

APPENDIX NIGC

NATIONAL INDIAN GAMING COMMISSION
GAMING ORDINANCE APPROVAL



MAY 29 2008

VIA FACSIMILE & REGULAR MAIL

Lisa Waukau
Chairperson
Menominee Indian Tribe of Wisconsin
P.O. Box 910
Keshena, WI 54135-0910
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William F. Kussel, Jr.
Director of Legal Services
Menominee Indian Tribe of Wisconsin
P.O. Box 910
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RE: Menominee Tribe amended and newly enacted gaming ordinances

Dear Chairman Waukau and Mr. Kussel:

By Final Approvals, each dated January 22, 2008, the Tribe amended its current gaming ordinance, no. 93-30, and enacted a new "Authorization of Gaming" ordinance, no. 07-39. The ordinances are consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) and this agency's regulations, and are hereby approved.

Thank you for submitting the ordinance for review and approval. The NIGC staff and I look forward to working with you and Menominee Tribe on future gaming issues. If you have any questions, please contact Staff Attorney Jennifer Ward at (202) 418-9814.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Philip N. Hogen".

Philip N. Hogen
Chairman



MENOMINEE NATION
MENOMINEE TRIBAL LEGISLATURE
AMENDMENT TO
ORDINANCE NO. 93-30
GAMING CODE

MAY 11 2008

Sponsored by the 93-30 Ad Hoc Committee

FINAL APPROVAL

BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:

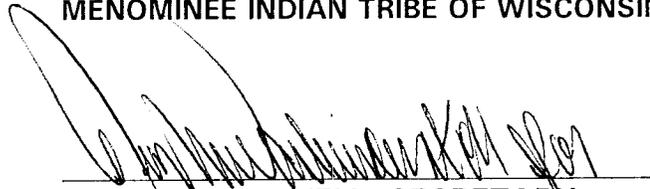
Tribal Ordinance No. 93-30 entitled: "Gaming Code" is amended in its entirety pursuant to the following attachment attached hereto and incorporated herein as if fully reproduced here.

CERTIFICATION

We, the undersigned Officers of the Menominee Tribal Legislature, do hereby certify that the foregoing amendment to the Tribal Ordinance No. 93-30, entitled "Gaming Code" was adopted at a regular meeting of the Tribal Legislature, held on January 22, 2008, with a quorum present, by a vote of 5 for, 0 opposed, 0 abstaining and 3 absent.

We further certify that this Ordinance has been posted in accordance with the Constitution and Bylaws of the Menominee Indian Tribe of Wisconsin.


LISA S. WAUKAU, CHAIRMAN
MENOMINEE INDIAN TRIBE OF WISCONSIN


EUGENE CALDWELL, SECRETARY
MENOMINEE INDIAN TRIBE OF WISCONSIN

DATE: January 22, 2008

**Amendment to
Menominee Nation Ordinance 93-30**

PURPOSE: Menominee Nation Ordinance No. 93-30, entitled the "Gaming Code", which was enacted into law on January 20, 1994 by the Menominee Tribal Legislature, established the Menominee Tribal Gaming Commission (hereinafter, the "Commission"); a regulatory body organized and empowered therein to issue Class I, II, and III gaming rules and regulations and issue gaming licenses consistent with applicable Tribal, State, and Federal laws.

CHAPTER I *DEFINITIONS*

Section 1.01 Definitions Unless a different meaning is clearly indicated, the terms used in this Ordinance shall have the same meaning as defined in the Indian Gaming Regulatory Act.

Section 1.02 "Class I Gaming" means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebration.

Section 1.03 "Class II Gaming" means:

- (1) the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith)
 - (a) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
 - (b) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are shown or electronically determined; and
 - (c) in which the game is won only by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo; and,
- (2) card games that are
 - (a) explicitly authorized by the laws of the State of Wisconsin; or
 - (b) are not explicitly prohibited by the laws of the State of Wisconsin and are played at any location in the State of Wisconsin, but only if such card games are played in conformity with those laws and regulations (if any) of the State of Wisconsin regarding hours or periods of operation of such card games or limitations on wagers or pot prizes in such card games.
- (3) The term "class II gaming" does not include
 - (a) any banking card games, including baccarat, chemin de fer, or blackjack (21); or
 - (b) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

Section 1.04 "Commission" means the Menominee Tribal Gaming Commission established pursuant to this Ordinance to perform regulatory oversight and to monitor compliance with Tribal, Federal and applicable State regulations and the Compact and also known as the "Gaming Commission" or Menominee Tribal Gaming Agency. Any reference to "Commission" in this Ordinance shall include the staff of the Menominee Tribal Gaming Commission.

Section 1.05 "Commissioner" means one of the members of the Menominee Tribal Gaming Commission also known as "Gaming Commissioner".

Section 1.06 "Legislature" means the Menominee Tribal Legislature, also known as "Tribal Legislature".

Section 1.07 "Gaming Operation" means each economic entity that is licensed by the Tribe, operates games, receives revenues, issues prizes, and pays expenses. A gaming operation may be operated by the Tribe directly or by a management contractor, or by an enterprise established and owned by the Tribe for the conduct of gaming, or its enterprise's management contractor.

Section 1.08 "Indian Land" means any lands title to which is either held in trust by the United States for the benefit of the Menominee Indian Tribe of Wisconsin, or held by the Menominee Indian Tribe of Wisconsin subject to restriction by the United States against alienation and over which the Menominee Indian Tribe of Wisconsin exercise governmental power.

Section 1.09 "Key Employee" has the same meaning as used in Ordinance 07-39 Authorization of Gaming.

Section 1.10 "Licensee" means any person who has been issued a valid and current license pursuant to the provisions of this Gaming Ordinance.

Section 1.11 "Management Contract" means any contract, agreement, subcontract or collateral agreement between an Indian tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

Section 1.12 "Management Fee" means the amount paid pursuant to a "Management Contract" as determined within such contracts.

Section 1.13 "Net revenues" means gross gaming revenues of an Indian gaming operation less:

- (1) Amounts paid out as, or paid for, prizes; and
- (2) Total gaming-related operating expenses, excluding management fees.

Section 1.14 "Primary Management Official" has the same meaning as used in Ordinance 07-39, Authorization of Gaming.

Section 1.15 "Regulation" means regulations promulgated by the Commission pursuant to this Ordinance.

Section 1.16 "Tribal Court" means the Tribal Court of the Menominee Indian Tribe of Wisconsin created pursuant to the Menominee Indian Tribe of Wisconsin Constitution and Bylaws and Menominee Nation Ordinance 79-14 physically located on the Menominee Indian Reservation, or for the purposes of regulating any gaming conducted outside the boundaries of the Menominee Indian Reservation, a tribunal created by the Menominee Tribal Legislature for the purpose of performing the role of the Tribal Court under this Ordinance.

Section 1.17 "Tribal-State Compact" or "Compact" or "Gaming Compact" means a written document, either negotiated and agreed to by the Tribe and an official or agent of the State of Wisconsin, or prescribed by the Secretary pursuant to 25 U.S.C. 2710(7)(B)(vii), governing the conduct of Class III gaming activities on Indian lands.

Section 1.18 "Tribe" means the Menominee Indian Tribe of Wisconsin, a federally recognized Indian Tribe, also may be referred to as "Menominee Nation".

Section 1.19 "Working Days" means Monday through Friday with the exception of Menominee Tribal Holidays and Administrative Leave.

Section 1.20 "Commission By-laws" means the rules governing the conduct of the Menominee Tribal Gaming Commission meetings and actions.

Section 1.21 "Citizenship" means the status of United States citizen under the laws of the United States of America.

Section 1.22 "Complimentary Items" means goods or services, including, but not limited to, food, beverages, lodging, gift certificates, match play coupons, merchandise that is provided to customers of the Menominee Nation Casino, Bingo and Hotel or other gaming operations at no cost, or reduced cost.

Section 1.23 "De Minimus" means distinct Complimentary Items that are less than \$10 in value and that in the aggregate do not exceed \$100 in value annually.

Section 1.24 "Immediate Family Member" means father, mother, sister, brother, husband, wife, child, father in law, mother in law, step father, step mother, step children.

CHAPTER II ADMINISTRATION AND ENFORCEMENT

Section 2.01 Unauthorized Gaming. Any Indian who commits any act of unauthorized gaming on this reservation or any Indian land shall be guilty of a crime and shall be prosecuted in Tribal Court. Prosecution for such a crime in Tribal Court is not meant to be exclusive; a finding of guilt or innocence shall not deprive the federal government from criminal jurisdiction. However, it is hereby declared that Class I, Class II and Class III gaming conducted on this reservation or on any Indian land, that fully complies with the provisions of this Code, shall not be subject to any criminal penalties.

Section 2.02 Ownership - Revenues to Benefit Tribe. Except for those licenses issued pursuant to §3.08, the Tribe shall have the sole proprietary interest in, and the sole responsibility for, the conduct of the gaming activity. Such provision does not, however, limit the Tribe's ability to enter into a management contract wherein net profits are divided between the Tribe and other parties to the contract. A gaming establishment shall be operated so as to produce the maximum amount of net profit to the Tribe. The Tribe's share of net revenues will go entirely to the Tribe and will be used solely for the following purposes:

- (1) to fund tribal government operations or programs;
- (2) to provide for the general welfare of the Tribe and its members;
- (3) to promote tribal economic development;
- (4) to donate to charitable organizations; or
- (5) to help fund operations of local government agencies. Net revenues from the gaming establishment may be used to make per capita payments to members of the Tribe upon the preparation of a plan to allocate revenues to the above uses and approval of this plan by the Secretary of the Interior.

Section 2.03 Establishment of Gaming Commission. The Menominee Tribal Gaming Commission shall consist of five (5) members appointed by the Menominee Tribal Legislature. The Tribal Legislature shall make appropriate appointments to the Commission for three (3) year terms (staggered). A Commissioner shall carry over in office until such time as his or her successor is seated on the Commission.

Section 2.031 Eligibility Requirements for Commissioners. In order to be eligible to serve as a Gaming Commissioner, a person shall:

- (1) Be an enrolled Menominee member;
- (2) Submit to a background investigation of the type required of a primary management official pursuant to this Ordinance and Ordinance 07-~~34~~³⁵ Authorization of Gaming;
- (3) Not have been convicted of a felony;
- (4) Not have been convicted of any gambling-related offense or any offense involving fraud or misrepresentation;
- (5) Not currently engaged in or have any prior activities concerning reputation, habits or associations that pose a threat to the public interest and effective regulation of gaming, as determined by the Tribal Legislature;
- (6) Submit to random and reasonable suspicion drug tests;

- (7) Not be a member of the Tribal Legislature or Tribal Gaming Management Board or employed by any gaming operation;
- (8) Shall not be engaged in any business that is subject to the provisions of this gaming Ordinance;
- (9) Be at least 21 years of age; and
- (10) Shall not be the immediate family member of any member of the Tribal Gaming Management Board.

Section 2.032 Commissioner Background Checks. Background investigations of Gaming Commissioners shall be conducted by the Director of the Gaming Commission with any potentially disqualifying information forwarded to the Tribal Legislature. Copies of background information shall be sealed in a confidential file and kept at the Commission office.

Section 2.033 Removal. The Tribal Legislature may remove a Gaming Commissioner by majority vote subject to failing to meet or maintain eligibility requirements as a Gaming Commissioner, or for violating Section 2.04, Restrictions on Commissioners, or 2.041, Commission Ethics.

Section 2.034 Vacancies. Vacancies on the commission shall be filled by majority vote of the Tribal Legislature.

Section 2.035 Organizational Meeting. In addition to any other meetings authorized by this Ordinance, the Tribal Gaming Commission shall meet following the annual appointment of commission members by the Tribal Legislature for the purpose of electing a chairman and a vice chairman from its membership.

Section 2.04 Restrictions on Commissioners.

- (1) Members of the Gaming Commission are prohibited from gambling in a gaming operation owned or operated by the Tribe.
- (2) Members of the Gaming Commission are prohibited from accepting Complimentary Items from gaming operations owned or operated by the Tribe, except for de minimus food, beverage or logo items.

Section 2.041 Commission Ethics. The Tribe recognizes that the duties of the Tribal Gaming Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Gaming Commission shall be held to extremely high ethical standards. Gaming Commissioners shall be bound by the following principles:

- (1) Commissioners shall not hold financial interests that conflict with the conscientious performance of their duties as regulators.
- (2) Commissioners shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest.
- (3) Commissioners shall not solicit or accept any gift or other item of monetary value, including complimentary items 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 non performance of the Commissioners' duties.
- (4) Commissioners shall make no unauthorized commitments or promises of any kind purporting to bind the Tribe.

- (5) Commissioners shall not use their positions for private gain.
- (6) Commissioners shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons related to Commissioners.
- (7) Commissioners shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.
- (8) Commissioners shall not engage in outside employment or activities including seeking or negotiating for future employment which conflict with their official duties and responsibilities.
- (9) Commissioners shall disclose waste, fraud, abuse and corruption to appropriate authorities.
- (10) Commissioners shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.

Section 2.05 Compensation for Commissioners. Commissioners shall be compensated at a rate to be established annually by the Commission, and approved by the Tribal Legislature. Commissioners shall be reimbursed for actual expenses incurred on Commissioner business, including necessary travel expenses. In no event shall any individual commissioner be compensated based on a percentage of net profits from gaming operations of the Tribe.

Section 2.06 Meetings Open to Public. General meetings of the Commission may be open to the general membership of the Tribe. All meetings shall be governed by Roberts Rules of Order. Upon a majority vote as defined in Section 2.07, matters dealing with personnel, security or the fiscal integrity of the gaming operations shall be conducted in executive session and not be open to the public.

Section 2.07 Quorum - Majority Vote. A quorum shall consist of three (3) members of the Commission. All decisions shall be made by a majority vote of the Commissioners present, unless indicated otherwise in this code.

Section 2.08 Monthly Report. The Commission shall make or cause to be made monthly reports to the Legislature. The report shall include a full and complete statement of gaming revenues paid to the Tribe, expenses and all other financial transactions of the Commission and a summary of all licensing and enforcement actions.

Section 2.09 Powers and Duties. The purpose of the Tribal Gaming Commission is regulatory not managerial. The Tribal Gaming Commission shall have the following powers and duties:

- (1) The Commission will conduct oversight to ensure compliance with Tribal, Federal and, if applicable, State laws and regulations and the Compact.
- (2) The Commission will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process.
- (3) The Commission will monitor compliance with the internal control standards for the gaming operation in tracking revenues.

- (4) In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all records.
- (5) The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license when appropriate.
- (6) The Commission shall promulgate regulations regarding the use of Complimentary Items. Said regulations shall:
 - (a) Be in conformance with NIGC's Minimum Internals Control Standards, found at 25 C.F.R. §542.17:
 - (b) Prohibit Key Employees, Primary Management Officials, Tribal Legislators, and members of the Gaming Management Board or Gaming Commission, or any person who is an immediate family member of a person listed above, or who shares a residence with a person listed above, from receiving Complimentary Items other than de minimus complimentary items.
- (7) The Commission shall carry out all duties of the Tribe pursuant to Menominee Nation Ordinance 07-39 Authorization of Gaming, unless any of those duties are assigned to another entity by Ordinance.
- (8) Conduct or cause background investigations to be conducted on, at a minimum, primary management officials, key employees and service suppliers;
- (9) Review and approve all investigative work conducted with respect to such background investigations;
- (10) Report results of background investigations to NIGC as required by IGRA or the Compact;
- (11) Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
- (12) Make suitability determinations;
- (13) Issue gaming licenses to management officials and employees of the operation and service suppliers consistent with the suitability determinations;
- (14) Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;
- (15) Ensure compliance with the Compact and all Tribal, State and Federal laws, rules and regulations regarding Indian gaming;
- (16) Investigate any suspicious wrongdoing associated with any gaming activities (reserving to the Board and/or any management contractor their right also to investigate as appropriate);
- (17) Hold hearings on patron and/or employee complaints, in compliance with procedures established in the Compact, the Management Agreement, the gaming ordinance and other Tribal gaming regulations;
- (18) Comply with any and all reporting requirements under the IGRA, the Compact to which the tribe is a party and any other applicable law;

- (19) Promulgate and issue regulations necessary to comply with the Tribe's Minimum Internal Control Standards (MICS). The Tribe acknowledges its obligation to adopt and implement Minimum Internal Control Standards (MICS) for the operation of its Tribal gaming operation no less stringent than those found in the regulations of NIGC at 25 C.F.R. Part 542. The Tribe's MICS shall be sent out in separate regulations to be reviewed and approved by the Tribal Gaming Commission;
- (20) Promulgate and issue regulations on the levying of fees associated with gaming license applications;
- (21) Promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming ordinance, the Compact or any other Tribal, Federal or State, if applicable, gaming regulations;
- (22) Promulgate and issue licensing regulations:
- (a) The Tribal Gaming Commission is responsible for conducting background investigations, suitability determinations and issuing licenses to employees and vendors; The Tribal Gaming Commission shall adopt regulations for background investigations which at a minimum meet the requirements and procedures of 25 C.F.R. Section 556 and the Compact;
- (b) The Tribal Gaming Commission shall adopt regulations for eligibility determination, which at a minimum meet the requirements and procedures of 25 C.F.R. Section 558 and the Compact;
- (c) The Tribal Gaming Commission shall adopt regulations for forwarding applications and reports to the NIGC, which at a minimum meet the requirements and procedures of 25 C.F.R. Section 556 and the Compact;
- (d) The Tribal Gaming Commission shall adopt regulations for license applications and for the granting, suspension and revocation of gaming licenses, which at a minimum meet the requirements and procedures of 25 C.F.R. Section 558 and the Compact and which provide the due process for the resolution of any dispute concerning the granting, suspension and revocation of gaming licenses to any management contractor.
- (23) Promulgate rules and regulations to prevent cheating;
- (24) Employ such persons as are necessary to carry out the duties of the Gaming Commission, including but not limited to gaming inspectors;
- (25) Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation;
- (26) To seize and impound any patron's winnings which the Commission may have reasons to believe may have been won or obtained in violation of this Ordinance pending a civil forfeiture hearing on such seizure;
- (27) The Commission shall establish its own budget for operations in accordance with their by-laws, including a budget for the Director, and acquire such furnishings, equipment, supplies, stationery, books, motor vehicles and other things as it may deem necessary or desirable in carrying out its functions and incur such other expenses within the limit of funds available to it, as it may deem necessary.

(28) The Commission shall have the authority to develop Memorandum's of Understanding with law enforcement agencies to perform services reasonably necessary to assure compliance with this Ordinance;

(29) Although not required by the Indian Gaming Regulatory Act, The Commission shall direct the Executive Director of the Tribal Gaming Commission to require all Commission staff to be licensed by the Commission pursuant to procedures in effect for such licensing in order to set an example for all licensees.

Section 2.091 Independence. The Tribe recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated gaming operation. The Commission shall act independently and autonomously from the Tribal Legislature in all matters within its purview. No prior or subsequent review by the Tribal Legislature of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Ordinance.

Section 2.10 Prior Notice of Actions. In adopting, amending, and repealing regulations, the Commission shall give prior notice of the proposed action to all licensees and other persons whom the Commission or Director has reason to believe have a legitimate and bona fide interest in such proposed action. Said notice shall inform such persons as to the general nature of the proposed action and advise them as to the manner in which comments on said proposed action shall be received by the Commission. In emergencies, the Commission may summarily adopt, amend or repeal any regulation if at the time the Commission determines such action is necessary for the immediate preservation of the public peace, health, safety, morals, and good order or general welfare, together with a statement of facts constituting the emergency; provided the Commission shall schedule such emergency action for a regular hearing within 60 days after any such emergency meeting. The Commission shall set forth or cause to be set forth procedures for purposes stated herein.

Section 2.11 Request for Commission Action. Any person who is determined by the Commission or Director to be a bona fide interested party may file a petition in a manner and form approved by the Commission requesting the adoption, amendment or repeal of a regulation. Upon receipt of the petition, the Commission shall within 30 working days deny the request in writing or schedule the matter for action pursuant to this chapter.

Section 2.12 Voting on Licensing. Any Commission vote resulting in approving, disapproving, revoking, suspending, limiting or conditioning a license under this Ordinance shall be by ballot only.

Section 2.13 Reconsideration. If an individual, within 10 working days of receiving written notice of a Commission determination, files written objections to that determination, the Commission shall hold a hearing to review its decision, at the next scheduled meeting. At the hearing, the burden shall be on the applicant to show cause why the Commission's determination was incorrect. Following such hearing, the Commission shall, within 10 working days reach a determination concerning:

- (1) The accuracy of the preliminary certification of facts;
- (2) Whether the license in question should be granted, continued, suspended, revoked, conditioned or limited; and
- (3) Whether or not any other action recommended to the Commission, including, but not limited to forfeitures should be taken.

Section 2.14 Right to Appeal. Unless otherwise contractually agreed to, the subject shall have the right to appeal the determination of the Commission to the Tribal Court, in written form on or before

the 10th day following receipt of the written determination of the Commission. A determination of such appeal by the Court shall be made by the Court without a jury. The Court shall make its determination on the record provided, unless it deems further testimony or evidence necessary. In its review the Court shall not substitute its judgment for that of the Commission as to weight of the evidence on any disputed finding of fact. Due weight shall be accorded the experience, and specialized knowledge of the Commission as well as discretionary authority conferred on the Commission by this Ordinance.

Section 2.15 Employment of Director. The Tribe shall employ a Director who shall be supervised by the Gaming Commission. The Gaming Commission shall hire the Director pursuant to the Tribe's Personnel Policies and Procedures (Ordinance 83-6).

Section 2.16 Termination of Director. Termination will be the decision of the Gaming Commission pursuant to the Tribe's Personnel Policies and Procedures (Ordinance 83-6).

Section 2.17 Duties of Director. The Director shall, subject to the approval of the Commission, perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and affect all purposes of this Ordinance relating to the regulation of all gaming activity. In all decisions, the Director shall act to promote and ensure integrity, security, honesty and fairness of the operation and administration of all gaming activity. It will be the responsibility of the Tribal Gaming Commission to develop and maintain job description(s) for the Director(s) positions in accordance with this Ordinance and subject to Ordinance 83-6, Personnel Policies and Procedures.

Section 2.18 Right of Inspection. The Commission, the Director and their agents, inspectors, and employees have the authority:

- (1) To inspect and examine all premises wherein gaming is conducted or gambling devices or equipment are manufactured, sold or distributed;
- (2) To inspect all equipment and supplies in, upon or about a gaming establishment, or inspect any equipment or supplies wherever located, which may, or have been used in the gaming establishment;
- (3) Summarily to seize and remove from a gaming establishment (or whatever located) and impound such equipment or supplies for the purpose of examination, inspection, evidence or forfeiture;
- (4) To demand access to and inspect, examine and audit all papers, books, and records of applicants and licensees respecting any income produced by any gaming business, and require verification of income and all other matters affecting the enforcement of the policy of or any of the provisions of this Code;
- (5) To seize and impound any patron's winnings which the Commission may have reasons to believe may have been won or obtained in violation of this Code pending a civil forfeiture hearing on such seizure;
- (6) For the purpose of administration and enforcement of this Code the Commission, the Director and their investigative personnel may, if deemed necessary by the Tribal Legislature, have the powers of the peace officer of the Menominee Indian Nation for purposes of this Code only;
- (7) Commissioners and the Director shall each have full power and authority to issue subpoenas and compel the attendance of witnesses for hearing at any place within the Reservation, to administer oaths and to require testimony under oath. Any process or notice may be served in the manner provided for service of process and

notices in civil actions. The Commission and the Director may pay such transportation and other expenses of witnesses as it may deem reasonable and proper.

Section 2.19 Confidentiality. The Gaming Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process. Under no circumstances shall information obtained during the course of an employee background investigation be disclosed to members of management, human resources personnel or others employed by the Tribal gaming operation. This Section does not apply to requests from or the furnishing of such information or records to any Tribal, Federal or State law enforcement, regulatory or judicial agency, or for the use of such information or records by the Commission and staff in performance of their official duties.

Section 2.20 Violations of Code - Punishment. Any violation of this Code shall be punished by a fine of no more than Five Thousand Dollars (\$5,000.00) for each separate count or violation, or one (1) year in jail, or both. Each day of violation shall constitute a separate count or violation under this Code. A violator may also be required to pay court costs, storage fees, and auction or sales fees. All property used or which may be used in activities in each and every separate violation of this Code may become the property of the Tribe; persons may be prohibited from trespassing on premises licensed under this Code, licenses may be suspended, revoked, or limited and/or establishments may be forcibly closed. All such action shall be taken at the discretion of the Commission, subject to the right of appeal to the Tribal Court. Winnings found to have been received in violation of this Code are forfeited and become the property of the Tribe.

Section 2.21 Due Process Regarding enforcement Actions. The Commission shall promulgate regulations protecting due process rights of all individuals subject to this Ordinance.

CHAPTER III LICENSING OF GAMES AND PERSONNEL

Section 3.01 Mandatory License. Any person seeking to conduct, operate or manage any gaming activity on Indian lands, or any person seeking employment there from, shall apply for and receive, all the required licenses and/or approvals from the Commission prior to engaging in such gaming activities.

Section 3.02 Application forms

- (1) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

"In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 et seq. The Purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by Menominee Gaming Commission members and staff, by Tribal police officers, and by 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 hiring or firing of an employee, the issuance 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 hire you in 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."

- (2) Existing key employees and primary management officials shall be notified in writing that they shall either:
 - (a) Complete a new application form that contains a Privacy Act notice; or
 - (b) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.
- (3) The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant:

"A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, section 1001.)"
- (4) The Commission shall notify in writing existing key employees and primary management officials that they shall either:
 - (a) Complete a new application form that contains a notice regarding false statements; or
 - (b) Sign a statement that contains the notice regarding false statements.

Section 3.03 Application Information

- (1) The Commission shall request from each primary management Official and from each key employee all of the following information:
 - (a) Full name, other names used (oral or written), social security numbers(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
 - (b) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
 - (c) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (2) of this section;
 - (d) Current business and residence telephone numbers;
 - (e) A description of any existing and previous business relationships with 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 license or permit related to gaming, whether or not such license or permit was granted;

- (h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
 - (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 charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (8) or (9) 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, whether or not such license or permit was granted;
 - (l) A current photograph;
 - (m) Any other information the Commission deems relevant; and
 - (n) Fingerprints consistent with procedures adopted in Section 3.04(e) below.
- (2) For all other employees, the Commission shall adopt application forms appropriate to each job category.

Section 3.031 Criminal and Background Restrictions. No person may be employed in the operation or conduct of gaming and no gaming related contractor shall employ any person in the course of performance under the contract, if that person has been convicted of, or entered a plea of guilty or not contest to, any of the following, unless the person has been pardoned.

- (1) A felony, other than a felony conviction for an offense under Paragraphs 2, 3 or 4 of this Section during the immediately preceding 10 years;
- (2) Any gambling related offense;
- (3) Fraud or misrepresentation in any connection; or
- (4) A violation of any provisions of chs. 562 or 565, Wis. Stats., a rule promulgated by the Lottery Board, Wisconsin Racing Board, Department of administration or successor agency or a Tribal ordinance regulating or prohibiting gaming.

Section 3.04 Eligibility Determination. The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations and all relevant background information to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, it shall deny the license application and a tribal gaming operation shall not employ that person in a key employee, primary management official, or other position.

Section 3.05 Reports of Background Investigations on Key Employees and Primary Management Officials to the National Indian Gaming Commission

- (1) When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Director shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Section 3.04.
- (2) The Director shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation of a primary management official or key employee with a copy of the eligibility determination made under Section 3.04.
- (3) If a license is not issued to an applicant, the Director:
 - (a) Shall notify the National Indian Gaming Commission; and,
 - (b) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.
- (4) If within a 30 day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Commission that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Commission has provided an application and investigative report to the National Indian Gaming Commission, the Commission may issue a license to such applicant.
- (5) The Director shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30day period under paragraph (d) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
- (6) If, within the 30 day period described above, the National Indian Gaming Commission provides the Commission with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Commission has provided an application and investigative report to the National Indian Gaming Commission, the Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Commission shall, by majority vote of the Commission, make the final decision whether to issue a license to such applicant.

Section 3.06 Licensing and Regulation of Class II and Class III Gaming Activity; Net Revenue Allocation; Audits; Contracts

- (1) A separate license issued by the Commission shall be required for each place, facility, or location on Indian lands within the Tribe's jurisdiction at which any Class II or Class III Gaming Activity is conducted.
- (2) The Commission may license and regulate a tribal-owned Class III Gaming Activity if:
 - (a) such gaming activity is located on Indian lands within the Tribe's jurisdiction, and the State of Wisconsin permits such gaming for any purpose by any person, organization, or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal laws);

- (b) except as provided in Chapter IV, the Tribe will have the sole proprietary interest and responsibility for the conduct of such gaming activity;
- (c) net revenues from such gaming activity are used in accordance with Section 2.02 of this Code;
- (d) such gaming activity is subject to annual outside audits, which may be encompassed within existing independent, tribal audit systems, and provided to the Legislature;
- (e) all contracts for supplies, services, or concessions for any aggregate amount in excess of \$25,000 annually relating to such gaming are also subject to independent audits;
- (f) the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public's health and safety; and
- (g) all primary management officials and key employees of the Class III gaming operation have successfully passed a background investigation and have obtained licenses from the Commission.

Section 3.07 License Fees. The Tribe may charge a license fee, to be set by the Tribal Gaming Commission to cover the expenses in investigating and licensing Key Employees and Primary Management Officials of the gaming operation.

Section 3.08 Temporary Employment Licenses. The Commission may issue a temporary employment license to any person or entity applying for a license to work in a licensed gaming establishment which shall be valid pending the background investigation of the applicant.

Section 3.09 Parameters of Licenses.

- (1) Acceptance of a gaming license or renewal on the part of the licensee shall constitute the licensee's agreement to be bound by all of the regulations and conditions of the Director or Commission and by the provisions of this Code as the same are now, or may hereafter be amended or promulgated, and to cooperate fully with the Director and Commission. It is the responsibility of the licensee to keep informed of the contents of such regulations, amendments, provisions and conditions, and ignorance thereof will not excuse violations.
- (2) The licensee shall advise the Director, within five (5) business days of being notified that he or she has been charged with any criminal offense (misdemeanor or felony), other than minor traffic violations. The licensee shall keep the Director advised of the status of the matter including any disposition of any other related written documents the Director may request.
- (3) Persons subject to this Section shall be periodically reviewed (at least every two years) to determine whether they continue to meet the requirements and limitations of this Section.
- (4) In view of the less stringent background investigations contemplated for employees who are neither primary management officials nor key employees, licenses for such employees may be limited to the job category for which employed or to non-primary management or key employee positions. Should such employee subsequently obtain employment as a primary management official or key employee, he or she shall apply for a license which is not so limited.

Section 3.10 Licensing of Distributors. The Commission may authorize, require and issue such annual licenses as the Commission by regulation may provide, to any person or entity to engage in the selling, distributing, or otherwise supplying of gambling equipment or paraphernalia for use in connection with licensed gaming activity.

Section 3.11 License Suspension.

- (1) If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection ~~3-053.04~~, above, the Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
- (2) The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- (3) After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

CHAPTER IV MANAGEMENT CONTRACTS

Section 4.01 Commission Approval Required.

- (1) Any management contract entered into by the tribe for the operation and management of a gaming activity must be submitted to the Commission for approval, but before approving such contract, the Commission shall require and obtain the following information:
 - (a) The name, address and other additional pertinent background information on each person or entity (including persons comprising such entity) having direct or indirect financial interest in, or management responsibility, for such agreement.
 - (b) A description of any previous experience that each person listed pursuant to subsection (a) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming;
 - (c) Any further or additional information as may be required under the Tribal/State Compact entered into between the Tribe and the State;
 - (d) Any further additional information as may be required pursuant to IGRA including all information required to be submitted to the National Indian Gaming Commission pursuant to 25 C.F.R. §533.3(d).
- (2) Any person listed pursuant to subsection (1)(a) shall be required to respond to such written or oral questions that the Commission may propound in accordance with its responsibilities under this Section.
- (3) For purposes of this Ordinance, any reference to the management contract described in Section 4.01(1) shall be considered to include all collateral agreements to such contract that relate to the gaming activity.
- (4) After the Commission has given its approval of a management contract, the Commission shall submit such contract to the National Indian Gaming Commission for its approval. The Commission may, in its discretion allow a management contract to be submitted to the National Indian Gaming Commission pending approval by the Commission. Any management contract shall be void until the Commission and the National Indian Gaming Commission have approved it.

Section 4.02 Approval of Management Contracts. Commission action on management contracts and the rights of management contractors regarding such action are governed by Chapter 2 of this Ordinance. The Commission may approve any management contract entered into by the Tribe pursuant to this Chapter only if it determines that such contract provides at least:

- (1) for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared by or for the Legislature on a monthly basis;
- (2) for access to the daily operations of the gaming to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such tribal gaming activity;

- (3) for a minimum guaranteed payment to the Tribe that has preference over the retirement of development and construction costs;
- (4) for an agreed ceiling for repayment of development construction costs;
- (5) for a contract term not to exceed five years, except that, upon the request of the Tribe, the Commission may authorize a contract term that exceeds five years but does not exceed seven years if the Commission is satisfied that the capital investment required, and the income projections, for the particular gaming activity require additional time;
- (6) for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the National Indian Gaming Commission; and
- (7) for preference to Tribal members and non-member Indians in hiring of employees for the gaming establishment.

Section 4.03 Percentage of Net Revenue Fees.

- (1) A management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity may be approved by the Commission if such percentage fee is reasonable in light of surrounding circumstances. Except as provided in this Section, such fee shall not exceed 30% of the net revenues.
- (2) Upon request of the Legislature, the Commission may approve a management contract providing for a fee upon a percentage of the net revenues of a tribal gaming activity that exceeds 30% but not 40% of the net revenues if the Commission and Legislature are satisfied that the capital investment required, and income projections, for such tribal gaming activity require the additional fee.

Section 4.04 Contract Disapproval. The Commission shall not approve any contract if it determines that:

- (1) Any person listed pursuant to Section 4.01(1)(a):
 - (a) is an elected member of the Legislature;
 - (b) has been or subsequently is convicted of any felony or gaming offense;
 - (c) has knowingly and willfully provided materially important false statements of information to the Commission or the tribal officials who negotiate such contracts or has refused to respond to questions propounded pursuant to Section 4.01(b~~2~~); or
 - (d) has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance 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;
- (2) The management contractor has, or has attempted unduly to interfere or to influence for its gain or advantage any decision or process of tribal government relating to gaming activity; or

- (3) The management contractor has deliberately or substantially failed to comply with the terms of this management contract or the provisions of this Code or any regulations adopted pursuant to this Code or the Indian Gaming Regulatory Act.

Section 4.05 Modifying or Voiding Contract. The Commission, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if it subsequently determines that any of the provisions of this Chapter have been violated. If the Tribe elects to contractually agree to resolve disputes in a manner other than the revocation of a license, such contractual agreement shall supersede any conflicting provisions of this section, so long as the agreement provides a reasonable avenue for the Tribe to insure a licensee's compliance with all other aspects of this Gaming Code.

Section 4.06 Changes in Ownership Interest. Any transfer of an ownership interest in a management contract subsequent to approval of such contract by the Commission requires Commission approval under this Chapter and is void until and unless so approved. The management contractor shall provide the information required under section 4.01 (1) and (2) as to such transfer.

Section 4.07 Conveying Interest in Land. No management contract for the operation of a gaming activity regulated by this Ordinance shall transfer or, in any other manner, convey any interest in land or other real property, unless specific applicable statutory authority exists and unless clearly specified in writing in said contract.

Section 4.08 Fee for Investigation Cost. The Commission shall require a potential contractor to pay a fee to cover the actual cost of the investigation necessary to reach a determination required by this Chapter.

CHAPTER V AUDITING AND INTERNAL CONTROL

Section 5.01 Minimum Procedures for Control of Internal Fiscal Affairs. Minimum Internal Control Standards – The Tribe acknowledges its obligation to adopt and implement Minimum Internal Control Standards (MICS) for the operation of its Tribal gaming operation no less stringent than those found in the regulations of the NIGC at 25 C.F.R. Part 542 and the Tribal – State Gaming Compact. The Tribe’s MICS shall be set out in separate regulations to be reviewed and approved by the Tribal Gaming Commission.

Section 5.02 Commission Oversight of Internal Fiscal Affairs. The Commission shall, by regulation, require audits to be conducted no less frequently than annually of the financial statements of all gaming operations. Such audits must:

- (1) be made by independent Certified Public Accountants holding a permit issued by the State of Wisconsin to practice public accounting;
- (2) include an opinion that the financial statement fairly and accurately presents the financial condition of the gaming operation in accordance with generally accepted accounting principals (GAAP) and in accordance with the standards of the accounting profession established by rules and regulations of the Wisconsin State Board of Accountancy and the American Institute of Certified Public Accountants;
- (3) disclose whether the accounts, records, and control procedures maintained by the gaming operation are as required by the regulations promulgated by the Commission; and
- (4) provide for a preliminary review of the internal control structure, upon adoption of the policies and procedures by the entity, to disclose any deviation from prescribed rules and regulations and report such findings to the Commission and management.

Section 5.03 Commission's Right to Conduct Audit. The Commission shall be able to retain its own appointed accountants, or direct an accountant employed by the Tribe to conduct its own audit of any gaming operation.

CHAPTER VI EXCLUSION OR EJECTION OF INDIVIDUALS

Section 6.01 List of Undesirables. The Commission may, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any duly licensed gaming operation. The list may include any person whose presence in the gaming establishment is determined by the Commission to pose a threat to the interests of the Tribe, the State of Wisconsin, or to licensed gaming. Race, color, creed, national origin or ancestry or sex must not be grounds for placing the name of a person on the list.

Section 6.02 Notice and Opportunity to be Heard. The Commission shall promulgate regulations providing fair notice and opportunity to be heard to any individual whose name is on the list referred to in section 6.01. Such regulations must provide the person an opportunity to show cause why his or her name should be removed from the list. The individual may appeal any decision of the Commission to Tribal Court, pursuant to Section 2.14.

Section 6.03 Prohibition Against Listed Individuals. It shall be a violation of this Ordinance for any licensee to knowingly fail to exclude or eject from the gaming establishment any persons placed on the list referred to in section 6.01. It shall be a violation of this Ordinance for any person whose name appears on the list referred to in section 6.01 to enter into or engage in any game at a duly licensed gaming establishment.

Section 6.04 Prohibition Against Certain Individuals. It shall be a violation of this Ordinance for any licensee who knowingly fails to exclude or eject the gaming establishment any individual who:

- (1) is visibly under the influence of liquor or any narcotic or such other substance; or
- (2) is under the age requirement for lawful gaming per the Tribal – State Compact.

CHAPTER VII MISCELLANEOUS

Section 7.01 Amendments. All provisions of this Gaming Ordinance are subject to amendment by the Menominee Tribal Legislature. All regulations promulgated by the Commission are subject to proper revision, repeal or amendment by the Commission.

Section 7.02 Severability. If any provision of this Ordinance is held invalid by a court of competent jurisdiction, the full remainder of the provision, and the remainder of this Ordinance shall not be affected.



MENOMINEE NATION
MENOMINEE TRIBAL LEGISLATURE
ORDINANCE NO. 07-39
AUTHORIZATION OF GAMING

Sponsored by the 93-30 Ad Hoc Committee

FINAL APPROVAL

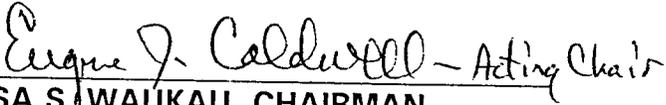
BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:

The attached Ordinance No. 07-39 entitled: "Authorization of Gaming" is hereby enacted as tribal law pursuant to the provisions of the document attached hereto and incorporated herein as fully reproduced here.

CERTIFICATION

We, the undersigned Officers of the Menominee Tribal Legislature, do hereby certify that the foregoing amendment to the Tribal Ordinance No. 07-39, entitled "Authorization of Gaming" was adopted at a regular meeting of the Tribal Legislature, held on January 22, 2008, with a quorum present, by a vote of 5 for, 0 opposed, 0 abstaining and 3 absent.

We further certify that this Ordinance has been posted in accordance with the Constitution and Bylaws of the Menominee Indian Tribe of Wisconsin.



LISA S. WAUKAU, CHAIRMAN
MENOMINEE INDIAN TRIBE OF WISCONSIN



EUGENE CALDWELL, SECRETARY
MENOMINEE INDIAN TRIBE OF WISCONSIN

DATE: January 22, 2008

MENOMINEE NATION

MENOMINEE TRIBAL LEGISLATURE

ORDINANCE NO. 07-39

AUTHORIZATION OF GAMING

FINAL APPROVAL

BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:

1. **Purpose.** The Menominee Tribal Legislature, empowered by the Tribe's Constitution to enact ordinances, hereby enacts this Ordinance in order to set the terms for Class II and Class III gaming operations on tribal lands pursuant to the requirement of the Indian Gaming Regulatory Act.
2. **Gaming Authorized.** Class II and Class III gaming are hereby authorized.
3. **Ownership of Gaming.** The Tribe shall have the sole propriety interest in any gaming operation authorized by this Ordinance, and all gaming operations shall be conducted by the Tribe acting through its designated agents, by an enterprise established and owned by the Tribe for the conduct of gaming, or by the Tribe or its enterprise's management contractor.
4. **Use of Gaming Revenue.**
 - (a) Net revenues from Class II and Class III gaming shall be used only for the following purposes:
 - (i) to fund tribal government operations and programs;
 - (ii) to provide 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.
 - (b) If the Tribe 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 Interior under 25 U.S.C. § 2710(b) (3).

5. **Audit.** The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically within the scope of the audit.
6. **Protection of the Environment and Public Health and Safety.** Class II and Class III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.
7. **Licenses for Key Employees and Primary Management Officials.** The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any Class II and Class III gaming enterprise operated on Indian lands:
 - (a) **Definitions.** For the purpose of this section, the following definitions apply:
 - (i) **Key employee means:**
 - (A) A person who performs one or more of the following functions:
 - (1) Bingo caller;
 - (2) Counting room supervisor;
 - (3) Chief of security;
 - (4) Custodian of gaming supplies or cash;
 - (5) Floor manager / Casino shift manager;
 - (6) Pit boss;
 - (7) Dealer;
 - (8) Croupier;
 - (9) Approver of credit; or
 - (10) Custodian of gambling devices including persons with access to cash and account records within such devices;

- (B) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
 - (C) If not otherwise included, the four most highly compensated persons in the gaming operation.
- (ii) 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 operations; or
 - (3) The chief financial office or other person who has financial management responsibility.
- (b) Application Forms.
- (i) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by 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 hiring or firing of an employee, the issuance 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 hire you in 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.

- (ii) Existing key employees and primary management officials shall be notified in writing that they shall either:
 - (A) Complete a new application form that contains a Privacy Act notice; or
 - (B) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

- (iii) The following notice shall be placed on the application form for a key employee or a primary official before the form is filled out by an applicant.

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment.

(U.S. Code, title 18, section 1001.)

- (iv) The Tribe shall notify in writing existing key employees and primary management officials that they shall either:
 - (A) Complete a new application form that contains a notice regarding false statement; or
 - (B) Sign a statement that contains the notice regarding false statements.

(c) Background Investigations.

- (i) The Tribe shall request from each primary management official and from each key employee all of 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 (spoken or written);
- (B) Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (C) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (c)(i)(C) of this section;
- (D) Current business and residence telephone numbers;
- (E) A description of any existing and previous business relationships with 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 of a license or permit related to gaming, whether or not such license or permit was granted;
- (H) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (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 charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1)(h) or (1)(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, whether or not such license or permit was granted;
 - (L) A current photograph;
 - (M) Any other information the Tribe deems relevant; and
 - (N) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h).
- (ii) The Tribe shall conduct an investigation sufficient to make a determination under subsection (d) below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the courts of the investigation.
- (d) Eligibility Determination. The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associates to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribe determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.
- (e) Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

- (i) When a key employee or primary management official begins work at a gaming operation authorized by this Ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection (d) of this section.
 - (ii) The Tribe shall forward the report referred to in subsection (f) of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.
 - (iii) The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.
- (f) Report to the National Indian Gaming Commission.
- (i) Pursuant to the procedures set out in subsection (e) of this section, the tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:
 - (A) Steps taken in conducting a background investigation;
 - (B) Results obtained;
 - (C) Conclusions reached; and
 - (D) The basis for those conclusions.
 - (ii) The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection (d) of this section.
 - (iii) If a license is not issued to an applicant, the Tribe:
 - (A) Shall notify the National Indian Gaming Commission; and

- (B) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.
 - (iv) With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.
- (g) Granting a Gaming License.
- (i) If, within a 30 day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission 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 a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.
 - (ii) The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is subject of a report. Such a request shall suspend the 30 day period under paragraph (g)(i) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
 - (iii) If, within the 30 day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall

make the final decision whether to issue a license to such applicant.

(h) License Suspension.

- (i) If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection (d) above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
- (ii) The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- (iii) After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

- 8. **License Locations.** The Tribe shall issue a separate license to each place, facility, or location on Indian lands where Class II and Class III gaming is conducted under this Ordinance.
- 9. **Repeal.** To the extent that they are inconsistent with this Ordinance, all prior gaming ordinances are hereby repealed.

END OF DOCUMENT