



VIA FIRST CLASS MAIL

August 30, 2019

Raymond Hitchcock, Chairman
Wilton Rancheria
9728 Kent Street
Elk Grove, CA 95624

Re: Wilton Rancheria Gaming Ordinance and Resolution No. 2019-28

Dear Chairman Hitchcock:

This letter is to inform you that the Wilton Rancheria's Gaming Ordinance enacted by Resolution No. 2019-28 of the Wilton Rancheria Tribal Council and received by the National Indian Gaming Commission on May 31, 2019, is approved by operation of law.

Pursuant to the Indian Gaming Regulatory Act, the NIGC Chair has ninety days from the date of submission to either approve or disapprove a gaming ordinance.¹ Any ordinance not acted upon at the end of the ninety day period is considered to have been approved by the Chair to the extent it is consistent with the provisions of IGRA.² Because no action was taken by the Chair within the ninety day period, the Tribe's Gaming Ordinance is considered approved to the extent it is consistent with IGRA. It is the opinion of the Office of General Counsel that the Gaming Ordinance is compliant with the requirements of IGRA and NIGC regulations.

If you have any questions, please feel free to contact NIGC Staff Attorney Austin Badger at (202) 632-7003.

Sincerely,

A handwritten signature in blue ink that reads "Michael Hoenig".

Michael Hoenig
General Counsel

¹ 25 U.S.C. § 2710(e).

² *Id.*

**WILTON RANCHERIA CODE
TITLE 1 – BUSINESS AND FINANCE CODE
CHAPTER 3 – GAMING ORDINANCE OF 2019**

CITE AS: 1 WRC § 3-101, et seq.

ENACTED: May 23, 2019

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**WILTON RANCHERIA CODE
TITLE 1 – BUSINESS AND FINANCE CODE
CHAPTER 3 – GAMING ORDINANCE OF 2019**

CITE AS: 1 WRC § 3-101, et seq.

ENACTED: _____

**ARTICLE I
GENERAL**

Section 3-101

AUTHORITY.

- A. Article V, Section 1(a) of the Constitution grants the Tribal Chairperson the power to execute, administer, and enforce all the laws of the Tribe.
- B. Article V, Section 1(k) of the Constitution grants the Tribal Chairperson the power to administer all departments created by the Tribal Council.
- C. Article V, Section 1(m) of the Constitution grants the Tribal Chairperson the power to nominate the directors of each department subject to confirmation by the Tribal Council, except that if a confirmation vote is not taken by the Tribal Council within forty-five days, the nominations shall be deemed confirmed.
- D. Article VI, Section 2 of the Constitution authorizes the Tribal Council to make the Tribe's laws.
- E. Article VI, Section 2(a) of the Constitution grants the Tribal Council the power to make all laws, including resolutions, codes, and statutes.
- F. Article VI, Section 2(b) of the Constitution grants the Tribal Council the power to establish administrative departments that shall be administered by the Chairperson, such as a Department of the Treasury, Administration, Business, Housing, Health, Social Services, Education, Personnel, and any other departments deemed necessary by the Tribal Council.

Section 3-102

PURPOSE.

This Gaming Ordinance ("Ordinance") is enacted to govern Class II and Class III Gaming Operations on the Indian Lands of the Tribe, and to establish the Gaming Commission as an administrative department to regulate such Gaming Operations.

Section 3-103

DEFINITIONS.

Throughout this Ordinance the following words have the following definitions:

- A. "Class I Gaming" means those gaming activities as defined as Class I gaming in IGRA at 25 U.S.C. § 2703(6) and the NIGC's regulations at 25 C.F.R. § 502.2.

- B. "Class II Gaming" means those gaming activities as defined as Class II gaming in IGRA at 25 U.S.C. § 2703(7) and the NIGC's regulations at 25 C.F.R. § 502.3.
- C. "Class III Gaming" means those gaming activities as defined as Class III gaming in IGRA at 25 U.S.C. § 2703(8) and the NIGC's regulations at 25 C.F.R. § 502.4.
- D. "Executive Director" means the Executive Director of the Gaming Commission.
- E. "Facility License" means a separate license issued by the Tribe to each place, facility or location on Indian Lands where the Tribe elects to allow Class II or Class III Gaming.
- F. "FBI" means the Federal Bureau of Investigation, an agency of the United States Department of Justice.
- G. "Financial Source" means any person or entity that, directly or indirectly, extends financing to the Gaming Facility or Gaming Operation or as otherwise defined under a Tribal-State Compact.
- H. "Gaming Activities" means Class II Gaming and Class III Gaming conducted on the Tribe's Indian Lands.
- I. "Gaming Authority" means Wilton Rancheria Gaming Authority.
- J. "Gaming Commission" means the Wilton Rancheria Gaming Commission as established herein to perform regulatory oversight and to monitor compliance with tribal, federal, and applicable State regulations.
- K. "Gaming Employee" means any natural person who (a) conducts, operates, maintains, repairs, accounts for, or assists in any Gaming Activities, or is in any way responsible for supervising such Gaming Activities or persons who conduct, operate, maintain, repair, account for, assist, or supervise any such Gaming Activities, (b) is in a category under federal or tribal gaming law requiring licensing, (c) is an employee of the Gaming Commission with access to confidential information, or (d) is a person whose employment duties require or authorize access to areas of the Gaming Facility in which any activities related to Gaming Activities are conducted but that are not open to the public.
- L. "Gaming Facility" means any building in which Gaming Activities or any Gaming Operations occur, or in which business records, receipts, or funds of the Gaming Operation are maintained (excluding offsite facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including hotels, parking lots, and walkways, a principal purpose of which is to serve the activities of the Gaming Operation and facility rather than providing that operation with an incidental benefit. Nothing herein shall be construed to apply in a manner that does not directly relate to the operation of Gaming Activities.
- M. "Gaming Operation" means each economic entity that is licensed by the Gaming Commission, operates the games, receives the revenues, issues the prizes, and pays the

expenses. A gaming operation may be operated by the Tribe or Gaming Authority directly by a Management Contractor.

N. "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. "Gaming Resources" does not include professional accounting and legal services.

O. "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 (\$25,000.00) in Gaming Resources in any consecutive twelve (12) month period, or who, directly or indirectly, receives, or is deemed likely to receive, in connection with the Gaming Operation or the Gaming Facility, at least Twenty-Five Thousand Dollars (\$25,000.00) 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 as defined herein, 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.

P. "IGRA" means the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*, and any and all regulations promulgated pursuant thereto.

Q. "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.

R. "Key Employee" means:

1. A person who performs one or more of the following functions: bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, pit boss, dealer, croupier, approver of credit or custodian of gambling devices including persons with access to cash and accounting records within such devices;

2. If not otherwise included, any other person whose total cash compensation is in excess of Fifty Thousand Dollars (\$50,000.00) per year;
3. If not otherwise included, the four (4) most highly compensated persons in the Gaming Operations; or
4. Any other person designated by the Tribe as a Key Employee.

S. "Licensee" means a tribally owned Class II or Class III Gaming Operation or a person licensed by the Gaming Commission as a Primary Management Official, Key Employee, other Gaming Employee or Gaming Resource Supplier required to be licensed under the provisions of the Tribal-State Compact or this Ordinance.

T. "Management Contract" means any contract, subcontract or collateral agreement between the Tribe or Gaming Authority 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.

U. "Management Contractor" means any Gaming Resource Supplier with whom the Tribe or Gaming Authority has contracted for the management of any Gaming Activities, Gaming Operation or Gaming Facility, including, but not limited to, any person or entity that would be regarded as a Management Contractor under IGRA.

V. "Net Gaming Revenues" means gross gaming revenue (Win), of the gaming enterprise from Gaming Activities less all gaming related operating expenses, excluding the management fee, and less promotional allowances, and less all excluded revenue for such period. It is intended that this provision be consistent with 25 U.S.C. § 2703(9) and 25 C.F.R. § 502.16 as determined in accordance with GAAP consistently applied.

W. "NIGC" means the National Indian Gaming Commission established pursuant to IGRA, 25 U.S.C. § 2704.

X. "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 Operation;
3. The chief financial officer or other person who has financial management responsibility for the Gaming Operation; and
4. Any other person designated by the Gaming Commission as a Primary Management Official.

- Y. "State" means the State of California.
- Z. "State Gaming Agency" means the entity or entities of the State authorized to investigate, approve, regulate and license gaming pursuant to State law under a Tribal-State Compact.
- AA. "Tribal Council" means the Tribal Council of the Tribe.
- BB. "Tribal Member" means an enrolled member of the Tribe.
- CC. "Tribe" means Wilton Rancheria.
- DD. "Tribal-State Compact" means an agreement between the Tribe and the State pursuant to 25 U.S.C. § 2710(d)(3) or Secretarial Procedures pursuant to 25 U.S.C. § 2710(d)(7), which govern the conduct of Class III Gaming Activities on the Indian Lands of the Tribe.

ARTICLE II GENERAL PROVISIONS

Section 3-201 **GAMING AUTHORIZED.**

Class II Gaming and Class III Gaming are hereby 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, and any other applicable laws or regulations. Any Class III Gaming Activities conducted under this Ordinance are limited to those Gaming Activities authorized under a Tribal-State Compact.

Section 3-202 **OWNERSHIP OF GAMING.**

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

Section 3-203 **USE OF NET GAMING REVENUES.**

Net Revenues shall be used only for the following purposes:

- A. To fund tribal government operations and 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 local government agencies.

ARTICLE III GAMING COMMISSION

Section 3-301

ESTABLISHMENT.

A. The Wilton Rancheria Gaming Commission is hereby established. The Gaming Commission shall consist of three (3) Commissioners, or such other number determined by the Tribal Council. Commissioners shall be appointed by the Tribal Chairperson and confirmed by the Tribal Council. Where minimum qualifications are met, the Tribal Chairperson shall give preference in employment opportunities in accordance with the preference policy set forth in Title 7, Chapter 1 Employment Act of the Wilton Rancheria Code, as may be amended. All members of the Gaming Commission, including Gaming Commissioners and Gaming Commission employees shall be at-will employees and will serve at the discretion of the Tribal Chairperson, provided that removal of any Commissioner shall be subject to Tribal Council consent. The Tribal Chairperson and Tribal Council shall endeavor to fill vacancies on the Gaming Commission within thirty (30) business days of a vacancy.

B. Appointments of the Gaming Commissioners shall be for a period of four (4) years, except that, for the terms of the initial members, one (1) initial Chair of the Gaming Commission's term shall be for two (2) years, and two (2) initial members' terms shall be for four (4) years, which shall result in staggered appointments and provide continuity within the Gaming Commission. The Commissioners may be reappointed for one or more successive terms. Commissioners may be compensated at a level determined by the Tribal Council.

C. Gaming Commissioners and any Gaming Commission employees who have access to confidential information must satisfy the suitability standards set forth for Key Employees in this Ordinance. Gaming Commissioners and any Gaming Commission employees may not participate in matters relating to their background investigation, except, as subject of the investigation, to provide information required or requested by the investigator. Such background investigations shall be performed under the direction of the Tribal Council or its designee.

D. The Tribal Chairperson shall designate one (1) of the three (3) Gaming Commissioners to be the Chair of the Gaming Commission, and such designation shall be confirmed by the Tribal Council, concurrent with the appointment of such Gaming Commissioner pursuant to Section 3-301 of this Ordinance. The Chair of the Gaming Commission shall conduct all meetings and hearings of the Gaming Commission, receive surveillance reports from the surveillance supervisor or the Executive Director as set forth in regulations of the Gaming Commission, and perform such other responsibilities as assigned by the Gaming Commission regulations.

Section 3-302

RESTRICTIONS ON COMMISSIONERS.

Commissioners may hold other Tribal governmental positions; however no member of the Tribal Council, Tribal Chairperson, Vice-Chairperson or the Gaming Authority shall serve as

a Gaming Commissioner or a Gaming Commission employee during that person's term on the Gaming Authority, the Tribal Council, Tribal Chairperson, or Vice-Chairperson. Additionally, Commissioners may engage in business; provided, however, that Commissioners shall not engage in any business that is subject to the provisions of this Ordinance. Commissioners may not game in the Gaming Facility nor have any personal financial interest in any gaming by any person in the Gaming Facility or conducted by the Gaming Operation (other than such interest held by Tribal Members as a whole). A Commissioner shall immediately resign from the Gaming Commission upon the Commissioner's conviction in a Federal, State, or other court of competent jurisdiction for any felony or any misdemeanor or civil infraction related to illegal gambling or bribery or any charge that the Tribal Council, Tribal Chairperson, or Vice-Chairperson finds relates to the Commissioner's honesty, integrity or ability to fulfill his or her duties. If a Commissioner is found by a court of competent jurisdiction to have violated this Ordinance or the Conduct and Ethics Act of 2015, as may be amended from time to time, the Gaming Commission shall immediately revoke his or her gaming license, and the Tribal Chairperson shall immediately terminate him or her from employment as a member of the Gaming Commission, and such termination shall not require the consent of the Tribal Council.

Section 3-303

ETHICS.

The Gaming Commission members shall comply with the Conduct and Ethics Act of 2015, as may be amended from time to time, and the Gaming Commission employees shall comply with the Employment Act. In addition, the Gaming Commission shall promulgate pursuant to Section 3-308 a Code of Ethics regulation that addresses issues particular to the regulation of gaming and which shall be complied with by all Gaming Commission members, the Executive Director, and Commission employees.

Section 3-304

MEETINGS OPEN TO THE PUBLIC.

General meetings of the Gaming Commission are open to all Tribal Members and at the Gaming Commission's discretion other persons may attend a particular session or any part thereof. Additionally, closed sessions may be held for good cause, including, but not limited to, protecting the privacy of persons, considering personnel matters, considering licensing determinations, reviewing background investigations, hearing complaints against individuals, and considering whether to include persons on the list of excluded individuals. All meetings shall be governed by Roberts Rules of Order or such other procedures as the Gaming Commission may adopt. Nothing herein shall preclude a commissioner from participating in such meeting or a vote from being taken by the Gaming Commission by telephone poll in an emergency when circumstances do not allow a meeting of the full board in one location in a timely manner.

Section 3-305

QUORUM REQUIRED.

A quorum shall consist of a majority of the members of the Gaming Commission. A quorum shall be required for any vote or decision by the Gaming Commission. All decisions shall be made by a majority vote of those present, unless indicated otherwise in this Ordinance.

Section 3-306**QUARTERLY REPORTS.**

The Gaming Commission shall prepare and distribute quarterly reports to the Tribal Council, Tribal Chairperson and Vice-Chairperson within thirty (30) calendar days after the close of the quarter for which the information is being required. The reports shall include a full and complete statement of all financial transactions of the Gaming Commission and a summary of all licensing and enforcement actions. Such reports may be in the form of minutes of the Gaming Commission meetings supplemented by any additional documents as may be appropriate. The Gaming Commission, the Tribal Council, the Tribal Chairperson and Vice-Chairperson may meet on a quarterly basis for presentation of the quarterly reports at the Tribal Council, the Tribal Chairperson and Vice-Chairperson's discretion.

Section 3-307**POWERS.**

The Gaming Commission shall exercise all powers necessary to effectuate the purposes of this Ordinance. The Gaming Commission may exercise any proper power and authority necessary or convenient to operate in a sufficiently independent manner and perform its responsibilities under this Ordinance. The Gaming Commission shall meet not less than once each month to make recommendations and set regulatory policy and transact other business that may be properly brought before it. The ultimate power to interpret the Tribal-State Compact is specifically reserved by the Tribal Council, the Tribal Chairperson and Vice-Chairperson.

Section 3-308**ISSUANCE OF REGULATIONS.**

A. The Gaming Commission shall from time to time promulgate and issue regulations governing any aspect of its or its staff's responsibilities under this Ordinance. As long as the regulations are in furtherance of and not in conflict with any provision of this Ordinance and are ratified by the Tribal Council pursuant to Section 3-308(E) or are emergency regulations, the regulations shall have the force of law.

B. At least thirty (30) business days before adopting, amending or repealing regulations, the Gaming Commission shall give notice of the proposed action to the Gaming Authority, the Management Contractor (if any), and other persons whom the Gaming Commission has reason to believe have a legitimate interest in such proposed action, as well as to the Tribal Chairperson who shall review and present to the Tribal Council for their ratification. The notice shall describe the general nature of the proposed action and advise how comments on the proposed action shall be received by the Gaming Commission.

C. Public notice may be given by posting for at least one (1) week at a place designated by the Gaming Commission within the Gaming Facility office complex.

D. In emergencies, the Gaming Commission may summarily adopt, amend or repeal any regulation if the Gaming Commission determines such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare, together with a statement of facts constituting the emergency; provided, however, that the Gaming Commission shall schedule a hearing to receive comments within sixty

(60) calendar days of the emergency action; provided further, that as soon as is reasonably possible, the Gaming Commission shall inform the Gaming Authority, the Management Contractor (if any), the Tribal Chairperson, Vice-Chairperson and the Tribal Council of any emergency action, and the Tribal Council may override such action, subject to the Tribal Chairperson's veto in accordance with tribal law.

E. Except for emergency regulations, Gaming Commission regulations are not effective until such time as ratified by the Tribal Council.

Section 3-309

REQUEST FOR GAMING COMMISSION ACTION.

Any person who is determined by the Gaming Commission to be a real party in interest may file a petition in a manner and form approved by the Gaming Commission requesting the adoption, amendment or repeal of a regulation. Within thirty (30) calendar days of receipt of the petition, the Gaming Commission shall either deny the request in writing or schedule the matter for action in accordance with this Ordinance and any rules and regulations of the Gaming Commission.

Section 3-310

JURISDICTION AND DUTIES OF THE GAMING COMMISSION.

The Gaming Commission is vested with and shall have jurisdiction over the regulation of Gaming Activities, Gaming Operations and the Gaming Facility. The Gaming Commission shall perform all duties, exercise all powers, promulgate all regulations, assume and discharge all responsibilities and carry out and affect all purposes of IGRA and this Ordinance relating to the establishment of all Gaming Activities and regulation of the Gaming Operation. Additionally, the Gaming Commission is hereby vested with all powers necessary to promulgate regulations and to implement those regulations such that they meet the requirements of the Tribal-State Compact. In all decisions, the Gaming Commission shall act to promote and ensure the integrity, security, honesty and fairness of the Gaming Operation and all Gaming Activities. The Gaming Commission's duties and powers shall include, but not be limited to, the following:

- A. Conduct background investigations, or cause such investigations to be conducted, for, at a minimum, Primary Management Officials, Key Employees, Gaming Employees and others required to hold licenses pursuant to this Ordinance;
- B. Review and approve all investigative work conducted in connection with the background investigations of Primary Management Officials, Key Employees, Gaming Employees and others required to hold licenses pursuant to this Ordinance;
- C. Create and maintain investigative reports based on the background investigations of Primary Management Officials, Key Employees, Gaming Employees and others required to hold licenses pursuant to this Ordinance;
- D. Designate a law enforcement agency to obtain and process fingerprints and conduct criminal history checks that shall include a check of criminal history records information maintained by the Federal Bureau of Investigation;

- E. Make licensing eligibility determinations, which shall be signed by the Chair of the Gaming Commission;
- F. Submit a notice of results to the NIGC of the background investigations conducted for each Primary Management Official and Key Employee applicant;
- G. Issue gaming licenses if warranted by the eligibility determination;
- H. Consistent with Section 6.4 of the Tribal-State Compact, establish standards for licensing Gaming Facilities, Gaming Employees, Gaming Resource Suppliers and Financial Sources;
- I. Issue gaming licenses to Gaming Facilities, Gaming Resource Suppliers and Financial Sources;
- J. Inspect, examine and monitor all of the Tribe's Gaming Activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the Gaming Operation;
- K. Ensure compliance with all applicable tribal, state, and federal laws, rules and regulations regarding Indian gaming;
- L. Investigate any suspicion of wrongdoing associated with any Gaming Activities;
- M. Hold hearings on patron complaints, in accordance with procedures established in this Ordinance, the Gaming Commission's regulations, or the Tribal-State Compact;
- N. Comply with any and all reporting requirements under IGRA, the NIGC's regulations, or a Tribal-State Compact, and any other applicable law;
- O. Promulgate and issue regulations that adopt as a matter of tribal law, Uniform Tribal Gaming Regulations CGCC-1, CGCC 2, CGCC-7, and CGCC-8, and subsequent Uniform Tribal Gaming Regulations;
- P. Promulgate and issue regulations necessary to comply with applicable internal control standards;
- Q. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
- R. Promulgate and issue regulations on the levying of fines and/or the suspension or revocation of gaming licenses for violations of this Ordinance or any tribal, federal or State gaming regulations, if applicable;
- S. Maintain a list of persons permanently excluded from the Gaming Facility who, because of their past behavior, criminal history, or association with persons or organizations, pose a threat to the integrity of the Gaming Activities of the Tribe or to the integrity of regulated gambling within the State. The Gaming Commission shall transmit a

copy of the list to the State Gaming Agency quarterly and shall make a copy of the current list available to the State Gaming Agency upon request;

T. Establish a list of persons who have voluntarily agreed to be excluded from gaming, and create regulations for enforcing the exclusions;

U. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of tribal, federal or state statutes, ordinances, regulations, codes or resolutions;

V. Create a list of regulatory authorities that conduct background investigations of licensees and are recognized as trustworthy;

W. Promulgate regulations exempting Suppliers from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;

X. Perform such other duties that the Gaming Commission deems appropriate for the proper regulation of the Gaming Operation;

Y. 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;

Z. Ensure that all gaming fees for all Gaming Activities and any other fees assessed by the NIGC are sent to the NIGC on a timely basis;

AA. Correspond with the NIGC regarding compliance with the rules and regulations of that agency. The Gaming Commission shall coordinate with the Tribal Council, Tribal Chairperson and Vice-Chairperson regarding correspondence with the NIGC on any policy matter;

BB. Assure that all Gaming Activities are conducted honestly and fairly and that the Gaming Facility is constructed in a manner that adequately protects the environment and the public health and safety;

CC. Establish an adequate system to include fingerprint clearances with the California Department of Justice and/or with the NIGC, which ensures that background investigations are conducted on all Primary Management Officials and Key Employees of any Gaming Activities and that oversight of such officials and their management is conducted on an ongoing basis. The Gaming Commission will have final authority regarding the granting of tribal gaming licenses for Primary Management Officials and Key Employees and other persons. The Gaming Commission shall notify the NIGC of the issuance of such licenses. The Gaming Commission will review all applications and background investigations to ensure that no person shall be eligible for employment in or with any part of the Gaming Operation if that person's prior activities, criminal record or reputation, habits or associations pose a threat to the public interest or to the effective regulation of Gaming, or create or enhance the dangers of unsuitable, unfair or illegal practice, methods and activities in the conduct of

Gaming. The Gaming Commission shall notify the NIGC of the results of such background checks before the issuance of such licenses;

DD. Review all records, documents and anything else necessary and pertinent to enforcement of any provisions of this Ordinance or the Tribal-State Compact;

EE. The Gaming Commission shall have full power and authority to issue subpoenas and compel the attendance of witnesses for hearings at any place within the Indian Lands of the Tribe, to administer oaths and to require testimony under oath. Any process or notice may be served in the manner provided for service of the process and notices in civil actions. The Gaming Commission may pay such transportation and other expenses of witnesses, as it may deem reasonable and proper;

FF. In connection with the Gaming Commission's power to conduct hearings, the Gaming Commission may determine whether sanctions should be imposed on, or conditions should be placed on the license of any person subject to the jurisdiction of this Ordinance;

GG. With the exception of the promulgation of regulations, the conduct of hearings or such other functions as determined by the Tribal Council, Tribal Chairperson and Vice-Chairperson in a Resolution distributed to the Gaming Authority and Management Contractor (if any), the Gaming Commission may delegate any of its duties and authorities to the Executive Director; and

HH. If the Gaming Commission has not yet been appointed, then the Executive Director shall have the powers of the Gaming Commission until the Gaming Commission is appointed in accordance with Section 3-301.

Section 3-311 **RIGHT OF INSPECTION.**

The Gaming Commission shall have the authority to:

A. Inspect and examine all Gaming Facilities and premises where gambling devices or equipment are manufactured, sold or distributed;

B. Inspect all equipment and supplies in, upon or about a Gaming Facility, or inspect any equipment or supplies, wherever located, which may have or have been used in the Gaming Facility;

C. Seize and remove from a Gaming Facility, wherever located, and impound such equipment and supplies for the purpose of examination, inspection, evidence or forfeiture, providing reasonable notice as long as such notice will not adversely affect an investigation;

D. Secure unfettered access to and inspect, examine and audit all papers, books and records of applicants and Licensees respecting any income produced by any gaming activity and require verification of income and all other matters affecting the enforcement of the policy of, or any of the provisions of, this Ordinance; and

E. Seize and impound any patron's winnings which the Gaming Commission has reason to believe may have been won or obtained in violation of this Ordinance.

Section 3-312

POWERS OF DELEGATION; BUDGETING MATTERS.

The Gaming Commission may organize itself into functional divisions as it may deem necessary and may from time to time modify such plan of organization. Within the limits of a Tribal Council approved lump sum budget, the Gaming Commission shall establish its own budget for operations and acquire such furnishings, equipment, supplies, stationery, books, motor vehicles and other things as it may deem necessary in carrying out its functions and incur such other expenses, within the limit of funds available to it, as it may deem necessary. Additionally, the Gaming Commission shall employ and fix the salaries of or contract for services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the Gaming Commission may require. At the Tribal Council's discretion, said budget may be reviewed and modified.

Section 3-313

RECORDKEEPING.

The Gaming Commission shall keep and maintain a file of all applications for licenses under this Section, together with a record of all action taken with respect to such applications in the matter detailed in Section 3-403.

Section 3-314

PROCESSING EMPLOYEE AND PATRON COMPLAINTS.

The Gaming Commission may receive any complaint from an employee of the Gaming Operation or any member of the public who is or claims to be adversely affected by an act or omission related to any Gaming Activities which is asserted to violate this Ordinance, the Tribal-State Compact, or regulation of the Gaming Commission, and may upon consideration of such complaint order such remedial action as it deems appropriate to bring the Gaming Activities into compliance with such provisions. The Gaming Commission may for this purpose, in its sole discretion, direct the Executive Director to conduct a hearing and receive evidence with regard to such complaint if the Gaming Commission deems an evidentiary proceeding useful in the resolution of such complaint. Hearings under this Section 3-314 shall be conducted in accordance with due process.

Section 3-315

VIOLATIONS OF GAMING ORDINANCE — CIVIL INFRACTION.

Any violation of this Ordinance is a civil infraction and any person found to have committed such an infraction is subject to imposition of a fine of no more than Five Thousand Dollars (\$5,000.00) for each violation.

Any money, other representative of value or real or personal property used in or derived from participation in any activity conducted in violation of this Ordinance shall be subject to seizure by Tribal law enforcement or security officers, and forfeited to the Tribe's treasury upon a finding by the Tribal Court that such money or other representation of value was used in or derived from participation in an activity conducted in violation of this

Ordinance. Tribal law enforcement or security officers shall coordinate and cooperate with the Executive Director in the issuance of citations and seizure of property used in the commission of a violation of this Ordinance. A Tribal law enforcement or security officer shall accompany the Executive Director during the issuance of any such citation or seizure of property.

Winnings found to have been received in violation of this Ordinance shall be forfeited and become the property of the Gaming Operation.

The general manager of the Gaming Operation and the head of security for the Gaming Operation (as designated by the general manager), the Executive Director and the Gaming Commission's compliance manager shall each have the power to temporarily detain persons suspected of violating this Ordinance and seize evidence if any of the foregoing persons determine that such action is necessary to preserve the same for Tribal law enforcement or security officers or other law enforcement officials.

The Tribe intends that the general manager of the Gaming Operation and the head of security for the Gaming Operation (as designated by the general manager) shall be the primary persons who may detain persons and seize evidence within the Gaming Facility. The Executive Director and the Gaming Commission's compliance manager may take such action within the Gaming Facility if the general manager or head of security for the Gaming Operation are not available or in the event no action is taken and the Executive Director or the Gaming Commission's compliance manager determine it is necessary to take action. The Executive Director and the Gaming Commission's compliance manager shall be the primary persons who shall detain persons and seize evidence outside of the Gaming Facility. Detention and seizure actions taken by the Executive Director or Gaming Commission's compliance manager shall be completed in coordination with Tribal law enforcement or security officers and pursuant to a regulation adopted pursuant to Section 3-308 of this Ordinance.

Such detention shall be for a temporary period and for the sole purpose of identifying such persons, and for purposes of notifying and summoning appropriate law enforcement authorities and detaining such persons as long as is necessary to transfer them to the appropriate law enforcement officers. Detention of such persons shall not unduly interfere with the business of the Gaming Operation. Persons shall be transferred to appropriate law enforcement officers as soon as reasonably possible. Any area within which a person is detained pursuant to this Ordinance shall be equipped with both video and audio recording capabilities. Any person detained in such an area shall be kept under both video and audio observation during such temporary detention.

Violations of this Ordinance may result in: persons being prohibited from being present within the Gaming Facility; license suspensions, revocations or limitations; and, closure of establishments pursuant to cease and desist orders issued by the Gaming Commission. All such action shall be taken at the discretion of the Gaming Commission, subject to the right to appeal the civil fine or forfeiture of property to the Tribal Court. A violator of this Ordinance may also be required to pay court costs, storage fees and auction or sales fees.

Section 3-316

LIMITATIONS PERIOD.

No fine shall be assessed, nor any action taken for any violation of this Ordinance unless a notice of such action is filed with the Gaming Commission or the Tribal Court within thirty (30) days of the infraction.

**ARTICLE IV
EXECUTIVE DIRECTOR**

Section 3-401

QUALIFICATIONS OF EXECUTIVE DIRECTOR; SALARY.

A. The position of Executive Director is hereby created. The Executive Director shall be appointed by the Tribal Chairperson, subject to confirmation by the Tribal Council. Selection and employment of the Executive Director shall also be conducted in accordance with the Tribe's employment policies.

B. The Executive Director may not be a member of the Tribal Council, the Tribal Chairperson, the Vice-Chairperson, a member of the Gaming Authority, or a person holding any elective office, nor any officer or official of any political party.

C. 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 appointed as the Executive Director.

D. The Executive Director shall devote his or her entire time and attention to the duties imposed under this Ordinance and the business of the Gaming Commission and shall not pursue any other business or occupation or hold any other office of profit unless approved by the Gaming Commission.

E. The Executive Director shall not have any pecuniary interest in any business or company holding a license under this Ordinance or doing business with any person or entity licensed under this Ordinance.

Section 3-402

AUTHORITY OF EXECUTIVE DIRECTOR.

A. The Executive Director shall furnish to the Gaming Commission such administrative and clerical services and such furnishings, equipment, supplies, stationery, books and all other things that the Gaming Commission may deem necessary or desirable in carrying out its functions.

B. The Executive Director shall employ division directors who possess at least two (2) years of training and experience in the fields of accounting, investigation, law enforcement, law or gaming.

C. The Executive Director shall have authority to hire such professional, clerical, technical and administrative personnel as may be necessary to carry out the provisions of this Ordinance.

D. The Executive Director shall have the authority to make decisions regarding licensure and compliance in accordance with this Ordinance, subject to appeal as provided herein.

E. The Executive Director in pursuit of the attainment of the objectives and the purposes of this Ordinance may:

1. Direct and supervise all administrative actions of the Gaming Commission;
2. Sue on behalf of the Gaming Commission, after consultation with the Gaming Commission, and subject to the limitations set forth in Section 3-703 of this Ordinance;
3. Make, execute and effectuate any and all agreements or contracts, including contracts for the purchase of goods and services as are necessary. Such engagement shall be conducted in accordance with the procurement policies and procedures of the Tribe;
4. Employ the services of such persons as are considered necessary for the purposes of consultation or investigation and fix the salaries of or contract for the services of such legal, professional, technical and operational personnel and consultants within the annual budget as approved by the Gaming Commission. Selection and employment of such persons shall be conducted in accordance with the employment policies and procedures of the Tribe;
5. Appoint such staff as the Executive Director determines appropriate, consistent with the annual budget approved by the Tribe;
6. Oversee all investigations, including required background investigations, and suspend, revoke, issue or deny any licenses; and
7. Perform such other duties as the Executive Director deems necessary to effectuate the purposes of this Section from time to time as assigned by the Gaming Commission.

Section 3-403

**FILES AND RECORDS TO BE MAINTAINED BY THE
EXECUTIVE DIRECTOR AND THE GAMING COMMISSION;
CONFIDENTIALITY OF INFORMATION.**

A. In accordance with Section 3-615 of this Ordinance, the Executive Director 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 Gaming Commission and Executive Director may maintain such other files or records as they deem desirable.

C. The Executive Director shall also maintain all information and data:

1. Included within any application for license or supporting materials;
2. Required by the Gaming Commission or the Executive Director 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;
3. Pertaining to an applicant's or Licensee's criminal record, antecedents or background which have been furnished to or obtained by the Gaming Commission or the Executive Director from any source;
4. Provided to the Gaming Commissioners or the Executive Director or his or her employees by a governmental agency or an informant or on the assurances that the information will be held in confidence and treated as confidential;
5. Pertaining to the identity of any informant;
6. Obtained by the Executive Director or the Gaming Commission from a supplier relating to the manufacturing of gaming devices or gaming goods; and
7. Including the signed Conflict of Interest policies of the Executive Director, all Commissioners and employees of the Gaming Commission and the Gaming Operation; and
8. That are confidential and may be revealed in whole or in part only in the course of the necessary administration of this Ordinance or upon the lawful order of a court of competent jurisdiction or at the direction of the Gaming Commission pursuant to its duties and obligations under this Ordinance.

D. All records retained by the Gaming Commission or the Executive Director shall be retained for a period of five (5) years, after which such records may be disposed of in the discretion of the Gaming Commission. It is a violation of this Ordinance for a person to falsify, destroy, erase or alter any records of any kind or other information relating to the Gaming Operation in a manner other than provided in this Ordinance, regulation or Gaming Commission policy.

ARTICLE V
FACILITY AND OPERATIONAL REQUIREMENTS

Section 3-501

AUDIT.

A. The Gaming Commission shall cause to be conducted independent audits of the Gaming Operation annually and shall submit the results of those audits to the NIGC. Annual audits shall conform to generally accepted auditing standards, address any Tribal-State Compact requirements and be conducted by a recognized independent accounting firm.

B. All gaming related contracts that result in the purchase of supplies, services or concessions in excess of Twenty-Five Thousand Dollars (\$25,000.00) in a fiscal year of the Tribe (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under this Section.

C. Copies of the annual audit for each Gaming Operation shall be furnished to the NIGC within one hundred twenty (120) calendar days after the end of each fiscal year of the Gaming Operation.

Section 3-502

PUBLIC HEALTH AND SAFETY.

A. Each Gaming Facility shall be constructed, maintained and operated in a manner that adequately protects the environment and the health and safety of the public.

B. The Tribe shall prohibit persons under the age of twenty-one (21) years from being present in any room or area in which Gaming Activities are being conducted unless the person is en route to a non-gaming area of the Gaming Facility, or is employed at the Gaming Facility in a capacity other than as a Gaming Employee.

C. The possession of firearms by any person in the Gaming Facility is prohibited at all times, except for federal, state, or local law enforcement personnel, or tribal law enforcement or security personnel authorized by tribal law and federal or state law to possess firearms at the Gaming Facility. Any regulation promulgated by the Gaming Commission which allows for the possession of firearms within the Gaming Facility shall be in compliance with the Tribal-State Compact and this Ordinance, and shall require that adequate liability insurance shall be obtained by the Gaming Operation with respect to possession of firearms.

D. The Gaming Commission shall identify and enforce laws, resolutions, codes, policies, standards, or procedures which are applicable to each Gaming Facility, to ensure adequate protection of the environment and the health and safety of the public.

Section 3-503

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 3-504**FACILITY LICENSES.**

A. The Tribe shall issue a separate license to each place, facility or location on Indian Lands where Gaming Activities are conducted under this Ordinance.

B. The Gaming Commission is responsible for issuing new or renewed Facility Licenses to each of the Tribe's Gaming Facilities in compliance with this Section, and any additional requirements specified under the NIGC's regulations at 25 C.F.R. Part 559 or the Tribal-State Compact. Each Facility License shall be reviewed and renewed every two (2) years provided that the Gaming Facility remains substantially in compliance with the standards set forth herein.

C. The Gaming Commission shall require that each Facility License application be completed by the chief management official of the Gaming Facility.

D. The Gaming Commission shall by regulation identify the environmental, health and public safety standards with which the Gaming Facility must comply, and specify the form, conditions and content of a Facility License application.

E. The Gaming 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 Gaming Commission.

F. The Tribe or Gaming Commission shall submit to the NIGC Chair a notice that issuance of a Facility License is under consideration by the Gaming Commission. This notice must be submitted at least one hundred twenty (120) calendar days before the opening of any new Gaming Facility.

G. Each subsequent application for the renewal of such Facility License shall identify any changes or additions to the legal description of the property and applicable environmental, health and safety standards, and include current certifications of compliance therewith. The Gaming Commission shall only issue such licenses if the corresponding applications include the required information and certifications and such further conditions as the Gaming Commission shall have specified.

Section 3-505**SERVICE OF PROCESS.**

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

Section 3-506**PROCUREMENT.**

All purchases of services or supplies shall comply with the tribally adopted procurement policies and procedures for the Gaming Operation.

Section 3-507**INDIAN PREFERENCE.**

Where applicable, any contract pertaining to the Gaming Operation must include, to the extent permitted by applicable law, provisions for complying with any Indian hiring preferences adopted by the Tribe.

Section 3-508**TRIBAL MINIMUM INTERNAL CONTROL STANDARDS.**

The Gaming Commission shall adopt and implement minimum 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 3-509**SURVEILLANCE REQUIREMENTS**

A. The Tribe shall adopt security and surveillance control standards that are no less stringent than the minimum internal control standards set forth in the current NIGC Guidance on Class III Minimum Internal Control Standards, as may be amended.

B. The Gaming Commission shall promulgate surveillance regulations which address the following:

1. The Gaming Commission must approve:
 - a. The surveillance system and all related equipment;
 - b. All training programs for surveillance personnel;
 - c. The satellite monitoring system;
 - d. Who has access to the surveillance room and the list of persons who have unescorted access;
 - e. The format of the visitors' log for the surveillance room;
 - f. All vendors and consultants providing goods or services for the surveillance system; and
 - g. Surveillance policies and procedures for all operations of the Gaming Facility.
2. The Management Contractor (or, if none, the Gaming Authority) shall provide all surveillance equipment, supplies, and space as deemed necessary by the Gaming Commission for the reasonable protection of patrons, employees, and Tribal assets, including the operation of a satellite monitoring system by the Gaming Commission.

3. The Management Contractor (or, if none, the Gaming Authority) will provide any and all desired plans for gaming equipment installation, removal, modification, any construction or future construction of Gaming Facility layout changes that involve moving or altering gaming or surveillance equipment to the Gaming Commission for review and approval, prior to any change.
4. The Management Contractor (or, if none, the Gaming Authority) shall comply with any additional requirements deemed necessary or appropriate by the Gaming Commission with regard to surveillance equipment, coverage or layout, in order to adequately protect the security of assets, and the security and safety of patrons and employees.
5. The surveillance department shall operate in compliance with the Gaming Ordinance, Gaming Commission regulations, NIGC regulations, any applicable Federal laws and Tribe-State Compact provisions.
6. The surveillance department will assure the protection of Tribal assets and assist in the safety and security of employees, patrons, and their property through the maintenance and operation of a closed circuit television system and other acceptable surveillance methods and techniques.
7. The surveillance area shall be a restricted area and shall be accessible only to surveillance personnel, Gaming Commission personnel, authorized State and Federal officials and other individuals specifically authorized by the Gaming Commission.
8. The regulations shall also require surveillance system plans and reporting including:
 - a. The Management Contractor (or, if none, the Gaming Authority) shall submit to the Gaming Commission for its approval a surveillance system and operations plan no later than ninety (90) days prior to the start of gaming operations and annually thereafter;
 - b. The surveillance system and operations plan shall include a casino floor plan that shows the placement of all surveillance equipment in relation to the locations required to be covered, and a detailed description of the casino surveillance system and its equipment;
 - c. The Management Contractor (or, if none, the Gaming Authority) shall submit to the Gaming Commission for its approval, and prior to implementation, any proposed surveillance equipment revisions, not including normal repair and maintenance issues;
 - d. The Management Contractor (or, if none, the Gaming Authority) shall independently report any illegal activity to the Gaming Commission as

soon as possible and no later than thirty (30) minutes from discovery;
and

- e. The Gaming Authority or Management Contractor's surveillance director/manager may report to a Primary Management Official with equal or greater authority for administrative and daily matters, but must report to the Gaming Commission's Chair regarding matters of policy, purpose, responsibility, authority, and integrity of the Gaming Operation.
9. The Gaming Commission and the surveillance department shall cooperate and implement this Section reasonably to enhance the ability of security and management to fulfill their responsibilities.

ARTICLE VI

LICENSING AND BACKGROUND INVESTIGATIONS

Section 3-601

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 operated under this Ordinance;
- 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 any applicable Tribal-State Compact; and
- D. Any other person having a significant influence over the Gaming Operation, as determined by the Gaming Commission.

Section 3-602

LICENSE APPLICATION FORMS.

- A. The following notice shall be placed on the license application form for a Key Employee or Primary Management Official before that form 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 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 National Indian Gaming Commission 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 a SSN may result in errors in processing your application.

B. The following additional notice shall be placed on the application form for a Primary Management Official or Key Employee 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 3-603

LICENSE FEES.

The Gaming Commission shall establish a fee schedule for licenses to cover its expenses in investigating and licensing persons and entities required to be licensed by this Ordinance. The fee schedule shall be established by regulation promulgated by the Gaming Commission within one hundred eighty (180) days of approval of this Ordinance. Application fees shall be nonrefundable, regardless of whether or not a license is issued. Such fees shall be made payable to the Gaming Commission.

Section 3-604

FINGERPRINTS.

The Gaming Commission shall request fingerprints from each Primary Management Official and Key Employee applicant for a gaming license.

Section 3-605

BACKGROUND INVESTIGATIONS.

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. The Gaming Commission shall request from each Primary Management Official and Key Employee applicant 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 the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;

3. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (B)(2) of this Section;
4. Current business and residence telephone numbers, and all cell phone numbers;
5. A description of any existing and previous business relationships with other Indian tribes, including ownership interests in the businesses;
6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in the businesses;
7. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition, if any;
9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations, but including any conviction for driving under the influence), within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition, if any;
10. For each criminal charge (excluding minor traffic charges, but including any charge for driving under the influence), 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 (B)(8) or (B)(9) of this Section, the criminal charge, the name and address of the court involved and the date and 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 within the last six (6) months;
13. Fingerprints obtained in accordance with procedures adopted by the Gaming Commission pursuant to 25 C.F.R. § 522.2(h); and
14. Any other information the Gaming Commission deems relevant.

C. When a Primary Management Official or Key Employee is employed by the Tribe, the Gaming Commission shall maintain a complete application file, containing all of the information listed in paragraph (B) of this Section.

D. The Gaming Commission and its investigators shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.

Section 3-606

CONDUCTING BACKGROUND INVESTIGATIONS.

The Gaming Commission shall employ or engage an investigator to conduct a background investigation of each applicant for a gaming license. The investigation must be sufficient to allow the Gaming 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 Tribe may contract with the State Gaming Agency for the conduct of background investigations, may rely on a State determination 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 obligations.

When conducting a background investigation, an investigator shall:

- A. Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;
- B. Contact each personal and business reference provided in the license application, when possible;
- C. Conduct a personal credit check, according to Gaming Commission policy and regulation;
- D. Conduct a civil history check for past or outstanding judgments, current liens, past or pending lawsuits, and any other information deemed to be relevant;
- E. Conduct a criminal history records check by submitting the applicant's fingerprints to the NIGC or to another law enforcement agency for forwarding to the FBI to perform a criminal history records check utilizing the FBI's database;
- F. Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony and/or misdemeanor convictions or ongoing prosecutions within the past ten (10) years;
- G. Inquire into any previous or existing business relationships with the gaming industry, including with any tribes with gaming operations, by contacting the entities or tribes;
- H. Verify the applicant's history and current status with any licensing agency by contacting the agency; and
- I. Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

Section 3-607**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. Investigative reports shall include all of the following information:

1. Steps taken in conducting the background investigation;
2. Results obtained;
3. Conclusions reached; and
4. The basis for those conclusions.

B. If, in the course of a background investigation, the Gaming Commission discovers that 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 3-608**ELIGIBILITY DETERMINATIONS.**

A. Before a license is issued to a Primary Management Official or Key Employee applicant, the Gaming Commission shall make a finding concerning the eligibility of that person to receive 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 the applicant is a person of good character, honesty and integrity. 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 ten (10) calendar days of the request for the information.

B. Copies of an eligibility determination shall be included with the notice of results issued pursuant to Section 3-609 and the notice must be submitted to the NIGC before the licensing of a Primary Management Official or Key Employee.

C. 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 dangers of unsuitable, unfair, or illegal practices, methods and/or activities in the conduct of gaming, the Gaming Commission shall not license that person in a Key Employee or Primary Management Official position.

Section 3-609

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 appropriate Regional Office of the NIGC no later than sixty (60) calendar 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 applicant began or will begin employment as a Primary Management Official or Key Employee;
3. A summary of the information presented in the investigative report, including:
 - 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 ten (10) years of the date of the application; and
 - d. Every felony of which the applicant has been convicted or any ongoing prosecution.
4. A copy of the eligibility determination made in accordance with Section 3-608 of this Ordinance.

Section 3-610

REPORTING TO STATE GAMING AGENCY.

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) calendar 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) calendar 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) calendar 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) calendar 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 3-611

GRANTING A GAMING LICENSE.

A. The Gaming Commission is responsible for granting and issuing gaming licenses to all Primary Management Officials, Key Employees and any other entities required to hold a gaming license pursuant to this Ordinance and the Tribal-State Compact.

B. The Gaming 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 Gaming Commission shall notify the NIGC of the issuance of a license to a Primary Management Official or Key Employee within thirty (30) calendar days of issuance.

D. The Tribe shall not employ an individual in a Primary Management Official or Key Employee position who does not have a license after ninety (90) calendar days of beginning work at the Gaming Operation.

E. The Gaming 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. The Gaming Commission shall take the NIGC's objections into account when reconsidering a license application.

F. The Gaming Commission will make the final decision whether to issue a license to an applicant for a Primary Management Official or Key Employee position.

G. If the Gaming Commission has issued a license to a Primary Management Official or Key Employee before receiving the NIGC's statement of objections, notice and hearing shall be provided to the Licensee pursuant to the procedures in this Ordinance and as required by Section 3-615.

H. 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.

I. All Primary Management Officials and Key Employees must have a gaming license issued by the Gaming Commission.

Section 3-612

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, or for a period of up to one (1) year, whichever comes first.

Section 3-613

DENYING GAMING LICENSES.

A. The Gaming Commission shall not license a Primary Management Official or Key Employee or other entity requiring licensure if the Gaming Commission determines, in applying the standards under Section 3-608 of this Ordinance for making a license eligibility determination, 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, methods and/or activities in the conduct of gaming.

B. When the Gaming Commission does not issue a license to an applicant for a Primary Management Official or Key Employee position, or revokes a previously issued license after reconsideration, it shall:

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.

Section 3-614

GAMING LICENSE SUSPENSIONS AND REVOCATIONS.

A. If, after a license is issued to a Primary Management Official, Key Employee, or other person or entity requiring licensure, the Gaming Commission receives notice from the NIGC or otherwise that the Primary Management Official, Key Employee, or other person or entity is not eligible for employment or contract, the Gaming 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, which hearing shall take place within seven (7) days of receipt of the notice provided under subsection (A)(2) above.

B. Following a revocation hearing, the Gaming Commission shall decide whether to revoke or reinstate the license at issue.

C. The Gaming Commission shall notify the NIGC of its decision to revoke or reinstate a license of a Primary Management Official, Key Employee, or other person or entity requiring licensure within forty-five (45) calendar days of receiving notification from the NIGC that such Primary Management Official, Key Employee, or other person or entity requiring licensure is not eligible for employment or contract.

D. 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 license issued to the applicant and deny the applicant a license subject to any process or exceptions permitted under a Tribal-State Compact and subject to the applicant's appeal rights available under State law.

E. The Gaming Commission may 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 a 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, or any condition of a conditional gaming license;
4. The Gaming Commission has reason to believe that the continued licensing of a person constitutes an immediate 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 information from a state or tribal gaming regulatory body raising concerns about the applicant's suitability;
7. The Licensee willfully 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 ten (10) calendar days from the initial date of the request; or
9. The Licensee's employment with the Gaming Operation is terminated, voluntarily or involuntarily.

Section 3-615

RECORDS RETENTION.

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

- A. Applications for licensing;
- B. Investigative reports; and
- C. Gaming Licensee eligibility determinations.

Section 3-616

REQUIREMENT OF LICENSES FOR GAMING RESOURCE SUPPLIERS.

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.

1. Every Gaming Resource Supplier shall be licensed by the 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 Tribe's 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) calendar 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 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 pursuant to the terms and exceptions included within a 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 a 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 (exclusive of 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 (except for the bona fide repayment of all outstanding sums (exclusive of interest) owed as of the date of termination), 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. Gaming Commission Licensing of Management Contractor Required.

1. A Management Contractor is a Gaming Resource Supplier and must hold a valid tribal gaming license prior to providing services pursuant to any Management Contract. Any Management Contract entered into by the Tribe or Gaming Authority for the operation and management of Gaming Activities must provide that individuals listed in subsection (D)(1)(a) below shall submit to a suitability determination by and licensing requirements of the Gaming Commission. The Gaming Commission may require and obtain the following information:
 - a. The name, address and other additional pertinent background information on each person including, in cases involving entities, each individual, partner, officer, shareholder, and director comprising such entity having direct financial interest in, or management responsibility for, such Management Contract; and in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its shareholders who hold, directly or indirectly, ten percent (10%) or more of its issued and outstanding shares;
 - b. A complete financial statement of each person listed pursuant to the subsection above; and
 - c. Such other information as is necessary for the Gaming Commission to make a licensing decision.
2. Any person listed pursuant to subsection (D)(1)(a) above shall be required to respond to such written or oral questions that the Gaming Commission may propound in accordance with its responsibilities under this Ordinance.
3. The Gaming Commission may require Management Contractors and potential Management Contractors to pay a fee as set from time to time to cover the cost of the investigation necessary to reach a suitability determination as required by this Ordinance.

4. In lieu of conducting its own background investigations, 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 3-606 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, Gaming Employees and Financial Sources permitted by the Tribal-State Compact and State Gaming Agency regulations (as defined in the Tribal-State Compact) are hereby incorporated herein. Accordingly, any person or entity that would not require mandatory licensure as a Licensee under the Tribal-State Compact shall be exempt from licensure by the Gaming Commission, and in those instances where the Gaming Commission may exclude persons and entities from licensure, the Gaming Commission shall make best efforts to exclude such persons and entities from licensure.

Section 3-617

LICENSING PROCESS FOR GAMING RESOURCE SUPPLIERS.

Gaming Resource Suppliers, excluding Management Contractors and including Financial Sources required to be licensed under the Tribal-State Compact, shall be licensed in accordance with the following process. In order to obtain a Gaming Resource Supplier license, a business must complete a Gaming Resource Supplier license application and submit to a background investigation. For applicants that are business entities, licensing and background investigation provisions of this Ordinance shall apply to the entity as well as: (i) each of its officers, limited liability members, and directors; (ii) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, and general manager; (iii) each of its owners, or partners, if an unincorporated business; (iv) each of its shareholders who owns more than ten percent (10%) of the shares of the corporation, if a corporation, or who has a direct controlling interest in the applicant; and (v) each person or entity (other than a Financial Source that the Gaming Commission has determined does not require a license) that, alone or in combination with others, has provided financing in connection with any Gaming Operation or Gaming Activities of the Tribe, if that person or entity provided more than ten percent (10%) of either the start-up capital or the operating capital, or of a combination thereof, over a twelve (12) month period. For purposes of this subdivision, where there is any commonality of the characteristics identified in this Section, subdivision (i) through (v), inclusive, between any two (2) or more entities, those entities may be deemed to be a single entity. For purposes of this subdivision, a direct controlling interest in the applicant referred to in subdivision (iv) excludes any passive investor or anyone who has an indirect or only a financial interest and does not have the ability to control, manage or direct the management decisions of the applicant.

Section 3-618

CONTENTS OF THE GAMING RESOURCE SUPPLIER LICENSE APPLICATION.

- 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, 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 applicant 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 applicant has an existing or previous business relationship, including ownership, financial or management interests in any non-gaming activity;
9. Names, addresses and telephone numbers of three (3) business references with whom the applicant has regularly done business for the last five (5) years;
10. The name and address of any licensing or regulatory agency with which the applicant has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
11. If the applicant has ever had a license revoked for any reason, the circumstances involved;
12. A list of lawsuits to which the applicant 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 applicant's funding sources and any liabilities of Fifty Thousand Dollars (\$50,000.00) or more or such higher amount as the Gaming Commission may establish by regulation;

14. A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles, and percentage of ownership in the company; and
 15. Any further information the Gaming 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 Gaming 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 Gaming Commission not contained in the other application.

Section 3-619

**REQUIRED COMPONENTS OF GAMING RESOURCE
SUPPLIER BACKGROUND INVESTIGATIONS.**

The Gaming Commission shall employ or otherwise engage an investigator to complete an investigation of a Gaming Resource Supplier. This investigation shall include, at a minimum, the following steps:

- A. Verification of the Gaming Resources Supplier's business incorporation status and qualifications to do business in the State where the Gaming Operation is located;
- B. Obtaining a business credit report, if available, and having a Better Business Bureau check conducted on the Gaming Resource Supplier;
- C. Conducting a check of the Gaming Resource Supplier's business' credit history;
- D. Calling and questioning each of the references listed in the Gaming Resource Supplier application; and
- E. 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 3-620

**GAMING RESOURCE SUPPLIER BACKGROUND
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 Executive Director and the Gaming Commission.

Section 3-621**EXEMPTION OF GAMING RESOURCE SUPPLIER'S
LICENSING.**

The Gaming Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the Gaming Resources Supplier licensing process from Gaming Resource Suppliers who have received a license from one of the recognized state or tribal regulatory bodies, to the extent such exemption is not inconsistent with the Tribal-State Compact.

Section 3-622**REGISTRATION OF SUPPLIERS PROVIDING GOODS AND
SERVICES TO THE GAMING OPERATION.**

All persons supplying \$50,000 or more in goods or services to the Gaming Operation in a calendar quarter, but not required to be licensed as a Gaming Resources Supplier, a Financial Source or a Management Contractor ("Supplier(s)"), shall register with the Gaming Commission. Registration shall be accomplished by completing and submitting the registration form provided by the Gaming Commission. Registration forms must be submitted to the Commission within ten (10) days of such Suppliers supplying \$50,000 or more in goods or services to the Gaming Operation in a calendar quarter. The Commission shall promulgate a regulation adopting a form of registration form within one hundred and eighty (180) days of approval of this Ordinance. The Gaming Operation shall notify Suppliers providing goods or services to the Gaming Operation that they may be obligated to complete the registration form. It is the responsibility of the Supplier providing goods or services of \$50,000 or more to the Gaming Operation in a calendar quarter to complete the registration form, and it is their responsibility to update the registration form in the event of any change in information. To facilitate compliance with this Section, the Gaming Operation shall establish a tracking system to monitor the purchase of goods and services of \$50,000 or more from any Supplier in a calendar quarter. The Gaming Operation shall make this information available to the Gaming Commission upon request. This registration obligation shall become effective two hundred and forty (240) days after the effective date of this Ordinance.

Section 3-623**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 a 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. The Gaming Commission may allow temporary exceptions to this provision for the purposes of authorizing investigators who are actively investigating a matter within the Gaming Facility to monitor Gaming Activities.

Section 3-624**DUE PROCESS.**

A. The denial, suspension or revocation of a license pursuant to this Ordinance shall require:

1. All rights to notice and hearing shall be governed by tribal law and comport with federal procedural due process by, at a minimum, providing the applicant or Licensee with notice reasonably calculated to apprise the applicant or Licensee of the pendency of the determination, access to the materials upon which the suspension or revocation is based, and an opportunity to be heard.
2. Written, certified, return receipt requested or personally hand-delivered notification of the denial, suspension or proposed revocation be given to the applicant or Licensee ten (10) calendar days in advance of the proposed action;
3. Such written notification shall include the reason for denial, suspension or proposed revocation and information concerning the applicant or Licensee's right to a hearing, specify the date, time and place for the hearing, and advise the applicant or Licensee that failure to appear for a scheduled hearing shall forfeit any further right to appeal;
4. A written decision issued by the Gaming Commission within five (5) business days of the hearing, which decision shall give a reason for the ruling and provide the applicant or Licensee notice of a right to appeal the decision to the Tribal Court within fifteen (15) calendar days of receipt of the written decision, provided, however, that if the Tribal Court has not been established, the Tribal Council shall act in the Tribal Court's stead to hear appeals and issue a written decision, subject to approval or veto of the Tribal Chairperson in accordance with tribal law; and
5. If the applicant or Licensee files an appeal within fifteen (15) calendar days of receipt of the written notification described in the preceding paragraph, the Tribal Court shall review any additional information submitted by the Licensee with the petition and notify the 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.

Within two (2) business days of an immediate revocation or suspension, the Gaming Commission and Tribal Court, if applicable, shall proceed with the requirements of subparagraph (A)(2) through (4).

Section 3-625**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 NIGC may be licensed for a period of no more than seven (7) years, provided such 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 a Tribal-State Compact. Renewal applications must be received by the Gaming Commission at least thirty (30) calendar 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) calendar days following the expiration of the license, unless otherwise notified by the Gaming Commission. 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. 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 a 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.

Section 3-626**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 a Tribal-State Compact.

**ARTICLE VII
MISCELLANEOUS PROVISIONS**

Section 3-701**COMPLIANCE WITH FEDERAL LAW.**

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

Section 3-702**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 with the Gaming Operation

(unless such contract or agreement provides otherwise), or participates in any Gaming Activity on Indian Lands of the Tribe shall be deemed to consent to the civil jurisdiction of the Tribe, the Gaming Commission and the Tribal Courts of the Tribe for purposes of enforcement of this Ordinance. Nothing in this Section or Ordinance shall limit the jurisdiction of the Tribe or the Gaming Commission under any circumstances not expressly contemplated herein.

Section 3-703

SOVEREIGN IMMUNITY.

Nothing in this Ordinance shall be construed as a waiver, limitation, alteration, modification or restriction of the sovereign immunity of the Wilton Rancheria or any of its agencies, boards, commissions, authorities, employees, agents, consultants or officials, except that an applicant or holder of a tribal gaming license may appeal an adverse licensing decision or civil violation finding, in accordance with Sections 3-315 and 3-624 of this Ordinance; provided, however, that this limited waiver shall be narrowly construed, applies only to the Gaming Authority with respect to Section 3-315 and the Gaming Commission with respect to Section 3-624, and excludes monetary damages of any kind. Neither the Gaming Commission nor the Executive Director shall have any power to waive, in whole or in part, the sovereign immunity of the Tribe or any of the Tribe's other agencies, boards, commissions, authorities, employees, agents, consultants or officials.

Section 3-704

SEVERABILITY.

If any provision of this Ordinance shall in the future be declared invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

Section 3-705

AMENDMENTS.

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

Section 3-706

EFFECTIVE DATE.

This Ordinance shall become effective and binding upon adoption by a majority vote of the Tribal Council in accordance with the laws of the Tribe and approval of the NIGC Chair. This Ordinance shall repeal and supersede all previous gaming ordinances adopted by the Tribe, inclusive of that certain Gaming Ordinance adopted by the Tribe pursuant to Tribal Council Resolution No. 2017-21 and approved by the NIGC Chairman pursuant to letter dated October 13, 2017. This Ordinance shall also repeal and supersede all other Tribal policies, regulations, and rules which are inconsistent with this Ordinance.



**Tribal Council Resolution No. 2019-28
RESOLUTION TO CONDITIONALLY REPEAL AND REPLACE THE 2017 GAMING ORDINANCE
WITH THE GAMING ORDINANCE OF 2019, SUBJECT TO APPROVAL BY THE NATIONAL
INDIAN GAMING COMMISSION**

WHEREAS, Wilton Rancheria ("Tribe") is a federally-recognized Indian tribe eligible for all rights and privileges afforded to recognized Native American tribes; and

WHEREAS, Wilton Rancheria adopted the Constitution of Wilton Rancheria ("Constitution") on November 12, 2011; and

WHEREAS, Article V, Section 1(a) of the Constitution provides that the Tribal Chairperson has the power to execute, administer, and enforce all the laws of the Tribe; and

WHEREAS, Article V, Section 1(k) of the Constitution grants the Tribal Chairperson the power to administer all departments created by the Tribal Council; and

WHEREAS, Article V, Section 1(m) of the Constitution grants the Tribal Chairperson the power to nominate the directors of each department subject to confirmation by the Tribal Council, except that if a confirmation vote is not taken by the Tribal Council within forty-five days, the nomination shall be deemed confirmed; and

WHEREAS, Article VI, Section 2 of the Constitution authorizes the Tribal Council to make the Tribe's laws; and

WHEREAS, Article VI, Section 2(a) of the Constitution grants the Tribal Council the power to make all laws, including resolutions, codes, and statutes; and

WHEREAS, Article VI, Section 2(b) of the Constitution grants the Tribal Council the power to establish any administrative departments that shall be administered by the Chairperson, such as a Department of the Treasury, Administration, Business, Housing, Health, Social Services, Education, Personnel, and any other departments deemed necessary by the Tribal Council; and

WHEREAS, the Tribal Council Organization Act of 2012 provides that acts shall be the formal laws passed by the Tribal Council in development of the Tribe's permanent body of law, 4 WRC § 1-303(A); and

WHEREAS, the Tribal Council Organization Act of 2012, Section 1-303(B) provides that all acts and amendments shall go through the legislative process unless the Tribal Council deems the passage of the specific proposed act or amendment must occur immediately to address a situation that adversely affects the health, safety, welfare, or economic well-being of the Tribe or an individual tribal member; and

WHEREAS, pursuant to Resolution No. 2017-21, the Tribal Council approved the current Gaming Ordinance ("2017 Gaming Ordinance") and requested the Tribal Chairperson to submit the Gaming Ordinance to the National Indian Gaming Commission ("NIGC") for approval; and

WHEREAS, the NIGC Chairperson approved the 2017 Gaming Ordinance on October 13, 2017; and

WHEREAS, the Tribal Council desires to repeal the 2017 Gaming Ordinance and replace it with the Gaming Ordinance of 2019, which includes provisions to organize the Wilton Rancheria Gaming Commission, establish the position of Executive Director of the Gaming Commission, provide procedures for the promulgation of gaming regulations, and make other amendments that the Tribal Council deems to be in the best interest of the Tribe; and

WHEREAS, the Gaming Ordinance of 2019 shall become effective on the date it is approved by the NIGC Chairperson, and the Tribal Council desires to maintain the 2017 Gaming Ordinance until the Gaming Ordinance of 2019 is effective.

NOW BE IT THEREFORE RESOLVED, the Tribal Council does hereby approve the Gaming Ordinance of 2019; and

BE IT FURTHER RESOLVED, the Tribal Council does request the Chairperson to submit the Gaming Ordinance of 2019 for approval by the NIGC Chairperson; and

BE IT FURTHER RESOLVED, upon approval of the Gaming Ordinance of 2019 by the NIGC Chairperson, the 2017 Gaming Ordinance immediately and automatically will be repealed and replaced by the Gaming Ordinance of 2019; and

BE IT FINALLY RESOLVED, the Tribal Chairperson shall fully and faithfully execute, and take any and all action necessary to implement, the Gaming Ordinance of 2019.

CERTIFICATION

It is hereby certified that the foregoing Resolution was adopted by an affirmative vote of 7 for, 0 against, and 0 abstaining, presented for approval on May 23, 2019, pursuant to the authority contained within the Constitution of Wilton Rancheria.

Dated this 23rd day of May 2019.



Tonya Caldwell
Tribal Council Spokesperson

Attest:



Jesus Tarango
Vice-Chairperson