



June 17, 2019

Ned Daniels, Jr., Chairman
Forest County Potawatomi Community
P.O. Box 340
Crandon, WI 54520

**Re: Forest County Potawatomi Community Gaming Control Ordinance
(Second Amended)**

Dear Chairman Daniels:

This is to inform you that the Forest County Potawatomi Community Gaming Control Ordinance (Second Amended), as adopted by the General Council on August 11, 2018, and the subsequent Amendments adopted February 11, 2019, are approved by operation of law.

Pursuant to the Indian Gaming Regulatory Act, the NIGC Chair has ninety days from the date of submission to either approve or disapprove a gaming ordinance.¹ Any ordinance not acted upon at the end of that ninety day period is considered to have been approved by the Chair to the extent that it is consistent with the provisions of IGRA. The ordinance and its amendments were received February 28, 2019, and the ninety days expired on May 29, 2019. Because no action was taken by the Chair within the ninety-day period, the Tribe's ordinance is considered approved to the extent that it is consistent with IGRA. It is the opinion of the Office of General Counsel that the Gaming Ordinance amendments are compliant with the requirements of IGRA.

If you have any questions, please feel free to contact attorney Jennifer Lawson at (202) 632-7003.

Sincerely,

A handwritten signature in blue ink that reads "Michael Hoenig". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael Hoenig
General Counsel

cc: Ken George, Jr., Chairman, Forest County Potawatomi Community Gaming Commission
Aaron Loomis, Deputy Attorney General, Forest County Potawatomi Community Legal
Department

¹ 25 U.S.C. § 2710(e).



Forest County Potawatomi Community
P.O. Box 340 • Crandon, Wisconsin 54520

CERTIFICATE OF TRIBAL SECRETARY

I, James A. Crawford, hereby certify that I am the duly elected Secretary of the Forest County Potawatomi Community (the "Tribe"); and, acting in such capacity, I do hereby certify that:

1. I was the official recording officer and custodian of the official records of the regularly-scheduled meeting of the General Council held on February 9, 2019 (the "GC Meeting").
2. A quorum of qualified voters, as defined in Article III, Section 5 of the Forest County Potawatomi Community Constitution (hereinafter "Constitution") was present at the February 9, 2019 General Council meeting.
3. Pursuant to its authority as defined in Article IV, Section 1(d) of the Constitution, the General Council adopted the attached "Amendment to Second Amended Gaming Control Ordinance," at the February 9, 2019 General Council meeting which, among other amendments, changed the name of the ordinance to "The Forest County Potawatomi Community Gaming Control Ordinance (Second Amended and Restated)".
4. The "Amendment to Second Amended Gaming Control Ordinance" amends the Second Amended Gaming Control Ordinance (copy attached as Exhibit B) that was adopted by the General Council at its August 11, 2018 regular meeting, but which was never submitted to the National Indian Gaming Commission for approval.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Tribal Secretary as of this 9 day of February, 2019.

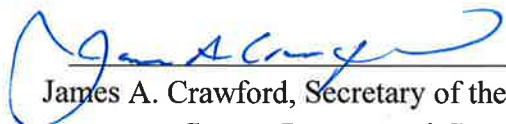

James A. Crawford, Secretary of the Forest
County Potawatomi Community

EXHIBIT A

AMENDMENT TO SECOND AMENDED GAMING CONTROL ORDINANCE

Attached hereto.

AMENDMENT TO SECOND AMENDED GAMING CONTROL ORDINANCE

Authority: This is an Amendment to the Forest County Potawatomi Community ("Tribe") Second Amended Gaming Control Ordinance, adopted by the General Council on August 11, 2018, pursuant to the General Council's powers contained in Article IV, Section 1(d) of the Tribe's Constitution, adopted on June 5, 1982, and pursuant to the Indian Reorganization Act of June 18, 1934 (P.L. 73-383).

Amendments: The General Council hereby amends the Second Amended Gaming Control Ordinance adopted on August 11, 2018, as follows:

- 1) Amending the name of the Ordinance to "Forest County Potawatomi Community Gaming Control Ordinance (Second Amended and Restated)", and requiring any references to the "Second Amended Gaming Control Ordinance" or variations thereof throughout the Ordinance to be amended consistent with this Amendment;
- 2) Amending Section 1.3 ("Effective Date and Title") to read in full:

"This ordinance is hereby adopted immediately following written notice of approval by the National Indian Gaming Commission. Once approved, this ordinance hereby replaces in their entirety the Gaming Control Ordinance, the Amended Gaming Control Ordinance, the Bingo Control Ordinance, and the Class II and Class III Ordinances, adopted by the Forest County Potawatomi Community General Council, and supersedes and replaces in their entirety all prior gaming related ordinances existing prior to the date of adoption of this Gaming Control Ordinance (Second Amended and Restated). With the adoption of this ordinance, the Forest County Potawatomi Community Gaming Commission's Gaming Regulations, adopted February 11, 1995, are also repealed in their entirety";
- 3) Amending the second sentence of Section 1.5 ("Amendment or Repeal") to state in full:

"Any rules and regulations heretofore adopted by the Forest County Potawatomi General Council which are in conflict with the provisions of this ordinance are hereby repealed";
- 4) Amending the Definition of "General Manager" in Section 2 ("Definitions") as follows:

"General Manager" means the individual who has responsibility for day-to-day operations of a Gaming Enterprise, and may also include a Chief Executive Officer (CEO) or Chief Operating Officer (COO), at the discretion of the Executive Council";
- 5) Amending Section 3.5 ("Authority for Internet Gaming"), including the section title, to read in full:

"Authority for Internet Gaming/Additional Games"

- a) "The Tribe shall be authorized to conduct internet gaming to the extent permitted by federal, state, and tribal law.
 - b) The Tribe shall be authorized to conduct any additional games (games not offered at the time of the adoption of this ordinance) as authorized by the Compact";
- 6) Amending the second sentence of Section 8.1 ("Establishment of Commission") to read in full: "The terms of office for the five members shall be unaffected by this Ordinance, except as the anniversary dates of the members may be changed pursuant to Amended Bylaws approved by the Executive Council";
 - 7) Deleting Section 8.6(A) in its entirety, and replacing it with the following new language:

"The Commission shall have the authority and primary responsibility for developing policies and regulations for gaming on the Tribe's lands";
 - 8) Amending Section 8.6 ("Powers and Duties of the Commission") by adding a new subsection which states: "The Commission shall issue separate facility licenses for each Premises on the Tribe's Lands at which Class II or Class III gaming is conducted" and re-lettering the remainder of the Section accordingly;
 - 9) Deleting the second sentence in Section 8.6(L) in its entirety;
 - 10) Amending Section 10.1 ("Background Investigations and Licensing Determinations") by adding the following statement as a first sentence to that section:

"All background investigations and licensing determinations for Primary Management Officials and Key Employees under this Ordinance shall be made in accordance with those standards and procedures contained in 25 C.F.R. Sections 556 (Background Investigations for Primary Management Officials and Key Employees) and 558 (Gaming Licenses for Key Employees and Primary Management Officials), as those sections may be amended from time to time";
 - 11) Deleting Section 10.2 in its entirety;
 - 12) Amending Section 10.7 ("Required Notifications and Record Keeping") to read as follows:

"As appropriate, the Commission shall promptly notify the NIGC or other appropriate federal regulatory body and the Wisconsin Office of Indian Gaming and Regulatory Compliance of information obtained in the course of any background investigation as required under the IGRA and the Compact, and shall comply with all record-keeping requirements with regard to such investigations as are set forth in the IGRA, NIGC regulations, and the Compact";
 - 13) Deleting the language in Section 10.9 in its entirety and replacing it with the following:

“A Privacy Act notice that is compliant with 25 C.F.R. §556.2(a) shall be placed on each license application form for a Key Employee or a Primary Management Official before it is filled out by the applicant. All Key Employees and Primary Management Officials who completed applications that lacked the required Privacy Act Notice shall be given written notice of the option to fill out a new application that contains the required notice or sign a statement that contains the notice and consent to the routine uses described in that notice”;

- 14) Deleting the language in Section 10.10 in its entirety and replacing it with the following:

“A Notice Regarding False Statements and the associated penalties that is compliant with 25 C.F.R §556.3(a) shall be placed on the application form for a Key Employee or a Primary Management Official before it is filled out by an applicant. All Key Employees and Primary Management Officials who completed applications that lacked the required Notice Regarding False Statements shall be given written notice of the option to fill out a new application that contains the required notice or to sign a statement that contains the Notice Regarding False Statements”;

- 15) Amending Section 11 (“Licensing Procedures”) to read as follows:

“The Gaming Commission shall have the authority to issue, deny, suspend and revoke such gaming licenses and Vendor licenses as may be required pursuant to applicable tribal law, IGRA, NIGC regulations, and the Compact and in accordance with the Tribe’s Rules of Licensing Procedures as adopted by the General Council on February 11, 1995, and as amended.

- 16) Deleting Section 12.6 (“Gaming Commission Employees”) in its entirety;

- 17) Deleting Section 17.2 (“Permissible Alcoholic Beverages”) in its entirety (and re-numbering Section 17 to reflect all numerical changes);

- 18) Adding a new Section 17.2 (“Dispute Resolution”) to read in full:

“Patron Dispute Resolution:

1. For disputes involving a patron and a Gaming Enterprise, the dispute shall first be submitted in writing to the Gaming Enterprise, which shall render a written decision on the dispute, clearly stating the reasons for its determination.
2. If thereafter the patron is not satisfied with the decision of the Gaming Enterprise, the patron may submit the dispute in writing to the Forest County Potawatomi Gaming Commission. The dispute must be submitted to the Gaming Commission within 180 days of issuance of the Gaming Enterprise decision.
3. Upon receipt of the dispute, the Gaming Commission may, in its discretion, request additional information from the patron and the Gaming Enterprise.

4. The Gaming Commission shall issue its decision in writing to the patron and the Gaming Enterprise.
5. Each Gaming Enterprise shall publish procedures for impartial resolution of patron disputes concerning conduct of the game, which shall be made available to patrons upon request”;

19) Deleting Section 17.3 (“Prohibited Substances”) in its entirety;

20) Deleting Section 17.4 (“Dangerous Weapons”) in its entirety.

21) Amending Section 17.8 (“Record Retention”) by adding the following sentence to the end of the existing language:

“Employee records shall be kept pursuant to the Tribe’s internal control for gaming.”

EXHIBIT B

SECOND AMENDED GAMING CONTROL ORDINANCE

(adopted by General Council on August 11, 2018;

never submitted to NIGC for approval)

Attached hereto.



**FOREST COUNTY POTAWATOMI
COMMUNITY
GAMING CONTROL ORDINANCE
(SECOND AMENDED)**

CHAPTER _- _



FOREST COUNTY POTAWATOMI COMMUNITY GAMING CONTROL ORDINANCE (SECOND AMENDED)

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FOREST COUNTY POTAWATOMI COMMUNITY GAMING CONTROL ORDINANCE (SECOND AMENDED)

BE IT ENACTED, by the General Council of the Forest County Potawatomi Community, acting pursuant to the authority vested in it by Article IV, Section 1 (d) and (e), of its Constitution, that all gaming operations conducted by the Forest County Potawatomi Community be governed by the following provisions.

§ 1. General

1.1 Purpose

The purposes of this Ordinance are:

- (A) To provide a statutory basis of promoting tribal economic development, self-sufficiency, and a strong tribal government; and
- (B) To provide appropriate regulations and rules, which shall be strictly and uniformly enforced throughout the jurisdiction of the Forest County Potawatomi Community to ensure the close control by its Gaming Commission, under the direction of the Tribe's Executive Council, of the regulation of all gaming activity conducted on the Tribe's Lands.

1.2 Authority

The Forest County Potawatomi General Council enacts this ordinance pursuant to its authority granted under the Forest County Potawatomi Tribal Constitution, Article IV, §1 (d).

1.3 Effective Date and Title

This ordinance is hereby adopted immediately following the majority approval by the Forest County Potawatomi General Council, subject to approval by the NIGC, and shall be known as the Second Amended Gaming Control Ordinance of the Forest County Potawatomi Community. Upon majority approval, this ordinance hereby amends the Gaming Control Ordinance, the Amended Gaming Control Ordinance, the Bingo Control Ordinance, and the Class II and Class III Ordinances, adopted by the General Council of the Forest County Potawatomi Community and supersedes all prior Ordinances in their entirety.

1.4 Sovereign Immunity

The Tribe, by adoption of this ordinance, does not waive its sovereign immunity in any respect. Any person acting under good faith of this ordinance shall be immune from any civil liability arising out of such actions.

1.5 Amendment or Repeal

This ordinance may only be amended or repealed by a Majority vote of the Forest County Potawatomi General Council. All rules and regulations heretofore adopted by the Forest County Potawatomi General Council which are in conflict with the provisions of this ordinance are hereby repealed.

1.6 Jurisdiction

The Forest County Potawatomi Tribal Court shall have original jurisdiction over all proceedings under this ordinance. The Tribe's Gaming Ordinance and the policies, standards, rules, guidelines and regulations adopted by the Commission shall govern all gaming activities conducted on the Tribe's lands.

1.7 Severability and Non-Liability

If any portion or section of this ordinance is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remaining sections of this ordinance shall not be affected.

1.8 Sole Proprietorship

The Tribe shall have the sole proprietary ownership of, interest in, and responsibility for, all Class II and Class III gaming activities conducted on the Tribe's lands pursuant to 25 C.F.R. Part 522.4(b)(1).

§ 2. Definitions

For purpose of this ordinance, the following words and phrases shall have the meanings given to them in this section and by law:

"Class I gaming" means Class I gaming as defined in accordance with IGRA, 25 U.S.C. §2703(6).

"Class II gaming" means Class II gaming as defined in accordance with the IGRA, 25 U.S.C. § 2703(7)(A).

"Class III gaming" means Class III gaming as defined in accordance with the IGRA, 25 U.S.C. § 2703(8).

"Compact" means any compact between the Tribe and any state entered into pursuant to the IGRA, including any amendments thereto.

"Executive Council" means the Executive Council of the Forest County Potawatomi Community, as that body is defined in Article III, Section 6 and Article IV of the Constitution.

"Gaming Commission" or "Commission" means the Forest County Potawatomi Community Gaming Commission established pursuant to the Gaming Control Ordinance, adopted on February 1, 1993, and amended pursuant to the Amended Gaming Control Ordinance adopted on July 12, 1994 and this Second Amended Gaming Control Ordinance.

"General Council" shall mean the General Council of the Forest County Potawatomi Community, as that body is defined in Article III of the Constitution.

"Gaming Activities" shall mean any Class I, Class II, or Class III gaming conducted on the Tribe's Lands as those activities are defined in this Ordinance or the IGRA.

"Gaming Enterprise" means all of the Tribe's Class II and Class III gaming operations conducted pursuant to this Ordinance. "Gaming Enterprise" means each economic entity that is licensed by the Gaming Commission, operates the games, receives the revenues, issues the prizes, and pays the expenses.

"Gaming Facilities" means the buildings and associated real property within which the Tribe conducts Class II and Class III gaming and other associated commercial activity related to such gaming, and shall include any parking facilities established to provide parking for a Tribal Gaming Enterprise.

"General Manager" means the individual who has responsibility for day-to-day operations of a Gaming Enterprise.

"Household Member" means a person currently residing in a household on a consistent basis and treated as a member of the family residing in the household.

"IGRA" means the Indian Gaming Regulatory Act, Pub.L. 100-497, 25 U.S.C. §§ 2701, et seq.

"Immediate Family Member" means a spouse, parent, child, or Household Member.

"Immediate Relative" means a spouse, sibling, parent, grandparent, child, or grandchild, whether by blood, adoption, or legal relation.

"Key Employees" mean the following persons:

- (A) All persons performing one or more of the following functions in any of the Gaming Enterprises:

- (1) bingo caller;
 - (2) counting room supervisor;
 - (3) chief of security;
 - (4) custodian of gaming supplies or cash;
 - (5) floor manager;
 - (6) pit boss;
 - (7) dealer;
 - (8) croupier;
 - (9) approver of credit;
 - (10) custodian of gaming devices, including persons with access to cash and accounting records within such devices;
 - (11) surveillance personnel;
 - (12) accounting staff;
 - (13) any person with authority to disburse funds for, or approve shipments of, materials or supplies; and
- (B) If not otherwise included, any other person whose total cash compensation is in excess of fifty thousand dollars (\$50,000) per year; or
- (C) If not otherwise included, the four most highly compensated persons in each Gaming Enterprise.
- (D) Any other persons employed by a Gaming Enterprise and defined as a "Key Employee" by the Gaming Commission.

"Labor Organization" means any lawful organization whose primary purpose is the representation of a Gaming Enterprise, Gaming Facility or Associated Commercial Activity employees in a collective bargaining agreement.

"Management Contract" means any contract, subcontract, or collateral agreement between the Tribe and a contractor or between a contractor and a subcontractor, if such contract or agreement provides for the management of all or part of the Gaming Enterprise.

"Net Revenues" means gross gaming revenues of an Indian Gaming operation less (a) amounts paid out as, or paid for, prizes; and (b) total gaming-related operating expenses, excluding management fees.

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

"OIGRC" means the Wisconsin Department of Administration, Division of Gaming, Office of Indian Gaming and Regulatory Compliance, formerly known as the Lottery Board.

"Ordinance" means this Second Amended Gaming Control Ordinance.

"Person" means any individual or entity, including any corporation or general or limited partnership.

"Premises" means any place, facility, or location on the Tribe's Lands at which Class II or Class III gaming is conducted.

"Primary Management Official" means:

- (A) The person having management responsibility for a Management Contract;
- (B) Any person who has authority:
 - (1) To hire and fire employees; or
 - (2) To set up working policy for the Gaming operation; or
- (C) The chief financial officer or other person who has financial management responsibility.

"Tribe" means the Forest County Potawatomi Community, any of its subdivisions, enterprises, agencies, or instrumentalities, corporations chartered under federal, state, or Tribal law, which are wholly owned by any of the foregoing, and authorized officials, agents, and representatives of any of the foregoing.

"Tribe's Lands" means:

- (A) All lands within the limits of the Forest County Potawatomi Community reservation;
- (B) All lands held in trust by the United States for the benefit of the Tribe as of October 17, 1988; and
- (C) All lands which may be acquired in trust by the United States for the benefit of the Tribe after October 17, 1988, over which the Tribe exercises governmental

power, and which meet the requirements of section 20 of the IGRA, 25 U.S.C. § 2719.

“Vendor” means any person who provides gaming related goods and/or services in exchange for financial or other consideration with a Gaming Facility or in support of a Gaming Enterprise.

§ 3. Authorization of Gaming Activities

3.1 All Gaming Activity Regulated

All gaming activity on the Tribe’s Lands shall be conducted in accordance with this Ordinance, and any gaming activities not explicitly authorized by this Ordinance shall be prohibited.

3.2 Authority for Class I Gaming

Class I traditional games shall be permitted to the extent authorized by the Gaming Commission. The Gaming Commission may prohibit any Class I traditional games which it finds are not in accordance with tribal customs or practices or which violate IGRA or other applicable law.

3.3 Authority for Class II Gaming

The Tribe shall be authorized to conduct all forms of Class II gaming on the Tribe's Lands.

3.4 Authority for Class III Gaming

The Tribe shall be authorized to conduct the following types of Class III gaming on the Tribe's Lands:

- (A) Electronic games of chance with video facsimile displays;
- (B) Electronic games of chance with mechanical displays;
- (C) Blackjack;
- (D) Pull-tabs or break-open tickets when not played at the same location where bingo is being played; and
- (E) Any other type of Class III gaming conducted pursuant to the terms of the Tribe's Compact.

3.5 Authority for Internet Gaming

The Tribe shall be authorized to conduct internet gaming to the extent permitted by federal, state or tribal law.

3.6 Compact Incorporated

The Compact is hereby incorporated within and enacted as an integral part of this Ordinance with respect to all forms of Class III gaming as if set forth in full herein; provided, however, that nothing in the incorporation of the Compact herein shall be deemed to affect the operation by the Tribe of any Class II gaming, whether conducted within or without the gaming facilities, or to confer upon any state any jurisdiction over such Class II gaming conducted by the Tribe on the Tribe's Lands.

3.7 Authority for Management and Other Contracts

The Tribe may enter into any contracts or other agreements to further its gaming interests, including one or more Management Contracts. Each Management Contract shall designate the person or persons having responsibility for management of all or part of any Gaming Enterprise. Management Contracts and other gaming-related contracts shall contain such provisions as are required under the IGRA, the implementing NIGC regulations, the Compact, and shall be submitted to the NIGC or other appropriate federal regulatory body for approval as required by the IGRA, and shall be submitted to the OIGRC or other appropriate state regulatory body for approval as required by the Compact. All such contracts shall not be effective until approved by the NIGC, other appropriate federal regulatory body, and/or the OIGRC or other appropriate state regulatory body.

§ 4. Conformance with IGRA and Compact

This Ordinance shall be construed in a manner that conforms to the IGRA and the Compact in all respects, and if inconsistent with the IGRA or the Compact in any manner, the provisions of the IGRA or the Compact, respectively, shall govern.

§ 5. Standards of Operation and Management

5.1 Class II Games

The Tribe shall abide by its standards of operation and management for bingo and other Class II games duly adopted to protect the integrity of such games. The standards of operation and management for Class II games shall hereby provide, at a minimum, that:

- (A) No person under the age of 18 shall be permitted to participate in any Class II gaming operations as an employee, contractor, or player.
- (B) The rules by which the game will be conducted and the winner or winners determined shall be established in advance of the game and shall be visibly displayed or available in pamphlet form in the Gaming Enterprise.

5.2 Class III Games

The standards of operation and management for Class III games shall be those set forth in the Compact. The Tribe may establish and amend its minimum internal control standards of

operation and management for Class III games that are no less stringent than, nor otherwise inconsistent with, the Compact.

§ 6. Public Safety Standards

The construction, maintenance, and operation of any Gaming Facility, shall be conducted pursuant to 25 C.F.R. § 522.4(b)(7) and in a manner that adequately protects the environment and the public health and safety and for that purpose shall comply with the requirements of the Compact and all applicable health, safety and environmental standards enacted by the Tribe and all -municipal, state and federal laws which are applicable to the Tribe. Those public health and safety standards for public buildings, electrical wiring, fire protection, plumbing and sanitation that are set forth in Chapters 101, Wis. Stats., and the administrative rules adopted thereunder, including but not limited to CHS. ILHR 14 Fire Prevention, 16 Assembly Halls, and 8186 Plumbing, Wis. Admin. Code, as they may be amended from time to time, shall be deemed to be incorporated by this Ordinance as the laws of the Tribe applicable to the Tribe's Gaming Facilities located in the State of Wisconsin.

§ 7. Net Revenues

- (A) The Net Revenues from any games shall be exclusively devoted to the purposes authorized by the Forest County Potawatomi Community.
- (B) The Net Revenues are not to be used for purposes other than: (i) to fund Tribal government operations or programs; (ii) to provide for the general welfare of the Tribe and its members; (iii) to promote Tribal economic development; (iv) to donate to charitable organizations; or, (v) to help fund operations of local government agencies.
- (C) If the Tribe chooses to authorize and pay Per Capita payments, it shall do so only in accordance with a revenue allocation plan submitted to and approved by the Secretary of Interior pursuant to 25 U.S.C. § 2710(b)(3). The Tribe shall ensure that Per Capita payments are only made in accordance with an approved revenue allocation plan and that the interests of minors and other legally incompetent persons who are entitled to receive per capita payments shall be protected and preserved as required by the IGRA.

§ 8. Forest County Potawatomi Community Gaming Commission

8.1 Establishment of Commission

The duly-created Gaming Commission shall consist of five (5) members. The terms of office for the five members shall be unaffected by this Amended Ordinance, except as the anniversary dates of the members may be changed pursuant to Amended Bylaws approved by the Executive Council. The term of all members shall be four years, with staggered terms. If any Gaming Commissioner's term has not been renewed upon his or her anniversary date, that term shall be

deemed expired on the anniversary date, and the position will be considered vacant. Three (3) members shall constitute a quorum.

8.2 Qualifications

In order to qualify for appointment to the Commission, an applicant must satisfy all of the following requirements:

- (A) Be an enrolled member of the Tribe;
- (B) Be age 21 or older;
- (C) Have at least a high school or GED equivalent education and have knowledge of or experience in the gaming industry or a related industry;
- (D) Have no prior record of conviction of, or entry of a plea of guilty or no contest to, any of the following in any tribal, county, state, or federal court, unless he or she has been pardoned; or the Tribe has opted to waive such restriction by legislative resolution pursuant to Article IX, Section B of the Gaming Compact:
 - (1) A felony: within the last ten (10) years other than those crimes or acts indicated in (d) (ii), (iii) and (iv);
 - (2) Any gaming-related offense;
 - (3) Fraud or misrepresentation in any connection;
 - (4) A violation of any provision of Chapters 562 or 565, Wis. Stats.; any rule promulgated by the OIGRC, Wisconsin Racing Board or other appropriate state regulatory body; or this Ordinance or any other ordinance of the Tribe regulating or prohibiting gaming;
- (E) Not be serving on the Executive Council or any elected or appointed committees of the Tribe at the time of his or her appointment to, or during his or her term of office on the Commission. This prohibition does not include persons serving on Area or local committees;
- (F) Not be employed by any Gaming Enterprises, and not be a Primary Management Official or Owner or Controlling Person with respect to any Management Contract; and
- (G) Have satisfied restrictions under §12.

8.3 Service and Compensation

Commissioners are appointed to serve on a full-time basis and will be compensated on a salary basis as determined by the Executive Council.

8.4 Vacancies

The Executive Council shall by appointment fill any vacancy on the Commission due to death, resignation, term expiration, or removal from office within thirty (30) days of the vacancy. The person so appointed shall complete the remainder of any unexpired term.

8.5 Removal

- (A) The Executive Council may remove any member of the Gaming Commission for, but not limited to, any of the following reasons: (1) willful and persistent misconduct reflecting on the dignity and integrity of the Community; (2) conviction of a felony while in office; (3) consistent failure to carry out his or her official duties; (4) unexcused absence from three (3) or more successive meeting[s] of the Gaming Commission and/or General Council without valid excuse; (5) or any form of fraudulent acts against the Community.
- (B) The accused officer shall be served personally with written notice of the charges against him or her at least seventy-two (72) hours prior to the Executive Council meeting duly called for the purpose of considering his/her removal.
- (C) The accused officer may present oral evidence in his/her defense but also must answer in written form the allegations levied against him/her. Testimony for and against the officer by other persons is permitted.
- (D) Removal decisions of the Executive Council shall be subject to judicial review.

8.6 Powers and Duties of Commission

The Commission shall have the following powers and duties to ensure compliance with all laws, rules and regulations applicable to the Tribe's Lands, Gaming Facilities and Gaming Enterprises:

- (A) The Commission shall have authority and primary responsibility for developing such policies, and regulations for gaming on the Tribe's Lands, and for recommending to the General Council that the General Council adopt such policies, guidelines and regulations.
- (B) The Commission shall ensure compliance with all laws, rules and regulations applicable to the Tribe's Lands, Gaming Facilities and Gaming Enterprises.
- (C) The Commission shall develop policies, guidelines and regulations for Class II and Class III gaming to assist in properly regulating the Tribe's Gaming Facilities and Gaming Enterprises.

- (D) The Commission shall monitor all gaming on the Tribe's lands and shall monitor all monthly reports and annual audits to insure conformance to the provisions of this Ordinance and other applicable laws. The Commission shall have immediate access to all Tribal Gaming Facilities, Gaming Enterprises and all records maintained by such Facilities and Enterprises.
- (E) The Commission shall conduct background investigations and make licensing determinations. Background investigations of persons appointed to, or serving on, the Gaming Commission shall be conducted by the Tribe's Human Resources Department.
- (F) The Commission shall issue, deny, suspend or revoke gaming licenses and Vendor licenses.
- (G) The Commission shall investigate all alleged violations of this Ordinance, the IGRA the Compact and policies, standards, rules, guidelines and regulations adopted by the Commission and all alleged acts of wrongdoing associated with any gaming activities or associated commercial activities within the jurisdiction of the Commission.
- (H) The Commission shall have the authority to make referrals and provide information to appropriate law enforcement officials where there is reason to believe that there has been a violation of federal, state or tribal law within a Gaming Facility or in relation to the operation of a Gaming Enterprise.
- (I) The Commission shall report to the Executive Council penalties imposed for violations of this Ordinance and any other actions to enforce the provisions of this Ordinance or to enjoin or otherwise prevent any violation of this Ordinance or other laws relating to gaming on the Tribe's Lands.
- (J) The Commission shall prepare and recommend an annual budget for purposes of allocating funds to the Commission for necessary activities and expenses, which will be approved by the Executive Council, prior to General Council's final approval, during its annual process of approval of Tribal budgets.
- (K) Consistent with applicable law and not inconsistent with its other enumerated duties contained herein, the Commission shall have the authority to provide gaming regulatory services for other tribal gaming regulatory agencies.
- (L) The Commission shall employ such staff as it deems necessary to fulfill its responsibilities under this Ordinance, and may retain professional services, other than legal counsel, but including investigative services to assist the Commission. The Commission shall establish and maintain an Employee Manual to describe the rights and responsibilities of all Commission staff.

- (M) The Commission shall have the authority to procure or contract for the purchase of all goods and services necessary for the Commission to fulfill its duties. The Commission shall adhere to Tribal policies and procedures for purchase of goods and services. If any such contract requires the waiver in any manner of the Tribe's sovereign immunity, the Commission shall comply with all Tribal law related to such of sovereignty.
- (N) The Commission shall report to the Executive Council, or meet with the Executive Council, at the Executive Council's discretion, at least monthly and as needed pertaining to the activities of the Commission and the status of the Tribe's Gaming Enterprises.
- (O) The Commission shall timely post the minutes and all notices of its meetings at the Executive Building of the Community, and provide to the Executive Council a complete and up-to-date record of its minutes.
- (P) The Commission shall have the authority to negotiate on behalf of the Tribe and shall report to the Executive Council prior to any execution of any and all agreements related to regulation and licensing that are not inconsistent with the authority delegated to the Commission under this Ordinance, the Compact and the IGRA and that are related to the compliance of Tribal Gaming Enterprises and Gaming Facilities with Tribal, federal and state law. If any such agreement requires the waiver in any manner of the Tribe's sovereign immunity, the Commission shall comply with all Tribal law related to such waiver of sovereign immunity.
- (Q) The Commission shall have such other powers as are delegated to it from time to time by the General Council or the Executive Council.
- (R) Only upon prior approval by the Executive Council shall the Gaming Commission make official statements on behalf of the Tribe related to the Tribe's gaming.

8.8 Procedures of the Commission

- (A) Meetings. All meetings (except licensing hearings, related meetings and executive sessions) of the Commission shall be open to all members of the Tribe.
- (B) Bylaws. The Bylaws appended hereto as Appendix A shall be the Bylaws governing the operations of the Commission. Subject to any limitations set forth in this Ordinance, such Bylaws may be amended by the Commission at any time, but amendments shall not be effective until approved by the Executive Council.

§ 9. Registration

The Commission shall require the following persons to register with the Commission upon entering any Premises, unless and until such person has been issued a license pursuant to §8, §10, and §11 of this Ordinance:

- (A) Vendors and/or their agents; and
- (B) Labor Organizations and/or their agents.

§ 10. Background Investigations and Licensing Determinations

10.1 Required Background Investigations

The Commission shall conduct background investigations and make licensing determinations for the following persons:

- (A) All Primary Management Officials, and Key Employees; and
- (B) Such additional persons as required under the IGRA, the Compact or in the discretion of the Commission, including, but not limited to, Vendors, Labor Organizations and Agents of a Labor Organization.

10.2 Gaming Licenses for Key Employees and Primary Management Officials

The Gaming Commission shall be the primary licensing authority for Class II and Class III gaming on tribal lands. The Gaming Commission shall send notice of any license issued to a Key Employee or Primary Management Official to the National Indian Gaming Commission as required by applicable laws and regulations.

- (A) If, within thirty (30) days of issuing a license to a Key Employee or Primary Management Official, the NIGC provides the Gaming Commission with a statement itemizing objections to the issuance of a license to the Key Employee or Primary Management Official applicant for whom the Gaming Commission has provided a notice of results, the Gaming Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Gaming Commission shall make the final decision whether to issue a license to such applicant.
- (B) If the Gaming Commission has issued a license before receiving the NIGC's statement of objections, notice and hearing shall be provided to the license pursuant to the following:
 - (1) If the Gaming Commission receives notice from the NIGC that a Key Employee or Primary Management Official is not eligible for employment, the Gaming Commission shall immediately suspend the license and shall provide the licensee with written notice of suspension and proposed revocation.
 - (2) The Gaming Commission shall notify the licensee of the time and place for the hearing on the proposed revocation of a license. The revocation hearing shall be held pursuant to the Rules of Licensing Procedure. The

Gaming Commission shall notify the NIGC of its decision to revoke or reinstate the gaming license within forty-five (45) days of receiving notification from the NIGC pursuant to Subsection 1 (above).

10.3 Standards for Background Investigations and Licensing Determinations

All background investigations and licensing determinations shall be conducted to ensure that the Tribe in its Gaming Enterprises shall not employ or contract with persons whose prior activities, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming conducted under the Tribe's Gaming Ordinances, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of such gaming. Such investigations also shall otherwise meet the standards of such investigations imposed under the IGRA and/or the Compact and shall be updated as required under the IGRA, the implementing NIGC regulations, and/or the Compact, as applicable. Nothing herein shall prevent the Commission from conducting more comprehensive background investigations than those required under the IGRA or the Compact.

10.4 Waiver of Criminal Conviction

With the adoption of this Amended Ordinance, the General Council delegates to the Executive Council the authority to recommend a waiver related to criminal convictions as set forth in §IX.A.1 of the Compact and §8.2 (D) of this Ordinance, pursuant to a Criminal Background Waiver Policy approved by General Council

10.5 License a Privilege

Any gaming license, vendor's license, or finding of suitability or approval, which is issued by the Commission shall be deemed a privilege, not a property right, subject to suspension, revocation or any other penalty imposed by the Commission in accordance with its Rules of Licensing Procedure.

10.6 License Fees

The Tribe may charge a license fee, to be set by the Gaming Commission, to cover its expenses in investigating and licensing the persons set forth in §10.1.

10.7 Required Notifications and Record Keeping

As appropriate, the Commission shall promptly notify the NIGC or other appropriate federal regulatory body and the Wisconsin Office of Indian Gaming and Regulatory Compliance of information obtained in the course of any background investigation as required under the IGRA and the Compact, and shall comply with all record-keeping requirements with regard to such investigations as are set forth in the IGRA and the Compact.

10.8 Confidentiality

The Gaming Commission shall ensure that all records and information obtained as a result of any background investigation or any investigation pursuant to Section 809(g) shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process, except as required by this Ordinance, IGRA or the Compact. Information obtained during the course of a background investigation or an investigation pursuant to Section 809(g) may be disclosed to members of management, human resource personnel or others employed by the Gaming Enterprise on a need-to-know basis for actions taken in their official capacities.

10.9 Privacy Act Notice

The Gaming Commission shall ensure that a Privacy Act Notice consistent with applicable laws and regulations is placed on each application for a Key Employee and Primary Management Official. All Key Employees and Primary Management Officials who completed applications that lacked the required Privacy Act Notice shall be given written notice of the option to fill out a new application that contains the required notice or sign a statement that contains the notice and consent to the routine uses described in that notice.

10.10 Notice Regarding False Statements

The Gaming Commission shall ensure that the application forms for Key Employees and Primary Management officials contain a Notice Regarding False Statements consistent with the requirements of applicable laws and regulations. All Key Employees and Primary Management Officials who completed applications that lacked the required Notice Regarding False Statements shall be given written notice of the option to fill out a new application that contains the required notice or to sign a statement that contains the Notice Regarding False Statements.

§ 11. Licensing Procedures

The Gaming Commission shall have the authority to issue, deny, suspend and revoke such gaming licenses and Vendor licenses as may be required pursuant to applicable tribal law, IGRA and the Compact and in accordance with the Tribe's Rules of Licensing Procedures as adopted by the General Council on February 11, 1995, and as amended.

§ 12. Ethics

12.1 Prohibitions

No member of the Executive Council, the Commission, or the Potawatomi Legal Department shall:

- (A) Hold any financial interest that conflicts with the ethical and conscientious performance of his/her official duties.

- (B) Be employed by any Gaming Enterprise, be a Primary Management Official, have a personal financial interest with respect to any Management Contract, or be an owner or employee of any Vendor while serving on the Executive Council or the Commission
- (C) Participate in the consideration or determination of any application for a gaming or Vendor license by, or participate in the revocation or suspension of any such license granted hereunder to, any Household Member or Immediate Family Member or Relative of such member or employee.
- (D) Engage in any business transaction or professional activity or incur any obligation of any nature which conflicts with the proper discharge of his or her official duties.
- (E) Use or attempt to use the authority of his or her official position to seek or obtain personal advantage or personal economic gain.
- (F) Participate as a player in any Class II or Class III games conducted pursuant to this Ordinance on Tribal Lands or in any Tribal Gaming Enterprise or Facility.
- (G) Engage in any personal financial transaction using non-public information acquired during the course of his or her official duties or allow others to use such information for personal financial gain.
- (H) Use or disclose confidential information gained in the course of, or by reason of, his or her official position or activities without proper authority or to further the personal or economic interests of the member named above.
- (I) Give preferential treatment in matters arising in the course of his or her official duties to any person, including any Household Member or Immediate Family Member.
- (J) Solicit or accept any gift or other item of monetary value from any Vendor or potential Vendor or from any person who is seeking official action or inaction or whose personal or financial interests may be substantially affected by the performance of the member's or employee's official duties.
- (K) Engage in outside employment activities, including seeking or negotiating for future employment, which conflicts with his or her official duties and responsibilities.
- (L) Engage in any action or take any position which creates the appearance of a conflict of interest or a violation of any law. In the event of a real or apparent conflict of interest or violation of legal and ethical standards, the member of the Executive Council, Gaming Commission or Legal Department shall promptly disclose the action or position and the real or apparent conflict of interest or

violation to the Executive Council, Commission or Attorney General, as appropriate, and, where appropriate, refrain from taking any official action on the matter which gives rise to the real or apparent conflict of interest or violation.

12.2 Management Contract

No party to a Management Contract, person with a financial interest in a Management Contract, Primary Management Official, or employee of any of the Tribe's Gaming Operations shall:

- (A) Participate as a player in any Class II or Class III games conducted pursuant to this Ordinance, except that employees of the Tribe's Gaming Enterprises may participate as players at locations other than those at which they are employed; or
- (B) Engage in any business transaction 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.

12.3 Employee Management Contract Prohibited

No employee of any of the Tribe's Gaming Enterprises or Facilities shall own, be employed by, or have any direct or indirect pecuniary interest in any Management Contract or other contract with the Tribe's Gaming Enterprises.

12.4 Ethics Ordinance

The Forest County Potawatomi Tribal Official and Employee Ethics Ordinance Act of 1989, including any amendments thereto, is incorporated herein by reference.

12.5 Complimentary Items

Members of the Executive Council or Commission, Key Employees, Primary Management Officials, parties to a Management Contract or persons with a financial interest in a Management Contract shall not be permitted to receive any complimentary items offered by or at any of the Tribe's Gaming Enterprises or Gaming Facilities. This prohibition does not include complimentary food and beverages valued at or under five dollars (\$5.00) or food and beverages offered free to the general public at any Gaming Facility or Gaming Enterprise.

12.6 Gaming Commission Employees

The Gaming Commission shall issue an Employee's Handbook establishing ethical standards and obligations for Commission employees consistent with §12 of this Ordinance.

§ 13. Accounting, Monthly Reports, and Annual Audits

13.1 Accounting Access Required

The Commission shall have unlimited access to an adequate computerized accounting system for the purpose of reviewing, investigating and/or auditing all receipts and expenditures in connection with the conduct of games and the disbursement of profits derived therefrom. The Commission and the Executive Council shall have unlimited access to printed or electronic copies of all such information.

13.2 Monthly Reports

- (A) No later than fifteen (15) days after the end of each month, the General Managers of each of the Gaming Enterprises shall prepare and submit to the Commission and the Executive Council a comprehensive report for the completed month of the gaming operations for which such General Manager has overall responsibility. The report shall include, but not be limited to:
 - (1) An itemized statement of the gross receipts ; and
 - (2) An itemized statement of expenditures, including amounts paid for salaries and benefits, prizes, supplies and equipment, and other expenses.
- (B) The monthly report shall be signed by the General Manager with overall responsibility for the operations.

13.3 Annual Audit

In compliance with 25 U.S.C. § 2710(b)(2)(C) and (D), all Gaming Enterprises shall be subject to an audit by independent certified public accountants, not less than annually, to be submitted to the Executive Council and the Commission. Copies of the annual audit shall be provided to the NIGC. In addition, all contracts for supplies, services, or concessions for a contract amount in excess of twenty five thousand dollars (\$25,000) annually relating to Class II or Class III gaming shall be subject to an independent audit not less than annually.

§ 14. Powers of the Executive Council

The Executive Council shall be the body within the Tribe's government that has primary responsibility for dealing with an entity established by the United States Government and/or the State of Wisconsin for all non-regulatory and non-licensing gaming-related purposes.

§ 15. Powers of the General Council

- (A) The General Council retains the authority to review and rescind action of the Gaming Commission, provided that if the General Council has not acted to rescind action of the Gaming Commission within thirty (30) days from the date minutes describing that action have been posted, then the action shall be final and not subject to rescission.

- (B) Pursuant to Article IV(a) of the Constitution of the Forest County Potawatomi Community, the General Council has the authority to retain legal counsel for the Tribe in the area of gaming, or pursuant to Article IV, Section 1(e), to delegate this authority to subordinate organizations, boards, committees or officials of the Community.

§ 16. Interpretation

In the interpretation and application of the provisions of this Ordinance, said provisions shall be held to have created a minimum standard, shall be liberally construed in favor of the Tribe and shall not be deemed a limitation or repeal of any other Tribal power or authority.

§ 17. Miscellaneous Provisions

17.1 Right to Exclude Any Person From Premises at any Time

Any person may be excluded from the premises for cause at any time at the discretion of any Primary Management Official, General Manager, or the Gaming Commission.

17.2 Permissible Alcohol Beverages

No person shall have in his or her possession any alcoholic beverages on any Premises, except for such beverages as are purchased from the Tribe or its authorized agents for on-sale consumption in accordance with licensing and other requirements of the Compact and laws of the Tribe, with possession and consumption of such beverages to be confined to such areas as are specifically defined by the Executive Council.

17.3 Prohibited Substances

No person shall have in his or her possession any substance prohibited by federal, state or tribal laws while on any premises.

17.4 Dangerous Weapons

No person shall have in his or her possession any firearm or other dangerous weapon in the Gaming Facility. This section shall not apply to Tribal, local, state or federal law enforcement officers or security personnel employed by the Tribe.

17.5 Disorderly Conduct

No person shall engage in conduct which is violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly under circumstances in which the conduct tends to cause or to provide disturbance on any Premises.

17.6 Enforcement

Any person who violates any of the above subsections shall be asked to leave the Gaming Facility. If any person so requested to leave refuses to promptly leave the Gaming Facility, any of the Tribe's authorized law enforcement officers, security personnel or local, state or federal law enforcement officers shall be called to escort such person from the Gaming Facility.

17.7 Transportation Providers

No person providing conveyance on Tribal Lands, or whose destination is Tribal Lands, shall conduct or permit to be conducted, any Class II or Class III games in such vehicle.

17.8 Record Retention

The Tribe retains records related to the Tribe's Gaming Operations and Facilities for at least seven (7) years after the record is created as required by IGRA, the Compact and relevant tribal, federal and state law. The Commission shall establish policies and procedures related to the scope, procedure and duration of record retention, release and destruction.

§ 18. Penalties for Violations

Any person who violates any provision of this Ordinance or any policy, standard, rule, guideline or regulation adopted by the Commission or gives false testimony in any matter provided for hereunder before either the Commission or the Executive Council shall be subject to civil penalties to be imposed by the Executive Council, or Gaming Commission, including suspension or exclusion from employment in any Gaming Enterprises, exclusion from the Tribe's Lands if not a member of the Tribe, a fine of not more than ten thousand dollars (\$10,000) and/or assessment of costs for each such violation. Fines shall be imposed pursuant to a fine schedule established by the Commission.

Legislative History for Forest County Potawatomi Gaming Control Ordinance (Second Amended):



Recommended by the Ordinance Department
Approved by Executive Council
Approved by General Council Resolution: (No. GC- -) (/ /)