



June 5, 2012

Honorable Cedric Cromwell
Chairperson and President
Mashpee Wampanoag Tribe
483 Great Neck Road South
Mashpee, MA 02649

Re: Mashpee Wampanoag Tribe Class II and III Gaming Ordinance

Dear Chairperson Cromwell:

This letter is in response to your request to review and approve the amended Mashpee Wampanoag Tribe Class II and III Gaming Ordinance. The Ordinance was enacted on March 5, 2012, by the Mashpee Wampanoag Tribal Council Resolution 2012-RES-021. On June 4, 2012, the Tribal Council amended two sections of the Ordinance to bring it into full compliance with the Indian Gaming Regulatory Act (IGRA).

The Ordinance as amended is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's implementing regulations and accordingly, is approved. As required by § 301 of the Ordinance, any Class III gaming must be conducted pursuant to a gaming compact entered into with the Commonwealth of Massachusetts, or pursuant to Class III gaming procedures approved by the Secretary of the Interior. It is also my understanding that the Tribe has not yet acquired Indian lands as defined by IGRA. It is therefore important to note that approval is granted for gaming only on Indian lands, as defined in IGRA, over which the Tribe has jurisdiction.

If you have any questions or require further assistance, please contact NIGC Senior Attorney Michael Hoenig at (202) 632-0049.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stevens".

Tracie L. Stevens
Chairwoman



Mashpee Wampanoag Tribe

MAR -7 2012

2012-RES-021

RESOLUTION TO APPROVE THE MASHPEE WAMPANOAG TRIBAL CLASS II AND CLASS III GAMING ORDINANCE

WHEREAS, the Mashpee Wampanoag Tribe (the "Tribe") is a federally-recognized Indian tribe with a duly-enacted Constitution;

WHEREAS, the governing body of the Tribe is known as the Mashpee Wampanoag Tribal Council (the "Tribal Council");

WHEREAS, Article VI, § 2.A. of the Constitution of the Mashpee Wampanoag Tribe (the "Constitution"), provides that the Tribal Council is empowered to promote and protect the health, peace, morals, education, political integrity, economic security and general welfare of the Tribe and its members;

WHEREAS, Article VI, § 2.C. of the Constitution provides that the Tribal Council is empowered to establish procedures and ordinances for the conduct of Tribal business operations;

WHEREAS, the Tribal Council, in accordance with its powers under Article VI of the Constitution, finds it in the best interests of the Tribe and its Tribal members to enact an ordinance to set the terms for Class II and Class III gaming on Tribal lands;

NOW, THEREFORE, BE IT RESOLVED, that the Tribal Council hereby approves the Mashpee Wampanoag Tribal Class II and Class III Gaming Ordinance, attached hereto, and authorizes the same to be submitted to the National Indian Gaming Commission for approval pursuant to 25 U.S.C. § 2710.

All resolutions or parts of resolutions inconsistent with this resolution are repealed. This resolution is effective immediately and shall continue pursuant to the authority vested in the Tribal Council pursuant to Article VI, §§ 2.A. and C. of the Constitution.



Mashpee Wampanoag Tribe

CERTIFICATION

We, the undersigned duly elected Chairperson and Secretary of the Tribal Council do hereby certify that the above Resolution was duly adopted by the Mashpee Wampanoag Tribal Council, which is composed of 13 members, of whom 11 constituting a quorum, were physically present at a continued meeting thereof, duly held on March 5, 2012, and that the foregoing Resolution was duly adopted by the affirmative vote of 8 members, with 2 opposing, and with 0 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 5th day of March, 2012

Cedric Cromwell, Chairperson and President
Mashpee Wampanoag Tribal Council

ATTEST:

Marie A. Stone, Secretary, Notary Public
Mashpee Wampanoag Tribal Council



Mashpee Wampanoag Tribe

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MASHPEE WAMPANOAG TRIBE

2012-ORD-002

TRIBAL GAMING ORDINANCE

ARTICLE I GENERAL PROVISIONS

- Section 101 Findings
- Section 102 Basis for authority
- Section 103 Definitions

ARTICLE II PROCEDURAL AND REPEALER PROVISIONS

- Section 201 Ordinance to effect purposes
- Section 202 Headings
- Section 203 Severability and repealer
- Section 204 Service of process and sovereign immunity

ARTICLE III MISCELLANEOUS PROVISIONS

- Section 301 Class II and Class III gaming authorized
- Section 302 Ownership of gaming
- Section 303 Use of gaming revenue
- Section 304 Audit
- Section 305 Protection of environment and public safety

ARTICLE IV GAMING COMMISSION

- Section 401 Gaming Commission office created
- Section 402 Appointment
- Section 403 Interim Commissioner
- Section 404 Continuation of Term
- Section 405 Removal for Cause
- Section 406 Background investigation required
- Section 407 Power and authority

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Mashpee Wampanoag Tribe

ARTICLE V REGULATIONS

Section 500	Commission regulatory authority
Section 501	Notice required, changes in regulations
Section 502	Copies of regulations to be available
Section 503	Suspension and hearing regulations
Section 504	Revocation regulations
Section 505	Exclusion
Section 506	Informant identity protected
Section 507	Depositions authorized
Section 508	Gaming Commission Attorney

ARTICLE VI LICENSING

Section 601	License regulation
Section 602	Issuance of licenses
Section 603	Appropriate investigation required
Section 604	License suspension
Section 605	Fingerprints on file
Section 606	Criminal background checks
Section 607	Facility Licenses

ARTICLE VII GAMING DISPUTES WITH MANAGEMENT

Section 701	Filing complaints
Section 702	Hearing date
Section 703	Hearing notice required
Section 704	Legal counsel authorize
Section 705	Arbitration or mediation authorized



Mashpee Wampanoag Tribe

ARTICLE I GENERAL PROVISIONS

Section 101	Findings
Section 102	Basis for authority
Section 103	Definitions

SECTION 101 **FINDINGS**

A. The Mashpee Wampanoag Tribal Council finds that:

1. the Mashpee Wampanoag Tribe must promote the public health and safety, education and welfare that may contribute to the social, physical well-being and economic advancement of citizens of the Mashpee Wampanoag Tribe;

2. the Mashpee Wampanoag Tribe must create authorities with attendant powers to achieve objectives allowed under the provisions of the Constitution of the Mashpee Wampanoag Tribe;

3. the Mashpee Wampanoag Tribe must provide for the employment, education, training, health, and other services which are not now being met in sufficient quantity by federal government agencies;

4. the Mashpee Wampanoag Tribe must maintain its self-determination in its governmental programs;

5. the Tribe must provide a system for regulating gaming activities in and for the Mashpee Wampanoag Tribe, which is in the best interests of the Mashpee people and their health and welfare;

6. Mashpee Wampanoag Tribe must generate revenues to support essential governmental services;

7. the Mashpee Wampanoag Tribe must comply with the provisions of the Indian Gaming Regulatory Act, as adopted by the Congress of the United States of America, 25 U.S.C. §§ 2701, et seq. (the "IGRA") for the conduct of gaming on tribal lands.

B. Be it enacted by the Mashpee Wampanoag Tribal Council, that this Ordinance shall be cited as the "Mashpee Wampanoag Tribal Gaming Ordinance."



Mashpee Wampanoag Tribe

SECTION 102 **BASIS FOR AUTHORITY**

The authority for the Tribal Gaming Ordinance is Article V, Section 2, and Article VI, Section 2, A, B, C, and K of the Constitution of the Mashpee Wampanoag Tribe and the approval of the Tribal Council.

SECTION 103 **DEFINITIONS**

A. For the purpose of this Ordinance:

1. "Chairperson" means the Chairperson of the Tribal Council, as created by Articles VI and VII of the Constitution of the Mashpee Wampanoag Tribe;

2. "Commission" means the Mashpee Wampanoag Tribal Gaming Commission, as provided by this Tribal Ordinance;

3. "Constitution" means that document which formally established the government of the Mashpee Wampanoag Tribe, as ratified by the eligible registered voters of the Mashpee Wampanoag Tribe on June 26, 2004;

4. "Gaming" shall have the same meanings as applied by and contained in the Indian Gaming Regulatory Act, Public Law 100-447, 25 U.S.C. §§ 2501 et seq.;

5. "Gaming Authority" means that agency of the Tribe charged with oversight of the Tribal Gaming business operation.

6. "Key Employee" means:

1. A person who performs one or more of the following functions:

- a. Bingo caller;
- b. Counting room supervisor;
- c. Chief of security;
- d. Custodian of gaming supplies or cash;
- e. Floor manager;



Mashpee Wampanoag Tribe

- f. Pit boss;
 - g. Dealer;
 - h. Croupier;
 - i. Approver of credit; or
 - j. Custodian of gambling devices including persons with access to cash and accounting records within such devices;
2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year;
 3. If not otherwise included, the four most highly compensated persons in the gaming operation; and
 4. Any member or employee of the Mashpee Wampanoag Tribal Gaming Commission.
 5. Any other person designated by the Commission as a Key Employee.
7. "License" means the written permission by authority of the Mashpee Wampanoag Tribe to do an act or fulfill, which without permission would be illegal, and is a document granted by the Commission of the Mashpee Wampanoag Tribe for a consideration to a person or to a location to pursue business subject to regulation under the jurisdiction of the Mashpee Wampanoag Tribe;
8. "Licensee" means one who has applied for and obtained a License in accord with rules of the Commission;
9. "The Mashpee Wampanoag Tribe" means the government instituted in the Constitution of the Mashpee Wampanoag Tribe.
10. "Primary Management Official" means:
1. The person having management responsibility for a management contract, including but not limited to, officers, directors and persons having five (5) percent or greater financial interest in the entity that holds a management contract;
 2. any person who has authority:
 - a. to hire and fire employees; or



Mashpee Wampanoag Tribe

b. to set up working policy for the gaming operation;
or

c. the chief financial officer or other person who has financial management responsibility.

3. any other person designated by the Commission as a Primary Management Official.

11. "Tribal Council" means the Mashpee Wampanoag Tribal Council which is that body of not more than 13 members, as created by Articles V, VI, VII, VIII and IX of the Constitution of the Mashpee Wampanoag Tribe;

12. "shall" means imposing an obligation to act;

ARTICLE II PROCEDURAL AND REPEALER PROVISIONS

Section 201	Ordinance to effect purposes
Section 202	Headings
Section 203	Severability and repealer
Section 204	Service of process and sovereign immunity

SECTION 201 **ORDINANCE TO EFFECT PURPOSES**

The provisions of this Ordinance, being necessary for the welfare of the Mashpee Wampanoag Tribe and its Citizens, shall be liberally construed to effect the purpose and object hereof.

SECTION 202 **HEADINGS**

The article and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any article or section hereof.



Mashpee Wampanoag Tribe

SECTION 203

SEVERABILITY AND REPEALER

A. The provisions of this Ordinance are severable, and if any part or provision hereof shall be held void by appropriate judicial authority, the decision of the court so holding shall not affect or impair any of the remaining parts of provisions of the Ordinance.

B. All titles, chapters, articles and sections of all gaming regulatory Ordinances previously enacted are hereby repealed, and all other laws or resolutions or parts of laws and resolutions inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 204

SERVICE OF PROCESS AND SOVEREIGN IMMUNITY

The Tribe may be served notice of process for official determinations, order or notice of violation of the Indian Gaming Regulatory Act by the National Indian Gaming Commission or other federal entity by service upon the Chairperson with a copy to the Commission. Any document, affidavit, report, fee or payment required to be delivered to or served upon the Commission shall be deemed to be properly delivered to or served upon the Commission if delivered to the Chair of the Commission or its Executive Director in a manner directed by Commission regulation. Nothing herein shall be deemed to waive or impair the Mashpee Wampanoag Tribe's sovereign immunity. Nothing herein shall be deemed a grant of jurisdiction or venue for any court to review cases or controversies if such court is not otherwise empowered to review.



Mashpee Wampanoag Tribe

ARTICLE III MISCELLANEOUS PROVISIONS

- Section 301 Class II and Class III gaming authorized
Section 302 Ownership of gaming
Section 303 Use of gaming revenue
Section 304 Audit
Section 305 Protection of environment and public safety

SECTION 301 **CLASS II AND CLASS III GAMING AUTHORIZED**

Class II gaming as defined in the Indian Gaming Regulatory Act, Public Law 100-447, 25 USC § 2703(7) is hereby authorized. Class III gaming as defined in the Indian Gaming Regulatory Act, Public Law 100-447, 25 USC §2703(8), is authorized only to the extent allowed by such law and pursuant to an approved tribal/state compact.

SECTION 302 **OWNERSHIP OF GAMING**

The Mashpee Wampanoag Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Act.

SECTION 303 **USE OF GAMING REVENUE**

Net revenues from gaming shall be used only for the following purposes: To fund tribal government operations and programs; to provide for the general welfare of the Mashpee Wampanoag Tribe and its citizens; to promote tribal economic development; to donate to charitable organizations; or to help fund operations of local government agencies, and for such other purposes as allowed by IGRA and authorized by the Tribal Council.

SECTION 304 **AUDIT**

A. The Chairperson shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.

B. All gaming related contracts which 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 which is described in subsection (a) of this section.

SECTION 305 **PROTECTION OF ENVIRONMENT AND PUBLIC SAFETY**

All gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.



Mashpee Wampanoag Tribe

ARTICLE IV GAMING COMMISSION

Section 401	Gaming Commission office created
Section 402	Appointment
Section 403	Interim Commissioner
Section 404	Continuation of Term
Section 405	Removal for Cause
Section 406	Background investigation required
Section 407	Power and authority

SECTION 401 **GAMING COMMISSION OFFICE CREATED**

The Mashpee Wampanoag Tribal Gaming Commission is hereby created under the authority of the Tribal Council. As determined by the Tribal Council, the Commission shall consist of up to five Commissioners, who shall each take an oath of office similar to that of elected officials and shall be sworn to service. A Commissioner shall serve a term of three years from the date of such oath of office.

SECTION 402 **APPOINTMENT**

Upon the initial establishment of the Commission, and thereafter, at any time when a vacancy occurs in the office of Commissioner, so that no Commissioner is available to serve, the office shall be filled by appointment by the Chairperson, by and with the approval of the Tribal Council.

- A. The Chairperson shall, within 60 days of any vacancy, nominate an appointee to fill the position and shall so notify the Council. Once that notification is made or before, the Chairperson shall cause the process to be initiated to clear that person as Commissioner through the requirements and provisions contained in this Ordinance.
- B. The Chairperson or his designee shall cause the required background investigation to be conducted.
- C. Should the nominee clear the required background check and investigations, the appointment shall be presented for the approval of the Tribal Council to serve as Commissioner.
- D. If the nominee does not clear the background checks or is not approved by the Tribal Council, the Chairperson shall, within 60 days, submit the name of another candidate to be considered. Each nominee must undergo the same process. This procedure shall be continued until a person is nominated, cleared, and the Tribal Council approves the appointment.



Mashpee Wampanoag Tribe

- E. If the Tribal Council determines to fill additional Commissioner positions beyond a single Commissioner, additional Commission appointments shall be made by appointment by the Chairperson with the approval of the Tribal Council, and following the same background and clearance requirements.

SECTION 403 **INTERIM COMMISSIONER**

An interim Commissioner may be selected by the Chairperson if no Commissioner is serving. Such an interim gaming commissioner shall fill the position until the Council acts to approve the appointment of a person to fill the Commissioner's position. An interim Commissioner shall serve at the pleasure of the Chairperson.

SECTION 404 **CONTINUATION OF TERM**

Absent objection by the Tribal Council, a Commissioner may serve after the expiration of his term of office, absent resignation, removal, replacement or reappointment.

SECTION 405 **REMOVAL FOR CAUSE**

A Commissioner may be removed from office by the Tribal Council prior to the end of any term for neglect of duty, or malfeasance in office, or for other good cause shown.

SECTION 406 **BACKGROUND INVESTIGATION REQUIRED**

Prior to the Tribal Council approval of an appointment of a Commissioner, such person shall have passed a background investigation, examination and check of the same nature as any other Key Employee of a gaming enterprise pursuant to this Ordinance. Nothing in this section shall prohibit such person from serving as interim Commissioner for 90 days pending the outcome of Key Employee review. The Commissioners or Commission staff who cannot meet the minimum requirements for licensing under this Act shall not be employed by the Mashpee Wampanoag Tribe Gaming Commission in such capacity.

SECTION 407 **POWER AND AUTHORITY**

A. Subject to amendment of this Ordinance by the Tribal Council, the Commission shall have the authority and responsibility to assure that this Ordinance is followed and may exercise any proper power and authority necessary to perform the duties of the office. The Commission shall issue regulations which shall include but not be limited to:

1. develop and implement forms for background checks and employee applications;
2. develop and implement procedures for conducting background checks;
3. develop and implement procedures for issuance of tribal licenses to Primary Management Officials and Key Employees;



Mashpee Wampanoag Tribe

4. develop and implement procedures for resolving disputes between the gaming public and the Mashpee Wampanoag Tribe or the gaming enterprise management;
5. designate an agent for service of legal notices;
6. develop and implement procedures to take finger-prints;
7. develop and implement procedures for conducting criminal and credit histories and checks;
8. develop and implement procedures to prevent theft and ensure the integrity of the gaming enterprises of the Mashpee Wampanoag Tribe;
9. develop and implement procedures for collection of license fees, taxes, other fees and levies as the same relates to gaming enterprises of the Mashpee Wampanoag Tribe.

ARTICLE V REGULATIONS

Section 500	Commission regulatory authority
Section 501	Notice required, changes in regulations
Section 502	Copies of regulations to be available
Section 503	Suspension and hearing regulations
Section 504	Revocation regulations
Section 505	Exclusion
Section 506	Informant identity protected
Section 507	Depositions authorized
Section 508	Service Requirements
Section 509	Gaming Commission Attorney

SECTION 500 COMMISSION REGULATORY AUTHORITY

Any regulations promulgated by the Commission shall have full force and effect from the date of issuance. The Commission may withdraw, replace or amend any Commission regulation.

SECTION 501 NOTICE REQUIRED, CHANGES IN REGULATIONS

A. In adopting, amending or repealing any regulations under this Act, the Commission shall give a minimum of ten (10) days notice of proposed regulation changes to the Tribal Council, all Key Employees, Primary Management Officials, the Chairperson and the Chief Executive Officer of the Tribe's Gaming Authority.



Mashpee Wampanoag Tribe

B. Notice shall be deemed made to Key Employees and Primary Management Officials by posting such notice in the gaming facility, the Gaming Commission Office(s), and the Tribal Office and by hand delivery and/or electronic communication to the Tribal Council, Chairperson and his designees and individually to such Key Employees and Primary Management Officials as the Commission deems appropriate.

SECTION 502 **COPIES OF REGULATIONS TO BE AVAILABLE**

A. A copy of all adopted regulations shall be maintained at the Tribal Office, Gaming Commission office(s), and at each gaming facility.

B. Copies will be available to the public for copy at a per-page rate set by the Commission.

SECTION 503 **SUSPENSION AND HEARING REGULATIONS**

The Commission shall have the right to suspend any license location, licensee, employee or gaming participant for violation of any tribal regulations, tribal compact, tribal ordinances, federal regulations or federal laws. Suspension shall be for a period of not more than ninety (90) days for licensees and not more than two (2) years for gaming participants and others. Prior to any such suspension the person reviewed shall:

A. Be given notice of specific facts concerning the violation alleged. Such allegation shall describe in writing the offense and be given ten (10) days prior to any hearing.

B. Such notice of proceedings shall be accomplished by regular mail to the last known address and by publicly posting the same within the affected gaming enterprise facility. Service by mail is not necessary if the Commission has no address for the person or entity.

C. At the hearing, the Commission shall state its understanding of the facts and allow the person or entity subject to the hearing the opportunity to be heard and to present evidence.

D. At the hearing the subject shall show cause that specific facts alleged are inaccurate or that special conditions exist which should mitigate suspension.

E. Following the hearing, the Commission shall issue in writing an order regarding the subject within seven (7) days, or the matter shall be deemed dismissed. If a suspension order is made, it shall state:

1. The specific violation of law or regulation of the subject, and
2. the suspension period imposed, stating beginning date and concluding date of suspension.



Mashpee Wampanoag Tribe

F. Notice of order shall be accomplished in the same manner as notice of proceedings.

SECTION 504 **REVOCAION REGULATIONS**

The Commission shall have the right to revoke any license location, licensee, employee or gaming participant for violation of any tribal regulations, tribal compact, tribal ordinances, federal regulations or federal laws. Prior to any such revocation the person reviewed shall:

A. Be given notice of specific facts concerning the violation alleged. Such allegation shall describe in writing the offense and be given ten (10) days prior to any hearing.

B. Such notice of proceedings shall be accomplished by regular mail to the last known address and by publicly posting the same within the affected gaming enterprise facility. Service by mail is not necessary if the Commission has no address for the person or entity.

C. At the hearing, the Commission shall state its understanding of the facts and allow the person or entity subject to the hearing the opportunity to be heard and to present evidence.

D. At the hearing the subject shall show cause that specific facts alleged are inaccurate or that special conditions exist which should mitigate revocation.

E. Following the hearing, the Commission shall issue in writing an order regarding the subject within seven (7) days, or the matter shall be deemed dismissed. If a revocation order is made, it shall state:

1. The specific violation of law or regulation of the subject, and
2. the revocation period imposed, stating beginning date and concluding date of revocation.

F. Notice of order shall be accomplished in the same manner as notice of proceedings.

SECTION 505 **EXCLUSION**

A. All persons or entities subject to a suspension or revocation order shall be excluded from the gaming facility during the suspension or revocation and preceding the hearing establishing such suspension or revocation. The Commission shall have authority to direct enforcement of the exclusion of any person suspended or revoked under the terms of sections 503 and 504 immediately.



Mashpee Wampanoag Tribe

- B. The Commission shall develop and implement procedures for others to be excluded from the gaming facility which may include, but is not limited to, persons whose licenses were suspended or revoked by other gaming enterprises, known felons or members of organized crime and their associates who pose a threat to the integrity of the gaming enterprise, problem gamblers who have requested to be placed on the list of those to be excluded and such other persons as the Commission determines, in its discretion, pose a threat to the integrity of the gaming enterprise.
- C. Exclusions may be issued for one (1) year, five (5) years, or for life by the Commission. Upon proper application, exclusions may be lifted.

SECTION 506 **INFORMANT IDENTITY PROTECTED**

Absent compulsion by a court of competent jurisdiction, the Commission may refuse to reveal the identity of any informant.

SECTION 507 **DEPOSITIONS AUTHORIZED**

The Commission shall have authority upon three (3) days written notice to depose any licensee, tribal employee or gaming participant or patron.

SECTION 508 **GAMING COMMISSION ATTORNEY**

The Commissioner shall have the authority to hire attorney(s) to advise the Commission, subject to annual budgetary funding approved by the Tribal Council.

ARTICLE VI LICENSING

Section 601	License regulation
Section 602	Issuance of licenses
Section 603	Appropriate investigation required
Section 604	License suspension
Section 605	Fingerprints on file
Section 606	Criminal background checks
Section 607	Facility Licenses

SECTION 601 **LICENSE REGULATION**

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 facility located on tribal lands.



Mashpee Wampanoag Tribe

SECTION 602 ISSUANCE OF LICENSES.

The Commission shall issue tribal licenses for Primary Management Officials and Key Employees and others as the Commission may decide by Regulation who are involved in gaming.

- A. Such licenses shall:
 - 1. not be required until background investigations are complete;
 - 2. be issued when the results of background investigations are available to the Commission and such reports indicate that the individual is of appropriate character to participate in a tribal gaming enterprise.
- B. Pending completion of background investigations, the Commission may issue a temporary license for a period not to exceed 90 days.
- C. The gaming operation shall not employ as a Key Employee or Primary Management Official a person who does not have a license after 90 days.



Mashpee Wampanoag Tribe

D. If a license is not issued to an applicant, the Commission:

1. shall notify the National Indian Gaming Commission; and
2. 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.

SECTION 603

APPROPRIATE INVESTIGATION REQUIRED

A. The Commission shall require an appropriate investigation of Key Employees and Primary Management Officials. An appropriate investigation shall include as a minimum:

1. obtaining and processing fingerprints;
2. establishing the fitness of individual to perform job as set forth in job description and basis for individual selection for position;
3. performing a credit check;
4. verifying his or her resume;
5. checking the character of the applicant regarding prior activities, criminal record, reputation, habits and associations, including but not limited to personal interview summaries with a sufficient number of knowledgeable people such as former employees, personal references and others to form a basis for character suitability determination;
6. documenting all potential problems and possible disqualification information.

B. 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:



Mashpee Wampanoag Tribe

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 USC §§ 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.

C. Background Investigations

1. The Commissioner shall request from each Primary Management Official and from each Key Employee all of the following information:



Mashpee Wampanoag Tribe

- 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 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- c) the names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under subsection (l)(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 and financial disclosure 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 conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- i) for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 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 minor traffic charges), 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 subsection C.1(h) and (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;



Mashpee Wampanoag Tribe

- l) a current photograph with notarized affidavit as to date taken and person depicted;
- m) any other information the Commission deems relevant; and
- n) fingerprints consistent with procedures adopted by the Mashpee Wampanoag Tribe according to 25 C.F.R. § 522.2(h).

2. The Commission shall conduct an investigation sufficient to make an eligibility determination under subsection D, below. In conducting a background investigation, the identity of each person interviewed in the course of the investigation shall be kept confidential.

D. Eligibility determination

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

E. Report to the National Indian Gaming Commission

1. The Commission shall prepare and forward to the National Indian Gaming Commission, within 60 days after the employee begins work, 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. With the report shall be submitted a copy of the eligibility determination made under this section.

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

- a) shall notify the National Indian Gaming Commission; and



Mashpee Wampanoag Tribe

b) may include copies of the eligibility determination and investigative report (if any) in the Indian Gaming Individuals Records System.

F. Retention of applications and reports

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 Chairperson of the National Indian Gaming Commission or his or her delegate for no less than three (3) years from the date of termination of employment.

G. Granting a Gaming License

1. If, within a 30-day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Commission that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Mashpee Wampanoag Tribe has provided an application and investigative report to the National Indian Gaming Commission, a license may be issued to such individual.

2. The Commission shall respond to a request for additional information from the Chair of the National Indian Gaming Commission concerning a Key Employee or a Primary Management Official who is the subject of a report. Such request shall suspend the 30-day period under subsection G.1. of this section until the Chair of the National Indian Gaming Commission receives the additional information.

3. If, within the 30 day period described above, the National Indian Gaming Commission provides the Commission with a statement itemizing objections to the issuance of a license to a Key Employee or to a Primary Management Official for whom the Mashpee Wampanoag Tribe 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.

SECTION 604

LICENSE SUSPENSION

A. If, after the issuance of a gaming license, the Commissioner receives information from the National Indian Gaming Commission or other reliable source indicating that a Key Employee or a Primary Management Official is not eligible for a license, the Commission shall suspend such license and notify in writing the licensee and the licensee's supervisor of the suspension and the proposed revocation.



Mashpee Wampanoag Tribe

B. The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

C. After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the National Indian Gaming Commission, the Chairperson and the Tribal Council of the decision.

SECTION 605 **FINGERPRINTS ON FILE**

A. The Commission shall keep the official fingerprint records for the National Indian Gaming Commission on file in the office of the Commission.

1. As part of any employment application, fingerprints shall be taken in a format then currently used by the National Indian Gaming Commission.

2. The Commission shall take such prints in a manner established by regulation or policy.

3. After fingerprints have been taken, the Commission shall forward them directly to the National Indian Gaming Commission in the method required by the National Indian Gaming Commission.

4. Fees charged by the National Indian Gaming Commission for processing of fingerprints shall be paid by the Mashpee Wampanoag Tribe, excepting those individuals and organizations which have posted bonds for such reports.

B. The Commission shall request a report from the National Indian Gaming Commission which shall include a check through the Federal Bureau of Investigation's National Criminal Information Center.

C. Fees charged by the National Indian Gaming Commission for processing such reports shall be paid by the Tribe excepting those individuals and organizations that have posted bonds for such reports.

SECTION 606 **CRIMINAL BACKGROUND CHECKS.**

The Commission shall initiate criminal background checks for each applicant for employment in a position that requires licensing which shall include a criminal history check, fingerprinting by the Commission, and submission of the fingerprints to the National Indian Gaming Commission for a check of criminal history records information maintained by the Federal Bureau of Investigation..

A. The Commission shall receive the report or a summary of any initial background check which shall identify any felony, criminal history, or crime of moral turpitude which is known to any law enforcement entity. The Commission and its employees shall be considered tribal law enforcement officers for such review.



MAR - 7 2012

Mashpee Wampanoag Tribe

B. The Commission shall review any background check report issued to the Tribe. The Commission may share any information revealed by such checks to the manager of gaming facilities which, in the Commission's judgment, affects the consideration of an individual for employment.

C. The Commission shall use the results of any background check to perform the lawful duties of Commission.

SECTION 607 **FACILITY LICENSES**

The Commission shall issue a separate license to each place, facility, or location on Indian lands where gaming is conducted under this ordinance.

ARTICLE VII **GAMING DISPUTES WITH MANAGEMENT**

- Section 701 Filing complaints
- Section 702 Hearing date
- Section 703 Hearing notice required
- Section 704 Legal counsel authorized
- Section 705 Arbitration or mediation authorized

SECTION 701 **FILING COMPLAINTS**

Any gaming participant or supplier may file a complaints arising out of operation of the gaming facility against management with the Commission. The Commission shall establish a time for hearing, give notice to all parties, hold hearing(s) and rule upon the complaint. This section shall in no way be construed as a waiver of the sovereign immunity of the Mashpee Wampanoag Tribe.

SECTION 702 **HEARING DATE.**

The Commission shall set a date for hearing the complaint within ninety (90) days of the filing of the same.

SECTION 703 **HEARING NOTICE REQUIRED.**

The Commission shall give notice of such hearing together with a copy of the complaint to the Chairperson and to the manager and management of the gaming enterprise facility involved in the complaint and give notice of the hearing to the person filing the complaint by electronic communication as well as by regular mail posted not less than ten (10) days in advance of the hearing.



Mashpee Wampanoag Tribe

SECTION 704 **LEGAL COUNSEL AUTHORIZED.**

At a hearing on any complaint, the person filing the same, manager and management shall be entitled to legal counsel. The person filing the complaint must be present for hearing of the same and shall be responsible to present a prima facie case for relief before response by the manager is required. The Commission shall be free to question any person present, continue the hearing from time to time and conduct independent investigation of facts. Upon conclusion of the hearing, the Commission shall have forty-five (45) days to issue a written opinion or extend the time for the issuance of such opinion with the agreement of the person filing the complaint. In the absence of a written opinion by the Commission within the time specified, the matter shall be deemed dismissed.

SECTION 705 **ARBITRATION OR MEDIATION AUTHORIZED.**

The Commission shall at any time prior to decision of any complaint, have the authority to suspend proceedings and to direct arbitration or mediation of the complaint under such terms as the Commission may direct.



Mashpee Wampanoag Tribe

MAR - 7 2012

CERTIFICATION

We, the undersigned duly elected Chairperson and Secretary of the Tribal Council do hereby certify that the above Resolution was duly adopted by the Mashpee Wampanoag Tribal Council, which is composed of 13 members, of whom 11 constituting a quorum, were physically present at a continued meeting thereof, duly held on March 5, 2012, and that the foregoing Resolution was duly adopted by the affirmative vote of 8 members, with 2 opposing, and with 0 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 5th day of March, 2012

Cedric Cromwell, Chairperson and President
Mashpee Wampanoag Tribal Council

ATTEST:

Marie A. Stone, Secretary, Notary Public
Mashpee Wampanoag Tribal Council

CERTIFICATION OF POSTING

This is to certify that the Ordinance titled 2011-ORD-002, Mashpee Wampanoag Tribal Gaming Ordinance has been posted in accordance with 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions.

DATED this 5th day of March, 2012.

Cedric Cromwell, CHAIRMAN
Mashpee Wampanoag Tribal Council

Marie A. Stone, SECRETARY
Mashpee Wampanoag Tribal Council





Mashpee Wampanoag Tribe

2012-RES-056

APPROVING AMENDMENT TO TRIBAL GAMING ORDINANCE AND SUBMISSION OF SUCH AMENDMENT TO NATIONAL INDIAN GAMING COMMISSION FOR APPROVAL

WHEREAS, This is a meeting of the Tribal Council, the governing body of the Mashpee Wampanoag Tribe (the "Tribe"), that is open to tribal members, spouses and invited guests of the Tribal Council in accordance with Section 4(b) of 2009-ORD-007 (the "Meeting Ordinance"); and

WHEREAS, This meeting (this "Continued Meeting") is a continuation of a regular meeting of the Tribal Council, duly called, convened and held on April 11, 2012 (the "Initial Meeting"), that was duly continued successively to April 18, 2012, May 2, 2012, May 16, 2012, May 21, 2012 and May 30, 2012 (each, continuation a "Previous Continued Meeting"); and

WHEREAS, A quorum was physically present and acting throughout the Initial Meeting, and each Previous Continued Meeting in compliance with the Tribe's Constitution and By-Laws approved by the members of the Tribe on June 26, 2004, and certified by the members of the Tribal Council of the Tribe on June 28, 2004 (the "Constitution") and the Meeting Ordinance; and

WHEREAS, Notice of the time, date and location of this Continued Meeting and each Previous Continued Meeting was publicly announced at the Initial Meeting or a preceding Previous Continued Meeting; and

WHEREAS, Article VI of the Constitution establishes a Tribal Council of the Tribe as the governing body of the Tribe, composed of thirteen voting members of the Tribe, including a Chairperson, a Vice-Chairperson, a Secretary, and a Treasurer, and Article V, Section 2 of the Constitution provides that the Tribal Council shall be vested with all executive and legislative powers of the Tribe; and

WHEREAS, Article VI, Section 2(C) of the Constitution authorizes the Tribal Council to establish procedures and ordinances for the conduct of all tribal government business; and



Mashpee Wampanoag Tribe

- WHEREAS Article VI, Section 2 (K) of the Constitution authorizes the Tribal Council to create or provide by ordinance for “organizations” for any lawful purpose and to regulate the activities of such organizations by ordinance; and
- WHEREAS, Article IX, Section 1(e)(1) of the Constitution authorizes the Tribal Council to adopt ordinances of the Tribe at a regular meeting, which ordinances shall, together with the Constitution, constitute the supreme law of the Tribe under Article V, Section 2 of the Constitution; and
- WHEREAS, On March 12, 2012, the Tribal Council duly adopted as the law of the Tribe, 2012-ORD-002, captioned “Tribal Gaming Ordinance;” in accordance with all laws of the Tribe and the Constitution; and
- WHEREAS, The Tribal Gaming Ordinance was submitted to the Chairwoman of the National Indian Gaming Commission (“NIGC”) for approval thereof pursuant to the Indian Gaming Regulatory Act of 1988, as amended (“IGRA”);
- WHEREAS, Legal staff of the NIGC has requested certain technical amendments to the Tribal Gaming Ordinance to comply with IGRA and regulations thereunder; and
- WHEREAS, On May 23, 2012, the Tribal Council considered and approved posting of a proposed ordinance that would amend the Tribal Gaming Ordinance to implement the requested technical amendments (the “First Amendment Ordinance”); and
- WHEREAS, On May 25, 2012, in accordance with 2009-ORD-003, Section 6(b) and 2009-ORD-007, Section 8, the First Amendment Ordinance was posted on the website of the Tribe and at the offices of the Tribe, together with a synopsis thereof (the “Posting”); and
- WHEREAS, At least 12 days have passed since the date of the Posting as required by 2009-ORD-003, Section 6(b);
- WHEREAS, The First Amendment Ordinance has been deliberated on by the Tribal Council; and
- WHEREAS, The Tribal Council desires to amend the Tribal Gaming Commission by adopting as a law of the Tribe the First Amendment Ordinance, and to submit the First Amendment Ordinance requesting that the Chairwoman of the NIGC the Tribal Gaming Ordinance, as amended by the First Amendment Ordinance (the “Amended Tribal Gaming Ordinance”);



Mashpee Wampanoag Tribe

NOW, THEREFORE, BE IT RESOLVED BY THE TRIBAL COUNCIL:

Section 1. Findings. The Tribal Council hereby determines and finds that (a) the Tribal Council is the duly elected and governing body of the Tribe, with full power and authority to adopt this Resolution, (b) adoption of this Resolution is in the best interest of the Tribe and its members; (c) at least seven members of the Tribal Council are in physical attendance at this Continued Meeting and (d) the Recitals above are true and correct.

Section 2. Approval and Ratification of Tribal Gaming Ordinance and Amendment thereof Pursuant to First Amendment Ordinance. The Tribal Council hereby approves the First Amendment Ordinance, approves and ratifies the Tribal Gaming Ordinance as amended by the First Amendment Ordinance, and hereby adopts the First Amendment Ordinance, and instructs the Secretary to fill-in by appropriate reference the ordinance number of the First Amendment Ordinance.

Section 3. Recording, Attesting and Certification. The Secretary of the Tribe is hereby instructed in accordance with 2009-ORD-003, Section 8(g) to properly attest to, certify and record the adoption of the First Amendment Ordinance in accordance with the laws and the procedures of the Tribe.

Section 4. Submission to NIGC. The Chairperson of the Tribe is hereby instructed to cause the First Amendment Ordinance to be promptly submitted to the Chairwoman of the NIGC with a request that the Final Tribal Gaming Ordinance be approved by the Chairwoman pursuant to IGRA.

Section 5. Determination. The Tribal Council hereby determines that no law, ordinances, rules, regulations, resolutions or other actions of the Tribal Council or any of the agencies or instrumentalities of the Tribe, either written or established by custom or tradition: (a) prohibit the members of the Tribal Council from taking the actions herein set forth, or the consummation of the transactions contemplated therein or (b) create any obligation of the Tribal Council to submit these matters for approval by or consent from any officer, body, agency or instrumentality of the Tribe, or any vote by members of the Tribe, except for such approvals and consents that have already been obtained and are in full force and effect.

Section 5. Miscellaneous. (a) If any provision of this Resolution or the application of any provision of this Resolution is held to be invalid, the remainder of this Resolution shall not be affected with respect to the same.

(b) This Resolution and the actions taken hereby shall become effective as of the date and time of its passage and approval by seven members of the Tribal Council in physical attendance at this Continued Meeting.



Mashpee Wampanoag Tribe

(c) To the extent lawful, all resolutions or actions of the Tribal Council heretofore taken, other than with respect to the enactment of Ordinances, are hereby modified to the extent required to be consistent with the provisions of this Resolution.

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Mashpee Wampanoag Tribe

CERTIFICATION

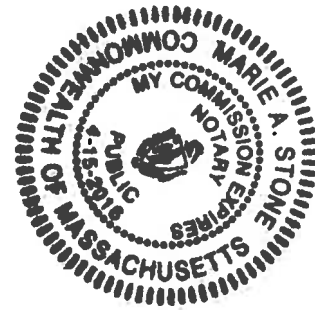
We, the undersigned Chairperson and Secretary of the Mashpee Wampanoag Tribal Council do hereby certify that the Tribal Council is composed of 13 members of whom 9, constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened, and held on the 4th day of June, 2012, and that the foregoing Resolution was duly adopted by the affirmative vote of 7 members, with 1 opposing, and with 0 not voting.

DATED this 4th day of June, 2012

Cedric Cromwell, CHAIRPERSON
Mashpee Wampanoag Tribal Council

ATTEST:

Marie A. Stone, SECRETARY
Mashpee Wampanoag Tribal Council
Notary Public, Commission Expires 4-15-2016





Mashpee Wampanoag Tribe

2012-ORD-005

FIRST AMENDMENT TO

MASHPEE WAMPANOAG TRIBAL GAMING ORDINANCE

TABLE OF CONTENTS

Section 1.	Authority
Section 2.	Purpose
Section 3.	Amendment of Tribal Gaming Ordinance
Section 4.	Effective Date

The Mashpee Wampanoag Tribal Council does ordain as follows:

Section 1. AUTHORITY.

The authority for the Amendment of 2012-ORD-002, captioned "Tribal Gaming Ordinance" is Article V, Section 2, and Article VI, Section 2, A, B, C, and K of the Constitution of the Mashpee Wampanoag Tribe and Section 9(a) of 2009-ORD-003.

Section 2. PURPOSE.

The purpose of this Ordinance is to make two technical amendments to the Tribal Gaming Ordinance in response to comments from legal staff of the National Indian Gaming Commission coming out of its review of the Ordinance pursuant to the Indian Gaming Regulatory Act.

Section 3. AMENDMENT OF TRIBAL GAMING ORDINANCE.

- (a) The first sentence of Section 603 D of the Tribal Gaming Ordinance is hereby amended to read in its entirety:

"The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for granting of a gaming license."

- (b) Section 603 F of the Tribal Gaming Ordinance is hereby amended by adding the following sentence:



Mashpee Wampanoag Tribe

“When a Key Employee or a Primary Management Official begins work at the gaming operation, there shall be forwarded to the Commission a completed application for employment that contains the notices and information listed in 25 CFR §§556.2, 556.3 and 556.4.”

Section 4. **EFFECTIVE DATE.**

This ordinance shall take effect immediately and be enforced from and after its passage in accordance with the Constitution and laws of the Tribe.




Mashpee Wampanoag Tribe


CERTIFICATION

We, the undersigned Chairperson and Secretary of the Mashpee Wampanoag Tribal Council do hereby certify that the Tribal Council is composed of 13 members of whom 9, constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened, and held on the 4th day of June, 2012, and that the foregoing Resolution was duly adopted by the affirmative vote of 7 members, with 1 opposing, and with 0 not voting.

DATED this 4th day of June, 2012


Cedric Cromwell, CHAIRPERSON
Mashpee Wampanoag Tribal Council

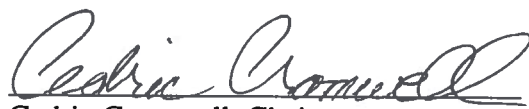
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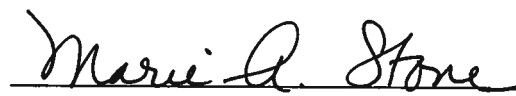

Marie A. Stone, SECRETARY
Mashpee Wampanoag Tribal Council
Notary Public, Commission Expires 4-15-2016

CERTIFICATION OF POSTING

This is to certify that the Ordinance titled 2012-ORD-004, "MASHPEE WAMPANOAG FIRST AMENDMENT TO TRIBAL GAMING AUTHORITY ORDINANCE," has been posted in accordance with 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions, and 2009-ORD-007, Meetings of the Tribal Council.

DATED this 4th day of June, 2012


Cedric Cromwell, Chairperson
Mashpee Wampanoag Tribe


Marie A. Stone, Secretary
Mashpee Wampanoag Tribe

