



February 14, 2024

VIA E-MAIL

Cecilia Flores, Chairwoman
Alabama-Coushatta Tribal Council of Alabama-Coushatta Tribe of Texas
571 State Park Road, 56
Livingston, TX 77351

Re: Alabama-Coushatta Gaming Ordinance amendments, Resolution 2024-88

Dear Chairwoman Flores:

This letter responds to your request received December 11, 2024, on behalf of the Alabama-Coushatta Tribe of Texas (Tribe) for the National Indian Gaming Commission (NIGC) Chairwoman to review and approve amendments to the Tribe's gaming ordinance.

Resolution 2024-88 replaces the Tribe's last NIGC approved gaming ordinance, Resolution 2015-38, with a wholly revised and updated version. The newly amended ordinance reflects recent updates to the NIGC regulations, and other updates deemed necessary by the Tribe since the last NIGC approved gaming ordinance.

The amendments are consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations and are hereby approved. If you have any questions concerning this letter or the ordinance review process, please contact NIGC Staff Attorney Mandy Cisneros at mandy.cisneros@nigc.gov.

Sincerely,

A handwritten signature in blue ink that reads "Sharon M. Avery". The signature is fluid and cursive.

Sharon M. Avery
Acting Chairwoman

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

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ALABAMA-COUSHATTA TRIBE OF TEXAS

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Tribal Chiefs

Principal Chief
Chief Kanicu
Donnis Battise

Tribal Council

Ricky Sylestine, Chairman
Nita Battise, Vice-Chairperson
Melanie Battise, Secretary
Crystal Stephenson, Treasurer
Tina Battise, Member
Yolanda Poncho, Member

December 9, 2024

ALABAMA- COUSHATTA TRIBAL COUNCIL ACITC Resolution #2024-88

PERTAINING, to the Alabama-Coushatta Tribe of Texas (the “Tribe”), a sovereign, federally recognized Tribe:

WHEREAS, the Alabama-Coushatta Tribal Council (the “Tribal Council”) is the governing body of the Tribe pursuant to Article III of the Tribe's Constitution (the “Constitution”); and

WHEREAS, the Tribal Council seeks to provide or assist in the provision of social, cultural, legal, economic and other needs for the Tribal members; and

WHEREAS, the Tribal Council exercising its delegated powers under Article VI, Section 1(h) of the Constitution of the Alabama-Coushatta Tribe has the authority to promote the peace and protect the health, peace morals, education, sovereignty, jurisdiction, community, children, lands, resources and general welfare of the Tribe and its members; including but not limited to, the promotion and establishment of legal gaming operations within the Reservation Lands of the Tribe; and

WHEREAS, the Tribal Council is empowered and authorized to enact Resolutions and Ordinances governing the order and the administration of justice; and

WHEREAS, the Tribal Council pursuant to ACITC #2015-038 created a Class II Gaming Ordinance, titled the Alabama-Coushatta Tribe of Texas Class II Tribal Gaming Ordinance for the purpose of establishing Gaming Operations on the Tribe's Indian lands and to govern and regulate the operation of Class II Gaming Operations on the Tribe's Indian lands; and

WHEREAS, on October 8, 2015, the National Indian Gaming Commission (“NIGC”) concluded that the Tribe's gaming is governed by the Indian Gaming Regulatory Act (“IGRA”) and concurrently approved the Tribe's Class II Gaming Ordinance; and

WHEREAS, in a judgment entered March 14, 2019 (cert. denied), the Fifth Circuit Court of Appeals determined that the Tribe's gaming was not governed by IGRA, but rather by the Tribe's Restoration Act (25 U.S.C. § 731 *et seq.*); and

WHEREAS, the Tribal Council pursuant to ACITC #2020-48 created a modified Tribal Gaming Ordinance to best govern its legal Gaming Operations under the Restoration Act; and

WHEREAS, the Tribal Council pursuant to ACITC 2024-18 amended its Tribal Gaming Ordinance created under ACITC #2020-48 for efficiency and best practice considerations; and

WHEREAS, on June 15, 2022, the United States Supreme Court issued its opinion in *Ysleta del Sur Pueblo v. Texas*, which the NIGC immediately believed placed the Tribe's gaming under IGRA and the NIGC's jurisdiction; and

WHEREAS, on September 10, 2024, the NIGC issued a Notice of Violation to the Tribe, asserting jurisdiction under IGRA over the Tribe's gaming; and

WHEREAS, the Tribe is now willing to agree to the NIGC's jurisdiction over the Tribe's gaming operation and it is appropriate for the Tribe to modify its current gaming ordinance in a manner that makes it compliant with the requirements of IGRA;

WHEREAS, the Tribe desires to approve and submit to the NIGC the attached Tribal Gaming Ordinance, which it believes places the Tribe's gaming under the Indian Regulatory Act and NIGC jurisdiction;

NOW THEREFORE BE IT RESOLVED, the Alabama-Coushatta Tribal Council hereby repeals all previous Tribal Gaming Ordinances and approves this Resolution and adopts the attached Tribal Gaming Ordinance for its submission to the NIGC for approval, thereby bringing the Tribe's gaming under the Indian Gaming Regulatory Act and NIGC jurisdiction.

CERTIFICATION

I, THE UNDERSIGNED, chairman of the Alabama-Coushatta Tribe of Texas, do hereby certify that the Alabama-Coushatta Tribal Council is composed of seven (7) members, of whom 5 were polled by electronic mail on December 9, 2024, and that the Tribal Council adopted this Resolution by a vote of 5 in favor, 0 opposed and 0 abstained.

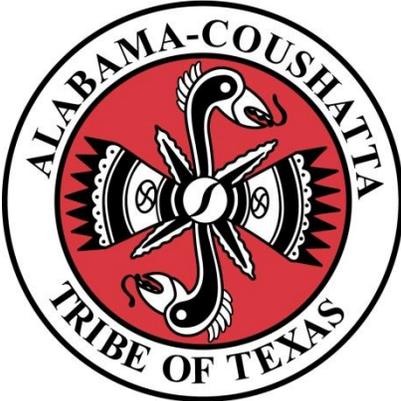


Melanie Battise
Secretary, Tribal Council



Ricky Sylestine
Chairman, Tribal Council

ALABAMA-COUSHATTA TRIBE OF TEXAS



TRIBAL GAMING ORDINANCE

Revision History

Revision #	Tribal Resolution	Adopted	Approved by NIGC
01	ACITC # 2015-38	July 10, 2015	October 08, 2015
02	ACITC # 2020-48	July 03, 2020	N/A
03	ACITC # 2024-18	February 26, 2024	N/A
04	ACITC # 2024-88	December 09, 2024	

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1. Title

- 1.1. This Ordinance shall be known as the Alabama-Coushatta Tribe of Texas Tribal Gaming Ordinance, or the Gaming Ordinance.

2. Purpose

- 2.1. The Tribal Council of the Alabama-Coushatta Tribe of Texas (“Tribe”), empowered by the Tribe’s Constitution, Article VI, Section I, Subsection h, enacts this ordinance to promote and establish gaming operations, and to govern and regulate the operation of Class II gaming operations on the Tribe’s Indian lands.

3. Applicability

- 3.1. Unless specifically indicated otherwise, all provisions of this ordinance shall apply to Class II gaming (as defined below) on the Tribe’s Indian lands.

4. Definitions

- 4.1. Unless a different meaning is clearly indicated in this ordinance, the terms used herein shall have the same meaning as defined in the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. §§ 2701 *et seq.*, and the National Indian Gaming Commission (“NIGC”) regulations, 25 C.F.R. §§ 500 *et seq.*, *if they are defined in IGRA and the NIGC’s regulations.*

4.1.1. **“Board of Directors,” “Board,” or “Director”** means the governing body of the Tribal Economic Development Authority (TEDA).

4.1.2. **“Class I Gaming”** (25 C.F.R. § 502.2) means:

4.1.2.1. Social games played solely for prizes of minimal value; or

4.1.2.2. Traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.

4.1.3. **“Class II Gaming”** (25 C.F.R. § 502.3) means:

4.1.3.1. Bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players:

4.1.3.1.1. Play for prizes with cards bearing numbers or other designations;

4.1.3.1.2. Cover numbers or designations when object, similarly numbered or designated, are drawn or electronically determined; and

4.1.3.1.3. Win the game by being the first person to cover a designated pattern on such cards;

- 4.1.3.2. If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;
- 4.1.3.3. Nonbanking card games that:
 - 4.1.3.3.1. State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
 - 4.1.3.3.2. Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes;
- 4.1.3.4. Card games played in the states of Michigan, North Dakota, South Dakota, or Washington if:
 - 4.1.3.4.1. An Indian tribe actually operates the same card games as played on or before May 1, 1988, as determined by the Chairman; and
 - 4.1.3.4.2. The pot and wager limits remain the same as on or before May 1, 1988, as determined by the Chairman;
- 4.1.3.5. Individually owned class II gaming operations—
 - 4.1.3.5.1. That were operating on September 1, 1986;
 - 4.1.3.5.2. That meet the requirements of 25 U.S.C. 2710(b)(4)(B);
 - 4.1.3.5.3. Where the nature and scope of the game remains as it was on October 17, 1988; and
 - 4.1.3.5.4. Where the ownership interest or interests are the same as on October 17, 1988.
- 4.1.4. **“Executive Director”** means the person hired by the Board of Regulators to act as the TGRA’s Chief Executive Officer and direct oversight of the TGRA staff.
- 4.1.5. **“Facility License”** (25 C.F.R. § 502.23) means a separate license issued by a tribe to each place, facility, or location on Indian lands where the Tribe elects to allow Class II gaming.
- 4.1.6. **“Gaming Employee”** means any natural person who:
 - 4.1.6.1. Conducts, operates, maintains, repairs, accounts for, or assists in any gaming activities, or is in any way responsible for supervising such gaming activities; or
 - 4.1.6.2. Is a person whose employment duties require or authorize access to areas of the gaming facility in which activities related to gaming are conducted but that are not open to the public, and;
 - 4.1.6.3. Is an employee of a gaming operation who is included in the definition of “Primary Management Official”, “Key Employee”, or “Non-Key Employee”.
- 4.1.7. **“Gaming Ordinance”** means this ordinance, as amended from time to time, and any rules and regulations promulgated thereunder.
- 4.1.8. **“Indian”** shall mean an individual as defined by 25 U.S.C. § 2201(2).

- 4.1.9. **“Indian Tribe”** (25 C.F.R. § 502.13.) means any Indian Tribe, band, nation, or other organized group, or community of Indians that the Secretary recognizes as;
- 4.1.9.1. Eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and
 - 4.1.9.2. Having powers of self-government
- 4.1.10. **“Indian Gaming Regulatory Act” or “IGRA”** means the Indian Gaming Regulatory Act, Public Law 100-497 as codified in 25 U.S.C. § 2701 *et seq.*
- 4.1.11. **“Indian Lands,” “Tribal Lands,” or “Tribal Indian Lands”** means all lands within the limits of the Alabama-Coushatta Tribe of Texas Reservation; and any land(s) title to which is either held in trust by the United States for the benefit of the Alabama-Coushatta Tribe of Texas subject to restriction by the United States against alienation and over which the Tribe exercises governmental power. For purposes of this Gaming Ordinance, Tribal Indian Lands only refers to lands acquired by the Secretary in trust prior to October 17, 1988, or those lands acquired by the Secretary in trust after October 17, 1988, that meet one or more of the exceptions set forth in 25 U.S.C. § 2719.
- 4.1.12. **“Key Employee”** (25 C.F.R. § 502.14) means any person who performs one or more of the following functions for the gaming operation:
- 4.1.12.1. Bingo caller;
 - 4.1.12.2. Counting room supervisor;
 - 4.1.12.3. Chief of security;
 - 4.1.12.4. Floor manager;
 - 4.1.12.5. Pit boss;
 - 4.1.12.6. Dealer;
 - 4.1.12.7. Croupier;
 - 4.1.12.8. Approver of credit;
 - 4.1.12.9. Custodian of gaming systems as defined in 25 CFR 547.2 and similar class II systems, gaming cash or gaming cash equivalents, gaming supplies or gaming system records;
 - 4.1.12.10. Custodian of surveillance systems or surveillance system records.
- 4.1.13. Any gaming operation employee authorized by the gaming operation for unescorted access to secured gaming areas designated as secured gaming areas by the TGRA;
- 4.1.13.1. If not otherwise licensed as a key employee or primary management official, the four persons most highly compensated by the gaming operation;
- 4.1.14. Any other employee of the gaming enterprise as documented by the tribe as a key employee.

- 4.1.15. **“Licensee”** means a tribally owned Class II gaming operation or a person licensed by the Tribal Gaming Regulatory Authority as a primary management official, key employee or other gaming employee under the provisions of this ordinance.
- 4.1.16. **“Management Contract”** (25 C.F.R. § 502.15) means any contract, subcontract, or collateral agreement between an Indian Tribe and a contractor, or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.
- 4.1.17. **“Minimum Internal Control Standards” or “MICS”** means detailed procedural controls designed to protect the assets of the gaming operation, ensure the accuracy and reliability of accounting methods, and protect the integrity of gaming on Tribal lands. 25 C.F.R. §§ 500 *et seq.*
- 4.1.18. **“Net Revenues”** (25 C.F.R. § 502.16) means gross gaming revenues of an Indian gaming operation less;
- 4.1.18.1. Amounts paid out as, or paid for, prizes; and
 - 4.1.18.2. Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses, and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.
- 4.1.19. **“NIGC”** means the National Indian Gaming Commission established and existing pursuant to the Indian Gaming Regulatory Act (IGRA).
- 4.1.20. **“Non-Key Employee”** means any employee of a gaming operation who is not included in the definition of “Primary Management Official” or “Key Employee”.
- 4.1.21. **“Operational Employee”** means employees whose;
- 4.1.21.1. Employment duties do not require or authorize access to areas of the gaming facility in which activities related to gaming are conducted.
 - 4.1.21.2. Do not have access to gaming related areas that are not open to the public.
 - 4.1.21.3. Does not handle gaming related funds (as defined by regulation)
 - 4.1.21.4. Do not have access to gaming records or player accounts;
 - 4.1.21.5. Do not meet the definition of “Gaming Employee”.
 - 4.1.21.5.1. Operational employees include but are not limited to:
 - 4.1.21.5.1.1. Steward
 - 4.1.21.5.1.2. Line Cook
 - 4.1.21.5.1.3. Grounds keeper
 - 4.1.21.5.1.4. Housekeeper
 - 4.1.21.5.1.5. Retail Clerk

- 4.1.22. **“Primary Management Official” or “PMO”** (25 C.F.R. § 502.19) means:
- 4.1.22.1. Any person having management responsibility for a management contract;
 - 4.1.22.2. Any person who has authority:
 - 4.1.22.2.1. To hire and fire employees of the gaming operation; or
 - 4.1.22.2.2. To establish policy for the gaming operation.
 - 4.1.22.3. The Chief Financial Officer, or a position with duties similar to a Chief Financial Officer.
 - 4.1.22.4. The General Manager, or a position with duties similar to a General Manager.
 - 4.1.22.5. Any other employed management official of the gaming enterprise as documented by the Tribe as a Primary Management Official.
- 4.1.23. **“Principal”** means with respect to any entity:
- 4.1.23.1. Each of its officers and directors;
 - 4.1.23.2. Each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager;
 - 4.1.23.3. Each of its owners or partner, if an unincorporated business;
 - 4.1.23.4. Each of its shareholders who own more than ten percent of the shares of the corporation, if a corporation; and
 - 4.1.23.5. Each person other than a banking institution who has provided financing constituting more than ten percent of the total financing of the gaming operation.
- 4.1.24. **“Prize”** means any U.S. currency, cash or other property or thing of value awarded to a player or patron, or received by a player or patron, as a result of their participation in Class II gaming activities.
- 4.1.25. **“Regulation”** means rules and directives promulgated from time to time by the Tribal Gaming Regulatory Authority (TGRA) or National Indian Gaming Commission (NIGC) pursuant to this ordinance or the Indian Gaming Regulatory Act (IGRA) at 25 C.F.R. §§ 500 *et seq.*.
- 4.1.26. **“Regulator”** means a person employed by the Tribal Gaming Regulatory Authority that performs regulatory oversight, issues licenses, or monitors compliance of entertainment and gaming activities conducted by the gaming operation.
- 4.1.27. **“Reservation”** means Alabama-Coushatta Tribe of Texas lands as defined by 25 U.S.C. § 731(3) (A), (B) and (C).
- 4.1.28. **“Secretary”** (25 C.F.R. § 502.20) means the Secretary of the Interior.
- 4.1.29. **“State”** means the State of Texas.

- 4.1.30. **“Tribal Council” or “Council”** means the Tribe’s governing body as established by Article V of the Constitution and Bylaws of the Alabama-Coushatta Tribe of Texas.
- 4.1.31. **“Tribal Court”** means the Alabama-Coushatta Tribe of Texas Tribal Court.
- 4.1.32. **“Tribal Economic Development Authority” or “TEDA”** means an economic entity authorized to conduct Class II gaming operations and related activities on the Alabama-Coushatta Tribe of Texas’ Tribal Lands pursuant to this gaming ordinance.
- 4.1.33. **“Tribal Gaming Regulatory Authority” or “TGRA”** means the agency authorized by Tribal law to regulate gaming conducted pursuant to the Indian Gaming Regulatory Act (IGRA), perform regulatory oversight, issue licenses, and monitor compliance with Tribal, federal and applicable state regulations of entertainment and gaming activities conducted by the Tribal Economic Development Authority (TEDA).
- 4.1.34. **“Tribal Member”** means an individual who is an enrolled member of the Alabama-Coushatta Tribe of Texas as determined by the Tribe.
- 4.1.35. **“Tribal Regulation”** means a rule or directive promulgated and maintained by the Tribal Gaming Regulatory Authority, as authorized by this ordinance.
- 4.1.36. **“Tribe”** means the Alabama-Coushatta Tribe of Texas being duly recognized by the Secretary of the Department of the Interior, and other agencies of the United States of America, and having special rights of self-government as set forth in the Alabama-Coushatta Tribe of Texas Restoration Act, Public Law 100-89, 25 U.S.C. § 731 *et seq.*, and its authorized officials, agents and representatives.

5. Class II Gaming Authorization and Regulation

- 5.1. Operation of Class II Gaming is authorized on Tribal Indian Lands and shall be subject to the provisions of this gaming ordinance.
- 5.2. All Class II Gaming shall be regulated by the Tribe through the Alabama-Coushatta Tribal Gaming Regulatory Authority, and shall be conducted in accordance with:
 - 5.2.1. This ordinance
 - 5.2.2. Indian Gaming Regulatory Act (IGRA)
 - 5.2.3. National Indian Gaming Commission (NIGC) regulations
 - 5.2.4. Tribal Gaming Regulatory Authority (TGRA) regulations,
 - 5.2.5. Tribal Internal Control Standards (TICS); and
 - 5.2.6. Tribal Technical Control Standards (TTCS)

6. Exclusive Ownership by the Tribe

- 6.1. The Tribe shall be the primary beneficiary and have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this gaming ordinance, except as expressly provided in this ordinance.

7. Use of Net Revenue from Gaming Activities

- 7.1. Net Revenues from Tribal gaming activities shall be used only for the following purposes:
- 7.1.1. To fund Tribal government operations or programs;
 - 7.1.2. To provide for the general welfare of the Tribe and Tribal members;
 - 7.1.3. Promote Tribal economic development;
 - 7.1.4. To donate to charitable organizations; or
 - 7.1.5. To help fund operations of local government agencies;

8. Per Capita Payments

- 8.1. Net revenues from any Class II gaming activities conducted or licensed by the Tribe may be used to make per capita payments to Tribal members if:
- 8.1.1. The Tribe has prepared a plan to allocate revenues to one or more of the five uses authorized by section 7.1 of this ordinance.
 - 8.1.2. The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in section 7.1.1 and 7.1.3 of this ordinance. 25 U.S.C. § 2710(b)(3) and 25 C.F.R. §§ 522.5(b)(2)(ii).
 - 8.1.3. The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and the per capita payments are distributed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person; and
 - 8.1.4. The per capita payments are subject to Federal taxation and the Tribe notifies its member of such tax liability when payments are made.

9. Tribal Gaming Regulatory Authority (“TGRA”)

- 9.1. The Tribe hereby establishes a Tribal Gaming Regulatory Authority (“TGRA”) to regulate the Tribe’s gaming operations.
- 9.2. The TGRA’s Board of Regulators shall consist of three members, including a Chair, Vice-Chair and Secretary/Treasurer.

- 9.3. The TGRA will conduct oversight to ensure compliance with Tribal, federal, and if applicable, state laws and regulations. It will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process. The TGRA will also monitor compliance with the gaming operation's internal controls and in tracking gaming revenues. In order to carry out its regulatory duties, the TGRA shall have unrestricted access to all areas of the gaming operation and to all of its records. The TGRA shall have authority to take enforcement actions, including suspension or revocation of a gaming license, when appropriate.
- 9.4. Board of Regulator positions shall be filled through appointment by the Tribal Council.
- 9.5. Terms of office for the Board of Regulators shall be as follows:
 - 9.5.1. The Chair shall serve an initial term of one (1) year, with subsequent Chairs serving three (3) year terms;
 - 9.5.2. The Vice-Chair and Secretary/Treasurer shall serve an initial term of two (2) years, with subsequent Vice-Chairs and the Secretary/Treasurer serving three (3) year terms.
- 9.6. The following persons are not eligible to serve on the Board of Regulators:
 - 9.6.1. Tribal Council members, while serving as such;
 - 9.6.2. Current employees of the Gaming Operation;
 - 9.6.3. Gaming contractors (including any principal of a management, or other, contracting company);
 - 9.6.4. Persons sharing a residence with any of the above;
 - 9.6.5. Persons ineligible to be primary management officials or key employees.
 - 9.6.6. Non-tribal members previously convicted of any felony or misdemeanor offense of embezzlement, theft, any other money-related or honesty-related offense, such as fraud.
 - 9.6.7. Tribal members previously convicted of any felony or misdemeanor offense of embezzlement, theft, or any other offense related to money or honesty, such as fraud, will only be allowed to serve as a Board of Regulator member if the Tribal Council specifically finds that a significant amount of time has passed and the person is now of trustworthy character.
- 9.7. The Tribal Council shall require a criminal history check for each Board of Regulator candidate; shall review the candidate's criminal history check results; and shall make an appropriate eligibility determination before appointing an individual to any position on the Board of Regulators.
- 9.8. The Tribe recognizes the importance of an independent Tribal Gaming Regulatory Authority in maintaining a well-regulated gaming operation.

- 9.8.1. The TGRA shall be independent of, and act independently and autonomously from, the Tribal Council in all matters within its purview. No prior, or subsequent, review by the Tribal Council of any actions of the Tribal Gaming Regulatory Authority shall be required or permitted, except as otherwise explicitly provided in this Ordinance.
- 9.9. To avoid potential conflicts of interest between the management and regulation of the Gaming Operation, the Tribe requires that, at a minimum:
 - 9.9.1. No present member of the Tribal Council or TEDA may be employed by the Tribal Gaming Regulatory Authority;
 - 9.9.2. No one sharing a residence with a present Tribal Council member or TEDA Board of Directors member may be employed by the Tribal Gaming Regulatory Authority;
 - 9.9.3. Tribal Gaming Regulatory Authority employees and Board of Regulator members are prohibited from gambling in the gaming operation;
 - 9.9.4. Tribal Gaming Regulatory Authority employees and Board of Regulator members are prohibited from accepting complimentary items from the gaming operation, except food and beverages valued under fifty (\$50.00) dollars; and
 - 9.9.5. Board of Regulator members may only be removed from office by the Tribal Council, prior to the expiration of their respective terms, for neglect of duty, misconduct, malfeasance, or other acts that would render a Board of Regulator member unqualified for the position.
- 9.10. Nominees for Board of Regulator positions must satisfy the eligibility standards set forth for primary management officials and key employees.
 - 9.10.1. All requisite background investigations shall be performed under the direction of the Tribal Council.
- 9.11. The Tribal Gaming Regulatory Authority shall administer the provisions of this gaming ordinance and shall:
 - 9.11.1. Conduct background investigations, or cause such investigations to be conducted, for primary management officials and key employees;
 - 9.11.2. Review and approve all investigative work conducted in connection with the background investigations of primary management officials and key employees;
 - 9.11.3. Create and maintain investigative reports based on the background investigations of primary management officials and key employees;
 - 9.11.4. Obtain and process fingerprints and conduct a criminal history check that shall include a check of criminal history records information maintained by the Federal Bureau of Investigation (FBI), or designate a law enforcement agency to do so;

- 9.11.5. Make licensing eligibility determinations, which shall be signed by the Executive Director, or his or her designee, as long as the designee is not a member of the Board of Regulators;
- 9.11.6. Submit a notice of results to the NIGC of the background investigations done for each primary management official and key employee applicant;
- 9.11.7. Issue gaming licenses to Primary Management Officials, Key Employees, and other employees of the Gaming Operation, if warranted by the eligibility determination;
- 9.11.8. Establish standards for licensing Tribal gaming facilities;
- 9.11.9. Issue gaming license(s) to Tribal gaming facilities;
- 9.11.10. 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 facilities and operations;
- 9.11.11. Ensure compliance with all Tribal, federal, and applicable state laws, rules, and regulations regarding Indian gaming;
- 9.11.12. Investigate any suspicion of wrongdoing associated with any gaming activities;
- 9.11.13. Hold hearings on patron complaints, in accordance with procedures established in this ordinance and the Tribal gaming regulations;
- 9.11.14. Comply with any and all reporting requirements under IGRA, the NIGC's regulations, any tribal-state compact to which the Tribe is a party, and any other applicable law;
- 9.11.15. Promulgate and issue regulations necessary to ensure compliance with applicable minimum internal control standards for Class II gaming activities;
- 9.11.16. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
- 9.11.17. 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 applicable state gaming regulations;
- 9.11.18. Establish a list of persons not allowed to game in the Tribal gaming facilities in order to maintain the integrity of the gaming operation;
- 9.11.19. Establish a list of persons who have voluntarily agreed to be excluded from the Tribal gaming facilities, and create regulations for enforcing the exclusions;
- 9.11.20. 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;

- 9.11.21. Create a list of regulatory authorities that conduct background investigations of, and license vendors who are recognized as trustworthy;
 - 9.11.22. Promulgate regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
 - 9.11.23. Perform such other duties the TGRA deems appropriate for the proper regulation of the Tribal gaming operation; and
 - 9.11.24. Promulgate such regulations and guidelines as deemed appropriate to implement the provisions of this ordinance, so long as they are in furtherance of, and not in conflict with, any provisions of this ordinance.
- 9.12. Before adopting, amending, and repealing regulations, the TGRA shall give notice of any such proposed action to the Tribal Council, the gaming operation(s), and all other persons whom the TGRA has reason to believe have a legitimate interest in the proposed action. The notice shall invite comments and describe the general nature of the proposed action and the manner in which comments on the proposed action shall be received by the TGRA.
- 9.12.1.1. If the BOR Chairperson finds that an urgent commercial issue or an imminent peril to the public health, safety, or welfare requires immediate adoption of a regulation and states in writing the reasons for that finding, the TGRA, without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, may adopt an emergency regulation.
 - 9.12.1.2. The TGRA shall give public notice within a reasonable time and take appropriate measures to make an emergency regulation known to the persons who may be affected by it.
 - 9.12.1.3. The TGRA shall notify Tribal Council of such emergency regulation.
 - 9.12.1.4. The concurrent or subsequent adoption of an identical or similar regulation under 9.12.1 is not precluded.
 - 9.12.1.5. An emergency regulation shall not be effective longer than 120 days unless a notice of proposed rule adoption was previously given and the TGRA diligently proceeds to adopt a rule pursuant to 9.12. Such regulation shall be identical to or cover the same issue as the emergency regulation that it replaces.
 - 9.12.1.6. An emergency regulation must be placed on the agenda of the next special or regularly scheduled meeting of the Board of Regulators (BOR). Reasonable public comment shall be allowed concerning the emergency regulation.
- 9.13. The TGRA shall ensure that all records and information obtained as a result of a background investigation shall remain confidential and shall not be disclosed to

any persons who are not directly involved in the licensing and employment processes. Information obtained during the course of a background investigation shall only be disclosed to members of management, human resource personnel, and/or others employed by the Gaming Operation on a need-to-know basis, for actions taken in their official capacities.

- 9.14. The confidentiality requirements in section 9.13 above, do not apply to requests for such records or information from any Tribal, federal, or state law enforcement or regulatory agency, or for the use of such records or information by the TGRA and Agency staff in the performance of their official duties.
- 9.15. A majority of the Board of Regulators shall constitute a quorum. The concurrence of a majority of the Board of Regulators shall be required for any final determination by the Board of Regulators. The Board of Regulators may act in its official capacity, even if there are vacancies on the Board.
- 9.16. The Board of Regulators shall be compensated at a level determined by the Tribal Council. In order to ensure the Board of Regulators is not improperly influenced, a Regulator's compensation shall not be based on a percentage of gaming revenue.
- 9.17. The Board of Regulators shall keep a written record of all its meetings.
- 9.18. At least quarterly, the Board of Regulators will meet with the Tribal Council to provide the Tribal Council with reports regarding licensing, enforcement actions, and other TGRA actions. The Tribal Council may call additional meetings with the Board with forty-eight (48) hours notice.

10. Independent Audits

- 10.1. The Tribe shall require, and the TGRA shall cause to be conducted, independent audits of all Class II gaming operations on Tribal lands annually, and shall submit the results of those audits to the NIGC.
- 10.2. Such audit(s) shall be conducted by an independent auditing firm, selected by the Tribal Gaming Regulatory Authority (TGRA). However, nothing in this Subparagraph shall prohibit the annual audit of gaming operations activities from being encompassed within the Tribe's existing audit system.
- 10.3. Annual audits shall conform to generally accepted auditing standards.
- 10.4. All gaming-related contracts that result in the purchase of supplies, services, or concessions for more than \$25,000 in any year, except contracts for professional legal or accounting services, shall be specifically included within the scope of the audit conducted under section 18.1 of this ordinance.
- 10.5. Copies of the annual audit of each licensed gaming operation, and each audit for supplies, services, or concessions of each gaming operation, shall be furnished to

the NIGC within 120 days after the end of each fiscal year of the gaming operation.

11. Environmental and Public Health and Safety

- 11.1. Each Gaming Operation shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public.
- 11.2. The Tribal Gaming Regulatory Authority (TGRA) shall identify and enforce laws, resolutions, codes, policies, standards, or procedures, which are applicable to each gaming place, facility, or location, to ensure adequate protection of the environment and the health and safety of the public.

12. Patron Disputes

- 12.1. Patrons with complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief with the Tribal Gaming Regulatory Authority (TGRA).
- 12.2. Patrons with complaints against the gaming operation shall initially have the dispute addressed by the gaming operations general manager. If such complaints are not resolved by the general manager to the satisfaction of the patron, the patron may appeal to the Tribal Gaming Regulatory Authority (TGRA).
- 12.3. Complaints shall be submitted to the TGRA in writing and received within thirty (30) days of the date of the incident giving rise to the complaint.
- 12.4. The TGRA shall investigate the dispute and render a decision within thirty (30) days of receipt of the complaint.
- 12.5. A patron may further appeal the decision of the TGRA, to the Board of Regulators by sending a written notice of appeal to the TGRA Board of Regulators and the TGRA within ten (10) days of the patron receiving notice of the TGRA decision. The notice of appeal shall clearly state the reason(s) why the patron believes they are entitled to additional remedy.
- 12.6. The TGRA Board of Regulators shall hold a hearing within thirty (30) days of receipt of the petitioner's complaint. The petitioner may have counsel present at the hearing. The petitioner may be allowed to present evidence, at the discretion of the TGRA Board of Regulators.
- 12.7. After the hearing, the TGRA Board of Regulators shall render a decision in a timely fashion.
- 12.8. All claims by patrons shall be limited to a maximum recovery of actual proven damages, except disputes relating to a patron's entitlement to a game prize, which shall be limited to the amount of such prize.

12.9. The TGRA Board of Regulator's decision shall constitute the complainant's final remedy.

13. Facility Licenses

13.1. The TGRA shall issue a separate license to each place, facility, or location on Tribal Lands where Class II gaming is conducted under this Ordinance.

13.2. The TGRA is responsible for issuing new, renewed facility licenses to each place, facility, or location.

13.3. The Tribal Gaming Regulatory Authority (TGRA) shall require that a facility license application be completed by the General Manager of the gaming facility for each gaming place, facility, or location.

14. Agent for Service of Process

14.1. The Alabama-Coushatta Tribe of Texas designates the Tribal Council Chairperson and the Chairperson of the Tribal Gaming Regulatory Authority as the agent for service of process, or for any official determination, order, or notice of violation.

15. Types of Licenses to be Issued

15.1. The Tribal Gaming Regulatory Authority (TGRA) shall issue the following licenses for gaming on Tribal lands.

15.1.1. Facility License

15.1.2. Primary Management Official

15.1.3. Key Employee

15.1.4. Non-Key Employee

15.1.5. Operational Employee

15.1.6. Other licenses necessary and appropriate, as determined by the TGRA.

15.2. Licenses issued by the Tribal Gaming Regulatory Authority (TGRA), shall be valid and effective for a period determined by Tribal Gaming Regulatory Authority regulation.

15.3. Licenses issued by the Tribal Gaming Regulatory Authority (TGRA) shall be valid for any gaming operation/facility located on Tribal lands for a period determined by Tribal Gaming Regulatory Authority regulation.

16. License Application Forms

16.1. The following notice shall be placed on the Tribe's license application form for all Key Employee and Primary Management Officials prior to being filled out by

the applicant. The notice shall be of their rights under the Privacy Act of 1974 as specified in 25 C.F.R. § 556.2 and as required by 25 C.F.R. § 522.2(b).

16.2. The application shall state:

16.2.1. “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 Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a Primary Management Official or Key Employee position.

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

16.3. Additionally, prior to filling out the application, Key Employees and Primary Management Officials shall be notified on the application of the following:

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

17. License Fees

17.1. The Tribe may charge a license fee, to be set by the Tribal Gaming Regulatory Authority, to cover its expenses in investigating and licensing key employees and primary management officials of the gaming operation.

17.2. Any person applying for a gaming license pursuant to this ordinance shall submit their application, required forms, and information, together with an application fee as determined by the TGRA.

17.3. The TGRA may waive fees in its discretion if an applicant is unable to pay fees.

18. Background Investigations

- 18.1. The Tribal Gaming Regulatory Authority (TGRA) shall perform a background investigation for each primary management official and key employee in its gaming operation. The investigation must be sufficient to allow the Tribal Gaming Regulatory Authority to make an eligibility determination under section (20) of this ordinance.
- 18.2. The Tribal Gaming Regulatory Authority is responsible for conducting background investigations of primary management officials and key employees. The background investigation shall include a check of criminal history records information maintained by the Federal Bureau of Investigations (FBI).
- 18.3. The Tribe shall request fingerprints from each primary management official and key employee. The Tribal Gaming Regulatory Authority is designated to take and submit fingerprints.
- 18.4. The Tribal Gaming Regulatory Authority shall request from each primary management official and key employee all of the following information:
 - 18.4.1. Full name, including any aliases or other names which the applicant has used or has ever been known whether oral or written;
 - 18.4.2. Social Security number(s);
 - 18.4.3. Date and place of birth;
 - 18.4.4. Citizenship of the applicant;
 - 18.4.5. Gender of the applicant;
 - 18.4.6. All languages spoken or written by the applicant;
 - 18.4.7. Currently and for the previous five (5) years an itemization or description of all:
 - 18.4.7.1. Business and employment positions held;
 - 18.4.7.2. Any ownership interests in those businesses;
 - 18.4.7.3. Business and residence addresses; and
 - 18.4.7.4. Driver's license number(s).
 - 18.4.8. The names and current addresses of at least three (3) personal references, including;
 - 18.4.8.1. One personal reference who was acquainted with the applicant during each period of residence listed under section 18.4.7.3, above;
 - 18.4.9. Current business and residential telephone number(s), and all cell phone numbers;
 - 18.4.10. A description of any existing or previous business relationships with other tribes, including any ownership interests in those businesses;
 - 18.4.11. A description of any existing and previous business relationships with the gaming industry generally, including ownership interest in those businesses;

- 18.4.12. 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;
- 18.4.13. Information regarding all criminal proceedings in which the applicant was or is currently involved, including the following:
 - 18.4.13.1. 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 thereof;
 - 18.4.13.2. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years as of the date of the application, the name and address of the court involved and the date and disposition thereof; and
 - 18.4.13.3. For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of application and is not otherwise listed pursuant to sections 18.4.13.(1-2) above, the criminal charge, the name and address of the court involved and the date and disposition thereof.
 - 18.4.13.4. The name and address of any licensing or regulatory agency with which the applicant has filed an application for an occupational license or permit, whether or not such license or permit was granted;
 - 18.4.13.5. A current photograph;
 - 18.4.13.6. Any other information the Tribe deems relevant;
 - 18.4.13.7. A set of fingerprints prepared by the Tribal Gaming Regulatory Authority (TGRA), or an authorized state, local, federal, or tribal law enforcement agency; and
- 18.5. When a primary management official or key employee is employed by the Tribe, a complete application file, containing all of the information listed in section 18.4, shall be maintained.
- 18.6. In conducting a background investigation, the TGRA and its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

19. Investigative Reports

- 19.1. The TGRA shall create and maintain an investigative report for each background investigation of a primary management official or key employee.
- 19.2. An Investigative report shall include all of the following:
 - 19.2.1. Steps taken in conducting a background investigation;
 - 19.2.2. Results obtained;
 - 19.2.3. Conclusions reached; and

19.2.4. The basis for those conclusions.

20. Eligibility Determinations

- 20.1. Before a license is issued to a primary management official or key employee, the Tribal Gaming Regulatory Authority (TGRA), shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations.
- 20.2. If the Tribal Gaming Regulatory Authority (TGRA), in applying the standards adopted in this ordinance, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, he or she shall not license that person in a primary management official or key employee position.
- 20.3. Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a primary management official or key employee.

21. Notice of Results of Background Investigations

- 21.1. Before issuing a license to a primary management official or key employee, the Tribal Gaming Regulatory Authority shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.
- 21.2. The notice of results must be submitted to the NIGC no later than 60 days after the applicant begins working for the Tribe.
- 21.3. The notice of results shall include the following information:
 - 21.3.1. The applicant's name, date of birth, and social security number;
 - 21.3.2. The date on which the applicant began, or will begin, working as a primary management official or key employee.
 - 21.3.3. A summary of the information presented in the investigative report, including:
 - 21.3.3.1. Licenses that have been previously denied;
 - 21.3.3.2. Gaming licenses that have been revoked, even if subsequently reinstated;
 - 21.3.3.3. Every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
 - 21.3.3.4. Every felony offense of which the applicant has been convicted or any ongoing prosecution; and
 - 21.3.4. A copy of the eligibility determination made in accordance with section 20.

22. Granting Gaming Licenses

- 22.1. The Tribal Gaming Regulatory Authority (TGRA) shall have the sole and exclusive authority to grant, renew, deny, revoke, suspend, limit, or modify gaming licenses and regulate Class II gaming activities on Tribal lands as permitted by this ordinance.
- 22.2. All primary management officials and key employees of the gaming operation must have a gaming license issued by the Tribe.
- 22.3. The Tribal Gaming Regulatory Authority (TGRA) is responsible for granting and issuing gaming licenses to primary management officials and key employees.
- 22.4. The Tribal Gaming Regulatory Authority (TGRA) 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 by section 21.
- 22.5. The Tribal Gaming Regulatory Authority (TGRA) shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days of issuance.
- 22.6. The Tribe shall not employ an individual in a primary management official or key employee position who does not have a license after 90 days of beginning work at the gaming operation.
- 22.7. The Tribal Gaming Regulatory Authority (TGRA) 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 30 days of the NIGC receiving a notice of results of the applicant's background investigation.
- 22.8. The Tribal Gaming Regulatory Authority (TGRA) shall take the NIGC's objections into account when reconsidering a license application.
- 22.9. The Tribe will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.
- 22.10. If the Tribal Gaming Regulatory Authority (TGRA) has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee, as required by section 24.

23. Denying Gaming Licenses

- 23.1. The Tribal Gaming Regulatory Authority (TGRA) shall not license a primary management official or key employee if the Tribal Gaming Regulatory Authority (TGRA) determines, in applying the standards in section 20, for making a license eligibility determinations, that licensing the person:
 - 23.1.1. Poses a threat to the public interest;

- 23.1.2. Poses a threat to the effective regulation of gaming; or
- 23.1.3. Creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and/or activities in the conduct of gaming.
- 23.2. When the Tribal Gaming Regulatory Authority (TGRA) 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;
 - 23.2.1. Notify the NIGC; and
 - 23.2.2. 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.

24. Gaming License Suspension and Revocations

- 24.1. If after a license is issued to a primary management official or key employee the Tribe receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Tribal Gaming Regulatory Authority (TGRA) shall do the following:
 - 24.1.1. Immediately suspend the license;
 - 24.1.2. Provide the licensee with written notice of the suspension and proposed revocation; and
 - 24.1.3. Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.
- 24.2. Following a revocation hearing, the Tribal Gaming Regulatory Authority (TGRA) shall decide whether to revoke or reinstate the license at issue.
- 24.3. The Tribe shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

25. Record Retention

- 25.1. The Tribal Gaming Regulatory Authority (TGRA) shall retain, for no less than three (3) years from the date a primary management official or key employee is terminated from employment with the Tribe, the following documentation:
 - 25.1.1. Application for licensing
 - 25.1.2. Investigative Reports; and
 - 25.1.3. Eligibility Determination

26. Licenses for Non-Key Employees

- 26.1. The Tribal Gaming Regulatory Authority (TGRA) may, by regulation, establish procedures for the application, investigation, and issuance of non-key employee

licenses as deemed necessary by the Tribal Gaming Regulatory Authority (TGRA).

27. Licenses for Vendors

27.1. The Tribal Gaming Regulatory Authority (TGRA) may, by regulation, establish procedures for the application, investigation, and issuance of vendor licenses as deemed necessary by the Tribal Gaming Regulatory Authority (TGRA).

28. Vendor License Fees

28.1. The Tribe may charge a license fee, to be set by the Tribal Gaming Regulatory Authority (TGRA), to cover the expenses of investigating and licensing vendors of the gaming operation.

29. Vendors Licensed by Recognized Regulatory Authorities

29.1. The Tribal Gaming Regulatory Authority (TGRA) may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors who have received a license from one of the named regulatory authorities.

30. Management Contracts

30.1. Only upon receiving authorization from the Tribal Council, the Tribal Economic Development Authority (TEDA) may enter into a management contract for the management of the gaming operation and Class II gaming activities. Each contract must comply with the provisions of this ordinance, other applicable provisions of tribal law (including, but not limited to any tribal employment preference ordinance), and provisions of federal law (including, but not limited to, 25 U.S.C. §§ 2710, 2711 and 25 CFR 531).

31. Repeal

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

32. Severability

32.1. If any provision(s) in this Ordinance are held invalid by the Tribal Court or a federal court of competent jurisdiction, this Ordinance shall continue in effect as if the invalid provision(s) were not a part hereof.

33. Amendments

- 33.1. This Ordinance may be amended by action of the Tribal Council and shall be documented by Tribal Council Resolution.
- 33.2. Any proposed amendments must be presented for approval to the Chairperson of the NIGC.

34. Effective Date of Ordinance

- 34.1. This gaming ordinance, as amended, shall take effect after adoption by the Tribal Council and upon approval of the Chairperson of the NIGC.