



September 17, 2025

Lester Nieto, Jr. (Shine)  
Chairman  
Tule River Indian Tribe  
340 N. Reservation Rd.  
Porterville, CA 93257

Re: Tule River Indian Tribe Gaming Ordinance

Dear Chairman Nieto:

I am writing with respect to the July 2, 2025 request of the Tule River Indian Tribe to the National Indian Gaming Commission to review and approve the Tribe's amended gaming ordinance. The amended gaming ordinance was adopted by the Tribal Council through Amendment No. 02 to Resolution No. FY 21019-15 on June 3, 2025.

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

Sincerely,

A handwritten signature in blue ink that reads "Sharon M. Avery".

Sharon M. Avery  
Chairwoman (A)



# TULE RIVER INDIAN TRIBE OF CALIFORNIA

## IN THE MATTER OF:

Resolution to amend the Tule River Tribal Code)  
Title 8 (Gaming Code), Chapter 2, Gaming )  
Ordinance )

**AMENDMENT NO. 02 to  
RESOLUTION NO. FY2019-15**

## BE IT RESOLVED BY THE COUNCIL OF THE TULE RIVER INDIAN TRIBE:

**WHEREAS**, the Tule River Indian Tribe (the "Tribe") is a federally recognized Indian tribe organized pursuant to the Constitution and Bylaws of the Tule River Indian Tribe approved January 15, 1936, as amended ("Constitution"); and

**WHEREAS**, Article VI, Section I(j) of the Constitution authorizes the Tribal Council of the Tribe ("Tribal Council"), as the governing body of the Tribe, to adopt ordinances; and

**WHEREAS**, consistent with the requirements of the Indian Gaming Regulatory Act ("IGRA") and the National Indian Gaming Commission ("NIGC") regulations, the Tribal Council approved the Gaming Ordinance, on November 16, 2018 pursuant to Amendment No. 1 to Resolution No. FY2019-15, and which was approved on March 14, 2019, which is codified at Title 8, Chapter 2 of the Tule River Tribal Code (the "Gaming Ordinance"); and

**WHEREAS**, the Tribe desires to amend and restate the Gaming Ordinance in the form attached hereto as Exhibit A ("Amended Gaming Ordinance"); and

**WHEREAS**, the Tribal Council has reviewed the Amended Gaming Ordinance and desires to approve the Amended Gaming Ordinance and submit to the same to the NIGC for review and approval; and

**NOW THEREFORE BE IT RESOLVED**, that the Tribal Council hereby and amends and restates Title 8 (Gaming Code), Chapter 2 (Gaming Ordinance) of the Tribal Code as provided in the Amended Gaming Ordinance; and

**BE IT FURTHER RESOLVED**, that the Amended Gaming Ordinance shall be effective upon approval of by the NIGC.

Page 2.

Amendment No. 02 to  
Resolution No. FY2019-15

**BE IT FURTHER RESOLVED**, that the Chairperson of the Tribe, or their designee, is hereby authorized, empowered, and instructed to: (i) submit this Resolution and the Amended Gaming Ordinance to the NIGC for its review and approval; and (ii) to take all necessary actions to comply with the NIGC submission requirements.

**BE IT FURTHER RESOLVED**, that the Chairperson of the Tribe is hereby authorized, empowered and instructed to take all actions to facilitate the speedy submission and approval of the Amended Gaming Ordinance.

**BE IT FURTHER RESOLVED**, that the Chairperson of the Tribe is hereby authorized, empowered and instructed to take all actions to facilitate the speedy addition the amendments to the Tribal Code.

**BE IT FINALLY RESOLVED**, that this resolution has not been amended or rescinded in any way.

#### **CERTIFICATION**

UPON MOTION OF COUNCIL MEMBER **Neil Peyron**, SECONDED BY COUNCIL MEMBER **Nicky Martínez**, THE FOREGOING WAS ADOPTED BY THE TULE RIVER TRIBAL COUNCIL AT A DULY CALLED MEETING HELD ON **Tuesday, June 3, 2025**, AT WHICH A QUORUM WAS PRESENT BY THE FOLLOWING VOTES:

AYES:           **6**  
NOES:           **0**  
ABSTAIN       **1**

  
LESTER R. NIETO, JR., (SHINE), CHAIRMAN  
TULE RIVER TRIBAL COUNCIL

  
AMANDA SIERRA, SECRETARY  
TULE RIVER TRIBAL COUNCIL

ATTEST TO:  
  
RECORDING SECRETARY

EXHIBIT A

Amended Gaming Ordinance

[see attached]

# TULE RIVER INDIAN TRIBE

## TITLE 8. GAMING CODE

### CHAPTER 2. GAMING ORDINANCE

#### Section 2.01 Purpose.

The Tule River Tribe of the Tule River Indian Reservation, California (“*Tribe*”), as the beneficial owner of the Tule River Indian Reservation, and acting pursuant to its Constitution in the exercise of its inherent sovereign power to enact ordinances and otherwise safeguard and provide for the health, safety, and welfare of the Tule River Indian Reservation and the members of the Tribe, hereby ordains and establishes this Gaming Ordinance (this “*Gaming Ordinance*”) for the purpose of authorizing and comprehensively and preemptively regulating the terms and conditions under which Class II and Class III Gaming may be conducted within the boundaries of the Tule River Indian Reservation. It is the intent of the Tribe that this Gaming Ordinance and provisions within shall be interpreted in a manner so as to comply with the terms of the Compact, IGRA, and applicable NIGC regulations.

#### Section 2.02 Definitions.

Except where otherwise defined herein, the terms used in this Gaming Ordinance shall have the same meanings set forth in the Compact.

(A) “*Class I Gaming*” has the same meaning as such term is defined in IGRA, 25 U.S.C. Section 2703(6).

(B) “*Class II Gaming*” has the same meaning as such term is defined in IGRA, 25 U.S.C. Section 2703(7), and by regulations lawfully promulgated by the NIGC and the Commission, that now or hereafter may be in effect.

(C) “*Class III Gaming*” has the same meaning as such term is defined in IGRA, 25 U.S.C. Section 2703(8), and by valid regulations promulgated by the NIGC, that now or hereafter may be in effect.

(D) “*Comment*” means any response by the Tribal Council to an item that has been placed on an official Tribal Council meeting agenda. If Tribal Council approval is required, failure of the Tribal Council to respond to any item within thirty (30) calendar days after it has been placed on an official Tribal Council meeting agenda shall constitute an approval by the Tribal Council of such item.

(E) “*Commissioner*” or “*Gaming Commissioner*” means those persons appointed by the Tribal Council to serve on the Tule River Tribe Gaming Commission.

(F) “*Compact*” means the Tribal-State Compact between the State of California and the Tribe currently in effect. Such Compact is a federal instrument required by IGRA, which allows the Tribe to conduct Class III Gaming, and is an agreement between the Tribe and the State, which must be approved by the federal government.

(G) “*Compliance Certificate*” means a certificate issued by a qualified building and safety expert which states that the construction of the Gaming Facility complies with the Tribe’s applicable building and safety codes. The Compliance Certificate must be posted in a conspicuous and public place in the Gaming Facility.

(H) “*Employee*” has the same meaning as the term is used by the United States Internal Revenue Service.

(I) “*Gaming*” or “*Gambling*” means the offering of any games authorized by this Gaming Ordinance.

(J) “*Gaming Authority*” means the economic entity established by the Tribe to own and operate the Gaming Operation.

(K) “*Gaming Contractor*” means any person or entity that supplies Gaming devices, Gaming components, Gaming equipment, personnel or services to the Gaming Operation, including Gaming Resource Suppliers.

(L) “*Gaming Device*” has the same meaning as defined in the Compact.

(M) “*Gaming Employee*” has the same meaning as defined in the Compact.

(N) “*Gaming Enterprise*” has the same meaning as defined in 25 C.F.R. Section 502.25.

(O) “*Gaming Facility*” means each place, facility, or location in which Class II or Class III Gaming activities are conducted. Notwithstanding the foregoing, for those provisions of this Gaming Ordinance that are solely related to requirements of the Compact, the definition of “*Gaming Facility*” shall have the same meaning as set forth in the Compact. Gaming Facility does not include the Commission offices, as such offices are governmental offices of the Tribe.

(P) “*Gaming Operation*” means the business enterprise that is owned and operated by the Gaming Authority and is within the jurisdiction of the Tribe, is licensed by the Commission and that operates games, receives the revenues, issues the prizes, and pays the expenses of the games.

(Q) “*Gaming Resources*” means any goods or services used in connection with Gaming activities, including, but not limited to, equipment, furniture, Gaming Devices and ancillary components, playing cards, Gaming consulting services and Gaming Contractors.

(R) “*Gaming Resource Supplier*” has the same meaning as defined in the Compact.

(S) “*Immediate family*” or “*related to*” means all persons who are the subject individual’s spouse, parents, guardians, siblings, or children (either biological or adopted).

(T) “*IGRA*” means the Indian Gaming Regulatory Act, Public Law No. 100-497, 25 U.S.C. Sections 2701 et seq., which identifies the manner in which Indian tribes shall conduct Gaming and how such Gaming is to be regulated.

(U) “*Key Employee*” means:

(1) A person who performs one or more of the following functions:

- (a) Bingo Caller;
- (b) Counting Room Supervisor;
- (c) Chief of Security;
- (d) Floor Manager;
- (e) Pit Boss;
- (f) Dealer;
- (g) Croupier;
- (h) Approver of Credit;

(i) Custodian of Gaming systems (as defined in 25 C.F.R. Section 547.2) and similar Class III systems, Gaming cash or Gaming cash equivalents, Gaming supplies or Gaming system records; or

(j) Custodian of surveillance systems or surveillance systems records.

(2) Any Gaming Operation employee authorized by the Gaming Operation for unescorted access to secured Gaming areas designated as secured Gaming areas by the Commission;

(3) If not otherwise licensed as a Key Employee or a Primary Management Official, the four (4) persons most highly compensated by the Gaming Operation; and/or

(4) Any other employee of the Gaming Enterprise formally designated by the Commission to be considered a Key Employee.

(V) “*License*” or “*Gaming License*” means the written approval of the Commission that authorizes the privilege of conducting Gaming or working in Gaming within the jurisdiction of the Tribe to a specific individual and/or a specific entity and/or a specific Gaming Facility and/or Gaming Operation.

(W) “*Licensee*” means an individual, entity and/or facility that has received the privilege, in written form, of conducting and/or working in Gaming within the jurisdiction of the Tribe.

(X) “*Minimum Internal Control Standards*” or “*MICS*” shall mean the Internal Controls established by the NIGC as published in the Federal Register.

(Y) “*NIGC*” means the National Indian Gaming Commission, the federal gaming regulatory body created by IGRA, and as IGRA may hereafter be amended.

(Z) “*Net Revenues*” means gross Gaming revenues of the Gaming Operation less: (1) amounts paid out as, or paid for, prizes; and (2) total Gaming-related operating expenses, including all those expenses of the Gaming Operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding any management fees.

(AA) “*Non-Key Gaming Employee*” means an Employee of the Gaming Operation who is not a Key Employee or Primary Management Official, but otherwise meets the definition of a “Gaming Employee” as defined in the Compact.

(BB) “*Primary Management Official*” means:

- (1) Any person having management responsibility for a management contract;
  - (2) Any person who has authority to:
    - (a) Hire and fire Employees of the Gaming Operation; or
    - (b) Establish policy for the Gaming Operation;
  - (3) The chief financial officer or a person who has duties similar to a chief financial officer;
  - (4) The general manager or a position with duties similar to a general manager;
- and
- (5) Any other employed management official of the Gaming Enterprise formally designated by the Commission as a primary management official.

(CC) “*Reservation*” means all lands under the jurisdiction and control of the Tribe and its Tribal Council.

(DD) “*Senior Gaming Management*” means the Gaming Operation’s general manager, assistant general managers, Gaming directors, and assistant Gaming directors.

(EE) “*State Gaming Agency*” means the entities authorized to investigate, approve, and regulate gaming licenses pursuant to the Gambling Control Act (Chapter 5, commencing with Section 19800 of Division 8 of the California Business and Professions Code), and includes, but is not limited to, the California Gambling Control Commission.

(FF) “*Tribal*” and “*Tribe*” has the meaning set forth in Section 2.01.

(GG) “*Tribal Chairperson*” means the person duly elected under the Tribe’s Constitution and Bylaws and serves as the primary spokesperson of the Tribe.



(HH) “*Tribal Council*” means the duly elected governing body of the Tribe as established and defined by the Tribe’s Constitution.

(II) “*Tribal Court*” means the judicial branch of the Tribe and such other divisions as the Tribal Council may establish by provision.

(JJ) “*Tribal Court of Appeals*” means the Tribal Court of Appeals or any other entity explicitly designated by the Tribe to serve in that capacity for purposes of this Gaming Ordinance and as permitted by the Compact.

(KK) “*Tribal Member*” means any duly enrolled member of the Tribe.

(LL) “*Tule River Internal Control Standards*” or “*TRICS*” means the Internal Controls established by the Commission.

(MM) “*Tule River Tribe Gaming Commission*,” “*Gaming Commission*,” or “*Commission*” means the regulatory body appointed by the Tribal Council to be responsible for the regulation of Gaming within the jurisdiction of the Tribe.

(NN) “*Tule River Tribe Regulatory Gaming Agency*” or “*Agency*” means the regulatory body responsible for the day-to-day responsibilities that are required to be fulfilled by the Commission.

(OO) “*Work Permit*” means an authorization issued to an Employee of the Gaming Operation who does not meet the definition of a Gaming Employee.

### **Section 2.03 Gaming Authorized.**

(A) Authorization. Class II and Class III Gaming are each hereby authorized on the Reservation; provided, however, that such Gaming is conducted in accordance with this Gaming Ordinance, IGRA, applicable NIGC regulations, and any other applicable laws or regulations. Any provision in the Compact providing for testing, notice to, and comment from the State, shall be complied with before any game is authorized by the Commission. When there is reasonable cause to question the classification of a game (*i.e.*, Class II or Class III), the Commission shall authorize such games to be conducted as Class II, unless or until the NIGC rules otherwise or until a court of competent jurisdiction has ruled otherwise.

(B) Unauthorized or Unapproved Gaming. Class II and Class III Gaming by any individual on the Reservation, except as authorized pursuant to this Gaming Ordinance, is prohibited.

### **Section 2.04 Ownership of Gaming Facilities and/or Enterprises.**

The Tribe shall have the sole proprietary interest in and the responsibility for the conduct of any Gaming Facilities and/or Gaming Operation(s) authorized by this Gaming Ordinance. The Tribal Council shall be responsible for ensuring that the Gaming Operations are managed appropriately and in a businesslike manner.

**Section 2.05 Use of Gaming Revenue.**

(A) Except as specifically authorized pursuant to Section 2.05(B) of this Chapter, Net Revenues from Class II and Class III Gaming on the Reservation shall be used only for the following purposes:

- (1) To fund the Tribe's governmental operations and programs;
- (2) To provide for the general welfare of the Tribe and its Tribal Members;
- (3) To promote economic development on the Reservation;
- (4) To donate to charitable organizations; and/or
- (5) To help fund operation of local government agencies.

(B) If the Tribal Council elects to distribute per capita payments to Tribal Members, it shall authorize such payments in conformity with a revenue allocation plan submitted to and approved by the Secretary of the Interior pursuant to 25 U.S.C. § 2710(b)(3).

**Section 2.06 Registered Agent.**

The Chairperson of the Tribe shall be the designated and registered agent to receive notice of violations, orders, or determinations that are issued pursuant to IGRA or the Compact.

**Section 2.07 Gaming Commission Creation and Responsibilities.**

(A) Creation of the Commission.

(1) There is hereby created the Tule River Tribe Gaming Commission, which shall consist of three (3) persons appointed by the Tribal Council by resolution. Gaming Commissioners shall serve a term of three (3) years. The terms of the Gaming Commissioners shall be staggered.

(2) Individuals appointed to serve as Gaming Commissioners must qualify for licensing under this Gaming Ordinance.

(3) The Tribal Council shall determine and authorize the compensation to be paid to members of the Commission based upon the Commission's determination of the time required to be expended upon Commission duties and the qualifications of the appointed Gaming Commissioners.

(4) The Commission 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 Commission will also have a role in monitoring compliance with the Gaming Operation's internal controls and in tracking Gaming revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the Gaming

Operation and to all of the Gaming Operation's records. The Commission shall have authority to take enforcement actions, including suspension or revocation of a License, when appropriate.

(5) The members of the Commission, consistent with policies and procedures adopted by the Tribal Council, may be disciplined in the same manner as other Employees of the Tribe. Such policies and procedures may include suspending the Gaming Commissioner (with or without pay) or imposing other corrective actions deemed necessary and appropriate by the Tribal Council.

(6) A Commissioner shall not be removed during their term of office except for: (a) gross misconduct, including malfeasance; (b) gross neglect of duties; (c) repeated instances of misfeasance; (d) any act that would render a Commissioner unqualified for licensure hereunder; or (e) any behavior reasonably deemed by the Tribal Council to be inappropriate for a Gaming Commissioner, as a Tribal Official, such that it would adversely affect, in a substantial manner, the integrity or reputation of the Commission, Gaming Operation, Gaming Facility, or the Tribe. A Commissioner may be removed from office by an affirmative vote of a simple majority of the Tribal Council, taken in an open meeting after a duly noticed hearing at which the member shall have the right to be heard and may present evidence concerning their removal. At the request of the member whose removal is at issue, the hearing may be held in executive session. The Commission also may elect to receive in executive session any evidence, public disclosure of which might compromise any ongoing law enforcement investigation, or which might jeopardize any privilege or immunity possessed by the Commission. The Gaming Commissioner whose removal is at issue shall be allowed representation by legal counsel or volunteers to speak in favor on the Commissioner's behalf before the Tribal Council at the Commissioner's own expense.

(7) There shall be a Chairperson, Vice-Chairperson, and Secretary/Treasurer of the Commission, elected from its membership, who shall be appointed for a term of one (1) year by a simple majority vote of the Commission. A majority of the Commission shall constitute a quorum.

(8) The following persons shall not serve as Gaming Commissioners:

- (a) Tribal Council members, while serving on the Tribal Council;
- (b) Gaming Contractors (including any principal of a management or other contracting company);
- (c) A person who is not a Tribal Member; and
- (d) A person ineligible to obtain or maintain a valid License issued by the Commission.

(B) Ethics.

(1) Gaming Commissioners and Commission staff shall not hold financial interests that conflict with the conscientious performance of their duties.

(2) Gaming Commissioners and Commission staff shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest.

(3) Gaming Commissioners and Commission staff shall not solicit or accept any gift or other item of monetary value, including complimentary items or services, from any individual seeking official action or inaction from, doing business with, or conducting activities regulated by the Commission, or whose interests may be substantially affected by the Commission. This restriction does not apply to items of de minimus value or items or services available to all Tribal Members or to all members of the Commission.

(4) Gaming Commissioners and Commission staff shall not use their positions for private gain.

(5) Gaming Commissioners and Commission staff shall act impartially, in accordance with all relevant Tribal, federal, and state laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any individuals related to Gaming Commissioners or Commission staff.

(6) Gaming Commissioners and Commission staff shall not engage in outside employment (including seeking or negotiating for future employment) or any other activity which conflicts with their Commission duties and responsibilities.

(7) Gaming Commissioners and Commission staff shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(8) Gaming Commissioners and Commission staff shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed in this Subsection (B).

(9) Gaming Commissioners and Commission staff shall fully comply with internal Commission bylaws governing conflicts of interest and codes of conduct and Tribal laws governing conflicts of interest of Tribal officials.

(10) Gaming Commissioners shall disclose to the Tribal Council any conflicts of interest. The executive director shall disclose to the Commission any conflicts of interest. Commission staff members shall disclose to the executive director any conflicts of interest. If there is a real or apparent conflict of interest related to any matter before the Commission, the Gaming Commissioner subject to the conflict of interest shall not take part in a decision related thereto.

(C) Duties and Responsibilities of the Gaming Commission. The following are the duties and responsibilities that are required of the Commission, and which the Commission is authorized to undertake, in order to fulfill its regulatory requirements as identified in this Gaming Ordinance and encouraged by the NIGC, in Bulletins, IGRA as amended, and as required by the MICS, TRICS, and the Compact, the Commission shall:

(1) Be responsible for the issuance, suspension, revocation, and renewal of Licenses and Work Permits (as applicable) for Primary Management Officials, Key Employees,

all other Employees and Gaming Contractors who wish to have an employment and/or business relationship with a Gaming Operation, the Commission, or the Agency, upon completion of background investigations;

(2) Ensure that background investigations are conducted upon those individuals and entities that have an employment or business relationship with a Gaming Operation for purposes of licensing;

(3) Be responsible for the submission of applicable licensing applications and investigations to the appropriate agencies;

(4) Be responsible for ensuring that only those individuals and entities that have an employment or business relationship with a Gaming Operation are suitable to receive a License or a Work Permit, as applicable;

(5) Be responsible for the secure storage and maintenance of all Gaming applications, reports, and documents belonging to the Commission;

(6) Be responsible for the issuance of Licenses to each Gaming Facility;

(7) Be responsible for ensuring that all Gaming Operations are in compliance with all applicable health, safety, and environmental laws and regulations;

(8) Be responsible for ensuring that an annual independent audit, and/or any additional audits of the Gaming Operations that the Commission deems necessary, is performed upon all Gaming Operations and that the applicable audits are submitted to the appropriate agencies pursuant to applicable law, such as the NIGC;

(9) Ensure that Net Revenues are used according to applicable Tribal and federal law unless otherwise guaranteed by the Tribal Council;

(10) Promulgate Tribal Gaming regulations;

(11) Ensure compliance with applicable Tribal and federal laws, codes, regulations, and the Compact;

(12) Communicate and work with Tribal law enforcement agencies, outside law enforcement agencies, and regulatory agencies regarding Gaming regulation, so as to protect the assets and the integrity of the Gaming Operations;

(13) Ensure that investigations are performed upon alleged and actual Gaming violations to ensure that appropriate enforcement actions are taken and appropriate incident reports are made;

(14) Be responsible to conduct hearings, take and review evidence and testimony in regards to Gaming licensing and alleged violations of Gaming laws and regulations;

(15) Establish and/or approve internal control standards that will protect the assets and the integrity of the Gaming Operations and ensure that they are complied with;

(16) Adopt policies, procedures, and rules governing the Commission, the Agency, and Licensees, as the Commission deems necessary to carry out its duties and responsibilities;

(17) Ensure that random and regularly scheduled audits are performed on all areas of the Gaming Operations;

(18) Establish and/or approve rules for Class II and Class III games conducted within the jurisdiction of the Tribe;

(19) Be responsible for the ongoing inspection of all Gaming equipment and all Gaming areas;

(20) Establish and/or approve requirements for the testing of all Gaming Devices;

(21) Be responsible for hearing Patron Disputes (defined below) in the event that Gaming management is unable to initially resolve the dispute;

(22) Be the primary contact entity for all outside gaming regulatory agencies;

(23) Be responsible for the review and approval of the budget of the Agency and Commission prior to submission for final approval by the Tribal Council;

(24) Supervise the executive director of the Agency;

(25) Establish and collect fees associated with costs related to licensing, performing background investigations and testing of equipment;

(26) Be solely responsible for the levying of fines due to Gaming violations;

(27) Inspect, copy, audit, impound, and examine any Gaming documents and records without notice;

(28) Issue subpoenas for purposes of receiving relevant information concerning Gaming, which cannot be retrieved in any other manner;

(29) Apply for injunctive or declaratory relief in order to protect the assets and integrity of the Gaming Operations;

(30) Enter into contracts for professional assistance, such as accountants, investigators, and legal services;

(31) Exclude individuals and create a list of those who are and should be excluded from the Gaming Facility;

(32) Protect confidentiality of individuals and entities as identified within applicable law;

(33) Provide monthly reports, or as required, to the Tribal Council;

(34) Be responsible for having final approval or denial authority over all Agency and Gaming Operations policies and procedures, subject to review by the Tribal Council;

(35) Delegate authority as is required and in compliance with applicable law and regulations; and

(36) Create, at its discretion, an internal investigative department for the purpose of conducting criminal investigations, regulatory violations, or non-compliance issues, subject to approval by the Tribal Council.

(D) Commission Authority and Obligations.

(1) *Authority.* In addition to the authority granted in Subsection (C) above, the Commission shall have the below-listed authority:

(a) The Commission shall be allowed to delegate day-to-day responsibilities and functions of the Commission to the Agency.

(b) The Commission, independent of the Tribal Council, shall have full authority to monitor and enforce compliance with this Gaming Ordinance, Tribal codes and its regulations, to investigate and act to prevent any violation(s) thereof.

(c) The Commission shall have the authority to issue separate Licenses for each Gaming Facility and Gaming Operation.

(d) The Commission shall have the authority to designate and classify the types of Licenses or Work Permits, as applicable, that are to be issued to individuals and to Gaming Facilities.

(e) The Commission shall have the authority to issue Gaming Licenses for purposes of Class II and Class III Gaming within the jurisdiction of the Tribe.

(f) The Commission shall have the authority to issue temporary Licenses to any person or entity applying for a License to work in or do business with the Gaming Operation which shall be valid pending the completion of a background investigation of such person or entity and, if applicable, pending review of an applicant's background investigation by the NIGC in accordance with Section 2.08(E)(6). In no event shall a temporary License be valid for longer than ninety (90) calendar days.

(2) *Obligations.*

(a) The Commission shall carry out its statutory duties and responsibilities in a manner that allows the Commission to act as a regulatory body by means of

the adoption of standard operating procedures for the Commission, which will identify the manner in which the Commission manages its formal business and makes its decisions.

(b) The Commission shall supervise the executive director and shall stay free from personnel matters of the Agency and shall act as the hearing and appeals body of personnel matters that are unable to be resolved by the executive director.

(c) The Commission shall be responsible for any outside contracts that are required for professional services for the Commission and the Agency.

(d) The Commission shall act as the final decision-making body for all Gaming regulatory issues that may arise in the event of disagreements or challenges to the Agency's initial decisions, including licensing and all other delegated responsibilities, identified within this Gaming Ordinance, prior to any appeal to the Tribal Council or its designee.

(e) The Commission shall be the primary contact and representative for purposes of communication with all outside Gaming regulatory agencies in regard to Gaming regulatory matters.

(f) All final decisions concerning Gaming regulatory issues, such as licensing and compliance with applicable Gaming laws of the Commission, shall be subject to the standard of preponderance of the evidence, that is, more likely than not that the information is accurate, based upon the evidence.

(g) The Commission shall ensure that the Tribal Council is provided the opportunity to review and Comment upon all regulations and TRICS adopted by the Commission, prior to adoption.

(h) The Commission shall ensure that individuals or entities seeking to challenge the decisions of the Agency receive due process by means of an appeal procedure that provides for the Gaming Commissioners to sit as the hearing body.

(i) The Commission shall cause to be conducted annual independent audits of the Gaming Operation and shall submit the results of such audits to the NIGC. All agreements with a Gaming Resource Supplier shall be specifically included within the scope of the annual independent audit.

(E) Files and Records to be Maintained by the Commission: Confidentiality of Information.

(1) *Confidentiality of Documents.* The Commission shall ensure that all records and information obtained pursuant to the exercise of its authority and responsibilities shall remain confidential and shall not be disclosed to individuals who are not directly involved in the regulation and oversight of the Gaming Operation. The Commission shall maintain a file of all applications and supporting materials submitted pursuant to this Gaming Ordinance, together with a record of all actions taken with respect to those applications.

(2) *Scope of Confidentiality.* All information and data that is:



(a) Included within any application for a License or Work Permit and any supporting materials;

(b) Required by the Commission to be furnished to it under this Gaming Ordinance or which may otherwise be obtained relative to the finances, earnings or revenue of any applicant or Licensee;

(c) Pertaining to an applicant's criminal record, antecedents or background which have been furnished to or obtained by the Commission from any source; and

(d) Provided to the members of the Commission or its Employees by a governmental agency or an informant, or on the assurances that the information will be held in confidence and treated as confidential;

(hereinafter, collectively, the "*Application Information*") is confidential and may be reviewed only by the Commission, the Commission staff, and, as necessary, by the NIGC and the State Gaming Agency. The Commission agrees that the Application Information will be treated as confidential and that releasing the Application Information to anyone other than the Commission staff, the NIGC or the State Gaming Agency, as necessary, will require: (i) the prior written voluntary consent of the applicant, but only if that consent has been obtained not more than seven (7) calendar days before the disclosure, or in the time agreed to by the applicant in the written consent, or (ii) a valid subpoena, court order or other compulsory legal process authorizing the release of the Application Information to someone other than the Commission. Any Application Information provided by the Commission to the NIGC or the State Gaming Agency will be governed by the applicable confidentiality and privacy statutes pertaining to the NIGC and State Gaming Agency.

(3) Unless required to be retained by subpoena, court order, or other compulsory legal process, or because of an ongoing criminal investigation, all records and Application Information retained by the executive director or the Commission shall be retained for a period of five (5) years, after which such records may be destroyed or returned to the applicant or Licensee. It is a violation of this Gaming Ordinance for an individual to falsify, destroy, erase or alter any records of any kind or other information relating to the Gaming Operation in a manner other than as provided in this Gaming Ordinance, applicable regulations or Commission policy.

(F) Creation of the Tule River Tribe Gaming Regulatory Agency.

(1) There shall be a Tule River Tribe Gaming Regulatory Agency implemented in order to carry out the day-to-day responsibilities that are required to be fulfilled by the Commission.

(2) The Agency shall be composed of five (5) primary departments, which shall include Administration, Surveillance, Compliance, Background Investigation, Internal Audit, and any other department deemed necessary to the functioning of the Agency.

(3) The Agency staff shall be held to the same standards as the Gaming Commissioners and will be required to uphold Tribal, federal, and all applicable laws, codes, and regulations.

(4) The Agency shall be structured so that there is an executive director responsible for the day-to-day operations of the Agency.

(5) The executive director shall be under the direct supervision of the Commission.

(6) The executive director shall have direct supervision of those individuals who are directors or primary supervisors over the various departments of the Agency and those administrative support staff that shall be identified by the Commission.

(7) The executive director shall be the primary link between the Agency staff and the Commission and shall be responsible for all communications between the Agency staff and the Commission.

(8) The executive director shall be responsible for all administrative functions of the Agency, including, without limitation, the personnel issues that are a normal part of employment.

(9) The executive director shall ensure that the Commission is kept aware of all information and activities of the Agency staff.

(10) The executive director shall be responsible for the budget of the Agency as well as the submission of said budget to the Commission for review and approval.

(11) The executive director shall be responsible for the efficient operation of the Agency.

(G) Gaming Surveillance: Powers, Duties, and Limitations.

(1) *Purpose.* The purpose of surveillance is to assist in safeguarding the Gaming Operation's assets, to deter and detect criminal acts and regulatory violations, and to maintain public confidence and trust that Gaming at the Gaming Operation is conducted honestly and free of criminal elements and activity.

(2) *Equipment.* Gaming Operation surveillance shall include a surveillance system consistent with industry standards for gaming facilities of the type and scale operated by the Tribe, which system shall be approved by, and shall not be modified without the approval of, the Commission. The Gaming Facility shall contain all surveillance equipment, supplies, and space as deemed necessary by the Commission for the reasonable protection of patrons, Employees and Tribal assets. All surveillance systems, equipment, rooms, etc., shall be under the control and jurisdiction of the Commission.

(3) *Responsibilities.* Surveillance shall be responsible for all Gaming surveillance activities including, but not limited to, purchase and maintenance of surveillance equipment. Surveillance is responsible for the:

(a) Development, implementation, and maintenance of written policies and procedures for the conduct and integrity of the surveillance department, subject to approval of the Commission;

(b) Development, implementation, and maintenance of additional procedures governing the use and release of the surveillance recordings or reports, subject to approval of the Commission; and

(c) Maintenance of the Gaming Facility surveillance floor plan required pursuant to the Compact, subject to approval of the Commission. The surveillance floor plan will address Commission access to the surveillance system, which may include dedicated access, at the Commission's discretion.

(4) *Surveillance Records.* Surveillance personnel shall provide to Senior Gaming Management and the Commission a copy of any reasonably requested time-recorded video and accompanying audio (if available) as soon as reasonably practicable after the request. Surveillance shall retain video recordings for at least seven (7) calendar days from the date of original recording or such shorter period of time as the Commission shall direct.

(H) Gaming Security: Powers, Duties and Limitations.

(1) *Purpose.* The purpose of Gaming security is to assist in safeguarding the Gaming Operation's assets and to protect the Gaming personnel and patrons by deterring and detecting criminal acts and regulatory violations.

(2) *Licensure.* Each Gaming Facility must provide for reasonable security. All security must be licensed by the Commission.

(3) *Investigations.* Gaming security shall be responsible for conducting all investigations and reports of incidents at the Gaming Facility consistent with the Compact and all applicable Tribal law.

(4) *Reports.* Gaming security shall provide to Senior Gaming Management and the Commission a complete copy of all incident reports. The procedure for recording of all incidents shall be consistent with the requirements of the Compact.

(5) *Responsibilities.* Gaming security is responsible for the:

(a) Development, implementation, and maintenance of written policies and procedures for the conduct and integrity of Gaming security, subject to the approval of the Commission; and

(b) Development, implementation, and maintenance of additional procedures governing the use and release of incident reports, subject to the approval of the Commission.

## **Section 2.08 Licensing.**

(A) Summary of Licensing Principles. All persons in any way connected with the Gaming Operation or Gaming Facility who are required to be licensed or to submit to a background investigation under IGRA and the Compact, including, but not limited to, all Gaming Employees of the Gaming Operation and Gaming Resource Suppliers, and any other person having a significant influence over the Gaming Operation must be licensed by the Commission.

(B) Licenses. The Commission shall issue Licenses for all persons for which a License is required under IGRA and the Compact, including:

- (1) Class II and Class III Gaming Facilities;
- (2) Key Employees;
- (3) Primary Management Officials;
- (4) Non-Key Gaming Employees;
- (5) Financial sources; and
- (6) Gaming Resource Suppliers.

(C) Current and Valid Gaming License or Work Permit Required. All Employees of the Gaming Operation must possess a valid License or Work Permit, or have an application for a License or Work Permit pending.

(D) Gaming Facility License.

(1) *Compliance with Applicable Standards.* The construction and maintenance of any Gaming Facility, and the operation of Gaming activities, shall be conducted in a manner which adequately protects the environment and the public health and safety, and shall comply with requirements of the Compact, the Americans with Disabilities Act, and all other applicable health, safety, and environmental standards.

(2) *Licensing Requirement.* The Commission is responsible for licensing each Gaming Facility located on the Reservation after receiving information regarding the following:

(a) The Gaming Facility meets all applicable health and safety standards.

(i) To show compliance with applicable health and safety standards, Senior Gaming Management shall submit certified copies of Compliance Certificates to the Commission.

(ii) The Commission shall forward all Compliance Certificates to the State Gaming Agency within ten (10) calendar days of issuance and post such Compliance Certificates in a conspicuous and public place in the Gaming Facility.

(3) *Threshold Licensing Criteria.* The Commission may issue a Gaming Facility License if:

- (a) The Gaming Facility is located on the Reservation;
- (b) The Gaming activity to be conducted at the Gaming Facility is Class II or Class III Gaming as defined by this Gaming Ordinance and IGRA; and
- (c) The Gaming Facility is authorized by a resolution of the Tribal Council.

(4) *Display of Gaming License.* A current valid Gaming Facility License shall be prominently displayed at each Gaming Facility.

(5) *License Duration.* A Gaming Facility License shall be issued for a period of (2) two years, and shall be reviewed and renewed, if appropriate, every two (2) years thereafter.

(6) *Submission of License to NIGC and State Gaming Agency.* The Commission shall submit to the NIGC and the State Gaming Agency a copy of each Gaming Facility License and each renewal thereof within thirty (30) calendar days after issuance or renewal.

(7) *Temporary Suspension of Gaming Facility License.* Following an inspection of the Gaming Facility by a qualified inspector or the Agency, if the inspector or Agency finds the Gaming Facility is failing to adequately protect the environment and the public health and safety in accordance with IGRA, the Compact and this Gaming Ordinance, the Gaming Facility License will be temporarily suspended. During such suspension, proof must be submitted by Senior Gaming Management of the process of improvements which will place the Gaming Facility in compliance with the applicable standards to avoid a revocation of the Gaming Facility License.

(8) *Notice of Illegal Gaming Activity.* If the Commission finds that the Gaming Facility is operating in violation of this Gaming Ordinance, or otherwise presents a threat to the public, the Commission shall immediately notify the Tribal Council.

(E) Licensing Application; Background Investigations for Key Employees and Primary Management Officials.

(1) The Commission shall ensure that the policies and procedures set out in this Section, as applicable, are implemented with respect to Key Employees and Primary Management Officials employed at any Class II and/or Class III Gaming Operation operated on the Reservation. A log of Key Employee and Primary Management Officials shall be kept by the Commission and updated annually.

(2) *Application Forms.* The following notice (the "Privacy Act Notice") shall be placed on the application form of a Key Employee or a Primary Management Official before the form is filled out by an applicant for a License for purposes to work within or to be associated with the Gaming Facility and/or Gaming Operations:

“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. Section 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe’s being unable to license you for a primary management official or key employee position.

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

A false statement on any part of your 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. Section 1001).”

(3) *Background Investigations.*

(a) The Commission shall perform a background investigation for each Primary Management Official and Key Employee of the Gaming Operation. The Commission shall request fingerprints from each Primary Management Official and Key Employee. Fingerprints shall be taken by the Agency’s Background Investigation Department. Fingerprints will then be forwarded to the NIGC for processing through the Federal Bureau of Investigation (“FBI”) to determine the applicant’s criminal history, if any.

(b) In addition to the fingerprints required to be taken pursuant to Subsection (a) above, the Commission or its designated Agency shall request from each Primary Management Official and from each Key Employee the following information:

(i) Full name, other names used (oral or written), social security number(s) (“SSN”), birth date, place of birth, citizenship, gender, and all languages spoken and/or written;

(ii) Currently, and for the previous ten (10) years, all business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;

(iii) 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 Subsection (b)(ii) above;

(iv) Current business and residence telephone numbers and all cell phone numbers;

(v) A description of any existing and previous business relationships with the Tribe or any other Indian tribe, including ownership interests in those businesses;

(vi) A description of any existing and previous business relationships with the Gaming industry generally, including ownership interests in those businesses;

(vii) The name and address of every 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;

(viii) 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;

(ix) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition, if any;

(x) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to Subsections (b)(viii) or (b)(ix) above, the criminal charge, the name and address of the court involved and the date and disposition, if any;

(xi) The name and address of each 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;

(xii) A current photograph;

(xiii) Any other information the Commission may deem relevant under the circumstances; and

(xiv) Fingerprints obtained consistent with procedures adopted by the Commission or its designated Agency in accordance with 25 C.F.R. § 522.2(g).

(c) The Commission and/or its designated Agency staff shall conduct an investigation sufficient to make a determination under Section 2.08(G), below. In conducting a background investigation, the Commission and/or its Agency staff shall ensure that the identity of each person interviewed in the course of the investigation remains confidential.

(4) *Investigative Reports.* The Commission shall create and maintain an investigative report for each background investigation of a Primary Management Official or Key Employee. The investigative report shall include all of the following:

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

(5) *Notice of Results.*

(a) Before issuing a License to a Primary Management Official or Key Employee, the Commission shall prepare a notice of results of the applicant's background investigation and submit the same to the NIGC.

(b) The notice of results must be submitted to the NIGC no later than sixty (60) calendar days after the applicant begins working for the Gaming Operation.

(c) The notice of results shall include the following information:

- (i) The applicant's name, date of birth, and SSN;
- (ii) The date on which the applicant began, or will begin, working as a Primary Management Official or Key Employee;
- (iii) A summary of the information presented in the investigative report, including:

(A) Licenses that have previously been denied;

(B) Gaming Licenses that have been revoked, even if subsequently reinstated;

(C) Every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and

(D) Every felony offense of which the applicant has been convicted or any ongoing prosecution; and

(iv) A copy of the eligibility determination made in accordance with Section 2.08(G).



(6) *Granting a Gaming License for a Key Employee and a Primary Management Official and the Role of the NIGC.*

(a) The Gaming Operation shall not permit a Key Employee or Primary Management Official who does not have a License within ninety (90) days of beginning work at the Gaming Operation to perform duties, functions, and/or responsibilities of a Key Employee or Primary Management Official until licensed. The Commission may issue a License to a Primary Management Official or Key Employee after submitting a notice of results of the applicant's background investigation to the NIGC.

(b) The Commission shall promulgate regulations and adopt procedures for the internal requirements needed in order to grant a License to a Primary Management Official or a Key Employee. Such regulations shall include the following requirements:

(i) The 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.

(ii) If, within thirty (30) calendar days after the NIGC receives the notice of results, the Commission receives from the NIGC a statement itemizing its objection(s) to the issuance of a License to a Key Employee or to a Primary Management Official, the Commission shall reconsider the application, taking into account the objection(s) itemized by the NIGC. The Commission shall make the final decision whether to issue a License to such applicant as provided herein. If the Commission has issued a License to a Primary Management Official or Key Employee prior to receiving NIGC's statement of objections, notice and a hearing shall be provided to the Licensee, as required by Section 2.08(H).

(c) When the Commission does not issue a License to an applicant for a Primary Management Official or Key Employee position, it shall:

(i) Notify the NIGC; and

(ii) 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.

(d) When the Commission revokes a Key Employee or Primary Management Official's license, it shall:

(i) Notify the NIGC; and

(ii) Forward copies of its license revocation decision to the NIGC for inclusion in the Indian Gaming Individuals Record System.

(7) *Record Retention.* Notwithstanding the record retention requirement in this Section 2.08(E), the Commission 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 Gaming Operation, the following documentation:

(a) Application (which includes the information required pursuant to Section 2.08(E)(3)(b));

(b) Investigative reports;

(c) Eligibility determinations; and

(d) Privacy Act Notice.

(F) Non-Key Gaming Employee Licensing. Non-Key Gaming Employees must be licensed by the Commission. Non-Key Gaming Employee applicants will submit an application for a Non-Key Gaming Employee license to the Commission on such a form or in such manner as the Commission may require. The application for a Non-Key Gaming Employee License shall contain all information necessary for the Commission to investigate the Non-Key Gaming Employee's background, including their criminal record, civil and criminal judgments, and credit history, but shall not require all of the information detailed in Section 2.08(E) for Primary Management Officials and Key Employees. If the Commission determines that the applicant is suitable for licensure based on the Commission's review of the application and the results of a criminal history check conducted by the Commission, the Commission will license the Non-Key Gaming Employee. Non-Key Gaming Employees are not required to undergo the complete investigation procedures set forth in Section 2.08(E).

(G) Licensing Qualifications. The Commission shall conduct a criminal history check on all applicants.

(1) *Eligibility for Licensure*.

(a) The Commission and/or its designated Agency shall review an applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a determination of suitability concerning the issuance of a License. Copies of the eligibility determination for Primary Management Officials and Key Employees shall be included in the notice of results that will be submitted to the NIGC.

(b) Should the Commission and/or its designated Agency determine that the issuance or renewal of a License of an individual to be employed or continue being employed within the Gaming Operation pose(s) a threat to the public interest or to the effective regulation of Gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and/or activities in the conduct of Gaming, the Commission shall not License, and the Gaming Operation shall not employ, that person.

(c) The Commission shall establish regulations that identify the suitability criteria of an individual to obtain or maintain a License.

(2) No individual shall be licensed as a Primary Management Official, Key Employee or Non-Key Gaming Employee if:

(a) The individual is under the age of:

(i) Eighteen (18) for Non-Key Gaming Employees; or  
(ii) Twenty-one (21) for Primary Management Officials or Key Employees;

(b) The individual has been convicted of, or entered a plea of guilty or nolo contendere to any of the following offenses and the conviction has not been expunged or otherwise removed from the record by state court order:

(i) A felony involving violence, theft, dishonesty, or moral turpitude within the last ten (10) years;

(ii) Any offense involving fraud or misrepresentation; or

(iii) Any Gaming-related offense;

(c) The individual's prior activities, criminal record, if any, and reputation, habits, and associations pose a threat to the public interest, threaten the effective operation and regulation of Gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of Gaming;

(d) The individual is not an individual of good character, honesty or integrity; or

(e) The individual's application to the State Gaming Agency for licensure or a determination of suitability, or for a renewal of such a licensure or determination, has been denied or has expired without renewal.

(3) Each person who has a License shall have a continuing obligation to inform the Commission immediately upon the occurrence of any circumstance or event which may disqualify the person from obtaining or retaining a License. Failure to report any such occurrence may result in suspension or revocation of the application or License and immediate termination from employment.

(4) Any applicant for licensure shall make true and full disclosure of all information to the Commission necessary or appropriate to carry out the policies of the Tribe and the Commission relating to licensing and control of the Gaming Operation. It is the duty of the applicant to disclose all information material to whether the applicant's involvement with Gaming would jeopardize or compromise the Tribe's interest, whether or not the applicant has been specifically requested to provide that information. It shall constitute a violation of this Gaming Ordinance to fail to disclose, to mislead or to misstate any such material information to the Commission.

(H) Gaming License Suspensions and Revocations.

(1) If, after a License is issued to a Primary Management Official or a Key Employee, the Commission receives notice from the NIGC that the Primary Management Official or Key Employee is not eligible for a license, the Commission shall do the following:

- (a) Immediately suspend the License;
- (b) Provide the Licensee with written notice of the suspension and proposed revocation; and
- (c) Provide the Licensee with notice of a time and place for a hearing on the proposed revocation of the License.

(2) The right to a revocation hearing vests only when a License is granted pursuant to this Gaming Ordinance.

(3) Following a revocation hearing, the Commission shall decide whether to revoke or reinstate the License at issue.

(4) The Commission shall notify the NIGC of its decision to revoke or reinstate a License within forty-five (45) calendar days of receiving notification from the NIGC that a Primary Management Official or Key Employee is not eligible for a license.

(5) The Commission shall be the final decision maker in regard to all issues concerning Licenses within the jurisdiction of the Tribe prior to any appeal to the Tribal Court.

(I) Appeals.

(1) The Commission shall provide due process for those who disagree with the decisions of the Agency and shall issue procedures that specify timelines and requirements for the appeals process.

(2) The individuals or entities that choose to challenge a decision of the Agency may appeal to the Commission.

(3) The Commission shall provide a hearing to the individual or entity that disagrees with a decision of the Agency, if the individual or entity submits a written request to the Commission as provided by regulation.

(4) In order for the Commission to overturn a decision of the Agency, the burden shall be upon the individual or entity requesting the hearing to show, by clear and convincing evidence, that:

(a) The Agency decision was outside the scope of authority of the Agency; and/or

(b) Information was discovered that was previously unavailable that would change the outcome of the original decision; and/or

(c) The decision was arbitrary or capricious.

(5) In the event an individual or entity chooses to challenge the Commission appellate decision, the individual or entity may appeal to the Tribal Court. The burden and showings listed above shall be shown in order to overturn a decision of the Commission.

## **Section 2.09 Games.**

(A) Approval of Gaming Equipment. The Commission shall adopt technical standards and specifications for the operation of Gaming Devices and other games consistent with the Compact and any amendments thereto. The Commission shall review and approve all Gaming Devices used in the Gaming Operation as to quality, design, integrity, fairness, honesty, and suitability. The Commission shall ensure that all Gaming Devices are tested by a Gaming Test Laboratory (as defined in the Compact) to ensure they meet the technical standards adopted by the Commission and to ensure: the software has the corrected electronic signature; and the hardware and associated equipment operate in accordance with applicable Gaming Test Laboratory standards and in accordance with the manufacturer's specifications.

(1) The Commission may require a prototype or sample of any model of Gaming Device used in the Gaming Operation to be placed in the custody of the Commission and retained as a control for comparison purposes.

(2) The Commission may contract with any outside independent Gaming Test Laboratory or other professional expertise it deems necessary or appropriate to ensure the integrity of Gaming devices, equipment, supplies, etc.

(3) Any evidence that Gaming equipment or other devices used in the Gaming Operation have been tampered with or altered in any way, which would affect the integrity fairness, honesty or suitability of the equipment or device shall be immediately reported to the Commission.

(B) Posting of Game Rules. The rules of each authorized game offered at any Gaming Facility shall either: (1) be posted in a conspicuous location and shall be clearly legible; (2) available for display on the Gaming Device or on the table on which the game is played; or (3) made available on the Gaming Operation's website. If the rules are not displayed as described in this Section 2.09(B), the Gaming Operation must make the rules available to any patron upon request, within five (5) calendar days of such request.

(C) Individuals Not Permitted to Game. The following individuals shall not participate in Gaming activities conducted at the Gaming Facility:

(a) The Commission, the executive director of the Commission, Employees of the Agency;

(b) Senior Gaming Management and any other Employee of the Gaming Operation that Senior Management or the Gaming Commission reasonably prohibit from participating in Gaming activities;

(c) Any person whose participation in Gaming activities at the Gaming Facility would compromise or adversely affect the integrity, smooth functioning, or reputation of

the Gaming Commission, Gaming Operation, or Gaming Facility as determined by the Tribal Council;

(d) Individuals who have been excluded from the Gaming Facility; and

(e) Individuals under the age of eighteen (18).

(2) Senior Gaming Management shall develop and maintain a standard operating procedure that identifies the Employee positions prohibited from participating in Gaming activities, and any applicable restrictions on Gaming activities by those Employee positions eligible to participate in Gaming activities. Such standard operating procedure shall be subject to the approval of the Gaming Commission.

(D) Patron Disputes. Any patron of the Gaming Facility who has a dispute, disagreement or other grievance that involves the play or operation of any Gaming activity offered at the Gaming Facility ("Patron Dispute") shall have such Patron Dispute resolved as provided in the Patron Dispute regulation adopted by the Tribal Council in accordance with the Compact. The decision of the Commission regarding any Patron Dispute shall be a final administrative decision that may be reviewed by the Tribal Court and ultimately appealed to the Tribal Court of Appeals or JAMS Optional Arbitration Appeal Procedure ("Arbitration"), as provided below. The Tribal Court and Tribal Court of Appeals shall review the Commission's final decision and shall only have the authority to set aside or modify such decision if it is determined that such decision is not supported by any evidence in the record or was arbitrary and capricious.

(1) *Tribal Court.*

(a) Tribal Court Review. If the patron is dissatisfied with the decision of the Commission, or the Commission does not issue a decision within sixty (60) calendar days of the request for review, the patron may request a review of the Commission's decision by the Tribal Court. The patron must file a complaint in the Tribal Court within thirty (30) calendar days of receipt of the Commission's decision or expiration of the sixty (60)-day review period and serve the complaint on the Commission.

(b) Exhaustion Required. The patron must first exhaust the dispute resolution process described in Section 2.09(D) before the patron may file a complaint in Tribal Court.

(c) Costs. The patron shall bear no filing fees or costs other than attorneys' fees and costs in connection with filing a complaint in the Tribal Court.

(d) Award. Any award shall be limited to the amount in controversy and the Tribal Court shall have no authority to award attorneys' fees and costs and, in accordance with industry practice, if any alleged winnings are found to be a result of a mechanical, electronic, or electromechanical failure and not due to the intentional acts or gross negligence of the Gaming Facility or its respective agents, the Patron Dispute for the winnings shall be denied; provided, however, the patron shall be awarded reimbursements of the amount wagered by the patron that were lost as a result of any mechanical, electronic or electromechanical failure.

(2) *Tribal Court of Appeals; JAMS.* Any party dissatisfied with the decision of the Tribal Court may either file an appeal with the Tribal Court of Appeals, or invoke Arbitration.

(a) Tribal Court of Appeals.

(i) **Filing Appeal.** The patron must file an appeal with the Tribal Court of Appeals within three (3) calendar days of receipt of the Tribal Court's decision.

(ii) **Costs.** The party filing the appeal shall initially bear the cost of appeal; provided, however, the Tribal Court of Appeals may award costs and expenses to the prevailing party, excluding attorneys' fees and costs.

(iii) **Limitation of Review.** The Tribal Court of Appeals shall review all determinations of the Tribal Court on matters of law, but shall not set aside any factual determinations, if such determinations are supported by substantial evidence.

(iv) **Award.** Any award shall be limited to the amount in controversy and, in accordance with industry practice, if any alleged winnings are found to be a result of a mechanical, electronic, or electromechanical failure and not due to the intentional acts or gross negligence of the Gaming Facility or its respective agents, the Patron Dispute for the winnings shall be denied; provided, however, the patron shall be awarded reimbursements of the amount wagered by the patron that were lost as a result of any mechanical, electronic or electromechanical failure. However, the Tribal Court of Appeals shall have the authority to award costs and expenses to the prevailing party as described in Subsection 2.09(D)(1)(d).

(b) Arbitration.

(i) **Filing Appeal.** All appeal requests for Arbitration must be in writing and submitted to the Commission within three (3) calendar days of receipt of the Tribal Court's decision.

(ii) **Costs.** The party electing Arbitration shall bear all costs and expenses of the Arbitration, regardless of outcome; provided however, each party shall bear their own attorneys' fees and costs.

(iii) **Limitation of Review.** The Arbitration proceedings, decisions and notices shall be governed by Section 10(e) of the Compact.

(iv) **Timing and Location.** The Arbitration shall occur within thirty (30) calendar days of the Tribal Court's decision and shall take place within thirty (30) miles of the Gaming Facility.

(v) **Award.** Any award shall be limited to the amount in controversy and, in accordance with industry practice, if any alleged winnings are found to be a result of a mechanical, electronic, or electromechanical failure and not due to the intentional acts or gross negligence of the Gaming Facility or its respective agents, the Patron Dispute for the winnings shall be denied; provided, however, the patron shall be awarded reimbursements of the

amount wagered by the patron that were lost as a result of any mechanical, electronic or electro-mechanical failure.

(3) *Limited Waiver of Sovereign Immunity.* Provided the patron has exhausted the Patron Dispute process, the Gaming Authority may, in an exercise of its authority, expressly waive its right to assert sovereign immunity in connection with the Tribal Court's and Tribal Court of Appeal's jurisdiction and JAMS arbitrator's jurisdiction for the following actions:

(a) To enforce the Gaming Authority's or the patron's obligation to arbitrate; and

(b) To enforce or execute a judgment based upon the award of the Tribal Court, the Tribal Court of Appeals, or the Arbitration, to the extent of the amount of winnings in controversy and subject to the limitations provided in this Section 2.09.

#### **Section 2.10 Effective Date and Amendments.**

This Gaming Ordinance, and any amendments thereto, becomes effective upon approval by the Tribal Council and approval by the NIGC.

#### **Section 2.11 Severability.**

The provisions of this Gaming Ordinance are severable. If any part or provision hereof is held void by the Tribal Court, a federal court, or a federal agency, the decisions of such court or agency so holding shall not affect or impair any remaining provisions of this Gaming Ordinance.

#### **Section 2.12 Repeal.**

This Gaming Ordinance repeals and supersedes the Gaming Ordinance, adopted by the Tribal Council on October 30, 2018 and approved by the NIGC on March 14, 2019, and any other Tribal laws regarding the topics covered in this Gaming Ordinance, to the extent inconsistent with the terms of this Gaming Ordinance.

#### **Section 2.13 Sovereign Immunity.**

Nothing said or not said in this Gaming Ordinance is intended to waive, in any manner, the sovereign immunity of the Tribe or the Gaming Authority, with the sole exception of the dispute resolution identified in Article 2.09(D), and only if the patron has exhausted the Patron Dispute process identified therein.

#### **Section 2.14 Consent to Jurisdiction.**

Any person or entity who applies for a License under this Gaming Ordinance, applies for employment in any Gaming Operation, enters into any Gaming-related contract or agreement with the Gaming Operation or the Tribe, or enters a Gaming Facility, shall be subject to this Gaming Ordinance and shall be deemed to have consented to the enforcement authority of the Commission and the civil jurisdiction of the Tribe. Nothing in this Section 2.14 shall be interpreted to limit, in any way, the civil jurisdiction of the Tribe.