

NATIONAL
INDIAN
GAMING
COMMISSION

OCT - 3 1994

Henry Cagey, Chairman
Lummi Indian Business Council
2616 Kwina Road
Bellingham, Washington 98226-9298

Dear Chairman Cagey:

This letter responds to your request to review and approve the tribal gaming ordinance adopted by the Lummi Indian Business Council (the Tribe) on August 23, 1994. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Such approval does not constitute approval of specific games. Therefore, approval does not extend to approval of "pull tab" as defined in the ordinance at § II(I), page 2. Also, the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Lummi Indian Business Council for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

Anthony J. Hope

Anthony J. Hope
Chairman



LUMMI INDIAN BUSINESS COUNCIL

2616 KWINA RD. • BELLINGHAM, WASHINGTON 98226-9298 • (206) 734-8180

DEPARTMENT: _____

EXT. _____

RESOLUTION #94-136 OF THE LUMMI INDIAN BUSINESS COUNCIL

WHEREAS, the Lummi Indian Business Council is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and By-Laws of the Lummi Nation of the Lummi Reservation, Washington, as approved on April 10, 1970, by the Assistant Commissioner of Indian Affairs; and

WHEREAS, the Lummi Indian Business Council has previously adopted and subsequently amended the Lummi Gaming Ordinance No. 0-82-1; and

WHEREAS, the Indian Gaming Regulatory Act of 1988 requires the National Indian Gaming Commission's review and approval of the tribes Gaming Ordinance; and

WHEREAS, the Lummi Gaming Ordinance was submitted to the National Indian Gaming Commission and the National Indian Gaming Commission requires certain additions and modifications to the Lummi Gaming Ordinance to comply with the Indian Gaming Regulatory Act; and

NOW THEREFORE BE IT RESOLVED, that the attached Lummi Gaming Ordinance, which incorporates the provisions required by the Indian Gaming Regulatory Act and National Indian Gaming Commission, is approved; and

BE IT FURTHER RESOLVED, that the Lummi Gambling Ordinance No. 0-82-1, and all amendments thereto, are hereby repealed; and

BE IT FURTHER RESOLVED, that the Chairman (or the Vice Chairman in his absence) is hereby authorized and directed to execute this resolution and any documents connected therewith, and the Secretary (or the Recording Secretary in his absence) is authorized and directed to execute the following certification.

LUMMI INDIAN NATION

Henry M. Cagey, Chairman
Lummi Indian Business Council

OFFICE of the ARCHIVIST LUMMI NATION

STATE of WASHINGTON
COUNTY OF WHATCOM

I certify that this is a true and correct copy of a document in the possession of LUMMI ARCHIVES as of this date.

Dated: 8/24/94 Laura R. Solomon
(Signature of notary public)

LAURA R. SOLOMON

Notary Public

My commission expires Sept 9, 1997



CERTIFICATION

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution 94-136 was adopted at a ratification meeting of the Council held on the 23rd day of August, 1994, at which time a quorum of 6 was present, and was adopted by a vote of 6 For, 0 Against, and 0 Abstention(s).

William C Jones
William Jones, Acting Secretary
Lummi Indian Business Council

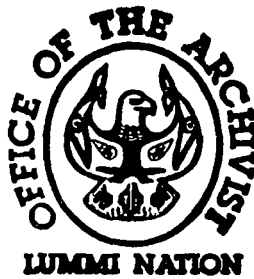
~~STATE OF WASHINGTON
COUNTY OF _____
I certify that this is a true and correct copy of a document
in the possession of _____ as of this date
Dated: _____

(Signature of notary public)

Name printed
My appointment expires _____~~ *WRS*

**OFFICE of the ARCHIVIST
LUMMI NATION**

STATE of WASHINGTON
COUNTY OF WHATCOM
I certify that this is a true and correct copy of a
document in the possession of LUMMI ARCHIVES
as of this date.
Dated: August 24, 94 Laura R. Solomoni
(Signature of notary public)
LAURA R. SOLOMONI
Name printed
My appointment expires Sept 9, 1997



CERTIFICATION

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution **94-136** was adopted at a _____ meeting of the Council held on the _____ day of August, 1994, at which time a quorum of _____ was present, and was adopted by a vote of _____ For, _____ Against, and _____ Abstention(s).

William Jones, Acting Secretary
Lummi Indian Business Council

To be ratified

Ken R...

Richard Johnson

William E Jones

Henry M. ...

Mike Jefferson

Carly Kelly

OFFICE of the ARCHIVIST
LUMMI NATION

STATE of WASHINGTON
COUNTY OF WHATCOM

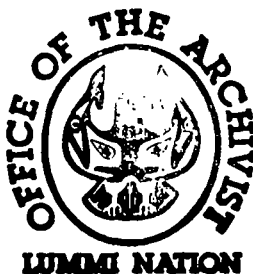
I certify that this is a true and correct copy of a document in the possession of LUMMI ARCHIVES as of this date.

Dated: 8/24/94 *Laura R. Solomon*
(Signature of notary public)

LAURA R. SOLOMON

Name printed

My appointment expires Sept 9, 1997



RESOLUTION NO. 94-2 OF THE LUMMI INDIAN GAMING COMMISSION

Whereas, the Lummi Indian Business Council is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and By-Laws of the Lummi Nation of the Lummi Reservation, Washington as approved on April 10, 1970, by the Assistant Commissioner of Indian Affairs: and

Whereas, the Lummi Indian Business Council created the Lummi Indian Gaming Commission to regulate all gaming activities on the Lummi Indian Reservation: and

Whereas, the Lummi Indian Gaming Commission has adopted the Lummi Indian Gaming Ordinance No. 82-1 as amended; and

Whereas, the Lummi Indian Gaming Commission shall update Ordinance No. 82-1 to comply with N.I.G.C.

NOW THEREFORE BE IT RESOLVED that the Lummi Indian Gaming Commission hereby revised Ordinance # 82-1 to comply with N.I.G.C.

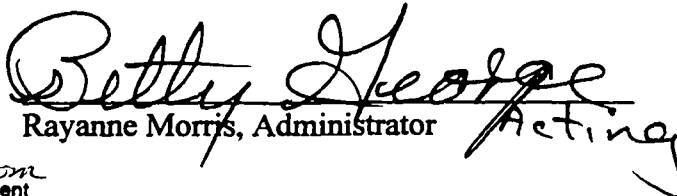
LUMMI INDIAN GAMING COMMISSION




Larry G. Kinley, Chairman

CERTIFICATION

As Administrator of the Lummi Indian Gaming Commission, I hereby certify that the above Resolution # 94-2 was adopted at a Special/Regular meeting of the Commission held on the 19 day of Aug, 1994 at which time a quorum of 4 was present, and was adopted by a vote of 3 FOR, 0 AGAINST, and 0 ABSTENTION(S)



Rayanne Morris, Administrator *Acting*

STATE OF WASHINGTON, ^{RS}
COUNTY OF Washington
I certify that this is a true and correct copy of a document
in the possession of Lummi Archives as of this date
Dated: Aug 24, 1994

(Signature of notary public)
LAURA R. SOLOMON
Name printed
My appointment expires Sept 9, 1994

LUMMI GAMING ORDINANCE

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LUMMI GAMING ORDINANCE

Section I. LEGISLATIVE FINDINGS AND DECLARATION OF POLICY

The Lummi Indian Business Council (LIBC), the governing body of the Lummi Indian Tribe, hereby finds and declares that the economic, educational, social, health, and general governmental welfare of the Lummi Indian Tribe and the Lummi people is threatened due to lack of adequate sources of governmental financing.

The LIBC further finds that governmental units have traditionally relied upon revenues from various types of gambling including but not limited to lotteries, horse racing, card games, bingo, punch boards, and pull tabs to support necessary governmental services.

The LIBC further finds and declares that the existence of unregulated gambling activities within a given area may be an inducement to criminal activity.

In light of these findings, the LIBC declares that strict tribal control over all gambling operations and activities on the Lummi Indian Reservation is both necessary and desirable to minimize the potential adverse effects of gambling on the Lummi Reservation and its people and to maximize the production of governmental revenues for the benefit of the tribe and its people.

Section II. DEFINITIONS

As used in this Ordinance, the following terms shall have the following meaning unless the context clearly requires otherwise:

- A) "Bingo" shall mean and refer to the activity commonly known as Bingo and all other similarly organized and played games wherein the participants pay a sum of money for the use or benefit of one or more pre-numbered cards. When the game commences, numbers are drawn by chance, one by one, and announced to the players until a participant or player announces that he has matched up on his pre-numbered purchased card enough randomly drawn numbers to complete the desired winning pattern of numbers. At this time, the participant calls out "Bingo" or such other desired word or phrase and is declared the winner of a pre-determined prize.
- B) "Bingo Cards" shall mean and refer to the flat, usually rectangular piece of paper or thin paste board, or a computerized or electronic equivalent thereof, normally employed by players engaged in the game of Bingo. More than one set of Bingo numbers may be printed on any single piece of paper. Only cards printed or authorized by the Lummi Indian Gaming Commission shall be used in any Bingo activities authorized under this Ordinance, and all printed cards shall bear the logo of the Lummi Indian Tribe.
- C) "Blackjack" shall mean the card game commonly known as blackjack or 21 in which the participants endeavor to draw or receive cards totaling not more than 21 points based upon values assigned to the face of the cards.
- D) "Contractor" shall mean and refer to any management contractor employed by the Lummi Indian Tribe to conduct any gambling operations authorized by this Ordinance.

- E) "Gambling" shall mean engaging in an activity whereby a person stakes or risks something of value upon the outcome of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome.
- F) "Player" shall mean a person who participates in a game other than as an employee or contractor of the house.
- G) "Poker" shall mean any of the various round card games in which the participants play against each other and attempt to achieve the highest ranking hand according to the rules of that particular type of game.
- H) "Private Social Game" shall mean any card game which constitutes gambling and which contains each of the following characteristics:
 - (1) All participants in the game are players;
 - (2) The players' success at winning money or any other thing of value by overcoming chance is, in the long-run, largely determined by the skill of the player;
 - (3) No organization, corporation, person, or other entity collects or obtains or charges any percentage or portion of the money or thing of value wagered or won by any of the players; provided, however that this subsection shall not preclude a player from collecting or obtaining his or her winnings;
 - (4) No organization, corporation, entity or person collects or obtains any money or thing of value from, or charges imposed any fee upon, any person which either enables him or her to play or results in or from his or her play;
 - (5) The game is played on private property and is not open to members of the general public.
- I) "Pull Tab" is a game the essential elements of which are that participants purchase a chance or chances to win one of a fixed number of predetermined and announced prizes from among a fixed, predetermined and finite pool of like chances, such that the drawing of a chance from the pool reduces by one the chances remaining to be drawn, and the winning of a particular prize removes that prize from play until the pool of chances is exhausted or the game otherwise is withdrawn from play. Prizes are won by drawing chances displaying either numbers or symbols matching the winning combinations displayed on the game "flare" card. The game may be played using preprinted tickets made of single-folded or banded paper, laminated paste-board or printed tickets the faces of which are covered with a perforated paper strip or otherwise completely obscured to as to conceal from the view of players and operators the numbers or symbols printed thereon until the covering is torn or scratched off, paper tickets that are printed by a computerized or electronic dispenser that stores pre-programmed combinations on EPROM chips or cartridges, or other computerized, electronic or video technologic aids that expedite the play of the game while preserving the games essential elements, to the game of pull-tab, or representing a chance to containing a fixed, predetermined and finite number or chances.

- J) "Punch board" means a board or device containing a number of receptacles of uniform size in which are placed, at random, punches (slips of papers or other substance, imprinted with numbers or symbols) and in which:
- (1) A specific serial number is assigned to the punch board and printed on each punch;
 - (2) A flare or face sheet covers the receptacles and sets out the winning numbers or symbols and prizes which may be won;
 - (3) Upon the payment of consideration, a player may select and remove a punch from a receptacle; and
 - (4) A prize is awarded if the number or symbol, set out on the selected punch, matches a symbol on the flare or face sheet.
- K) "LIBC" shall mean the Lummi Indian Business Council.
- L) "LIGC" shall mean the Lummi Indian Gaming Commission.

Section III. GAMBLING PROHIBITED EXCEPT AS AUTHORIZED

Except as specifically authorized under this Ordinance, all gambling is prohibited within the exterior boundaries of the Lummi Indian Reservation and any other lands under the jurisdiction of the LIBC. Unauthorized gambling hereby is declared to be a public nuisance, and the LIBC, through the LIGC or other agents, shall have the right and power to abate same by initiating a civil action in the Lummi Reservation Court or other court of competent jurisdiction, or by such other means as may be necessary and appropriate under the circumstances. In any civil action brought under this Section, the court shall be authorized to grant temporary, preliminary and/or injunctive relief, as deemed appropriate. All unauthorized gaming devices, equipment, records, receipts and proceeds may be impounded at the direction of the LIBC or the court under Title 14 of the Lummi Code of Laws, and to forfeiture upon entry of final judgment in any such proceeding. The court may, in its discretion, award the LIBC civil damages against the operator(s) of any unauthorized gambling activity; said damages shall be presumed to be \$1,000 per each and every violation of this provision. For the purpose of this Section, each unauthorized game constitutes a separate violation and cause of action for which damages can be awarded.

Section IV. AUTHORIZED GAMBLING ACTIVITIES

A) Class II Gaming Authorized -- Tribal Monopoly

Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-77 ("IGRA"), 25 U.S.C. Section 2703 (7)(A) and (C) and by regulations lawfully promulgated by the National Indian Gaming Commission ("NIGC") that now or hereafter may be in effect is hereby authorized. Except for the LIBC, acting by and through its employees and contractors, it shall be unlawful for anyone to perform, conduct, operate, maintain, or supervise any bingo game or series of bingo games, games similar to Bingo, including Pulltabs and Punchboards, non-banking card games or banked blackjack. All Class II games conducted by the LIBC shall be conducted in accordance with the terms and conditions of this Ordinance, any regulations promulgated by the LIGC pursuant thereto, and such other laws as may from time be applicable

B) Class III Gaming Authorized -- Tribal Monopoly

Class III gaming as defined in IGRA, 25 U.S.C. Section 2703 (8) and by regulations promulgated by the NIGC that now or hereafter may be in effect is hereby authorized, provided such gaming is also authorized by and consistent with a Tribal-State compact that has been approved by the Secretary of the Interior and is in effect, or otherwise has been authorized by the Secretary of the Interior or federal law. It shall be unlawful for anyone to perform, conduct, operate, maintain, or supervise Class III gaming activities on the Lummi Indian Reservation, except LIBC acting by and through its employees or contractors. All such games conducted by LIBC shall be conducted in accordance with the terms and conditions of this Ordinance, and any regulations promulgated by the LIGC, and any applicable Tribal-State compact or conditions prescribed by the Secretary of the Interior.

Section V. OWNERSHIP OF GAMING FACILITIES AND/OR ENTERPRISES

LIBC shall have the sole proprietary interest in and responsibility for the conduct of any gaming facilities and/or enterprise(s) authorized by this Ordinance.

Section VI. USE OF GAMING REVENUE

A) Except as specifically authorized pursuant to Subsection B of this Section, net revenues from Class II and Class III gaming on the Lummi Indian Reservation following payment of all prizes, capital expenditures, debts, and necessary expenses of management and operations, including taxes and assessments, shall be paid to the LIBC and shall be used only for the following purposes:

- (1) To fund Tribal government operations and programs;
- (2) Provide for the general welfare of the Tribe and its members;
- (3) Promote Tribal economic development;
- (4) Donate to charitable organizations; or
- (5) Help fund operations of local government agencies.

B) If LIBC elects to make per capita payments to Tribal members, it shall authorize such payments only in conformity with a plan submitted to and approved by the Secretary of the Interior pursuant to 25 U.S.C. §2710 (b) (3).

Section VII. AUDIT

A) LIBC shall cause to be conducted at least annually an independent audit of all gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission, and to such other agencies as may be required by the terms and conditions of any Class III compact or other document authorizing Class III gaming on the Lummi Indian Reservation.

- 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 VIII. PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

The LIBC shall be responsible for assuring that the construction and maintenance of any gaming facilities, and the operation of gaming that is conducted in those facilities is conducted in a manner which adequately protects the environment and public health and safety. If the LIBC determines that the construction or proposed operation of any such facility is a major action posing a substantial risk of significant adverse affects on the quality of the reservation environment, it may require the preparation of a detailed statement addressing the environmental impact of the proposed action, any adverse environmental affects which cannot be avoided should the proposal be implemented, alternatives to the proposed action, the relationship between local short-term uses of the reservation environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. In determining whether such a statement is required, the LIBC shall consider the nature and scope of the proposed action, any and all impacts identified by the applicant, any and all mitigating actions or proposals suggested by the applicant and the general state of knowledge or information presently existing regarding the proposal and its potential impacts.

Section IX. LUMMI INDIAN GAMING COMMISSION CREATED

- A) There is hereby created the Lummi Indian Gaming Commission, which shall consist of five persons who would themselves qualify for licensing under this Ordinance. At any time that said Commission should cease to exist or function, LIBC shall serve as the Commission, and shall promulgate and implement interim regulations to govern gaming on the Lummi Indian Reservation until such time as the commission is reestablished or resumes functioning under its own permanent regulations.
- B) The members of the LIGC shall be appointed by LIBC and shall not be removed from office before the expiration of the terms of office except for misconduct, neglect of duties, malfeasance in office, good cause, or other acts that would render such persons unqualified for licensure hereunder. An affirmative vote of LIBC, taken in an open meeting after a duly-noticed hearing at which the member charged with misconduct shall have the right to hear and present evidence concerning his/her removal, shall be required to remove a member of the Commission. At the request of the member whose removal is at issue, the hearing may be held in executive session. LIBC also may elect to receive in executive session any evidence public disclosure of which might compromise any on-going law enforcement investigation.

- C) LIBC shall appoint a Chairperson of the LIGC, who shall be appointed for a term of three (3) years. Two members of the Commission shall be appointed for terms of three (3) years and two members shall be appointed for terms of two (2) years. Notwithstanding the foregoing, the incumbent members of the LIGC upon the adoption of this Ordinance shall continue to serve according to the same terms and conditions under which they originally were appointed. LIBC shall determine and authorize the compensation to be paid to members of the LIGC based upon LIBC's determination of the time required to be expended upon Commission duties and the qualifications of the appointed Commissioners.
- D) The LIGC shall be authorized and hereby is directed to promulgate, subject to review and approval by the LIBC, detailed and comprehensive regulations for the implementation and enforcement of this Ordinance. Said regulations shall describe and establish the rules for each specific Class II and Class III gaming activity to be authorized to be conducted on the Lummi Indian Reservation, and no form of such gaming may be conducted on the Lummi Indian Reservation without prior approval by the LIGC.
- E) The LIGC, independent of LIBC, shall have full authority to monitor compliance with this Ordinance and its Regulations, to investigate and prosecute violations of this Ordinance and the gaming regulations, and act to prevent any violation(s) thereof.
- F) Subject to the approval of LIBC and the appropriation of funds therefore, the LIGC shall be authorized to employ such staff as reasonably may be required to fulfill its responsibilities under this Ordinance. Compensation of Commission employees shall be limited to that which is comparable to compensation paid to persons performing similar duties in other governmental gaming regulatory agencies.
- G) Subject to the approval of LIBC, the LIGC hereby is authorized to establish and impose upon gaming facilities, permittees, applicants and licensees such application, permit and license fees as may be necessary to fully reimburse the Tribe for its actual costs of operating the LIGC, enforcing this Ordinance and LIGC regulations, processing of licensing and permit applications, and otherwise fulfilling its regulatory responsibilities under the Indian Gaming Regulatory Act (IGRA).
- H) Failure to timely pay any gaming-related fee imposed by LIBC or the LIGC, or to comply with an Commission regulation or order, or any other violation of this Ordinance or the terms of any Class III gaming compact authorizing and regulating gaming on the Lummi Indian Reservation, shall be grounds for suspension or revocation of any license or permit issued pursuant to this Ordinance, exclusion of any non-member of the Lummi Nation from the Lummi Indian Reservation, and imposition of such other sanctions as the LIGC may deem appropriate.
- I) Any person or entity subject to any sanction or penalty by the LIGC shall have the right to appeal such sanction or penalty to LIBC in accordance with such rules and regulations as may be promulgated by LIBC for that purpose. The decision of LIBC on any appeal shall be final and not otherwise reviewable.

Section X. DESIGNATION OF AN AGENT BY A TRIBE

As described in 25 C.F.R. § 519.1 the principal agent shall be the Chairperson of the Lummi Indian Gaming Commission, with the LIGC Administrator being authorized to accept service in the Chairperson's absence.

Section XI. LICENSES FOR KEY EMPLOYEES, PRIMARY MANAGEMENT OFFICIALS, AND STANDARD EMPLOYEES

The LIGC shall ensure that the policies and procedure set out in this section are implemented with respect to key employees, primary management officials, and standard employees employed at any Class II and/or Class III gaming enterprise operated on Indian Lands within the boundaries of the Lummi Indian Reservation:

A) Definitions

For the purposes of this section, the following definitions apply:

(1) Key Employee means:

(a) A person who performs one or more of the following functions:

- (1) Bingo/Pull tab caller;
- (2) Count room employees;
- (3) Security employees;
- (4) Custodian of gaming supplies, software, or cash;
- (5) Shift Managers;
- (6) Gaming Supervisors;
- (7) Gaming Dual-Supervisors;
- (8) Dealers;
- (9) Cash Cage employees;
- (10) Approver of credit;
- (11) Accounting staff;
- (12) Food & Beverage Supervisor;
- (13) Custodian of gambling devices including persons with access to cash and accounting records within such devices and/or performing internal maintenance thereon;
- (14) Lummi Casino Board of Directors;
- (15) Any person who in the normal course of performing his/her duties has unsupervised or unrestricted access to any secure area of a gaming facility, or any other portion of a gaming facility in which the person would have unsupervised or unrestricted access to cash or original records of gaming activity.

- (b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year;
- (c) If not otherwise included, the four most highly compensated persons in the gaming operation;
- (d) Any other Casino position(s) deemed to be a key position by LIGC.

(2) Primary Management Official means:

- (a) A person who performs one or more of the following functions:
 - (1) General Manager;
 - (2) Director of Security;
 - (3) Controller;
 - (4) Human Resources Director;
 - (5) Casino Operations Manager;
 - (6) Non-Gaming Director
- (b) If otherwise not included, the person having management responsibility for a management contract;
- (c) If otherwise not included, any person who has authority:
 - (1) To hire and fire employees;
 - (2) To set up working policy for the gaming operation;
- (d) If otherwise not included, the chief financial officer or other person who has financial management responsibility;
- (e) Any other position(s) deemed to be a Primary Management Official by LIGC.

(3) Standard Employee means:

- (a) A person who performs one or more of the following functions:
 - (1) Maintenance
 - (2) Housekeeping
 - (3) Valet
 - (4) Food & Beverage employees (excluding supervisors);
- (b) Any other position(s) deemed to be a Standard Employee by LIGC.

B) Application Forms

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

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

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

- (2) Existing key employees, primary management officials, and standard employees 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, a primary management official, and standard employee before that form is filled out by an applicant.

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S.C. , title 18, §1001.)

- (4) The existing key employees, primary management officials, and standard employees shall be notified in writing 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.

C) Background investigations

- (1) The LIGC shall request from each key employee, primary management official, and standard employee all of the following information:
 - (a) Full name, other names used (oral or written), social security number (s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
 - (b) Currently and for the previous 5 years: all business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
 - (c) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1) (b) of this Subsection;
 - (d) Current business and residence telephone numbers;

- (e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
 - (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - (g) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted.
 - (h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
 - (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations for which a fine of less than \$200 was imposed), within ten 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 traffic violations for which a fine of less than \$200 ordinarily is imposed), whether or not there is a conviction, if such criminal charge is within ten years of the date of the application and is not otherwise listed pursuant to paragraph (1) (h) or (1) (i) of this Subsection, 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 LIGC deems relevant; and
 - (n) Fingerprints consistent with procedures adopted by the LIGC according to 25 C.F.R. § 522.2 (h).
- (2) The LIGC shall conduct an investigation sufficient to make a determination under Subsection E below. In conducting a background investigation, the LIGC and/or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation, unless such person gives written consent to such disclosure.

D) Fingerprinting

The LIGC is authorized to act as Lummi Law and Order officials for the purpose of administering the fingerprinting requirements in subsection C (n) above. The LIGC may delegate this authority to staff as required.

E) Eligibility Determination

The LIGC shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee, primary management official, or standard employee for licensing in a gaming operation. If the LIGC determines that licensing 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, the LIGC shall not license that person and the gaming operation shall not employ that person.

F) 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 LIGC shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection E of this Subsection.
- (2) The LIGC shall forward the report referred to in Subsection G of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.
- (3) The gaming operation shall not employ as a key employee, primary management official, or standard employee a person who does not have a license after 90 days.

G) Report to the National Indian Gaming Commission

- (1) Pursuant to the procedures set out in Subsection F of this section, the LIGC 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 LIGC shall submit, with the report, a copy of the eligibility determination made under subsection E of this section.
- (3) If a license is not issued to an applicant, the LIGC:
 - (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 LIGC 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.
- (5) The LIGC shall not submit a report to the National Indian Gaming Commission for standard employees.

H) Granting a Gaming License

- (1) No person shall be employed in any capacity by any gaming operation regulated by this Ordinance unless he/she first obtains and possesses in good standing a license issued by the LIGC.
- (2) The LIGC may issue a temporary license to any person who satisfactorily completes an application for a license from the LIGC; provided that in the judgment of the LIGC issuance of the temporary license will not jeopardize public safety or the integrity of the gaming operations. Temporary license shall not be issued for a period greater than 90 days. Existing employees may be granted a temporary license valid for up to 90 days following adoption of this Ordinance by the LIGC.
- (3) If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the LIGC that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or primary management official for whom the LIGC has provided an application and investigative report to the National Indian Gaming Commission, the LIGC may issue a license to such applicant. The LIGC may issue a license to a standard employee immediately following completion of an eligibility determination as required in subsection E above.
- (4) The LIGC 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 30-day period under paragraph (H)(1) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
- (5) If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the LIGC with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the LIGC has provided an application and investigative report to the National Indian Gaming Commission, the LIGC shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The LIGC shall make the final decision whether to issue a license to such applicant.

I) License suspension

- (1) If, after the issuance of a gaming license, the National Indian Gaming Commission receives reliable information indicated that a key employee or a primary management official is not eligible for employment under Subsection E of this part, the national Indian Gaming Commission shall notify the LIGC.

- (2) The LIGC shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- (3) After a revocation hearing, the LIGC shall decide whether to revoke or to reinstate a gaming license, or take other action as may be deemed appropriate. The LIGC shall notify the National Indian Gaming Commission of its decision.

Section XII. LICENSING OF GAMING PLACES, FACILITIES AND LOCATIONS

A separate license shall be required for each place, facility, or location on Indian lands where Class II and/or Class III gaming is to be conducted on the Lummi Indian Reservation.

Section XIII. DAYS AND TIMES OF OPERATION AND WAGER LIMITS

Class II, Class III, and other gambling activities authorized by this Ordinance may be conducted at such days and times as are determined by the LIGC in the exercise of its regulatory authority within the constraints of tribal and federal law.

Section XIV. MINORS PROHIBITED

No person under the age of 18 years shall take part in any Class II or Class III gambling activities on the Lummi Reservation either as participant or employee and no person under the age of 21 years may participate as a player in any Class II or Class III gambling activities other than bingo or pull tabs, provided, however, that this prohibition shall not apply to traditional Indian gambling games as authorized in Section XVI of this Ordinance.

Section XV. MISCELLANEOUS RULES AND REGULATIONS

All gaming conducted under the authority of this Ordinance shall be conducted in accordance with the following rules and regulations or such regulations as the LIGC may, from time to time, prescribe:

- (1) Only house chips to be used. No person shall bring into a premises licensed to allow the playing of card games, nor introduce into any card game, any playing card or cards, or any poker chip or chips for use in wagering other than those obtained from the licensee on that business day.
- (2) Devices and mechanisms giving advantage prohibited. No device, apparatus, mechanism or thing which may give the participant in a card game an advantage over any other participant in that game may be used by any person.
- (3) Wagers to be made with chips only. All wagers made in connection with a card game shall be made with chips furnished by the licensed premise. However, certain wagers may be made other than with chips when specifically permitted by regulations approved by the LIGC.
- (4) Change in method of wagering prohibited. Once a method of betting is chosen for a particular hand or game, that method must be used until the hand or game is completed.

- (5) Side bets prohibited. Except as otherwise authorized by the LIGC on a game-specific basis, side bets among participants are prohibited.
- (6) Wagers by other than participants prohibited. Except for the game of paigow, only persons actually playing in the card game may wager upon the outcome of the game. Except when wagered on the game of paigow, wagers by persons other than those playing which in any way involves the outcome of the game, or of any aspect of the game, are prohibited.
- (7) Assistance and substitutes prohibited. No person shall allow a representative to sit in on a card game on his behalf for any purpose, or to render assistance to any participant in the game in any manner which gives that participant an advantage over the other participants. No person shall act as such a representative.
- (8) Licensee to prevent cheating. All licensees or operators of games authorized under this Ordinance shall not allow any player to play in such a manner as to cheat the persons with whom he is playing. The licensee or operator shall take all reasonably necessary steps to prevent cheating, and shall be responsible to ensure that games played upon the premises are fairly played. Any incident in which a person is suspected of or found cheating shall be reported immediately to the applicable law enforcement agency.
- (9) Intoxicated persons shall not play or provide services.
 - (a) No person who is visibly under the influence of liquor or any controlled substance shall be allowed to play, or continue to play, in any game or to participate in providing any services for the game.
 - (b) It shall be the responsibility of the licensee or operator, and of those persons physically operating the games to ensure that no unauthorized person is allowed to participate in any manner in the playing of or providing services to any game.
- (10) House rules to be developed and posted. Each entity operating a game under the provisions of this Ordinance shall develop and post in a conspicuous manner a summary of the rules for the conducting of such game not inconsistent with the provisions of this Ordinance and with the regulations of the LIGC. The LIGC shall establish the requirements for posting of house rules.
- (11) Picture License/Identification required. All persons participating in the management or operation of any game under the provisions of this Ordinance while on premises shall wear an identification license which shall contain the person's name, photograph, and the licensed entity's name. The license shall be worn in plain view so as to be easily seen and read by persons participating in the event; provided however, that this section shall not apply to undercover personnel performing legitimate security or monitoring services for entity. Such persons shall carry proper identification on their person, but shall not be required to display it except upon the lawful direction of law enforcement personnel or the management of the operating entity.

(12) Blackjack dealing.

- (a) All blackjack games shall be conducted using a dealing "shoe" capable of holding at least four shuffled decks of cards at one time. The deal shall begin with the shoe containing at least four full decks of cards and proceed until, in the dealer's judgment, the cards should be reshuffled or the cards withdrawn for examination and/or replaced. The shoe shall then be refilled with four shuffled decks of cards and the process repeated.
- (b) All cards shall be dealt to the players face up.
- (c) No player shall remove or pick up cards from the table or "shuffle" or "cut" the cards.
- (d) Only playing cards meeting the standards of the U.S. gaming industry shall be used.
- (e) Cards may be shuffled using a device, apparatus, or mechanism. No device, apparatus, or mechanism which may give a participant in a card game any advantage over any other participant in that game may be used.

(13) Mechanical devices prohibited. No mechanical devices proscribed by the provisions of 15 U.S.C. §1175 shall be used in any gaming activity under the authority of this Ordinance, unless the use thereof would not violate federal law.

(14) Employee compensation to be reasonable. Compensation to the employees shall not exceed that which is normally paid in the gaming industry.

Section XVI. CUSTOMER DISPUTES

Gaming Disputes

In the event a dispute develops between a dealer and a guest over rules of play, payoffs, or other transactions, the following procedure should be followed until the dispute is satisfactory resolved.

- (1) Dealer should immediately contact the floor supervisor.
- (2) The floor supervisor should listen to both sides of the dispute.
- (3) Depending upon the nature of the dispute, the floor supervisor should:
 - (a) Explain the appropriate house rule to the guest.
 - (b) Run cards back to determine facts.
 - (c) Contact Surveillance to review appropriate tape for determination of facts.
- (4) The floor supervisor should then settle the dispute by ruling on the facts.
- (5) If the guest asks to see a copy of the video tape, a copy of the tape should be made and shown to the guest in the Security Office.
- (6) In all disputes when there is a margin of doubt, the ruling should be made in favor of the guest.

Cash Handling Disputes.

When there is a dispute between a cashier and a guest over a cash transaction, the following procedure should be followed:

- (1) Cashier should contact their immediate supervisor.
- (2) Supervisor should listen to both sides of the dispute.
- (3) If the dispute is over an amount of money less than \$5.00 and there is any doubt as to the facts, the supervisor shall rule in favor of the guest.
- (4) In disputes of transactions larger than \$5.00, the supervisor should contact Surveillance and ask for a review of the tape for determination of the facts.
- (5) If the guest asks to see the video tape, a copy should be made and shown to the guest in the Security Office.

Disruptive Guests

When an employee or supervisor notices drunkenness, guests under the influence of drugs or disruptive behavior, the incident should be immediately called to the attention of the Security Department and/or the Shift Manager. At least two employees (one a supervisory level) should observe the behavior before the action is taken.

- (1) Depending upon the nature of the problem, Security should:
 - (a) If drunkenness or drug abuse is involved, ask the guest to leave the premises. In doing so, Security should offer to call a cab for the guest and encourage them not to drive while they are in their current condition.
 - (b) In the case of abusive behavior, Security should ask the guest to immediately discontinue the disruptive behavior. If the guest refuses to do so, Security should then ask the guest to leave the Casino premises.
 - (c) If a guest, who has been asked to leave the Casino premises refuses to do so, Security should immediately contact the Lummi Nation Law Order Department to request that the trespass laws be enforced.

If a guest repeats drunkenness, drug abuse, or disruptive behavior at a later visit to the Casino, or if the problem is severe, the guest should be barred from the Casino for a period of time. Guests may appeal this type of a decision to the General Manager.

Criminal Behavior

In the event criminal behavior is observed on the Casino premises, Security should be immediately contacted. Security should then immediately contact the Lummi Nation Law and Order Department to report the activity. After contacting Lummi Law and Order, Security should continue to observe the offense. Under no circumstances should physical action or an attempt to apprehend be initiated. Upon the arrival of Lummi Nation Law and Order officers, the Security Department personnel should follow the direction of the police officers in charge.

Section XVII. TRADITIONAL GAMES EXEMPTED

The provisions of this Ordinance shall not apply to bonafide Traditional Indian gambling games such as Sla-Hal also known as bone games or stick games, provided that such games are conducted by and for Indian persons at tribal celebrations or gatherings and not as a business.

Section XVIII. CONSTRUCTION

This Ordinance shall be liberally construed to carry out the purposes and policies of the Ordinance.

Section XIX. SEVERABILITY

If any provisions of this Ordinance or its application to any person or circumstances is held invalid the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section XX. REPEAL

All prior gaming ordinances, as originally enacted and as amended, hereby are repealed.