

NATIONAL
INDIAN
GAMING
COMMISSION

September 3, 1993

Jeri Johnson
Chairperson
Tonto Apache Tribe
Tonto Apache Reservation
Payson, AZ 85541

Dear Chairperson Johnson:

This letter responds to your request to review and approve the tribal gaming ordinance submitted on July 26, 1993 and amended on August 26, 1993 for the Tonto Apache Tribe. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

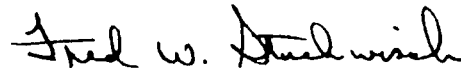
Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the chairman is directed to review ordinances with respect to the requirements of that Act and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Such approval does not constitute approval of specific games.

The NIGC expects to receive the applications for key employees and primary management officials under 25 C.F.R. § 556.5 (as published in the Federal Register on January 22, 1993, at 58 Fed. Reg. 5813). Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval.

It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

Thank you for submitting the ordinance of the Tonto Apache Tribe for review and approval. The NIGC staff and I look forward to working with you and your Tribe in implementing the IGRA.

Sincerely yours,



for Anthony J. Hope
Chairman

cc: Hubert Nanty
Gary Verburg, Esq.



TONTO APACHE TRIBE

Tonto Apache Reservation #30

Payson, Arizona 85641

Telephone
474-3000 or 474-2088

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RESOLUTION 36-93
OF THE GOVERNING BODY OF THE
TONTO APACHE INDIAN TRIBAL COUNCIL
ADOPTING A GAMING ORDINANCE

WHEREAS, the Tonto Apache Tribe and the State of Arizona have entered into a Tribal-State Compact for purposes to authorizing and regulating gaming on the Tonto Apache Indian reservation; and

WHEREAS, the Tonto Apache Tribe has engaged a management-development company to commence construction of a gaming facility; and

WHEREAS, the Tribal-State Compact has certain requirements, such as the establishment of a gaming commission, which need to be implemented to authorize gaming and carry out the duties and responsibilities set-forth in the Compact; and

WHEREAS, National Indian Gaming Regulatory Commission regulations also require the adoption and approval of a gaming ordinance; and

WHEREAS, the gaming ordinance is based upon a model ordinance suggested by the National Indian Gaming Commission, with some changes to incorporate requirements of the Tribal-State Compact.

NOW THEREFORE BE IT RESOLVED, that the Tonto Apache Tribal Council hereby adopts the gaming ordinance attached hereto as Exhibit "A".

CERTIFICATION

I, the undersigned, hereby certify that the Tribal Council of the Tonto Apache Tribe, at Payson, Arizona is composed of five (5) members of whom 4 were present at a Special Meeting held on this 26th day of July, 1993; and that this foregoing Resolution was duly adopted by the affirmative vote of 4 members of the Tribal Council.

Jeri Johnson
Jeri Johnson, Chairperson



NIGG
Jmb

Melton Campbell, Vice-Chairman

Howard Burdette, Sr.
Howard Burdette, Sr., Council Member

Casilda Johnson
Casilda Johnson, Council Member

David Kenny Davis
David Kenny Davis, Council Member

ATTEST:

Nancy Campbell
Nancy Campbell, Executive Secretary

TONTO APACHE TRIBE GAMING ORDINANCE

I. Purpose

The Tonto Apache Tribal Council (hereinafter "Tribe"), empowered by the Tribe's Constitution to enact ordinances, hereby enacts this Ordinance in order to set the terms for class II and class III gaming operations on Tribal lands.

II. Establishment of the Tonto Apache Gaming Commission

There is hereby established a Tonto Apache Gaming Commission composed of three members. Each member shall serve a three year term, except that the initial term of two of the members will be for one and two years in order to provide for a staggered three year terms. Each member shall be appointed by the Chairperson of the Tribal Council and confirmed by a majority vote of the Tribal Council. The Commission shall meet as often as deemed necessary as determined by a majority of the Commission members. All Commission action shall be taken by resolution based upon a majority vote of the Commission.

III. General Powers and Duties

The Commission shall:

1. License all gaming employees, gaming facility operators, management contractors, and manufacturers and suppliers of gaming devices and gaming services pursuant to the terms of this Ordinance and the Compact entered into between the Tribe and the State of Arizona (hereinafter "Compact").
2. Conduct or cause to have conducted background checks on any and all employees, management contractors, gaming facility operators and manufacturers and suppliers of gaming devices.
3. Keep any and all records as required by this Ordinance, the National Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.), and the Compact.
4. Exercise its best efforts to obtain compliance with this Ordinance, the National Indian Gaming Regulatory Act and the Compact.
5. Consistent with the terms and provisions of this Ordinance and the Compact, establish a procedure and conduct hearings on license revocations, suspensions, and denials.
6. Consistent with the terms and provisions of this Ordinance and the Compact establish a procedure and conduct hearings on gaming customer complaints.

7. Consistent with the terms of the Compact, establish a Tribal gaming office consisting of a director and inspectors.

8. Report any violations of this Ordinance, the Compact or and the National Indian Gaming Regulatory Act to appropriate authorities.

9. Establish a code of gaming offenses, fines and punishment to protect against cheating and other gaming offenses which may impair the integrity of the gaming enterprise.

10. Implement all requirements of this Ordinance, the Compact and the National Indian Gaming Act.

11. Monitor and provide oversight of the gaming management contractor.

IV. Regulatory Power

The Tonto Apache Gaming Commission shall have the authority to promulgate and adopt such rules and regulations as it may deem appropriate to perform the powers and duties set-forth in Article III. All rules and regulations shall not take effect until approved by the Tribal Council of the Tonto Apache Tribe.

V. Per Diem

Commission members shall be paid a per diem of \$40.00 per meeting up to two hours in length and a per diem of \$65.00 for any meeting in excess of two hours.

VI. Gaming Authorized

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

B. Class III gaming as defined and permitted in the Tribal - State Compact entered into between the State of Arizona and the Tonto Apache Tribe is hereby authorized.

VII. Ownership of Gaming

The Tribe shall have the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

VIII. Use of Gaming Revenue

A. Net revenues from class II gaming shall be used only for

the following purposes: to fund Tribal government operations and programs; provide for the general welfare of the Tribe and its members; promote Tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

B. If the Tribe elects to make per capita payments to Tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3).

IX. Audit

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

B. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection A. above.

X. Protection of the Environment and Public Health and Safety

All gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety in accordance with the Uniform Building Code as may be in effect at the time of construction.

XI. Licenses for Key Employees and Primary Management Officials

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any gaming enterprise operated on Indian lands:

A. Definitions

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

1. Key employee means

- (a) A person who performs one or more of the following functions:
- (1) Bingo 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;
- (11) Any employee required to be licensed by the Compact;
- (b) If not otherwise included, any other person whose total cash compensation is in excess of \$30,000 per year; or
- (c) If not otherwise included, the four most highly compensated persons in the gaming operation.

2. Primary management official means

- (a) The person having management responsibility for a management contract;
- (b) Any person who has authority:
 - (1) To hire and fire employees; or
 - (2) To set up working policy for the gaming operation; or
- (c) The chief financial officer or other person who has financial management responsibility.
- (d) Any management person who is subject to a background check pursuant to the terms of the Compact.

B. Application Forms

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

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 Tonto Apache Gaming Commission and the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties.

The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

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

2. Existing key employees and primary management officials shall be notified in writing that they shall either:

- a. Complete a new application form that contains a Privacy Act notice; or
- b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

3. The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant.

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

4. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

- a. Complete a new application form that contains a notice regarding false statements; or
- b. Sign a statement that contains the notice regarding false statements.

C. Background Investigations

1. The Tribe shall request from each primary management official and from each key employee all of the following information:

- a. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- b. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
- c. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1)(b) of this section;
- d. Current business and residence telephone numbers;
- e. A description of any existing and previous business relations with Indian tribes, including ownership interests in those businesses;
- f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- g. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1)(h) or (1)(i) of this section, the criminal charge, the name and address of the court involved and the date disposition;
- k. The name and address of any licensing or regulatory

agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

- l. A current photograph;
- m. Any other information the Tribe deems relevant; and
- n. Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h).
- o. Any other information the State of Arizona may need for purposes of certification of the key employee or management official pursuant to the Compact.

2. The Tribe, pursuant to the terms of the Compact and this ordinance, shall conduct an investigation sufficient to make a determination under subsection D. below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Eligibility Determination

The Tribe, in conjunction with the State pursuant to the terms of the Compact, 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 Tribe 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.

E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

1. When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection D of this section for all class II gaming key employees and primary management officials. All key employees or primary management officials applications related to class III gaming shall be forwarded to the State of Arizona in compliance with the Compact for employment certification. If a key employee or primary management official is employed or responsible for class II and class III gaming, then applications shall be submitted to both the

National Indian Gaming Commission and the State of Arizona for purposes of conducting a background investigation and determinations referred to in Section D of this section.

2. The Tribe shall forward the report referred to in subsection F of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in subsection E of this section, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following;

- a. Steps taken in conducting a background investigation;
- b. Results obtained;
- c. Conclusions reached; and
- d. The bases for those conclusions.

2. The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.

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

- a. Shall notify the National Indian Gaming Commission; and
- b. May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

4. With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspections by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of

termination of employment.

G. Granting a Gaming License

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tribal Gaming 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 tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant. All gaming licenses for Class III employees shall be issued pursuant to the terms of the Compact.

2. The Tribal Gaming Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph G.1. of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant. Any final decision with respect to Class III applicants shall be made in accordance with the terms and conditions of the Compact.

H. License Suspension

1. If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission or the State of Arizona, reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection E. above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

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

3. After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission and the State of Arizona, pursuant to the terms of the Compact, of its decision.

XII. License Locations

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



TONTO APACHE TRIBE

Tonto Apache Reservation #30

Payson, Arizona 85541

Telephone
474-5000 or 474-2068

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RESOLUTION 36-93 OF THE GOVERNING BODY OF THE TONTO APACHE INDIAN TRIBAL COUNCIL ADOPTING A GAMING ORDINANCE

WHEREAS, the Tonto Apache Tribe and the State of Arizona have entered into a Tribal-State Compact for purposes to authorizing and regulating gaming on the Tonto Apache Indian reservation; and

WHEREAS, the Tonto Apache Tribe has engaged a management-development company to commence construction of a gaming facility; and

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WHEREAS, the gaming ordinance is based upon a model ordinance suggested by the National Indian Gaming Commission, with some changes to incorporate requirements of the Tribal-State Compact.

NOW THEREFORE BE IT RESOLVED, that the Tonto Apache Tribal Council hereby adopts the gaming ordinance attached hereto as Exhibit "A".

CERTIFICATION

I, the undersigned, hereby certify that the Tribal Council of the Tonto Apache Tribe, at Payson, Arizona is composed of five (5) members of whom 4 were present at a Special Meeting held on this 26th day of July, 1993; and that this foregoing Resolution was duly adopted by the affirmative vote of 4 members of the Tribal Council.

Jeri Johnson
Jeri Johnson Chairperson



NIGC *John*

930728-03001

Melton Campbell, Vice-Chairman

Howard Burdette, Sr.
Howard Burdette, Sr., Council Member

Casilda Johnson
Casilda Johnson, Council Member

David Kenny Davis
David Kenny Davis, Council Member

ATTEST:

Nancy Campbell
Nancy Campbell, Executive Secretary