



AUG - 6 2012

President Tom Maulson
Lac du Flambeau Band of
Lake Superior Chippewa Indians
P.O. Box 67
Lac du Flambeau, WI 54538

Re: Amended Tribal Gaming Ordinance

Dear President Maulson:

This letter responds to a recent letter, and follow-up e-mail, from the Lac du Flambeau Band of Lake Superior Chippewa Indians ("Tribe") asking the National Indian Gaming Commission ("NIGC") to approve revisions to the Tribe's Gaming Ordinance ("Ordinance"). The Tribe's letter was received by the NIGC on June 11, 2012, along with Resolution No. 248(12), by which the Tribal Council adopted the revised Ordinance at a meeting on May 29, 2012. Subsequently, on July 12, the Tribe, through its attorney, submitted to the NIGC, by e-mail, the revised Ordinance with further revisions, along with Resolution No. 302(12). This Resolution adopted the most recent revisions to the Ordinance by a poll vote of Tribal Council members polled on July 3 and July 9.

The Tribal Council Resolution amends the Ordinance to better clarify the regulatory function of the Tribe's Gaming Commission; establish a framework of criteria for Gaming Commissioner qualifications and training; ensure compliance with the NIGC's regulations; and more efficiently process gaming license and suitability determinations, and other functions and operations of the Gaming Commission.

We appreciate that the Tribe brought these revisions to our attention. The Tribe's amended Ordinance is approved, as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions or require assistance, please contact Katherine Zebell, Senior Attorney, at (202) 632-7003.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracie L. Stevens".

Tracie L. Stevens
Chairwoman

cc: Attorney Richard J. Armstrong
Rosette, LLP

JUL 12 2012

RESOLUTION NO. 302(12)

- WHEREAS,** the Lac du Flambeau Band of Lake Superior Chippewa Indians (Tribe) is a federally-recognized Indian Tribe, organized under a Constitution and By Laws, ("Constitution"), pursuant to the Indian Reorganization Act of June 18, 1934, 48 Stat, 984, 25 U.S.C. 476, et Seq., as amended; and
- WHEREAS,** pursuant to Article III, Section 1 the Constitution, the governing body of the Tribe is the Tribal Council; and
- WHEREAS,** the Tribal Council, pursuant to its authority under Article VI, Section 1(f), of the Constitution, and pursuant to the Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2701, et seq., adopted a Tribal Code Chapter 43, Gaming Control Ordinance, ("Ordinance") which was adopted by the Secretary on February 9, 1988, with approved amendments in 1989, 1991, 1993, 1994, 1995, 1996, 1999, 2000 and 2004; and
- WHEREAS,** the Tribal Council, through the efforts of a working group assigned by the Tribal Council, conducted a thorough review of the Ordinance and conducted countless hours of research into other tribal gaming ordinances resulting in the identification of several areas of the Ordinance that could be amended to better serve the interest of the Tribe; and
- WHEREAS,** the Tribal Council determines and finds it is in the best interest of the Tribe to amend the Ordinance in order to, but not limited to, better clarify the regulatory function of the Tribe's Gaming Commission, establish a framework of criteria for Gaming Commissioner qualifications and training, ensure compliance with National Indian Gaming Commission ("NIGC") Regulations and to more efficiently process gaming license and suitability determinations as well as other functions and operations of the Gaming Commission; and
- WHEREAS,** the Tribal Council convened a rescheduled regular meeting on May 29th 2012, and approved amendments to Chapter 43, Sub-Chapters I through IX, clarification and specifically as to Indian lands within the Tribe's jurisdiction, amended the Ordinance at Sub-Chapters I through IX of the Ordinance accordingly; and
- WHEREAS,** the Tribal Council, now determines it is in the best interest of the Tribe to amend Chapter 43, Sub-Chapters I through IX, specifically, clarification to application to Indian Lands as defined in IGRA, and remove all references and terms "Reservation" from the Ordinance, amended the Ordinance at Sub-Chapters I through IX of the Ordinance accordingly; now, therefore be it
- RESOLVED,** by this Council in a Vote, hereby approves the amendments to Chapter 43, Sub-Chapters I through IX, (Copy attached), including clarification and specifically to Indian Lands, requests the NIGC to review the same for expeditious approval by the NIGC Chairperson, pursuant to 25 U.S.C. 2710 and NIGC Regulations 25 CFR 522; and be it further
- RESOLVED,** that all prior versions of the Ordinance along with their respective approving Resolutions shall be effectively rescinded upon approval of the attached amended Ordinance by the Chairperson of the NIGC.

CERTIFICATION

I, the undersigned, as Secretary of the Lac du Flambeau Band of Lake Superior Chippewa Indians, a tribal government operating under a Constitution adopted pursuant to Section 16 of the Indian Reorganization Act, 25 U.S.C., s. 476, do hereby certify that the Tribal Council of the Band is composed of twelve members, of whom nine constituting a quorum, were polled on the 3rd and 9th Day of July, 2012, and that the foregoing resolution was duly adopted by said Poll Vote by an affirmative vote of eight members, none against, one abstaining (J. Wildcat), and that the said resolution has not been rescinded or amended in any way.



Elizabeth Diver, Secretary
Lac du Flambeau Band of
Lake Superior Chippewa

TRIBAL CODE

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CHAPTER 43

GAMING CONTROL ORDINANCE

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HISTORY NOTE:

Current Ordinance

Adopted January 4, 1988, Resolution No. 7(88). Secretarial approval February 9, 1988. Effective as to members January 4, 1988; as to non-members, February 9, 1988.

Amendments to Section 43.501(3), Resolution No. 51(89), January 30, 1989 and Sections 43.113(1) - (4) Resolution No. 392(89) November 13, 1989.

Chapter VIII added November 15, 1991, Resolution No. 357(91) Approved July 7, 1992, by authority of Bureau of Indian Affairs.

Chapter VIII amended April 26, 1993, Resolution No. 112(93).

Chapter IX added September 27, 1993, Resolution No. 322(93). Approval by National Indian Gaming Commission dated November 29, 1993.

Ordinance with Amendments approved and published in Federal Register, Vol.59, No. 11, Tuesday, January 18, 1994.

Chapter X added August 16, 1994, by referendum approval following authorization for referendum, Resolution No. 298(94), Bureau of Indian Affairs approval dated November 8, 1994.

Amendment to Section 43.803 dated February 27, 1995, Resolution No. 87(95).

Amendment to Sections 43.110, 43.111 amended and renumbered; Section 43.112, 43.113, 43.201, 43.205, 43.301, 43.401, 43.402 deleted; Chapter V and Chapter VI deleted; Sections 43.701, 43.701, 43.702, 43.803, and 43.805 amended; dated January 8, 1996, Resolution No.4(96).

Chapter X amended February 26, 1996, Resolution No. 63(96). Bureau of Indian Affairs approval dated October 25, 1996.

Amendments to Section 43.1004(1) deletion pertaining to relinquished members and Section 43.1007 amending Tribal authority to withhold any applicable Federal taxes, and September 23, 1996, Resolution No. 368(96). Bureau of Indian Affairs approval dated October 25, 1996.

Chapter 43.10, Addendum #1 regarding Special One Time Per Capita Distribution on July 30, 1999 added May 24, 1999, Resolution No. 230(99). Bureau of Indian Affairs approval dated July 6, 1999.

Amendments to Section 43.1002(5) added and renumbering (6), (7), (8), (9), (10) and adopting Section 43.1006(2) and renumbering (3) added April 14, 2000, Resolution No. 173(00), June 26, 2000.

Chapter VIII Section 43.803 regarding Gaming Commission rewritten and replaced on October 22, 2001, Resolution No. 595(01). Approval by National Indian Gaming Commission

January 14, 2002.

Amendments to Section 43.1003 regarding Appropriations and Applications of Tribal Gaming Revenues, Section 43.1003(1) regarding annual per capita payment, Section 43.1006 regarding Payments, adopted January 26, 2004, Resolution No. 16(04). Approval by National Indian Gaming Commission dated May 3, 2004.

Amendment to Section 43.907 regarding guidelines for the suspension and revocation of employee gaming licenses on June 28, 2004, Resolution No. 182(04). Approval by National Indian Gaming Commission for gaming only on Indian lands, as defined in the IGRA over which the Tribe exercises jurisdiction dated October 22, 2004.

Section 43.1003 (2), Resolution No. 10(09) adopted January 12, 2009 complied with IGRA and the regulations in 25 CFR 290 for allocations distributed during FY 2007. Bureau of Indian Affairs approval dated December 9, 2009.

Resolution No. 245(06) adopted October 23, 2006, assuring that any distributions were in compliance with Amended and Restated Trust Agreement, IRS Revenue Procedure 2003-14. Bureau of Indian Affairs approval dated December 9, 2009.

Prior Ordinances.

Tribal Bingo Ordinance No. 1 adopted July 7, 1980, Resolution No. 234(80). Amended April 13, 1981, Resolution No. 70(81). Rescinded May 18, 1981, Resolution No. 89(81).

Interim Bingo Ordinance adopted June 1, 1981, Resolution No. 96(81).

Tribal Bingo Control Ordinance adopted August 3, 1981, Resolution No. 175(81). Repealed by subsequent ordinance February 27, 1984.

Bingo and Raffle Control Ordinance adopted February 27, 1984, Resolution No. 98(84). Amended July 23, 1984, Resolution No. 248(84); January 28, 1985, Resolution No. 42(85); December 16, 1985, Resolution No. 463(85); June 9, 1986, Resolution No. 207(86); June 9, 1986 Resolution 208(86); August 18, 1986, Resolution No. 304(86); March 9, 1987, Resolution No. 66(87); March 30, 1987, Resolution No. 92(87). Repealed by Sec. 43.108 of the current ordinance.

Cases:

Oneida Tribe of Wisconsin v. Wisconsin, 518 F. Supp. 712 (W.D. Wis. 1981) Tribes may conduct bingo free from State regulation.

Lac du Flambeau Band v. Williquette, 629 F. Supp. 689(W.D. Wis. 1986) Pull tabs are raffles, and Tribe may sell them under its ordinance free of State regulations.

TRIBAL CODE

CHAPTER 43

GAMING CONTROL ORDINANCE

CHAPTER I: GENERAL PROVISIONS

43.101 TITLE.

This ordinance shall be known as the Gaming Control Ordinance.

43.102 AUTHORITY.

This ordinance is enacted pursuant to Article VI, Section (n) of the Constitution and Bylaws of the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin.

43.103 PURPOSE.

The purpose of this ordinance is to regulate the conduct of Class II and Class III gaming conducted on Indian Lands of the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin in accordance with the Indian Gaming Regulatory Act, Public Law 100-497, 25 U.S.C. §§ 2701 *et seq.* .

43.104 EFFECTIVE DATE.

This ordinance shall be effective on date of enactment by the Lac du Flambeau Tribal Council.

43.105 ABROGATION AND GREATER RESTRICTIONS.

Where this ordinance imposes greater restrictions than those contained in other Tribal ordinances, the provisions of this ordinance shall govern.

43.106 INTERPRETATION.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Tribe and shall not be deemed a limitation or repeal of any other Tribal power or authority.

43.107 SEVERABILITY AND NON-LIABILITY.

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe asserts there is no liability on the part of the Lac du Flambeau Band of Lake Superior Chippewa Indians, its agencies or employees for damages that may occur as a result of reliance upon, and conformance with this Ordinance.

43.108 REPEALER.

All prior gaming ordinances are hereby repealed.

43.109 DEFINITIONS.

Note: Words used in the present tense include the future; the singular includes the plural; and the plural includes the singular. The word "shall" is mandatory and the word "may" is permissive.

For the purposes of this ordinance, the following definitions shall be used:

- (1) "Act" means the Indian Gaming Regulatory Act, Public Law 100-497, 25 U.S.C. §§ 2701 *et seq.*
- (2) "Bingo" means a game of chance in which up to 75 numbered objects are available for random selection on numbered balls.
- (3) "Bingo Occasion" means a single gathering or session at which a series of successive bingo games is conducted.
- (4) "Bingo Supplies and Equipment" means all cards, boards, sheets, markers, tables, pads or other supplies, devices or other equipment designed for use in the conduct or play of bingo.
- (5) "Casino Executive Officer" means the person hired by the Tribe to conduct, organize and supervise all Class II and Class III gaming on Indian Lands of the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin.
- (6) "Chairman" means the Chair of the Lac du Flambeau Tribal Gaming Commission established pursuant to this Ordinance.
- (7) "Class II gaming" means Class II gaming as defined in the Act, 25 U.S.C. § 2703(7) and the National Indian Gaming Commission regulations at 25 CFR 502.3.
- (8) "Class III gaming" means Class III gaming as defined in the Act, 25 U.S.C. § 2703(8) and the National Indian Gaming Commission regulations at 25 CFR 502.4.
- (9) "Commission" means the Lac du Flambeau Tribal Gaming Commission established by this Gaming Ordinance.
- (10) "Compact" means the Tribal-State Compact between the Lac du Flambeau Band of Lake Superior Chippewa Indians and the State of Wisconsin, in accordance with the Indian Gaming Regulatory Act, under which Class III Gaming may be conducted on Indian Lands of the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin.
- (11) "Conduct" or "Conducted" means as to bingo, the drawing of the numbers and the announcement and visual display of the number on each member so drawn; as to raffles, the selling

and drawing of raffle tickets. The marking of a bingo card by a player shall not be considered an essential element of the conduct of a bingo game.

(12) "Direct Financial Benefit" means, for purposes of determining initial and continuing eligibility of the Gaming Commission members, ownership or part-ownership by a Commissioner of land, stocks, bonds, debentures, warrants, a partnership, shares, or other holding or financial interest, and also means any other arrangement where the Commissioner may individually benefit financially or economically from his or her holding in, or other monetary gain from, Tribal gaming activities of the Tribe. Direct Financial Benefit also include employment, pensions, creditor, real property and other financial relationships. Direct Financial Benefit does not include per capita payment received from the Tribe or any other interest that is otherwise held or bestowed upon a Commissioner simply due to their membership in the Tribe.

(13) "Commission Administrator" means the Commission Administrator of the Lac du Flambeau Gaming Commission.

(14) "Gaming" or "Gambling" means any gaming or gambling activity, including accepting, recording or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value, including but not limited to pool-selling, bookmaking, maintaining slot machines, roulette wheels, or dice tables, wheels of fortune, card games or video gaming devices.

(15) "Gaming Facilities" or "Gaming Facility" means any site, room, or rooms in which Gaming is conducted.

(16) "Gaming Operation" means each economic entity that is licensed by the Commission, operates the games, receives the revenues, issues the prizes, and pays the expenses.

(17) "Indian Lands" means Indian Lands as defined within the Act, 25 U.S.C. § 2703(4) and the National Indian Gaming Commission regulations at 25 CFR 502.12.

(18) "Indirect Financial Benefit" means, for purposes of determining initial and continuing eligibility of the Gaming Commission members, the same financial relationships as for Direct Financial Benefit as well as an interest where the Commissioner reaps, or potentially may reap, the benefits of such interests, including interests held by the Commissioner's spouse, minor child or other relatives, including in-laws, residing in the Commissioner's home. The Commissioner will not be deemed to have an Indirect Financial Benefit if there is no relationship between the Commissioner's functions or duties and the Tribal gaming operation in which the spouse, minor child or other resident relative holds a financial interest. Wage or salary earnings of a Commissioner's spouse, minor child or other relatives, including in-laws, residing in the Commissioner's home, earned by such a relative while acting as an employee of a Gaming Operation, shall not be included in this definition.

(19) "Key employee" means:

- (a) A person who performs one or more of the following functions:
 - (i) Bingo caller;
 - (ii) Counting room supervisor
 - (iii) Chief of security;
 - (iv) Custodian of gaming supplies or cash;
 - (v) Floor manager;
 - (vi) Pit boss;
 - (vii) Dealer;
 - (viii) Croupier;
 - (ix) Approver of credit; or
 - (x) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
- (b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
- (c) If not otherwise included, the four most highly compensated persons in the gaming operation.
- (d) Any other person designated by the Commission as a Key Employee.

(20) "Lottery" means an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance, even though accompanied by some skill, but does not include bingo or raffles as defined by this ordinance.

(21) "Member" means a person enrolled in the Tribe.

(22) "Member business" means any member-owned commercial or business activity, whether a sole proprietorship, joint venture, partnership or corporation, established or organized for the purpose of profit; provided, that such member ownership and control shall constitute no less than 51 percent of the enterprise.

(23) "National Indian Gaming Commission" means the National Indian Gaming Commission established pursuant to the Act at 25 U.S.C. § 2704.

(24) "Net Revenues" means gross gaming revenues of an Indian gaming operation less

- (a) Amounts paid out as, or paid for, prizes; and
- (b) Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

- (25) "Ordinance" means this Lac du Flambeau Chippewa Tribal Gaming Ordinance.
- (26) "Premises" means any building, room, hall, enclosure, tent or outdoor area in which Class II or Class III gaming is conducted.
- (27) "Primary Management Official" means:
- (a) The person having management responsibility for a management contract;
 - (b) Any person who has authority:
 - (i) To hire and fire employees; or
 - (ii) To set up working policy for the gaming operation; or
 - (c) The chief financial officer or other person who has financial management responsibility.
 - (d) Any other person designated by the Commission as a Primary Management Official.
- (28) "Raffle" means a game of chance in which tickets are sold and a drawing for prizes is held, or in which the ticket is drawn by the purchaser and a determination of prize made based upon the ticket drawn.
- (29) "State" means the State of Wisconsin.
- (30) "Tribal Council" means the Lac du Flambeau Chippewa Tribal Council, the governing body of the Tribe elected pursuant to the Tribe's Constitution and Bylaws.
- (31) "Tribal Court" means the Lac du Flambeau Tribal Court.
- (32) "Tribal Law Enforcement Officer" means a person who is employed by the Lac du Flambeau Tribal Police Department for the purpose of detecting and preventing crime and enforcing the Tribe's laws or ordinances and who is authorized by the Tribe to make arrests and issue citations for violations of the Tribe's laws or ordinances.
- (33) "Tribal Organization" means any organization duly recognized by the Tribe.
- (34) "Tribe" means the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin.

CHAPTER II: ENFORCEMENT AND PENALTIES

43.201 LAW ENFORCEMENT.

(1) Any person employed, appointed or deputized as a Tribal Law Enforcement Officer may enforce the provisions of this ordinance.

(2) Any Tribal Law Enforcement Officer may execute and serve warrants and other process issued by the Tribal court in the same manner as any law enforcement officer of the State of Wisconsin may serve and execute such State warrants and other process under State law.

(3) Any Tribal Law Enforcement Officer may conduct searches and make stops and arrests without warrant under the prevailing constitutional standards relating to probable cause, reasonable suspicion and exigent circumstances.

(4) Any Tribal Law Enforcement Officer may issue a citation to any person upon reasonable belief that such person has breached a provision of this ordinance and may seize and hold any property needed as evidence or any property authorized to be seized pursuant to the civil remedial forfeiture provisions of this ordinance.

43.202 PROHIBITED ACTIVITIES.

It shall be unlawful and a prohibited activity for any person to:

(1) Violate the terms of this ordinance in any way; or

(2) Conduct, or possess equipment for the conduct of, gaming on Indian Lands of the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, unless licensed to do so pursuant to this ordinance, or while in possession of a valid transportation permit issued by the Commission; or

(3) Act or scheme in any way to influence the conduct or result of any Class II or III gaming or the determination of the winner thereof; or

(4) Act or scheme in any way to deprive the Tribe of the income or proceeds or any portion thereof from any Class II or III gaming, or the operational expenses related thereto.

43.203 PENALTIES.

Any person who, himself or herself, or by his or her agent, servant or employee or who as agent, servant or employee of another, violates any provisions of this ordinance, shall be liable as follows:

(1) For a civil remedial money penalty of up to \$10,000 and/or

(2) For a civil remedial forfeiture of any property and equipment used in the commission of the violation; and/or

- (3) For discipline or discharge from Tribal employment, as determined under the applicable personnel policies and procedures; and/or
- (4) For suspension or revocation of any license or permit issued by the Commission; and/or
- (5) For recovery by the Tribe of damages from the violators in an amount not to exceed three times the monetary gain realized by the violator as a result of the violation; and/or
- (6) For referral to State or Federal authorities for criminal prosecution; and/or
- (7) For such other civil remedies as the Tribe may have available to it to prevent continuing violations or to recover for losses caused by or associated with such violations; and
- (8) For court costs which shall be assessed against any person found to have violated this ordinance.

43.204 PARTIES TO A VIOLATION.

Whoever is concerned in the commission of a violation of this ordinance is a principal and may be charged with the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation. A person is concerned in the commission of a violation if the person:

- (1) Directly commits the violation;
- (2) Aids and abets the commission of it; or
- (3) Is a party to a conspiracy with another to commit it or advises, hires, or counsels or otherwise procures another to commit it.

43.205 ENFORCEMENT PROCEDURES.

Jurisdiction is hereby conferred upon the Tribal court over matters related to the violation of this ordinance. Forfeiture proceedings shall be conducted in accordance with Chapter IV of the Tribal Court Code, Tribal Code Ch. 80; provided, that citations issued hereunder may be served by ordinary mail. Nothing herein shall confer Tribal Court jurisdiction over the handling of patron dispute matters, as those matters shall be exclusively handled pursuant to Section 43.417 and the decision, if any, of the Commission shall be final and not subject to further review by the Tribal Court.

CHAPTER III: GAMING COMMISSION

43.301 STATEMENT OF POLICY.

It is the purpose of this chapter of the Tribe's Gaming Ordinance to provide for the sound comprehensive regulation of all Class II and Class III gaming activities on lands within the jurisdiction of the Lac du Flambeau Band of Lake Superior Chippewa Indians, in order to protect the Tribe's and the public's interest in the integrity of such gaming activities, and to promote Tribal economic development, self-sufficiency, and strong Tribal government.

43.302 GAMING COMMISSION.

(1) There is hereby established within the Lac du Flambeau Chippewa Tribe a Tribal Gaming Commission, which shall have the powers and duties specified in this Section 43.302 for the purpose of regulating the conduct of Class II and Class III gaming activities occurring within Gaming Facilities owned and operated by the Tribe on Indian Lands pursuant to this Ordinance, the Tribal Constitution and By-Laws, the Tribal/State Compact, the Indian Gaming Regulatory Act, (25 U.S.C. §2701, *et seq.*)("IGRA") and all applicable laws, rules and regulations promulgated there under.

(2) All actions of the Commission shall have immediate effect, unless otherwise specified by the Gaming Ordinance, and shall be reported to the Tribal Council pursuant to Section (13)(i) herein.

(3) The Gaming Commission shall be comprised of five members appointed by the Tribe. Each Commissioner shall serve terms subject to (3)(a) herein, and provided that the initial terms for appointment of the Commissioners shall be staggered as follows: one (1) Commissioner will be appointed to serve an initial four-year term, two (2) Commissioners will be appointed to serve an initial three-year term, and two (2) Commissioners will be appointed to serve an initial two-year term. Following the initial terms of the Commissioners, Commissioner positions shall thereafter be appointed in staggered fashion by the Tribal Council for three-year terms. There shall be no limit to the number of terms a person may be appointed as a Commissioner, and a person may serve consecutive terms. The Commission shall elect its own officers, by majority vote, on an annual basis, with one Commissioner being elected as Chairperson, one Commissioner being elected as Vice-Chairperson and one Commissioner being elected as Secretary.

(a) Each Commissioner shall be subject to a six (6) month introductory period, during which time each Commissioner will be responsible for developing knowledge and comprehending gaming related regulatory documents and/or information to a level sufficient enough to be deemed a Commissioner, and to fulfill the duties specified in this Ordinance. At the end of the six-month period, the work performance of each Commissioner shall be evaluated by an independent Gaming Commission Performance Review Panel ("GCPRP") appointed by the Tribal Council. The GCPRP shall be comprised of individuals knowledgeable and experienced in the field of gaming, the structure and operations of gaming commissions, and gaming enterprises. The evaluations of each Commissioner shall be submitted to the Tribal Council for a final decision within thirty (30) days as to whether such

Commissioner is fit and capable of performing the duties and responsibilities specified in this Chapter III and this Ordinance. The Tribal Council shall make a decision within forty-five (45) days of receipt of such recommendation.

(4) Commissioners are prohibited from being otherwise employed by Class II or Class III Tribal Gaming Establishments and from participating in any gaming in the Tribe's Gaming Establishments.

(5) The Gaming Secretary shall maintain all minutes and records of the Gaming Commission and provide such minutes and records that are non-licensing related to the Tribal Council on a regular and timely basis, subject to Section (13)(f)(i) herein.

(6) The primary responsibility of the Commission shall be to implement this Ordinance and provide direction to the Commission Administrator and other Commission related departments approved by the Tribe. The applicable provisions of the Tribal Constitution and By-Laws, as amended, and this Ordinance, shall govern the conduct of business of the Gaming Commission.

(7) Each Commissioner shall be compensated at the stipend-rate determined by resolution of the Tribal Council.

(8) A commissioner shall:

- (a) be a member in good standing of the Tribe;
- (b) be at least twenty-one (21) years of age;
- (c) be of good moral character;
- (d) conduct himself or herself so as to protect the effective regulation of gaming;
- (e) avoid any activity that may enhance the dangers of unsuitability, unfair, or illegal practices, methods, or activities in the conduct of gaming;
- (f) not receive any Direct or Indirect Financial Benefits from any gaming operation owned and/or operated, or in some manner controlled by the Tribe. For purposes of this Chapter III, the receipt of per capita payments by a Commissioner, or receipt of any other general benefit provided by the Tribe to its members by a Commissioner, or the employer/employee relationship with the Tribe inherent with being a Commission, does not and shall not be construed as a "Direct" or "Indirect" Financial Benefit.
- (g) not accept gratuities or any other thing of value from any Licensee, vendor, or Applicant. For purposes of this Chapter III, free food and beverages provided to the public or Tribe at special events, meetings or other gatherings may be accepted.

- (h) not use one's official title to conduct personal business;
- (i) not use one's position to coerce, threaten, or intimidate a person or group.
- (j) not publicly disclose, personally utilize, or use in an unethical manner, any information of a sensitive, confidential or proprietary nature received in connection with the Commission duties herein, including, but not limited to matters discussed during Commission meetings, and matters protected as confidential under Federal, State, or Tribal law or procedure, unless such disclosure is required by law.
- (k) adhere to the requirements of the Tribal Code of Ethical Conduct.
- (l) conduct him or herself so as to protect the integrity of the Tribe and its gaming activities.
- (m) not serve in any other elected or appointed position, including Tribal Council and any other Tribal committee or agency.

(9) A Tribal Member who was previously convicted or who has entered a plea of nolo contendere to, or is under indictment for any felony or any gaming offense under the laws of Wisconsin or any other state, or the United States, or any crime under the laws of the Tribe, including embezzlement, theft, or any other money-related crime or honesty-related crime (such as fraud) will only be allowed to serve as a Commissioner if the Tribe specifically finds a significant amount of time has passed, no less than ten (10) years from the time of the conviction or plea of nolo contendere, and that the person is now of trustworthy and of proper moral character.

(10) Each Commissioner shall be subject to a background investigation, conducted at the direction of the Tribal Council, and Tribal Council shall make a determination as to each Commissioner's suitability.

(11) Any Commissioner who is determined by the Tribal Council to be unsuitable, based upon the findings of their background investigation, shall be removed by the Tribal Council.

(12) The Commission shall employ or retain such personnel as may be necessary to carry out the functions of the Commission with the approval of the Tribal Council. No person shall be employed, retained, appointed or continue to serve as an employee of the Commission if he or she has any personal, business, or legal relationship that the Tribal Council determines a conflict of interest with his or her duties and responsibilities as a Commission employee of the Tribe. Any employee violating these prohibitions shall be subject to termination.

(13) The Commission shall have general responsibility for the implementation of this Ordinance. Its duties include the following:

- (a) To conduct all hearings pertaining to civil violations of this Ordinance and rules and regulations promulgated hereunder;

- (b) To promulgate Commission By-Laws, Commission Tribal Internal Controls and Commission Standard Operating Procedures (Rules and Regulations) under separate documents. Additionally, the Commission shall promulgate such other rules and regulations as in its judgment may be necessary to protect or enhance the credibility and integrity of gaming activities authorized by this Ordinance and the regulatory process hereunder; subject to Tribal Council approval. Each document shall be reviewed by the Commission at least annually to identify applicable amendments.
- (c) To provide for the assessment and collecting of fees to defray operational expenses of the Commission and to assess and collect penalties and fines for the obligation of provisions of this Ordinance and the rules and regulations promulgated hereunder. All such fees, fines and penalties shall be deposited into a segregated fund, with restrictions as deemed appropriate by the Tribal Council.
- (d) To ensure, through its designated representatives that gaming activities are conducted pursuant to this Ordinance and pursuant to the existing Minimum Internal Control Standards, receiving and responding to complaints from the public, and conducting such other investigation into the conduct of the gaming activities and operations as the Commission deems necessary and proper;
- (e) To inspect and investigate matters involving gaming activities within the Tribe's jurisdiction in the furtherance of this Ordinance and applicable rules and regulations. However, such inspections and investigations shall not be conducted without reasonable purpose or with the sole intent of unreasonably disrupting or inhibiting Tribal gaming operations.
- (f) To hold at least two (2) regularly-scheduled meetings each month in accordance with the Bylaws of the Commission, and provide a monthly report to the Tribal Council on a monthly basis, or at such other times as may be required by the Tribal Council. In addition, the Commission Chairman, or three (3) Commissioners, upon seventy-two (72) hours written notice to each member, may call special meetings.
 - (i) The Commission shall keep a complete and accurate record of all its meetings.
 - (ii) Non-licensing related records shall be provided to the Tribal Council on a monthly basis, or at such other times as may be required by the Tribal Council.
 - (iii) Licensing related records detailing the number and types of license issued during the previous month and the number of license denials, suspensions or revocations shall be provided to the Tribal Council on a monthly basis, or at such other times as may be required by the

Tribal Council.

- (iv) A summary of Commission expenditures incurred during the previous month shall also be included in the monthly report to the Tribal Council.
 - (v) A majority of the Commission shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power which this Ordinance requires the Commissioners to transact, perform, or exercise en banc.
- (g) Upon order of the Commission, one of the Commissioners or a Tribal judge designated by the Commission, may conduct an adjudicative hearing regarding licensing, suspension, or any other duly-authorized corrective action of the Commission, and shall make recommendations to the Commission with respect to findings and decisions. Such hearings shall be conducted pursuant to rules established by the Commission and approved by the Tribal Council.
- (i) The Commissioner or Tribal judge conducting such hearing shall have powers and rights granted to the Commission in this Section 43.302 and the rules promulgated hereunder.
 - (ii) The record made at the time of the hearing shall be reviewed by the Commission, or a majority thereof, and the findings and decision of the majority of the Commission shall constitute the Order of the Commission in such case.
- (h) To maintain records which are separate and distinct from the records of any other Tribal Commission or Tribal Gaming Operation. Such records shall be available for inspection, as authorized by the Tribal Constitution and By-Laws and this Section 43.302, and shall accurately reflect all Commission proceedings, except that all records of the Commission relating to the licensing and investigation of individuals and information regarding the number and reasons for license denials, suspensions, or revocations, shall be protected from public disclosure, except that records detailing the number and types of licenses shall be included in the records available for inspection by the Tribal Council.
- (i) To file a written annual report with the Tribal Council no later than ninety (90) days after the Tribes' Fiscal Year End and such additional reports as the Tribal Council may require. The annual report shall include a statement of receipts and disbursements by the Commission, its financial position, actions taken by the Commission throughout the year, any recommendations for Tribal legislation which the Commission deems advisable, and any additional information and recommendations which the Commission may deem consistent with this Section 43.302 or which the Tribal Council may require.

- (j) To develop rules and regulations under which all Class II and Class III gaming within Tribal Gaming Facilities shall be conducted, including, but not limited to rules and standards for the investigation and licensure, including conditional licensing, of gaming suppliers, vendors, Key Employees, Primary Management Officials, as defined under of this Ordinance, of Tribal gaming Operation, including an appropriate licensing fee schedule, subject to Tribal Council approval. Such rules and regulations shall be interpreted so as to provide for direct cooperation with the Chief Executive Officer to ensure the prevention of practices or behaviors detrimental to the public interest and for the best interests of honest casino-style gambling. Such rules and regulations shall be subject to Tribal Council approval.
- (k) To investigate alleged violations of this Ordinance, Tribal/State Compact, Tribal MICS, the Bank Secrecy Act, IGRA, or any other applicable rule, regulation or Commission order, and to take appropriate corrective action, pursuant to such rules, against a licensee for a violation, or institute appropriate legal action for enforcement, or both.
- (l) To require that all records of any licensee pertaining to any gaming or the supplying of any material or devices for any gaming conducted pursuant to this Ordinance, shall be kept in such a manner as to be immediately accessible to the Commission, but protected from public disclosure.
- (m) To require that any licensee involved in the management of gaming operations through an outside consulting firm or the supplying of gaming devices submit to the Commission full financial statements, list of stockholders and other persons or entities having any interest in the gaming activities of each licensee, and any other information the Commission considers necessary in order to effectively administer this Ordinance and all rules, regulations, orders, and final decisions promulgated there under.
- (n) To establish and maintain a list of Key Employee positions with input from the Casino Executive Officer.
- (o) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent documents and to administer oaths and affirmations to the witnesses, when, in the judgment of the Commission, it is necessary to do so. Such orders may be enforced through suspension or revocation of licensure or permits as well as other available civil sanctions, including the issuance of a fine.
- (p) To suspend, revoke or restrict licenses, or to require the removal of a licensee or an employee of a licensee from a Tribal Gaming Facility for a violation of this Ordinance, Tribal/State Compact, Tribal MICS, the Bank Secrecy Act, IGRA, or any other applicable rule, regulation or Commission order, or for engaging in a fraudulent or criminal practice, and to impose civil penalties of up to \$10,000. Such actions shall be subject to due process of law and proper

administrative procedures developed by the Commission and approved by the Tribal Council.

- (q) To eject or exclude or authorize the ejection or exclusion of any person from Tribal Gaming Facilities where such person is in violation of this Ordinance, rules and regulations promulgated there under, or final orders of the Commission, or where such person's conduct or reputation is such that his or her presence within the Tribal Gaming Facilities may call into question the honesty and integrity of the gaming operations or interfere with the orderly conduct thereof. Such authority to eject or exclude, or authority to eject or exclude, shall not be interpreted as to prohibit the Chief Executive Officer from authorizing such ejection or exclusion pursuant to his or her delegated authority.
- (r) To establish minimum levels of insurance to be maintained by licensees, subject to approval of the Tribal Council.
- (s) Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation.
- (t) Promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Ordinance.
- (u) To seek or receive assistance of the Wisconsin Department of Justice or other appropriate State agencies and the Federal Bureau of Investigation or other appropriate Federal agencies in enforcement of this Ordinance.
- (v) To prepare, for submission to the Tribal Council, an annual budget, which review and approval shall be conducted pursuant to the Tribe's Constitution.
- (w) To review the policies and procedures of the Tribal Gaming Operation to ensure compliance with this Ordinance, Tribal/State Compact, Tribal MICS, the Bank Secrecy Act, IGRA, and any other applicable rule, regulation or Commission order.
- (x) Review and consider licensee drug testing results acquired by Tribal Gaming Operation for purposes of conducting background investigations for the issuance and renewal and maintenance of gaming licenses authorized under this Ordinance.
- (y) To fulfill all duties of the Commission including those of "Tribal Official" as identified in the Tribal/State Gaming Compact.
- (z) To facilitate all correspondence to and from the State and Federal gaming regulatory agencies regarding regulations and licensing.
- (aa) To maintain sufficient gaming industry knowledge and information related to

new developments in the area of Indian gaming and gaming regulation in order to effectively carry out the duties and responsibilities of the Commission and to effectively keep the Tribal Council informed as to Commission activities.

- (bb) To ensure compliance with applicable Federal revenue laws relating to gaming and to ensure compliance with the same.
- (cc) To consult with and make recommendations to the Tribal Council regarding changes in regulations, laws and policies relating to Indian gaming
- (dd) Upon prior approval of the Tribal Council, to employ such advisors from time to time as it may deem necessary in fulfilling its duties and obligations under this Ordinance. Advisors may include, but shall not be limited to, law enforcement specialists, gaming professionals, legal counsel, and accountants.
- (ee) Maintain a current organizational chart of the various Commission departments and staff.

(14) Any Commissioner may be removed or suspended for serious inefficiency, neglect of duty, malfeasance (unlawful act by a public official), misfeasance, (the doing of a lawful act in an unlawful or improper manner), misconduct (unlawful or dishonest management, willful, improper behavior), or for any conduct that threatens the honesty or integrity of the Gaming Commission of the Tribal gaming enterprises, or otherwise violates the letter or intent of this Code, the Compact, IGRA, the regulations promulgated there under, the affirmative duties and prohibitions under Section 43.302(8) herein, or any other applicable law. The Tribal Council shall review and rule upon any complaint, pursuant to procedures established by the Tribal Council, by a member or employee of the Tribe regarding any incident or action that potentially violates Section 43.302(13) herein. In accordance with the Tribal Code of Ethical Conduct, removal of any Commissioner for violations of this Ordinance, or any of the bases as stated herein, shall require a two-thirds Tribal Council vote taken at a duly called and noticed meeting, provided such person considered for removal as a Commissioner shall be served with notice of such reasons for said removal and provided an opportunity to be heard. The following process shall be adhered to with respect to removal actions:

- (a) Any Commissioner being considered for removal or suspension may be temporarily suspended by the Tribal Council pending final determination of such removal or suspension.
- (b) Such removal or suspension actions shall be consistent with due process, including a ten (10) day notice in writing to such Commissioner stating the grounds and evidence supporting such action and the date, time, and location of the hearing scheduled to decide such action.
- (c) At any such hearing, the Commissioner shall have the opportunity to be heard in person or by counsel and to present witnesses on his or her behalf.
- (d) If the Tribal Council determines that immediate removal of a Commissioner

is necessary to protect the interests and integrity of the Tribe's gaming enterprises, the Tribal Council may immediately remove the Commissioner.

- (e) The Secretary of the Tribal Council shall keep a written record of all removal proceedings, together with the charges and findings of the Tribal Council.
- (f) The decision of the Tribal Council upon the removal or suspension of a Commissioner shall be final.
- (g) Any Commissioner subject to a temporary suspension, suspension or removal action shall, upon notice of such action, immediately relinquish and physically return to the Tribe, any and all Tribal property in their possession.

(15) If any Commissioner shall die, resign, be removed, have his or her term expire, or for any reason be unable to serve as a Commissioner, the Council shall declare such position vacant and shall appoint another person to fill that position, provided that the person appointed to fill such vacancy shall be qualified. Such appointment shall be made within thirty (30) days of such vacancy. The term of each person appointed to replace a Commissioner, for reasons other than an expired term, shall be for the balance of any unexpired term for such position. Under exigent circumstances, and only when necessary to maintain a minimum quorum during the process of appointing a replacement Commissioner to fill a vacancy on the Commission, Tribal Council may appoint an interim Commissioner or Commissioners in order to maintain sufficient Commissioner membership for establishing the quorum required in Section 43.302(13)(f)(v). The term of any interim Commissioner appointment by Tribal Council under exigent circumstances shall be for no longer than thirty (30) days and such interim appointment shall expire by operation upon Tribal Council appointing a replacement Commissioner to fill any vacancy on the Commission as stated above.

(16) The Tribe will indemnify, defend and hold harmless the actions of the Commission, Commissioners and staff of the Commission when the Commission, Commissioners or staff of the Commission are acting within their scope of authority and in accordance with this Ordinance. This indemnification provision shall not apply to any allegation of a criminal offense of intentional tort committed by a Commissioner or staff of the Commission, or any conduct found to be outside the scope and authority of the Commission. The Commission, the Commissioners and the staff of the Commission, as a governmental agency and as officials of the Tribe, shall be protected to the fullest extent by the Tribe's sovereign immunity from suit. The Commission, the Commissioners and the staff of the Commission shall enjoy all of the rights and protections of the Tribe's sovereign immunity while acting within the scope of their office, and while the carrying out the official duties and responsibilities of the Commission.

(17) Pursuant to Article I of the Bylaws of the Tribe, the President of the Tribe, the Vice-President in the absence of the President, and the Secretary of the Tribe shall be ex-officio members designated to participate, without a vote, in Commission meetings. This limitation on voting rights of the President, Vice-President in the absence of the President, and Secretary when acting as an ex-officio member to the Commission is strictly limited to meetings of the Commission and shall not be construed to apply to any other subordinate board or committee of the Tribe where the Tribal Council does not otherwise impose such a limitation on ex-officio members.

(18) The Chairperson of the Commission shall be the Tribe's designated agent for service of any official determination, order, or notice of violation issued by the National Indian Gaming Commission, with a copy of such service delivered to the Chairperson of the Tribe.

43.303 SAVINGS CLAUSES.

(1) Nothing in this Ordinance shall be deemed to limit the Tribe's regulatory or taxation authority with regard to any gaming under the Tribe's authority.

(2) Severability. The invalidity of a section, sub-section, clause or provision of this ordinance shall not affect the validity of the remaining sections, sub-sections, clauses, or provisions of this ordinance.

43.304 EFFECTIVE DATE.

This ordinance shall be effective immediately upon securing all necessary approvals; until such time as the Commissioners are appointed and qualified the powers of the Commission shall be exercised by the Tribal Council.

CHAPTER IV: CLASS II AND III GAMING ORDINANCE

43.401 PURPOSE

The Lac du Flambeau Tribal Council (Tribe), empowered pursuant to Article VI, Section (n) of the Constitution and Bylaws of the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, hereby enacts this ordinance in order to regulate the conduct of Class II and Class III gaming operations on the Tribe's Indian lands.

43.402 GAMING AUTHORIZED

Class II and Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. §§ 2703(7)(A)-(8) (IGRA) and by the regulations promulgated by the National Indian Gaming Commission at 25 CFR 502.3 and 502.4 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby reaffirmed as being authorized.

43.403 OWNERSHIP OF GAMING

In accordance with 25 U.S.C. § 2710(b)(2)(A), as well as, 25 CFR 522.4(b)(1) and 522.6(c), the Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming activity authorized by this ordinance.

43.404 USE OF NET GAMING REVENUE

(1) Net Revenues from Class II and Class III gaming shall be used only for the following purposes:

- (a) to fund Tribal government operations and 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; and
- (e) to help fund operations of Local government agencies.

(2) Per Capita Payments

- (a) "Per Capita Payments" 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.
- (b) If the Tribe elects to make per capita payments to Tribal members from revenues derived from its gaming operations, The Tribe shall ensure that such distributions are made in accordance with the Tribe's Revenue Allocation Plan and the applicable requirements of 25 CFR 290 et seq.

43.405 GAMING OPERATION RECORDS

(1) The Tribal Gaming Operation shall keep accurate books and records in accordance with Generally Accepted Accounting Practices (GAAP) and the American Institute of Certified Public Accountants (AICPA), as applicable to gaming activities, so as to clearly show the following:

- (a) The amount received daily from admission fees (if applicable).
- (b) The total amount of gross receipts.
- (c) The total amount of adjust gross receipts.
- (d) A system of accounting control relative to the gaming operation which shall provide a plan of organization and a description of the procedures and records which are designed to provide reasonable assurance that the following objectives will be attained:
 - (i) The safeguarding of assets.
 - (ii) The reliability of financial records
 - (iii) That transactions are executed in accordance with management's general or specific authorization.
 - (iv) That transactions are recorded as necessary to (a) permit proper recording of gaming revenue, and (b) maintain accountability for assets.
 - (v) That access to assets is permitted only in accordance with management's authorization.
 - (vi) That the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(2) The Tribal Gaming Operation shall furnish to the Commission any reports and information which the Commission shall require with respect to its activities on forms designated by the Commission.

(3) The books and records kept by the Tribal Gaming Operation as provided by this Section are Tribal records and the examination, publication, and disseminating of the books and records are governed by the provisions of the Tribal/State gaming compact.

(4) Financial Audit of Operations. Audits shall be conducted as set out in Section 43.406. The selected auditor shall transmit to the Commission an audit of the financial transactions and conditions of the Tribal Gaming Operation's total operations. All financial audits shall be

conducted by certified public accountants registered in the State of Wisconsin.

43.406 AUDIT

(1) In accordance with 25 U.S.C. § 2710(b)(2)(C) and 2710(d)(1)(A)(ii), as well as 25 CFR 522.4(3) and 522.6(b), the Commission shall cause an annual outside independent audit of gaming operations to be conducted within ninety (90) days of the end of the gaming operation fiscal year end, and shall submit the resulting audit reports to the National Indian Gaming Commission.

(2) 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 1. above.

43.407 PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY – FACILITY LICENSE

(1) Class II and III Gaming Facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

(2) The Commission shall issue a separate license to each place, facility, or location on Indian Lands where Class II and/or III gaming is conducted under this ordinance, and in accordance with licensing regulations

43.408 LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

(1) The Commission 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.

43.409 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 granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, Local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the

issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a Primary Management Official or Key Employee position.

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

(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 license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).”

(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.

43.410 BACKGROUND INVESTIGATION

(1) The Commission shall perform a background investigation for each Key Employee and Primary Management Official of a gaming operation and shall request from each Key Employee and Primary Management Official 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 (3) personal references,

including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1)(b) 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 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 prior arrest, warrant for arrest, misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;
- (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 Commission deems relevant; and,
- (n) Fingerprints consistent with procedures adopted by the Commission according to 25 CFR Sec. 522.2(h) which shall be taken by a designated agent of the Commission. The Commission shall use the applicant's fingerprints and perform a criminal history check, including obtaining and reviewing criminal history records of the Federal Bureau of Investigation.

(2) The Commission, or its designated agent, shall conduct an investigation of each Key Employee and Primary Management Official applicant sufficient to make a determination under Section 43.411 below, including but not limited to verification of the information submitted by the

applicant as required in Section 43.410(1) above. In conducting a background investigation on each Key Employee and Primary Management Official applicant, the Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the background investigation. The investigation process for each Key Employee and Primary Management Official applicant shall include, but is not limited to:

- (a) Creating a license application file which includes the following:
 - (i) License Review Coversheet;
 - (ii) Background investigation checklist;
 - (iii) Copies of applicant's identification and current picture;
 - (iv) Complete license application filled out by applicant;
 - (v) Record of fingerprints and criminal history report of applicant:
 - a. Fingerprints shall be taken by a designated agent of the Gaming Commission;
 - b. All applicant fingerprints taken are to be electronically stored by the Gaming Commission;
 - c. Fingerprints shall be submitted to the NIGC for FBI criminal background checks;
 - (vi) Criminal history report of FBI; and
 - (vi) Report of tribal and state criminal history, if any.
- (b) Cross-checking and verifying all application information, by mail, telephone interviews, in person interview or other verifiable means, including:
 - (i) Employment history of applicant;
 - (ii) Personal references of applicant;
 - (iii) Education history of applicant;
- (c) Obtaining and reviewing applicant's credit reports;
- (d) Preparation of a background investigation recommendation for presentation and consideration by the Commissioners; and
- (e) Maintaining background investigation files in file cabinets, under surveillance.

(3) The background investigation recommendation and file for each Key Employee and each Primary Management Official of a gaming operation shall be provided to the Commissioners for review in order to determine completeness and to render an eligibility determination in accordance with Section 43.411.

43.411 ELIGIBILITY DETERMINATION

(1) The Commissioners shall review the background investigation for each Key Employee and each Primary Management Official of a gaming operation, and consider their prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the suitability of each Key Employee and each Primary Management Official applicant and their eligibility for issuance of a Gaming license. If the Commission, applying the standards adopted in Section 43.410, determines that licensing of the person poses a threat to the public interest or to the effective regulation of the operation, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of operations, the Commission shall deny licensing of that person in a Key Employee or Primary Management Official position.

(2) If the Commission determines an applicant is not suitable or otherwise eligible to be licensed as a Key Employee or Primary Management Official, the Commission may still grant a non-Key Employee or non-Primary Management Official gaming license to the applicant for any position other than a Key Employee or Primary Management Official position.

43.412 PROCEDURES FOR FORWARDING APPLICATIONS AND REPORTS FOR 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 Commission 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 43.411.

(2) The Commission shall forward the report referred to in subsection Section 43.413 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 Chairperson of the National Indian Gaming Commission.

(3) 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.

43.413 REPORT TO THE NATIONAL INDIAN GAMING COMMISSION

(1) Pursuant to the procedures set out in Sections 43.411 and 43.412, the Commission 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 bases for those conclusions.

(2) The Commission shall submit, with the report, a copy of the eligibility determination made under Section 43.411.

(3) If a license is not issued to an applicant, the Commission:

- (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) With respect to Key Employees and Primary Management Officials, the Commission 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.

43.414 GRANTING A GAMING LICENSE

(1) Temporary Licensing: Notwithstanding anything herein to the contrary, if an applicant has completed a license application, the Commission may immediately issue a temporary gaming license if:

- (a) The Commission has conducted a preliminary, local, background investigation; and
- (b) Based on the preliminary investigation, the information does not indicate that the applicant has a criminal history, .

(2) If, within a thirty (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.

(3) The Commission shall respond to a request for additional information from the Chairperson 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 Section 43.414(2) above until the Chairperson of the National Indian Gaming Commission receives the additional information.

(4) If, within the thirty (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 make the final decision whether to issue a license to such applicant.

43.415 VENDOR LICENSES

(1) General Provisions

- (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 materials, supplies, equipment or services which are unique to the operation of gaming and not common to ordinary Tribal operations, and include but are not limited certain vendors as may be defined by the Tribe's compact, as well as other vendors deemed to be gaming vendors by the Commission.
- (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:
 - (i) are a Tribal, Local, State, or Federal government agencies;
 - (ii) are regulated by the State of Wisconsin or the Tribe; or
 - (iii) 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.

(2) Submission of a Vendor License

- (a) 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.

(3) Contents of the Vendor License

- (a) Applications for gaming vendor licenses must include the following:
- (i) 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;
 - (ii) Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;
 - (iii) If the applicant is a corporation, the state of incorporation and the qualification to do business in the State of Wisconsin if the gaming operation is in a different State than the State of incorporation.
 - (iv) Trade name, other names ever used, names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
 - (v) General description of the business and its activities;
 - (vi) Whether the applicant will be investing in or loaning money to the gaming operation and, if so, how much;
 - (vii) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - (viii) 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;
 - (ix) Names, addresses, and phone numbers of three business references with whom the company had regularly done business for the last five years;
 - (x) 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;
 - (xi) If the business has ever had a license revoked for any reason, the circumstances involved;

- (xii) A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition if any;
- (xiii) List the business' funding sources and any liabilities of \$50,000 or more.
- (xiv) 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
- (xv) Any further information the Commission deems relevant.

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

- (i) "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 Commission not contained in the other application.

(4) Vendor Background Investigation

- (a) The Tribal Gaming Commission shall complete an investigation of the gaming vendor. This investigation shall contain, at a minimum, the following steps:
 - (i) Verify of the business' incorporation status and qualification to do business in the State where the gaming operation is located;
 - (ii) Obtain a business credit report, if available, and conduct a Better Business Bureau check on the vendor;
 - (iii) Conduct a check of the business' credit history;
 - (iv) Call each of the references listed in the vendor application; and
 - (v) Conduct an investigation of the principals of the business, including a criminal history check, a credit report, and interviews with the personal references listed.

(5) Vendor License Fee

- (a) 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.
- (6) Vendor Background Investigation Report
 - (a) The License Review Officer 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.
- (7) Exemption for Vendors Licensed by Recognized Regulatory Authority
 - (a) 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.
- (8) Licenses for Non-Gaming vendors
 - (a) 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 43.415(4) above. The Gaming Commission may investigate such vendors when appropriate and may conduct audits in addition to monitoring Tribal purchases.

43.416 LICENSE SUSPENSION, CONDITIONING AND REVOCATION

(1) If, after the issuance of a gaming license, the 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 under Section 43.411 above, the Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

(2) Except as provided in Section 43.416(3) of this Ordinance, no license can be suspended, conditioned or revoked except after notice and an opportunity for a hearing for the following circumstances:

- (a) For just cause which would have prevented the issuance of the license;
- (b) For failure of the licensee to comply with the obligations of the license;
- (c) For violation of provision of this Ordinance or the rules and regulations of the Gaming Commission;
- (d) The licensee has been convicted of, or has entered a plea of no contest to, any

crime involving gaming, fraud, misrepresentation, theft, embezzlement, a gaming-related offense, other similar charge which, if perpetrated at their gaming operator's place of employment, would injure or pose a threat to the public interest;

- (e) The licensee has been convicted of, or has entered a plea of no contest to any other charge that threatens the integrity of the gaming activity or the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal gaming practices, methods or activities;
- (f) The licensee has been convicted of, or entered a plea of no contest to, a crime involving the sale, manufacture or possession of illegal narcotics or controlled substances;
- (g) The licensee has failed to comply with any lawful order, inquiry or directive of the Gaming Commission, the Tribal Council or any administrative or judicial body of competent jurisdiction; or
- (h) The licensee's activities, prior criminal record, reputation, habits and associations are determined to pose a threat to the public, the integrity of the gaming activity, or the effective regulation of gaming or otherwise creates or enhances the dangers of unsuitable, unfair or illegal practices, methods or activities in the conduct of gaming.

(3) If in the judgment of the Gaming Commission, the interest of the Tribe and public guests of the Gaming Facilities, and effective regulation and control of Gaming Activities requires the immediate exclusion of a Licensee, the Gaming Commission may immediately suspend a Licensee for any reason stated in subsection 43.410(2), including in circumstances where the licensee has been charged with a criminal offense described in subsection 43.416(2)(d)-(2)(f) prior to the conduct of a hearing on the matter. Such an immediate suspension may take effect upon service of the written notice of immediate suspension. The Tribal Council shall be copied of such written notice.

(4) Any written notice of suspension or notice of immediate suspension shall set forth the times, dates and location for when the Licensee may review the Commission's file and the time, date and location for a hearing on any proposed licensing action.

(5) After a hearing, the Commission shall decide to suspend, condition, revoke or to reinstate a gaming license. The Commission shall notify the National Indian Gaming Commission of a suspension, revocation, or reinstatement licensing action if it affects a Key Employee or a Primary Management Official.

(6) Any person whose gaming license is suspended pursuant to this Section may be suspended from gaming employment, without pay, while resolution of the matter is pending upon notice and hearing. The gaming employment of any person is deemed terminated upon revocation of his or her gaming license consistent with the Section.

43.417 PATRON DISPUTE RESOLUTION

(1) **General Principles:** The Tribe values its customers and intends, at all times, to see that questions, concerns, issues, and/or disputes raised by the gaming public with respect to gaming are addressed in a fair and orderly manner.

(2) Gaming Operation shall develop formal written administrative procedures for the processing of patron complaints and disputes, which procedures shall be finalized only after Commission review and approval.

(3) **Initial Dispute Resolution Procedure:**

- (a) Members of the gaming public who, in the course of their otherwise lawful and proper use of the Tribe's Gaming Facilities, have questions or concerns about the condition or operation of any part of the Gaming Facility, or who otherwise believe themselves to be aggrieved by some aspect of the condition or operation of any part of the Gaming Facility, shall direct their questions, concerns, or disputes (hereinafter collectively "disputes") in the first instance to management at the Gaming Operation, either orally or in writing.
- (b) Concerns or disputes shall be raised as soon as reasonably possible, however, no dispute may be raised more than ten (10) calendar days after said events take place.
- (c) If the complainant is not satisfied with the response and/or resolution of the matter by the management of the Gaming Operation, they shall be informed that the complaint shall be forwarded to the Commission for formal resolution.

(4) **Formal Dispute Resolution Procedure:**

- (a) Complainants who have followed the initial dispute resolution procedure, and who are unsatisfied with management's initial determination, shall have their dispute resolved by the Commission at the next scheduled meeting of the Commission.
- (b) The Commission may investigate the dispute in any manner it chooses. The Commission shall offer the complainant a fair opportunity to be heard in person or through counsel about the dispute, either before or after it makes its own inquiries. The complainant's opportunity to be heard shall take place within thirty (30) days after the Commission receives the dispute complaint.
- (c) After investigating (if it chooses to do so), and within thirty (30) days after affording the complainant an opportunity to be heard, the Commission shall issue a written decision on the dispute complaint, and shall mail a copy of the decision to the complainant at his/her last known address. The decision of the Commission shall be final.

[CHAPTERS V THROUGH IX RESERVED]