



AUG - 8 2005

Via Facsimile and U.S. Mail

Maurice R. Johnson, Esq.
Johnson Thompson LLP
10844 Old Mill Road, Suite 4
Omaha, NE 68154

RE: Approval of Class II Gaming Ordinance for the Omaha Tribe of Nebraska

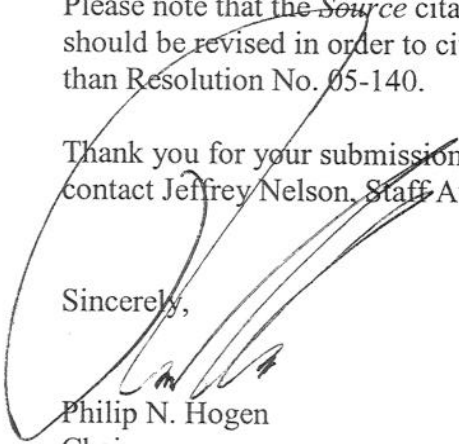
Dear Mr. Johnson:

This is in response to your letter misdated June 8, 2005, requesting review and approval of the Omaha Tribe of Nebraska's Ordinance Number 05-154 (July 19, 2005), and attached Class II Gaming Code. The National Indian Gaming Commission received your letter on July 21, 2005. The ordinance and attached gaming code are consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) and this agency's regulations, and they are therefore approved.

Please note that the ~~Source~~ citation at the beginning of the Tribe's Class II Gaming Code should be revised in order to cite to Omaha Tribal Council Resolution No. 05-154, rather than Resolution No. 05-140.

Thank you for your submission. If you have any questions or require assistance, please contact Jeffrey Nelson, Staff Attorney, at (202) 632-7003.

Sincerely,



Philip N. Hogen
Chairman

Cc: The Honorable Orville Cayou, Chairman
Omaha Tribal Council

OMAHA TRIBE OF NEBRASKA

P. O. Box 368
Macy, Nebraska 68039

EXECUTIVE OFFICER

Orville Cayou, Chairman
Eileen Baxter, Vice-Chair
Crystal Appleton, Treasurer
Bert Walker, Secretary



TRIBAL ADMINISTRATION

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MEMBERS

Rodney Morris
Antoine Provost
Barry D. Webster

JUL 21 2005

ORDINANCE NO. 05-154 OF THE OMAHA TRIBE OF NEBRASKA

Amendment of Omaha Tribal Code Title 28, Class II Gaming

WHEREAS, the Omaha Tribe of Nebraska is a federally recognized Indian tribe organized under its Constitution and Bylaws approved by the Secretary of Interior on April 30, 1936, pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934; and,

WHEREAS, pursuant to Article III, Section 1 of the Constitution of the Omaha Tribe of Nebraska, the governing body of the Omaha Tribe shall be known as the Tribal Council; and,

WHEREAS: Article IV, Section 1(j) of the Constitution of the Omaha Tribe of Nebraska provides the Omaha Tribal Council with the power to safeguard, promote, and enforce the peace, economy, safety, law and order; and general welfare of the tribe and the Omaha Indian Reservation; to regulate trade and commerce; and to regulate all manner of criminal and non-criminal conduct; and,

WHEREAS: By Resolution No. 81-68, the Omaha Tribal Council established regulations of gaming activities within the Omaha Indian Reservation, which regulations were later amended by Resolution Nos. 83-62, 84-91, 85-20, and 87-50, and which can be found at Title 28 of the Omaha Tribal Code; and,

WHEREAS: The above-referenced resolutions were effectively superseded by the passage of the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., and Omaha Tribal Council Resolution Nos. 92-59, 95-108; and,

WHEREAS: The Omaha Tribal Council finds that new Class II gaming regulations are desirable to govern Class II gaming on "Indian lands" of the Omaha Tribe.

WHEREAS: On June 2, 2005, The Omaha Tribal council adopted Ordinance number 05-140, authorizing an amendment of Omaha Tribal Code Title 28, Class II Gaming; and,

WHEREAS: By letter dated June 10, 2005, the National Indian Gaming Commission acknowledged receipt on June 9, 2005 of the Class II Gaming Ordinance submission and related documents; and,

WHEREAS: The Omaha Tribal Council requests to withdraw Ordinance number 05-140 and related documents received by the NIGC on June 9, 2005 and submit the attached Ordinance and related documents to the NIGC for approval.

NOW THEREFORE BE IT ORDAINED,

That Title 28 of the Omaha Tribal Code is hereby amended by replacing the existing language in its entirety with the language attached to this ordinance.

BE IT FURTHER ORDAINED,

That it is the express intention of the Omaha Tribal Council that the following provisions be included and not severable in the attached ordinance:

(A) except as provided in 25 U.S.C. § 2710(b)(4), the Omaha Tribe will have the sole proprietary interest and responsibility for the conduct of any gaming activity;

(B) net revenues from any tribal gaming are not to be used for purposes other than—

(i) to fund tribal government operations or programs;

(ii) to provide for the general welfare of the Indian tribe and its members;

(iii) to promote tribal economic development;

(iv) to donate to charitable organizations; or

(v) to help fund operations of local government agencies;

(C) annual outside audits of the gaming, which may be encompassed within existing independent tribal audit systems, will be provided by the Tribe to the Commission;

(D) all contracts for supplies, services, or concessions for a contract amount in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to such gaming shall be subject to such independent audits;

(E) the construction and maintenance of the gaming facility, and the operation of that gaming will be conducted in a manner that adequately protects the environment and the public health and safety; and

(F) there will be an adequate system that—

(i) ensures that background investigations are conducted on the primary management officials and key employees of the gaming enterprise and that oversight of such officials and their management is conducted on an ongoing basis; and

(ii) includes—

(I) tribal licenses for primary management officials and key employees of the gaming enterprise with prompt notification to the Commission of the issuance of such licenses;

(II) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment; and

(III) notification by the Tribe to the Commission of the results of such background check before the issuance of any of such licenses.

BE it FURTHER ORDAINED, That the Omaha Tribal Council requests to withdraw Ordinance number 05-140 and related documents received by the NIGC on June 9, 2005 and submit the attached Ordinance and related documents to the NIGC for approval

BE IT FINALLY ORDAINED,

That this ordinance and attached law shall be submitted to the National Indian Gaming Commission (NIGC) for approval pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2710, and the regulations found at 25 CFR Part 522.

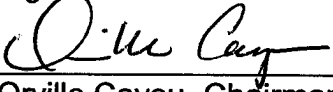
CERTIFICATION

This will certify that the foregoing ordinance was considered at a meeting of the Omaha Tribal Council of the Omaha Tribe of Nebraska, duly called and held on the 19th day of July, 2005, and was adopted by a vote of

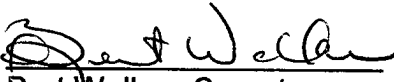
4 FOR, 0 AGAINST and 2 NOT VOTING OR ABSENT with the
Chairman not voting. A quorum of 5 was present.

Dated this 19 day of July, 2005.

Signed:



Orville Cayou, Chairman
Omaha Tribal Council



Bert Walker, Secretary
Omaha Tribal Council

Reviewed:

BIA Superintendent, Winnebago Agency

OMAHA TRIBAL CODE (2003)

TITLE 28. CLASS II GAMING

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TITLE 28. CLASS II GAMING

154

Source: Omaha Tribal Council Resolution No. 05-140; approval by the NIGC was given on _____ and can be found at _____.

SECTION 28-1-2. Title; Effective Date; Repealer.

This shall be known as the Omaha Tribe of Nebraska and Iowa Class II Gaming Code ("Code"). This Code is promulgated pursuant to Article IV, §§ 1(h), (j) and (g) of the Constitution, the Bylaws and the inherent powers of the Omaha Tribe of Nebraska and Iowa (hereinafter "Tribe") as a sovereign Indian Nation and sets forth the terms for Class II Gaming operations on Indian Lands (as that term is defined generally within the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*). The previous laws of the Tribe governing Class II Gaming, to the extent they are inconsistent with this Code, are repealed hereby at the date and time of enactment hereof. This Code shall be effective at the date and time of enactment.

SECTION 28-1-3. Findings.

The Tribal Council of the Tribe finds as follows:

- (a) Any Class II Gaming on Indian Lands shall be within the jurisdiction of the Tribe, subject to the provisions of the Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.*).
- (b) The Tribe has, to the greatest extent possible under the Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.*), the sole proprietary interest in, and responsibility for, the licensing and regulation of any gaming operation authorized by this Code, and by this Code, the Tribe has the authority to operate Class II Gaming activities on Indian Lands.
- (c) The Indian gaming industry is vitally important to the economy of the Tribe and the health and general welfare of its members as well as the economy of the area surrounding the Tribe's reservation and the inhabitants of such surrounding areas.
- (d) The continued growth and success of Indian gaming is dependent upon public confidence and trust that Indian gaming is conducted honestly and competitively and that Indian gaming is free from criminal and corrupt elements.
- (e) Public confidence and trust can only be maintained by strict and fair regulation of all persons, practices and activities related to the operation of Indian gaming.
- (f) It is essential to the health, safety and general welfare of the Citizens of the Tribe that standards and regulations to govern the conduct of Class II Gaming activities be established and promulgated.
- (g) Gaming is a socially acceptable method of recreation and a valid and efficient means for enhancing governmental revenue, provided that it is properly, fairly and fully regulated.
- (h) This Code is intended to implement the purposes set forth below as well.

SECTION 28-1-4. Purposes.

This Code was promulgated in order to regulate the conduct of Class II Gaming on Indian Lands located within the jurisdiction of the Tribe as authorized by, and subject to, the Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.*):

- (a) To promote tribal economic development;
- (b) To enhance employment opportunities for Tribal Citizens as well as residents of the Tribe's reservation and the surrounding area;
- (c) To strengthen the economy of the Tribe and that of the surrounding areas;
- (d) To generate revenue for use in improving the economic status, health, education and general welfare of Tribal Citizens and create economic opportunities for Tribal Citizens;

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- (e) To assure that the Tribe is the primary beneficiary of Class II Gaming, and that the profits received by the Tribe from the operation of Class II Gaming are used to promote economic development, education, governmental services, health and the general welfare of the Tribe and its members;
- (f) To develop and implement an effective regulatory scheme for the conduct of Class II Gaming on Indian Lands and to assure that such gaming adequately protects the environment and is clean, well-run and provides safe and fair entertainment for its customers;
- (g) To provide a basis for the operation and regulation of Class II Gaming by the Tribe as a means of promoting tribal economic development, self-sufficiency and full employment of Tribal Citizens and a strong tribal government;
- (h) To assure that all Class II Gaming activities will be conducted under the exclusive ownership, control and responsibility of the Tribe;
- (i) To assure that the Tribe will receive at least 100 % of the net revenues of all Class II Gaming activities conducted pursuant to this Code, unless such other percentage is deemed appropriate by the Tribe from time to time;
- (j) To comply with the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2425, codified at 24 U.S.C. § 2701, et seq. (1988) (hereinafter referred to as the "Act"), and to set forth the procedure and requirements for investigating, licensing and regulating Class II Gaming on Indian Lands.
- (k) To protect the health, welfare and safety of the public;
- (l) To assure that the profits derived from Class II Gaming are accurately reported, are transferred to the rightful parties and are used for the purposes intended;
- (m) To assure honesty and financial integrity of all Class II Gaming conducted pursuant to this Code;
- (n) To deter any criminality, or the potential for any criminality to occur, and to shield any Class II Gaming from any involvement with organized crime or other corrupting influences; and
- (o) To protect, preserve and enhance the economic and general welfare of the public and the Citizens of the Tribe.

SECTION 28-1-5. Definitions.

- (a) "Act" means the Indian Gaming Regulatory Act, §§ 2-24, Pub. L. 100-497, 102 Stat. 2425 (codified at 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168 (1991)).
- (b) "Applicant" means any person, partnership, corporation or entity applying for a License pursuant to this Code.
- (c) "Chairman" means the Chairman of the Omaha Tribal Gaming Commission.
- (d) "Class II Gaming" means: (1) the game of chance commonly known as bingo (whether or not electronic, computer or other technological aids are used in connection therewith:
 - (A) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations.
 - (B) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or mechanically determined, and
 - (C) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo; and , (2) card games that:
 - (A) are explicitly authorized by the laws of the State, or
 - (B) are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such

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card games, and (3) the term "class II gaming" does not include:

(A) any banking card games, including baccarat, chemin de fer, or blackjack (21), or

(B) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

(e) "Class II Gaming Equipment" means all proprietary devices, machines, and parts used in the manufacture or maintenance of equipment which are used in and are an integral part of the conduct of any Class II Gaming activity authorized pursuant to this Code.

(f) "Class II Gaming Supplies" means any and all tickets, cards, boards, sheets or other supplies which are used in and are an integral part of the conduct of any Class II Gaming activity authorized or regulated under this Code.

(g) "Commission" and "Commissioner" means the Omaha Tribal Gaming Commission and all members thereof, including the Chairman.

(h) "Gambling Device" means any mechanical, electronic, or other device specifically used for the purpose of effectuating the play of Class II gaming.

(i) "Gaming Code" and "Code" mean the laws, rules and Regulations of the Omaha Tribe, as amended from time to time, which authorize, among other things, Class II Gaming on Indian Lands.

(j) "Indian Lands" means Land within the limits of an Indian Reservation; or land over which an Indian Tribe exercises governmental power and that is either held in trust by the United States for the benefit of any Indian Tribe or individual; or held by an Indian Tribe or individual subject to restriction by the United States against alienation.

(k) "Key Employee" means 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. If not otherwise included, any other person whose total cash compensation is in excess of \$ 50,000 per year; or if not otherwise included, the four most highly compensated persons in the gaming operation.

(l) "License" or "Licensee" means the authority to operate, regulate or manage Class II Gaming on Tribal Land and the holder of such authority.

(m) "Management Contract" means the complete agreement between the Tribe and a Primary Management Official including all collateral agreements relating to Class II gaming activity.

(n) "Omaha Tribe" or "Tribe" means the Omaha Tribe of Nebraska, tribal law enforcement authorities and all governmental persons or entities acting under the authority of the Omaha Tribe.

(o) "Parties-in-interest" or "Party-in-interest" shall include all trustees and beneficiaries of a trust and spouses of such trustees or beneficiaries; parties of a partnership and spouses of such partners, whether the partnership is a limited partnership or a general partnership; the members of an association and spouses of such members and; in the case of corporations, those individuals who are members of the board of directors or officers of such corporation and spouses of officers of such corporation and spouses of such members of the board or officers and each of its stockholders and spouses of such stockholders who hold, directly or indirectly, applying the attribution rules of Section 318 of the Internal Revenue Code (1986), 5 % or more of its issued and outstanding stock, or warrant or stock options entitling the holder to acquire 5 % or more of its issued and outstanding stock at any time; and such other entities or natural persons having a direct financial interest in, or management responsibility for, a Primary Management Official or a Class II Gaming facility and; if any stockholder owning more than 5 % of the stock of a corporate Primary Management Official is a corporation or partnership, every partner of such partnership and of such partners or stockholder and spouses of such stockholders which own more than 5 % of the stock of such corporation as well as corporate officers or members of the board of directors of such corporation and spouses of such officers or members as well as those holding warrants or stock

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options entitling them to acquire at any time 5 % or more of the stock; furthermore, such corporation shall also be considered a Party-in-interest to the Primary Management Official. In the event that a proposed Primary Management Official is a publicly held corporation or partnership, whether general or limited, the term Parties-in-interest shall mean all general partners and any limited partners holding greater than 30 % of the issued and outstanding partnership units of any class and; with respect to the publicly held corporation, the officers and director plus any person holding greater than 30% of the issued and outstanding stock of any class as well as the spouses of such officers; members of the board of directors and partners, whether general or limited; as well as those individuals holding options or warrants which would entitle them to acquire 30 or more of the outstanding stock of such corporations or units of a partnership, applying the attribution rules of Section 318 of the Internal Revenue Code (1986).

(p) "Primary Management Official" means the person having management responsibility for a management contract and any person who has authority to hire and fire employees or to set up working policy for the gaming operation or the chief financial officer or other person who has financial management responsibility .

(q) "Regulations" mean the Regulations promulgated by the Commission or the Tribal Council pursuant to this, Code.

(r) "Revoke" shall mean to permanently void and recall all rights and privileges to hold or obtain a License.

(s) "Secretary" means the Secretary of the United State Department of Interior.

(t) "State" means the States of Iowa or Nebraska, as is appropriate, including individuals, entities, political subdivisions (including counties), agencies and all others using, claiming or in any manner asserting any right or power under the authority of the States of Iowa or Nebraska.

(u) "Suspend" means to cause a temporary interruption of all rights and privileges of a License.

(v) "Tribal Chairman" means the duly elected Chairman of the Tribe.

(w) "Tribal Citizen" or "Citizen" means a person who is an enrolled member of the Tribe or a person under the age of 18 who is eligible for enrollment.

(x) "Tribal Court" or "Court" means the judicial body of the Tribe. "Tribal Council" or "Council" means the Omaha Tribal Council.

(y) "Tribal Gaming Commission," "Gaming Commission" and "Commission" means the Omaha Tribal Gaming Commission established by the Tribe pursuant to this Code.

(z) "Tribe" means the Omaha Tribe of Nebraska, a federally recognized Indian tribe organized pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. § 984) (25 USC § 476), as amended by the Act of June 15, 1935 (49 Stat. § 378).

SECTION 28-1-6. Games Permitted.

(a) When Permissible. The Tribe may engage in Class II Gaming on Indian Lands provided:

- (1) Such gaming is conducted in accordance with the requirements of the Act;
- (2) The State permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal law); and
- (3) Such gaming is conducted in conformance with the terms of the Regulations and this Code.

Any Class II Gaming activity conducted on Indian Land which does not meet these requirements is illegal.

(b) Permissible Class II Gaming. The Tribe may conduct any and all Class II games allowed and provided for under the Act and in compliance with the terms of this Code and the Act and any and all rules promulgated under the Act.

(c) Additional Class II Games; Procedure for Approval. The Commission shall have authority

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to approve by Regulation such additional Class II Gaming activities as may be lawfully conducted pursuant to the Act and this Code.

SECTION 28-1-7. Tribal Gaming Commission.

The Omaha Tribal Gaming Commission (the "Commission"), as previously established, is hereby authorized to regulate the manner in which Class II gaming is conducted. The Omaha Tribe depends on gaming revenues, in part, to generate revenue to promote economic development, and to protect employment opportunities. In order to help ensure that the gaming revenues continue, the Commission is authorized to develop and implement regulations regarding Class II gaming, take necessary steps to ensure that the gaming facilities comply with the Indian Gaming Regulatory Act and this Tribal Gaming Ordinance, and to take steps to deter any and all criminal activity.

(a) Jurisdiction, Powers of Commission. The Commission shall have full, complete and perfect jurisdiction over Class II Gaming and shall have autonomous authority to regulate and supervise all authorized and unauthorized Class II Gaming. However, the Commission shall not have the power to interfere with a Primary Management Official's decisions regarding expenses of operation which implement a budget approved by the Tribe in accordance with a Management Contract. The Commission shall have and perform duties and powers as prescribed by this Code which include the following duties and powers which shall be exercised consistently with the Act, this Code and the Regulations:

(1) To draft, propose and promulgate Regulations with regard to engaging in, licensing and regulating all aspects of Class II Gaming and which have the force of law as may be necessary or desirable in the judgment of the Commission for the effective, fair and efficient regulation of Class II Gaming. Such Regulations shall be consistent with the purposes of this Code, and the Act under which all Class II Gaming shall be conducted and all Class II Gaming facilities maintained, and to specify by Regulation the wagering structure for Class II Gaming;

(2) To issue and serve subpoenas for the production of documents, things or persons and to administer oaths or affirmations and to require testimony under oath or affirmation before the Commission in the course of any investigation or hearing conducted under this Code or the Regulations; for which process notices shall be served in the manner provided by the Tribal Code;

(3) To propound written interrogatories and to appoint hearing examiners to whom may be delegated the power and authority to administer oaths or affirmations, issue subpoenas, propound written interrogatories and require testimony under oath;

(4) To specify the payout from Class II Gaming consistent with the limitations in this Code;

(5) To inspect, monitor and examine all premises where gaming is conducted and Gaming Devices, Equipment or Supplies are utilized, sold or distributed;

(6) To enter, inspect, observe or investigate at any time, with or without warrants, notice or warnings, the offices, facilities or other places of business of a Primary Management Official, wherever the same may be located, in order to determine compliance with this Code, the Regulations and other applicable laws;

(7) To investigate alleged violations of this Code, the Regulations and other applicable laws and to take appropriate disciplinary action or recommend institution of criminal proceedings against a Primary Management Official or a Licensee and other persons for a violation of any of the foregoing or to institute appropriate legal action for enforcement or any of the foregoing;

(8) To conduct investigative hearings concerning the conduct of Class II Gaming and Gaming operations as well as the development and well-being of the industries controlled by the Act, this Code and the Regulations;

(9) To determine, assess and collect civil and administrative fines and Revoke or Suspend Licenses for conduct violating the terms of this Code, the Regulations or other applicable laws;

(10) To investigate the activities of any person, firm or other business entity relating to the conduct of any Class II Gaming activity;

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- (11) To compel, by order of the Commission, the attendance of witnesses or the production of any books, papers, correspondences, memoranda, documents, agreements or other records which the Commission, in the exercise of its discretion, deems relevant or material to any investigation;
- (12) To provide by Regulations for the surveillance and videotaping of all authorized Class II Gaming Activities;
- (13) To provide by Regulations for requirements necessary for reasonably adequate security at all facilities in which authorized gaming is conducted;
- (14) To confiscate or shut down all Class II Gaming Equipment and Class II Gaming Supplies failing to conform to the standards required under this Code, the Regulations, or the Act;
- (15) To seize, impound, inspect, examine and photocopy all papers, books and records of Applicants and Licensees and require verification of income and expense of Class II Gaming activities and all activities conducted under or in violation of this Code or the Regulations;
- (16) To collect all license, investigation and registration fees imposed by this Code and the Regulations; to conduct all hearings, pertaining to civil violations of this Code, the Regulations, and the Act;
- (17) To be present through its members and agents at all times during the operation of any Class II gaming activities for the purpose of certifying the revenue thereof and conducting such other investigations into the conduct of Class II Gaming and the maintenance of Class II Gaming Equipment and Supplies as from time to time the Commission may deem necessary and proper;
- (18) To review and rule upon any complaint by a gaming Primary Management Official regarding any investigative procedures of the Commission which are unnecessarily disruptive of Class II gaming activities operations. The disruption of a Class II Gaming operation shall be proved by preponderance of the evidence and establish that:
 - (A) the procedures had no reasonable law enforcement purpose; and
 - (B) the procedures were so disruptive as to unreasonably inhibit operations of a Class II Gaming facility;
- (19) To make changes to and approve operational procedures prepared by Primary Management Officials which govern the specific operation of Class II Gaming facilities, including security, accounting, game rules, cash control, game procedures and other matters, all of which, following approval, will have the force of law pursuant to this Code;
- (20) To develop licensing procedures and issue permanent, probationary and temporary Licenses and to oversee, regulate and define the conduct of all Licensees;
- (21) To conduct or cause to be conducted background investigations and a review of the prior activities, reputation, habits and associations, as prescribed by law, of all Key Employees and Primary Management Officials, and such other persons as the Commission shall determine to be necessary in the exercise of its discretion, including, but not limited to, Primary Management Officials, Parties-in-interest, Vendors, Class II Gaming Equipment or Supply Vendors;
- (22) To forward completed employment applications and completed background reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission (hereinafter "NIGC") prior to issuing a License, pursuant to the Act and to notify the NIGC if, after completing the background investigations on the Key Employee or Primary Management Official, the Tribe does not license the individual;
- (23) To ensure that all licensed gaming Primary Management Officials are properly accounting for all revenues and expenses (provided that the Commission shall not interfere with a Primary Management Official's decisions respecting implementation of a budget approved by the Tribe under a Management Contract) and that these revenues and expenses are properly assigned and disbursed in a manner accorded by tribal and applicable federal law;
- (24) To assist other law enforcement agencies in the investigation, enforcement and prosecution

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of gaming violations of this Code, the Regulations and federal law;

(25) To adopt and approve an operating budget for the Commission;

(26) To report to the Council and/or Tribal Citizens;

(27) To appoint, supervise and terminate a staff as necessary and

(A) all costs arising out of such necessary staffing will be paid out of Commission funds and may be paid out of the general revenues of the Tribe, subject to approval of the Council; and

(B) all costs for independent audits, investigations and other independent consultants will be paid out of Commission funds and may be paid out of the general revenues of the Tribe, subject to the approval of the Council provided these services are competitively selected for in advance, and provided that this competitive selection requirement shall not be applicable when the Commission determines that an emergency exists;

(28) To prepare a plan for the Council for distribution of per capita payments of net revenues from Class II Gaming conducted pursuant to this Code to Tribal Citizens if and when per capita payments are approved by the Council and the Secretary of Interior;

(29) To hear and decide promptly and in reasonable order all License application requests and the issues affecting the granting, suspension, revocation or renewal thereof;

(30) To identify occupations within Class II Gaming operations which require licensing and to adopt by Regulations additional standards for licensing such occupations;

(31) To deny any License application for cause and to revoke, cancel or suspend for cause any License issued by it. Cause for denial of an application and grounds to revoke, cancel or suspend any License issued by it shall include instances in which the Licensee, Applicant, Party-in-interest or any person with a substantial interest therein:

(A) Willfully or knowingly violated the provisions, requirements, conditions, limitations or duties imposed by this Code, the Act or any Regulations;

(B) Willfully or knowingly caused, aided, abetted or conspired with another to cause any person to violate any of the provisions of the Act, this Code or any Regulations;

(C) Has made a false statement of a material fact on the application or in any other information given to the Commission;

(D) Has obtained a License by fraud, misrepresentation or concealment of a material fact;

(E) Has been convicted of, forfeited bond upon or entered a plea of guilty or no contest to a felony within the past 10 years, any gambling-related offense or fraud or misrepresentation or any crime involving moral turpitude, or has willfully failed to make required payments or reports to a governmental agency at any level, whether punishable as a felony or a misdemeanor;

(F) Whose prior activities or criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of Class II Gaming;

(G) Has denied the Tribe, the Commission, the State or their authorized representatives access to any place where activity required to be licensed under this Code is being conducted or has failed to produce for inspection or audit any book, record, document or other item;

(H) Has failed to prove by a preponderance of the evidence his, her or its qualifications to be licensed in accordance with this Code and the Regulations;

(I) Has failed to pay any taxes and additions to taxes, including penalty and interest

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lawfully required by Tribe;

(J) Has failed to pay an administrative fine imposed pursuant to this Code or the Regulations;

(K) Has been found guilty of any violation or attempt or conspiracy to violate any law, rule or regulation of gaming in any jurisdiction for which suspension or termination of employment or License might be imposed in such jurisdiction;

(L) Has been Suspended from operating a game of chance or a gambling operation in another jurisdiction or had a License to conduct gaming canceled, revoked, suspended or limited for any reason;

(M) Has previously been found unfit for licensing by Nevada, New Jersey, Iowa, South Dakota or Nebraska;

(N) Is a person who is an employee or Key Employee of a gaming establishment, if such person is also a member of the Tribal Council or a spouse or relative of the first degree of such a member and residing in the same household;

(O) Has failed to provide information, documentation or assurances required or requested by the Tribe, the State or the Commission, or has failed to reveal any material fact as to qualification, or the supplying of information which is untrue or misleading as to any material fact pertaining to such qualification criteria;

(P) Has failed to demonstrate financial responsibility sufficient to meet his, her or its requirements (if any) under the License;

(Q) Has not disclosed the true ownership of the enterprise proposed;

(R) Has any demonstrated contacts, association or business enterprises with individuals associated with or identified as organized crime;

(S) Has loaned money or other property of value to others for the purpose of permitting a wager on any game of chance unless permitted in that jurisdiction; or

(T) Has any material investigation or prosecution pending in any jurisdiction;

(32) To issue and cause to be served upon the holder of a License issued by it an order requiring the License holder to cease and desist from violations of this Code or any Regulation.

(A) The Order to cease and desist shall give reasonable notice of the rights of the License holder to request an administrative hearing before the Commission and shall state the reason for the entry of the order. Failure to cease and desist upon service of such an order shall be grounds for disciplinary action by the Commission;

(B) A hearing shall be held not later than 10 days after the request for the hearing is received by the Commission and, within 20 days after the date of the hearing, the Commission shall issue an order vacating the cease and desist order or making it permanent, as the facts require. Licensees shall be entitled to a single continuation of not more than five days upon good cause shown. All hearings shall be held in accordance with the Regulations; and

(C) If the License holder to whom a cease and desist order is issued fails to request a hearing within 30 days following the entry of such order or fails to appear at the hearing after being duly notified, the License holder shall be deemed in default and the proceeding may be determined against the License holder upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

(33) To impose or levy on a Licensee for cause an administrative fine of not more than \$50,000.00 per violation. For purposes of this subsection, "cause" shall include instances in which the Licensee willfully or knowingly violated the provisions, requirements, conditions, limitations or duties imposed by this Code or any Regulations.

(A) In determining whether to levy an administrative fine and the amount of the fine, if

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any such fine is levied, the Commission shall take into consideration the seriousness of the violation and the extent to which the Licensee derived financial gain as a result of the violation; and

(B) If an administrative fine is levied, such fine shall be remitted by the Licensee to the Commission within 30 days from the date of the order issued by the Commission imposing such fine. Any unpaid administrative fine shall constitute a debt to the Commission, which debt may be sued upon and recovered in any proper form of action in the name of the Commission in either the Tribal Court or the United States District Court and in the event such courts do not have subject matter jurisdiction, in any court of competent jurisdiction.

(34) To require periodic reports of Class II Gaming activity from any person, firm or entity with whom the Tribe has a contractual relationship and any other person, organizations or corporation, as the Commission deems necessary to carry out the provisions of this Code;

(35) To annually audit, examine or cause to have examined, by any agent or representative designated by the Commission for such purpose, any bank accounts, financial accounts, books, papers, records, bills, contracts for services and supplies totaling over \$25,000 in a year, timesheets, receipts, vouchers, documents, electronic media, database, computer records or memoranda relating in any manner to the conduct of any Class II Gaming activity. Such independent outside audits must be submitted to the NIGC pursuant to the Act;

(36) To compute, determine, assess and collect accurate amounts required to be paid to the Commission as may be necessary to defray the costs of regulating Class II Gaming incurred by the Commission;

(37) To prescribe all forms as are necessary to carry out the provisions of this Code and the Regulations;

(38) Following advice and consent of the Tribal Council, to appoint a trustee to operate a Gaming facility in the event the Primary Management Official's License has been Revoked or Suspended pursuant to the terms of this Code or the Regulations;

(39) To take any act which may be necessary or desirable to assure compliance with the terms of any contract to which the Tribe or its enterprises is a party which relates to any Gaming activity or to which the Tribe is not a party but relates to Class II Gaming activities conducted under this Code or the Regulations; and

(40) To possess such other powers and authority as may be necessary or desirable to fulfill its obligations under the Act, this Code and the Regulations.

(b) Specific Prohibitions.

(1) The Commission shall not become involved in, nor shall any of its members have any input in, any official plans or discussions relative to the disbursement of any tribal funds derived from the regulated gaming activity.

(2) The Commission may not interfere with Class II gaming operation's management's decisions with respect to expenses of the gaming operation because those types of decisions are made pursuant to a budget that has been approved by the Tribal Council.

(3) The Commission is not authorized to be or become involved in any personnel problems or issues, other than those which may arise within the context of the licensing procedure.

(c) Causes for Removal of Commissioners. The following are causes for removal from the Commission:

(1) Malfeasance in office;

(2) Neglect of duty;

(3) Excessive absence from regularly scheduled Commission meetings;

(4) Conviction of a felony or any gaming related offense (misdemeanor, felony and other certain

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crimes);

(5) Noncompliance with this Code, the Regulations or the acceptance of bribes.

(d) Procedure for Removal. Any Commission member who during the term for which he is selected is charged with committing any of the offenses listed in 28-1-7 (c) may be removed from office by order of the Tribal Court following a hearing on the record.

(e) Vacancies: Should a vacancy in the Commission occur for any reason, the Tribal Council shall appoint a replacement by majority vote.

(f) Notification to the Commission. A copy of the resolution for removal and the petition shall be provided to the Commission and its members in the manner specified for service of process in civil matters generally.

(1) Trial. The Tribal Court shall hear the petition for removal on an expedited basis and trial shall commence no later than sixty (60) days following service of the petition unless both parties agree to a longer period and the Court approves. The Tribal Council shall bear the burden of proof on a preponderance of the evidence standard. The accused shall enjoy the rights available to him as a civil litigant under tribal law.

(2) Written notification of decision. The Commissioner alleged to be in violation must, following such hearing, be sent a written decision of the Tribal Court, including findings of fact and conclusions of law. Such decision shall be rendered by the Tribal Court within forty-five (45) days following submission of the case.

(g) Sovereign Immunity. The Commission is an entity of and created by the sovereign powers of the Tribe and, as such, shares the sovereign immunity of the Tribe. The Commissioners, except when being removed from office under Section 28-1-7 (c) shall also enjoy the sovereign immunity of the Tribe. No waiver of sovereign immunity for acts of the Commission or its members is made or implied hereby in any manner. However, persons aggrieved by the decisions of the Commission may appeal such decisions in contested cases to the Tribal Court, and such appeal shall constitute the sole and exclusive method of review. No person, firm, entity or government may institute any suit against the Commission or its members, excepting appeals in contested cases under administrative regulations to be promulgated by the Commission and actions for removal of a Commissioner from office under Sections 28-1-7 (c) without the written unanimous waiver of sovereign immunity by the Commission and approval of the Tribal Council.

(h) Testimonial Immunity. The Commission may order any person to answer a question or questions or produce evidence of any kind or bestow immunity, as provided in this section. If, in the course of any investigation or hearing conducted under this Code or the Regulations, a person refuses to answer any question or produce evidence on the grounds that he will be exposed to criminal prosecution thereby, then, in addition to any other remedies or sanctions provided for by this Code, the Commission may, by unanimous resolution and approval of the tribal prosecutor, issue an order to answer or produce evidence with immunity. If, upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answers given by him or such responsive evidence produced by him, or evidence derived there from, used to expose him to criminal prosecution by the Tribe, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence, or for contempt for failing to give an answer or produce evidence in accordance with the order of the Commission; provided, however, that no period of incarceration for contempt pursuant to this section shall exceed one year in duration. Any such answer given or evidence produced shall be admissible against him in any investigation, proceeding or trial against him for perjury; in any investigation, proceeding or trial against him for contempt; or in any manner consistent with tribal law and constitutional provisions.

(i) Reports and Recommendations Concerning Gaming Regulation. The Commission shall carry on a continuous study of gaming issues, including the operation and administration of gaming laws which may be in effect in other jurisdictions, all the literature on gaming which may from time to time become available, the federal laws which may affect the operation of Class II Gaming and the reaction of Licensees, Primary Management Officials and Tribal Citizens to existing and potential features of Class

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II Gaming under this Code. The Commission shall be responsible for ascertaining any defects in this Code or in the Regulations issued hereunder, for formulating recommendations for changes in this Code to prevent abuses thereof, for guarding against the use of this Code and the Regulations as a cloak for the carrying on of illegal gambling or other criminal activities, and for insuring that this Code and the Regulations shall be in such form and be so administered as to serve the true purposes of this Code. The Commission shall make annual report to the Tribal Council, on or before February 1 of each year, of all revenues, expenses and disbursements, and shall include therein such recommendations for changes in this Code as the Commission deems necessary or desirable. The Commission shall report immediately to the Tribal Council any matters which, in the Commissions' judgment, requires immediate changes in the law of the Tribe in order to prevent abuses and evasions of this Code or the Regulations. The Commission shall also rectify undesirable conditions in connection with the operation and regulation of Class II Gaming.

(j) Cooperation by Licensees or Applicants. Each Licensee or Applicant for a License under this Code shall fully and completely cooperate with the Commission in performance of its duties.

(k) Gaming Commission Regulation-Making Authority.

(l) General Authority. The Commission shall draft and promulgate Regulations for the orderly transaction and conduct of its business and such other substantive Regulations as may be proper and that concern the following: the application for, issuance of, Revocation and Suspension of gaming Licenses, the conduct of Licensees, game rules and operation of the Class II Gaming activities, technical standards for Gambling Devices and Class II Gaming Equipment, Class II Gaming Supplies, , Lottery, additional games authorized pursuant to the terms hereof, security requirements, cash control standards and accounting procedures and any other subject the Commission determines necessary or desirable to carry out the purposes of this Code. The Commission shall also promulgate Regulations necessary to resolve complaints which may be received from the public.

(m) Regulations; Mandatory Subjects. The Commission may, without limitation on the powers conferred in the preceding section, include within its Regulations the following specific provisions in accordance with the provisions of this Code:

(1) The methods and forms of application which any Applicant shall follow and complete prior to consideration of his application by the Commission;

(2) The manner and procedure of all hearings conducted by the Commission or any hearing examiner, including special rules of evidence applicable thereto and notices thereof;

(3) The manner and method of collection of administrative fines, assessments, fees and penalties;

(4) The rules of authorized games, the odds, and the devices permitted, and the method of operation of such games and devices;

(5) The grounds and procedures for the Revocation or Suspension of Licenses;

(6) The rules governing the manufacture, distribution, sale and servicing of Class II Gaming Equipment and Supplies;

(7) The procedures for approving the forms and methods of management controls, including employee and supervisory tables of organization and responsibility, rotation schedules and minimum security standards, security personnel structure, alarm and other electrical, auditory or visual security measures;

(8) The minimum procedures for the exercise of effective control over the internal fiscal affairs of a Primary Management Official, including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of records and reports of transactions, operations and events, including all such reports to the Commission;

(9) The procedures for approval of accounting methods, procedures, forms and accounting classifications and such other operating procedures as may be necessary to assure consistency, comparability and effective disclosure of all financial information, including calculations of

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percentages of profit by games; and

(10) The required periodic financial reports and the form thereof, which shall include a semi-annual audit prepared by a certified public accountant attesting to the financial condition of a gaming enterprise and disclosing whether the accounts, records and control procedures examined are maintained by the Licensee as required by this Code and the Regulations.

SECTION 28-1-8. Gaming Commission Meetings.

The Commission may hold regular and special meetings at such times and places as it may deem convenient, but at least one regular meeting shall be held quarterly. Meetings may be held by telephonic conference call. A majority of the appointed members constitutes a quorum of the Commission. A special meeting may be called by any one Commissioner. Each part-time member of the Commission shall receive a stipend of \$80.00 plus expenses-at regular or special meetings at which a quorum is present. The stipend shall be paid from fees and assessments collected by the Commission.

28-1-8(b)

(a) Open Meetings. All actions and proceedings of the Commission shall be conducted during meetings open to the public except actions and proceedings which the Commission, by a majority vote, at an open meeting, determines best conducted during an executive session closed to the public for the reasons set forth in Section 28-8-1(b) hereof. Any record or document maintained by the Commission shall not be subject to being produced, copied or disclosed in any manner, whether by the discovery process or court order of a court if the Commission determines that the disclosure of such information would be harmful to the effective and fair regulation of gaming, would disclose trade secrets or proprietary information or would impair ongoing investigations.

(b) Purposes for Executive or Closed Meetings. The Commission may hold executive sessions or closed meetings for any of the following purposes:

- (1) Considering applications for licensing when discussing the background investigations, financial information or personal information of Applicants;
- (2) Meeting with the gaming officials of other Indian tribes or other jurisdictions, including Nebraska or Iowa, or meetings with tribal law enforcement officials, the tribal prosecutor, the United States Attorney General, the Federal Bureau of Investigation, the Office of the Inspector General, the United States Attorney and other law enforcement officials relating to possible criminal violations;
- (3) Consulting with the employees and agents of the Commission concerning possible civil or criminal violations of this Code, the Regulations, or the Act;
- (4) Deliberating to reach a decision after hearing evidence in a contested case;
- (5) Discussing business strategies, marketing or pricing strategies of a Licensee or an Applicant for a License, if the Commission determines public discussion may be harmful to the competitive position of the Licensee or Applicant for License or discussions with a Licensee or an Applicant for a License for the purposes of overseeing gaming contracts; and
- (6) Meeting with attorneys and General Counsel to the Tribe.

SECTION 28-1-9. Chairman of the Gaming Commission.

The Chairman is responsible on a full-time basis for the conduct of the Commission's administrative matters but the Chairman may delegate his responsibilities to the Secretary or Treasurer of the Commission.. The Chairman and his designees shall have the following powers:

- (1) To issue temporary and probationary Licenses for all Licensees other than a Primary Management Official;
- (2) To issue permanent Licenses for all employees of any Class II Gaming facility other than Key Employees and Primary Management Officials;
- (3) To oversee, regulate and define the conduct of Licensees;
- (4) To inspect, monitor and examine all premises where Class II Gaming is conducted, and

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Class II Gaming Equipment and Supplies are utilized, sold, distributed or serviced; or where any records of such activities are prepared or maintained;

(5) To inspect all Class II Gaming Equipment and Supplies in, about or upon or around such premises;

(6) To seize summarily and remove from such premises and impound any Class II Gaming Equipment or Supplies for the purposes of examination and inspection;

(7) To inspect, examine and audit all books, records and documents pertaining to a Class II Gaming facility;

(8) To seize, impound or assume physical control of any book, record, ledger, game, device, cash box and its contents, counting room or its equipment, or casino operations;

(9) To inspect the person and personal effects, present in or on the premises of a Class II Gaming facility licensed pursuant to this Code, of any Licensee while that person is present in the Class II Gaming facility;

(10) To supervise and direct the actions of all employees of the Commission;

(11) To conduct or cause to be conducted background investigations;

(12) To verify that all licensed gaming Primary Management Officials are properly accounting for all revenues and expenses and that these revenues and expenses are properly assigned and distributed in a manner according to tribal and applicable federal law;

(13) To assist other law enforcement agencies with the enforcement or prosecution of violations of the Act, this Code, the Regulations and federal law;

(14) To supervise the day-to-day operations of the Commission;

(15) To report to the Commission concerning the operations thereof;

(16) To supervise audits and investigations; and

(17) To prepare reports and recommendations to the Commission concerning Applicants and Licensees.

SECTION 28-1-10. Primary Management Official.

Primary Management Officials may operate the Tribe's gaming authorized by this Code provided that the Management Contract, entered into between the Primary Management Official and the Tribe, does not contain terms contradicting the terms of the Act, this Code, the Regulations, and other applicable laws. The Management Contract must be approved by the Chairman of the National Indian Gaming Commission (the "NIGC") and the Management Contract must prohibit the Primary Management Official from subcontracting, assigning or transferring its rights and duties or any ownership interest under the contract. The Primary Management Official must undergo a background investigation, as more specifically described in Section 28-1-11 herein, to be conducted by the Commission, or its designee. The Primary Management Official shall be licensed by the Commission, as more specifically described in Section 28-1-11 herein, prior to conducting any authorized Class II Gaming activity. A Primary Management Official may not operate the Class II Gaming authorized by this Code if the Chairman of the NIGC disapproved the licensing of the Primary Management Official or Parties-in-interest thereto or if the Chairman of the NIGC has disapproved (without suggesting modifications) the Management Contract.

SECTION 28-1-11. Occupational Licensing.

(a) Licenses, Issuance, Qualifications. Every person participating as an employee in Class II Gaming on Indian Land, especially Key Employees and Primary Management Officials, shall have an occupational license issued by the Commission. All such licensing shall be consistent with the procedures found in 25 C.F.R. part 502. The Commission shall specify by promulgation of Regulations the licensing requirements for each position. Such requirements shall include the following, together with such other requirements as may be necessary for the effective regulation of gaming:

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(b) All Applicants must:

(1) Be at least eighteen (18);

(2) Not have been convicted, within the last ten (10) years, of a gambling-related offense, an offense involving fraud, misrepresentation or deception, a drug-related offense or any felony. If a conviction for any of these offenses occurred more than ten (10) years prior to the date of the application, the Commission may issue a License if the Commission determines that sufficient evidence of rehabilitation exists. The Commission shall temporarily deny a License and shall Suspend an existing License if charges are pending against an Applicant which, if resulting in a conviction, would disqualify the Applicant from receiving or holding a License;

(3) Not have been denied a gaming License by the State, or currently have a gaming License which has been Suspended by the State or have had a gaming License Revoked by the State;

(4) Not be employed in any part-time or full-time employment with a government or private employer in any capacity which would create a conflict of interest between the Applicant's employment and the interests and objectives of the licensed employment;

(5) Be of good moral character;

(6) Be trainable or qualified (by experience or otherwise) to perform the duties required;

(7) Agree to comply with the Regulations, this Code, and with all other applicable laws and submit to the jurisdiction of the Commission and the civil jurisdiction of the Tribal Court;

(8) Agree that the License shall be nontransferable thus prohibiting the Licensee from transferring any of its rights or duties relating to the License either directly or indirectly.

(c) Temporary or probationary licenses. Prior to issuing a permanent License the Commission shall conduct or cause background investigations to be conducted on Applicants to verify the truthfulness of the information provided by the Applicant to the Commission and to ensure that persons and entities licensed by the Commission are eligible for licensure. However, upon payment of the appropriate fees and the completion of such forms as the Commission deems appropriate, temporary Licenses for all occupations may be issued pending completion of background investigations and approval by the NIGC. During the first 180 days following the enactment of this Code, a person or entity which holds a gaming License issued by the states of Iowa, New Jersey, South Dakota or Nevada, upon showing proof of such License, shall be deemed to have a temporary License under this Code.

(d) Revocation, Suspension or Cancellation of License. The Commission shall Revoke, Suspend or Cancel an existing License upon a violation of this Code, the Regulations or the happening of any event which would have made the Licensee ineligible for a License if the event had occurred prior to the issuance of a License.

(e) Licenses for Key Employees and Primary Management Officials. 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 Class II Gaming enterprise operated on Indian Lands.

(1) Application Forms.

(A) The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form, is filled out by an Applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be 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

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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.

(B) Existing Key Employees and Primary Management Officials shall be notified in writing that they shall, either:

(i) Complete a new application form that contains a Privacy Act Notice; or

(ii) Sign a statement that contains the Privacy Act Notice and consent to the routine uses described in that Notice.

(C) 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:

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, § 1001)

(D) The Commission shall notify in writing existing Key Employees and Primary Management Officials that they shall either:

(i) Complete a new application form that contains a notice regarding false statements; or

(ii) Sign a statement that contains the notice regarding false statements.

(2) Background Investigations.

(A) Background investigations for Primary Management Officials and Key Employees performed for the Commission or required by any federal agency must be completed prior to the issuance of a permanent license. Background investigations performed for the Commission may be performed by tribal law enforcement authorities, provided that such authorities have access to the law enforcement records of the Federal Bureau of Investigation and such authorities are certified graduates of the federal law enforcement academy or the Nebraska or Iowa law enforcement academy, the Federal Bureau of Investigation or another entity mutually agreeable to the Tribe and the Director.

(B) The Commission shall request from each Primary Management Official and from each Key Employee all of the following information:

(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 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses and drivers license numbers;

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(iii) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the Applicant during each period residence listed under paragraph (B) (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 ongoing misdemeanor prosecution (excluding minor traffic violations), within 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 10 years of the date of the application and is not otherwise listed pursuant to paragraph (b) (viii) or (b) (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 person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(xii) A current photograph;

(xiii) Any other information the Commission deems relevant; and

(xiv) Fingerprints consistent with procedures adopted by the Commission according to 25 C.F.R. § 522.2(h). Fingerprints shall be taken by the Federal Bureau of Investigation in Sioux City, Iowa, and forwarded to the NIGC for processing through the FBI and NCIC to determine the applicant's criminal history, if any.

(C) In conducting a background investigation, the Commission or its agent will interview a sufficient number of knowledgeable people, such as previous employers, personal references and any other person who may provide the Commission with a knowledgeable basis for making its eligibility determination. The Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

(D) Upon completion of the background investigation and prior to submitting its report to the NIGC, as provided in Subsections (4) and (5) of this Section, the Commission shall review and approve all background investigations performed by tribal law enforcement authorities, the Federal Bureau of Investigation, DCI and any other entity handling such background investigations.

(E) The results of all background investigations must be documented in an investigative report to be submitted to the NIGC, pursuant to Subsection (5) hereof. All problem areas must be clearly documented with procedures for resolving such problems. The inability to resolve such problems shall effect the Commissions eligibility determination as provided below

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(3) 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 the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a Key Employee or Primary Management Official position.

(4) Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the NIGC.

(A) When a Key Employee or Primary Management Official begins work at a gaming operation authorized by this Code, the Commission shall forward to the NIGC a completed application for employment and conduct the background investigation and make the determination referred to in Subsections (1), (2) and (3) of this Section.

(B) The Commission shall forward the report referred to in Subsection (5) of this Section to the NIGC within 60 days after an employee begins work or within 60 days of the approval of this Code by the Chairman of the NIGC.

(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.

(5) Report to the NIGC.

(A) Pursuant to the procedures set out in Subsection (4) of this Section, the Commission shall prepare and forward to the NIGC an investigative report on each background investigation. An investigative report shall include all of the following:

(i) Steps taken in conducting a background investigation;

(ii) Results obtained;

(iii) Conclusions reached; and

(iv) The basis for those conclusions.

(B) The Commission shall submit, with the report, a copy of the eligibility determination made under Subsection (3) of this Section.

(C) If a license is not issued to an Applicant, the Commission:

(i) Shall notify the NIGC; and

(ii) May forward copies of its eligibility determination and investigative report, if any, to the NIGC for inclusion in the Indian gaming individuals records system.

(D) With respect to Key Employees and Primary Management Officials, the Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

(6) Granting a Gaming License.

(A) If, within a thirty (30) day period after the NIGC receives the report, the NIGC notifies the Commission that it has no objection to the issuance of a license pursuant to a license application filed by a Key Employee or a Primary Management Official for whom the Commission has provided an application and investigative report to the NIGC, the Commission may issue a license to such Applicant.

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(B) The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a Key Employee or a Primary Management Official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (6)(a) of this Section until the Chairman of the NIGC receives the additional information.

(C) If, within the thirty (30) day period described above, the NIGC provides the Commission with a statement itemizing objections to the issuance of a license to a Key Employee or to a Primary Management Official for whom the Commission has provided an application and investigative report to the NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such Applicant.

(D) If, after the issuance of a gaming license, the NIGC receives reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection 28-1-11, the NIGC shall notify the Commission. Upon receipt of such notification, the commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation. The commission shall notify the licensee of a time and place for a hearing on the proposed revocation of the license. After a revocation hearing, the commission shall decide to revoke or to reinstate a gaming license. The commission shall notify the NIGC of its decision.

SECTION 28-1-12. Approval of Licenses; Submission to Jurisdiction.

The Commission may approve or disapprove any application for license, depending upon whether it deems the Applicant a suitable person to hold the license under this Code and the Regulations and whether it considers the proposed location suitable. All Applicants for licenses and all persons, firms, or entities which have any contractual relationship with the Tribe or contractual relationship relating to any gaming activities conducted pursuant to this Code shall be conclusively deemed to have voluntarily submitted to the jurisdiction of the Tribe, the Commission and the civil jurisdiction of the Tribal Court unless such contract is with the Tribe and contains provisions expressly to the contrary.

SECTION 28-1-13. Conflict of Interest.

No officer, agent or employee of the Commission may hold a license under this Code if the duties of such office, agency or employment have to do with the enforcement of the gaming laws and rules. This prohibition applies to the Commission, all of its employees and all law enforcement officials and officers. No licensee may employ any person in any capacity while that person is in the employment of a law enforcement agency or the Commission except that certified police officers may be employed as security personnel. Members of the Commission and its officers and agent, including its attorneys, and their relatives who reside in the same household, may not have any interest, whether financial or proprietary, direct or indirect, in any gaming activity conducted under this Code, except as a member of the Tribe sharing in the benefits and revenues enjoyed equally by all Tribal Citizens.

SECTION 28-1-14. Application/License Fee; Resident Agent.

The Commission may establish an application fee which, at the option of the Commission, shall include the cost of the background investigation. The fee may vary with the type of license for which application is made and is nonrefundable. Any person who does not reside on the reservation or any corporation, firm, partnership or other entity that does not have an agent present on the reservation shall appoint the Secretary of the Tribal Council as agent for the service of process and other documents under this Code. The Commission shall maintain a list of all such nonresidents and when serving documents upon the Secretary of the Tribal Council shall also provide the Secretary with an envelope addressed to such nonresident, first-class postage prepaid, and the Secretary shall mail the documents to the nonresident no later than the first business day following receipt. Service upon the Secretary shall be made in the manner specified for civil suits under tribal law and shall be deemed complete upon such service, regardless of whether the papers or documents are ultimately received by the licensee or Applicant. It is the responsibility of licensees and Applicants to keep their addresses listed with the Commission current.

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SECTION 28-1-15. Types of Licenses and Registrations; Issuance and Other Fees.

Aside from licenses for Primary Management Officials and Key Employees, the Commission, upon receipt of the appropriate application fee, issuance fee and costs of any background investigations and upon satisfaction of the applicable requirements, may issue other types of licenses in a manner consistent with 25 C.F.R. §§ 556 and 558 and as appropriate.

(a) Party-in-interest License. Any Party-in-interest must hold such a license. The issuance fee is \$300 and thereafter an annual fee of \$300 renewable February 1st. This issuance fee is in addition to the costs of any background investigation and application fee.

(b) Employee License. All persons employed to work directly with the gaming portion of a gaming operation must hold an employee license. The issuance fee is \$25 and thereafter an annual fee of \$25 renewable February 1st. This issuance fee is in addition to the costs of any background investigation and application fee.

(c) Class II Gaming Equipment Vendor. Vendors of Class II Gaming Equipment must, as a condition precedent to any sale of property to any Primary Management Official of a facility licensed pursuant to this Gaming Code, first obtain a license from the Commission. The issuance fee for such a license is \$1,000 and thereafter an annual fee of \$1,000 renewable each February 1st. This issuance fee is in addition to the cost of any background investigation and application fee. Applicants for such a license shall be entitled to the issuance of a temporary license if they have completed the application, filed the application with the Commission and paid the required fees and if the results of the preliminary background checks are acceptable to the Commission and they hold a license for similar activity issued by the States of South Dakota, Iowa, Nevada or New Jersey.

(d) Class II Gaming Supplies Vendor. Vendors of Class II Gaming Supplies must, as a condition precedent to any sale of property to any Primary Management Official of a facility licensed pursuant to this Code, first obtain a license from the Commission. The issuance fee for such a license is \$300 and thereafter an annual fee of \$300 renewable each February 1st. This issuance fee is in addition to the costs of any background investigation and application fee. Upon the filing of an application required by the Commission and payment of the required fees, the Commission may issue a temporary Class II Gaming Supplies license, provided that the Vendor holds a license issued by the States of South Dakota, Iowa, New Jersey or Nevada.

(e) Vendor's Registration. All persons or firms that sell any property to a gaming operation licensed under this Code shall be registered with the Commission.

SECTION 28-1-16. Licensee Ownership Rights.

(a) License as a Privilege, Nontransferability of License. Any license that is issued under this Code is a revocable privilege and no person holding a license acquires any vested rights or other property rights in it. Any Applicant for a license has the burden of proof of his, hers or its qualification as regards to his past conduct, as may be required by the Commission. No license issued pursuant to this Code may be transferred.

(b) Notification of Disciplinary Action to Licensees. A person holding a license shall be notified that disciplinary action of his license is being considered by the Commission. The license holder, may, upon such notice, request an informal hearing before the Commission within 10 days following such notice. Any disciplinary action, including the Suspension or Revocation of a gaming license, shall comply with the appropriate provisions of the Regulations and this Code.

(c) Disciplinary actions; hearings; procedure. Hearings on Revocations or Suspension of licenses together with appeals from any decision of the Commission shall be conducted in accordance with Exhibit G of this Gaming Code.

SECTION 28-1-17. Notice and Agent for Service of Process.

(a) Notice, when required by this Code, shall be given by registered or certified mail and shall be considered to be complete upon placing the properly addressed notice in the U.S. mail, postage

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prepaid, regardless of whether such notice is actually received. The burden shall be on licensees and Applicants to keep the Commission advised of their current mailing address. In all contested cases, papers shall, be served in the manner provided for in civil matters under the Tribal Code.

(b) The Tribe hereby designates the Chairman of the Omaha Tribe as agent for service of process, who may be contacted at P.O. Box 368, Macy, Nebraska 68039.

SECTION 28-1-18. Reimbursement to Commission for Investigations.

(a) Any Applicant for a license under this Code shall reimburse the Commission for the costs of all investigations to determine if he/she is a suitable licensee under this Code which are over and above the initial license fee charged at the time of application. By signing and filing an application, the Applicant authorizes the Commission to obtain information from other states, Indian tribes, the United States, and all agencies and instrumentalities of the foregoing, regarding prior professional or gaming licenses, license applications, conduct of the Applicant or such information regarding any of the Applicant's shareholders, partners, agents or employees.

SECTION 28-1-19. Minimum Standards for Inspection and Approval of Gambling Devices.

The Omaha Tribe and Gaming Commission acknowledge their obligation to adopt and implement Minimum Internal Control Standards (MICS) for the operation of its Tribal gaming operation no less stringent than those found in the regulations of the NIGC at 25 C.F.R. Part 542. The Tribe's MIC's shall be set out in separate regulations to be reviewed and approved by the Omaha Tribal Council and Gaming Commission.

SECTION 28-1-20. Security and Surveillance.

The Commission and Omaha Tribal Council acknowledge their obligation to adopt and implement minimum internal control standards for surveillance no less stringent than those found in the regulations of the NIGC at 25 C.F.R. Part 542. The Tribe's Security and Surveillance procedures shall be set out in separate regulations to be reviewed and approved by the Omaha Tribal Council and Gaming Commission.

SECTION 28-1-21. Audit and Tribal Access to Financial Information

The Tribe shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC. The scope of said audit shall include all gaming related contracts that result in purchases of supplies, services, or concessions for more than \$25,000 in any year (except contracts for professional legal or accounting services). A copy of the audit will be made available for review, upon request to the Commission.

SECTION 28-1-22. Operational Procedures and Game Rules.

All Class II Gaming shall be conducted in conformance with the Act, this Code and the Regulations, including the game rules to be set out in separate regulations to be reviewed and approved by the Omaha Tribal Council and Gaming Commission.

SECTION 28-1-23. Complimentary Items.

(a) The use of complimentary items shall be governed by regulations established by the Gaming Commission, which shall be in accord with the NIGC's Minimum Internal Control Standards, found at 25 C.F.R. 542.17

SECTION 28-1-24. Location of Gaming.

(a) Gaming Conducted Solely on Indian Lands. Except as indicated in Section 28-1-24(b), all authorized Class II Gaming shall be conducted solely on Indian Lands. Pursuant to the Act, licenses are required for each place, facility or location on Indian Land where Class II Gaming occurs. Authorized Class II Gaming is conducted solely on Indian Lands only if all consideration wagered is placed by players physically located on Indian Lands at the time the wager is made, all activities performed by the

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player to participate in the game physically occur on Indian Lands, and all activities related to determining and validating winners occur on Indian Lands. The activities prohibited by this Section, include, without limitation, placing bets or playing games by telephone or by mail unless calls both originate and terminate on Indian Lands and unless correspondence is sent from an address on Indian Lands to an address on Indian Lands. Winners may receive prize winnings outside the boundaries of Indian Lands without violating this provision.

(b) Inter-reservation Gaming; When Permissible. Nothing in this Section 28-1-25 shall prevent the Tribe from conducting inter-reservation Class II Gaming by means of telecommunications, satellite or technologic or computer enhancement, provided that the inter-reservation gaming conforms with the requirements of federal law, including the Act, and conforms with the laws, rules and Regulations of all tribes involved in the gaming and participating in the gaming. Inter-reservation gaming must, however, be conducted solely on "Indian Lands" (as that term is defined herein and in Section 4(4) of the Act, 25 U.S.C. § 2703(4), and as that term is limited by Section 20 of the Act, 25 U.S.C. § 2719) which belongs to one of the participating tribes.

SECTION 28-1-25. Age Limit for Players.

Any participant in Class II Games of chance shall be eighteen (18) years or older at the time of his/her participation. In the event a person who has not attained the age of eighteen (18) participates in any game of chance and wins a prize, the prize shall not be awarded, but instead shall be forfeited to the Tribe and the consideration wagered shall be returned to the under-age participant.

SECTION 28-1-26. Environment and Public Health and Safety.

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

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

SECTION 28-1-27. Compliance with Federal Law.

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

SECTION 28-1-28. Illegal Games and Activities.

(a) Unlawful activities. It is unlawful for any person playing or for any licensee conducting any authorized game of chance to:

(1) Knowingly use bogus or counterfeit chips, gaming billets, tokens, devices or coins, or knowingly to substitute and use cards or dice that have been marked, loaded or tampered with;

(2) Employ or have on one's person any cheating device to facilitate cheating in any game of chance;

(3) Use any fraudulent scheme or technique;

(4) Cheat or attempt to cheat at any game of chance;

(5) By any trick or slight of hand performance, or by fraud or fraudulent scheme, or with cards, dice or device, for himself or for another, win or attempt to win money or property or reduce a losing wager or attempts to reduce a losing wager in connection with Class II Gaming;

(6) Knowingly possess or use while on the premises of any Class II Gaming facility any key or device designed for the purpose of or suitable for opening or entering into a Class II gaming device, except that a duly authorized employee of a Class II Gaming facility or employee of the Commission

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may possess and use any of the foregoing instruments only in furtherance of his/her employment;

(7) Knowingly conduct, carry on, operate, deal or allow to be conducted, carried on, operated or dealt any cheating or thieving game or device;

(8) Knowingly deal, conduct, carry on, operate or expose for play any game or games played with cards, dice, a Gambling Device or other mechanical, electronic or electromechanical device, or any combination of games or devices, which have been in any manner marked or tampered with, or placed in a condition, or operated in a manner, the result of which tends to deceive the public or tends to alter the normal random selection characteristics or the normal chance of the game which could determine or alter the result of the game;

(9) Knowingly use or possess any marked cards, loaded dice, plugged or tampered with machines or devices;

(10) Operate or participate in gaming on Indian Lands in violation of the provisions of this Code or in violation of the Regulations promulgated pursuant to this Code;

(11) Knowingly make a false statement on an application for employment with a gaming activity or enterprise, or on an application for a license to operate, manage or be employed by, or sell any property to, a gaming activity or enterprise on Indian Lands;

(12) Bribe or attempt to bribe, or unduly influence or attempt to unduly influence, any person who licenses, regulates, operates, conducts, assists, or is otherwise employed in a gaming activity or enterprise located on Indian Lands;

(13) Alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(14) Place, increase or decrease a bet or determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome;

(15) Claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a gambling game, with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;

(16) Use, or possess with the intent to use, any device to assist:

(A) In projecting the outcome of the game;

(B) In keeping track of the cards played;

(C) In analyzing the probability of the occurrence of an event relating to the game;

(D) In analyzing the strategy for playing or betting to be used in the game; except as permitted by the Commission.

(17) Manipulate, with the intent to cheat, any component of a Gambling Device in a manner contrary to the design and normal operational purpose for the component, including, but not limited to, varying the operation of a Class II gaming device with knowledge that such manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

(b) Violations; forfeiture. Any property used in the commission of a violation of a provision of this Code or the Regulations may be seized and, following a hearing, forfeited to the Tribe and disposed of by the Commission.

(c) Violations; exclusions. Any person who is not a Tribal Citizen and who violates a provision of this Code or the Regulations, in addition to the imposition of an administrative fine, may be excluded from the Reservation of the Tribe.

(d) Detaining and questioning of person suspected of violating Code; limitations on liability;

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posting of notice.

(1) Any Primary Management Official, his/her officers, employees or agents, may question any person in his/her establishment suspected of violating any of the provisions of this Code. No Primary Management Official or any of his/her officers, employees or agents will be held criminally or civilly liable:

- (A) As a result of any such questioning; or
- (B) For reporting to the Commission or law enforcement authorities the person suspected of the violation.

(2) Any Primary Management Official or any of his/her officers, employees or agents who have probable cause for believing that there has been a violation of this Code or the Regulations in his/her establishment by any person may take that person into custody and detain him in the establishment in a reasonable manner and for a reasonable length of time. Such a taking into custody and detention does not render the Primary Management Official or his/her officers, employees or agents criminally or civilly liable unless it is established by clear and convincing evidence that the taking into custody and detention are unreasonable under all the circumstances;

(3) No Primary Management Official or his/her officers, employees or agents are entitled to the immunity from liability provided for in Subsections (1) and (2) hereof, unless there is displayed in a conspicuous place in his establishment a notice in bold face type clearly legible and in substantially this form:

Any gaming Primary Management Official or any of his/her officers, employees or agents who has probable cause for believing that any person has violated any provision of the Code or the Regulations may detain that person in the establishment.

SECTION 28-1-29. Civil Penalties for Persons or Entities that are not Licensees.

(a) Any person or entity, other than a licensee, who violates this Code or the Regulations, may be assessed an administrative fine by the Commission. Such administrative fine may be assessed only after the person or entity has been given notice and an opportunity to be heard before the Commission. Each day a violation occurs or continues shall be treated separately and may be assessed as a separate violation.

(b) The administrative fine assessed pursuant to Section 28-1-29(a) above shall not exceed Fifty Thousand Dollars (\$50,000.00) per violation, or twice the amount of any grand prize awarded or available to win in a gaming activity which is directly associated with the violation, whichever is greater.

(c) The civil penalties provided for in this Section may be imposed in addition to possible criminal penalties provided for under applicable law.

SECTION 28-1-30. Use of Gaming Billets and Coins; Alteration of Normal Operation of Gambling Devices.

It is unlawful for any person playing or using a Gambling Device:

(a) To knowingly use other than a lawful coin or legal tender of the United States of America, or to use a coin not of the same denomination as the coin intended to be used in such Gambling Device, however, it shall be lawful for any person to use gaming billets, tokens or similar objects when approved by the Commission;

(b) To use any cheating or thieving device, including, but not limited to, tools, drills, wires, strings, coins or tokens attached to strings or wires, electronic or magnetic devices, or electromechanical devices, or electromagnetic devices to facilitate the alignment of any winning combination or to assist in the removal from any Gambling Device any money or other contents thereof.

SECTION 28-1-31. Enforcement of Administrative Fines.

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If any person or entity fails or refuses to pay an assessment levied pursuant to § 28-1-29(a) above, the Commission may take all actions necessary to collect the assessment at any time following 30 days from the date of the assessment by initiating a civil action against the person or entity in Tribal Court or in any other court of competent jurisdiction. In such civil action, the validity and amount of the assessment shall not be subject to judicial review. The validity and amount of any administrative fine levied pursuant to this Code is only subject to judicial review as a contested case under regulations to be promulgated by the Commission, which shall constitute the sole and exclusive means of judicial review. Admission into evidence of a certified copy of the order of the Commission levying such assessment shall establish a prima facie case of the Commission's right to judgment in its favor. The Commission shall be entitled to all remedies in law or in equity.

SECTION 28-1-32. Criminal Violations.

Any violation of this Code or the Regulations by a Tribal Citizen shall constitute a criminal offense under the Tribe's "Law and Order Code" and, upon conviction, carries the penalties of imprisonment of up to one year in the tribal jail; a fine of up to One Thousand Dollars (\$1,000.00), or both, in addition to any administrative fine levied by the Commission. In addition to such penalties, any property utilized in violating this Code or the Regulations, and any proceeds derived from a violation hereof, shall be subject to seizure and forfeiture to the Tribe upon conviction. Any violation of this Code or the Regulations by a person who is not a Tribal Citizen shall be subject to the Commission's civil and regulatory powers, pursuant to Section 28-1-29.

SECTION 28-1-33. Procedures for Dispute Resolution.

In the event of any alleged personal injury or property damage suffered within a gaming facility, or in the event of a dispute between a patron and the gaming facility regarding the payment of a wager or distribution of winnings, the patron may make a claim against the gaming facility as follows:

- (a) Any person having a claim against a gaming facility must present that claim to the Commission for appropriate relief. Claims against a gaming facility are to be presented within ninety (90) days of the date that the loss occurred. In the event a claim is not presented within ninety (90) days of the loss but is presented within one year of the date of the loss, any judgment in a lawsuit that arises from such claim shall be reduced by ten (10) percent. A claim against a gaming facility shall be forever barred unless notice thereof is presented within one year after the loss occurs. Claims against a gaming facility must be in writing and filed with the Commission. Notices explaining this procedure shall be posted in the gaming facility. Such notices shall explain that this procedure is the exclusive method of making claim or registering a patrons dispute. Such notices shall also explain that upon denial of a claim by the Commission redress must be sought exclusively in Tribal Court.
- (b) The written notice of all claims shall state the date, time, place and circumstances of the claim, the identity of the effected licensees or employees, if known, the amount of compensation or other relief demanded, the name, address and telephone number of the claimant, and the name, address and telephone number of any agent authorized to settle the claim.
- (c) A claim is deemed denied if the Commission fails to approve the claim in its entirety within ninety (90) days of receipt, unless the interested parties have reached a settlement before the expiration of that period. A person may not initiate suit against a gaming facility unless the claim has been denied in whole or in part. The claimant and the gaming facility may continue attempts to settle a claim; however, settlement negotiations do not extend the date of denial.
- (d) No action for any cause arising from personal injury, property damage or gaming disputes shall be maintained unless valid notice has been given and the action is commenced in Tribal Court within 180 days after denial of the claim as set forth above. Neither the claimant nor the gaming facility may extend the time to commence an action by continuing to attempt settlement of the claim.

SECTION 28-1-34. Exclusion or Ejection of Certain Persons from Gaming Establishment.

- (a) Exclusion of persons required for effective regulation. The Tribe hereby declares that the exclusion or ejection of certain persons from licensed gaming establishments is necessary to carry out the

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policies of this Code and to maintain effectively the strict regulation of licensed gaming.

(b) Exclusion list, considerations. The Commission may provide each establishment with a list of persons who are to be excluded or ejected from any licensed gaming establishment, including any person whose presence in the establishment is determined to pose a threat to the interest of the Tribe or to licensed gaming. In making the determination for exclusion, the Commission may consider any of the following:

(1) A prior conviction of a felony, a misdemeanor involving moral turpitude or a violation of the gaming laws of any Indian tribe, state, the United States, or any of its possessions, enclaves, or territories;

(2) A violation, attempt to violate or conspiracy to violate the provisions of this Code, or the Regulations, including: failure to make required disclosures to the Commission or the intentional evasion of fees or taxes;

(3) A notorious or unsavory reputation that would adversely affect public confidence and impact the trust that the public has regarding the gaming industry as free from criminal or corruptive influences; and

(4) The opinion of the Commission, that the presence of a person in a licensed gaming facility would be harmful to the interest of the Tribe, or Indian gaming generally.

(c) Notice to Excluded Person. If the name and description of any person is placed on the exclusion list, the Commission shall, within three (3) business days thereafter, serve notice of that action upon the person by at least one of the following means:

(1) By personal service;

(2) By certified or registered mail to the last known address of the person; or

(3) By publication, at least twice, for two consecutive weeks in a newspaper of general circulation on the Reservation.

A person placed upon the exclusion list may contest that action by filing a written protest with the Commission and the protest shall be heard by the Commission within thirty (30) days after filing, but all such exclusions shall become final and non-reviewable if no protest is filed within forty-five (45) days after such name is placed on the exclusion list. Failure to provide notice to the excluded person in accordance with this section shall render such exclusion void.

SECTION 28-1-35. Records of Gaming Commission.

Information and records of the Commission enumerated by this Section are confidential and may not be disclosed except pursuant to the discretion of the Commission in proceedings before it, as required by this Code, or pursuant to a court order of the Tribal Court. No person may use a subpoena, discovery methods or other applicable laws, rules or regulations to obtain such information or records. Information and records considered confidential include:

(a) Tax returns and financial statements of individual licensees;

(b) Applications, credit, medical and security reports of Applicants for licenses and other persons seeking or doing business with the Commission;

(c) Marketing, financial or sales data, the disclosure of which may be harmful to the competitive position of tribal gaming, licensees or persons seeking or doing business with the Commission;

(d) Audit work papers, worksheets and auditing procedures used by the Commission, its agents or employees; and

(e) Results of investigations, work products and other such privileged communications.

SECTION 28-1-36. Communications Between Members of the Commission and its Agents.

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Communications between members of the Commission and its agents or attorneys or any law enforcement authority or regulatory body relating to licensing, disciplining of licensees, or violations by licensees are privileged and confidential if made lawfully and in the course of and in furtherance of the business of the Commission, unless such communications were made pursuant to an order of the Tribal Court after an in-camera review. Any member of the Commission or its agents may claim this privilege.

SECTION 28-1-37. Application Forms.

Until such time as the Commission exercises its power to prescribe the forms for applications, the Commission shall utilize forms for similar licenses.

SECTION 28-1-38. Calculation of Time.

In computing any period of time prescribed or allowed by this Code or the Regulations of the Commission, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless the last day is a Saturday, a Sunday or a legal holiday under tribal law or federal law. If the act to be done is the filing of or providing access to any report or document, and the last day of the period falls on a day in which the weather or other conditions have made the offices in which the report or document is to be filed inaccessible, the designated period shall extend until the end of the next day on which the office is accessible which is not a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays and legal holidays under tribal law or federal law shall be excluded from the computation period.

SECTION 28-1-39. Limitations on Use of Gaming Revenues.

The net revenues of any tribally licensed Class II Gaming activity shall not be used for purposes other than:

- (a) Funding tribal government operations or programs;
- (b) Providing for the general welfare of the Tribe and its Citizens;
- (c) Promotion of tribal economic development;
- (d) Donation to charitable organizations;
- (e) Helping funding of the operation of local government agencies; and
- (f) Making per capita payments to members of the Tribe, but only if:
 - (1) the Tribe has prepared a plan to allocate revenues to uses authorized in this paragraph hereinabove or Section 29-1-43 of the Omaha Tribal Code;
 - (2) the plan is approved by the Secretary of the Interior as adequate;
 - (3) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved and the per capita payments are disbursed to the parents or legal guardian(s) of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare, of the minor or other legally incompetent person under a plan approved by the Secretary of the Interior and the governing body of the Tribe; and,
 - (4) the per capita payments are subject to Federal taxation and the Tribe notifies members of such tax liability when payments are made.

SECTION 28-1-40. Assessment for Commission Operations.

The Commission shall annually submit to the Tribal Council a budget for the operation of the Commission. Said budget shall set forth monthly expenditures for the operation of the Commission. The Tribal Council after consultation with the Commission shall approve a budget for the Gaming Commission and authorize the expenditures as exclusively determined by the Tribal Council. The resolution was submitted to the BIA and referred to Tribal Government Services for follow-up.

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SECTION 28-1-41. Penalties.

Any person who knowingly makes a false statement on any application for a license or in any statement attached to the application, or otherwise provides false information to the Commission or fails to disclose facts which are necessary to make the information supplied not misleading, or who fails to keep sufficient or accurate books and records to substantiate the receipts, expenses or uses resulting from Class II Gaming conducted under this Code, or who falsifies any books or records relating to any transaction connected with the holding, operating, and conducting of any Class II Gaming activity, or who violates any of the provisions of this Code, or any Regulations promulgated by the Commission, or procedures prepared by Primary Management Officials and approved by the Commission, or any terms of a license granted under this Code, shall be deemed in violation of this Code. The Tribe recognizes that it may not subject offenders who are not Indians to the criminal jurisdiction of its Tribal Court. This provision is not intended to subject individuals who are not Tribal Citizens to criminal penalties. The penalties, as they relate to those who are not Tribal Citizens, are intended to be administrative in nature.