

NATIONAL  
INDIAN  
GAMING  
COMMISSION

NOV - 8 1994

Ralph W. Sturges, Chief  
Mohegan Tribe of Indians of Connecticut  
27 Church Lane  
Uncasville, Connecticut 06382

Dear Chief Sturges:

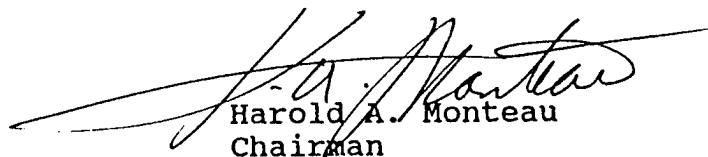
This letter responds to your request to review and approve the tribal Ordinance 94-1 adopted on July 28, 1994, by the Mohegan Tribe of Indians of Connecticut (Tribe). This letter constitutes such approval under the Indian gaming Regulatory Act (IGRA).

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 NIGC regulations. Provisions other than those required under the IGRA or NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games. It is important to note that 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 not 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 Mohegan Tribe of Indians in Connecticut for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely your,

  
Harold A. Monteau  
Chairman

941108-00015

Moh/res-gaming ord

Resolution No. 94-7/282

of the

MOHEGAN TRIBE OF INDIANS OF CONNECTICUT

WHEREAS, the Mohegan Tribe of Indians of Connecticut is an American Indian tribe recognized by the government of the United States pursuant to the provisions of 25 Code of Federal Regulations Part 83; and

WHEREAS, the Council is authorized under Article V, section 1(1) of the Mohegan Constitution to negotiate with federal, state and local governments and under Article V, section 1(4) to seek funds from governmental and private sources; and

WHEREAS, the Mohegan Tribe is desirous of pursuing economic development for the benefit of its members, and to strengthen tribal sovereignty; and

WHEREAS, the Tribe has determined that such economic development is best furthered, in the first instance, by operation of a tribal gaming enterprise pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 et seq.; and

WHEREAS, the Mohegan Tribe has taken steps to acquire land on which such a gaming facility could be developed; and

WHEREAS, the Mohegan Tribe has entered into a compact with the State of Connecticut to govern the operation of Class III games pursuant to the IGRA; and

WHEREAS, the Tribe has entered into Management and Development Agreements with Trading Cove Associates, to provide them with exclusive authority to develop, construct and manage the Tribal Gaming Enterprise for a term of seven years; and

WHEREAS, the Council wishes to adopt an ordinance for the regulation of gaming on Tribal land;

NOW, THEREFORE, BE IT RESOLVED, that the ordinance attached hereto and identified below is hereby approved as perfected by the tribal attorney;

Gaming Ordinance of the Mohegan Tribe , attached hereto and incorporated by reference herein.

FURTHER RESOLVED, that the Chief and Secretary of the Mohegan Tribe are hereby authorized to such ordinance for approval to the National Indian Gaming Commission, and to take any and all other

action, as may be necessary to obtain the National Indian Gaming Commission's approval of the aforesaid ordinance and to secure to the Mohegan Tribe all of the benefits contemplated by such ordinance.

FURTHER RESOLVED, that the National Indian Gaming Commission is hereby requested to grant any approval of the aforesaid document legally required to assure its binding force and effect and the Chief is hereby authorized and directed to take all action necessary to seek and obtain any such approval.

Dated this 28<sup>th</sup> day of July, 1994, at Uncasville, Connecticut.

MOHEGAN TRIBE OF INDIANS OF CONNECTICUT

Ralph W. Sturges  
Ralph Sturges, Chief

ATTEST:

Jay C. Fawcett  
Tribal Secretary

ORDINANCE NO. 94-1

ORDINANCE  
OF THE MOHEGAN TRIBE OF INDIANS OF CONNECTICUT  
FOR GAMING ON  
TRIBAL LANDS

An Ordinance to Regulate and  
Provide for the Licensing of  
Class II and Class III Gaming  
on Tribal Lands of the Mohegan Tribe of Indians of Connecticut

GENERAL PROVISIONS

SECTION 1 - SHORT TITLE

This Ordinance may be cited as the "Mohegan Tribal Gaming Ordinance."

SECTION 2 - DECLARATION OF TRIBAL POLICY

§ 2-1. It is the policy of the Mohegan Tribe of Indians of Connecticut, hereinafter referred to as "Tribe":

- (a) That the Tribe shall have the sole proprietary interest in any Gaming Operation;
- (b) That all Gaming Operations on Tribal Lands shall be conducted by the Tribe, through employees of the Tribal Council or its Management Contractors only;
- (c) That it is the objective of this Ordinance to provide revenue to promote (i) Tribal economic development and

self-sufficiency and (ii) the health, education, and welfare of Tribal members; and

- (d) That the Gaming activities provided for by this Ordinance within lands of the Tribe shall be conducted in conformance with the requirements of this Ordinance, the Indian Gaming Regulatory Act, 102 Stat. 2467, 25 U.S.C. § 2701, et seq., as implemented by the regulations promulgated by the National Indian Gaming Commission, and the provisions of any Tribal-State Compact governing Class III Gaming on Mohegan Tribal Lands.

### SECTION 3 - FINDINGS

§ 3-1. The Tribal Council finds that -

- (a) Class II Gaming may be conducted on Tribal Lands of the Tribe by reason of the fact that the State of Connecticut permits bingo;
- (b) Class III Gaming may be conducted on Tribal Lands of the Tribe by reason of the fact that the State of Connecticut permits -
- (i) lottery

- (ii) jai alai or pelota;
- (iii) pari-mutuel wagering on horse and dog racing;
- (iv) casino nights;
- (v) off-track betting and/or simulcasting horse and dog races.

#### SECTION 4 - DEFINITIONS

§ 4-1. For the purpose of this Ordinance, the following definitions shall apply:

- (a) "Act" means the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2466, codified at 25 U.S.C. §§ 2701, et seq.
- (b) "Applicant" means any person that completes an application with the Tribe for a Gaming License.
- (c) "Assessable Gross Revenues" means the annual total amount of money wagered and admission fees, less any amounts paid out as prizes or paid for prizes awarded, and less an allowance for amortization of capital expenditures for structures.

- (d) "Bingo" means that game of chance (whether or not electronic, computer, or other technologic aids are used in connection therewith):
- (i) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
  - (ii) in which the holder of the cards covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
  - (iii) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards.
- (e) "Chairman" means Chairman of the National Indian Gaming Commission or his or her designee.
- (f) "Cheating" means operating or playing in a game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for himself/herself or someone in privity with him/her an advantage over and above the chance of the game.
- (g) "Class II Gaming" means that Gaming defined in 25 C.F.R.

§ 502.3.

(h) "Class III Gaming" means that Gaming defined in 25 C.F.R. § 502.4.

(i) "Collateral Agreement" means any contract, whether or not in writing, that is related, either directly or indirectly, to a Management Contract, or to any rights, duties, or obligations created between the Tribe (or any of its members, entities, or organizations) and a Management Contractor or subcontractor (or any person or entity related to a Management Contractor or subcontractor).

(j) "Commission" means the National Indian Gaming Commission.

(k) "Council" means the Tribal Council as described in the Constitution of the Mohegan Tribe.

(l) "Employee Manager" is a manager other than a "Management Contractor" employed by the Tribe to manage a tribal Gaming Establishment.

(m) "Gaming" means risking any money or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of Gaming apparatus, or the



happening or outcome of an event over which the person taking the risk has no control.

- (n) "Gaming Establishment" means any location or structure, wherein Gaming is licensed, promoted, performed, conducted, or operated.
- (o) "Gaming License" means the permit granted by the Tribe to an applicant for employment with a Gaming Operation.
- (p) "Gaming Operation" means each economic entity that is licensed by the Tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A Gaming Operation may be operated by the Tribe directly or by a Management Contractor.
- (q) "Gross Gaming Revenues" means the annual total amount of money wagered and admission fees.
- (r) "Key Employee" means:
  - (i) A person who performs one or more of the following functions:
    - (1) Bingo caller;
    - (2) Counting room supervisor;

- (3) Chief of security;
  - (4) Custodian of Gaming supplies or cash;
  - (5) Floor manager;
  - (6) Pit boss;
  - (7) Dealer;
  - (8) Croupier;
  - (9) Approver of credit; or
  - (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
- (ii) If not otherwise included, any other person whose total cash compensation is in excess of Fifty Thousand Dollars (\$50,000) per year; or
- (iii) If not otherwise included, the four most highly compensated persons in the Gaming Operation.
- (s) "Management Contract" means any contract, subcontract, or Collateral Agreement between the Tribe and a

contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a Gaming Operation.

- (t) "Management Contractor" means the person or entity holding a contract entered into pursuant to 25 U.S.C. § 2710(d)(9) or § 2711.
- (u) "Minor" means a person less than eighteen (18) years of age.
- (v) "Net Revenues" means Gross Gaming Revenues of a Tribal Gaming Operation less -
  - (i) Amounts paid out as, or paid for, prizes; and
  - (ii) Total Gaming-related Operating Expenses, excluding management fees.
- (w) "Operating Expenses" means total Gaming-related expenses excluding management fees.
- (x) "Person" means any individual, firm, partnership, corporation, company, or association.
- (y) "Person Having a Direct or Indirect Financial Interest in a Management Contract" means:
  - (i) When a person who is a party to a Management

Contract, any person having a direct financial interest in such Management Contract;

- (ii) When a trust is a party to a Management Contract, any beneficiary or trustee;
- (iii) When a partnership is a party to a Management Contract, any partner;
- (iv) When a corporation is a party to a Management Contract, any person who is a director or who holds at least ten percent (10%) of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child or sibling; or
- (v) When an entity other than a natural person has an interest in a trust, partnership, or corporation that has an interest in a Management Contract, all parties of that entity are deemed to be persons having a direct financial interest in a Management Contract.

(z) "Tribal Land" means the person designated in the Management Contract as having engagement responsibility

for the Gaming Operation, or a portion thereof.

(aa) "Player" means a person participating in a game with the hope of winning money or other benefit, but does not include a licensee, any assistant of a licensee, or their immediate family.

(ab) "Primary Management Official" means:

(i) The Person Having Management Responsibility for a Management Contract;

(ii) Any person who has authority;

(1) To hire and fire employees; or

(2) To set up working policy for the Gaming Operation; or

(iii) The chief financial officer or other person who has financial management responsibility.

(ac) "Secretary" means the Secretary of the Interior.

(ad) "Tribal Lands" means all lands which are held in trust by the United States of America for the Tribe and all lands owned by the Tribe which are subject to

restriction against alienation imposed by the United States.

(ae) "Tribal-State Compact" means an agreement between the Tribe and the State of Connecticut about Class III Gaming under 25 U.S.C. § 2710(d).

(af) "Tribe" means the Mohegan Tribe.

#### SECTION 5 - AUTHORITY OF TRIBAL COUNCIL

§ 5-1. The Council shall have the power and responsibility to:

- (a) enforce and administer the provisions of this Ordinance;
- (b) issue and renew Gaming Licenses as provided in this Ordinance and in any regulation which may be promulgated by the Council;
- (c) revoke, suspend, or condition a Gaming License or deny an application for a license for violation of applicable law or Ordinance regulating Gaming, or conviction of any offense involving a Gaming related crime or moral turpitude;
- (d) collect fees and interest as provided for in this Ordinance;

- (e) assess and collect penalties provided for in this Ordinance;
- (f) adjust the respective amounts of the annual license fees, provided that such fees shall not be increased retroactively;
- (g) audit or cause to be audited expenditures, receipts, and reports of a licensee responsible for managing a Tribal Gaming enterprise;
- (h) review, on demand, such books and records and inspect the premises and operations of licensees as it deems necessary for the enforcement of this Ordinance;
- (i) draw up such forms as it deems necessary;
- (j) institute such legal proceedings in the name of the Tribe in a court of competent jurisdiction as it deems necessary for the enforcement of this Ordinance;
- (k) conduct hearings provided for in this Ordinance;
- (l) deposit all fees, penalties, and interest collected under authority of this Ordinance into an account to the credit of the Tribe;

(m) maintain a correct and full accounting of all fees, penalties, and interest received under authority of this Ordinance, and provide a monthly record of that accounting; and

(n) take such other actions and issue such orders and promulgate such regulations as the Council may deem necessary to properly and fully perform its duties and responsibilities under this Ordinance.

§ 5-2. The Council may appoint a committee of not more than three (3) Tribal members to exercise any or all of the powers and responsibilities set out in § 5-1 of this Ordinance, above.

#### SECTION 6 - GAMES AUTHORIZED

§ 6-1. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any Gaming Operation.

§ 6-2. Class II Games as follows may be licensed for conduct on Tribal Lands:

(a) bingo, pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo as defined under



25 C.F.R. § 502.9.

- (b) non-banking card games defined as Class II Gaming under 25 C.F.R. § 502.3(c).
- (c) any game determined to be a Class II Game by Congressional amendment of the Act, by regulation, or by decision of the Commission or the federal courts.

§ 6-3. Class III Games as follows may be licensed for conduct on Tribal Lands:

- (a) such Class III Games as may be authorized by a Tribal-State Compact, and
- (b) such Class III Games authorized under procedures specified in 25 U.S.C. § 2710(d)(7)(B).

#### SECTION 7 - GAMING LICENSES REQUIRED

§ 7-1. A separate Gaming License is required for:

- (a) (i) each person having a Management Contract;
- (ii) each Primary Management Official and each Key Employee whether employed by the Management Contractor or directly by the Tribe; and

(iii) all other employees.

(b) each place, facility, or location on Tribal Lands at which class II or Class III Gaming is conducted.

#### SECTION 8 - APPLICATION FOR GAMING LICENSES

§ 8-1. Each person having a Management Contract, each Primary Management Official and each Key Employee whether employed by the Management Contractor or directly by the Tribe, and all other employees shall complete an application for an initial Gaming License or renewal of an existing Gaming License for each Gaming Establishment on an application form prescribed by the Council. The form or forms prescribed by the Council for employees other than Primary Management Officials or Key Employees shall be less inclusive than the form prescribed for Primary Management Officials and Key Employees and shall be appropriate to the position held by the employee or for which the employee is applying. The application shall set forth:

- (a) the name under which the applicant transacts or intends to transact business on Tribal Lands; and
- (b) the location of the Gaming Establishment for which the Gaming License is sought; and

(c) the application shall be signed by the applicant if a natural person, or, in the case of an association or partnership, by a member or partner thereof, or, in the case of a corporation, by an executive officer thereof, or by some other person specifically authorized by the corporation to sign the application, in which case written evidence of the signator's authority shall be attached. The applicant shall provide evidence of authority of the signator or any other representative to act for and bind the applicant. If any change is made in that authority, the Council shall be immediately informed in writing and, until that information is filed with the Council, any action of the representative shall be presumed to be that of the applicant.

§ 8-2. Each application shall be accompanied by payment of the appropriate license fee.

§ 8-3. The Management Contractor shall file along with the application an organizational chart of its management organization and job descriptions of the employees of the Gaming Operation. The chart shall identify which employees are or will be the Primary Management Officials and the Key Employees of the Gaming Operation.

§ 8-4. An application for a Gaming License shall include:

- (a) a description of the place, facility, or location on Tribal Lands where the applicant will operate a Gaming Operation or where the applicant will be employed.
  
- (b) the following privacy notice prescribed by 25 C.F.R. § 556.2:

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.

- (c) the following notice regarding false statements is prescribed by 25 C.F.R. § 556.3:

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

- (d) the following background investigation information from each Primary Management Official and each Key Employee:

- (i) full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender,

- all languages (spoken or written);
- (ii) currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
- (iii) the names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (d)(ii) of this Section;
- (iv) current business and residence telephone numbers;
- (v) a description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (vi) a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

- (vii) 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;
  
- (viii) 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;
  
- (ix) for each misdemeanor conviction or on-going misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;
  
- (x) for each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph (d)(viii) or (d)(ix) of this Section, the criminal charge, the

name and address of the court involved, and the date and disposition;

(xi) the name and address of any licensing or regulatory agency with which the applicant has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(xii) a current photograph;

(xiii) a complete history of the applicant's educational background, including the names of any colleges, universities, trade or vocational schools, and high schools attended;

(xiv) a description of the applicant's family including an explanation of the relationships described (e.g., parents, guardians, etc.);

(xvi) any financial statement from the applicant's accountant or other financial information specifically requested on the application form, for example, income sources, assets owned, insurance policies,



mortgages, and other information relating to the filing of bankruptcy or other obligations;

(xvii) a description of the applicant's spousal status including, if applicable, the existence of any previous marriages;

(xviii) fingerprints of the applicant to be taken by the Connecticut State Police (or other law enforcement agency approved by the Tribe) and forwarded to the NIGC for a criminal history check. A criminal history check will include a check of criminal history records information maintained by the Federal Bureau of Investigation;

(xix) a statement authorizing law enforcement agencies and prior employers to release information and respond to questions relating to the applicant's records, habits, reputation, and associations;

(xx) all applicants are required to submit to a drug screening test and, if employed, random screening tests thereafter; and

(xxi) any other information the Council deems relevant.

§ 8-5. Each applicant for a Gaming License who has or will have a contract with the Tribe to manage a Tribal Gaming Operation shall state whether or not he/she already has a Management Contract to operate any Indian or non-Indian Gaming Operation and, if so, a description of the location of each such operation.

§ 8-6. A Management Contractor's application shall include information required by 25 U.S.C. § 2711 and 25 C.F.R. § 537.1.

§ 8-7. When a Key Employee or a Primary Management Official begins work at a Gaming Operation the Council shall forward a copy of the person's completed application for a Gaming License to the Commission.

#### SECTION 9 - QUALIFICATIONS FOR GAMING LICENSES

§ 9-1. The Council may issue or renew a Gaming License to an applicant who submits a proper and completed application and pays the appropriate license fee, provided that the Council determines that the applicant:

(a) is not a minor;

(b) is a person of good character, honesty, and integrity;

- (c) has no prior activities, criminal record, reputation, habits, and associations which pose a threat to the public interest or the interest of the Tribe or to the effective regulation and control of Gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of Gaming or the carrying on of the business and financial arrangements incidental to the conduct of Gaming;
- (d) has not supplied false and/or misleading information or who has not omitted material information required under this Ordinance, the Act, and 25 C.F.R. Chapter III;
- (e) has not had, or is not in privity with anyone who has had, a Gaming License revoked for cause in any jurisdiction since the effective date of the Act;
- (f) has complied with this Ordinance or any resolution adopted by the Council;
- (g) does not occupy a competing position in the employ of another Tribe within a five hundred (500) mile radius of any Tribal Gaming Operation; and
- (h) does not violate any of the requirements set forth in 25 U.S.C. § 2711(a) and (e).

§ 9-2. Subject to the requirement of payment of annual license fees, each Gaming License shall be valid for three (3) years provided that, in the discretion of the Council, a Gaming License may be granted for a term to run concurrently with the term of a Management Contract.

§ 9-3. A Gaming License may not be assigned or transferred and is valid only for use by the person in whose name it is issued and at the Gaming Establishment for which it is issued. A Gaming License shall be conspicuously displayed at all times at the Gaming Establishment for which issued.

§ 9-4. The Council shall make the final decision as to whether a Gaming License shall be issued, suspended, or revoked, subject to the dispute resolution procedures agreed to by the Tribe in a management agreement.

§ 9-5. Until authorized by a Tribal-State Compact, no Gaming License shall be issued by the Council for Class III Gaming.

#### SECTION 10 - GAMING LICENSE FEES

§ 10-1. The fees for Gaming Licenses issued pursuant to this Ordinance shall be determined by the Tribal Council. Such fees shall be set at an amount determined to be sufficient to cover tribal administrative costs plus the cost of conducting the

background investigations of the license applicants, provided that the investigation fee for persons having a Management Contract shall not exceed the reasonable cost of such fees agreed to by the Tribe in a Management Contract. It is estimated that the costs of conducting background checks of Primary Management Officials and Key Employees will not exceed Five Thousand Dollars (\$5,000) per individual and Twenty Thousand Dollars (\$20,000) per domestic entity, with an additional cost of Twenty Thousand Dollars (\$20,000) for each foreign country in which an entity does business. License fees for all other employees shall be One Hundred Dollars (\$100). The Council may waive the annual fee on a case-by-case basis.

§ 10-2. The Council may adjust the license fee at any time on a prospective basis.

§ 10-3. The license fee shall be paid with the submission of the applicant's completed application, and shall be non-refundable.

§ 10-4. All moneys collected or received at a Gaming Establishment, except any individual winnings or prizes of Ten Thousand Dollars (\$10,000) or less paid in cash immediately, shall be deposited by the licensee in bank accounts approved by the Council, which accounts shall contain only such moneys. Other cash prizes, the purchase prices of non-cash prizes, and all expenses for such Gaming activities shall be withdrawn from such accounts approved by the Council by consecutively numbered checks

duly signed by a specified officer or officers of the licensee and payable to a specific person or organization. There shall also be documentation for each check designating the nature of the expense or prize for which the check is drawn. No check shall be drawn to "cash" or a fictitious payee. Wire transfers shall be allowed with proper supporting documentation.

#### SECTION 11 - BACKGROUND INVESTIGATIONS

§ 11-1. The Council shall conduct, or cause to be conducted, a background investigation of each applicant for a position which is designated as a Key Employee or Primary Management Official sufficient to make a qualification determination under Section 9 above, provided that the Tribe shall, to the extent permitted by law, utilize state investigative processes set forth in the Tribal-State Compact. In conducting the investigation, the Council shall keep confidential the identity of each person interviewed in the course of the investigation.

#### § 11-2. Investigative Reports.

(a) The Council shall prepare and forward to the Commission an investigative report summarizing each background investigation of a Key Employee or Primary Management Official that the Council intends to employ.

(b) The Council shall forward an investigative report to the

Commission within sixty (60) days after a Key Employee or Primary Management Official begins work or within sixty (60) days of the approval of this Ordinance by the Commission.

(c) Each investigative report shall include the following:

(i) the steps taken in conducting the background investigation;

(ii) the results obtained;

(iii) the conclusions reached; and

(iv) the basis for those conclusions.

(d) The Council shall submit to the Commission, along with the investigative report, a summary of the Council's qualification determination made under Section 9 above.

(e) If a Gaming License is not issued to an applicant, the Council:

(i) shall notify the Commission; and

(ii) may forward copies of its qualification determination and investigative report (if any) to

the Commission for inclusion in the Indian Gaming Individuals Records System.

- (f) With respect to Key Employees and Primary Management Officials, the Council shall retain applications for Gaming Licenses and reports (if any) of background investigations for inspection by the Chairman or his or her designee for no less than three (3) years from the date of termination of employment.
- (g) A Gaming Operation shall not employ as a Key Employee or Primary Management Official a person who does not have a Gaming License ninety (90) days after a license application has been submitted.

§ 11-3. Granting a Gaming License.

- (a) If, within a thirty (30) day period after the Commission receives an investigative report, the Commission notifies the Council that it has no objection to the issuance of a Gaming License pursuant to a license application filed by a Key Employee or a Primary Management Official, the Council may issue a license to such applicant.
- (b) The Council shall respond to a request for additional information from the Chairman concerning a Key Employee



or a Primary Management Official who is the subject of an investigative report. Such a request shall suspend the thirty (30) day period under Subsection (a) above until the Chairman receives the additional information.

- (c) If, within the thirty (30) day period described in Subsection (a) above, the Commission provides the Council with a statement itemizing objections to the issuance of a Gaming License to a Key Employee or to a Primary Management Official application, the Council shall reconsider the application, taking into account the objections itemized by the Commission. The Council shall make the final decision whether to issue a Gaming License to such applicant.

§ 11-4. Gaming License Suspension.

If, after the issuance of a Gaming License, the Tribe receives from the Commission reliable information indicating that a Key Employee or a Primary Management Official is not eligible for employment under Section 9 of this Ordinance, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

SECTION 12 - MAINTENANCE OF GAMING FACILITY

§ 12-1. The Council shall establish standards and procedures for inspection and enforcement by which a Gaming facility licensed under this Ordinance shall be maintained in a manner which adequately protects the environment and the public health and safety.

SECTION 13 - USE OF NET REVENUES

§ 13-1. Net Revenues from Gaming permitted under this Ordinance shall only be expended for one or more of the following purposes:

- (a) to fund Tribal government operations or programs;
- (b) to provide for the general welfare of the Tribe and its members;
- (c) to promote Tribal economic development;
- (d) to donate to charitable organizations; or
- (e) to support operations of local governmental agencies.

§ 13-2. If the Council elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary pursuant to

25 U.S.C. § 2710(b)(3).

#### SECTION 14 - RECORDS AND REPORTS

§ 14-1. A Gaming Operation shall keep permanent books of account or records, including inventory records of Gaming supplies, sufficient to establish the amount of gross and net income, deductions and expenses, receipts and disbursements, and other information required in any financial statement, report, or other accounting prepared pursuant to the Act or Chapter III in Title 25 C.F.R.

§ 14-2. No later than the twenty-fifth (25th) day of each month, each Gaming Operator shall provide, in a report form prescribed by the Council, a statement of gross revenues, Assessable Gross Revenue and Net Revenues received or collected at each Gaming Establishment during the immediate preceding month.

§ 14-3. All papers, books, and records including computer records of the Gaming Operation relating to licensed Gaming activities shall be subject to inspection, examination, photocopying, and auditing by the Council and the Commission's authorized representatives at any time during reasonable hours. All such papers, books, and records shall be retained not less than six (6) years.

SECTION 15 - ANNUAL AUDIT

§ 15-1. (a) The Council shall cause to be conducted, at least annually, an independent audit of the books and records of each Gaming Operation.

(b) Audit Standards. The Tribe shall engage an independent certified public accountant, licensed in Connecticut, to provide an annual audit of the financial statements of each Gaming Operation on Tribal Lands. Such financial statements shall be prepared in accordance with generally accepted accounting principles and the audit(s) shall be conducted in accordance with generally accepted auditing standards. Audit(s) of the Gaming Operation required under this Section may be conducted in conjunction with any other independent audit of the Tribe, provided that the requirements of Chapter III in Title 25 C.F.R. are met.

(c) Copies of Audit Reports. The Tribe shall submit to the Commission a copy of the audit report(s) and management letter(s) setting forth the results of each annual audit within one hundred twenty (120) days after the end of each fiscal year of the Gaming Operation(s) resulting from the audit(s) conducted pursuant to Subsection (a) above.

(d) Relationship of Audited Financial Statements to Fee Assessment Reports. The Tribe shall reconcile its quarterly fee assessment reports, submitted under 25 C.F.R. Part 514, with its audited financial statements and make available such reconciliation upon request by the Commission's authorized representative.

§ 15-2. All Gaming related contracts that result in purchases of supplies, services, or concessions for more than Twenty-Five Thousand Dollars (\$25,000) in any year (except contracts for professional legal or accounting services) shall be specifically included within the scope of the audit conducted pursuant to this Section.

#### SECTION 16 - GROSS GAMING REVENUES

§ 16-1. The Gross Gaming Revenues derived from Gaming Operations are Tribal funds and may be expended by a licensee whose authority is either delegated or provided for by the Council in an approved Management Contract.

#### SECTION 17 - VIOLATIONS

§ 17-1. No person shall operate or conduct any Gaming activity in a Gaming Operation within the exterior boundaries of Tribal Lands without a Gaming License issued by the Council as required by this

Ordinance.

§ 17-2. No person shall knowingly submit false or misleading information to the Commission or the Tribe in response to any provision of the Act, Chapter III in Title 25 C.F.R., or a Tribal Ordinance or Resolution that the Chairman has approved under Parts 522 or 523 in Title 25 C.F.R.

§ 17-3. (a) No Management Contractor shall fail to account fully for all moneys received or collected in connection with Gaming activities or to file any report required by the Management Contract.

(b) A Gaming Operation shall not refuse to allow an authorized representative of the Commission or an authorized Tribal official to enter or inspect a Gaming Operation in violation of 25 C.F.R. § 571.5 or § 571.6, or of a Tribal Ordinance or resolution approved by the Chairman under Parts 522 or 523 in Title 25 C.F.R.

§ 17-4. No person under the age of eighteen (18) years shall be employed by a Gaming Operation or shall otherwise be permitted to participate in any Gaming activities.

§ 17-5. No person shall engage in cheating (as that term is defined in § 4-1(f) of this Ordinance) in any Gaming activity or engage in any fraudulent conduct affecting either the Tribe or a

customer of a Gaming Operation.

§ 17-6. No person, other than an officer of the Mohegan Department of Law Enforcement, may enter or remain in a Gaming Establishment licensed under this Ordinance while in the possession of a firearm or other weapon.

§ 17-7. Any person who knowingly acts in concert with a person who violates this Ordinance shall be deemed to be in violation of this Ordinance to the same extent as the violator, and shall be treated accordingly.

§ 17-8. The Management Contractor is responsible for ensuring that all Primary Management Officials and Key Employees assisting in the operation of any Gaming activity on the Management Contractor's behalf comply with this Ordinance. A violation by any such officials or employees, unless otherwise provided in an approved Management Contract, shall, subject to the contractual opportunity to cure, be deemed a violation by the Management Contractor and shall subject the contractor to civil enforcement action. It shall not be a defense that the Management Contractor was unaware of the violation.

§ 17-9. No person, whether playing in or conducting any Gaming activity authorized under this Ordinance, shall:

- (a) use bogus or counterfeit cards, or substitute or use any

game cards that have been tampered with;

(b) employ or have on one's person any cheating device to facilitate cheating in any Gaming activity; or

(c) knowingly cause, aid, abet, or conspire with another person or cause any person to violate any provision of this Ordinance or any rule adopted under this Ordinance.

§ 17-10. A Gaming Operation's facility shall be constructed, maintained, and operated in a manner that does not threaten the environment or the public health and safety.

§ 17-11. Alcohol not sold by the licensee to customers, and/or controlled substances (as defined by federal, state, or tribal laws) are not to be brought into the Gaming Establishment. All retail alcohol sales must comply with applicable tribal law.

§ 17-12. If the Management Contractor fails to correct violations within the time permitted in a notice of violation issued by the Chairman or within fifteen (15) calendar days after the Tribe provides notice of a violation, such failure shall be deemed a further violation by the Management Contractor.

#### SECTION 18 - NOTICE OF VIOLATION

§ 18-1. The Council may issue a notice of violation to any person



for violation of any provision of this Ordinance.

§ 18-2. A notice of violation shall contain:

- (a) a citation to the Ordinance provision that has been or is being violated;
- (b) a description of the circumstances surrounding the violation, set forth in common and concise language;
- (c) measures required to correct the violation;
- (d) a statement that the violation must be corrected within five (5) calendar days from the date the notice was issued, providing that a violation which threatens the public health or safety or the integrity of the Gaming process may require correction in a shorter period;
- (e) a statement of the alleged violator's rights of appeal;  
and
- (f) the amount of civil penalties, if any, that the alleged violator must pay pursuant to Section 19, below.

#### SECTION 19 - CIVIL PENALTIES

§ 19-1. In issuing a notice of violation under Section 18 of this

Ordinance, the Council may:

- (a) impose a penalty not to exceed Five Hundred Dollars (\$500) for each violation and, if such violation is a continuing one, for each day, that the violation occurs; and/or
- (b) impose a penalty of One Hundred Dollars (\$100) per day for failure to submit to the Council any report required under this Ordinance when it is due, and One Thousand Dollars (\$1,000) per day for failure to file any such report after three-day notice and demand, provided that if the person to whom the notice of violation is issued appeals the notice, the Council may stay the imposition of such penalties pending the resolution of the appeal.

§ 19-2. How assessments are made.

The Council shall review each notice of violation to determine whether a civil fine will be assessed, the amount of the fine, and, in the case of a continuing violation, whether such daily violation will be deemed a separate violation for purposes of the total civil fine assessed.

§ 19-3. Procedures for assessment of a civil fine:

- (a) within five (5) calendar days after service of a notice of violation, the alleged violator shall submit written

information about the violation and any corrective measures undertaken to Council. The Council shall consider any information so submitted in determining the facts surrounding the violation and the amount of the civil fine;

- (b) the Council shall serve a copy of the proposed assessment on the alleged violator within ten (10) calendar days after the notice of violation was issued, when practicable; and
- (c) the Council may review and reassess any civil fine if necessary to consider facts that were not reasonably available on the date of issuance of the proposed assessment.

§ 19-4. Final assessment:

- (a) if the alleged violator fails to request a hearing as provided in § 21 of this Ordinance, the proposed civil fine assessment shall become a final order of the Council;
- (b) civil fines assessed under this Section shall be paid by the person assessed and shall not be treated as an Operating Expense of the Gaming Operation; and

- (c) the Council shall transfer civil fines paid under this Ordinance to the Secretary-Treasurer of the Tribe for deposit into the Tribal Treasury.

SECTION 20 - ENFORCEMENT

§ 20-1. The Council shall take any one or a combination of the following actions with respect to any person who violates any provision of this Ordinance:

- (a) suspend or revoke any Gaming License issued by Council;
- (b) bring an action in a court of competent jurisdiction for imposition of one or more of the following sanctions:
  - (i) seizure of any Gaming apparatus, proceeds, or other property of a licensee connected with the Gaming activities engaged in by the licensee;
  - (ii) collection of any unpaid fees, interest, penalties, and of any civil fines unpaid after thirty (30) calendar days; or
  - (iii) execution on any nonexempt property of a violator located within the exterior boundaries of Tribal Lands, or

(c) refer the matter to arbitration under the procedures set forth in a governing Gaming management agreement.

§ 20-2. Civil actions may be brought by the Council pursuant to this Ordinance in any court of competent jurisdiction to enforce the imposition of any and all sanctions provided for under this ordinance.

§ 20-3. Before taking any action authorized in § 19 and § 20-1 of this Ordinance, the Council shall use its best efforts to notify the alleged violator, in person or by letter delivered to his/her last known address, of the charges against him/her, and allow the alleged violator an opportunity for a prompt hearing. If the alleged violator fails to respond, or cannot be found, the Council may proceed with a hearing notwithstanding, and take such action as it deems appropriate. Said notice of the alleged violation shall be served at least three (3) business days prior to the hearing.

§ 20-4. Every person who applies for a Gaming License and accepts such license thereby acknowledges the civil enforcement jurisdiction and authority of the Council under this Ordinance to order an execution on his/her nonexempt property, the suspension or termination of his/her further conduct of Gaming activities and the seizure of his/her Gaming equipment or proceeds or other property, upon a proper finding of the Council or the court that

the person has violated a provision of this Ordinance, despite lack of actual notice, provided that the Council has used its best efforts to notify the person, in person or by letter delivered to his/her last known address.

#### SECTION 21 - HEARINGS AND APPEALS

§ 21-1. This Section provides procedures for appeals to the Council regarding:

- (a) a violation alleged in a notice of violation; and
- (b) civil fines assessed by the Council in this Ordinance.

§ 21-2 The Council shall hold a hearing on the proposed revocation of a Gaming License held by a Primary Management Official or Key Employee after it has suspended such license pursuant to 25 C.F.R. § 558.5. The licensee shall be notified by the Council of the time and place for hearing. After the hearing, the Council shall decide to revoke or reinstate the Gaming License. The Tribe shall notify the Commission of its decision.

§ 21-3. Any licensee paying a civil fine or penalty for any violation enumerated in this Ordinance because of excusable neglect may petition the Council for a partial or full waiver of suit, fine, or penalty. The petition shall be filed within thirty (30) business days after the payment was made.

§ 21-4. Any person aggrieved by a decision made or action taken by the Council without notice and opportunity for hearing to the aggrieved person, may petition the Council for a hearing and reconsideration. The petition shall be filed within thirty (30) business days after the petitioner knew or should have known of the decision or action. The Council shall grant a prompt hearing upon receiving such a petition, and shall reconsider its decision or action, affirm, modify, reverse and/or vacate the Council's order in light of what is presented at a hearing.

§ 21-5. Any person aggrieved by a decision made or action taken by the Council after notice and opportunity for hearing may petition the Council for review. Such petition shall specifically set forth the reasons for aggrievement and be filed with the Council no later than thirty (30) business days after the Council's decision or action. The Council shall set the matter for hearing no later than thirty (30) business days and no sooner than three (3) business days after receipt of the petition, and may, upon establishing that it has jurisdiction, affirm, modify, reverse and/or vacate the Council's order.

§ 21-6. Upon the Council's finding of a violation by a party to a federally-approved Gaming Management Contract, that person may invoke the dispute resolution procedures of that contract before any liabilities are effective.

SECTION 22 - SERVICE

§ 22-1. The Chairman of the Mohegan Tribe, 27 Church Lane, Uncasville, Connecticut 06382, is hereby designated as the Tribe's agent for service of any official determination, order, or notice of violation by the Commission, provided that the Council may change such designation by resolution provided to the Commission with copies to the Tribe's Management Contractor.

§ 22-2. A Management Contractor or a Tribal operator shall designate by written notification to the Commission an agent for service of any official determination, order, or notice of violation.

SECTION 23 - RESOLUTION OF DISPUTES BETWEEN MANAGEMENT CONTRACTOR OR TRIBE AND CUSTOMERS

§ 23-1. Notice of warning regarding the improper conduct set out in § 23-2 of this Ordinance or other Gaming rules established and enforced by the Gaming Operation shall be posted at the entrance of each Gaming Establishment and/or given to the customer upon entering the premises.

§ 23-2. The following improper conduct shall result in ejection of a customer from any Gaming Establishment:

- (a) cheating;



- (b) possession of weapons in the Gaming Establishment;
- (c) possession of alcohol that has been brought by a customer into the Gaming Establishment;
- (d) possession of a controlled substance in the Gaming Establishment;
- (e) disorderly conduct, including the willful, or wanton disregard for the rights of others; and
- (f) any other act which is disruptive to the Gaming Operation.

§ 23-3. Failure by a customer to provide proof of age when requested by Gaming Operation personnel shall result in ejection of the customer from the premises but the admission fee shall be refunded.

§ 23-4. Ejection of a customer shall be accomplished by the Mohegan Department of Law Enforcement, upon request of the Gaming Operation.

§ 23-5. (a) Either the Employee Manager or management contractor of the Gaming Operation or an alternate designated by either shall be present at all times to resolve complaints by customers involving the

operation of bingo and other Class II Games at the establishment.

- (b) If the Employee Manager or Management Contractor or their alternates are unable to resolve any dispute, as provided in (a) the matter may, upon request of the customer, be referred to the Council for resolution. Action by the Council may be initiated by making a written request to the Legal Department of the Mohegan Tribe, 27 Church Lane, Uncasville, Connecticut 06382. The decision of the Council on any dispute so referred to it for resolution shall be final.

#### SECTION 24 - APPLICABLE LAW

§ 24-1. All controversies involving contracts relating to Gaming entered into under the authority of the Council on Tribal Lands shall be resolved, as appropriate, in accordance with:

- (a) the Indian Gaming Regulatory Act;
- (b) National Indian Gaming Commission Regulations;
- (c) the laws of the Tribe; and
- (d) if no Tribal laws exist, the laws of the State of Connecticut, which are incorporated herein by

reference.

§ 24-1. To the extent that the provisions of any Tribal-State Compact entered into by the Mohegan Tribe and the State of Connecticut are inconsistent with any provisions of this Ordinance, the provisions of the compact shall govern Class III Gaming on Mohegan Tribal Lands.

#### SECTION 25 - SAVINGS PROVISION

§ 25-1. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions or application, and, to this end, the provisions of this Ordinance are severable.

#### SECTION 26 - EFFECTIVE DATE

§ 26-1. This Ordinance shall be effective immediately upon approval by appropriate governmental authority.