b)(9) of this Section, the criminal charge, the name and address of the court involved, and the date and disposition;

- (11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (12) A photograph taken within the last year;
- (13) Any other relevant information the Tribe deems relevant; and
- (14) Fingerprints consistent with procedures adopted by the Tribal Council according to 25 C.F.R. § 522.2(h).

(c) If in the course of a background investigation, the Commission discovers that the applicant has a notice of results on file with the NIGC from a prior investigation and the Commission has access to the earlier investigative materials (either through the NIGC or the previous tribal investigative body), the Commission may rely on those materials and update the investigation and investigative report under Section 409(a) herein.

(d) In conducting a background investigation, the Commission, including its staff, shall keep confidential the identity of each person interviewed in the course of the investigation.

Section 407. Eligibility Determination.

(a) The Commission shall conduct an investigation sufficient to make an eligibility determination. To make a finding concerning the eligibility of a Management Contractor, Key Employee or Primary Management Official for granting of a gaming license, the Gaming Commission shall review a person's :

- (1) Prior activities;
- (2) Criminal record, if any; and
- (3) Reputation, habits and associations.

(b) If the Commission, in applying the standards adopted in (a) above, determines that licensing of the person poses a threat to the public interest or to the effective regulation of Class II Gaming and/or Class III Gaming, as applicable, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Class II Gaming or Class III Gaming, the Commission shall not license that person in a Management Contractor, Key

Employee, or Primary Management Official position.

Section 408. Report to the National Indian Gaming Commission.

(a) When the Tribe employs a Management Contractor, Key Employee, or Primary Management Official, the Commission shall maintain a complete application file containing the information listed in Section 406(b)(1) through (14).

(b) Before issuing a license to a Management Contractor, Key Employee, or Primary Management Official, the Commission shall create and maintain an investigative report on each background investigation. An investigative report shall include all of the following:

- (1) Steps taken in conducting a background investigation;
- (2) Results obtained;
- (3) Conclusions reached; and
- (4) The bases for those conclusions.

(c) The Commission shall submit a notice of results of the applicant's background investigation to the NIGC no later than sixty (60) days after the applicant begins work. The notice of results shall contain:

- (1) Applicant's name, date of birth, and social security number;
- (2) Date on which applicant began or will begin work as Management Contractor, Primary Management Official, or Key Employee;
- (3) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:
 - (A) Licenses that have been previously denied;
 - (B) Gaming licenses that have been revoked, even if subsequently reinstated;
 - (C) Every known criminal charge brought against the applicant within the last 10 years of the date of application; and
 - (D) Every felony of which the applicant has been convicted or any ongoing prosecution.
- (4) A copy of the eligibility determination made under Section 407 herein.

- (d) After the Commission has provided a notice of results of the background check to the NIGC, the Commission may license a Management Contractor, Key Employee, or Primary Management Official. Within thirty (30) days after the issuance of the license, the Commission shall notify the NIGC of its issuance.
- (e) The Gaming Operation shall not employ as a Management Contractor, Key Employee or Primary Management Official a person who does not have a license after ninety (90) days.
- (f) If the Commission does not license an applicant, the Commission shall
 - (1) Notify the Commission; and
 - (2) Forward copies of its eligibility determination and notice of results, under Subsection (c)(3) herein, to the NIGC for inclusion in the Indian Gaming Individuals Record System.
- (g) With respect to all employees and in particular Management Contractors, Key Employees and Primary Management Officials, the Commission shall retain the following for inspection by the Chair of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment:
 - (1) Application for licensing;
 - (2) Investigative reports; and
 - (3) Eligibility determinations.

Section 409. Review of Notice of Results for Applicants

- (a) Upon receipt of a complete notice of results for a Management Contractor, Key Employee, or Primary Management Official as required by Section 408 herein, the Chairman/Chairwoman of the NIGC has thirty (30) days to request additional information from the Commission concerning the applicant or licensee and to object.
- (b) If the NIGC has no objection to issuance of a license, it shall notify the Commission within thirty (30) days of receiving notice of results pursuant to Section herein.
- (c) If, within the thirty (30) day period described above, the NIGC provides the Commission with a statement itemizing objections to the issuance of a license to a Management Contractor, Key Employee or to a Primary Management Official for whom the Commission has provided a notice of results, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission, in consultation with the Tribal Council shall make the final decision whether to issue a license to such applicant.

Section 410. Notice of Information Impacting Eligibility and Licensee's Right to a Hearing.

- (a) If, after the issuance of a gaming license, the Commission receives from the NIGC reliable information including that a Management Contractor, Key Employee or a Primary Management Official is not eligible for employment, the Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
- (b) The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- (c) After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision.

Section 411. Submission of Notices to the NIGC.

- (a) All notices to the NIGC shall be provided to the NIGC through the appropriate Regional office.
- (b) The Commission can determine the method of transmitting the notices to the Regional office. If the Commission determines to submit notices electronically, it shall contact the appropriate Regional office for guidance on acceptable document formats and means of transmission.

CHAPTER 5 PATRON DISPUTES

Section 501. Patron Disputes.

- (a) Any Patron who has any dispute, disagreement, or other grievance with a Gaming Operation that involves currency, tokens, coins, or any other thing of value, may seek resolution of such dispute from the following persons and in the following order:
 - (1) A member of the staff relevant to the Gaming Operation;
 - (2) The supervisor in the area of the relevant gaming operation in which the dispute arose;
 - (3) The manager of the relevant Gaming Operation; and
 - (4) The Commission.
- (b) At each level, if the dispute remains unresolved, the Patron shall be informed of the right to take the dispute to the next higher level as noted above.

(c) Resolution of any dispute by the personnel of a Gaming Operation shall always involve two or more staff members.

(d) All disputes, whether resolved or not, shall be reported in detail by the staff persons involved to their supervisor.

(e) Any Patron who has any dispute, disagreement, or other grievance with a Gaming Operation that does not involve currency, tokens, coins, or any other thing of value, may seek resolution of such dispute with the management of the Gaming Operation. The decision of management of the Gaming Operation is final.

Section 502. Right to Petition to the Commission.

(a) If a Patron's dispute with a Gaming Operation that involves currency, tokens, coins, or any other thing of value remains unresolved after consideration by the manager of the relevant Gaming Operation, the Patron may file a petition for relief with the Commission. The complaint must be submitted to the Commission within thirty (30) days of the incident giving rise to the complaint. The Patron's written submission must contain (1) a factual description of the dispute, (2) a statement as to the relief sought by the Patron, (3) an explanation of the Patron's efforts to resolve the matter with Facility staff and management, and (4) the Patron's contact information.

(b) The Commission shall schedule the hearing within 30 days of receipt of the Patron's complaint but shall have the discretion to continue the hearing for good cause shown. Petitioner may have counsel present at such hearing, and at the discretion of the Commission, the Patron may be allowed to present evidence. The Commission shall render a written decision in a timely fashion, and all such decisions will be final when issued. The Commission's decision shall constitute the Patron's final remedy.

(c) All claims by Patrons shall be limited to a maximum recovery of \$50,000.00 per occurrence, and a cumulative limit of \$100,000.00 per Patron in any twelve (12) month period, except disputes relating to a Patron's entitlement to a game prize, which shall be limited to the amount of such prize.

CHAPTER 6 MISCELLANEOUS PROVISIONS

Section 601. Applicable law.

All controversies arising under this Ordinance or otherwise relating to gaming on the Tribe's Indian Lands, shall be resolved in accordance with the laws of the Tribe.

Section 602. Indian Lands.

All lands proclaimed on April 2, 2007, pursuant to the authorities granted by the Indian Reorganization Act to be the reservation of the Jena Band of Choctaw Indians (72 Fed. Reg. 15711) are Indian Lands eligible for gaming,

Section 603. Agent for Service of Process.

The Tribe hereby designates the Tribal Chief as agent for service of process, who may be contacted at: 1052 Chanaha Hina Street, Trout, Louisiana 71371.

Section 604. Tribal Access to Financial Information.

A copy of the Gaming Operation's annual audit will be made available for review, upon request, to enrolled Tribal members.

Section 605. Consent to Jurisdiction.

Any person who applies for a license under this Ordinance, applies for employment in any Gaming Operation, enters into any contract or agreement related to gaming, or participates in any gaming on the Tribe's Indian Lands, shall be deemed to consent to the civil jurisdiction of the Tribe and the Commission. Nothing in this Section shall limit the jurisdiction of the Tribe or the Commission under any circumstances not explicitly contemplated in this Section.

Section 606. Savings Provision.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not effect other provisions or application of the Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

Section 607. Sovereign Immunity.

The Tribal Gaming Commission is an instrumentality of the Jena Band of Choctaw Indians, a federally recognized Indian tribe. Accordingly, the Commission shares the same sovereign immunity from unconsented suit as the Tribe. That immunity may be waived by the Tribal Council upon a recommendation of the Commission setting forth the reason for and the scope of the proposed waiver. The Tribal Council may approve that waiver, with or without modifications, or it may deny such recommendation. Any recommendation by the Commission for a waiver and a decision of the Tribal Council on that recommendation shall be made within fifteen (15) days of the filing of a petition authorized by this Ordinance.

Section 608. Amendment.

Any amendment to this Ordinance shall be submitted to the NIGC for approval within fifteen (15) days after adoption.

Section 609. Effective Date.

This Ordinance shall be effective on the date of enactment and adoption by the Tribal Council.

Section 610. Repeal.

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