

NATIONAL
INDIAN
GAMING
COMMISSION

JUL 29 1994

Harold Chesnin, Esq.
Mathews Garlington-Mathews & Chesnin
401 Second Avenue South, Suite 500
Seattle, Washington 98104

Dear Mr. Chesnin:

This letter responds to your request to review and approve the tribal gaming ordinance adopted on June 15, 1994, by the Upper Skagit Indian Tribe (Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

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

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

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

Sincerely yours,

Anthony J. Hope

Anthony J. Hope
Chairman



UPPER SKAGIT TRIBAL COUNCIL
RESOLUTION 94- 37

WHEREAS the Upper Skagit Tribal Council is the governing body of the Upper Skagit Tribe of Indians in accordance with its Constitution and By-Laws approved by the Secretary of the Interior on December 4, 1974, and in accordance with the Indian Reorganization Act of June 18, 1934; and,

WHEREAS the Upper Skagit Tribal Council is the duly elected governing body of the Upper Skagit Indian Reservation; and,

WHEREAS the Tribe entered into a Class III Gaming Compact with the State of Washington, which Compact was approved by the Secretary of the Interior on February 22, 1993; and

WHEREAS the Tribe desires to establish a Class II and Class III Gaming Ordinance to provide for the regulation of gaming on all lands under the control of the Tribe, including Reservation lands;

NOW THEREFORE BE IT RESOLVED that the Upper Skagit Indian Tribe hereby adopts the Gaming Ordinance attached hereto and made a part hereof; and

BE IT FURTHER RESOLVED that Harold Chesnin, counsel for the Tribe is authorized to submit the Gaming Ordinance on behalf of the Tribe to the National Indian Gaming Commission for approval and to provide the NIGC any other materials necessary to obtain the approval of the Ordinance.

C E R T I F I C A T I O N

The above resolution was duly enacted by the Upper Skagit Tribal Council at a regular meeting held on June 15, 1994, on the Upper Skagit Reservation, at which time a quorum was present. The resolution was adopted by a vote of 6 FOR, 0 AGAINST, and 0 ABSTENTIONS.

Elsie Baker
Tribal Council Secretary

ATTEST:

Floya Williams
Tribal Council Chairman

UPPER SKAGIT INDIAN TRIBE
GAMING ORDINANCE

I. Purpose

The Upper Skagit Tribal Council, empowered by the Upper Skagit Tribal Constitution to enact ordinances, hereby enacts this Ordinance in order to set the terms for Class II and Class III gaming operations on Indian lands as defined in the Indian Gaming Regulatory Act P.L. 100-447, as amended, including reservation and trust lands within the territorial jurisdiction of the Tribe.

II. DEFINITIONS:

- A. Bingo. "Bingo" shall mean Bingo as defined in IGRA.
- B. Casino. "Casino" shall mean any Class II and / or Class III gaming facility owned by the Tribe.
- C. Class II Gaming. "Class II Gaming" shall mean Class II Gaming as defined in IGRA.
- D. Class III Gaming. "Class III Gaming" shall mean Class III Gaming as defined in IGRA and the Compact.
- E. Compact. "Compact" shall mean the Compact between the State of Washington and the Tribe entered into December , 1992, as approved by the Secretary of the Interior.
- F. Distributor. "Distributor" means any person, firm or corporation that distributes Gaming Devices, or components thereof, used or to be used in a Gaming Operation.
- G. Gaming. "Gaming" means Class II and Class III gaming.
- H. Gaming Devices. "Gaming Devices" shall mean Electronic Games of Chance as defined in the Compact and as defined in IGRA.
- I. Gaming Employee. "Gaming Employee" shall mean any person employed in the operation or management of a Gaming Operation, whether employed by or contracted to the Tribe, or by any person or entity providing on or off-site services to the Tribe within or without any Gaming Facility, including without limitation, managers, assistant managers, accounting personnel, surveillance personnel, security personnel, cashiers, supervisors, shift bosses, machine mechanics, gaming consultants, management companies and their principals, and any other natural person whose employment duties require or authorize access to restricted areas of any Gaming Facility not otherwise open to the public.
- J. Gaming Facility. "Gaming Facility" shall mean the buildings, improvements and fixtures now or hereafter located therein or thereon and associated and adjacent real property owned by the Tribe.
- K. Gaming Operation. "Gaming Operation" shall mean any enterprise on the Reservation for the conduct of Gaming.
- L. Gaming Service. "Gaming Service" shall mean any goods, services or concessions provided by contract to the Tribe or to a Manager in connection with the operation of Gaming in an amount in excess of \$5,000.00 in any calendar year, except for professional,

legal or accounting services. No contract may be broken up into parts for the purpose of avoiding this definition and any requirement of licensure or certification contained in this Ordinance or in the Compact.

M. Key employee. "Key Employee" shall mean:

- (a) A person who performs one or more of the following functions:
 - (i) Bingo caller;
 - (ii) Counting room supervisor
 - (iii) Chief of security;
 - (iv) Custodian of gaming supplies or cash
 - (v) Floor manager;
 - (vi) Pit boss;
 - (vii) Dealer;
 - (viii) Croupier;
 - (ix) Approver of credit; or
 - (x) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
- (b) Other job titles or positions as the Tribal Commission may include in the future by rule or regulation;
- (c) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
- (d) If not otherwise included, the four most highly compensated persons in the gaming operation.

N. IGRA. "IGRA" shall mean the Indian Gaming Regulatory Act of 1988, 25 USC 2701 et seq, as amended from time to time.

O. Management Contract. "Management Contract shall mean a contract between the Tribe and a Manager for the management of a Gaming Operation, including any related subcontracts and collateral agreements.

P. Manager. "Manager" shall mean a person, firm or corporation with whom the Tribe enters into a Management Contract.

Q. Manufacturer. "Manufacturer" shall mean a person, firm or corporation that manufactures Gaming Devices used or to be used in a Gaming Operation.

R. National Indian Gaming Commission. "National Indian Gaming Commission" shall mean the Commission established pursuant to Section 5 of IGRA.

S. Net Revenues. Net revenues shall mean the gross revenues of a Gaming Operation less amounts paid out as, or paid for, prizes and less total operating expenses, determined in accordance with generally accepted accounting principles, but excluding management fees paid to a Manager pursuant to IGRA.

T. Primary Management Official. "Primary Management Official" shall mean:

- (a) The person having management responsibility for a management contract;
- (b) Any person who has authority:
 - (i) To hire and fire employees; or
 - (ii) To set up working policy for the gaming operation; or
- (c) The chief financial officer or other person who has financial management responsibility.

U. Principal. - "Principal" shall mean:

- (i) any natural person having an interest in the contract in question;
- (ii) with respect to a trust, any beneficiary or trustee;
- (iii) with respect to a partnership, any partner;
- (iv) with respect to a corporation, any person who
 - (a) is a director thereof, or (b) is one of the 10 largest holders of the issued and outstanding stock thereof, alone or in combination with any other stockholder who is such person's spouse, parent, child or sibling;
- (v) with respect to any entity other than a natural person, firm or corporation that has provided 10% of the financing of such entity.

V. Reservation. "Reservation" shall mean all lands within the exterior boundaries of the Upper Skagit Indian Reservation as now or hereafter determined by the Secretary of the Interior and all lands held in trust for the Tribe or members of the Tribe over which the Tribe asserts jurisdiction.

W. State. "State" shall mean the State of Washington.

X. State Gaming Agency. "State Gaming Agency" shall mean the Washington State Gambling Commission.

Y. Technical Standards. "Technical Standards" shall mean operational standards for Gaming Devices.

Z. Tribal Gaming Commission. "Tribal Gaming Commission" shall mean the body created pursuant to this Gaming Ordinance to

regulate Gaming in accordance with IGRA, the Compact and the Gaming Ordinance.

AA. Tribe. "Tribe" shall mean the Upper Skagit Indian Tribe.

III. Compliance with IGRA and the Compact

A. This Ordinance shall be construed in a manner that conforms to IGRA in all respects. If this Ordinance is inconsistent with IGRA in any manner the provisions of IGRA shall govern.

B. This Ordinance shall be construed in a manner that conforms to the Compact. If any provision of this Ordinance with respect to Class III gaming is found to be inconsistent with the Compact in any manner the provisions of the Compact shall govern.

IV. Ownership of Gaming

A. The Tribe shall have the sole propriety interest in, and responsibility for, the conduct of gaming operations authorized by this Ordinance. No individually owned Class II and / or Class III gaming is permitted.

B. No individual, partnership, corporation or entity of any kind shall own in whole or in part any Class II and / or Class III Gaming Operation subject to the terms of this Ordinance.

C. The Tribe shall not, in any contract or agreement, grant, transfer or convey any interest in the Tribe's reservation lands or lands held in trust for the Tribe by the United States and subject to restriction by the United States against alienation, or in any real property of the Tribe, unless specific statutory authority exists and unless clearly specified in writing in said contract or agreement.

D. Nothing in this Ordinance shall preclude the Tribe from entering into Management Contracts as authorized under IGRA.

V. Licensed Gaming Authorized

A. Class II gaming, as defined in the IGRA is hereby authorized.

B. Class III gaming as defined in IGRA and the Compact is hereby authorized.

C. Gaming as authorized by this Ordinance shall be conducted only by persons or entities which have obtained a valid gaming operation license issued by the Tribe pursuant to this Ordinance, and rules and regulations adopted pursuant thereto.

VI. Tribal Gaming Commission

A. The Tribal Gaming Commission of five members is hereby established and empowered to regulate Gaming in accordance with this Ordinance, IGRA and the Compact.

B. The Tribal Council shall establish by resolution or amendment to this Ordinance the operating procedures of the Tribal Gaming Commission, including but not limited to Tribal Gaming Commission membership, terms, duties and By-Laws.

C. The Tribal Gaming Commission's powers shall include, but not be limited to:

i. Issue, deny, suspend or revoke any gaming license to conduct Gaming activities authorized by this Ordinance, or by rules and regulations adopted thereto, and to adopt a schedule of fees to defray expenses of license processing and background investigations;

ii. Conduct or cause to be conducted background investigations of persons or business entities applying for gaming licenses;

iii. Adopt rules and regulations, subject to ratification by the Tribal Council, necessary to carry out the purposes of this Ordinance;

iv. Regulate the collection of taxes, fees, community contributions or other assessments related to Gaming;

v. Hire, subject to the approval of the Tribal Council, employees of and contractors to the Tribal Gaming Commission, and to establish personnel policies: Provided, that such personnel policies shall require that Tribal Gaming Commission members and employees shall be subject to background investigations, including criminal and financial background investigations, and to adopt such hiring and retention policies necessary to maintain standards as a qualified law enforcement agency;

vi. Issue civil citations, levy fines or other penalties, or to close any Gaming Facility for violation of applicable law, this Ordinance or rules and regulations adopted pursuant thereto by the Tribal Gaming Commission;

vii. Enforce the Tribe's powers and responsibilities pursuant to the Compact;

viii. Require Manager to submit for approval by the Tribal Gaming Commission minimum standards for internal controls and rules of play for Class II or Class III gaming. Such internal controls and rules of play for Class

III gaming shall be consistent with provisions of the Compact.

ix. Adopt an annual budget of operating expenses of the Commission, which shall be subject to Tribal Council approval;

x. Other such powers subsequently authorized by the Tribal Council.

D. Additional Powers and Duties.

i. The Tribal Gaming Commission shall have primary responsibility for oversight of all Gaming in order to ensure the integrity thereof. For that purpose, the Tribal Gaming Commission shall employ Tribal Gaming Commission Inspectors.

ii. The Tribal Gaming Commission may on its own initiative, investigate any aspect of any Gaming Operation in order to protect the public interest in the integrity of Gaming and to prevent improper or unlawful conduct. The Tribal Gaming Commission shall investigate any report of a failure of any Gaming Operation to comply with the Compact or this Ordinance. The Tribal Gaming Commission may require any Gaming Operation to take any corrective actions deemed necessary upon such terms and conditions as the Tribal Gaming Commission shall determine appropriate.

iii. The Tribal Gaming Commission shall carry out each of the responsibilities and duties set forth for the Tribal Gaming Commission in the Compact.

iv. The Tribal Gaming Commission shall issue and revoke licenses.

v. The Tribal Gaming Commission shall require the Manager to prepare a plan for the protection of public safety and the physical security of patrons of Gaming Facilities, setting forth the respective responsibilities of the Tribal Gaming Commission, the security department of the Gaming Operation, and any Tribal police agency. Such plan, and any subsequent modifications thereof, shall be submitted to and reviewed by the Tribal Gaming Commission and, after such review, shall be adopted with such modifications as the Tribal Gaming Commission shall deem proper.

vi. Subject to Tribal Council approval, the Tribal Gaming Commission may promulgate, review and revise as necessary, regulations to govern the operation and management of any and all Gaming.

vii. The Tribal Gaming Commission shall establish a list of persons barred from the Gaming Facility because of their criminal history or association with career offenders or career

offender organizations which pose a threat to the integrity of Gaming.

viii. The Tribal Gaming Commission shall review the Technical Standards and insure that any Gaming Operation conforms to the Technical Standards.

ix. The Tribal Gaming Commission shall enforce all Tribal health and safety standards applicable to Gaming Facilities. The Tribal Gaming Commission shall issue a certificate of compliance to each Gaming Operation upon a determination that the Gaming Facility complies with such standards.

x. The Tribal Gaming Commission may, in the name of the Tribe, but only with the prior written approval of the Tribal Council, bring any civil action or criminal complaint in the courts of the Tribe, State, or the United States to enforce this Ordinance, IGRA, or the Compact or to enjoin or otherwise prevent any violation of the Ordinance, IGRA, or the Compact.

xi. The Tribal Gaming Commission may receive any complaint from any person, including any employee of any Gaming Operation, who is or who claims to be adversely affected by any act or omission of a Gaming Operation or any employee thereof and which is asserted to violate this Ordinance, the Compact, or IGRA, and may impose such remedial action as it deems appropriate to bring the Gaming Operation into compliance with such provisions. The Tribal Gaming Commission may for this purpose, in its sole discretion, conduct a hearing and receive evidence with regard to such complaint if it deems an evidentiary proceeding useful in the resolution of such complaint.

xii. Subject to Tribal Council approval, the Tribal Gaming Commission may employ such staff from time to time as it deems necessary to fulfill its responsibilities under this Ordinance and the Compact, and may retain legal counsel, consultants and other professional services, including investigative services, to assist it with respect to any of the issues over which the Tribal Gaming Commission exercises jurisdiction. The expenses of the Tribal Gaming Commission shall be assessed against the Gaming Operation.

xiii. The Tribal Gaming Commission may compel any licensee, any person employed by a Gaming Operation and any person doing business with a Gaming Operation to appear before it and to provide such information, documents or other materials as may be in their possession to assist in any investigation conducted by the Tribal Gaming Commission.

xiv. The Tribal Gaming Commission shall establish a schedule of fees and charges for the issuance of licenses, including application fees and annual renewal fees. In addition, the Tribal Gaming Commission may impose such fees on licensees as are reasonably related to the making of background investigations

and the costs of enforcement of this Ordinance and of the licenses issued hereunder.

xv. The Tribal Gaming Commission shall require each Distributor and Manufacturer to verify under oath, on forms prescribed by the Tribal Gaming Commission that the Gaming Devices distributed or manufactured by them for use at any Gaming Facility comply with the Technical Standards and all requirements of this Ordinance. The Tribal Gaming Commission may require the testing of any Gaming Device at the sole expense of the Distributor or Manufacturer.

E. Procedures of the Tribal Gaming Commission. The Tribal Gaming Commission shall conduct its operations in accordance with procedural resolutions adopted in accordance with this Ordinance. Such resolutions shall include the following provisions:

i. Regular meetings of the Tribal Gaming Commission may be held upon such notice, or without notice, and at such time and place as shall from time to time be fixed by the Tribal Gaming Commission. Unless otherwise specified, no notice of such regular meetings shall be necessary.

ii. Special meetings of the Tribal Gaming Commission may be called upon such notice as the Tribal Gaming Commission shall provide. The person entitled to call the meeting shall be designated by the Tribal Council at the time that it establishes the structure of the Tribal Gaming Commission. The person calling the meeting shall fix the date and time of the meeting and the location thereof. Neither the business to be transacted nor the purpose of the special meeting need be given in the notice.

iii. At any meeting of the Tribal Gaming Commission, a majority of the members then in office shall constitute a quorum for the transaction of business. The vote of a majority of the members present at a meeting at which a quorum is present shall be the act of the Tribal Gaming Commission. The person designated to preside over such meetings shall be designated by the Tribal Council when creating the structure of the Tribal Gaming Commission.

iv. Any action required or permitted to be taken at a meeting of the Tribal Gaming Commission may be taken without a meeting if all of the members of the Tribal Gaming Commission sign written consents to such meeting and action taken. Such consents shall be the same as a unanimous vote of the Tribal Gaming Commission.

v. Members of the Tribal Gaming Commission may participate in a meeting of the Tribal Gaming Commission by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting in such a manner by any member who does not object at the beginning of such meeting to the

holding thereof in such manner shall constitute presence in person at such meeting.

vi. Any hearing conducted by the Tribal Gaming Commission under this Ordinance may, at the direction of the Tribal Gaming Commission, be conducted by not less than three members of the Tribal Gaming Commission designated by the Tribal Gaming Commission for that purpose. Notwithstanding the foregoing, with respect to a license suspension or revocation hearing, if less than the full Tribal Gaming Commission shall hold the hearing, then the members of the Tribal Gaming Commission who are not present shall vote or abstain from voting after the hearing through a ratification process.

vii. The Tribal Gaming Commission, subject to Tribal Council ratification, may adopt such additional procedures and rules as it deems necessary or convenient to govern its affairs and which are consistent with this Ordinance and the Compact.

viii. The Tribal Gaming Commission shall keep minutes of all of its meetings, whether in person, telephonic meetings or other types of meetings, and shall submit copies of each such meeting minutes to the Tribal Council within one week of the date of the meeting.

F. Prohibition. No member or employee of the Tribal Gaming Commission shall participate as a player in any Gaming activity conducted on the Reservation.

G. Tribal Gaming Commission Inspectors. Subject to Tribal Council approval, for the purpose of ensuring the integrity of all Gaming, the Tribal Gaming Commission shall employ non-uniformed inspectors who shall report directly to and be under the sole supervision of the Tribal Gaming Commission and not under the supervision of any Manager or any Gaming Operation. Tribal Gaming Commission inspectors shall have unfettered access to all facilities of all Gaming Operations at all times, including all Gaming Facilities and all other locations where any equipment, goods, supplies, books records or other material relating to Gaming is kept or stored; for such purposes, personnel employed by any Gaming Operation shall provide Tribal Gaming Commission inspectors access to locked and secure areas of the Gaming Facilities or such other locations without restraint. Tribal Gaming Commission inspectors shall report to the Tribal Gaming Commission regarding any failure by a Gaming Operation to comply with any of the provisions of the Compact or this Ordinance or any other applicable Tribal laws and ordinances. Tribal Gaming Commission inspectors may also receive customer complaints with respect to any Gaming Operation and shall assist in seeking voluntary resolution of such complaints. Tribal Gaming Commission inspectors shall be licensed as Gaming Employees.

VII. Use of Gaming Revenue

A. Net revenues from Class II and Class III 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; or for any other purposes permitted under IGRA.

B. Notwithstanding the foregoing, if the Tribal Council authorizes per capita payments with respect to Class II net revenues 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): Provided, that:

(1) Such plan shall protect the interest of minors or other incompetent persons who are eligible to receive per capita payments.

(2) As long as required by law, the Tribe shall notify persons receiving per capita payments that such payments are subject to federal taxation.

VIII. Audit

A. The Tribal Gaming Commission shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the Upper Skagit Tribal Council and 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 or accounting services, shall be specifically included within the scope of the audit described in clause A. of this Section: Provided, that the Tribal Gaming Commission or the Tribal Council may require that such contracts of less than \$25,000 be included in the scope of the audit if inclusion is deemed necessary to protect the public interest in the integrity of Indian gaming.

IX. Protection of the Environment and Public Health and Safety

Gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety. Gaming facility construction, maintenance and operation shall comply with the Upper Skagit Environmental Protection Code as amended, the Building Code, as adopted by the Tribe, and Tribal regulations adopted pursuant thereto.

X. Licensing

The Tribe and the Tribal Gaming Commission, consistent with IGRA and the Compact, shall ensure that the policies and

procedures set out in this section are implemented with respect to the following individuals and entities, who shall be required to fill out an application form for a license:

- 1) each Gaming Employee;
- 2) each Key Employee;
- 3) each Primary Management Official;
- 4) each Gaming Operation and Manager and each Principal thereof;
- 5) each Distributor and Manufacturer;
- 6) each provider of a Gaming Service; and
- 7) each person, firm or corporation providing financing for any Gaming Operation, Gaming Facility or any part thereof (other than an agency of the United States, a member institution of the Federal Deposit Insurance Corporation or an institution regulated by the Comptroller of the Currency).

A. Application Forms - Notices

(1) Privacy Act Notice. 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 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) False Statements Notice. 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."

B. Burden of Proof

It is the determination of the Tribe that the public interest in the integrity of gaming is such that the burden of proof to establish fitness or eligibility to obtain or maintain a license under this Ordinance shall be upon the applicant or licensee, as the case may be.

C. Background Investigations

(1) The Tribal Gaming Commission shall require from each primary management official and from each key employee, and may require from all others listed in this Section X, 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, and 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 D.(1)(b) of this section;
- (d) Current business and residence telephone numbers;
- (e) A description of any existing and previous business relationships with the gaming industry generally, 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 for permit

related to gaming, whether or not such license or permit was granted;

- (h) For each felony for which there is 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 was within 10 years of the date of the application and is not otherwise listed pursuant to paragraph D.(1)(h) or D.(1)(i) of this section, the criminal charge, the name and address of the court involved, and the date and disposition;
- (k) The name and address of any licensing or regulatory agency with which the person has filed an application for a business or occupational license or permit, whether or not such license or permit was granted;
- (l) Two (2) current photographs;
- (m) Any other information the Tribe deems relevant;
- (n) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. SS 522.2 (h);
- (o) For any person or entity subject to provisions of the Compact, any other information required to obtain a state certification pursuant to the Compact; and
- (p) Any other information required by Tribal Gaming Commission rule or regulation.

(2) The Tribal Gaming Commission shall conduct, or cause to be conducted under the Compact, an investigation sufficient to make a determination under subsection D below. In conducting a background investigation, the Tribe, the Tribal Gaming Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Eligibility Determination

The Tribal Gaming Commission shall review a person's or entity's prior activities, criminal record, if any, reputation, habits, and associations to make a finding concerning the eligibility of a key employee or primary management official or other individual or entity listed above for employment in or association with a Gaming Operation. If the Tribe determines that employment of or contract with the person or entity poses a threat to the public interest or to the effective regulation of Gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming, the Tribal Gaming Operation shall not employ or contract with that person or entity in a key employee or primary management official position, or as an employee, nor as a management contractor nor supplier of gaming goods or services.

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 Tribal Gaming Commission 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 subsections C and D of this section.

(2) The Tribal Gaming Commission shall forward the report referred to in subsection E 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 Tribal Gaming Commission 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 basis for those conclusions.

(2) The Tribal Gaming Commission shall submit, with the investigative 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 Tribal Gaming Commission:

- (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 Tribal Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

G. Applicability of Compact Licensing Procedures

For those license applicants to whom the Compact applies, and to the extent that the Compact procedures for background investigations and eligibility determinations are more stringent, then those procedures shall apply.

H. Granting a Gaming License

(1) Within a thirty (30) day period after 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 Tribal Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Tribal Gaming Commission may issue a license to such applicant.

(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 Tribal Gaming 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 Tribal Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Tribal Gaming Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribal Gaming Commission shall make the final decision whether to issue a license to such applicant.

(4) The Tribal Gaming Commission may issue a license, subject to the provisions of the Compact and IGRA to all other eligible individuals and entities without submission to the National Indian Gaming Commission.

(5) If after the issuance of a license, an event occurs that would have made the licensee ineligible for a license if such event had occurred prior to the issuance of the license, the Tribal Gaming Commission shall suspend the license in accordance with Section X (P) and commence license revocation procedures.

I. Licensure of Gaming Employees, Key Employees and Primary Management Officials. No person shall be employed as a Gaming Employee, Key Employee or Primary Management Official unless such person has a current license issued by the Tribal Gaming Commission.

J. Licensure of Managers. No person, firm or corporation shall act as a Manager unless such Manager has a current license issued by the Tribal Gaming Commission.

K. Licensure of Distributors. No person, firm or corporation shall distribute Gaming Devices, or components thereof, used or to be used in a Gaming Operation unless such Distributor has a current license issued by the Tribal Gaming Commission.

L. Licensure of Manufacturers. No person, firm or corporation shall use any Gaming Device, or component part thereof, in a Gaming Operation unless the Manufacturer of such Gaming Device, or component part has a current license issued by the Tribal Gaming Commission.

M. Licensure of Providers of Gaming Services. No person, firm or corporation shall purchase any Gaming Service, or enter into a contract for the purchase of any Gaming Service,

unless the provider of such Gaming Service has a current license issued by the Tribal Gaming Commission.

N. Licensure of Financiers. No person, firm or corporation shall accept financing with respect to any Gaming Operation or Gaming Facility (other than from an agency of the United States or a member institution of the Federal Deposit Insurance Corporation or an institution regulated by the Comptroller of the Currency) unless such person, firm or corporation has a current license issued by the Tribal Gaming Commission.

O. Non-Gaming Employees. All persons who are not Gaming Employees but work at any Gaming Facility, must obtain a nongaming work permit from the Tribal Gaming Commission before commencing employment. Such work permits may be issued upon a determination by the Tribal Gaming Commission that the employee is not a threat to the effective regulation of Gaming and creates no risk or enhances no danger of unfair or illegal practices, methods or activities in the conduct of Gaming. All applicants for work permits shall provide such information as the Tribal Gaming Commission shall require.

P. License Suspension

(1) No Right Created by License Issuance. Any license issued by the Tribal Gaming Commission under this Ordinance shall constitute a privilege to conduct the licensed activity and shall not create a right in the licensee to conduct such activity. Subject to section P(9) below, if, after the issuance of a gaming license, the Tribal Gaming Commission receives reliable information indicating that any licensed individual, firm, entity or corporation is not or may not be eligible for employment or licensing, the Tribal Gaming Commission may suspend such license and shall notify, in writing, the licensee of the suspension and / or the proposed revocation of the license.

(2) Notice or Proposed License Revocation. The Tribal Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(3) Revocation of Licenses. Subject to section P(9) below, any license issued by the Tribal Gaming Commission may be revoked by the Tribal Gaming Commission for breach of any of the provisions of this Ordinance, the Compact, IGRA or the license, upon a hearing before the Tribal Gaming Commission after not less than ten (10) days written notice to the licensee. The licensee, his or its attorney, and any person affected by the license shall have the right to be present at any hearing conducted in accordance with this paragraph P.(2) and to offer sworn oral or documentary evidence relevant to the breach charged. Subject to review by the Upper Skagit Tribal Court, a license may be suspended during such pre-hearing period by the vote of a majority of the members of

the Tribal Gaming Commission then in office where such extraordinary action is essential to protect the public safety or the integrity of Gaming; a license shall be suspended during such period as required under IGRA if the revocation hearing arises as a result of notice from the National Indian Gaming Commission.

(4) Hearing upon Adverse Action. Any person or entity who is affected by an adverse action by the Tribal Gaming Commission in connection with denial of a license applied for under this Ordinance may request a hearing before the Tribal Gaming Commission by written request submitted within 30 days following notice of the action by the Tribal Gaming Commission. Thereupon, the Tribal Gaming Commission shall afford such person or entity an opportunity to appear and be heard before the Tribal Gaming Commission, either in person or through a representative or legal counsel, and to submit such evidence as such person or entity deems relevant in the matter. The Tribal Gaming Commission may also receive evidence from the Tribe, Tribal Gaming Commission or any person or entity that the Tribal Gaming Commission deems relevant to the matter. Thereafter, the Tribal Gaming Commission shall either affirm or reconsider its decision.

(5). Appeal to the Tribal Council. Subject to the burden of proof set forth in this Ordinance, the decision of the Tribal Gaming Commission to deny, suspend or revoke a license pursuant to this Ordinance may be appealed to the Tribal Council by the aggrieved person or entity. The fact that a member or members of the Tribal Council are also members of the Tribal Gaming Commission shall not be grounds for either the removal or recusal of such Tribal Council member(s) with respect to any appeal to the Tribal Council. Within 30 days following receipt of such appeal, the Tribal Council shall afford the aggrieved person an evidentiary hearing. Where any denial, suspension or revocation of a license is based upon confidential information furnished to the Tribal Gaming Commission which may not, as a matter of law, be disclosed to the aggrieved person by the Tribal Gaming Commission, such circumstances shall not be grounds for reversal of the decision to deny, suspend or revoke the license.

(6) Appeal to the Tribal Court. Subject to the burden of proof set forth in this Ordinance, a decision of the Tribal Council on appeal to affirm or reverse the denial, suspension or revocation of any license pursuant to this Ordinance may be appealed to the Upper Skagit Tribal Court by the aggrieved person or entity. In all appeals before the Tribal Court, there shall be deference given by the Tribal Court to the determination of the Tribal Gaming Commission as the agency charged with responsibility for interpreting its own regulations. Findings of fact and conclusions of law made by the Tribal Gaming Commission may be reviewed de novo

by the Tribal Court. The decision of the Tribal Court shall be final.

(7) Stay Pending Review. The effectiveness of any action to suspend or revoke an existing license under this Section may be stayed by the Tribal Council during any period of appeal or review under paragraphs P.(5) and P.(6).

(8) After a revocation hearing, the Tribal Gaming Commission shall decide to revoke or to reinstate a gaming license. If the decision is to revoke the license and, after appeal, that decision is upheld, the Tribal Gaming Commission shall notify the National Indian Gaming Commission, and where applicable, the State Gaming Agency, of its decision.

(9) Notice of Concern - Manager and Primary Management Officials. Notwithstanding the foregoing, in the event that the Tribal Gaming Commission obtains reliable information that the duly licensed Manager and / or a Primary Management Official may have breached any provision of this Ordinance, the Compact, IGRA, or its license, the Tribal Gaming Commission shall issue a Notice of Concern to the licensee prior to any action of suspension or the giving of notice of a revocation hearing with respect to its / their license(s). The Notice of Concern shall describe the alleged breach, shall describe the steps necessary to effect a cure and shall provide the licensee with an opportunity to meet with the Tribal Gaming Commission to discuss the matter. The discontinuance or correction of the alleged breach shall constitute a cure thereof, except where such alleged breach constitutes a criminal violation by the Manager or the Primary Management Official. If the alleged breach is not corrected or discontinued as required herein, then the Tribal Gaming Commission shall institute the notice and hearing procedure set forth above.

XI. Licensed Locations

A. The Tribal Gaming Commission shall issue a license to each place, facility, or location on Indian lands where gaming is conducted under this Ordinance.

B. No license shall be issued to any Gaming Facility unless the floor plans and surveillance systems for such Gaming Facility have been reviewed and approved by the Tribal Gaming Commission: Provided, any floor plans and surveillance system for Class III Gaming Facilities, or Facilities used in common by Class III and Class II Gaming Operations, shall be approved pursuant to the Compact.

XII. Prohibited Acts.

It shall be a violation of this Ordinance for any person to:

A. Conduct or participate in any Class II or Class III gaming on the Upper Skagit Tribal lands other than in a licensed Gaming Facility.

B. Receive, distribute, apply or divert any property, funds proceeds or other assets of a gaming operation to the benefit of any individual or any other person except as authorized by this Ordinance, IGRA or the Compact.

C. Tamper with any equipment used in the conduct of Gaming with the intent to cause any person to win or lose any wager other than in accordance with the publicly announced rules of the Gaming Operation.

D. Do any other act in connection with the conduct of Gaming with the intent to affect the outcome of any game or any wager other than in accordance with the publicly announced rules of the Gaming Operation.

E. Alter or misrepresent the outcome or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players.

F. Place, increase or decrease a wager 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 wager or determining the course of play contingent upon that event or outcome.

G. Claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from any authorized game, with intent to defraud, without having made a wager thereon, or to claim, collect or take an amount greater than the amount won.

H. Place or increase a wager after acquiring knowledge of the outcome of the game or other event which is the subject of the wager, including past-posting and pressing wagers.

I. Reduce the amount wagered or cancel the wager after acquiring knowledge of the outcome of the game or other event, which is the subject of the wager, including pinching bets.

J. Manipulate, with the intent to cheat, any component of any authorized game in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to manipulating the game, with the knowledge that manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

K. Use tokens or chips for wagers other than those approved by the Tribal Gaming Commission or coin or other than lawful, legal tender of the United States of America, or coin or other lawful, legal tender approved by Tribal Gaming Commission rule or

regulation, or use a coin not of the same denomination as the coin intended to be used in the game.

L. Possess, with the intent to use, any device to assist in projecting the outcome of any game, in keeping track of the cards played, in analyzing the probability of the occurrence of an event relating to any game, or in analyzing the strategy for playing or betting to be used in any game.

M. Use any device or means to cheat or defraud, or possess any such device at a Gaming Facility.

N. Entice or induce another to use any device or means to cheat or defraud, or entice or induce another to possess any such device at a Gaming Facility.

O. Entice or induce another to go to any place on the Reservation where Gaming is being conducted or operated in violation of the provisions of this Ordinance, the Compact, or rules and regulations adopted pursuant thereto, with the intent that the other person play or participate in the Gaming.

P. Possess or discharge any firearm in any Gaming Facility: Provided, that duly authorized officers of the Tribal Police, State Gaming Agents, or if so authorized by the Tribal Council, Tribal Gaming Commission agents, shall be permitted to possess or discharge firearms in the exercise of their official duties.

Q. Act or conspire with another to give, or offer to give, any money, thing of value, gift, chattel of consideration to any elected official or employee of the Tribe, or member or employee of the Tribal Gaming Commission, for the purpose of influencing any action, decision, contract, or consideration, or the promise of any action, decision, contract or consideration.

R. Act or conspire with another to give, or offer to give, any money, thing of value, gift, chattel of consideration to any employee of a Gaming Operation, for the purpose of influencing any decision, contract, purchase or consideration, or the promise of any decision, contract, purchase or consideration.

XIII. Penalties.

A. Any individual who violates any provision of this Ordinance, including provisions of the Compact incorporated herein, shall be subject to civil penalties including exclusion from employment in any Gaming Operation, denial or revocation of any license, exclusion from attendance at any Gaming Facility, exclusion from the Upper Skagit Reservation if a non-member of the Tribe, or with respect to any person subject to the jurisdiction of the Tribe, a fine of not more than \$5,000.00 for each such violation. Each calendar day that a violation occurs shall be deemed a separate violation. The Tribal Gaming Commission shall have the jurisdiction to impose such penalties on any person or

entity within the jurisdiction of the Tribe to impose such penalties.

B. No action by the Tribal Gaming Commission to impose a penalty pursuant to this Section shall be valid unless the person or entity affected is given the opportunity to appeal and be heard before the Tribal Gaming Commission, subject to the procedures set forth in Section X. concerning appeals or in paragraph X (P)(9). concerning a Notice of Concern, either in person or through a representative or legal counsel, and to submit such evidence as the Tribal Gaming Commission deems relevant to the matter at issue. Notwithstanding the foregoing, if the Tribal Gaming Commission deems it necessary to protect the public interest in the integrity of Indian Gaming, the Tribal Gaming Commission may take such action with immediate effect as it deems required, and shall thereupon provide notice and an opportunity to be heard to the affected person or entity as soon as is reasonably practicable following such action.

XIV. Repealer and Severability

A. To the extent that they are inconsistent with this ordinance, all prior gaming ordinances are hereby repealed.

B. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance or the application of the provision to other persons or circumstances is not affected.