

ROUND VALLEY INDIAN TRIBES
OF THE ROUND VALLEY RESERVATION

ORDINANCE NO. RV-2006-02

The Round Valley Gaming Act of 2006

The Round Valley Indian Tribes of the Round Valley Reservation, California, a federally recognized Indian tribe (“Tribe”), acting through its Tribal Council in the exercise of its inherent sovereign power to enact ordinances and otherwise safeguard and provide for the health, safety and welfare of the Tribe and its members, hereby enacts this ordinance, which shall hereinafter be cited as the Round Valley Gaming Act of 2006 (“Ordinance”).

Section 1. Purpose. This Ordinance is enacted in accordance with the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.* (IGRA) in order to govern Class II and Class III gaming operations on the Tribe’s Indian lands.

Section 2. Definitions. Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as defined in IGRA and its regulations, 25 C.F.R. §§ 500 *et seq* Specifically:

(a) “Gaming Board” means a board of directors elected by the Tribe for the purpose of exercising overall business judgment and non-regulatory supervision of Tribal gaming activities and of any management officials connected therewith. Until further action is taken by the Tribe, the elected members of the Tribal Council shall be deemed to have been elected as the members of the Gaming Board.

(b) “Class I, Class II and Class II gaming” shall be defined in IGRA and its regulations.

(c) “Commission” means the Tribal Gaming Commission established to perform regulatory oversight and to monitor compliance with Tribal, Federal, and applicable State regulations.

(d) “Commissioner” means a Tribal Gaming Commissioner.

(e) “Compact” means a Tribal-State Compact concerning class III gaming approved by the Secretary of the Interior and published in the Federal Register pursuant to 25 U.S.V.C. § 2710(d).

(f) “Directly related to” means a spouse, child, parent, grandparent, grandchild, aunt, uncle, or first cousin.

(g) “Director” means a member of the Tribal Gaming Board.

(h) “Gaming operation” shall mean any facility or activity on Indian lands or under the control of the Tribe in connection with which any Class II or Class III gaming is or is intended to be operated.

(i) “Indian lands” shall mean:

(1) all lands within the limits of the Tribe’s reservation;

(2) Any lands title to which is either held in trust by the United States for the Benefit of the Tribe or individual or held by the Tribe or individual subject to restriction by the United States against alienation and over which the Indian Tribe exercises governmental power; and

(3) For all lands acquired into trust for the benefit of an Indian tribe after October 17, 1988, the lands meet the requirements set forth in 25 U.S.C. §2719.

(j) “Key Employee” means a gaming operation employee 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;

(6) pit boss;

(7) dealer;

(8) croupier;

(9) approver of credit;

(10) has custody over or services gambling devices or equipment upon or with which gaming can be conducted, including persons with access to cash and accounting records within or related to such devices or equipment, or

(11) any other functions related to the Tribe's gaming activities or the Casino which the Gaming Commission deems, by issuance of a regulation in accordance with its authority, to be those of a key employee, or which by applicable law are deemed to be those of a key employee

(12) if not otherwise included, any person whose total cash compensation is in excess of \$50,000 per year, and the four most highly compensated persons in the gaming operation, shall be deemed to be key employees.

(k) "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.

(l) "Per Capita Payment" means the distribution of money or other thing of value to all members of the Tribe, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity.

(m) "Primary Management" Official means

(1) the person(s) having management responsibility for a management contract as that term is used in IGRA or its regulations;

(2) any person who has authority:

A. to hire and fire employees;

B. to set up working policies for the gaming operation;

C. to act in the capacity of a chief financial officer or otherwise have financial management responsibility for the gaming operation; or

D. to perform such other functions as the Gaming Commission deems, through the issuance of a regulation in accordance with its authority, to render such person as a primary management official.

Section 3. Gaming Authorized. Class II and Class III gaming in any Tribal gaming operation are hereby authorized.

Section 4. Ownership of Gaming. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance.

Section 5. Use of Gaming Revenue

- (a) Net revenues from Tribal gaming shall be used only for the following purposes:
 - (1) to fund Tribal government operations and 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.

Section 6. Per Capita Payments.

(a) If the Tribe elects to make Per Capita Payments, it shall do so through a revenue allocation plan (“RAP”) that ensures that the requirements of applicable law, including those set forth in 25 CFR Part 290, are met, including but not limited to the following:

- (1) an adequate portion of net gaming revenues from the Tribal gaming operation shall be reserved for one or more of the following purposes:
 - A. to fund tribal government operations or programs;
 - B. to provide for the general welfare of the Tribe and its members;
 - C. to promote Tribal economic development;
 - D. to donate to charitable organizations; or
 - E. to help fund operations of local government agencies.
- (2) The RAP shall contain sufficiently detailed information to allow the appropriate official of the Bureau of Indian Affairs to determine that the RAP complies with Part 290 and IGRA particularly regarding funding for tribal governmental operations or programs and for promoting tribal economic development.
- (3) The RAP must protect and preserve the interests of minors and other legally incompetent persons who are entitled to receive per capita payments by:
 - A. ensuring that the Tribe makes per capita payments for eligible minors or incompetents to the parents or legal guardians of these minors or incompetents at times and in such amounts as necessary for the health, education, or welfare of the minor or incompetent;
 - B. establishing criteria for withdrawal of the funds, acceptable proof,

such as receipts, for accountability of the expenditure of the funds and the circumstances for denial of the withdrawal of the minors' and legal incompetents' per capita payments by the parent or legal guardian; and

C. establishing a process, system, or forum for dispute resolution.

(4) The RAP must describe how the Tribe will notify Tribal members of the tax liability for per capita payments and how it will withhold taxes for all recipients in accordance with IRS regulations in 26 CFR part 31.

(b) The RAP must authorize the distribution of per capita payments to members according to specific eligibility requirements and must utilize or establish a tribal court system, forum or administrative process for resolution of disputes concerning the allocation of net gaming revenues and the distribution of Per Capita Payments.

(c) The Tribal Council shall establish criteria for determining whether all members or identified groups of members are eligible for Per Capita Payments, provided that if the RAP calls for distributing Per Capita Payments to an identified group of members rather than to all members, the Tribal Council shall justify in any such RAP the basis for limiting payments to an identified group of members, and in doing so ensuring that:

(1) the distinction between members eligible to receive payments and members ineligible to receive payments is reasonable and not arbitrary;

(2) the distinction does not discriminate or otherwise violate the Indian Civil Rights Act; and

(3) the justification complies with applicable Tribal law

(d) A distinction in the per capita amounts to be received between those members over or under the age of twenty-one (21), or on the basis of completing certain minimum educational requirements, such as the receipt of a high school diploma or its legal equivalent, shall be deemed to be reasonable and in accordance with Tribal law

Section 7. Gaming Board.

(a) The Tribe shall establish a Gaming Board which shall serve in a management oversight role over the gaming operation. In the event that the Tribe enters into a management contract approved by the NIGC in accordance with IGRA, the Board may delegate some or all of its business oversight duties to the approved management contractor. Regulation of the gaming operation shall be the sole responsibility of the Tribal Gaming Commission.

(b) The Gaming Board shall consist of seven (7) directors, who shall choose by vote among themselves a Chairperson, Vice-Chairperson, Secretary, Treasurer and three (3) Directors-At-Large. The Terms of office for members of the Tribal Gaming Board shall be for five (5) years, provided that in the initial term, one position shall be for one (1) year, another for

two (2) years, another for three (3) years, and so forth, so that elections to the Board shall be on a staggered basis whenever possible. Unless the election is held for such purpose, the directors of

the Gaming Board shall be the members of the Tribal Council, provided that notwithstanding the length of directorship term being served, the term of any director who is serving by virtue of his or her office as a member of the Tribal Council shall end when such person leaves the Tribal Council unless such person has been elected to the Gaming Board independently of their status on the Tribal Council. Members of the Board shall be subject to the same background requirements as key employees and primary management officials, and must be licensed accordingly. In the event one or more Board positions are elected independently of the Tribal Council positions, the Tribal Council shall establish reasonable qualifications, including experience in business, for anyone seeking to be elected to the Board. Elections shall be held whenever a vacancy occurs, and shall be conducted in the same manner as elections are held for Tribal Council positions.

- (c) The Gaming Board shall perform the following duties:
 - (1) monitor and oversee the day-to-day operations of the gaming facility, whether managed by a tribal employee or by an approved management contractor;
 - (2) inspect and examine on a periodic basis all books, records, and papers of the gaming facility;
 - (3) set hours of operation for the gaming facility;
 - (4) set wager limits;
 - (5) oversee marketing plans;
 - (6) oversee the processes being used to interview, select, train, and promote employees of the gaming operation, to ensure a quality and competent work force and that such employees are being treated fairly and in accordance with applicable law, including any Tribal laws or policies that encourage the hiring, training, and advancement of Tribal members and their families in all aspects of the gaming operation;
 - (7) establish employee policies, rates of pay, and hours of work;
 - (8) adopt an annual operating budget, subject to Tribal Council approval;
 - (9) setting policies and guidelines, and delegating authority to management officials where appropriate, for entering into contracts on behalf of the gaming operation, subject to Tribal Council approval and, where required by law, NIGC review;
 - (10) hold hearings on employee complaints, in compliance with procedures established in the gaming ordinance and other Tribal gaming regulations or personnel policies; and
 - (11) any other duties necessary to monitor and oversee the gaming operation.
- (d) The Tribe recognizes the importance of an independent Gaming Board to

maintaining a well-managed gaming operation. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe hereby finds that, at a minimum:

- (1) Members of the Gaming Board are prohibited from gambling in the gaming operation; and
- (2) Members of the Gaming Board are prohibited from accepting complimentary items from, any vendor or employee of, or consultant to, the gaming operation.

(e) Members of the Gaming Board may be removed from office by the Tribal Council prior to the expiration of their respective terms only for neglect of duty, misconduct, malfeasance, or other acts that would render the Director unqualified for his/her position, provided that if a person is a director of the Board by virtue of their membership on the Tribal Council, any removal from the Tribal Council shall automatically remove them from the Gaming Board. When the Tribal Council believes that a removal is appropriate, it shall so notify the Director(s) and hold a hearing on the matter. The Tribal Council may opt to preliminarily remove the Director pending the hearing. At the hearing the Director may provide evidence rebutting the grounds for his/her removal. A vote of the Tribal Council on the validity of the preliminary removal shall be final and not subject to further appeal. A finding by the Tribal Council that the preliminary removal was wrongful shall entitle the affected Director to compensation for expenses incurred in appealing the wrongful removal, and shall entitle the Director to any pay withheld, but no other monetary relief.

(f) Members of the Gaming Board shall be compensated at a level determined by the Tribal Council, unless they are on the Gaming Board by virtue of their seat on the Council, in which case no compensation for serving on the Board shall be due.

Section 8. Gaming Commission

(a) The Tribe hereby establishes a Tribal Gaming Commission whose duty it is to regulate tribal gaming operations. The Tribal Gaming Commission shall consist of three (3) members. There shall be among them a Chairperson, Vice-Chairperson, and Treasurer.

(b) The purpose of the Tribal Gaming Commission is regulatory, not managerial. The Commission will conduct oversight to ensure compliance with Tribal, Federal, and, if applicable, State laws and regulations. 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. The Commission will also have a role in monitoring compliance with the internal controls for the gaming operation and in tracking revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license when appropriate.

(c) The Tribe recognizes that, despite the fact that the Commission is a Tribal governmental agency, it is important that the Commission maintain the ability to exercise its regulatory judgment and authority with independence. No prior or subsequent review by the Tribal Council of any actions of the Commission shall be required or permitted except as

otherwise explicitly provided in this Ordinance. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe hereby finds that, at a minimum:

- (1) Members of the Gaming Commission shall be prohibited from gambling in the facility; and
- (2) Members of the Gaming Commission shall be prohibited from accepting Complimentary items from the gaming operation, or any manager, consultant, vendor or employee, thereof.
- (3) Tribal Gaming Commission positions shall be filled by appointment of the Tribal Council.

(d) Nominees for positions of Tribal Gaming Commissioner must satisfy the suitability standards set forth for key employees and primary management officials in this Ordinance. Such background investigations shall be performed under the direction of the Tribe's law firm or such other independent consultant as the Tribe shall determine.

(e) The Tribal Gaming Commission shall:

- (1) conduct or cause background investigations to be conducted on, at a minimum, primary management officials and key employees;
- (2) review and approve all investigative work conducted;
- (3) report results of background investigations to the NIGC;
- (4) Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
- (5) make licensing suitability determinations, which shall be signed by the Chairman of the Gaming Commission;
- (6) issue gaming licenses to management officials and employees of the operation, consistent with the suitability determination;
- (7) establish standards for licensing Tribal gaming operations;
- (8) Issue facility gaming licenses to Tribal gaming operations;
- (9) inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;
- (10) ensure compliance with all Tribal, State, and Federal laws, rules, and regulations regarding Indian gaming;
- (11) investigate any suspicion of wrongdoing associated with any gaming activities;

- (12) hold hearings on patron complaints, in compliance with procedures established in the gaming ordinance and other Tribal gaming regulations;
- (13) comply with any and all reporting requirements under the IGRA, Tribal-State compact to which the Tribe is a party, and any other applicable law;
- (14) promulgate and issue regulations necessary to comply with applicable internal controls standards;
- (15) promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
- (16) promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming ordinance, or any other Tribal, Federal, or State, if applicable, gaming regulations; and
- (17) establish a list of persons not allowed to game in Tribal gaming facilities in order to maintain the integrity of the gaming;
- (18) establish a list of persons who have voluntarily asked to be excluded from Tribal gaming facility and create regulations for enforcing this exclusion;
- (19) provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, Federal, or State statutes, ordinances, or resolutions;
- (20) create a list of regulatory authorities that conduct vendor background investigations and licensing which the Commission recognizes as trustworthy;
- (21) draft regulations exempting vendors from the licensing and/or background investigations requirements if they have received a license from a recognized regulatory authority;
- (22) perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation.
- (23) Promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Ordinance.

(f) 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 and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel or others employed by the tribal gaming operation on a need-to-know basis for actions taken in their official capacities. This Section does not apply to requests for such information or records from any Tribal, Federal or State law enforcement or regulatory agency, or for the use of such information or records by the Commission and staff in the performance of their official duties.

(g) Terms of Office for Tribal Gaming Commissioners shall be for five (5) years, as follows: the Chair shall serve an initial term of one (1) year, with subsequent Chairs serving three-year terms. The Vice-Chair and Commissioner(s) shall serve an initial term of two (2) years, with subsequent Vice-Chairs and Commissioners serving three (3) year terms.

(h) The following persons are not eligible to serve as Tribal Gaming Commissioners: members of the Tribal Council; employees of the gaming operation, while serving as such; gaming contractors (including any principle of a management or other contracting company); persons directly related to or sharing a residence with any of the above; persons ineligible to be key employees or primary management officials. Non-tribal members previously convicted of a felony, of embezzlement, of theft, or of any other money-related crime or honesty-related crime (such as fraud) cannot serve as Tribal Gaming Commissioners. The Tribal Council shall require a criminal history report and make an appropriate suitability determination before appointing an individual to a position as a Tribal Gaming Commissioner.

(i) The independence of the Tribal Gaming Commission is essential to a well-regulated gaming operation. For that reason, Commissioners may only be removed from office by the Tribal Council prior to the expiration of their respective terms for neglect of duty, misconduct, malfeasance, or other acts that would render a commissioner unqualified for his/her position. Any allegations of neglect of duty, misconduct, malfeasance, or other acts that would render him or her unqualified for his/her position must be substantiated by a preponderance of the evidence. Commissioners will be given an opportunity to provide evidence rebutting the grounds for their proposed removal before the removal is considered. A vote of the Tribal Council on the validity of the removal shall be final and not subject to further appeal. A wrongful removal shall entitle the affected Commissioner to compensation for expenses incurred in an appeal and any pay withheld.

(j) A majority of the Commission shall constitute a quorum. The concurrence of a Majority of the members appointed to the Commission shall be required for any final determination by the Commission. The Commission may act in its official capacity even if there are vacancies on the Commission.

(k) Tribal Gaming Commissioners shall be compensated at a level determined by the Tribal Council. Commissioner compensation shall not be based on a percentage of gaming revenue to ensure the Commission is not improperly influenced.

(l) The Commission shall keep a written record of all its meetings

Section 9. Ethics.

(a) The Tribe recognizes that the duties of the Gaming Board and the Tribal Gaming Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Gaming Board and Gaming Commission shall be held to extremely high ethical standards. Prior to taking their positions on the Board and the Commission (“Members”), the Members shall agree to be bound by the following principles:

- (1) Members shall not hold financial interests that conflict with the Conscientious performance of their duties as managers and regulators.
- (2) Members 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) Members shall not solicit or accept any gift or other item of monetary Value, including complimentary items or services (see Section 10, below), from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the member’s organization, or whose interests may be substantially affected by the performance or nonperformance of the Members’ duties;
- (4) Members shall make no unauthorized commitments or promises of any kind purporting to bind the Tribe.
- (5) Members shall not use their positions for private gain.
- (6) Members 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 Members.
- (7) Members 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) Members shall not engage in outside employment or activities, including Seeking or negotiating for future employment, which conflicts with their official duties and responsibilities.
- (9) Members shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
- (10) Members shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.

(11) Members shall disclose any real or apparent financial or personal conflicts. If there is a real conflict or the appearance of one, the member shall not take part in any decision related to the conflict.

Section 10. Complimentary Items

(a) The use of complimentary items shall be governed by regulations established by the Tribal Gaming Commission.

(b) No Key Employees, Primary Management Official, Tribal Council member, Member of the Gaming Board or Tribal Gaming Commission, or any person directly related to or sharing a residence with the persons, shall be authorized to receive complimentary items other than food and beverages valued at under five dollars, or, if at a public event held at the gaming facility, the free food and beverages offered to the general public.

(c) Complimentary Items shall be included in the annual budget for the gaming operation, with maximum limits specified, and shall be subject to approval by the Tribal Council.

Section 11. Audit.

(a) The Tribe shall cause an annual outside independent audit of gaming operations to be conducted, and shall submit the resulting audit reports to the National Indian Gaming Commission.

(b) 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 included within the scope of the audit that is described in subsection (a) above.

Section 12. Environment and Public Health and Safety.

(a) Gaming facilities shall be constructed, maintained and operated in a manner that Adequately protects the environment and the public health and safety.

(b) The Tribal Council shall adopt standards that assure adequate protection of the environment and the public health and safety.

Section 13. Patron Dispute Resolution. Patrons who have complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief with the Tribal Gaming Commission. Complaints shall be submitted in writing, and at the discretion of the Commission, the petitioner may be allowed to present evidence. The Gaming Commission shall hold a hearing within thirty (30) days of receipt of petitioner's complaint. Petitioner may have counsel present at such hearing. The Commission shall render a decision in a timely fashion and all such decisions will be final when issued. Any patron complaint must be submitted to the Commission within thirty (30) days of the incident giving rise to the complaint. All claims by patrons shall be limited to a maximum recovery of \$1.5 million per occurrence, and a cumulative limit of \$1.5 million per patron in any twelve (12) month period, but in no event shall any such

recovery exceed applicable insurance. Disputes relating to a patron's entitlement to a game prize shall be limited to the amount of such prize. The Commission's decision shall constitute the complainant's final remedy.

Section 14. Tribal Internal Control Standards. The Tribe shall adopt and implement Internal Control Standards (ICS) for the operation of its Tribal gaming operation in accordance with applicable law. The Tribe's ICS shall be set out in separate regulations to be reviewed and approved by the Tribal Council.

Section 15. Facility Licenses.

(a) The Tribal Gaming Commission shall issue a separate license to each place, facility, or location on Indian lands where class II or class III gaming is conducted under this ordinance once every three (3) years.

(b) The Tribal Gaming Commission shall specify the form, conditions and content for the application for such licenses, which shall be submitted by the chief management official of the facility, and the initial application shall include a legal description of the lands whereon the facility is located, and a certification that said premises constitute "Indian lands" as specified in the Indian Gaming Regulatory Act, and shall identify the environmental, health, and public safety standards with which the facility must comply, and a certification that the facility is in compliance therewith. Each subsequent application for the renewal of such facility license shall identify any changes or additions to said legal description and applicable environmental, health and safety standards, and include current certifications of compliance therewith. The Tribal Gaming Commission shall only issue such licenses if the applications therefor include the required information and certifications and such further conditions as the Tribal Gaming Commission shall have specified.

Section 16. Agent for Service of Process. The Tribe hereby designates the Chairman of the Tribe as agent for service of process, who may be contacted at:

Tribal President
Round Valley Indian Tribes
77826 Covelo Road
Covelo, CA 95428

Section 17. Compliance with Federal Law. The Tribe will comply with all applicable federal law, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*

Section 18. Repeal. To the extent that they are inconsistent with this ordinance, all prior gaming ordinances are hereby repealed.

Section 19. Tribal Access to Financial Information. A copy of the Tribal gaming operation annual audit will be made available for inspection upon request to the Tribal Council.

Section 20. Licenses for Key Employees and Primary Management Officials; Temporary Work Permit Licenses.

(a) 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 gaming enterprise operated on Indian lands by the issuance of permits and licenses in accordance with this Ordinance. The Tribe will issue such licenses and perform background investigations according to requirements at least as stringent as 25 C.F.R. Parts 556 and 558.

(b) Notwithstanding anything in this Ordinance to the contrary, following the receipt, Review for material completeness, and determination that an applicant is likely to meet the licensing standards herein, the Tribal Gaming Commission may issue temporary work permit license (“work permit”) enabling such person to be employed at the gaming operation during the term of the work permit. Work permits shall not exceed ninety (90) days but may be renewed at the discretion of the Tribal Gaming Commission provided that no work permit shall authorize an applicant to be employed at the gaming operation for any period in excess of that permitted in the aggregate under applicable law.

Section 21. License Application Forms.

(a) The following notice shall be placed on the application form for a key employee or a primary management official:

“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 the Tribe and the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when necessary 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 investigation 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 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.”

(b) The following additional notice shall be placed on the application form for a key employee or a primary official:

“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)”

(c) The Commission shall notify in writing existing key employees and primary management officials who have not completed an application containing the notices set forth above that they shall either:

- (1) complete a new application form that contains both the Privacy Act and false statement notices; or
- (2) sign a statement that contains the Privacy Act and false statement notices and consent to the routine uses described in that notice.

Section 22. License Fees. The Tribe may charge a license fee, to be set by the Tribal Gaming Commission, to cover its expenses in investigating and licensing Key Employees and Primary Management Officials of the gaming operation.

Section 23. Fingerprints. Each applicant for a Key Employee or Primary Management Official shall be required to have fingerprints taken as part of the license application procedure. Fingerprints may be taken by any authorized law enforcement agency. Fingerprints will then be forwarded to the NIGC for processing through the FBI and NCIC to determine the applicant's criminal history, if any.

Section 24. Background Investigations.

(a) The Tribal Gaming Commission is responsible for conducting background Investigations and suitability determinations.

(b) The Tribal Gaming Commission shall request from each primary management official and from each key employee all of the following information:

- (1) full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (2) 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;
- (3) 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 (b)(2) of this Section;

- (4) current business and residence telephone numbers;
- (5) a description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (6) a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (7) 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;
- (8) for each felony for which there was an ongoing prosecution or a conviction, within ten (10) years of the date of application, the charge, the name and address of the court involved and the date and disposition if any;
- (9) for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of application, the name and address of the court involved and the date and disposition;
- (10) for each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to Paragraph (b)(8) or (b) (9) of this Section, the criminal charge, the name and address of the court involved and the date and disposition;
- (11) 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;
- (12) a photograph taken within the last year; and
- (13) any other information the Tribe deems relevant.

Section 25. Procedures of Conducting a Background Check on Applicants.

(a) As part of its review procedure, the Commission or its agent shall employ or engage a private investigator to conduct a background investigation on each applicant sufficient to allow the Gaming Commission to make an eligibility determination under Section 26 below. The investigator shall:

- (1) verify the applicant's identity through items such as a social security card, driver's license, birth certificate, or passport;
- (2) contact each personal and business reference provided in the License Application, when possible;

- (3) obtain a personal credit check;
- (4) conduct a civil history check;
- (5) conduct a criminal history check via the submission of the applicant's fingerprints to the NIGC, and further obtain information from the appropriate court regarding past felony and/or misdemeanor convictions and criminal charges within the last ten (10) years;
- (6) inquire into any previous or existing business relationships with the gaming industry and Indian tribes by contacting the entities or tribes;
- (7) verify the applicant's history and status with any licensing agency by contacting the agency; and
- (8) take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted.

(b) The investigator shall create an investigative report noting the steps taken, information gained, potential problems areas, and disqualifying information.

(c) The Gaming Commission and its investigator shall promise to keep confidential The identity of each person interviewed in the course of the investigation, other than disclosure as required under Federal, Tribal, or State law.

Section 26. Eligibility Determination. The Tribal Gaming Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of key employee or primary management official for employment in a gaming operation. If the Tribal Gaming 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, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

Section 27. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

(a) When a key employee or primary management official is employed to work at a gaming operation authorized by this ordinance, the Commission shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make th determination referred to in Section 26.

(b) The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after ninety (90) days.

Section 28. Report to the National Indian Gaming Commission.

(a) The Tribal Gaming Commission shall prepare and forward a report on each background investigations to the National Indian Game Commission. An investigative report shall include all of the following:

- (1) steps taken in conducting a background investigation;
- (2) results obtained;
- (3) conclusions reached; and
- (4) the bases for those conclusions.

(b) The Commission shall forward the completed investigative report to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

(c) The Commission shall submit, with the investigative report, a copy of the eligibility determination, unless the NIGC shall have advised the Tribe that the submission of the eligibility determination is not necessary. This determination shall include a Statement describing how the information submitted by the applicant was verified; a Statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; a Statement showing the results of interviews of a sufficient number of knowledgeable people (such a former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Tribal Gaming Commission to make a finding concerning the eligibility for licensing required for employment in a gaming operation; and a Statement documenting the disposition of all potential problem areas noted and disqualifying information obtained;

(d) If a license is not issued to an applicant, the Tribal Gaming Commission:

- (1) shall notify the NIGC; and
- (2) shall forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

(e) With respect to all employees, and in particular key employees and primary management officials, the Tribal Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

Section 29. Granting Gaming License.

(a) If, within a thirty (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 Tribal Gaming Commission, acting for the Tribe, may issue a license to such applicant

(b) The Tribal Gaming Commission 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 thirty (30) day period under paragraph (a) of this Section until the Chairman of the National Indian Gaming Commission receives the additional information.

(c) If, within the thirty (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 Tribal Gaming Commission 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.

Section 30. License Suspension.

(a) If, after the issuance of a gaming license, the Tribal Gaming Commission receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment, the Tribal Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

(b) The Tribal Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(c) After a revocation hearing, the Tribal Gaming Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision.

Section 31. Board of Review for Disputes. The Tribe has determined that, in order to adhere to this Ordinance and all gaming regulations, there shall be established a Tribal Gaming Board of Review ("Board of Review"). The Board of Review shall serve as the final review body for employee disputes. Employee disputes shall include disputes with management, terminations, fines or other internal employee disputes, not to include actions taken by the Commission.

The Board of Review shall consist of five (5) members. The membership shall be comprised of one member of the Tribal Gaming Commission, one member from the Tribal Council, one primary management official or key employee, one enrolled Tribal member not

employed by the gaming operation, and one employee of the gaming operation. The members from the Tribal Gaming Commission, Tribal Council, and gaming operation primary management official or employees shall be elected from their representative groups and the enrolled Tribal member shall be appointed by the Tribal Council. Board of Review members shall serve staggered terms. The two Tribal members shall serve three-year terms. The primary management official or key employee shall serve a two-year term. The members from the Tribal Gaming Commission and the Tribal Council shall serve one-year terms. Board of Review members shall be compensated at a rate of \$100 per meeting or hearing, and shall be reimbursed for actual costs incurred during the scope of his/her duties as a member of the Board of Review. Compensation shall never be tied to tribal gaming revenues.

The Board of Review members shall elect a Chairperson from among them, whose duty it shall be to preside over all meetings and hearings. In addition, the members shall elect a Vice-Chair who shall be the custodian of any evidence submitted, and who shall preside in the Chairperson's absence. The Board of Review shall meet monthly, shall keep official records of the meetings. No later than three working days following a hearing on employee disputes, the Board of Review shall issue its findings. Findings of the Board shall be final when issued.

No Board of Review member shall be removed prior to the end of his/her term without cause. Removal shall be effectuated by a majority vote of the entire Board of Review, and shall be a final decision. A Board of Review member shall not review any decisions affecting himself/herself, or any person directly related to him or her.

Section 32. Licenses for Vendors.

(a) Vendors of gaming services or supplies with a value of \$25,000 or more annually must have a vendor license from the Tribal Gaming Commission in order to transact business with the Tribal gaming operation. Contracts for professional legal and accounting services are excluded from this Section.

(b) Gaming vendors are vendors who provide gaming supplies and services, including cash-related services.

(c) Non-gaming vendors provide services that do not have the ability to impact the integrity of the Tribal gaming operations, such as media advertising, facility maintenance workers, linen and laundry services, and food and beverage suppliers. The Tribal Gaming Commission shall create a regulation detailing which vendors fall into this category and shall maintain a register of the non-gaming vendors that it licenses. The regulation may exempt from licensing requirements non-gaming vendors who: (1) are a Tribal, Local, State, or Federal government agency; (2) are regulated by the State of California or the Tribe; or (3) will provide goods of insubstantial or insignificant amounts or quantities if the Tribal Gaming Commission determines that licensing of the vendor is not necessary to protect the public interest.

Section 33. Submission of a Vendor License Application. In order to obtain a gaming vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include its officers, directors, management,

owners, partners, non-institutional stockholders that either own 10% or more of the stock or are the ten (10) largest stockholders, and the on-site supervisor or manager under the agreement with the Tribe, if applicable.

Section 34. Contents of the Vendor License Application.

- (a) Applications for gaming vendor licenses must include the following:
- (1) name of business, business address, business phone, federal tax ID number (or SSN if a sole proprietorship), main office address if different from business address, any other names the applicant has done business under, type of service applicant will provide;
 - (2) whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;
 - (3) if the applicant is a corporation, the state of incorporation, and the qualification to do business in the State of California if the gaming operations is in a different State than the State of incorporation.
 - (4) trade name, other names ever used, names of any wholly owned subsidiaries of other businesses owned by the vendor or its principals;
 - (5) general description of the business and its activities;
 - (6) whether the applicant will be investing in or loaning money to the gaming operation and, if so, how much;
 - (7) a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - (8) a list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial, or management interests in non-gaming activities;
 - (9) names, addresses, and phone numbers of three business references with whom the company had regularly done business for the last five (5) years;
 - (10) the name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
 - (11) if the business has ever had a license revoked for any reason, the circumstances involved;
 - (12) a list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and date and disposition, if any;

- (13) list the business' funding sources and any liabilities of \$50,000 or more.
- (14) a list of the principals of the business, their social security numbers, addresses and telephone numbers, title, and percentage of ownership in the company; and
- (15) any further information the Tribe deems relevant.

(b) The following notice shall be placed on the application form for a vendor and its principals:

Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Tribe's vendor license.

(c) A vendor may submit a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit in writing any changes in the information since the other license application was filed and any information requested by the Tribe not contained in the other application.

Section 35. Vendor Background Investigation. The Tribal Gaming Commission shall employ or otherwise engage a private investigator complete an investigation of the gaming vendor. This investigation shall contain, at a minimum, the following steps:

- (a) Verify of the business' incorporation status and qualification to do business in the State where the gaming operation is located;
- (b) Obtain a business credit report, if available, and conduct a Better Business Bureau check on the vendor;
- (c) Conduct a check of the business' credit history;
- (d) Call each of the references listed in the vendor application; and
- (e) Conduct an investigation of the principals of the business, including a criminal history check, a credit report, and interviews with the personal references listed.

Section 36. Vendor License Fee. The Tribe may charge a license fee, to be set by the Tribal Gaming Commission, to cover its expenses in investigating and licensing vendors of the gaming operation.

Section 37. Vendor Background Investigation Report. The private investigator shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals and present it to the Tribal Gaming Commission.

Section 38. Exemption for Vendors Licensed by Recognized Regulatory Authorities. The Tribal Gaming Commission may adopt regulations naming specific licensing authorities that it

recognizes and may authorize exemptions to the vendor licensing process for vendors which have received a license from one of the named regulatory authorities.

Section 39. Licenses for Non-Gaming Vendors. For non-gaming vendors, the Tribal Gaming Commission is authorized to create a less stringent vendor licensing process, including a due diligence check rather than a full background investigation as laid out in Section 37. The Gaming Commission may investigate such vendors when appropriate and may conduct audits in addition to monitoring Tribal purchases.

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