



August 13, 2013

By First Class Mail

Glenda Nelson, Tribal Chairperson  
Enterprise Rancheria  
2133 Monte Vista Avenue  
Oroville, CA 95966

Re: Request for approval of Amended and Restated Gaming Ordinance for the Estom  
Yumeka Maidu Tribe of the Enterprise Rancheria

Dear Chairperson Nelson:

This letter responds to your request for the National Indian Gaming Commission to review and approve an Amended and Restated Tribal Gaming Ordinance for the Enterprise Rancheria. The ordinance was approved by General Council Resolution No. 13-02, on February 9<sup>th</sup>, 2013. In addition to technical corrections, the ordinance revises the licensing and background investigation provisions to comply with revised parts 556 and 558, revises the Privacy Act and false statements language included on gaming license application forms, and amends several provisions to conform with the Tribal-State compact..

Thank you for bringing the amended ordinance to our attention and for providing us with a copy. The ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions, please feel free to contact Senior Attorney John R. Hay at 202-632-7003.

Sincerely,

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

Tracie L. Stevens  
Chairwoman

cc: John A. Maier, Esq.



# Enterprise Rancheria

Estom Yumeka Maidu Tribe

2133 Monte Vista Ave  
Oroville, CA. 95966

Ph: (530) 532-9214  
Fax: (530) 532-1768  
Email: [info@enterpriserancheria.org](mailto:info@enterpriserancheria.org)

RE: ADOPTING THE TRIBE'S GAMING ORDINANCE, AS AMENDED, AND AUTHORIZING THE TRIBE'S LEGAL COUNSEL (1) TO SUBMIT THE TRIBE'S DULY ENACTED GAMING ORDINANCE TO THE CHAIRWOMAN OF THE NATIONAL INDIAN GAMING COMMISSION FOR APPROVAL AND (2) TO NOTIFY THE CHAIRWOMAN OF THE WITHDRAWAL OF THE VERSION OF THE GAMING ORDINANCE SUBMITTED TO, BUT NOT YET APPROVED BY, THE NIGC ON OR ABOUT JUNE 12, 2013.

**WHEREAS:** The Enterprise Rancheria Estom Yumeka Maidu Tribe (the "Tribe") is a federally recognized Indian tribe pursuant to the Constitution of the Enterprise Rancheria Estom Yumeka Maidu, as revised and ratified on October 29, 2003 (the "Constitution"); and

**WHEREAS:** Article IV, Section 3 of the Constitution provides that the governing body of the Tribe is the General Council; and

**WHEREAS:** Article VI, Section 3 of the Constitution provides that the Tribal Council has the power to promulgate and pass legislative rules and regulations; and

**WHEREAS:** Article VI, Section 3 of the Constitution specifies that the official gaming related ordinances of the Tribe shall be approved by the General Council; and

**WHEREAS:** The Tribe intends to engage in Class II and Class III gaming activity pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 *et seq.* ("IGRA"), and a Tribal-State Compact; and

**WHEREAS:** Tribal gaming ordinances must be approved by the Chairwoman of the National Indian Gaming Commission ("NIGC"); pursuant to IGRA; and

**WHEREAS:** On or about March 6, 2004, the General Council ratified as Tribal law Gaming Ordinance 04-01 and Gaming Regulations 2004-01, 2004-02, 2004-03, and 2004-04 ("Original Gaming Ordinance"); and

**WHEREAS:** On or about September 28, 2004, the NIGC approved the Original Gaming Ordinance; and

**WHEREAS:** On August 30, 2012, the Tribe and California Governor Brown entered into a Tribal-State Compact between the Tribe and the State of California (the "Compact") which will take effect after the Compact is ratified by the California Legislature and approved by the Secretary of the Interior; and

**WHEREAS:** On November 21, 2012, the Assistant Secretary–Indian Affairs made a final agency determination to accept approximately 40 acres in trust for gaming purposes for the Tribe; and

**WHEREAS:** The Tribal Council has identified the need for updates and amendment of the Original Gaming Ordinance in order to conform with IGRA and the Compact; and

**WHEREAS:** The Tribal Council, with the assistance of legal counsel, has drafted a revised Gaming Ordinance that conforms with IGRA, the Compact, and the recently amended NIGC regulations at 25 CFR Parts 556 and 558 (the “Gaming Ordinance”); and

**WHEREAS:** By General Council Resolution No. 13-02 passed on February 9, 2013, the General Council approved and ratified the Gaming Ordinance and also delegated and granted the Tribal Council the power to approve any corrections to the Gaming Ordinance for greater conformity with federal law, provided that, such grant of authority to the Tribal Council shall solely be for the limited purpose of obtaining final NIGC approval of the Gaming Ordinance and that the Tribal Council shall present and update the General Council of any such federal law conformity changes approved by the Tribal Council and submitted to the NIGC for approval; and

**WHEREAS:** The Tribal Council is aware of the need to make certain changes to the version of the Gaming Ordinance that was previously submitted to, but not yet approved by, the NIGC on or about June 12, 2013; and

**WHEREAS:** The Tribal Council has now carefully prepared and reviewed all changes to the Gaming Ordinance.


**NOW, THEREFORE BE IT RESOLVED THAT** the Tribal Council by the authority delegated by the General Council and pursuant to the Constitution hereby approves the Gaming Ordinance, as corrected for compliance with federal law.

**BE IT FURTHER RESOLVED THAT** the Tribal Council shall present and update the General Council of any and all changes, including those for federal law conformity, made to the Gaming Ordinance that were approved by the Tribal Council and submitted to the NIGC.


**BE IT FURTHER RESOLVED THAT** the Tribal Council hereby affirms and authorizes the Tribe’s legal counsel, Maier Pfeffer Kim Geary & Cohen LLP, (1) to submit the Tribe’s duly enacted Gaming Ordinance to the Chairwoman of the NIGC for approval; and (2) to withdraw the earlier version of the Gaming Ordinance submitted to but not yet approved by the NIGC on or about June 12, 2013.

## CERTIFICATION

This is to certify that the foregoing Resolution #13-17 was duly approved by the Tribal Council of the Estom Yumeka Maidu Tribe of the Enterprise Rancheria at a duly noticed Tribal Council Meeting held on July 9, 2013, by a vote of 6 For, 0 Opposed and 1 Abstaining, with a quorum present, and that this resolution has not been changed, rescinded, or amended in any way.

  
Glenda Nelson, Tribal Chairperson

July 9, 2013  
Date

  
Cindy Smith, Tribal Secretary

July 9, 2013  
Date



**AMENDED & REVISED GAMING ORDINANCE  
NO. 2013-01**

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**ESTOM YUMEKA MAIDU TRIBE  
OF THE  
ENTERPRISE RANCHERIA**

**GAMING ORDINANCE NO. 2013-01**

**Be it enacted and ordained by the Enterprise Rancheria that:**

**ARTICLE I  
POLICY AND FINDINGS**

**Section 1. Purpose.**

The Estom Yumeka Maidu Tribe of the Enterprise Rancheria, a federally recognized Tribe ("Tribe"), acting through its General Council pursuant to the Tribe's inherent sovereign authority and Article IV, Section 1, of the Constitution of the Tribe, adopted October 29, 2003 hereby enacts this Gaming Ordinance No. 2013-01 ("Ordinance") to set the terms for the conduct of class II and class III gaming activities on the Tribe's Indian lands.

**Section 2. Policy Findings.**

This Ordinance establishes the rules under which any and all class II and class III gaming activities shall be conducted on Indian lands within the jurisdiction of the Tribe for governmental and charitable purposes in conformity with the IGRA and all rules and regulations promulgated therein.

Based upon the foregoing the Tribe finds the following:

- (a) Revenues from gaming are a means of promoting Tribal economic development, self-sufficiency, and a strong Tribal government;
- (b) Rules governing the conduct of class II and class III gaming activities are necessary to protect the financial integrity of the Tribe's Gaming Operations and, in turn, the general welfare of the Tribe and its members;
- (c) The Tribe shall have the sole proprietary interest and responsibility for the conduct of any and all class II and class III gaming activities conducted on the Tribe's Indian lands.

**ARTICLE II  
DEFINITIONS**

**Section 1. General Terms Defined.**

Unless otherwise specified in this Ordinance, the terms used herein shall have the same meaning as defined in IGRA § 2701 et seq. and those regulations promulgated pursuant to IGRA under 25 C.F.R. § 500 et seq.

*Compact* means any Tribal-State Compact between the Tribe and the State authorizing class III gaming activities, as required by IGRA, 25 U.S.C. § 2710(d)(1)(C), and as may be amended from time to time;

*Executive Director* means the Executive Director of the Tribal Gaming Commission as described in this Ordinance;

*Gaming* shall mean an activity in which a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event, not under his or her control or influence, upon an agreement or understanding that the person, or someone else, will receive something of value in the event of a certain outcome, but shall not include bona fide business transactions.

*Gaming Operations* shall mean the business enterprise that offers and operates class II or class III gaming activities, whether exclusively or otherwise.

*Gaming Commission* shall mean the Enterprise Rancheria Gaming Commission, as established herein to monitor and oversee all gaming activities, pursuant to Article IV of this Ordinance;

*General Council* shall mean the General Council of the Tribe as described in Article V, of the Tribe's Constitution;

*IGRA* shall mean the Indian Gaming Regulatory Act, 25 U. S C. § 2701 et seq. and any and all regulations promulgated pursuant to said Act, 25 C.F.R § 500 et seq.;

*Immediate Family* shall mean parents, spouse, siblings and children;

*Key Employee* shall mean:

- (a) All persons who have access to cash and accounting of records relating to any financial transactions of the Gaming Operations, including but not limited to bingo caller, count room supervisor, chief of security, custodian of gaming supplies or cash, floor supervisor, pit boss, dealer, croupier, approver of credit and custodian of gambling devices including persons with access to cash and accounting records within such devices.
- (b) If not otherwise included, any other person whose total cash compensation is in excess of fifty-thousand dollars (\$50,000.00) per year in total compensation; or
- (c) If not otherwise included, the four (4) most highly compensated persons in the Gaming Operations.



*MICS* shall refer to the internal minimum control standards adopted by the Tribe for the operation of Gaming in accordance with the Compact and applicable law.

*Net Revenues* shall mean gross revenues from all gaming activities less amounts paid-out as, or paid for, prizes and less total gaming-related operating expenses, excluding management fees.

*National Indian Gaming Commission* shall mean the commission established pursuant to IGRA.

*Person* shall mean any natural person or entity, including but not limited to, corporations, partnerships and trusts.

*Primary Management Official* shall mean any person who has management responsibilities for a management contract; any person who has authority to hire and fire employees or to set up working policy for the Gaming Operations; or the chief financial officer or other person who has financial management responsibility. At the discretion of the Gaming Commission, other positions or persons may be included under and subject to the requirements for primary management officials.

*Regulations* shall mean regulations that are promulgated by the Gaming Commission and approved by the Tribal Council pursuant to this Ordinance.

*State* shall mean the State of California.

*Tribal Court* shall mean any court established by the Tribe to hear disputes of civil or criminal nature relating to the jurisdiction of the Tribe, pursuant to Article VIII, of the Tribe's Constitution.

*Tribal Council* shall mean the seven-member Tribal Council elected to act on behalf of the Tribe pursuant to Article VI, Section 1, of the Tribe's Constitution.

*Tribal Member* shall mean any duly enrolled member of the Tribe who meets all membership requirements pursuant to Article III, Section 1, of the Tribe's Constitution.

*Tribe* shall mean the Estom Yumeka Maidu Tribe of the Enterprise Rancheria.

### **ARTICLE III GENERAL PROVISIONS**

#### **Section 1. Authorization and Ownership of Gaming Activities.**

Class II and class III gaming, as defined in 25 U.S.C. § 2703(7)(A) and 2703(8) and by the regulations promulgated by the National Indian Gaming Commission ("NIGC") at 25 C.F.R. § 502.3 and 502.4, are hereby authorized. Any class III gaming activities conducted under this

Ordinance are limited to those gaming activities authorized under a Compact.

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any class II and class III gaming activities authorized by this Ordinance.

## **Section 2. Environment and Public Health and Safety.**

All Gaming Operations and related facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety in compliance with applicable laws.

- (a) No person under the age of twenty-one (21) shall be present in any area in which class II or class III gaming activities are being conducted unless that person is en route to a non gaming area of the facility.
- (b) Possession of firearms shall be prohibited at all times in class II and class III gaming facilities operated under this Ordinance, except for possession of firearms by State, local, or Tribal law enforcement or security personnel authorized by federal, State or Tribal law.

## **Section 3. Use of Gaming Revenues and Per Capita Payments.**

The Tribal Council reserves the right to adopt and impose any uniform and comprehensive plans for revenue distribution and taxation relating to gaming and to provide such plan as adopted and promulgated in compliance with IGRA.

- (a) Net Revenues from gaming shall be used only for the following purposes: to fund Tribal government operations and programs; to provide for the general welfare of the Tribe and Tribal Members; to promote Tribal economic development; to donate to charitable organizations; or to help and assist funding of local government agencies.
- (b) If the Tribal Council elects to make per capita payments to Tribal Members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Department of the Interior ("Secretary") under 25 U.S.C. § 2710 (b)(3) and such rules as may be promulgated by the Tribal Council and/or the Secretary under lawful authority.

## **Section 4. Audit.**

The Enterprise Rancheria Gaming Commission ("Gaming Commission") shall require and cause to be conducted an annual outside audit by a recognized independent accounting firm for the Gaming Operations and shall submit the resulting audit reports to the Tribe and NIGC or another entity as may be required by law.

- (a) All gaming relating contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit.

- (b) The Tribe will comply with all applicable federal law, including the Bank Secrecy Act, 31 U. S. C. § 5311 et seq.

**Section 5. Procurement.**

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

**Section 6. Indian Preference.**

Where applicable, any contract pertaining to the operation and management of the gaming establishment must make provisions for complying with any Indian hiring preferences adopted by the Tribe.

**Section 7. Patron Disputes.**

The Gaming Commission shall promulgate regulations governing patron disputes over the play or operation of any game, including any refusal to pay to a patron any alleged winnings from any gaming activities, which shall at least meet the minimum standards set forth in the Compact including but not limited to the requirements for resolution of patron disputes as may be specifically set forth under the Compact.

**Section 8. Tribal Minimum Internal Control Standards.**

The Tribe shall adopt and implement MICS in accordance with the Compact and applicable law.

**ARTICLE IV  
TRIBAL GAMING COMMISSION**

**Section 1. Establishment of the Gaming Commission.**

By this Ordinance, the Tribe hereby establishes the Enterprise Rancheria Gaming Commission ("Gaming Commission") as a non-political and independent arm of the Tribal government. The Gaming Commission shall have jurisdiction over the regulation of Tribal Gaming Operations and related facilities and enterprises.

- (a) The Gaming Commission shall consist of three (3) to five (5) Tribal Gaming Commissioners ("Commissioner(s)").
- (b) Each Commissioner shall be hired by the Tribe by a majority vote of the Tribal Council, in accordance with the employment policies and procedures of the Tribe, at a duly convened meeting at which a quorum is present. The Tribe encourages all persons, especially Tribal Members, who desire to serve on the Gaming Commission and who

meet the qualifications set forth in Section 3 of this Article to apply to the Tribal Council for employment to the Gaming Commission. In furtherance of this goal, the Tribal Council shall notify Tribal Members of any vacancies on the Gaming Commission under such notice provisions as deemed appropriate.

- (c) The Tribal Council shall establish such application procedures for Tribal Members and all other applicants interested in serving on the Gaming Commission.

## **Section 2. Sovereign Immunity.**

As an agency of the Tribe, the Gaming Commission, Commissioners, Executive Director, and other Gaming Commission employees and agents shall enjoy the full benefits of the Tribe's sovereign immunity, and any and all attributes of sovereignty enjoyed by the Tribe.

## **Section 3. Qualifications.**

In order to qualify for employment with the Gaming Commission an applicant must satisfy all the following requirements:

- (a) Each applicant must have attained the age of twenty-one (21) years or older;
- (b) Each applicant must have at least a high school or GED equivalent and have knowledge of and experience in the gaming industry;
- (c) An applicant must meet all licensing and background investigation requirements under the Compact and Tribal gaming regulations and may not have a prior criminal record of conviction of, or entry of plea of guilty or no contest, for any of the following offenses in tribal, county, state or federal Court:
  - (i) Any felony;
  - (ii) Any gaming related offense;
  - (iii) Fraud, embezzlement, or misrepresentation in any connection;
  - (iv) Any crime of theft;
  - (v) A violation of any provision of this Ordinance, Tribal regulations or any other ordinance of the Tribe regulating gaming.
- (d) An applicant may not be a person whose prior activities, criminal record, if any, or reputation, habits and associations:
  - (i) Pose a threat to the public interest or to the effective regulation or control of gaming; or

- (ii) Create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental to gaming;
- (e) No member of the Tribal Council may serve on the Gaming Commission.
- (f) No Primary Management Official, owner, or controlling person with respect to any gaming management contract may serve on the Gaming Commission.

#### **Section 4. Termination.**

Any Commissioner may be terminated by a majority vote of the Tribal Council acting at a meeting at which a quorum is present. Such termination shall only be for cause, including but not limited to, malfeasance, dereliction or neglect of duty, unexcused absence, conviction of a felony in any tribal, county, state or federal court while employed as a Commissioner, any willful and persistent misconduct reflecting on the dignity and integrity of the Tribe, or failure to comply with any provisions of the Tribe's Constitution, other Tribal laws, the Compact or other applicable laws including this Ordinance. The Tribe shall establish further Gaming Commission hiring guidelines and procedures on employment and termination of Commissioners.

#### **Section 5. Vacancies.**

A vacancy on the Gaming Commission through death, resignation, or termination shall be filled in accordance with Gaming Commission hiring guidelines and by a majority vote of the Tribal Council at a duly called meeting in which a quorum is present.

#### **Section 6. Powers and Duties of Tribal Gaming Commission.**

The purpose of the Gaming Commission is to effectively regulate, not to manage, the Gaming Operations, related facilities, and gaming activities as provided for by this Ordinance, Tribal gaming regulations, the Compact, and IGRA. In addition to other duties specifically delegated to the Gaming Commission in this Ordinance, the Gaming Commission shall have the following powers and duties, performed in compliance with the Compact and all applicable Tribal, State, and federal laws, rules, and regulations regarding Indian gaming:

- (a) Regulate and monitor all class II and class III gaming by the Tribe to insure that such activities conform to the provisions of this Ordinance, Tribal gaming regulations, IGRA and the Compact;
- (b) Prepare and enforce the MICS and guidelines;
- (c) Obtain annual independent outside audits and submit these audits to the NIGC, as well as prepare any additional audits and all monthly reports as required by this Ordinance, the Compact, and other applicable laws.
- (d) Except as otherwise provided, issue, suspend, revoke, deny, and renew gaming licenses

- pertaining to Primary Management Officials and employees of the Gaming Operations and related facilities, the Tribe's facility licenses, financial sources, and vendor licenses;
- (e) Conduct or cause all background and investigative work to be conducted, including background investigations on, at a minimum, Primary Management Officials and Key Employees;
  - (f) Forward to the NIGC completed employment applications for Primary Management Officials and Key Employees, as well as completed investigative reports on each background investigation for, at minimum, on Primary Management Officials and Key Employees prior to issuing a gaming license;
  - (g) Refer any violations of the Tribe's laws of general applicability to the Tribal Council for its consideration and action as it may determine appropriate;
  - (h) Impose penalties as required and as authorized under applicable gaming regulations and laws;
  - (i) Work with the Executive Director, prepare and recommend an annual budget for the Gaming Commission to be approved by the Tribal Council.
  - (j) The Gaming Commission may employ such staff as it deems necessary to fulfill its responsibilities, subject to the parameters set forth under Article V of this Ordinance;
  - (k) Utilize the tribal attorney's office as its counsel, or such other counsel the Gaming Commission so chooses, with prior approval from the Tribal Council, based upon a budgeted line item;
  - (l) Except as otherwise provided in this Ordinance or any NIGC approved management contract, comply with all policies, guidelines, laws, resolutions and regulations of the Tribal Council and General Council;
  - (m) Unless the Tribe's management contract approved by the NIGC provides otherwise, directly oversee the Tribal gaming surveillance department, including, but not limited to, having complete access to all aspects of the surveillance department and the direct supervision of the director of surveillance, who shall report directly to the Executive Director;
  - (n) Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the Gaming Operations. In performing this function, the Gaming Commission shall endeavor to conduct these activities in a manner that is least disruptive to the orderly day to day operation of the Gaming Operations;
  - (o) Hold hearings on patron complaints;

- (p) Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
- (q) Comply with any and all reporting requirements under IGRA and the Compact, plus in coordination with the Executive Director, provide reports and remain accountable to the Tribal Council; and
- (r) Promulgate and issue regulations, as adopted and approved by the Tribal Council, implementing the provisions of this Ordinance and the Compact involving gaming licenses, compliance with MICS, background investigations, operations, surveillance, audits, compliance, and other regulatory areas as appropriate.

#### **Section 7. Gaming Commission Bylaws.**

The Gaming Commission may develop and adopt Gaming Commission Bylaws to govern meetings and related rules and procedures, subject to approval by the Tribal Council.

#### **Section 8. Gaming Commission Rules of Practice and Procedure.**

Subject to the approval of the Tribal Council, the Gaming Commission may adopt rules of practice and procedure otherwise not inconsistent with this Ordinance (“Gaming Commission Rules”). Such Gaming Commission Rules may provide for the issuance of subpoenas, upon application to the Gaming Commission, to compel attendance or the production of documents, and for pre-hearing discovery. Subject to any limitations set forth in this Ordinance, Gaming Commission Rules may be amended by the Gaming Commission at any time, but amendments shall not be effective until approved by the Tribal Council.

#### **Section 9. Tribal Gaming Regulations.**

All Tribal gaming regulations promulgated by the Gaming Commission pursuant to this Ordinance and the Compact, and approved by the Tribal Council shall have full force and effect under this Ordinance.

### **ARTICLE V EXECUTIVE DIRECTOR**

#### **Section 1. Powers and Duties of the Executive Director.**

The Executive Director shall be responsible for the day-to-day management of the affairs of the Gaming Commission as well as overseeing the establishment and operation of all gaming activities for compliance with all applicable federal and State gaming laws and regulations, as well as Tribal ordinances that are related to the Gaming Operations and related facilities. The Executive Director shall supervise and direct work activities of the Gaming Commission, including Commissioners, and any compliance personnel employed by the Gaming Commission. In addition, the Executive Director shall perform such duties as may be delegated by the Tribal

Council. The Executive Director shall be responsible for securing any confidential information held by the Gaming Commission.

**Section 2. Position.**

The Executive Director shall be hired by the Tribal Council and report directly to the Tribal Council. The Executive Director may be terminated for cause by a majority vote of the Tribal Council.

**Section 3. Qualifications.**

- (a) The Executive Director must have experience in gaming management and gaming regulatory responsibilities, including MICS.
- (b) The Executive Director must satisfy the licensing and background investigative requirements set out in the background and licensing requirements of Article X of this Ordinance and the Compact.
- (c) Any person who has been convicted of, or is currently being prosecuted for, a felony or a crime involving fraud, theft or embezzlement is not eligible to serve as the Executive Director.

**Section 4. Compensation.**

The Executive Director shall be compensated in accordance with the terms of his or her employment. Compensation shall not be based, in whole or in part, on the profitability of the Gaming Operations. Compensation shall be paid out of the Gaming Commission's budget.

**Section 5. Protections Against Conflicts of Interests.**

The restrictions imposed on all Gaming Commissioners pursuant to Article VI of this Ordinance shall apply to the Executive Director.

**Section 6. Reports.**

The Executive Director shall make at least monthly reports to the Tribal Council within thirty (30) days after the close of the month for which the information is being provided. The report shall, at a minimum, include a full and complete statement of auditing activities, expenses and all other financial transactions of the Executive Director and a summary of licensing and enforcement actions, including any and all violations of the MICS or other applicable laws and regulations.

**ARTICLE VI  
CONFLICTS OF INTERESTS**

**Section 1. Commissioner Code of Ethics and Prohibition Against Conflicts of Interests.**



The Tribe has determined that as members of the Gaming Commission, Commissioners shall be held to extremely high ethical standards. The Tribe shall take all reasonable steps to ensure that Commissioners are free from corruption, undue influence, compromise, and conflicting interests in the conduct of their duties under this Statute and the Compact. Prior to taking their positions on the Gaming Commission, Commissioners shall agree to be bound by the following principles:

- (a) Commissioners shall not be employed by any Gaming Operations or related facilities, be a Primary Management Official or owner or controlling person with respect to any management contract pertaining to gaming.
- (b) Commissioners shall not participate in the approval, denial or renewal of any application for a gaming license by, or participate in the revocation or suspension of any license granted hereunder to any Immediate Relative of such Commissioner.
- (c) Commissioners shall not engage in any business, transaction or professional activity, incur any obligation of any nature, or hold financial interests which conflicts with the proper discharge of his or her official duties as regulators.
- (d) Commissioners shall not solicit or accept any gift or other item of monetary value, including complimentary items or services, from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the Gaming Commission, or whose interests may be substantially affected by the performance or nonperformance of the Commissioners' duties.
- (e) Commissioners shall not use their positions for private gain.
- (f) Commissioners shall act impartially, in accordance with applicable laws, and shall not give preferential treatment to any private organization or individual, including to any persons related to the Commissioners.
- (g) Commissioners shall not engage in outside employment or activities, including seeking or negotiating future employment, which conflict with their official duties and responsibilities.
- (h) Commissioners shall disclose any real or apparent financial or personal conflicts. If there is a real conflict or the appearance of one, the Commissioner shall not take part in any decision related to the conflict.

## **Section 2. Casino Employee Conflicts of Interests.**

No employee of the Gaming Operations or shall own, be employed by, or have any direct or indirect pecuniary interest in any management contract or other gaming related contract with the Tribe.

### **Section 3. Prohibitions Against Participation In Gaming.**

- (a) Unless provided herein, no Primary Management Official or employee of the Gaming Operations shall:
  - (i) Participate as a player in any class III games conducted by the Tribe in the department where they are employed. The Gaming Commission shall be responsible for (with Tribal Council approval) creating regulations for the restrictions on use of class II and class III gaming activities by employees of the casino;
  - (ii) Engage in any business transactions or professional activity or incur any obligation of any nature which conflicts with the proper performance of any Management contract or employment duties, as the case may be.
  - (iii) Have any direct or indirect pecuniary interest in any management contract or other gaming related contract with the Tribe.
- (b) No employee of the Gaming Operations or Gaming Commission who is employed in the Surveillance and Compliance areas may participate in any class II or class III games.
- (c) No Blackjack, floor person, pit boss, dealer, shift supervisor, or trainer shall participate in the play of Blackjack or any other house banked table game.
- (d) No Primary Management Official, employee of the Gaming Operations or Gaming Commission may participate in any class II or class III marketing or promotional programs offered by the Gaming Operations.
- (e) No Commissioner may participate in any of the Tribe's games of chance, whether class II or class III.

### **ARTICLE VII CONFIDENTIALITY**

Each Gaming Commissioner, Executive Director and any staff employed by the Gaming Commission shall be required to sign a confidentiality agreement and will be responsible for ensuring the strictest standards of confidentiality with respect to all information concerning the Gaming Operations and related facilities or the Gaming Commission's business. All information provided to or obtained by the Gaming Commission, the Executive Director or any staff employed by the Gaming Commission in performance of their duties pursuant to this Ordinance shall be kept confidential and shall not be disclosed to any person or organization without the written consent of the Tribal Council and signed and executed release of information by the individual who is the subject of disclosure.

## **ARTICLE VIII GAMING COMMISSION BUDGET**

At least ninety (90) days prior to the end of each fiscal year, the Executive Director of the Gaming Commission shall prepare a Gaming Commission annual budget for the next year's operation and shall submit the budget to the Tribal Council at the annual meeting at which the Tribe approves the Annual Budget of the Tribe. In preparing the Gaming Commission annual budget, all actual and anticipated surplus funds of the Gaming Commission shall be taken in account. The Tribal Council shall adopt, amend, or replace the Gaming Commission annual budget and, based thereon, shall authorize the transfer of the annual capital required in accordance with the approved Annual Budget of the Tribe. Except however, the Gaming Commission may deviate, without Tribal Council approval, from the terms of the approved Gaming Commission annual budget by a margin of not more than five (5%) during the relevant fiscal year.

## **ARTICLE IX REVIEW**

### **Section 1. Gaming Commission Decisions.**

Until such time the Tribe may establish a board or Tribal court to review Gaming Commission decisions, the Tribal Council shall act as the final reviewing body for a decision by the Gaming Commission to deny a license, but only with respect to any Tribal Member, or to revoke or suspend the license of any licensee. All due process requirements under the Compact and this Ordinance for Gaming Commission decisions involving licensing shall be followed. Any appeal of the Gaming Commission decision to the Tribal Council must be filed within (30) days after receiving notice of the decision of the Gaming Commission, unless a different timeframe is otherwise specified or required in the Compact, this Ordinance, or applicable regulations. A Gaming Commission decision subject to review shall only be reversed by a majority vote of the Tribal Council at a duly held meeting at which such matter has been placed on the agenda at least (15) days prior to such meeting, or within such shorter period as may be needed where a different timeframe for a decision by the Tribe is required under the Compact, this Ordinance, or applicable regulations. The Tribal Council is authorized to reverse a decision made by the Gaming Commission only where the Tribal Council finds, by a majority vote of those present at that meeting conclude:

- (a) The Gaming Commission's decision was unreasonable, arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable Tribal, federal and State laws;
- (b) The Gaming Commission exceeded its jurisdiction, authority, or limitations, under applicable tribal laws;
- (c) The Gaming Commission's decision is unsupported by substantial evidence or unwarranted by the facts presented, either orally or substantively.

**Section 2. Tribal Council Decisions.** Any decision rendered by the Tribal Council pursuant to this Article shall be final and binding upon the petitioner, Executive Director and Gaming Commission, but may be reviewed by the Enterprise Rancheria's Tribal court at such time as a Tribal court is established under Tribal law, and then the Tribal court's decision shall be final.

## **ARTICLE X LICENSING**

### **Section 1. License Requirements.**

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

- (a) All employees, including Key Employees and Primary Management Officials, employed at any class II and/or class III gaming enterprise operated under this Ordinance;
- (b) Gaming resource suppliers required to be licensed under the Compact;
- (c) Financial sources required to be licensed under the Compact;
- (d) Each place, facility, or location where class II or class III gaming is conducted under this Ordinance.
- (e) Other vendors required to be licensed under this Ordinance or Tribal gaming regulations.

### **Section 2. Background Investigations.**

The Gaming Commission or its agents shall conduct an investigation of license applicants sufficient to make an eligibility determination under Section 3 of this Article. The Gaming Commission and its agents may be authorized to receive State summary criminal history information within the meaning of subdivision (b)(12) of section 11105 of the California Penal Code, or a copy thereof, maintained under a person's name by the California Department of Justice and shall not knowingly furnish such records or information to a person who is not authorized to receive the record or information. In conducting a background investigation, the Gaming Commission or its agent shall keep confidential the identity of each person interviewed in the course of the investigation.

### **Section 3. Eligibility Determination.**

The Gaming Commission shall review an applicant's prior activities, criminal record, if any, and reputation, habits and associations and shall conduct interviews with former employers, associates and/or other persons familiar with the applicant sufficient to permit it to make a finding concerning an applicant's eligibility for a license. A license may not be issued unless the Gaming Commission is satisfied the applicant is a person of good character, honesty and integrity. The Gaming Commission shall not license a person if the Gaming Commission

determines that the licensing of the person: poses a threat to the public interest or to the effective regulation of gaming; creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming or the carrying on of business and financial arrangements incidental thereto; or will undermine public trust that tribal gaming is free from criminal and dishonest elements and would be conducted honestly. Except where prohibited or subject to applicable restrictions under IGRA, 25 C.F.R. Part 501 et seq., the Compact or this Ordinance, the Gaming Commission may, with respect to applicants with criminal records, take into consideration factors such as the passage of time, seriousness and nature of the offense, and rehabilitation in making an eligibility determination for a license.

#### **Section 4. Periodic Review.**

The Gaming Commission shall review and, if appropriate, renew each license it issues at least every two (2) years after issuance, unless a different license renewal term is required by this Ordinance or the Compact.

#### **Section 5. Reporting.**

To the extent required by IGRA and a Compact, if any, the Gaming Commission shall promptly forward applications, background investigation reports and related information to the NIGC and the State Gaming Agency and notify the NIGC and the State Gaming Agency of its decisions to deny, issue, suspend or revoke licenses.

#### **Section 6. Additional Requirements.**

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

### **ARTICLE XI LICENSING AND BACKGROUND INVESTIGATION PROCEDURES**

#### **Section 1. Required Background Investigations.**

The Gaming Commission is responsible for conducting background investigations and issuing suitability or eligibility determinations, at minimum, for Primary Management Officials and Key Employees of the Gaming Operations, prior to issuing a license as required under the IGRA and the Compact, and as specified in this Ordinance. The Gaming Commission shall cooperate with the State Gaming Agency in sharing background information pursuant to the Compact, if any, in order to maximize investigative efficiency, thoroughness, and to minimize investigative costs.

#### **Section 2. Standards for Background Investigations for Primary Management and Key**

## **Employees.**

All background investigations shall be conducted by the Gaming Commission under the supervision and direction of the Executive Director to ensure that the Gaming Operations shall not license or employ or contract with persons or entities whose prior activities, or reputations, habits and associations pose a threat to the public interest or to the effective regulation of gaming conducted under the Gaming Ordinance, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of such gaming. Such investigations shall be conducted according to the requirements that are at least as stringent as those set forth in regulations promulgated by the NIGC, 25 C.F.R. Parts 556 and 558, including any amendments thereto and as provided in this Ordinance and as those set forth in the Compact. If the Gaming Commission determines that employment of the person or entity poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair or illegal activities, practices or methods in the conduct of gaming, the Gaming Operations shall not employ that person in a Key Employee or Primary Management Official position.

In the case of investigations of Primary Management Officials and Key Employees, the report required under regulations promulgated by NIGC in 25 C.F.R. Parts 556 and 558, including any amendments thereto, shall be prepared and submitted to the NIGC, which report shall contain the eligibility determination described in such regulations. All background investigations also shall otherwise meet the standard of such investigations imposed under the IGRA and the Compact and shall be updated as required by IGRA and the Compact, as applicable. Nothing herein shall prevent a more extensive background investigation than those required under IGRA or the Compact.

### **Section 3. Background Investigations.**

Each person subject to a background investigation under Section 1 of this Article shall be required to provide all the following information:

- (a) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoke and written);
- (b) Currently and for the previous five (5) years, all business and employment positions held, ownership interests held in those businesses, business and residential addresses and drivers license number(s);
- (c) The names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during such period of residence listed under paragraph (b) of this section;
- (d) Current business and residence telephone numbers;
- (e) A description of any existing and previous business relationships with other Federal recognized Indian tribes, including ownership interests in those businesses;

- (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (g) The name and address of any licensing or regulatory agency with which the person has filed an application for a gaming license or permit, whether or not such license or permit was granted;
- (h) Each felony for which there is an ongoing prosecution or conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (j) For each criminal charge (excluding minor traffic violations), whether or not there is conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (h) or (i) of this Section, the criminal charge, the name and address of the court involved and the date and disposition;
- (k) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit (such as gaming, liquor, accounting or practice of law), including but not limited to, whether or not such license or permit was granted;
- (l) A photograph, as well as any other information the Gaming Commission deems relevant; and
- (m) Fingerprints consistent with procedures adopted by the Gaming Commission pursuant to 25 C.F.R. Section 522.2(h).
- (n) Licenses that have previously been denied, as well as, gaming licenses that have been revoked even if subsequently reinstated.

The investigation shall be sufficient to make a determination of suitability as set forth under this Ordinance and the Compact. When the Tribe employs a Primary Management Official or Key Employee, the Tribe shall maintain a complete application file containing the information listed at 25 C.F.R. Section 556.4(a).

#### **Section 4. Designation of Fingerprint Processing.**

The Gaming Commission shall be designated as the Tribe's law enforcement agency to obtain and process all fingerprints and conduct criminal history checks as required by C.F.R. § 522.2 (h), said processing is for the purpose of a criminal history check, including a check of records maintained by the Federal Bureau Investigations. In accordance with Section 6.4.8. of the Compact, Chapter 6 (commencing with section 11140) of Chapter 1 of Title 1 of Part 4 of the

California Penal Code is applicable to the Commissioners, the Executive Director and any staff employed by the Commission. The Commission may elect to process fingerprint cards directly on behalf of the Tribe or to process fingerprint cards through the State Gaming Agency or the NIGC and may execute such documents as may be necessary to enter into such an arrangement. Fingerprint cards shall be submitted to the Federal Bureau of Investigations and the California Department of Justice in order to obtain criminal history record information.

## **Section 5. Investigative Procedures.**

In the process of background investigation, the designated agent of the Gaming Commission shall follow the following background investigation procedures:

- (a) Verify the applicant's name, place of birth, date of birth, and citizenship by requiring the applicant to provide items such as a birth certificate, social security card, or passport;
- (b) Confirm the applicant's business and employment positions held and ownership interests in those businesses currently and for the past five (5) years by attempting to contact through written letter, telephone calls or personal visits to past employers listed in the application and through ownership documentation such as copies of partnership agreements, stock certificates, or IRS tax returns;
- (c) Obtain the applicant's driving record by using the applicant's driver license number to contact the Department of Motor Vehicles in the state where the license was issued;
- (d) Ascertain character information about the applicant by contacting the personal references, neighbors, co-employees, past employers and other references listed in the application;
- (e) Inquire into any existing or previous business relationships the applicant has had with Indian Tribes, including the scope of those relationships, by contacting those tribes identified in the application;
- (f) Gather and obtain information about any existing or previous business relationships the applicant has had in the gaming industry, including the scope of those relationships, by contacting those entities identified in the application. Also, when appropriate, the investigator should contact other state gaming agencies or the NIGC to obtain other information available. Where the Tribe discovers the applicant has a notice of results on file with the NIGC from a prior investigation and has access to such earlier materials, the Tribe may rely on such materials and update its investigation report accordingly;
- (g) Verify the applicant's history and status with any licensing agency identified by the applicant with which the applicant has applied for an occupational license or permit by contacting those agencies;
- (h) Obtain information, including through public documents and records, regarding any past felonies, or any misdemeanors in the last 10 years (excluding minor traffic violations), by contacting state, county and tribal courts, and state, local and tribal police departments in



the applicant's areas of residence. The Gaming Commission may require an applicant to submit any court documents pertaining to the applicant's civil or criminal history;

- (i) Obtain and verify any other information the Gaming Commission will deem relevant to a complete and thorough background investigation, which may include a credit report;
- (j) Document in writing all potential areas of concern regarding any and all background investigations, including any and all disqualifying information; and
- (k) Maintain the confidentiality of the identity of third parties interviewed during the course of background investigations.

#### **Section 6. Required Background Information for Business Entities.**

In addition to the background information required in Section 3 above, the Gaming Commission shall request from an applicant that is a business entity all of the following information, provided that two (2) or more business entities having a commonality of the characteristics identified in the following sub-sections (a)-(d), inclusive, may be deemed to be a single business entity:

- (a) Each of its officers and directors;
- (b) Each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, and general manager;
- (c) Each of its owners or partners, if an incorporated business;
- (d) Each of its shareholders who owns more than ten (10%) of the shares of the corporation, if a corporation or otherwise;
- (e) Each person or entity (other than a financial institution that the Gaming Commission has determined does not meet the requirements of the Compact), that alone or in combination with others, has provided financing to the business entity in connection with any gaming authorized under the Compact, if that person or entity provided more than ten percent(10%) of:
  - (i) start-up capital;
  - (ii) bridge loans;
  - (iii) operating capital over any twelve (12) month period; or any combination thereof.

#### **Section 7. License Eligibility Determinations.**

Licenses issued hereunder shall be issued according to requirements that are at least as stringent as those set forth in regulations promulgated by the NIGC in 25 C.F.R. Parts 556 and

558, including any amendments thereto, and also, in the case of class III gaming, according to the requirements that are at least as stringent as those set forth in the Compact. In making findings concerning the eligibility of license applicants, the Gaming Commission shall also take into consideration any of the following circumstances:

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

- (j) If the applicant has failed to provide any information requested by the Gaming Commission within fourteen (14) days of the request for the information.

## **Section 8. Application for License.**

No License shall be issued under this Article except upon sworn Application filed with the Gaming Commission, in such form as may be prescribed by the Gaming Commission, containing a full and complete showing, at a minimum, of the following:

- (a) A description of the premises at which the games are to be conducted, with proof of the contractual or other basis upon which the applicant shall conduct the games, or be employed, at such premises;
- (b) Agreement by the applicant to accept and abide by all conditions of the License as provided by this Ordinance;
- (c) Satisfactory proof that neither the applicant, nor any owner or controlling person of any applicant which is a party to a management contract, nor any of the applicant's employees has in any jurisdiction ever been convicted of, or entered a plea of guilty or no contest to, any of the following criminal offenses:
  - (i) Any felony;
  - (ii) Theft;
  - (iii) Any gaming-related offenses;
  - (iv) Fraud or misrepresentation in any connection; or
  - (v) A violation of any provisions of California Penal Code relating to gaming offenses or other appropriate state regulatory body, or this Ordinance or any other ordinance of the Tribe regulating or prohibiting gaming.

## **Section 9. Privacy Notice.**

- (a) The following notice, or substantially similar wording contained in such standardized application forms as may be adopted by California tribes and the State of California pursuant to a Compact, if any, shall be placed on the license application form before that form is filled out by an applicant:

*In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed 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*

*National Indian Gaming Commission 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.*

- (b) The Gaming Commission shall notify in writing any existing licensees who were licensed prior to the effective date of this Ordinance that they shall either:
  - (i) Complete a new application form that contains a Privacy Act Notice; or
  - (ii) Sign a statement that contains a Privacy Act Notice and consent to the routine uses described in this Notice.
- (c) The following notice, or such substantially similar wording contained in standardized application forms as may be adopted by California tribes and the State of California pursuant to a Compact, if any, shall be placed on the application form before that form is filled out by an applicant.

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

- (d) The Gaming Commission shall notify in writing any existing licensees who were licensed prior to the effective date of this Ordinance that they shall either:
  - (i) Complete a new application form that contains a notice regarding false statements; or
  - (ii) Sign a statement that contains the notice regarding false statements.

#### **Section 10. Reporting to State Gaming Agency.**

- (a) With respect to gaming employees, upon receipt of a completed license application and a determination by the Gaming Commission that it intends to issue a temporary or permanent license, the Gaming Commission shall transmit within ten (10) days to the State Gaming Agency a notice of intent to license the applicant, together with all of the following:
  - (i) A copy of the license application materials and information received by the Commission from the applicant;
  - (ii) An original set of fingerprint cards;

- (iii) A current photograph; and
  - (iv) Except to the extent waived by the State Gaming Agency, such releases of information, waivers, and other completed and executed forms as have been obtained by the Gaming Commission.
- (b) The Gaming Commission shall provide the State Gaming Agency with the name, badge identification number (if any), and job title of all gaming employees on a monthly basis, within ten (10) days of the end of each month, if required.
  - (c) Within ten (10) days of issuance of a license to a gaming resource supplier or financial source, the Gaming Commission shall transmit to the State Gaming Agency a copy of the license and a copy of all tribal license application materials and information received by it from the applicant.
  - (d) Prior to renewing a license, the Gaming Commission shall forward to the State Gaming Agency copies of the renewal application and related documents, as well as requiring a licensee to apply for renewal of a determination of suitability by the State Gaming Agency.
  - (e) Notwithstanding any requirements to the contrary in this Ordinance, if the Tribe operates a facility which includes only class II gaming and not class III gaming, the Tribe's reporting and other obligations pursuant to this Ordinance shall be limited to those required under applicable federal law. In such case, the Gaming Commission's ability to issue a license shall not be dependent on receiving a determination of suitability from the State Gaming Agency unless otherwise required by applicable federal law.

**Section 11. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the NIGC.**

- (a) When a Key Employee or Primary Management Official begins employment at the Tribe's Gaming Operations authorized by this Ordinance, a complete application for employment, the background investigation report, a notice of results, eligibility determination, and licensing action notices shall be forwarded to NIGC; provided that, the Gaming Commission shall have discretion whether to submit the application and the full background investigative report.
- (b) The notice of results of the background investigation referred to in Section 12 of this Article shall be submitted to the NIGC no later than sixty (60) days after an employee begins work.
- (c) After the Gaming Commission has provided a notice of results to the NIGC, the Gaming Commission may license a Primary Management Official or Key Employee.

- (d) The Gaming Operations shall not employ a Key Employee or Primary Management Official who does not have a license after ninety (90) days.

## **Section 12. Investigative Report to the NIGC.**

- (a) Pursuant to the procedures set out in the previous Section of this Article, the Gaming Commission shall prepare and forward to the NIGC the notice of results of an investigative report on each Key Employee and Primary Management Official upon issuance of a license. A notice of results shall include all of the following:
  - (i) Procedures implemented in conducting background investigation, applicant's name, date of birth, and social security number, as well as date on which applicant began or will begin work.
  - (ii) Results obtained from said background investigation, including criminal charges brought against the applicant within the last ten (10) years of the date of application, every felony of which the applicant has been convicted or any ongoing prosecution, any licenses that have previously been denied, and gaming licenses that have been revoked, even if subsequently reinstated.
  - (iii) Conclusions reached by the Gaming Commission.
  - (iv) The Gaming Commission's basis for its conclusion.
- (b) The Gaming Commission shall submit, with the notice of results of the investigative report, a copy of the eligibility determination made pursuant to this Ordinance and 25 C.F.R. Part 556.
- (c) If a license is not issued to an applicant, the Gaming Commission:
  - (i) Shall notify the NIGC; and
  - (ii) Shall forward copies of its eligibility determination and notice of results of the investigative report to the NIGC for inclusion in the Indian Gaming Records System.
- (d) The Tribe shall retain the following for inspection by the NIGC for no less than three (3) years from the date of termination of employment: (i) license applications (ii) investigative reports; and (iii) eligibility determinations.

## **Section 13. Granting a Gaming License.**

- (a) If, within a thirty (30) day period after the NIGC receives a complete notice of results of the investigative report, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a Key Employee or Primary Management Official for whom the Gaming Commission has provided an

application and investigative report to the NIGC, the Gaming Commission may issue the license to such applicant. Within thirty (30) days after issuance of the license to a Primary Management Official or Key Employee, the Gaming Commission shall notify the NIGC of its issuance.

- (b) If, within the thirty (30) day period after the NIGC receives a complete notice of results, the NIGC requests additional information, the Gaming Commission shall respond to a request for additional information from the Chair of the NIGC concerning a Key Employee or Primary Management Official who is the subject of an investigative report. Such a request may suspend the 30 day period under subsection (a) above, until the Chair of the NIGC receives the additional information but only if permitted by the NIGC or federal law.
- (c) If, within the thirty (30) day period described at subsection (a) above, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a license to a Key Employee or Primary Management Official for whom the Gaming Commission has provided an application and investigative report to the NIGC, the Gaming Commission shall reconsider the application, taking into account the objections of the NIGC. The Gaming Commission shall make the final decision whether to issue a license to such applicant. If the Gaming Commission has issued a license before receiving the NIGC's statement of objections, the licensee shall be provided notice and hearing pursuant to Sections 20(b) and 21-B of this Ordinance, consistent with the requirements under 25 C.F.R. Part 558.
- (d) For all employees, including Primary Management Officials: If an applicant has completed a license application to the satisfaction of the Gaming Commission, and the Gaming Commission has conducted a preliminary background investigation, the Gaming Commission may issue a temporary license and impose such conditions thereon as it deems appropriate pending completion of the licensing process, provided that the Gaming Commission has no information suggesting the applicant would either be automatically disqualified from obtaining a license or that would cause a reasonable person to investigate further before issuing a license. The Gaming Commission may issue a regular license to a person who meets the eligibility standards, including applicable NIGC approvals, set out in this Ordinance after receiving a determination of the applicant's suitability from the State Gaming Agency. In the event the State Gaming Agency denies an applicant a determination of suitability or refuses to renew a determination of suitability, the Gaming Commission shall revoke any temporary license issued to the applicant and deny the applicant a license unless any exceptions are allowed under the Compact.
- (e) The Gaming Commission shall be responsible for issuing licenses and for delivering them, by certified mail, return receipt requested, or in person, to applicants once they are issued.

#### **Section 14. Limitation.**

The Gaming Operations shall not employ or continue to do business with a person who does not have a license (that is not a temporary license) after ninety (90) days.

#### **Section 15. Identification Cards.**

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

#### **Section 16. Gaming Facility.**

- (a) The Gaming Commission shall issue a separate license to each facility on Indian lands where class II and/or class III gaming is conducted under this Ordinance.
- (b) The Gaming Commission shall issue a separate license to each place, facility, or location on Indian lands where class II and/or class III gaming is conducted under this Ordinance, which shall be reviewed and renewed every year thereafter pursuant to Section 6.4.2 of the Compact and such further requirements under 25 C.F.R. Part 559. The Gaming Commission shall specify the form, conditions and content for the application for such licenses, which shall be submitted by the chief management official of the facility, and the initial application shall include a legal description of the lands whereon the facility is located, and a certification that said premises constitute "Indian lands" as specified in the IGRA, and shall identify the environmental, health, and public safety standards with which the facility must comply, and a certification that the facility is in compliance therewith. Each subsequent application for the renewal of such facility license shall identify any changes or additions to said legal description and applicable environmental, health and safety standards, and include current certifications of compliance therewith. The Gaming Commission shall only issue such licenses if the applications therefore include the required information and certifications and such further conditions as the Gaming Commission shall have specified.

#### **Section 17. Gaming Resource Suppliers.**

Any gaming resource supplier who, directly or indirectly, provides, has provided, or is deemed likely to provide at least twenty-five thousand dollars (\$25,000.00) in gaming resources in any 12-month period, or who has received at least twenty-five thousand dollars (\$25,000.00) in any consecutive 12-month period within the 24-month period immediately preceding application, shall be licensed by the Gaming Commission prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any such gaming resources to or in connection with the Gaming Operations. Any agreement between the Tribe and a gaming resource supplier shall be deemed to include a provision for its termination without further liability on the part of the Tribe, except for the bona fide payment of all outstanding sums (exclusive of interest) owed as of, or payment for services or materials received up to, the date of termination, upon revocation or non-renewal of the supplier's license by the Gaming Commission based on a determination of unsuitability by the State Gaming Agency. Except as set forth above, the Tribe shall not enter



into, or continue to make payments to a gaming resource supplier pursuant to, any contract or agreement for the provision of gaming resources with any person or entity whose application to the State Gaming Agency for a determination of suitability has been denied or revoked or whose determination of suitability has expired without renewal.

#### **Section 18. Financial Sources.**

Any person or entity who, directly or indirectly, extends financing to the Gaming Operations shall be licensed by the Gaming Commission prior to extending that financing except that the Gaming Commission may, at its discretion, exclude a limited number of financial sources in certain circumstances, but only as provided in the Compact. Any agreement between the Tribe and a financial source shall be deemed to include a provision for its termination without further liability on the part of the Tribe, except for the payment of all bona fide obligations (including accrued interest) which remain unpaid as of the date of termination, upon revocation or non-renewal of the financial source's license by the Gaming Commission based on a determination of unsuitability by the State Gaming Agency. Except as provided above, the Tribe shall not enter into, or continue to make payments pursuant to any contract or agreement for the provision of financing with any person whose application to the State Gaming Agency for a determination of suitability has been denied or has expired without renewal. A gaming resource supplier who provides financing exclusively in connection with the sale or lease of gaming resources obtained from that supplier may be licensed solely in accordance with licensing procedures applicable, if at all, to gaming resource suppliers.

#### **Section 19. Other Vendors.**

The Gaming Commission shall promulgate Tribal gaming regulations pertaining to licensing requirements for other vendors, including non-gaming vendors, consistent with this Ordinance, the Compact, and IGRA.

#### **Section 20. License Denial, Suspension, and Revocation.**

- (a) General Rule. The Gaming Commission shall suspend, revoke or deny a license upon the occurrence of any of the following:
  - (i) Notification by the NIGC, or by any other reliable source, that the licensee is not eligible for a license under this Ordinance;
  - (ii) Notification by the State Gaming Agency that it intends to deny an application for a determination of suitability or a renewal of determination of suitability;
  - (iii) The Gaming Commission has probable cause to believe that the licensee has, by act or omission, violated provisions of a Compact, if any, this Ordinance, the Tribe's gaming regulations, any condition of a conditional gaming license, or any other federal, State or Tribal laws or regulations;
  - (iv) The Gaming Commission has reason to believe that the continued licensing of a

person constitutes an immediate threat to the public health, safety or welfare;

- (v) The Gaming Commission has reason to believe that the licensee is involved in any theft, misappropriation, misuse or abuse of Tribal assets;
  - (vi) The licensee engages in any conduct that brings discredit or embarrassment to the Gaming Operations, or the Tribe, or interferes with the normal operation of the Tribe's gaming facilities;
  - (vii) The licensee fails to disclose any required information on any State or Tribal gaming license application;
  - (viii) The licensee fails to respond to a request from the Gaming Commission within fifteen (15) days of the date of the initial request; or
  - (ix) The licensee's employment with the Tribe's Gaming Operations or related facility is terminated, voluntarily or involuntarily.
- (b) Rule for Suspension and Revocation Pursuant to Notification by NIGC. The Gaming Commission shall immediately suspend a license upon notification by the NIGC that a licensee is not eligible for a license and shall provide the licensee with written notice of suspension and proposed revocation.
- (c) Upon notice issued by the Gaming Commission to the licensee of a time and place for a hearing on the proposed action with respect to a license, the Gaming Commission shall conduct a hearing in accordance with due process provisions under this Ordinance on the proposed denial, suspension, or revocation.
- (d) After a hearing, the Gaming Commission shall decide to deny, revoke, suspend, or to reinstate a gaming license. Gaming Commission decisions to deny a license shall be final, except that a decision of the Gaming Commission to deny the license application of any Tribal Member may be appealed to the Tribal Council pursuant to Article IX of this Ordinance. The Gaming Commission shall notify the NIGC of its decision. The decision of the Gaming Commission under this Section with respect to revocation, cancellation, or suspension of a gaming license may be appealed to the Tribal Council pursuant to Article IX of this Ordinance, whose decision shall be final and which shall be reported to the NIGC.

## **Section 21. Due Process.**

The denial, suspension or revocation of a license by the Gaming Commission pursuant to Section 20 of this Article shall require:

- (a) Written, certified, return receipt requested or personally hand-delivered notification of the denial, suspension or pending revocation be given to the licensee at least ten (10) days in advance of the proposed action;

- (b) Such written notification shall include information concerning the licensee's right to a hearing, shall specify the date, time and place for the hearing, and shall also advise the licensee that failure to appear for a scheduled hearing shall forfeit any further right to appeal;
- (c) Where a hearing has been scheduled and held, the Gaming Commission shall make a ruling within three (3) days of such hearing, and the licensee shall be notified in writing, within three (3) days of the ruling, of the ruling and the licensee's right to file a petition with the Gaming Commission for a rehearing within fifteen (15) days of the receipt of the written notification;
- (d) If the licensee files a petition for a rehearing within fifteen (15) days of receipt of the written notification described in the preceding paragraph, the Gaming Commission shall review any additional information submitted by the licensee with the petition and notify the licensee in writing of its decision.
- (e) Notwithstanding subparagraph (a) above, the Gaming Commission may suspend or revoke a license without advance notice if, in the opinion of the Gaming Commission, the continued licensing of the person:
  - (i) is based on a falsified license application;
  - (ii) poses an immediate threat to the integrity of the Gaming Operations or related facilities;
  - (iii) poses a threat to public health or safety; or
  - (iv) may violate the Gaming Commission's licensing or other standards.
- (f) Any request for further review filed with the Tribal Council or such other applicable reviewing board must comply with the requirements for review under Article IX of this Ordinance.

## **Section 22. Due Process for NIGC Noticed Suspensions.**

The suspension and revocation of a license by the Gaming Commission pursuant to Section 20(b) of this Article (suspension and revocation by NIGC notification) shall require written notice to the licensee of immediate suspension and proposed revocation of his or her license, stating the time and a place for a hearing on the proposed revocation. A right to a hearing under this Section 22 shall vest only under an Ordinance approved by the Chair of the NIGC. After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license and shall also notify the NIGC of its decision within forty-five (45) days of receiving notification from the NIGC pursuant to Section (20)(b) of this Article. The Gaming Commission shall promulgate such further regulations as may be needed setting forth any specific rules, timeframes and procedures applicable to suspensions and revocations under this Section 22 to

the extent such additional rules are needed.

### **Section 23. Duration and Renewal.**

- (a) Except where a different duration and renewal period is specified in the Compact, all regular licenses shall be issued for a specified period not to exceed two (2) years from the date of issue. Renewal applications must be received by the Gaming Commission at least thirty (30) days prior to the expiration of the license. Upon receiving a renewal application, the Gaming Commission shall inform the applicant of his or her obligation to apply to the State Gaming Agency for renewal of his or her determination of suitability. Any licensee applying for renewal may continue to be employed or engaged under the expired license until the Gaming Commission takes action on the renewal application. Applicants for renewal shall provide updated material as requested by the Gaming Commission on the appropriate renewal forms but, at the discretion of the Gaming Commission, may not be required to resubmit information already available to the Gaming Commission. Additional background investigations may be performed at the discretion of the Gaming Commission. Updated criminal history checks are required.
- (b) Prior to renewing a license, the Gaming Commission shall forward to the State Gaming Agency copies of the renewal application and related documents. With respect to the Tribe's facility, the Gaming Commission shall provide verification to the State Gaming Agency that it has reviewed and, if appropriate, renewed the facility's license.

### **Section 24. Fees.**

The Gaming Committee shall establish a fee schedule for licenses to cover its expenses in investigating and licensing. Application fees shall be nonrefundable, regardless of whether or not a license is issued.

## **ARTICLE XII ENFORCEMENT**

The Tribal Council shall promulgate regulations authorizing the Gaming Commission or other agent of the Tribe to investigate reported violations of this Ordinance, other tribal gaming ordinances or regulations, IGRA or the Compact and to impose fines or other sanctions within the Tribe's jurisdiction against persons who interfere with the Tribe's obligations under this Ordinance, other tribal gaming ordinances or regulations, IGRA or the Compact.

## **ARTICLE XIII SEVERABILITY**

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

**ARTICLE XIV  
REPEAL AND AMENDMENTS TO ORDINANCE**

This Ordinance supersedes any and all prior Gaming Ordinances adopted by the Tribe, which are hereby repealed. This Ordinance may be amended or repealed by a majority vote of the General Council at which a quorum is present.

**ARTICLE XV  
EFFECTIVE DATE**

The Ordinance shall become effective and binding upon adoption by a majority vote of the General Council at which a quorum is present and upon the approval of the Chair of the NIGC and published pursuant to 25 USC. § 2710(d)(2)(c).

**ARTICLE XVI  
SERVICE OF PROCESS**

The Estom Yumeka Maidu Tribe of the Enterprise Rancheria, do hereby designate the Tribal Chairperson as the agent for the Tribe for any and all service of process, which shall be served on the Chairperson at the below indicated address:


Enterprise Rancheria  
Attn: Chairperson  
2133 Monte Vista Avenue  
Oroville, California 95966

**CERTIFICATION**

I, the undersigned, as Secretary of the Estom Yumeka Maidu Tribe, also known as Enterprise Rancheria, do hereby certify that this Gaming Ordinance has been:

- (a) Revised and amended at a duly held meeting of the General Council on April 25, 2009;
- (b) Ratified at a duly held meeting of the General Council on April 25, 2009 by a vote of 38 in favor, 0 against and 1 abstaining;
- (c) Revised and amended at a duly held meeting of the General Council on February 9, 2013;
- (d) Ratified at such meeting by the General Council by a vote of 71 in favor, 0 against, and 5 abstaining.
- (e) Revised and amended for compliance with federal law at a duly held meeting of the

Tribal Council on July 9, 2013, under such powers as delegated by the General Council under General Council Resolution No. 13-02.

  
Glenda Nelson, Tribal Chairperson

July 9, 2013  
Date

ATTEST:

  
Cindy Smith, Tribal Council Secretary

July 9, 2013  
Date