

February 21, 2024

Octavio Escobedo III, Chairman Tejon Indian Tribe P.O. Box 640 Arvin, CA 93203

Re: Tejon Indian Tribe Gaming Ordinance

Dear Chairman Escobedo:

I am writing with respect to the December 20, 2023 request of the Tejon Indian Tribe to the National Indian Gaming Commission to review and approve the Tribe's Gaming Ordinance. The Tribal Executive Committee approved Resolution No. T2023-165 enacting the Gaming Ordinance on December 16, 2023.

Thank you for providing the Gaming Ordinance for our review. The Gaming 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 Senior Attorney Austin Badger at (202) 632-7003.

Sincerely,

E. Sequoyah Simermeyer Chairman

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

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



Tejon Indian Tribe Tribal Executive Committee Resolution No. T2023-165

# **Approval of Revised Gaming Ordinance**

**WHEREAS**, the Tejon Indian Tribe ("Tribe") is a federally-recognized Indian Tribe possessing inherent sovereign authority;

WHEREAS, the Tejon Indian Tribe Constitution and Bylaws, as amended October 15, 2022 ("Constitution"), provides that any rights, powers or other expressions of sovereignty vested in the Tribe, but not expressly addressed by the Constitution, are reserved to the Tribal General Council ("General Council");

**WHEREAS,** pursuant to Article VI, Section 3(b) of the Constitution, the Tribal Executive Committee ("Executive Committee") has the authority and power to engage in any business or other economic transaction that is intended to further economic development of the Tribe;

**WHEREAS,** the Executive Committee also has the authority and power pursuant to Article VI, Section 3(c), to promulgate and enforce ordinances to provide for and regulate the maintenance of law and order;

WHEREAS, the Executive Committee believes that it is in the best interest of the Tribe and its members to continue to pursue a tribal governmental gaming project on the Tribe's Indian lands over which it has jurisdiction ("Gaming Project") in order to further economic development of the Tribe and as a means to generate revenues that will serve to promote and protect the health, education and general welfare of the members of the Tribe;

WHEREAS, the Executive Committee has been diligently pursuing the Gaming Project for a number of years and continues to do so;

**WHEREAS**, the General Council also believes that it is in the best interest of the Tribe and its members to continue to pursue the Gaming Project, as evidenced by General Council Resolutions No. T2014-39 and No. T2022-135;

**WHEREAS,** in order for the Tribe to engage in gaming on its Indian lands over which it has jurisdiction, including the Gaming Project, it must adopt a gaming ordinance that is approved by the Chair of the National Indian Gaming Commission ("NIGC Chair") in accordance with the Indian Gaming Regulatory Act, 25 U.S.C. §§2701 *et. seq.* ("IGRA");

**WHEREAS**, the Tribal-State Gaming Compact between the State of California and the Tribe ("Compact") requires that all Gaming Activities (as such term is defined in the Compact) authorized to be conducted under the Compact must comply with, among other things, a gaming ordinance duly adopted by the Tribe and approved in accordance with IGRA;

**WHEREAS**, on October 21, 2023, the Executive Committee, pursuant to Tribal Executive Committee Resolution No. T2023-160 approved a gaming ordinance ("Original Gaming Ordinance") and authorized the Tribal Chairman to submit it to the NIGC for approval by the NIGC Chair;

WHEREAS, on October 31, 2023, the Tribal Chairman submitted the Original Gaming Ordinance to the NIGC and after review, the NIGC Office of General Counsel requested certain revisions to it;

**WHEREAS**, the Executive Committee desires to revise the Original Gaming Ordinance in accordance with the NIGC's comments, withdraw the Tribe's request for NIGC approval of the same and to adopt a revised gaming ordinance - the Tejon Indian Tribe Gaming Ordinance (attached hereto as Exhibit A) ("Revised Gaming Ordinance") and to authorize the Tribal Chairman to submit it to the NIGC for approval by the NIGC Chair;

**WHEREAS**, the Executive Committee believes it is in the best interest of the Tribe and its members to adopt the Revised Gaming Ordinance;

**WHEREAS**, the Revised Gaming Ordinance shall supersede the Original Gaming Ordinance which is of no force or effect;

**WHEREAS**, the Revised Gaming Ordinance will become effective upon its approval by the NIGC Chair.

**NOW BE IT THEREFORE RESOLVED**, the Executive Committee hereby (i) withdraws the Tribe's request for the NIGC Chair to approve the Original Gaming Ordinance, (ii) duly adopts and enacts the Revised Gaming Ordinance, (iii) acknowledges that the Revised Gaming Ordinance supersedes the Original Gaming Ordinance which is of no force or effect, and (iv) authorizes the Tribal Chairman to submit the Revised Gaming Ordinance to the NIGC for approval by the NIGC Chair.

[CERTIFICATION FOLLOWS]

# CERTIFICATION

I, the undersigned, as Treasurer of the Tejon Indian Tribe, certify that the Executive Committee of said Tribe is composed of eight (8) members, of whom  $\underline{8}$ , constituting a quorum, were present at a regular meeting thereof, duly called, noted, convened and held this 16<sup>th</sup> day of December, 2023; and that the foregoing Resolution was duly adopted by a vote of  $\underline{7}$  members in favor,  $\underline{0}$  opposed, and  $\underline{0}$  abstaining.

Dated this 16<sup>th</sup> day of December, 2023

Octavio Escobedo III, Tribal Chairman

ATTEST: Nudal Robert Nadal, Treasurer

#### **TEJON INDIAN TRIBE**

## **GAMING ORDINANCE**

#### ENACTED: December 16, 2023

#### SECTION 1: PURPOSE

The Tribal Executive Committee of the Tejon Indian Tribe ("Tribe"), empowered by the Tribe's Constitution, as amended on October 15, 2022, and as may be amended in the future ("Constitution"), to enact ordinances, hereby enacts this Gaming Ordinance ("Ordinance") to govern and regulate the operation of Class II and Class III gaming operations on the Tribe's Indian Lands.

#### SECTION 2: <u>APPLICABILITY</u>

Unless specifically indicated otherwise, all provisions of this Gaming Ordinance shall apply to Class II and Class III gaming on the Tribe's Indian Lands.

#### SECTION 3: <u>DEFINITIONS</u>

The following terms shall have the following meanings, and if such terms are defined in the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 *et seq.* ("IGRA") or the National Indian Gaming Commission ("NIGC") regulations, 25 C.F.R. §§ 500 *et seq.*, they shall have the same meaning and effect as those same terms are defined in IGRA and NIGC's regulations:

- (a) "Class II gaming" means Class II gaming as defined at 25 U.S.C. § 2703(7) and/or in NIGC regulation § 502.3, each as may be amended.
- (b) "Class III gaming" means Class III gaming as defined at 25 U.S.C. § 2703(8), and/or in NIGC regulation § 502.4, each as may be amended.
- (c) "Commission" or "Gaming Commission" means the Tribe's Gaming Commission, an independent governmental entity authorized by Tribal law to regulate gaming conducted pursuant to IGRA, established herein to perform regulatory oversight and to monitor compliance with applicable tribal, federal, and state regulations.
- (d) "Commissioner" or "Gaming Commissioner" means a tribal gaming commissioner who is a member of the Commission.
- (e) "Directly related to" means a spouse, child, parent, grandparent, grandchild, or sibling.
- (f) "FBI" means the Federal Bureau of Investigation, an agency of the United

States Department of Justice.

- (g) "Facility License" means a separate license issued by the Gaming Commission to each place, facility, or location on the Tribe's Indian Lands where the Tribe elects to allow Class II or Class III gaming.
- (h) "Financial Source" means any person or entity who, directly or indirectly, extends financing to the Gaming Facility or Gaming Operation or as otherwise defined under the Tribal-State Compact.
- (i) "Gaming Activities" means Class II Gaming and Class III Gaming conducted on the Tribe's Indian Lands.
- (j) "Gaming Employee" means any natural person who is an employee of the Gaming Operation and (i) conducts, operates, maintains, repairs, accounts for, or assists in any Gaming Activities, or is in any way responsible for supervising such Gaming Activities or persons who conduct, operate, maintain, repair, account for, assist, or supervise any such Gaming Activities, (ii) is in a category under federal or Tribal gaming law requiring licensing, or (iii) is a person whose employment duties require or authorize access to restricted areas of the Gaming Facility that are not open to the public. "Gaming Employee" does not include members or employees of the Gaming Commission.
- (k) "Gaming Facility" means any building or structure in which Gaming Activities are conducted.
- (1) "Gaming Operation" means each economic entity of the Tribe that is licensed by the Gaming Commission, operates the Gaming Activities, receives the revenues, issues the prizes, and pays the expenses. A Gaming Operation may be operated by the Tribe directly, by a Tribal agency, or by a management contractor under a Management Contract, or, under certain conditions, by another person or entity.
- (m) "Gaming Resources" means any goods or services provided or used in connection with Gaming Activities, whether exclusively or otherwise, including, but not limited to, equipment, furniture, gaming devices, and ancillary equipment, implements of Gaming Activities such as playing cards, furniture designed primarily for Gaming Activities, maintenance or security equipment and services, and gaming consulting services, or as otherwise defined under the Tribal-State Compact. "Gaming Resources" does not include professional accounting and legal services.
- (n) "Gaming Resource Supplier" means any person or entity who, directly or indirectly, does, or is deemed likely to, manufacture, distribute, supply, vend, lease, purvey, or otherwise provide, to the Gaming Operation or Gaming

Facility at least twenty-five thousand dollars (\$25,000) in Gaming Resources in any twelve (12)-month period, or who, directly or indirectly, receives, or is deemed likely to receive, in connection with the Gaming Operation or Gaming Facility, at least twenty-five thousand dollars (\$25,000) in any consecutive twelve (12)-month period, provided that the Gaming Commission may exclude a purveyor of equipment or furniture that is not specifically designed for, and is distributed generally for use other than in connection with, Gaming Activities, if, but for the purveyance, the purveyor is not otherwise a Gaming Resource Supplier, the compensation received by the purveyor is not grossly disproportionate to the value of the goods or services provided, and the purveyor is not otherwise a person who exercises a significant influence over the Gaming Operation.

- (o) "IGRA" means the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 *et seq.*, and any and all regulations promulgated pursuant thereto.
- (p) "Indian Lands" means:
  - (1) Land within the limits of an Indian reservation; or
  - (2) Land over which an Indian tribe exercises governmental power and that is either
    - A. Held in trust by the United States for the benefit of any Indian tribe or individual; or
    - B. Held by an Indian tribe or individual subject to restriction by the United States against alienation.
- (q) "Key Employee" means:
  - (1) A person who performs one or more of the following functions for the Gaming Operation:
    - A. Bingo caller.
    - B. Counting room supervisor.
    - C. Chief of security.
    - D. Floor manager.
    - E. Pit boss.
    - F. Dealer.
    - G. Croupier.
    - H. Approver of credit.
    - I. Custodian of gaming systems as defined in 25 C.F.R. § 547.2 and similar class III systems, gaming cash or gaming cash equivalents, gaming supplies or gaming system records.

- J. Custodian of surveillance systems or surveillance system records.
- (2) Any Gaming Operation employee authorized by the Gaming Operation for unescorted access to secured gaming areas designated as secured gaming areas by the Gaming Commission.
- (3) If not otherwise included in this subsection, the four (4) persons most highly compensated by the Gaming Operation.
- (4) Any other employee of the gaming enterprise (as such term is defined by NIGC regulations) as documented by the Gaming Commission as a Key Employee.
- (r) "Licensee" means a tribally owned Class II or Class III Gaming Operation or a person licensed by the Commission as a Primary Management Official, Key Employee, other Gaming Employee, Gaming Resource Supplier, Management Contractor or Financial Source required to be licensed under the provisions of this Ordinance.
- (s) "Management Contract" means any contract, subcontract, or collateral agreement between an Indian tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a Gaming Operation.
- (t) "Management Contractor" means any Gaming Resource Supplier with whom the Tribe has contracted for the management of any Gaming Activity or Gaming Facility, including, but not limited to, any person who would be regarded as a management contractor under IGRA.
- (u) "Net Revenues" means gross gaming revenues of each Gaming Operation less:
  - (1) Amounts paid out as, or paid for, prizes; and
  - (2) Total gaming-related operating expenses, including all those expenses of the Gaming Operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.
- (v) "NIGC" means the National Indian Gaming Commission established pursuant to IGRA, 25 U.S.C. § 2704.
- (w) "Primary Management Official" means:
  - (1) Any person(s) having management responsibility for a Management Contract.

- (2) Any person who has authority:
  - A. To hire and fire employees of the Gaming Operation; or
  - B. To establish policy for the Gaming Operation.
- (3) The chief financial officer or a position with duties similar to a chief financial officer.
- (4) The general manager or a position with duties similar to a general manager.
- (5) Any other employed management official of the gaming enterprise (as such term is defined by NIGC regulations) as documented by the Gaming Commission as a Primary Management Official.
- (x) "State Gaming Agency" has the meaning ascribed to it in the Tribal-State Compact.
- (y) "Tribal Executive Committee" means the Tribe's governing body as described in Article VI of the Constitution of the Tribe.
- (z) "Tribal-State Compact" means an agreement between the Tribe and State of California about Class III Gaming under 25 U.S.C. § 2710(d) or Secretarial Procedures pursuant to 25 U.S.C. § 2710(d)(7).
- (aa) "Tribe" means the Tejon Indian Tribe, a federally recognized Indian tribe.

# SECTION 4: GAMING AUTHORIZED

Class II and Class III Gaming are authorized to be conducted on the Tribe's Indian Lands, if such gaming is conducted in accordance with this Ordinance, IGRA, the NIGC's regulations, any other applicable laws or regulations, and as applicable, the Tribal-State Compact.

## SECTION 5: <u>OWNERSHIP OF GAMING</u>

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

## SECTION 6: <u>USE OF NET GAMING REVENUES</u>

Net Revenues from tribal gaming shall be used only for the following purposes:

- (a) to fund the Tribe's government operations or programs;
- (b) to provide for the general welfare of the Tribe and its members;

- (c) to promote Tribal economic development;
- (d) to donate to charitable organizations; or
- (e) to help fund operations of local government agencies.

## SECTION 7: <u>PER CAPITA PAYMENTS</u>

Net revenues from any Gaming Activities conducted by the Tribe or licensed by the Gaming Commission may be used to make per capita payments to Tribal members if:

- (a) The Tribe has prepared a plan to allocate revenues to one or more of the five (5) uses authorized by Section 6 of this Ordinance;
- (b) The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in Sections 6(a) and 6(c) of this Ordinance;
- (c) The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and 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; and
- (d) The per capita payments are subject to federal taxation and the Tribe notifies its Tribal members of such tax liability when payments are made.

# SECTION 8: GAMING COMMISSION

- (a) The Tribe hereby establishes the Gaming Commission to regulate the Gaming Operation. The Commission shall consist of three (3) members or such other number as determined by the Tribal Executive Committee and may include a Chair, Vice-Chair and other Commissioner(s).
- (b) The Gaming Commission shall have jurisdiction over the regulation of the Gaming Operations and Gaming Facilities. The Commission shall conduct oversight to ensure compliance with applicable Tribal, federal, and if applicable, state laws and regulations. It will serve as the licensing authority for individuals employed in the Gaming Operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the Gaming Operation's internal controls and in tracking gaming revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the Gaming Operation and to all its records. The Commission shall have authority to take enforcement actions, including suspension or revocation of

an individual gaming license, when appropriate.

- (c) Commissioner positions, including the Chair and Vice-Chair, shall be filled through appointment by the Tribal Executive Committee. The Tribal Executive Committee shall fill any vacancy on the Commission for the balance of the term for the Commission position that becomes vacant. The Tribal Executive Committee shall seek to fill a Commission position within thirty (30) days of it becoming vacant.
- (d) Terms of office for members of the Commission shall be as follows: the Chair shall serve an initial term of one year, with subsequent Commission Chairs serving 3-year terms; and the Vice-Chair and other Commissioners shall serve an initial term of two (2) years, with subsequent Vice-Chairs and Commissioners serving 3-year terms. If additional Commissioner positions are added, the Commissioners filling those new positions will serve an initial term of two (2) years, with subsequent Commissioners serving 3-year terms.
- (e) The following persons are not eligible to serve as members of the Gaming Commission:
  - (1) Tribal Executive Committee members, while serving as such.
  - (2) Current employees of the Gaming Operation.
  - (3) Persons who own, operate, or are employed by any business or other entity that conducts business with the Gaming Operation.
  - (4) Persons directly related to, or sharing a residence with, any of the above.
  - (5) Persons who are ineligible to be Key Employees or Primary Management Officials.
- (f) Non-members of the Tribe previously convicted of any felony, or misdemeanor offense of embezzlement, theft or any other money-related or honesty-related misdemeanor offense, cannot serve as a Commissioner. Members of the Tribe previously convicted of any felony, or misdemeanor offense of embezzlement, theft or any other money-related or honestyrelated misdemeanor offense, will only be allowed to serve as a Commissioner if the Tribal Executive Committee specifically finds that a significant amount of time has passed and the member of the Tribe is now rehabilitated and of trustworthy character.
- (g) The Tribal Executive Committee shall require a background investigation for each Commissioner candidate, shall review the candidate's background investigation results, and shall make an appropriate eligibility

determination before appointing an individual to the position of Commissioner. The Tribal Executive Committee shall not appoint any person whose criminal record, if any, reputation, habits, or associations, in the determination of the Tribal Executive Committee, pose a threat to the public interest, threaten the effective regulation and control of gaming, or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming.

- (h) The Commission shall be independent of, and act independently and autonomously from, the Tribal Executive Committee in all matters within its purview.
- (i) Commissioners shall comply with the Tribe's Code of Ethics, shall be bound by the following principles and:
  - (1) shall not be employed by, or have any direct or indirect pecuniary interest in, any entity that is a party to a management contract or other gaming-related contract with the Tribe;
  - (2) shall not be employed by any gaming operation or related facilities;
  - (3) shall not participate in the approval, denial or renewal of any application for a gaming license by, or participate in the revocation or suspension of any license granted hereunder to, any parent, spouse, sibling, or children of such member;
  - (4) shall not engage in any business, transaction or professional activity, incur any obligation of any nature, or hold financial interests which conflicts with the proper discharge of his or her official duties as regulators;
  - (5) shall not solicit or accept any gift or other item of monetary value, including complimentary items or services, from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the Gaming Commission, or whose interests may be substantially affected by the performance or nonperformance of the members' duties;
  - (6) shall not use his or her Commission position for private gain;
  - (7) shall act impartially, in accordance with applicable laws, and shall not give preferential treatment to any private organization or individual, including to any persons related to the Commissioner;
  - (8) shall not engage in outside employment or activities, including seeking or negotiating future employment, that conflict with his or her

Commissioner duties and responsibilities;

- (9) shall not be employed by, or have any direct or indirect pecuniary interest in any entity that is a party to a Management Contract or other gaming-related contract with the Tribe;
- (10) shall disclose any real or apparent financial or personal conflicts and if there is a real conflict or the appearance of one, shall not take part in any decision related to the conflict; and
- (11) shall not gamble in the Gaming Facility.
- (j) Commissioners may only be removed from the position of Commissioner by the Tribal Executive Committee prior to the expiration of their respective terms, for neglect of duty, misconduct, embezzlement, malfeasance, or other acts that would render a Commissioner unqualified for the position. Commissioners shall be removed from the position of Commissioner for any criminal indictment or conviction.
- (k) The Commission's duties and powers shall include, but not be limited to, the following:
  - Conduct background investigations, or cause such investigations to be conducted, for Primary Management Officials, Key Employees, Gaming Employees, Gaming Resource Suppliers, Management Contractors, and if required to be licensed under the Tribal-State Compact, Financial Sources.
  - (2) Review and approve all investigative work conducted in connection with the background investigations of Primary Management Officials and Key Employees.
  - (3) Create and maintain investigative reports based on the background investigations of Primary Management Officials and Key Employees.
  - (4) Designate a law enforcement agency to obtain and process fingerprints and conduct a criminal history check that shall include a check of criminal history records information maintained by the FBI.
  - (5) Make licensing eligibility determinations, which shall be signed by the Chair of the Commission.
  - (6) Submit a notice of results to the NIGC of the background investigations done for each Primary Management Official and Key Employee applicant.
  - (7) If warranted by the eligibility determination, issue licenses to Primary

Management Officials, Key Employees, Gaming Employees, Gaming Resource Suppliers and Financial Sources.

- (8) Establish standards for licensing Tribal Gaming Facilities.
- (9) Issue gaming licenses to Tribal Gaming Facilities when appropriate.
- (10) Inspect, examine, and monitor all Gaming Activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the Gaming Facility and Gaming Operation.
- (11) Ensure compliance with all applicable tribal, federal, and state laws, rules, and regulations regarding Indian gaming.
- (12) Investigate any suspicion of wrongdoing associated with any Gaming Activities.
- (13) Hold hearings on patron gaming complaints, in accordance with procedures established in this Ordinance and the Commission's regulations.
- (14) Comply with any and all reporting requirements under IGRA, the NIGC's regulations and the Tribal-State Compact, and any other applicable law.
- (15) Promulgate and issue regulations necessary to comply with applicable internal control standards.
- (16) Promulgate and issue regulations on the levying of fees and taxes associated with gaming license applications.
- (17) Promulgate and issue regulations on the levying of fines, sanctions, and the suspension or revocation of gaming licenses for violations of this Ordinance or IGRA, interference with the Tribe's gaming regulatory requirements under IGRA, the Gaming Ordinance, or the Tribal-State Compact, or other violations of any applicable tribal, federal, or state gaming regulations.
- (18) Establish a list of persons not allowed to game in the Gaming Facilities in order to maintain the integrity of the Gaming Operation.
- (19) Establish a list of persons who have voluntarily agreed to be excluded from the Gaming Facilities and create regulations for enforcing the exclusions.
- (20) Provide referrals and information to the appropriate law

enforcement officials when such information indicates a violation of applicable tribal, federal, or state statutes, ordinances, regulations, codes, or resolutions.

- (21) Create a list of regulatory authorities that conduct background investigations of, and license, vendors who are recognized as trustworthy.
- (22) Draft regulations exempting vendors from the licensing and background investigation requirements if they have received a license from a recognized regulatory authority.
- (23) Perform such other duties the Commission deems appropriate for the proper regulation of the Gaming Operation.
- (24) Promulgate such regulations and guidelines as deemed appropriate to implement the provisions of this Ordinance, so long as they are in furtherance of, and not in conflict with, any provisions of this Ordinance.
- (l) Before adopting, amending, and repealing regulations, the Commission shall give notice of any such proposed action to the Tribal Executive Committee, each Gaming Operation, and all other persons whom the Commission has reason to believe have a legitimate interest in the proposed action. The notice shall invite comments and describe the general nature of the proposed action and the manner in which comments on the proposed action shall be received by the Commission.
- (m) The Commission shall ensure that all records and information obtained as a result of an employee background investigation, including the identity of each person interviewed in the course of an investigation, shall remain confidential and shall not be disclosed to any 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 members of management, human resource personnel, and others employed by the Gaming Operation on a need-to-know basis, for actions taken in their official capacities.
- (n) The confidentiality requirements of Section 8(m) do not apply to requests for such records or information from any tribal, federal, or state law enforcement or regulatory agency, or for the use of such records or information by the Commission and staff in the performance of their official duties, or for disclosures of such records or information otherwise required by law.
- (o) A majority of the Commission shall constitute a quorum. The concurrence

of a majority of the Commissioners shall be required for any final determination by the Commission. The Commission may act in its official capacity, even if there are vacancies on the Commission.

- (p) Commissioners shall be compensated at a level determined by the Tribal Executive Committee as set forth in an annual operating budget. To ensure no improper influence on the Commission, a Commissioner's compensation shall not be based on a percentage of gaming revenue.
- (q) The Commission shall keep a written or recorded record of all its meetings.
- (r) The Commission shall adopt an annual operating budget, subject to Tribal Executive Committee approval. The Commission may, consistent with its budget, employ a staff as it deems necessary to fulfill the Commission's responsibilities under this Ordinance and may retain legal counsel, consultants, and other professional services, including investigative services, to assist the Commission with its responsibilities under this Ordinance. The expenses of the Commission identified in its annual operating budget shall be appropriated by the Tribal Executive Committee from the revenues of the Gaming Operation, unless otherwise determined by resolution of the Tribal Executive Committee.
- (s) The Tribal Executive Committee may establish, by a duly approved resolution of the Tribal Executive Committee, the position of Commission Executive Director ("Executive Director"), in which case, the following shall apply:
  - (1) The Executive Director shall be selected by the Tribal Executive Committee in accordance with the Tribe's employment policies; provided, however, the Gaming Commission must approve the Executive Director.
  - (2) The Executive Director may not be a member of the Tribal Executive Committee, a member of the Board of Directors of the Gaming Authority, or an elected official of the Tribe.
  - (3) The Executive Director must have at least five (5) years of administrative experience in public or business administration or other relevant work experience and possess broad management skills and have as a minimum a degree in business administration, law, accounting, criminal justice or like degree from an accredited college or university. Notwithstanding these requirements, a candidate with ten (10) or more years of experience in management positions in a gaming regulatory body may be selected and serve as the Executive Director.

- (4) The Executive Director shall not be engaged in any other business or occupation or hold public office unless approved by the Tribal Executive Committee and the Gaming Commission.
- (5) The Executive Director shall not have any pecuniary or other interest in any business or entity holding a license under this Ordinance or doing business with any person or entity licensed under this Ordinance.
- (6) The Executive Director shall report to the Gaming Commission and shall provide to the Gaming Commission such administrative services that the Gaming Commission may deem necessary or desirable in carrying out its functions and/or the administration and implementation of this Ordinance, and shall

(i) have the authority to make decisions regarding licensing and compliance in accordance with this Ordinance, subject to the Gaming Commission's rights with respect to licensing;

(ii) oversee all investigations, including required background investigations, and suspend, revoke, issue or deny any licenses in accordance with this Ordinance;

(iii) have the authority, with the prior written approval of the Gaming Commission and in accordance with the Gaming Commission's budget, hire, in accordance with the Tribe's employment policies, such professional, clerical, technical and administrative personnel as may be necessary to carry out the provisions of this Ordinance;

(iv) direct and supervise all administrative actions of the Gaming Commission;

(v) bring suit on behalf of the Gaming Commission, after consultation with and approval by the Gaming Commission, and subject to the limitations set forth herein;

(vi) make, execute and effectuate any and all agreements or contracts on behalf of the Gaming Commission, including contracts for the purchase of goods and services as are necessary; provided, however, any agreement or contract that contains a waiver of the sovereign immunity of the Gaming Commission must be approved by the Gaming Commission;

(vii) maintain such files, records and other information that the Gaming Commission is required to maintain under this Ordinance

in accordance with and for such time periods as required by this Ordinance; and

(viii) perform such other duties as assigned by the Gaming Commission or as the Executive Director deems necessary to effectuate the purposes of this Section 8(s).

#### SECTION 9: <u>AUDITS</u>

- (a) Each Gaming Operation shall prepare comparative financial statements of all financial activities of the Gaming Operation and the Tribe shall cause to be conducted annually independent audits of the financial statements of each Gaming Operation and shall submit the results of those audits to the NIGC.
- (b) Annual audits and financial statements shall conform to generally accepted auditing standards and applicable NIGC regulations.
- (c) All gaming-related contracts that result in the purchase of supplies, services, or concessions for more than \$25,000 in any year (except contracts for professional legal or accounting services) shall be specifically included within the scope of the audit conducted hereunder.
- (d) Copies of the annual audit of each licensed Gaming Operation, and each audit for supplies, services, or concessions of each Gaming Operation, shall be furnished to the NIGC within one hundred twenty (120) days after the end of each fiscal year of the Gaming Operation pursuant to the requirements of 25 C.F.R. part 571, Subpart D (Audits), as may be amended.

#### SECTION 10: ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

- Each Gaming Facility shall be constructed, maintained, and operated in a manner that (i) adequately protects the environment and the health and safety of the public, and (ii) complies with the requirements of this Ordinance and the Tribal-State Compact.
- (b) No person under the age of twenty-one (21) shall be present in any area in which Gaming Activities are being conducted unless that person is enroute to a non-gaming area of the Gaming Facility or is employed at the Gaming Facility in a non-gaming capacity; provided, however, such employees shall not participate in Gaming Activities and shall not loiter in areas in which Gaming Activities are being conducted.
- (c) The possession of firearms by any person in the Gaming Facility is prohibited at all times, except for federal, state, and local law enforcement

and security personnel authorized by tribal law and federal or state law to possess firearms at the gaming facility.

(d) The Gaming Commission shall identify and enforce laws, resolutions, codes, policies, standards, or procedures which are applicable to each gaming place, facility or location, to ensure adequate protection of the environment and the health and safety of the public.

## SECTION 11: PATRON DISPUTES

The Gaming Commission shall promulgate regulations governing patron disputes over the play or operation of any gaming, including any refusal to pay to a patron any alleged winnings from any Gaming Activities, as set forth in the Tribal-State Compact.

#### SECTION 12: FACILITY LICENSES

- (a) The Tribe shall issue a separate license to each place, facility, or location on the Tribe's Indian Lands where Class II and/or Class III Gaming is conducted under this Ordinance.
- (b) The Commission is responsible for issuing new or renewed facility licenses to each place, facility, or location.
- (c) The Commission shall require that a facility license application be completed by the chief management official of the gaming facility for each gaming place, facility, or location.
- (d) The Commission shall identify the environmental, health, and public safety standards with which the place, facility, or location must comply, and specify the form, conditions, and content of a facility license application. The application shall include a legal description of the lands upon which the facility is located and a certification that the site constitutes "Indian lands," as defined in IGRA, the NIGC's regulations, the NIGC Office of General Counsel's and DOI Solicitor Office's Indian lands legal opinions, judicial decisions, and any other applicable law.
- (e) The Commission shall only issue a facility license if the application includes the required information and documentation, and sufficiently satisfies any additional conditions deemed necessary by the Tribe.
- (f) The Tribe or Commission shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Commission. The notice must include information or documentation as required under 25 C.F.R. part 559, as may be amended, and must be submitted at least one hundred twenty (120) days before the opening of any new place, facility, or location on Indian lands where Class II and/or Class III

Gaming will occur.

- (g) The Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within thirty (30) days of issuance, along with any other required documentation, including an attestation certifying that by issuing the facility licenses, the Tribe has determined that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner which adequately protects the environment and the public health and safety.
- (h) The Tribe shall notify the NIGC Chair within thirty (30) days if a facility license is terminated or expires, or if a gaming place, facility, or location closes or reopens.

# SECTION 13: AGENT FOR SERVICE OF PROCESS

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

# SECTION 14: TRIBAL ACCESS TO FINANCIAL INFORMATION

A copy of each Gaming Operation's annual audit will be made available for review to the Tribal Executive Committee.

# SECTION 15: TRIBAL INTERNAL CONTROL STANDARDS

The Tribe shall adopt and implement internal control standards for the conduct of Class II Gaming activities to the extent such standards are required under federal law and for the conduct of Class III Gaming activities to the extent such standards are required under the Tribal-State Compact.

## SECTION 16: GENERAL LICENSING REQUIREMENTS

The following persons and entities are required to be licensed by the Gaming Commission:

- (a) All Gaming Employees, including Key Employees and Primary Management Officials, employed at any Gaming Operation;
- (b) Gaming Resource Suppliers;
- (c) Any Financial Source that is not otherwise excluded from licensing at the discretion of the Gaming Commission and consistent with the Tribal-State Compact;
- (d) Management Contractors; and

(e) Any other person having a significant influence over the Gaming Operation, as determined by the Gaming Commission.

# SECTION 17: LICENSE APPLICATION FORMS

(a) The following notice shall be placed on the Tribe's license application form for a Key Employee or a Primary Management Official before it is filled out by an applicant:

> In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a Gaming Operation. Failure to consent to the disclosures indicated in this notice will result in a tribe being unable to license you for a Primary Management Official or Key Employee position.

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

(b) The following additional notice shall be placed on the application form for a Key Employee or a Primary Management Official before it is filled out by an applicant:

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

#### SECTION 18: <u>LICENSE FEES</u>

The Gaming Commission shall establish, by regulation, a fee schedule for licenses to cover its expenses in investigating and licensing persons and entities required to be licensed by this Ordinance. License application fees shall be nonrefundable, regardless of whether a license is issued. Such fees shall be made payable to the Gaming Commission.

#### SECTION 19: <u>BACKGROUND INVESTIGATIONS</u>

- (a) The Gaming Commission shall perform a background investigation for each applicant for a gaming license. The Gaming Commission is responsible for conducting the background investigations of gaming license applicants (other than the Gaming Commissioners themselves).
- (b) The Gaming Commission shall conduct or cause to be conducted, an investigation sufficient to make an eligibility determination of a gaming license applicant under this Ordinance and is responsible for conducting the background investigations of Primary Management Officials, Key Employees and Gaming Employees. The background investigation for Primary Management Officials and Key Employees shall include a check of criminal history records information maintained by the FBI.
- (c) The Tribe shall request fingerprints from each Primary Management Official, Key Employee and Gaming Employee. The law enforcement agency designated to take fingerprints shall be designated by resolution of the Commission.
- (d) The Commission shall request from each Primary Management Official, Key Employee and Gaming Employee all the following information:
  - (1) Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender, and all languages (spoken or written).
  - (2) Currently, and for the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers.
  - (3) The names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (d)(2) of this Section.
  - (4) Current business and residential telephone numbers, and all cell phone

numbers.

- (5) A description of any existing and previous business relationships with other tribes, including any ownership interests in those businesses.
- (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses.
- (7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted.
- (8) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date of disposition, if any.
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date of disposition, if any.
- (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraphs (d)(8) or (d)(9) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any.
- (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 six (6) months.
- (13) Fingerprints obtained in accordance with procedures adopted by the Tribe pursuant to 25 C.F.R. § 522.2(h).
- (14) Any other information the Gaming Commission deems relevant.
- (e) When a Primary Management Official or Key Employee is licensed by the Gaming Commission, the Gaming Commission shall maintain a complete application file, containing all of the information listed in paragraph (d) of this Section.
- (f) The Commission, and its investigators, shall keep confidential the identity of each person interviewed in the course of conducting a background

investigation.

## SECTION 20: <u>PROCEDURES FOR CONDUCTING BACKGROUND</u> INVESTIGATIONS

- (a) The Commission, or its agent, shall employ or engage an investigator to conduct a background investigation of each applicant for a gaming license. The background investigation must be sufficient for the Commission to make an eligibility determination under this Ordinance. In lieu of conducting its own background investigation, and to the extent that doing so does not conflict with or violate IGRA or this Ordinance, the Gaming Commission or the Tribe may contract with the State Gaming Agency for the conduct of background investigations, may rely on State determinations of suitability previously issued under a Class III Gaming compact involving another tribe and the State, or may rely on a State Gaming Agency license previously issued to an applicant, to fulfill some or all of the Gaming Commission's background investigation state.
- (b) When conducting a background investigation, an investigator shall:
  - (1) Verify the applicant's identity through items such as a social security card, driver's license, birth certificate, or passport.
  - (2) Contact each personal and business reference provided in the license application, when possible.
  - (3) Conduct a personal credit check.
  - (4) Conduct a civil history check, which may include, among other things, past or outstanding judgments, current liens, and past or pending lawsuits.
  - (5) Conduct a criminal history records check.
  - (6) Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony or misdemeanor convictions or ongoing prosecutions within the past ten (10) years.
  - (7) Inquire into any previous or existing business relationships with the gaming industry, including with any tribes with gaming operations, by contacting the entities or tribes.
  - (8) Verify the applicant's history and current status with any licensing agency by contacting the agency.

(9) Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

# SECTION 21: INVESTIGATIVE REPORTS

- (a) The Gaming Commission shall create and maintain an investigative report for each background investigation of a Primary Management Official or Key Employee.
- (b) Investigative reports shall include (i) the steps taken in conducting the investigation, (ii) results obtained, (iii) conclusions reached, and (iv) the basis for those conclusions.
- (c) If, in the course of a background investigation, the Gaming Commission discovers that an applicant has a notice of results on file with the NIGC from a prior investigation and the Gaming Commission has access to the earlier investigative materials, the Gaming Commission may rely on those materials and update the investigation and investigative report to be provided to the NIGC.

## SECTION 22: ELIGIBILITY DETERMINATIONS

- Before a license is issued to a Primary Management Official or Key (a) Employee, the Gaming Commission shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits, and associations. A license may not be issued unless the Gaming Commission is satisfied (i) the applicant is a person of good character, honesty and integrity; (ii) the applicant's prior activities, criminal record (if any), reputation, habits, and associations do not 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, methods, or activities in the conduct of gaming, or in the carrying on of the business and financial arrangements incidental thereto; and (iii) the applicant is in all other respects qualified to be licensed as provided, and meets the criteria established in this Ordinance, the Tribal-State Compact, IGRA, NIGC regulations, and any other criteria adopted by the Gaming Commission or the Tribe; provided, however, an Applicant shall not be found to be unsuitable solely on the ground that the Applicant was an employee of a tribal gaming operation in California that was conducted prior to May 16, 2000. In making findings concerning the eligibility of license applicants, the Gaming Commission may take into consideration any of the following circumstances:
  - (1) If the applicant knowingly and intentionally provided false statements or information or omitted relevant information on the application, or otherwise misrepresented or failed to disclose a

material fact to the Gaming Commission;

- (2) If the prior activities, criminal record, reputation, habits and associations of the person indicate that the person may be a threat to the public interest or to the effective regulation and control of gaming;
- (3) If association with or employment of the applicant creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;
- (4) If the applicant has violated, failed, or refused to comply with the provisions, requirements, conditions, limitations, or duties imposed by any provision of this Ordinance or the Tribal-State Compact, or possesses knowledge that such violation has occurred upon any premises occupied or operated by any such person or over which he or she has/had substantial control;
- (5) If the applicant knowingly caused, aided, abetted, or conspired with another to cause any person or entity to violate any of the laws of any jurisdiction, the provisions of this Ordinance or the Tribal-State Compact;
- (6) If the applicant has ever obtained a license by fraud, misrepresentation, concealment, or through inadvertence or mistake;
- (7) If the applicant has ever been convicted of, or forfeited bond upon a charge of, or plead guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payment or reports to any Tribal, State, or U.S. Government agency at any level, or filed false reports therewith, or of any similar offense(s), or of bribing or otherwise unlawfully influencing a public official or employee of a Tribe, a State, or the U.S. Government, or of any felony or misdemeanor involving any gaming activity, physical harm to individuals or moral turpitude;
- (8) If the applicant is subject to current prosecution, pending charges, or a conviction under appeal for any of the offenses listed above. Upon request of the applicant, the Gaming Commission may defer decision on the application pending the results of such prosecution or appeal;
- (9) If the applicant has demonstrated a willful disregard for compliance with a gaming regulatory authority in any jurisdiction or has ever

had a gaming license issued by any State, tribe or foreign gaming regulatory agency suspended, revoked or denied; or

- (10) If the applicant has failed to provide any information requested by the Gaming Commission within fourteen (14) days of the request for the information.
- (b) If the Gaming Commission, in applying the standards adopted in this Ordinance, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices or methods or activities in the conduct of gaming, he or she shall not license that person.
- (c) Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a Primary Management Official or Key Employee.

#### SECTION 23: NOTICE OF RESULTS OF BACKGROUND INVESTIGATIONS

- (a) Before issuing a license to a Primary Management Official or Key Employee, the Gaming Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.
- (b) The notice of results must be submitted to the NIGC no later than sixty (60) days after the applicant begins working for the Tribe.
- (c) The notice of results shall include the following information:
  - (1) The applicant's name, date of birth, and social security number.
  - (2) The date on which the applicant began, or will begin, working as a Primary Management Official or Key Employee.
  - (3) A summary of the information presented in the investigative report, including the following:
    - A. Licenses that have previously been denied;
    - B. Gaming licenses that have been revoked, even if subsequently reinstated;
    - C. Every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
    - D. Every felony offense of which the applicant has been convicted or any ongoing prosecution.

(4) A copy of the eligibility determination.

# SECTION 24: <u>REPORTING TO STATE GAMING AGENCY</u>

- (a) With respect to Gaming Employees, upon receipt of a completed license application and a determination to issue a temporary or permanent license, the Gaming Commission shall transmit within twenty-one (21) days to the State Gaming Agency for a determination of suitability for licensure under the California Gambling Control Act a notice of intent to license the applicant, together with all of the following:
  - (1) A copy of all tribal license application materials and information received by the Gaming Commission from the applicant which is not otherwise prohibited or restricted from disclosure under applicable federal law or regulation;
  - (2) A complete set of fingerprint impressions, rolled by a certified fingerprint roller, which may be on a fingerprint card or transmitted electronically;
  - (3) A current photograph; and
  - (4) Except to the extent waived by the State Gaming Agency, such releases of information, waivers, and other completed and executed forms as have been obtained by the Gaming Commission.
- (b) Upon request, the Gaming Commission shall provide the State Gaming Agency with the name, badge identification number (if any), and job title of all gaming employees.
- (c) Within twenty-one (21) days of the issuance of a license to a Gaming Resource Supplier, the Gaming Commission shall transmit to the State Gaming Agency a copy of the license and a copy of all tribal license application materials and information received by it from the applicant which is not otherwise prohibited or restricted from disclosure under applicable federal law or regulation.
- (d) Within twenty-one (21) days of the issuance of a license to a Financial Source, the Gaming Commission shall transmit to the State Gaming Agency a copy of the license. Upon issuance of a license, the Gaming Commission shall direct the Financial Source licensee to transmit to the State Gaming Agency within twenty-one (21) days a copy of all license application materials and information submitted to the Gaming Commission.

- (e) Prior to renewing a license, the Gaming Commission shall forward to the State Gaming Agency copies of all information and documents received in connection with the application for renewal of the Tribal gaming license, which is not otherwise prohibited or restricted from disclosure under applicable federal law or regulation, for purposes of the State Gaming Agency's consideration of renewal of its determination of suitability.
- (f) Notwithstanding any requirements to the contrary in this Ordinance, if the Tribe operates a Gaming Facility that offers only Class II Gaming and not Class III Gaming, or the Tribe is not otherwise subject to State reporting requirements, the Gaming Commission's reporting and other obligations pursuant to this Ordinance shall be limited to those required under applicable federal law. In such case, the Gaming Commission's ability to issue a license shall not be dependent on receiving a determination of suitability from the State Gaming Agency unless otherwise required by applicable federal law.

## SECTION 25: GRANTING GAMING LICENSES

- (a) All Primary Management Officials, Key Employees, Gaming Employees, Gaming Resource Suppliers, Management Contractors and any entity, including a Financial Source, required to hold a gaming license pursuant to this Ordinance and the Tribal-State Compact must have a valid and active gaming license issued by the Gaming Commission. The Commission is responsible for granting and issuing such gaming licenses. A license is a privilege and not a right, and a license is subject to suspension or revocation at any time. By submitting an application for a gaming license, an applicant is entering into a consensual commercial relationship with the Tribe and consents to its jurisdiction.
- (b) The Commission may license a Primary Management Official or Key Employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC as required under this Ordinance.
- (c) The Commission shall notify the NIGC of the issuance of a license to a Primary Management Official or Key Employee within thirty (30) days of issuance.
- (d) A Key Employee or Primary Management Official who does not have a license after ninety (90) days shall not be permitted to perform the duties, functions, and/or responsibilities of a Key Employee or Primary Management Official until so licensed.
- (e) The Commission must reconsider a license application for a Primary Management Official or Key Employee if it receives a statement of

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

- (f) The Commission shall take the NIGC's objections into account when reconsidering a license application.
- (g) The Commission shall make the final decision whether to issue a license to an applicant for a Primary Management Official or Key Employee position.
- (h) If the Commission has issued a license to a Primary Management Official or Key Employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the Licensee, as required under this Ordinance.
- (i) The Gaming Commission is responsible for issuing licenses and for delivering them, by certified mail, return receipt requested, or in person, to applicants once they are issued.

# SECTION 26: TEMPORARY LICENSES

If an applicant has completed a license application to the satisfaction of the Gaming Commission, and the Gaming Commission has conducted a preliminary background investigation, the Gaming Commission may issue a temporary license and impose such conditions thereon as it deems appropriate pending completion of the licensing process, provided that the Gaming Commission has no information suggesting the applicant would either be automatically disqualified from obtaining a license or that would cause a reasonable person to investigate further before issuing a license. A temporary license shall remain in effect until suspended or revoked, or a final determination is made on the application, for a period of up to one (1) year, whichever occurs first.

# SECTION 27: DENYING GAMING LICENSES

- (a) The Commission shall not license a Primary Management Official, Key Employee, Gaming Employee, Gaming Resource Supplier, Management Contractor and if required by the Tribal-State Compact, Financial Source, if the Gaming Commission determines, in applying the standards for making a license eligibility determination under this Ordinance, that licensing the person or entity:
  - (1) poses a threat to the public interest;
  - (2) poses a threat to the effective regulation of gaming; or
  - (3) creates or enhances the dangers of unsuitable, unfair, or illegal

practices or methods or activities in the conduct of gaming.

- (b) When the Commission does not issue a license to an applicant for a Primary Management Official or Key Employee position, it shall:
  - (1) notify the NIGC; and
  - (2) forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.
- (c) If the Gaming Commission revokes a Key Employee or Primary Management Official's license, it shall:
  - (1) notify the NIGC; and
  - (2) forward copies of its license revocation decision for inclusion in the Indian Gaming Individuals Record System.

#### SECTION 28: GAMING LICENSE SUSPENSIONS AND REVOCATIONS

- (a) If, after a license is issued to a Primary Management Official or a Key Employee, the Tribe receives notice from the NIGC that the person is not eligible for employment, the Commission shall do the following:
  - (1) immediately suspend the license;
  - (2) provide the Licensee with written notice of the suspension and proposed revocation; and
  - (3) provide the Licensee with notice of a time and place for a hearing on the proposed revocation of the license.
- (b) The right to a revocation hearing shall vest upon receipt of a license that is granted under this Ordinance or at such earlier time as is determined by Tribal law, regulation, and/or policy.
- (c) Following a revocation hearing, the Commission shall decide whether to revoke or reinstate the license at issue.
- (d) The Commission shall notify the NIGC of its decision to revoke or reinstate a license within forty-five (45) days of receiving notification from the NIGC that a Primary Management Official or Key Employee is not eligible for employment and shall forward copies of its license revocation decision for inclusion in the Indian Gaming Individuals Record System.

- (e) In the event the State Gaming Agency denies an applicant a determination of suitability or refuses to renew a determination of suitability, the Gaming Commission shall revoke any temporary or conditional license issued to the applicant and deny the applicant a license subject to any exceptions permitted under the Tribal-State Compact and subject to the applicant's appeal rights available under State law.
- (f) The Gaming Commission shall suspend, revoke, or deny a license upon the occurrence of any of the following:
  - (1) Notification by the NIGC as set forth in this Section, that the Licensee is not eligible for a license under this Ordinance;
  - (2) Notification by the State Gaming Agency that it intends to deny an application for a determination of suitability or a renewal of determination of suitability;
  - (3) The Gaming Commission has probable cause to believe that the Licensee has, by act or omission, violated provisions of this Ordinance or the Tribal-State Compact, the Tribe's gaming regulations, any condition of a conditional gaming license, or any other federal, State or Tribal laws or regulations;
  - (4) The Gaming Commission has reason to believe that the continued licensing of a person constitutes a threat to the public health, safety or welfare;
  - (5) The Gaming Commission has reason to believe that the Licensee is involved in any theft, misappropriation, misuse or abuse of Tribal assets;
  - (6) The Gaming Commission has received reliable and credible information from a state or tribal regulatory body that raise concerns about the applicant's suitability;
  - (7) The Licensee fails to disclose any required information on any state or Tribal gaming license application;
  - (8) The Licensee fails to respond to a request from the Gaming Commission within fourteen (14) days of the date of the initial request; or
  - (9) The Licensee's employment with the Gaming Operation is terminated, voluntarily or involuntarily.

#### SECTION 29: <u>RECORDS RETENTION</u>

The Commission shall retain, for no less than three (3) years from the date a Licensee is terminated from employment with the Tribe, the following documentation:

- (a) Application for licensing;
- (b) Investigative reports;
- (c) License eligibility determinations;
- (d) Privacy Act notice; and
- (e) False Statement notice.

# SECTION 30: <u>LICENSES FOR GAMING RESOURCE SUPPLIERS, FINANCIAL</u> SOURCES AND MANAGEMENT CONTRACTORS

- (a) Gaming Resource Suppliers, Financial Sources and any Management Contractor must have a license from the Gaming Commission in order to transact business with the Gaming Operation. Contracts for professional legal and accounting services are excluded from this Section.
- (b) Gaming Resource Suppliers.
  - Every Gaming Resource Supplier shall be licensed by the (1)Gaming Commission prior to the sale, lease or distribution, or further sale, lease, or distribution, of any Gaming Resources to or in connection with the Gaming Operation or Gaming Facility. Except as otherwise provided under the Tribal-State Compact, the Gaming Resource Supplier shall also apply to, and the Tribe shall require it to apply to, the State Gaming Agency for a determination of suitability at least thirty (30) days prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any Gaming Resources to or in connection with the Gaming Operation or Gaming Facility. If the State Gaming Agency denies or revokes a determination of suitability, the Gaming Commission shall immediately deny or revoke the license and shall not reissue any license to that Gaming Resource Supplier unless and until the State Gaming Agency makes a determination that the Gaming Resource Supplier is suitable.
  - (2) Any agreement between the Tribe and a Gaming Resource Supplier shall be deemed to include a provision for its termination without further liability on the part of the Tribe, except for the bona fide payment of all outstanding

sums (exclusive of interest) owed as of, or payment for services or materials received up to, the date of termination, upon revocation or non-renewal of the Gaming Resource Supplier's license by the Gaming Commission based on a determination of unsuitability by the State Gaming Agency. Except as set forth above, the Tribe shall not enter into, or continue to make payments to a Gaming Resource Supplier pursuant to, any contract or agreement for the provision of Gaming Resources with any person or entity whose application to the State Gaming Agency for a determination of suitability has been denied or revoked or whose determination of suitability has expired without renewal.

- (c) Financial Sources.
  - (1) Every Financial Source subject to (and not excluded from) licensing by the Gaming Commission under the Tribal-State Compact shall, contemporaneously with the filing of its tribal license application, apply to the State Gaming Agency for a determination of suitability. In the event the State Gaming Agency denies the determination of suitability, the Gaming Commission shall immediately deny or revoke the license. A Gaming Resource Supplier who provides financing exclusively in connection with the provision, sale or lease of Gaming Resources obtained from that supplier may be licensed solely in accordance with licensing procedures applicable, if at all, to Gaming Resource Suppliers and need not be licensed as a Financial Source under the Tribal-State Compact.
  - (2) Any agreement between the Tribe and a Financial Source shall be deemed to include a provision for its termination without further liability on the part of the Tribe, except for the bona fide repayment of all outstanding sums (including accrued interest) owed as of the date of termination, upon revocation or non-renewal of the Financial Source's license by the Gaming Commission based on a determination of unsuitability by the State Gaming Agency. The Tribe shall not enter into, or continue to make payments pursuant to, any contract or agreement for the provision of financing with any person whose application to the State Gaming Agency for a determination of suitability has been denied or revoked or has expired without renewal.
- (d) Management Contractors.
  - A Management Contractor is a Gaming Resource Supplier and must be licensed by the Commission prior to providing services pursuant to a Management Contract. A Management Contractor is subject to all

provisions of this Ordinance applicable to Gaming Resource Suppliers, including, without limitation, Section 30(b).

- (2) The Gaming Commission may require and obtain the following information from a Management Contractor:
  - A. The name, address and other additional pertinent background information on each person (including in cases involving entities, each individual, partner, officer, shareholder holding, directly or indirectly, ten percent (10%) or more of the issued and outstanding shares, and director comprising such entity) having a direct financial interest in, or management responsibility for, such Management Contract;
  - B. A complete financial statement of each person listed pursuant to subsection (d)(2)(A); and
  - C. Such other information as the Gaming Commission deems necessary for the Gaming Commission to make a licensing decision.
- (3) The Gaming Commission may require Management Contractors to pay a fee as set by the Gaming Commission from time to time to cover the costs of investigations necessary to reach a suitability determination under this Ordinance.
- (4) In lieu of conducting its own background investigation, and to the extent that doing so does not conflict with or violate IGRA or this Ordinance, the Gaming Commission may rely upon determinations referenced in Section 20(a) and NIGC determinations of suitability of individuals associated with a Management Contractor as evidenced by the approval of the Management Contract by the Chair of the NIGC.
- (e) All exemptions and exclusions from suitability or licensure for Gaming Resource Suppliers, Financial Sources, Management Contractors and Gaming Employees permitted by the Tribal-State Compact are hereby incorporated in this Ordinance.

# SECTION 31: <u>SUBMISSION OF GAMING RESOURCE SUPPLIER LICENSE</u> <u>APPLICATION</u>

Gaming Resource Suppliers (excluding Management Contractors) and Financial Sources required to be licensed under the Tribal-State Compact must complete a Gaming Resource Supplier license application and submit to background checks of itself and its principals. Principals of a business include those officers, directors, managers, owners, partners, and non-institutional stockholders that either own ten percent (10%) or more of the business' stock or are the ten (10) largest stockholders, as well as the on-site supervisors or managers designated in an agreement with the Tribe or Gaming Operation, if applicable.

# SECTION 32: <u>CONTENTS OF THE GAMING RESOURCE SUPPLIER LICENSE</u> <u>APPLICATION</u>

- (a) Applications for a Gaming Resource Supplier license must include the following:
  - (1) Name of business, business address, business telephone number(s), federal tax identification number (or social security number, if a sole proprietorship), main office address (if different from business address), any other names used by the applicant in business, and type of service(s) applicant will provide.
  - (2) Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity.
  - (3) If the applicant is a corporation, the state of incorporation and the qualification to do business in the State of California if the Gaming Operation is in a different state than the state of incorporation.
  - (4) Trade name, other names ever used, and names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals.
  - (5) General description of the business and its activities.
  - (6) Whether the applicant will be investing in, or loaning money to, the Gaming Operation, and if so, how much.
  - (7) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses.
  - (8) A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial, or management interests in any non-gaming activity (on a case by case basis the Commission may determine if the listing does not need to be all-inclusive, for example, where a vendor has extensive interaction with numerous Indian tribes).
  - (9) Names, addresses, and telephone numbers of three (3) business references with whom the company has regularly done business for the last five (5) years.

- (10) The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted.
- (11) If the business has ever had a license revoked for any reason, the circumstances involved.
- (12) A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any.
- (13) A list of the business' funding sources and any liabilities of Fifty Thousand Dollars (\$50,000) or more (unless a higher dollar amount is established by the Commission).
- (14) A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles, and percentage of ownership in the company.
- (15) Any further information the Commission deems relevant.
- (b) The following notice shall be placed on the application form for a Gaming Resource Supplier and its principals:

Inclusion of false or misleading information in the Gaming Resource Supplier application may be grounds for denial or revocation of the Tribe's Gaming Resource Supplier license.

(c) A Gaming Resource Supplier may submit to the Commission a copy of a recent license application to another jurisdiction if it contains the information listed above. The Gaming Resource Supplier will be required to submit, in writing, any changes in the information since the other license application was filed, and any information requested by the Commission not contained in the other application.

## SECTION 33: GAMING RESOURCE SUPPLIER BACKGROUND INVESTIGATIONS

- (a) The Commission shall employ or otherwise engage an investigator to complete an investigation of a Gaming Resource Supplier.
- (b) This investigation shall include, at a minimum, the following steps:
  - (1) Verification of the Gaming Resource Supplier's business incorporation status and qualifications to do business in the state where the Gaming Operation is located.
  - (2) Obtaining a business credit report, if available, and conducting a Better

Business Bureau check on the Gaming Resource Supplier.

- (3) Conducting a check of the Gaming Resource Supplier's business credit history.
- (4) Calling and questioning each of the references listed in the Gaming Resource Supplier application.
- (5) Conducting an investigation of the principals of the Gaming Resource Supplier's business, including facilitating a criminal history check, obtaining criminal history check results, obtaining a credit report, and interviewing the personal references listed.

#### SECTION 34: GAMING RESOURCE SUPPLIER LICENSE FEES

The Gaming Commission may charge a license fee, to be set by the Commission, to cover its expenses in investigating and licensing Gaming Resource Suppliers.

# SECTION 35: <u>GAMING RESOURCE SUPPLIER BACKGROUND</u> INVESTIGATION REPORTS

The investigator shall complete an investigative report covering each of the steps taken in the background investigation of the Gaming Resource Supplier and its principals and present it to the Commission.

# SECTION 36: <u>GAMING RESOURCE SUPPLIERS LICENSED BY RECOGNIZED</u> <u>REGULATORY AUTHORITIES</u>

The Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the Gaming Resource Supplier licensing process for Gaming Resource Suppliers who have received a license from one of the named regulatory authorities, to the extent such exemption is consistent with the Tribal-State Compact.

#### SECTION 37: IDENTIFICATION CARDS

All persons who are required to be licensed pursuant to this Ordinance shall be required to wear, in plain view at all times while in the Gaming Facility, identification badges issued by the Gaming Commission. The identification badges must display the person's photograph, identification number, name, and expiration date of his or her license.

## SECTION 38: <u>COMPLIANCE WITH FEDERAL LAW</u>

The Tribe shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq*.

#### SECTION 39: <u>DUE PROCESS</u>

- (a) The denial, suspension or revocation of a license pursuant to this Ordinance shall require:
  - (1) Written, certified, return receipt requested or personally handdelivered notification of the denial, suspension or proposed revocation be given to the applicant or Licensee ten (10) days in advance of the proposed action. Such written notification shall include information concerning the Licensee's right to a hearing, shall specify the date, time and place for the hearing, and shall also advise the Licensee that failure to appear for a scheduled hearing shall forfeit any further right to appeal;
  - (2) A written decision issued by the Gaming Commission within five (5) business days of the hearing that includes stated reasons for the decision and notifies the applicant or Licensee of his or her right to file a petition with the Gaming Commission for a rehearing within fifteen (15) days of the receipt of the written decision; and
  - (3) If the applicant or Licensee files a petition for a rehearing within fifteen (15) days of receipt of the written decision described in the preceding paragraph, the Gaming Commission shall review any additional information submitted by the applicant or Licensee with the petition and notify the applicant or Licensee in writing of its decision, which shall be a final decision.
- (b) Notwithstanding subparagraph (a) above, the Gaming Commission may suspend or revoke a license without advance notice if, in the opinion of the Gaming Commission, the continued licensing of the person:
  - (1) poses an immediate threat to the integrity of the Gaming Operation; or
  - (2) poses a threat to public health or safety.

# SECTION 40: LICENSE DURATION AND RENEWAL

(a) All regular licenses shall be issued for a specified period not to exceed two (2) years from the date of issue, except that a Management Contractor providing management services to the Gaming Operation pursuant to a Management Contract approved by the Chair of the NIGC may be licensed for a period of no more than seven (7) years, provided that the Management Contractor continues to apply for renewal of a determination of suitability by the State Gaming Agency at least every two (2) years in accordance with the Tribal-State Compact. Renewal applications must be received by the Gaming

Commission at least thirty (30) days prior to the expiration of the license. Upon receiving a renewal application, the Gaming Commission shall inform the applicant of his or her obligation, if any, to apply to the State Gaming Agency for renewal of his or her determination of suitability. Any Licensee applying for renewal may continue to be employed or engaged under the expired license for not more than ninety (90) days following the expiration of the license. Applicants for renewal shall provide updated material as requested by the Gaming Commission on the appropriate renewal forms but, at the discretion of the Gaming Commission, may not be required to resubmit information already available to the Gaming Commission. Additional background investigations may be performed at the discretion of the Gaming Commission. Updated criminal history checks are required.

- (b) The Gaming Commission shall forward to the State Gaming Agency a copy of each initial facility license and renewal license, within twenty (20) days after issuing the license or renewal.
- (c) Prior to renewing a license, the Gaming Commission shall forward to the State Gaming Agency copies of the renewal application and related documents as required under the Tribal-State Compact. With respect to Gaming Facilities, the Gaming Commission shall provide verification to the State Gaming Agency that it has reviewed and, if appropriate, renewed a Gaming Facility's license.
- Nothing herein shall create a property or other right in an applicant in an opportunity to be licensed, or in a tribal gaming license itself, both of which shall be considered to be privileges granted to the applicant in the sole discretion of the Gaming Commission.

#### SECTION 41: ADDITIONAL REQUIREMENTS

The Gaming Commission shall promulgate regulations providing for such additional licensing and background investigation requirements and procedures as it deems appropriate, provided that such additional requirements are at least as stringent as those contained in IGRA at 25 U.S.C. § 2710(b)(2)(F) and the NIGC's regulations at 25 C.F.R. Parts 556, 558, and 559, and the Tribal-State Compact.

# SECTION 42: MISCELLANEOUS

- (a) This Ordinance supersedes, replaces, and repeals all conflicting provisions of any prior ordinance of the Tribe. If the provisions of this Ordinance conflict with the provisions of any ordinance, regulation, policy, or procedure of the Tribe, the provisions of this Ordinance shall control.
- (b) Nothing in this Ordinance constitutes a waiver of the sovereign immunity of the Tribe or any of its agencies, boards, officers, officials,

commissioners, managers, directors, employees, attorneys, and agents, and the Tribe reserves all rights for itself, and its officers, officials, commissioners, managers, directors, employees, attorneys, and agents. Neither the Gaming Commission nor any individual shall have any power to waive, in whole or in part, the sovereign immunity of the Tribe or its agencies and such immunity is expressly retained.

- (c) If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder shall not be affected and shall remain in full force and effect.
- (d) Any time-period set forth in this Gaming Ordinance that ends or expires on a weekend, federal holiday, or holiday recognized by the Tribe shall be extended to the next business day falling after such weekend, federal holiday, or tribal holiday.

### SECTION 43: <u>AMENDMENTS</u>

This Ordinance may be amended upon approval by the Tribal Executive Committee in accordance with the laws of the Tribe and approval by the Chair of the NIGC.

## SECTION 44: EFFECTIVE DATE

This Gaming Ordinance shall take effect immediately upon its approval by the Chair of the NIGC.