



JUL 21 2003

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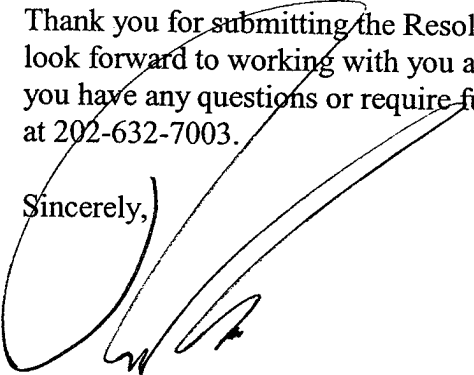
RE: Ute Mountain Ute Gaming Ordinance- Resolution 2003-18

Dear Mr. Boos:

This letter responds to your request to the National Indian Gaming Commission ("NIGC") for review of the Ute Mountain Ute Gaming Ordinance-Resolution No. 2003-18 ("Resolution") received on May 6, 2003. On February 12, 2003, the Ute Mountain Ute Tribal Council approved general revisions to the Ordinance pursuant to the Resolution. You also have submitted additional relevant information in your correspondence dated July 14, 2003. This letter constitutes approval of your submissions under the Indian Gaming Regulatory Act.

Thank you for submitting the Resolution to the gaming ordinance. The NIGC staff and I look forward to working with you and the Ute Mountain Utes on future gaming issues. If you have any questions or require further assistance, please contact Ms. Frances Fragua at 202-632-7003.

Sincerely,



Philip N. Hogen  
Chairman

cc: Harold Cuthair, Vice Chairman, Ute Mountain Ute Tribe

DATE: February 12, 2003

RESOLUTION NO. 2003-18

**RESOLUTION  
UTE MOUNTAIN TRIBAL COUNCIL  
REFERENCE: APPROVING GAMING ORDINANCE**

*MAY - 6 2003*

WHEREAS, the Constitution and By-Laws of the Ute Mountain Tribe, approved June 6, 1940, and subsequently amended, provides in Article III that the governing body of the Ute Mountain Ute Tribe is the Ute Mountain Ute Tribal Council and sets forth in Article V the powers of the Ute Mountain Ute Tribal Council exercised in this Resolution;

WHEREAS, the Gaming Ordinance of the Ute Mountain Casino is in need of revision in order to make it consistent with the Gaming Regulations and Minimum Internal Control Standards;

WHEREAS, the Tribal Council has reviewed a draft Gaming Ordinance presented to the Council by the law firm of Maynes, Bradford, Shipp & Sheftel;

WHEREAS, the Gaming Ordinance reflects current revisions to the Gaming Regulations and Minimum Internal Control Standards;

WHEREAS, the Casino General Manager, Gaming Commission, and the Tribe's General Counsel have all participated in the drafting of the Gaming Ordinance and find it acceptable; and

WHEREAS, the Tribal Council believes adopting the Gaming Ordinance is in the best interest of the Tribe and should accommodate effective and efficient operation of the Casino.

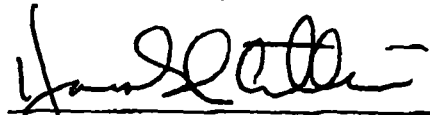
NOW, THEREFORE BE IT RESOLVED that the Tribal Council hereby approves the Gaming Ordinance; and

BE IT FINALLY RESOLVED that the Vice Chairman of the Tribal Council is hereby authorized to sign this Resolution and to take such further action as may be necessary to carry out the intent of this Resolution.

The foregoing Resolution was duly adopted this 12th day of February 2003.

RECEIVED  
BUREAU OF INDIAN AFFAIRS  
SOUTHWEST REGIONAL OFFICE

APR 17 2003

  
Harold Cuthair, Vice Chairman  
Ute Mountain Ute Tribal Council

OFFICE OF TRIBAL GOVERNMENT SERVICES

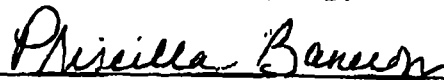
**CERTIFICATION**

This is to certify that there was a quorum of 5 Tribal Council Members present at the official meeting of the Ute Mountain Ute Tribal Council held on February 12, 2003, that 4 voted for this Resolution, that 0 opposed, that 0 abstained, and that this Resolution was, therefore, duly adopted.



\_\_\_\_\_  
Maria Rivera, Recording Secretary  
Ute Mountain Ute Tribal Council

**ACKNOWLEDGED BY:**



\_\_\_\_\_  
Priscilla Bancroft, Superintendent  
Bureau of Indian Affairs  
Ute Mountain Ute Agency

**UTE MOUNTAIN UTE TRIBE  
UTE MOUNTAIN UTE RESERVATION  
GAMING ORDINANCE**

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**TITLE I  
GENERAL PROVISIONS**

**Section 101. Short Title.**

This shall be known and may be cited as the "Ute Mountain Ute Gaming Ordinance."

**Section 102. Findings.**

The Ute Mountain Ute Tribal Council finds that:

- a) The Ute Mountain Ute Tribe, which was organized by the membership pursuant to federal law, enjoys a government to government relationship with the United States as a federally recognized Indian Tribe.
- b) The Ute Mountain Ute Tribe has a long history of allowing various forms of gaming within its territory which predates its treaties with the United States.
- c) The Ute Mountain Ute Tribe requires diverse industries and enterprises, including gaming, to generate revenues for self-perpetuation and essential government services and to enhance its capability to be self-sufficient.
- d) Tribal gaming is vitally important to the economy of the Tribe and to the general welfare of its members.
- e) It is of vital interest to the public health, safety and welfare of the Ute Mountain Ute Tribe and its members to regulate public gaming in a manner commensurate with the interests of the Ute Mountain Ute Tribe and in accordance with the doctrine of Indian tribal sovereignty.

**Section 103. Legislative Purpose and Declaration of Public Policy.**

- a) The purpose of this Ordinance is to provide a statutory basis for the operation of tribal gaming as a means of promoting tribal economic development, self-sufficiency and strong tribal government; to provide a statutory basis for the regulation of tribal gaming adequate to shield it from organized crime and other corrupting influences; to ensure that the Ute Mountain Ute Tribe is the primary beneficiary of tribal gaming and to assure that gaming is conducted fairly and honestly by both the operator and the players.
- b) The Ute Mountain Ute Tribal Council declares it to be the public policy of the Ute Mountain Ute Tribe that:
  - (1) The continued growth and success of tribal gaming is dependent upon public confidence and trust that tribal gaming is conducted fairly and honestly by both the operator and the players as a genuine means of providing both recreation and entertainment, entirely free from organized crime and other corrupting influences.
  - (2) Public confidence and trust can only be maintained by strict regulation and

control of all persons, locations, practices, associations and activities related to tribal gaming operations and the manufacture or distribution of gaming devices and equipment on Indian lands in compliance with applicable law.

(3) All gaming operators, employees, manufacturers or distributors of certain gaming devices and equipment, vendors and consultants must be licensed, controlled and assisted to protect the public health, safety, good order and general welfare of the members of the Ute Mountain Ute Tribe, residents of the reservation and visitors to the gaming facilities in order to foster the stability and success of tribal gaming and to protect gaming as a means of promoting tribal economic development.

c) No applicant for a license or other affirmative gaming commission approval has any right to a license or the granting of the approval sought. Any license issued or other Commission approval granted pursuant to the provisions of this Ordinance is a revocable privilege, and no holder acquires any vested right therein or thereunder.

d) This Section does not:

(1) Abrogate or abridge any common law, statutory or other right of a gaming enterprise to exclude any person from gaming activities or eject any person from the premises of the enterprise for any reason; or

(2) Prohibit a gaming operator from establishing minimum wagers for any class II or class III game.

e) The provisions of this Ordinance, being necessary for the welfare of the Ute Mountain Ute Tribe and its members, shall be construed liberally to effect the purposes and objectives hereof.

f) It shall be the policy of the Ute Mountain Ute Tribal Council that the conduct and regulation of tribal gaming will comply with all applicable federal law, including the Indian Gaming Regulatory Act, (25 U.S.C. 2701 et seq.), applicable provisions of the Bank Secrecy Act (31 U.S.C. 5311 et seq.) and the Ute Mountain Ute Tribe and the State of Colorado Gaming Compact. The Commission shall promulgate regulations and adopt minimum internal control standards (MICS) to effectuate the provisions in the Indian Gaming Regulatory Act and the Bank Secrecy Act which address the regulation of tribal gaming.

g) All agreements, contracts, leases or arrangements in violation of this Ordinance, or the Commission Rules and Regulations promulgated pursuant to this Ordinance, are void and unenforceable.

#### **Section 104. Interpretation.**

a) The provisions of this Ordinance, being necessary for the welfare of the Ute Mountain Ute Tribe and its members, shall be construed liberally to effect the purposes and objectives hereof.

b) This Ordinance shall be construed to supersede the Rules and Regulations and the



Minimum Internal Control Standards (MICS) in the event of any conflict between these and the Ordinance.

**Section 105. Definitions.**

The following words and phrases when used in this Ordinance shall have the meanings respectively ascribed to them in this Section.

- a) "Applicant" shall mean any person who has applied for a license, registration or finding of suitability under this Ordinance or the Commission Rules and Regulations or who has applied for permission to engage in any act or activity which is regulated by this Ordinance or the Commission Rules and Regulations.
- b) "Career offender" shall mean any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of Tribal, state or federal law.
- c) "Career offender cartel" shall mean any group of persons who operate together as career offenders.
- d) "Class I Gaming" shall mean all gaming defined as "class I gaming" in the Indian Gaming Regulatory Act. Class I Gaming is permitted on Indian lands and is exempt from licensure and other regulatory requirements of the Commission.
- e) "Class II Gaming" shall mean all gaming defined as "class II gaming" in the Indian Gaming Regulatory Act.
- f) "Class III Gaming" shall mean all gaming defined as "class III gaming" in the Indian Gaming Regulatory Act, and shall include all forms of gaming that are not class I or class II gaming.
- g) "Commission" shall mean the Ute Mountain Ute Gaming Commission.
- h) "Commissioner" shall mean any member of the Ute Mountain Ute Gaming Commission.
- i) "Compact" shall mean that agreement entitled "The Ute Mountain Ute Tribe And The State of Colorado Gaming Compact," entered into on May 1, 1992, as amended on March 1, 1996, between the Ute Mountain Ute Tribe and the State of Colorado, and any subsequent amendments thereto.
- j) "Consultant" shall mean a person retained by the Ute Mountain Ute Tribe as an independent contractor and who is not an employee of the gaming enterprise.
- k) "Executive Director" shall mean the executive director of the Ute Mountain Ute Gaming Commission.
- l) "Gaming Commission" See definition for "Commission."

m) "Gaming device" or "Gaming equipment" shall mean any equipment or mechanical, electromechanical, or electronic contrivance, component or machine used remotely or directly in connection with gaming or any game. The term includes a system for processing information which can alter the normal criteria of random selection which affects the operation of any game, or which determines the outcome of a game. The term includes, but is not limited to, a slot machine, links which connect to progressive slot machines, card tables, the cards used to play card games, keno equipment, bingo cards or sheets, devices for selecting bingo numbers, pull-tabs, jar tickets, paddlewheels and tipboards.

n) "Gaming Enterprise" or "Gaming Operation" shall mean any commercial business owned by the Tribe which operates class II or class III gaming pursuant to this Ordinance. A gaming enterprise may be operated by the Ute Mountain Ute Tribe directly or by a management contractor.

o) "Gaming Facility" shall mean any premises on which a gaming enterprise or operation is licensed to operate. A gaming facility may include more than one structure.

p) "Gaming license" means any license issued by the Commission pursuant to this Ordinance which authorizes the person named therein to engage in gaming on Indian lands.

q) "Gaming Operator" shall mean a person, organization or entity that manages a tribal gaming enterprise, including an entity entering into a management contract with the Tribe, the Tribe itself or the general manager of the gaming operation.

r) "House banked game" or "house banking game" shall mean any game of chance that is played with the house as a participant in the game, where the house takes on all players, collects from all losers, and pays all winners, and the house can win.

s) "Indian Gaming Regulatory Act" shall mean the Act of the United States Congress adopted on October 17, 1988, as Public Law 100-497, 102 Stat. 2467, codified at 25 U.S.C. 2701, *et seq.* (1988) and 18 U.S.C. Secs. 1166-1168 (1988), as amended.

t) "Indian Lands" shall mean (1) all lands within the limits of the Ute Mountain Ute Reservation, and (2) any lands title to which is either held in trust by the United States for the benefit of the Ute Mountain Ute Tribe or a Tribal member, or is held by the Ute Mountain Ute Tribe or a Tribal member subject to restriction by the United States against alienation and over which the Ute Mountain Ute Tribe exercises governmental power, and (3) all other lands of the Ute Mountain Ute Indian Tribe acquired in trust by the United States after October 17, 1988, if any, which lands satisfy the conditions set forth in the Indian Gaming Regulatory Act.

u) "Keno equipment" shall mean the electronic equipment and software used to conduct the game of keno.

v) "Key Employee" shall include any person included in the definition of "Primary Management Official" set forth in the Code of Federal Regulations and shall mean:

(1) any person who has a direct or indirect financial interest in a management contract;

(2) any person having management responsibility for a management contract or gaming enterprise;

(3) any person who has authority to hire and fire employees, or to set policy for a gaming enterprise;

(4) the chief financial officer or other person who has financial management responsibility for a gaming enterprise;

(5) the General Manager;

(6) any executive, employee or agent of a gaming enterprise having the power to exercise a significant influence over decisions concerning any part of the operation of a gaming enterprise; or

(7) any person who has, alone or with others, the authority to sign checks or create or discharge financial obligations for a gaming enterprise.

w) “Licensee” shall mean any person, entity or organization granted a license pursuant to the provisions of this Ordinance.

x) “Management contract” shall mean any contract, subcontract or collateral agreement between the Ute Mountain Ute Tribe and a contractor, or between a contractor and a subcontractor, if such contract or agreement provides for the management of all or part of a gaming enterprise or gaming operation. Nothing in this provision shall be deemed to give a contractor a right to subcontract without the prior express written approval of the Ute Mountain Ute Tribal Council, if such right is not expressly granted in the management contract with the Tribe.

y) “Minimum Internal Control Standards” (“MICS”) shall mean detailed procedural controls designed to protect the assets of the gaming enterprise or gaming operation, ensure the accuracy and reliability of accounting methods, and protect the integrity of gaming.

z) “Minority interest” shall mean an ownership interest of five (5) percent or less in a management contract or in a gaming operator that has entered into a management contract with the Ute Mountain Ute Tribe.

aa) “Non-Gaming Employee” shall mean any employee of a gaming operation not included in the definition of “Key Employee” or “Support Employee.”

bb) “Person” shall mean an individual, partnership, business trust, government or governmental subdivision or agency, estate, association, trust, for profit corporation, nonprofit corporation, organization, or any other legal entity or a manager, agent, servant, officer or employee thereof.

cc) “Person having a direct or indirect financial interest in a management contract” shall mean:

(1) when a person is a party to a management contract, any person having a direct financial interest in such management contract;

(2) when a trust is a party to a management contract, any beneficiary or trustee;

(3) when a partnership is a party to a management contract, any partner;

(4) when a corporation is a party to a management contract, any person who is a director or who holds at least 10% of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child or sibling;

(5) when an entity other than a natural person has an interest in a trust, partnership or corporation that has an interest in a management contract, all parties of that entity are deemed to be persons having a direct financial interest in a management contract.

dd) "Shall" is used in this Ordinance as imposing an obligation to act.

ee) "Slot machine" shall mean any mechanical, electrical, video, electronic or other device, contrivance or machine which, after insertion of a coin, token or similar object, or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens or redeemable game credits, or any thing of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner. The term "slot machine" does not include vintage slot machine models which were introduced on the market prior to 1984 and are not used for gambling purposes or in connection with tribal gaming.

ff) "Slot machine distributor" shall mean any person who imports onto Indian lands slot machines, or who sells, leases for a fixed or flat fee or distributes slot machines on Indian lands.

gg) "Slot machine malfunction" shall mean a slot machine, in an active and valid play mode, which fails to automatically respond correctly or to meet the standards required by this Ordinance and the Commission Rules and Regulations, whether or not due to software failures, hardware failures, human errors, human intervention or other causes.

hh) "Slot machine manufacturer" shall mean any person who designs, assembles, fabricates, produces, constructs or otherwise prepares a complete or component part of a slot machine, other than tables or cabinetry; except that the term does not include licensed operators performing incidental repairs on their own slot machines. A licensed slot machine manufacturer may sell slot machines or components of slot machines of its own manufacture to licensed slot machine distributors or operators.

ii) "Suitability" or "suitable" shall mean, in relation to a person, eligibility to be licensed by the Gaming Commission and, in relation to acts or practices, those which do not violate this Ordinance or the Commission Rules and Regulations and are not contrary to the legislative purposes of this Ordinance.

jj) "Support Employee" shall include any person identified as a "Key employee" pursuant to the Indian Gaming Regulatory Act and Code of Federal Regulations, if not otherwise included in the definition of "key employee" in this Ordinance, and shall mean:

(1) 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) Custodian of gambling devices, including persons with access to cash and accounting records within such devices;
- (x) Cashiers;
- (xi) Change persons.

(2) If not otherwise included as a key or support employee, any other person employed by the gaming enterprise whose total cash compensation is in excess of \$50,000 per year; or

(3) If not otherwise included as a key or support employee, the four most highly compensated persons employed by a gaming enterprise; or

(4) Any person employed by the gaming enterprise, if not otherwise included as a key or support employee whose duties require or authorize them to gain unescorted access to restricted areas of the gaming facility not otherwise open to the public.

(5) Any employee who is included in both the definition of "key employee" and "support employee" shall be required to obtain a key employee license.

kk) "Tribal Council" shall mean the governing body of the Ute Mountain Ute Tribe, duly elected in accordance with the terms of the Constitution and By-Laws of the Ute Mountain Ute Tribe adopted June 6, 1940 and subsequently amended.

ll) "Tribe" shall mean the Ute Mountain Ute Tribe, a federally recognized Indian tribe.

mm) "Unsuitability" or "Unsuitable" shall mean, in relation to a person, ineligibility to be licensed by the Commission because of prior acts, associations or financial conditions, and, in relation to acts or practices, those which violate or would violate this Ordinance or the Commission Rules and Regulations or are or would be contrary to the legislative purposes of this Ordinance.

nn) "Vendor" shall mean a person who supplies any goods or services that are used in conjunction with any gaming operation.

**Section 106. Authorization and Regulation of Gaming.**

Class I gaming is permitted on Indian Lands and is exempt from licensure and other regulatory requirements of the Commission. Class II and class III gaming are hereby authorized and may be operated and maintained subject to the provisions of this Ordinance and the Commission Rules and Regulations. All Class II and Class III gaming shall be regulated by the Ute Mountain Ute Gaming Commission.

**Section 107. Penalty Provisions.**

- a) It shall be a violation of the laws of the Ute Mountain Ute Tribe to violate the provisions of this Ordinance, any Rules and Regulations promulgated by the Commission or any proper order issued under the authority of this Ordinance. Any person or licensee violating provisions of this Ordinance shall be punished by a fine in the nature of a civil penalty of not more than Five Thousand dollars (\$5,000.00) or by suspension of their license for a period not to exceed one year or by revocation of their license, or by both such fine and license suspension or revocation.
- b) Any person violating any of the provisions of this Ordinance, or any of the Commission Rules and Regulations promulgated pursuant thereto, shall also be prosecuted and punished under applicable criminal law.
- c) Each day a violation continues may be considered a separate violation for purposes of imposing fines. Nothing in this Ordinance shall be construed to limit the ability of the Tribe to assert civil or criminal penalties pursuant to other applicable tribal law.
- d) Any person who is not a member of the Ute Mountain Ute Tribe and who violates a provision of this Ordinance may be excluded from the Ute Mountain Ute Reservation in the manner authorized by law.

**Section 108. Severability.**

The provisions of this Ordinance are severable; and if any part or provision hereof shall be held void by any court or government agency, the decision of the court or agency so holding shall not affect or impair any of the remaining provisions of this Ordinance.

**Section 109. Ownership of Gaming.**

The Tribe shall have the sole proprietary interest in and ownership of any gaming operation authorized by this Ordinance.

**Section 110. References.**

- a) All references in this Ordinance to federal, tribal and state statutes, Commission Rules and Regulations, or to the Compact shall mean those statutes, Commission Rules and Regulations and the Compact currently in effect and as hereafter amended.

- b) As used in this Ordinance, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.
- c) References to days shall mean calendar days unless otherwise stated.

**TITLE II**  
**UTE MOUNTAIN UTE GAMING COMMISSION**

**Section 201. Ute Mountain Ute Gaming Commission Established.**

- a) In order to provide for the orderly development, administration and regulation of tribal gaming, there is hereby established the Ute Mountain Ute Gaming Commission. The Commission shall consist of five members, who shall be appointed by the Ute Mountain Ute Tribal Council, to serve as Commissioners. The Chairman of the Commission shall be nominated and elected by majority vote of the Commission, subject to the approval of the Tribal Chairman.
- b) No individual who has been convicted of, pled guilty to or pled no contest to a felony or a gambling-related offense or any crime of moral turpitude may serve as a commissioner. Commissioners must also meet the following qualifications:
  - 1) Be at least 21 years of age.
  - 2) Possess a basic knowledge and understanding of gaming activities authorized on the Ute Mountain Ute Reservation.
  - 3) Have the ability to interpret regulations and conduct administrative hearings.
  - 4) Have the ability to observe restrictions concerning conflicts of interest and confidentiality.
- c) Commissioners shall be appointed for indefinite terms, so long as they maintain eligibility. In the event of a vacancy on the Commission, the Tribal Council may appoint any other qualified person to fill the vacancy, provided that any proposed appointee shall be subject to the qualification requirements of this Section.
- d) Commissioners shall receive compensation for their services for each day spent in the conduct of Commission business and shall be reimbursed for necessary training, travel and other reasonable expenses incurred in the performance of their official duties.
- e) A majority of the Commission shall constitute a quorum. The concurrence of a majority of the members appointed to the Commission shall be required for any final determination by the Commission. The Commission may act in its official capacity even if there are vacancies on the Commission.
- f) The Commission shall keep a complete and accurate record of all its meetings.

**Section 202. Removal of Commission Members.**

a) The Tribal Council may suspend and remove Commissioners for cause. "Cause" for the purpose of this Section shall include, but not be limited to, neglect of duty; misappropriation of funds, fraud or falsification of reports; conviction of or plea of guilty to, or plea of no contest to, a felony, a gaming offense or a crime of moral turpitude in any jurisdiction; or failure to attend meetings.

b) Upon suspension, the Tribal Council shall, within ten (10) days, notify the accused Commissioner in writing of the charges against him and of his right to a hearing before the Tribal Council. The suspended Commissioner shall have ten (10) days from the date of written notification to submit to the Tribal Council a written request for a hearing on the charges which shall be held not less than ten (10) days nor more than thirty (30) days from the receipt of such request.

c) At the hearing, evidence supporting the charges shall be heard and the accused Commissioner shall have the opportunity to examine witnesses and evidence and offer the same in defense.

d) The Tribal Council shall consider all evidence presented and the testimony of witnesses. If the Tribal Council finds, by a preponderance of the evidence, that cause has been shown to exist, it shall issue an order removing the accused Commissioner. If cause is not shown to exist, then the charges shall be dismissed.

### **Section 203. Prohibition Against Tribal Council Members Serving on Commission.**

No member of the Tribal Council may be a member of the Commission.

### **Section 204. Commission Powers and Duties.**

a) The Commission shall have the following powers and duties:

(1) To promulgate such Rules and Regulations governing the licensing, conduct and operation of tribal gaming as are consistent with the purposes of this Ordinance.

(2) To investigate violations of this Ordinance governing the licensure, operation or conduct of tribal gaming; the Rules and Regulations promulgated by the Commission; the MICS, and any condition, term or restriction of a license issued by the Commission.

(3) To conduct, or cause to be conducted, background investigations and criminal records checks on all applicants and licensees and to provide notice of the results of said investigations as required by the Indian Gaming Regulatory Act and the Compact.

(4) To process all gaming license applications, determine the suitability of all applicants, issue and deny gaming licenses and provide the required notification of such license issuances and denials as required by the Indian Gaming Regulatory Act and the Compact.

(5) To levy fines and to limit, condition, suspend, restrict or revoke any license which the Commission has issued, either upon complaint or upon its own motion, and to enforce this



Ordinance and the Rules and Regulations promulgated by the Commission.

(6) To obtain all information from applicants, licensees and other persons which the Commission deems necessary for the regulation of tribal gaming.

(7) To issue subpoenas for the appearance or production of persons, records and things in connection with applications before the Commission or in connection with disciplinary or contested cases under consideration by the Commission.

(8) To investigate and conduct hearings upon complaints charging violations of this Ordinance or the Commission Rules and Regulations, or any condition, term or restriction of a license issued by the Commission, and to impose appropriate penalties and fines, including injunctive relief.

(9) To conduct hearings at the request of an applicant or licensee who petitions for review of an adverse ruling.

(10) To inspect and examine with or without notice all gaming operations and all premises wherein gaming devices or equipment are located, and to seize, remove and impound with or without notice or prior hearing from such premises any equipment, devices, supplies, books or records for the purpose of examination or inspection as necessary to enforce the provisions of this Ordinance and the Commission Rules and Regulations.

(11) To review, inspect, examine and copy all papers, books and records of a gaming operation related to the enforcement of any provision of this Ordinance, the Commission Rules and Regulations and any condition, term or restriction of a license issued by the Commission, and to impound or remove all such papers, books and records without prior hearing when deemed necessary for their preservation, inspection and examination.

(12) To establish MICS for gaming operations and to audit each gaming operation's compliance with said standards.

(13) To establish and collect license fees and fees for performing background investigations on applicants for licenses and on other persons for whom the Commission requires a background investigation.

(14) To ensure that an annual independent audit of all tribal gaming operations, is conducted, presented to the Tribal Council and submitted to the National Indian Gaming Commission pursuant to the Indian Gaming Regulatory Act;

(15) To propose an annual budget for Gaming Commission operations to the Tribal Council.

(16) To exercise such other incidental powers as may be necessary to ensure the safe and orderly regulation of tribal gaming.

b) The Gaming Commission shall not negotiate or execute any capital equipment purchase, contract, lease, deed, mortgage or other instrument in the name of or on behalf of the Tribe

without prior authorization of the Tribal Council, except that it is authorized to execute purchase orders and similar documents necessary for day to day operation of the Commission. The Commission shall not enter into loans on behalf of the Tribe and no evidence of indebtedness shall be issued in the name of the Tribe unless authorized by the Tribal Council. All checks, drafts, purchase orders, or other orders for payment of money from the Commission must be executed pursuant to Tribal procurement policies for the Commission as established by the Tribal Council.

**Section 205. Commission Meetings.**

Regular and special meetings of the Commission may be held, at the discretion of the Commission, at such time and place as may be convenient. The Commission may, at its discretion, convene executive sessions to discuss background and other investigations, disciplinary matters, deliberations after hearing evidence in an informal consultation or in a contested case, discussion of possible criminal violations, and matters involving proprietary or confidential information of the Tribe.

**Section 206. Gaming Commission Staff.**

a) The function of the Commission staff is to implement such regulatory authority of the Commission as may be delegated.

b) The Executive Director shall be hired in accordance with the Personnel Policies and Procedures of the Tribe.

(1) The Executive Director shall be qualified by training and experience to direct the work of the Commission staff, shall be of good character and shall not have been convicted of, or entered a plea of guilty to, or a plea of no contest to, any felony or gambling related offense or other crime of moral turpitude. The Executive Director shall devote his entire time and attention to the duties of his office and shall not be engaged in any other profession or occupation. The Executive Director, as administrative head of the Commission staff, shall direct and supervise its administrative and technical activities. The Commission may review any action taken by the Executive Director.

(2) The duties of the Executive Director shall include the following:

(i) To supervise and administer the operations of the Commission staff in accordance with the provisions of this Ordinance and the Rules and Regulations of the Commission;

(ii) To attend meetings of the Commission;

(iii) To employ and direct such personnel as may be necessary to carry out the purposes of this Ordinance, consistent with the personnel policies of the Tribe, and to recommend contracts with consultants and technical advisors, as deemed necessary, upon approval of the Commission;

(iv) To confer with the Commission and the Tribal Chairman, or the Tribal

Chairman's designee, on a regular basis with regard to the operations and regulatory activities of the Commission staff;

(v) To make available for inspection by the Commission, upon request, all books, records, files and other information and documents of the Commission staff;

(vi) To advise the Commission and recommend to the Commission such Rules and Regulations, Minimum Internal Control Standards and such other procedures as the Executive Director deems necessary and advisable to improve the operation of the Commission and the regulation of tribal gaming;

(vii) To submit to the Tribal Council for approval and signature recommended contracts required by this Ordinance or Tribal procurement policies to be authorized by the Council, provided that all such contracts shall also be submitted to the Tribe's General Counsel for approval as to form. Any contract which has not been first approved as to form by the General Counsel shall not be placed on the agenda of the Tribal Council;

(viii) To furnish the Tribal Council minutes of the Commission meetings;

(ix) To annually prepare and submit to the Commission, for its approval and submission to the Tribal Council, a proposed budget for the succeeding fiscal year;

(x) To comply with all reporting and notification requirements related to licensing, background investigations, and violations of this Ordinance pursuant to the Indian Gaming Regulatory Act and the Compact;

(xi) To take such regulatory action as may be determined by the Commission to protect the integrity of tribal gaming;

(xii) To perform any other lawful acts which the Commission may deem necessary or desirable to carry out the regulatory purposes and provisions of this Ordinance.

c) The Commission investigators shall be hired in accordance with the Personnel Policies and Procedures of the Tribe, except that investigators shall be supervised by, and are accountable only to, the Executive Director. Investigators shall be of good character and shall not have been convicted of, or pled guilty to, or entered a plea of no contest to, any felony or gambling related offense or other crime of moral turpitude.

(1) All Commission investigators shall be authorized to do the following in furtherance of authorized purposes under this Ordinance:

(a) Inspect, examine, investigate, hold or impound any premises where tribal gaming is conducted, any devices or equipment designed for or used in tribal gaming, and any books and records connected with tribal gaming.

(b) Require any licensee, upon demand, to permit an inspection of the gaming facilities, gaming equipment and devices, videotapes and books and records, however maintained; and to permit the testing of all such equipment and devices to ensure compliance

with the provisions of this Ordinance and the Commission Rules and Regulations.

(c) Conduct investigations into the character, record and reputation of all applicants for tribal gaming licenses, all licensees and such other persons as the Commission may deem necessary related to tribal gaming;

(d) Investigate violations, or suspected violations, of the provisions of this Ordinance, the Commission Rules and Regulations, including the MICS and any condition, term or restriction of a license issued by the Commission.

(2) Criminal violations of this Ordinance discovered during an authorized investigation or discovered by the Commission shall be referred to the appropriate law enforcement authority and/or prosecutor.

(3) Nothing in this Section shall be construed to prohibit law enforcement officers and agencies from enforcing the provisions of this Ordinance, the Commission Rules and Regulations and applicable tribal, state or federal law or from performing their other duties to the full extent permitted by the Compact and existing law.

#### **Section 207. Gaming Commission Access to Law Enforcement Records.**

The Commission staff shall have full authority to procure at its expense, any records furnished to or maintained by any law enforcement agency in the United States, including federal, tribal, state and local law enforcement agencies, and any foreign law enforcement agency, for the purposes of carrying out its responsibilities pursuant to this Ordinance and the Commission Rules and Regulations.

#### **Section 208. Suitability Requirements.**

All Commission staff shall meet the suitability requirements established for support employees.

### **TITLE III Conflict of Interest**

#### **Section 301. Conflict of Interest.**

a) Members of the Tribal Council, Commissioners and the Commission staff hold positions of public trust. To ensure the confidence of the public in the integrity of the Tribal Council, the Commission and its staff, the following restrictions apply:

(1) No Tribal Council member, Commissioner, or Commission staff; no spouse or child of a Tribal Council member, Commissioner or Commission staff; may have a financial interest in any gaming operation or in any entity which is licensed by the Commission. However, nothing in this Section shall prohibit a Tribal Council member, Commissioner or other person subject to this Section from having a financial interest in any gaming enterprise operating pursuant to the provisions of this Ordinance as would any member of the Tribe, if entitled to such interest as a Tribal member, including any per capita payments derived from revenues of any gaming enterprise.

(2) No Tribal Council member, Commissioner or Commission staff, and no immediate family member residing in the same household as a Tribal Council member, Commissioner or Commission staff, shall accept gifts, gratuities, employment or other things of value from a gaming operation, any entity which is licensed by the Commission, or any person or entity that contracts with or offers services, supplies, materials or equipment used by the gaming operation, with the following exceptions:

(i) Occasional non-monetary gifts of insignificant value received in the normal course of business;

(ii) Gifts from family members and friends obviously motivated by family or social relationships;

(iii) Gifts received in the course of any Indian ceremonial event which are consistent with such ceremonial event;

(iv) Awards or honors customarily and publicly presented in recognition of public service.

(v) Food and refreshments customarily made available in the ordinary course of meetings;

(3) No Tribal Council member, Commissioner or Commission staff shall participate in tribal gaming regulated by this Ordinance.

(4) No member of the Commission may participate in discussion of, or vote on, licensing/hearing/disciplinary matters involving a member of his immediate family.

(5) No member of the Tribal Council, member of the Commission or Commission staff shall participate in any promotional activities, such as player tracking systems or drawings for prizes sponsored by the gaming operation.

b) For purposes of this Section, the term "immediate family" shall mean a spouse, child or stepchild, parent or stepparent, brother or sister.

c) For purposes of investigating violations of this Ordinance, the provisions of paragraphs (2) and (3) of subsection (a) of this Section shall not apply to a Commission member or Commission staff acting in his official capacity while on duty.

### **Section 302. Persons Prohibited from Interest in Gaming Management Contract.**

a) None of the following persons shall have any financial interest, direct or indirect, in any gaming management contract:

1) Officers, reserve officers, agents or employees of any law enforcement agency with authority to investigate or prosecute crimes committed at the gaming operation;

- 2) Any judge whose jurisdiction includes criminal or civil matters involving the gaming operation;
  - 3) Elected officials of the Tribe; and
  - 4) Gaming Commission members and staff.
- b) No gaming operator may employ any person in any capacity while that person is employed by the Commission or by any law enforcement agency with authority to investigate or prosecute crime related to the gaming operation, or is an elected official of the Tribe.

## **TITLE IV Licensing**

### **Section 401. Licensing Decisions.**

Every Commission decision respecting the grant, renewal, denial, revocation, suspension, limitation, or modification of a license shall be based solely upon the stated criteria, terms and purposes of this Ordinance and the Commission Rules and Regulations. Terms, conditions or requirements limiting a license shall be valid if reasonably necessary to effect the purposes, scope and terms of this Ordinance and the Commission Rules and Regulations.

### **Section 402. Classes of Licenses.**

The Gaming Commission shall issue a separate license to each gaming facility where class II or class III gaming is conducted pursuant to this Ordinance. Upon proper application and approval and payment of all required fees, the following classes of licenses shall be issued by the Gaming Commission:

- a) Class A (Class II Operator's) License. A Class A license is required for all gaming operators that conduct class II gaming at a tribal gaming enterprise. The license shall be site specific and valid for a period of one year or such longer period as may be established by the Commission. A Class A license may be renewed upon the filing and approval of an application for renewal.
- b) Class B (Class III Operator's) License. A Class B license is required for all gaming operators that conduct class III gaming at a tribal gaming enterprise. The license shall be site specific and valid for a period of one year or such longer period as may be authorized by the Commission. A Class B license may be renewed upon the filing and approval of an application for renewal.
- c) Class C (Employee) Licenses.
  - (1) Key Employee License. A Class C-K license is required for each key employee of a gaming operation and shall be valid for a period of one year or such longer period as may be authorized by the Commission consistent with the Compact. A Class C-K license may be renewed upon the filing and approval of an application for renewal.

(2) Support Employee License. A Class C-S license is required for each support employee, not otherwise licensed as a key employee and shall be valid for a period of one year. A Class C-S license may be renewed upon the filing and approval of an application for renewal.

(3) Non-Gaming Employee License. A Class C-N non-gaming license is required for each non-gaming employee not otherwise licensed as a key or support employee and shall be valid for a period of one year or such longer period as may be authorized by the Commission. A Class C-N license may be renewed upon the filing and approval of an application for renewal.

d) Class D (Distributor or Manufacturer) License. A Class D license is required for any slot machine or keno equipment distributor or manufacturer and for any person who imports, manufactures or distributes slot machines or keno equipment on or onto Indian lands. The license shall be valid for a period of one year or such longer period as may be authorized by the Commission consistent with the Compact, and may be renewed upon the filing and approval of an application for renewal.

e) Class E (Vendor) License. A vendor license shall be required for persons supplying goods, equipment or services, except accounting and legal services, to the gaming operation, who are not otherwise required to have a gaming license.

f) Class F (Consultant) License. A consultant license is required for any consultant who has access to restricted areas of the gaming facility or to confidential information belonging to the gaming operation, except for persons licensed by the Colorado Division of Gaming or holding a license from a regulated profession such as attorneys or certified public accountants.

### **Section 403. License Fees.**

The Commission shall, by regulation, establish initial and renewal fees for each class of license. The Commission may waive such fees for the Tribe or Tribal members holding or applying for any or all classes of license.

### **Section 404. Determination of License Type.**

a) The Commission shall determine the appropriate class of license minimally required for each gaming operation employee based on the employee's functions and responsibilities. If the Commission determines that any employee of a gaming operation is employed in a position which requires stricter licensing than has been obtained, the Commission shall promptly notify the gaming operation and the employee that said employee must apply for the appropriate class of license. Within fifteen (15) days of receipt of such notice to the employee, the employee shall submit the required application to the Commission. Failure of the employee to respond shall be grounds for imposition of penalties as set forth in this Ordinance.

b) Upon request of the gaming operator, any position at the gaming operation may be designated as a key position, in which case any employee filling said position will be required to obtain a key employee license.

### **Section 405. Licenses for Key and Support Employees.**

The Commission shall ensure that the policies and procedures set out in this Section are implemented with respect to key and support employees employed at any gaming operation:

a) Application Forms. The application form for a key or a support employee shall contain the Privacy Act notice required by the Code of Federal Regulations and the notice regarding false statements required by the Code of Federal Regulations. The Commission shall comply with the requirements of the Code of Federal Regulations for obtaining signed statements containing these notices from all key and support employees who completed applications that did not contain these notices.

b) Background Investigations. The Commission shall perform a background investigation for each key and support employee of any gaming operation in accordance with the requirements of the Code of Federal Regulations. The Commission shall conduct an investigation sufficient to make a determination of suitability. In conducting a background investigation, the Commission shall keep confidential the identity of each person interviewed in the course of the investigation except as otherwise required by law. At a minimum, the Commission shall request from each key and support employee all of the following information:

1) Full name, other names used (oral and/or written), social security number(s), birth date, place of birth, citizenship, gender, all languages spoken and/or written, state and country of residence from age eighteen (18) to the present;

2) Currently and for the previous ten (10) years: all business and employment positions held, all ownership interests in those businesses, all business and residence addresses, and all drivers license numbers;

3) The names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed in the application;

4) Current business and residence telephone numbers;

5) A description of any existing and previous business relationships with Indian tribes, including ownership interests in and/or management responsibility for those businesses, and a description of any existing and previous business relationships between any Indian tribe and any entity in which the applicant has management responsibility, is a partner, beneficiary, trustee, officer or director or holds at least 10% of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child or sibling, or otherwise has a direct or indirect financial interest in a management contract;

6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in and/or management responsibility for those businesses and a description of any existing and previous business relationships between any gaming entity and any entity in which the applicant has management responsibility, is a partner, beneficiary, trustee, officer or director or holds at least 10% of the issued and outstanding stock, alone or in combination with another stockholder who is a spouse, parent, child or sibling, of the key or support employee or otherwise has a direct or indirect financial interest in a management contract;



7) 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;

8) For each felony charge for which there is an ongoing prosecution or a conviction, or to which the applicant entered a plea of guilty or no contest, the case number if known, the charge, the name and address of the court involved, and the date and disposition if any;

9) For each misdemeanor charge (excluding minor traffic violations) for which there is an ongoing prosecution, conviction or to which the applicant has entered a plea of guilty or no contest, if such prosecution, conviction or plea is within ten (10) years of the date of the application, the name and address of the court involved, the case number if known and the date and disposition;

10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed above, the criminal charge, the name and address of the court involved, the case number if known and the date and disposition;

11) For each lawsuit in which the applicant is a party, filed within ten (10) years of the date of the application, the name and address of the court involved, case number, parties, description of the case, the date the action was filed, and the disposition and date of disposition;

12) 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;

13) Two current photographs;

14) The applicant's written certification that it has provided all information previously requested by the Commission, or if not, a description of all outstanding requests for information from the Tribe, the dates requested and reason for not providing the requested information;

15) The applicant's written commitment to provide any additional information as may be required by the Commission;

o 16) Fingerprints consistent with procedures adopted by the Commission pursuant to the Code of Federal Regulations;

17) The applicant's military discharge forms;

18) The applicant's authorization for disclosure of information from the Internal Revenue Service and the Colorado Department of Revenue;

19) The applicant's written waiver of any right of confidentiality to any information provided on the application form or obtained during the background investigation; and authorization to disclose such information to law enforcement or gaming regulatory agencies of

the United States government, any Indian tribe, foreign country or state;

20) The applicant's written release of all claims arising out of the processing or investigation of his application; and

21) Any other information the Commission deems relevant or that is required by the Compact or federal law.

c) Determination. The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning his suitability for and eligibility to be issued a key or support gaming license. If the Commission, in applying the standards adopted in this Ordinance, determines that licensure 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 or the carrying on of related business and financial arrangements, that person shall not be issued a key or a support license and a gaming enterprise shall not employ that person in a key or support employee position.

d) Procedures for Forwarding Applications and Reports to the National Indian Gaming Commission. The Commission shall follow the procedures for forwarding applications and reports of background investigations for key and support employees to the National Indian Gaming Commission as set forth in the Code of Federal Regulations.

e) Reports to the National Indian Gaming Commission.

(1) The Commission shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation of applicants for key or support licenses. Investigative reports shall include the steps taken in conducting a background investigation; results obtained; conclusions reached; and the bases for those conclusions.

(2) The Commission shall submit, with the investigative report, a copy of the suitability determination to the National Indian Gaming Commission.

(3) If a license is not issued to an applicant, the Commission shall notify the National Indian Gaming Commission and may forward copies of its suitability determination and investigative report, if any, to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Record System.

(4) With respect to key and support employees, the 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.

f) Granting of a Gaming License. The Commission shall follow the procedures for issuing or not issuing a gaming license as set forth in the Code of Federal Regulations.

g) Suspension of a Gaming License. The Commission shall comply with the procedures for suspending a gaming license as set forth in the Code of Federal Regulations.

(1) If, after the issuance of a gaming license, the Commission receives from the National Indian Gaming Commission reliable information indicating that a key or support employee is not suitable for licensing and is ineligible for employment, the Commission shall suspend such license and shall notify the licensee in writing of the suspension and the proposed revocation.

(2) The Commission 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 Commission shall decide to revoke, suspend, modify or reinstate a gaming license. The Commission shall notify the National Indian Gaming Commission of its decision.

#### **Section 406. Licenses for Non-Gaming Employees.**

a) License required. Any person employed by a gaming operation or applying for employment at a gaming operation, not holding a key or support employee license, shall be required to submit to the Commission fingerprints and all required waivers and releases authorizing the Commission to undertake a background investigation, including a criminal records check.

b) Background investigations. The Commission shall perform a criminal background investigation on each applicant for a non-gaming employee license. At a minimum, the Commission shall request from each non-gaming employee or applicant the following information:

(1) Full name, other names used (oral and/or written), social security number(s), birth date, place of birth, citizenship, gender and current residence.

(2) Current business and residence telephone numbers.

(3) The applicant's written waiver of any right of confidentiality to any information provided on the application form or obtained during the background investigation and authorization to disclose such information to law enforcement or gaming regulatory agencies of the United States government, any Indian tribe, foreign country or state;

(4) The applicant's written release of all claims arising out of the processing or investigation of his application; and

(5) Any other information the Commission deems relevant or required by the Compact or federal law.

#### **Section 407. Licenses for Distributors or Manufacturers of Slot Machines.**

The application for any person, organization or entity wishing to sell, lease or otherwise distribute slot machines and/or keno equipment to the Tribe shall contain the following information:

- a) The name(s) and mailing address of the person or entity making the application;
- b) The names and addresses of all interested parties (including those with direct or indirect financial interest) and their interest and connection to the applicant.
- c) The nature of the license applied for; the type of activity to be engaged in under the license;
- d) The explicit and detailed disclosure of any criminal record, including any delinquent taxes owed to any State, tribe or the federal government by the applicant, any person involved in the organization and any party of interest whose name appears on the application;
- e) Any additional information necessary to allow the Commission to investigate the applicant or any person included on the application;
- f) Whether the applicant has ever been issued a distributor, manufacturer or other gaming related license by any tribal, State, or foreign government; whether the applicant is the holder of a current and valid distributor or manufacturer license from the State of Colorado and if so, proof thereof; and whether the applicant holds a current gaming license from any other state, tribe or foreign government;
- g) Whether the applicant has ever had a distributor or manufacturer license revoked or suspended by any governmental entity that issued the license and, if so, the circumstances surrounding said action;
- h) A statement of waiver allowing the Commission to conduct, or cause to be conducted, a background investigation of the applicant and any person whose name is required to appear on the application;
- i) Whether the applicant or any person whose name is required to appear on the application maintains any involvement in the business of wholesale distribution of alcoholic beverages.

**Section 408. Licenses for Vendors.**

An applicant for a vendor license must apply to the Commission for licensure when the dollar amount of business conducted annually with the gaming operation meets the level required in the Commission Rules and Regulations. The information required on the application and the level of investigation conducted shall be dependent on the level of business with the gaming operation.

**Section 409. Licenses for Consultants.**

An applicant for a consultant license must apply to the Commission for licensure prior to doing business with the gaming operation. The information required on the application and the level of investigation conducted shall be dependent upon the nature and level of access.

**Section 410. License Disqualification.**

a) The Commission shall deny a key, support, manufacturer or distributor license to any applicant who is disqualified for licensure on the basis of any of the following criteria:

(1) Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this Ordinance;

(2) Failure of the applicant to provide information, documentation, waivers or assurances required by this Ordinance or requested by the Commission;

(3) Failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria;

(4) Conviction of the applicant, or if other than a natural person, any of its officers, directors, general partners, stockholders, limited partners or other persons having a minority interest in the applicant, of any of the following:

(i) A gaming-related felony;

(ii) A felony involving fraud, misrepresentation or theft by deception;

(iii) Any felony within ten (10) years prior to the date of the application;

(iv) A gaming-related misdemeanor offense within ten (10) years prior to the date of the application; or

(v) Any misdemeanor involving fraud, misrepresentation or theft by deception within ten (10) years prior to the date of the application.

(5) Current prosecution or pending charges, including a deferred judgment, in any jurisdiction against the applicant, or if other than a natural person against any of the persons listed in paragraph (4) of this subsection, for any of the offenses enumerated in paragraph (4) of this subsection, except that at the request of the applicant or the person charged, the Commission may defer decision upon such application during the pendency of the case;

(6) The identification of the applicant or any person listed in paragraph (4) of this subsection as a career offender or a member of a career offender cartel or an associate of a career offender or a career offender cartel in such a manner which creates a reasonable belief that the association would pose a risk to the integrity of the gaming operation;

(7) Refusal to cooperate by the applicant or any person who is required to be qualified under this Ordinance with any legislative investigatory body or other official investigatory body of any tribe, state, the United States or a foreign government when such body is engaged in the investigation of crimes relating to gaming, official corruption or organized crime activity;

(8) The applicant, or, if other than a natural person, any of the persons listed in paragraph (4) of this subsection, who is or has been a professional gambler.

#### **Section 411. License Renewal.**

- a) Every licensee intending to continue engaging in tribal gaming during the next calendar year shall apply for renewal of the license at least sixty (60) days prior to the end of the previous license period, unless the Commission, by regulation, prescribes a shorter time period.
- b) Subject to the power of the Commission to deny, revoke, suspend, modify or limit licenses, in any case in which a licensee has made timely and sufficient application for the renewal of a license, or for a new license for the conduct of a previously licensed activity of a continuing nature, and paid all required license fees, the existing license shall not expire until such application has been finally acted upon by the Commission. The licensee, within thirty (30) days after the giving of written notice of such action, may request a hearing before the Commission, and the action of the Commission after any hearing shall be subject to Tribal Council review as provided in the Commission Rules and Regulations.
- c) Renewal of a license may be denied by the Commission for any violation of this Ordinance, or the Commission Rules and Regulations, or for any reason which would or could have prevented its original issuance.

#### **Section 412. License Display.**

Every gaming operator shall display in a prominent place in the gaming facility a current and valid Commission license for that location.

#### **Section 413. Requirements to Maintain License - Unlawful Acts.**

- a) It shall be unlawful for a gaming operator to change the location of a tribal gaming operation, without first submitting written notification to the Commission with documentation of the Tribe's approval of such change in location. After notification by the gaming operator of such changes, the Commission shall issue an amended license for the balance of the current license period, reflecting the new location without imposition of an additional license fee.
- b) It shall be unlawful for any management contractor to transfer any interest in a management contract without the written approval of the Tribal Council.
- c) It shall be unlawful for any licensee to employ any person in a position requiring a key, support or non-support license without the prior issuance of a license or temporary license from the Commission, or to purchase any slot machines or keno equipment from a manufacturer or distributor required to be licensed, without the prior issuance of a license or temporary license from the Commission.
- d) It shall be unlawful for any person except law enforcement officials, casino security officers providing security at a gaming operation and armored car service personnel to possess a firearm or dangerous weapon on the grounds or premises of a tribal gaming operation.
- e) It shall be unlawful for a licensee to engage in pawnbroking or to take goods or materials in hock or to extend credit to any person to participate in tribal gaming.

- f) It shall be unlawful for a licensee to permit persons who are visibly intoxicated or noticeably under the influence of alcohol or drugs to participate in a gaming activity.
- g) A gaming operator is required to maintain the premises and books and records open for inspection by the Commission or its agents or any other authorized government agency during normal business hours.
- h) A gaming operator must produce at a player's request, losing tickets, copies of canceled checks or other evidence of loss acceptable to the Internal Revenue Service if requested by the player or contestant at the time of the play or when the contestant buys a ticket or chance or otherwise enters the game.

**Section 414. Patron Disputes.**

- a) In the event of a patron dispute, a licensee must notify the patron of the right to contact the Commission regarding the dispute.
- b) The Commission shall establish procedures for resolving patron disputes. Such procedures shall provide the opportunity for a hearing and an appeal procedure.

**Section 415. Application Fees and Waivers of Confidentiality.**

- a) The Commission may establish investigation and application fees for the purpose of defraying the administrative costs of the Commission and for paying for any background investigations of applicants and others subject to background investigations. These fees may vary depending on the type of application, the complexity of the investigation, or the costs of the Commission in reviewing the matters involved. The Commission may, by regulation, waive such fees for the Tribe and for Tribal members.
- b) The application forms created by the Commission shall include a waiver of any right of confidentiality and a provision which allows the information contained in the application to be accessible to appropriate federal, tribal, state, local or foreign law enforcement or 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. The waiver of confidentiality shall extend to any criminal, financial or personnel record, wherever maintained.
- c) Each application for an initial or renewal license shall be accompanied by payment of the license fee, imposed for the revocable privilege of being licensed to engage in gaming activities within the jurisdiction of the Tribe.
- d) The application form for all gaming licenses shall contain the following notices, which shall be signed and submitted by each person required to submit information:
  - (1) The application form will contain the Privacy Act Notice as set forth in the Code of Federal Regulations.

(2) The application form will contain the following statement: A false statement knowingly and willfully provided in any of the information provided pursuant to this Ordinance may be grounds for not issuing a license, or for suspending, revoking or conditioning such license after it is issued.

**Section 416. Applicant's Authorization for Background Investigations.**

By signing and filing an application for a license, which is hereby made subject to applicable perjury laws, the applicant authorizes the Commission to obtain information from any source, public or private, in this or any other country, regarding the background or conduct of the applicant and, if the applicant is a partnership, corporation or other legal entity formed under state or tribal law, any of its shareholders, officers, directors, partners, agents or employees.

**Section 417. Non-Transferability of Licenses.**

Any license issued pursuant to the provisions of this Ordinance is valid only for the person shown on the face thereof. It is not assignable or otherwise transferable.

**Section 418. Payment of License Fees.**

All fees for licenses issued under authority of the Commission shall be paid to the Commission.

**Section 419. License as a Revocable Privilege.**

Every license issued pursuant to this Ordinance is revocable, and no licensee acquires any vested interest or property rights in any such license. The burden of proving qualification to hold any license rests at all times on the licensee. The revocable privilege for any license issued or other approval granted is conditioned upon the proper and continuing qualification of the licensee and upon the discharge of the affirmative responsibility of each such licensee to provide to the regulatory, investigatory and law enforcement authorities any assistance and information necessary to assure that the policies and requirements of this Ordinance are achieved. The Commission is charged by law with the duty of continually monitoring the conduct of all licensees to the end that licenses shall not be held by unsuitable persons or persons whose operations are conducted in an unsuitable manner.

**Section 420. Revocation or Expiration of License - Notice Requirements.**

It shall be the responsibility of the Commission to provide written notice to the gaming operator of all license revocations, suspensions and expirations. A licensee whose license has been revoked, suspended or has expired shall notify the gaming operator that employs the licensee within twenty-four (24) hours after such revocation, suspension or expiration. A gaming operator shall, within twenty-four (24) hours of receipt of written notice thereof, terminate the employment of any person whose license has been revoked or has expired. When any licensee changes employment, is terminated or resigns, the gaming operator shall notify the Executive Director of the Commission within seven (7) days.

**Section 421. Violations.**



a) Violation of any provision of this Ordinance, any of the Commission's Rules and Regulations or any term, condition or restriction on a license issued by the Commission, by a licensee, his agent or employee shall:

1) be deemed contrary to the public health, safety, morals, good order, and general welfare of the Tribe and its members;

2) be grounds for refusing to grant or renew a license, or for suspension of, revocation of, or the imposition of conditions on a license;

3) be grounds for the filing of criminal charges and/or a civil action in a court of competent jurisdiction on behalf of the Commission and the Tribe; and

4) be grounds for immediate revocation of a license in the case of a licensee convicted of a felony or otherwise disqualified for licensure on the basis of any of the criteria set forth in this Ordinance.

b) Acceptance of a license or renewal thereof, or of a condition imposed thereon, by a licensee constitutes agreement on the part of the licensee to be bound by all the regulations and/or conditions of the Commission and by the provisions of this Ordinance as the same are now or may hereafter be amended or promulgated. It is the responsibility of the licensee to be informed as to all such ordinance provisions, Rules and Regulations, MICS and conditions.

c) Any license granted pursuant to this Ordinance may be suspended or revoked for any cause which would have prevented its issuance.

**Section 422. Licenses for Management Contractors, Persons with Direct or Indirect Financial Interests and Persons with Minority Interests.**

a) For each gaming enterprise for Class II or class III gaming, the Commission shall perform a background investigation of the following persons if a background investigation is not otherwise required pursuant to this Ordinance:

(1) All parties entering into a management contract with the Tribe;

(2) Each person with a direct or indirect financial interest in a management contract;

(3) Each person with a minority interest in a management contract or management contractor; and

b) For each natural person, the Commission shall request all of the information required pursuant to Section 405(b) of this Ordinance.

c) Each person subject to the provisions of this Section shall provide a response to each written or oral question propounded by the Commission.

e) For each entity identified in Section 422(a) of this Ordinance, the management contractor

shall provide to the Commission the following information:

(1) List of individuals.

(i) Each person who otherwise has a direct or indirect financial interest in the management contract;

(ii) Each person who has a minority interest in the management contract or the management contractor.

(2) Required information.

(i) The information required in Section 405(b) of this Ordinance for each individual identified through the process established in Section 422(e)(1) of this Ordinance;

(ii) Copies of documents establishing the existence of the entity, such as the partnership agreement, the trust agreement, or the articles of incorporation;

(iii) Copies of documents designating the person who is charged with acting on behalf of the entity;

(iv) Copies of bylaws and all other documents that provide the day-to-day operating rules for the organization;

(v) A description of any existing and previous business relationships with Indian tribes, including ownership interests in and/or management responsibility for those businesses, and a description of any existing and previous business relationships between any Indian tribe and any entity in which the applicant has management responsibility, is a partner, beneficiary, trustee or holds at least 10% of the issued and outstanding stock alone or in combination with another stockholder, or otherwise has a direct or indirect financial interest in a management contract;

(vi) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in and/or management responsibility for those businesses and a description of any existing and previous business relationships between any gaming entity and any entity in which the applicant has management responsibility, is a partner, beneficiary, trustee, or holds at least 10% of the issued and outstanding stock alone or in combination with another stockholder, or otherwise has a direct or indirect financial interest in a management contract;

(vii) The name and address of any licensing or regulatory agency with which the entity has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(viii) For each gaming offense and for each felony for which there is an ongoing prosecution or a conviction, or to which the individual entered a plea of guilty or no contest, the charge, the name and address of the court involved, the case number, the date and disposition if any;

(ix) For each misdemeanor for which there is an ongoing prosecution, or a conviction, or to which the individual entered a guilty plea or no contest plea, if such prosecution, conviction, charge or plea is within ten (10) years of the date of the application, the name and address of the court involved, the case number and the date and disposition, if any;

(x) For each criminal charge, whether or not there is a conviction, if such criminal charge was filed within ten (10) years of the date of the application and is not otherwise listed, the criminal charge, the name and address of the court involved, the case number and the date and disposition, if any;

(xi) For each lawsuit in which the entity is a party, filed within ten (10) years of the date of the application, the name and address of the court involved, the case number, description of the case, the date the action was filed, the disposition and date of disposition;

(xii) Complete financial statements for the previous five (5) fiscal years;

(xiii) The entity's written certification that it has provided all information previously requested by the Tribe, or if not, a description of all outstanding requests for information from the Tribe, the dates requested and reason for not providing the requested information;

(xiv) The entity's written commitment to provide any additional information as may be required by the Commission;

(xv) Any other information the Commission deems relevant.

#### **Section 423. Submission of Background Information From Management Contractors.**

A management contractor shall submit the background information required by this Ordinance for purposes of its license renewal, and within ten (10) days of any proposed change in financial interest approved by the Tribal Council.

#### **Section 424. Eligibility Determinations.**

The Commission shall review the prior activities, criminal record, if any, and reputation, habits and associations of each person subject to a background investigation pursuant to this Ordinance to make a finding concerning the approval of a gaming operator or other applicant, licensee or interested person. If the Commission, in applying the standards adopted in this Ordinance, determines that any person with a financial interest in or management responsibility for a management contract, or otherwise subject to a background investigation pursuant to this Ordinance, poses a threat to the public interest or to the effective regulation and control of gaming or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or the carrying on of related business and financial arrangements, said person shall not be licensed by the Commission. Refusal of an applicant to provide all information requested by the Commission or to allow investigation into the applicant's background is grounds for denial of a license.

**Section 425. Temporary Licenses.**

Temporary licenses may be issued for up to a maximum of 90 days with respect to all licenses authorized in this Ordinance.

**Section 426. Delegation of Authority to Issue Certain Licenses.**

The Commission may delegate to the Executive Director the authority to issue temporary key and support licenses and non-gaming employee licenses, but the Commission shall review and approve the issuance of all other licenses issued pursuant to this Ordinance.

**Section 427. Applicants and Licensees Required to Provide Information.**

- a) All applicants for licenses issued by the Commission, all persons holding such licenses, and all persons having a direct or indirect financial interest in a management contract shall upon request by the Commission provide fingerprints and shall allow himself or herself to be photographed in accordance with procedures established by the Commission.
- b) Upon issuance of a formal request or subpoena by the Commission to answer or produce information, evidence, or testimony, each applicant, licensee and person with a direct or indirect financial interest in a management contract shall comply with the request or subpoena. Refusal or failure to comply with a Commission request or subpoena may result in the suspension, revocation or denial of that person's license based solely upon such failure or refusal.

**Section 428. Waiver of Tribal Liability.**

All applicants and licensees shall waive liability as to the Tribe and its instrumentalities and agents for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations and hearings.

**Section 429. Confidentiality of Records.**

- a) Information and records of the Commission listed in this Section are confidential and may not be disclosed except pursuant to a court order. No person may by subpoena, discovery, or statutory authority obtain such information or records. Information and records considered confidential include:
  - 1) Tax returns of individual licensees;
  - 2) Credit reports and security reports and procedures of applicants for licenses and other persons seeking or doing business with the Commission;
  - 3) Audit work papers, worksheets, and auditing procedures used by the Commission, its agents, or employees; and
  - 4) Investigative reports concerning violations of law or concerning the backgrounds of licensees, applicants, or other persons prepared by Commission investigators or investigators

from other agencies working with the Commission and any work papers related to such reports; except that the Commission may in its sole discretion disclose so much of said reports or work papers as it deems necessary and prudent.

b) This Section does not apply to requests for such information or records for investigatory or law enforcement purposes, or for the use of such information or records by the Executive Director or Commission for official purposes, or by employees of the Commission in the performance of their authorized and official duties.

#### **Section 430. Privileged and Confidential Communications.**

Communications among the Commission and Executive Director relating to licensing, disciplining of licensees, or violations by licensees are privileged and confidential if made lawfully and in the course of, or in furtherance of the business of the Commission, except pursuant to court order. The Executive Director, the Commission or any member of the Commission may claim this privilege.

### **TITLE V Gaming Operations**

#### **Section 501. Approval and Posting of Certain Rules.**

Each tribal gaming operator shall obtain Commission approval of the specific rules for card games, keno and bingo and shall prominently post such rules near the specific location where such gaming activity is conducted; or shall make available a written copy of all such Rules and Regulations to any person making a request for such.

#### **Section 502. Slot Machines and Keno Equipment.**

- a) No gaming operation may own, lease, or operate slot machines or keno equipment from a manufacturer that does not possess a current license from the Commission.
- b) No gaming operation may own, lease, or operate slot machines or keno equipment from a distributor that does not possess a current license from the Commission.
- c) In the event that any gaming license held by a manufacturer or distributor of slot machines or keno equipment has been suspended, revoked or refused for renewal by any licensing authority, such action shall be sufficient grounds for the Commission to suspend, revoke or refuse to renew the license issued by the Commission to such manufacturer or distributor.
- d) No slot machine or keno equipment may be purchased, leased or otherwise acquired by a gaming enterprise unless: (1) it is purchased, leased or acquired from a manufacturer or distributor licensed to sell, lease or distribute slot machines or keno equipment by the Commission; and (2) the slot machine or keno equipment, or a prototype thereof, has met the requirements of the Commission for testing, approval or certification by a gaming test laboratory.

**Section 503. Minimum Standards of Inspection and Approval of Slot Machines, Progressive Slot Machines and Keno Equipment.**

- a) Prior to the installation and use of a slot machine, progressive slot machine or keno equipment, the Commission shall inspect, test and consider the device for approval. The Commission shall not approve a slot machine, progressive slot machine or keno equipment unless the tests conducted indicate that the device meets minimum standards established by the Commission to ensure the safety, accuracy, security, accountability and integrity of the device, and notice to the player of the rules of play.
- b) If an identical gaming device is currently approved for use by the State of Colorado, the Commission may waive its inspection and testing requirement and assess the device's compliance with its minimum standards based on the findings of the tests and inspections performed by the State of Colorado.

**Section 504. Percentage Payout.**

A slot machine shall meet the following minimum and maximum theoretical payout during the expected lifetime of the slot machine:

- a) at least eighty percent (80%) and no more than one hundred percent (100%) of the amount wagered. The theoretical payout percentage shall be determined using standard methods of probability theory, and, when applied to games whose outcome is determined in whole or in part by skill, the theoretical payout shall be computed using the optimum play strategy for the given game tested.
- b) a non-progressive slot machine must have a probability of obtaining the maximum payout greater than 1 in 17,000,000.

**Section 505. Operation as Part of a Network.**

Tribal gaming may be conducted as part of a network consistent with the requirements of the Compact and the Commission Rules and Regulations regarding technical specifications and standards, testing MICS and verification of the network system.

**TITLE VI  
Security, Surveillance and Audit**

**Section 601. Surveillance Requirements.**

The Commission shall by rule establish minimum security, surveillance and audit standards to ensure the safety of employees and the gaming public, protect tribal assets, and ensure the integrity of tribal gaming by the casino and players. Every gaming operator shall comply with the minimum security, surveillance and audit standards adopted by the Commission and all slot machines and keno equipment in use at the gaming enterprise shall have the features, security provisions and audit specifications established in regulations adopted by the Commission. The operation of security and surveillance functions shall be the responsibility of the gaming operator.

a) Video Camera Capabilities.

(1) At all times during the conduct of gaming the following surveillance shall be required:

(i) Video cameras capable of providing fixed or pan, tilt and zoom surveillance of all gaming activities being played, including:

(A) A clear unobstructed view of all slot machine areas, pit and card game areas and all table games;

(B) A clear view of the dealing action of all games, including sufficient specific coverage to identify dealers, patrons, spectators and game number;

(C) A clear unobstructed view of all areas in the count rooms, cage areas, cage windows or areas where business with the public is transacted and fill windows where chip fill transactions are being handled; and

(D) A clear unobstructed view of entrances and exits of the gaming facility.

(ii) Video cameras required under this subsection shall be of sufficient quality to ensure that card values in specific hands, as well as denominations of chips being wagered, can be determined.

(iii) A surveillance system shall be capable of providing a hard photo of any video picture upon request.

b) Video Camera Requirements.

(1) All pan, tilt and zoom cameras shall be concealed in a manner to prohibit viewing the camera and determining the direction under surveillance.

(2) All fixed and pan, tilt and zoom cameras shall be connected to video monitors and linked to recording devices that will provide instant video tape playback of any area.

(3) No time lapse recording systems are allowed.

c) Preservation of Video Recordings. Video recordings gathered under this Section shall be preserved and stored for a period of at least thirty (30) days and shall not be erased, recorded over, nor otherwise altered during that time.

**Section 602. Restrictions for Gaming Operations.**

Each licensee operating a gaming enterprise under a license issued pursuant to the provisions of this Ordinance must at all times observe the following restrictions on gaming activities:

- a) All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by a gaming operation. This restriction shall not apply to credits won by players who activate play on games of chance after inserting coins or currency into the game, and shall not restrict the right of the gaming operation to offer check cashing or to install bank or credit card cash advance machines.
- b) No person below the age of twenty-one (21) years shall be permitted to participate in any gaming licensed under the provisions of this Ordinance, except for Bingo, for which a person must be 18 years of age or older to participate. If any underage person plays and otherwise qualifies to win any prize, the prize shall be forfeited.
- c) No person under the age of twenty-one (21) years shall be permitted to linger in any area of a gaming facility where casino gaming occurs.
- d) No gaming operation shall allow to be sold or otherwise make available any beverage containing alcohol except in strict compliance with tribal and federal law.
- e) At least one key employee shall be on the premises of each gaming enterprise and in control of all gaming activity during the hours gaming is conducted.

**Section 603. Accounting and Cash Control.**

- a) Each gaming operator shall keep a complete set of books of account, correspondence and all other records necessary to show fully the gaming transactions of the gaming operation, all of which shall be open at all times during business hours for the inspection and examination of the Commission. The Commission may require any gaming operator to furnish such information as the Commission considers necessary for the proper administration of this Ordinance; provided, that to the extent possible, the Commission will request such information in the form in which it is maintained by the gaming operator in the normal course of business. The Commission may require an audit to be made of such books of account and records on such occasions as the Commission considers necessary by an auditor, selected by the Commission or the Director, who shall likewise have access to all such books and records of the licensee.
- b) Each gaming operator shall implement an internal control system consistent with the minimum internal control standards established by the Commission and which meets or exceeds any federal MICS.
- c) The Commission shall require the filing of monthly and annual financial statements covering all of the financial activities of the gaming operation. At a minimum, the financial statements shall include the following items in detail: Casino Revenues; revenues net of complimentary services; total costs and expenses; income before extraordinary items and net income.

**TITLE VII  
Compliance with Federal Law**

**Section 701. Use of Gaming Revenue.**



Revenue derived from gaming activity shall be utilized only for the following purposes:

- a) To fund Ute Mountain tribal government operations or programs;
- b) To provide for the general welfare of the Tribe and the Ute Mountain Tribal members;
- c) To promote Ute Mountain tribal economic development;
- d) To donate to charitable organizations; and/or
- e) To help fund operations of local government agencies.

**Section 702. Per Capita Payments.**

Net revenues from any gaming activity may be used to make per capita payments to Tribal members only if the following conditions are first met:

- a) The Tribal Council has prepared an adequate plan for allocation of net revenues, which plan has been approved by the Secretary of Interior or his designee;
- b) In the event of a per capita distribution, the interests of affected minors and legally incompetent persons entitled to such per capita payments are adequately protected and preserved, under a plan approved by the Tribal Council and by the Secretary of the Interior or his designee; and
- c) Recipients of the said per capita payments are properly notified by the Tribal Council that the payments are subject to federal taxation.

**Section 703. Miscellaneous Federal Requirements.**

In accordance with the Indian Gaming Regulatory Act, the Tribal Council shall ensure that:

- a) All gaming related contracts that result in the purchase(s) of supplies, services or concessions in excess of Twenty-Five Thousand Dollars (\$25,000.00) annually (except for contracts for professional legal or accounting services) shall be specifically included within the scope of an annual independent audit of the gaming operation.
- b) Construction and maintenance of any gaming facility licensed by the Gaming Commission, and the operation of the gaming activity therein, shall be conducted in a manner which adequately protects the environment and the public health and safety.
- c) The gaming operation shall adhere to all applicable Internal Revenue Code provisions concerning reporting and withholding of taxes with respect to the winnings from gaming.

**TITLE VIII  
Administrative Procedures**

**Section 801. Purpose and Scope.**

a) The purpose of this Title is to provide a statutory basis for the conduct of adjudicatory proceedings of the Commission which assures efficient and fair adjudications which protect the procedural due process rights of persons subject to the Commission's jurisdiction.

b) The provisions of this Title govern:

(1) All Commission actions that determine the legal rights, duties, privileges, immunities or other legal interests of one or more persons, including all Commission actions to grant, deny, revoke, suspend, modify, withdraw or amend an authority, right or license related to tribal gaming; and

(2) Tribal Council review of these actions.

c) This Title does not govern procedures for Commission rule-making or review of those procedures or rules.

d) This Title does not preclude the Commission, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding, from:

(1) requesting or ordering conferences with parties and interested persons to encourage settlement; clarify issues; simplify the evidence; facilitate discovery; or expedite the proceedings.

(2) granting a timely motion to dismiss.

## **Section 802. Definitions.**

As used in this Title:

(1) "Action" means the whole or any part of any Commission order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.

(2) "Adjudicative proceeding" means the Commission action or proceeding to determine the legal rights, duties, privileges, immunities or other legal interests of one or more persons, including all Commission actions to grant, deny, revoke, suspend, modify, withdraw or amend an authority, right or license related to tribal gaming.

(3) "Declaratory proceeding" means a proceeding of the Commission to determine the applicability of this Ordinance, the Rules and Regulations promulgated pursuant thereto, or the MICS.

(4) "Interested person" means any person who may be aggrieved by a Commission action.

(5) "Order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) by the Commission in any adjudicative proceeding.

(6) "Party" means the Commission or other person commencing an adjudicative proceeding, all respondents, all persons permitted by the presiding officer to intervene in the proceeding, and all persons authorized by the Commission's Rules and Regulations to participate as parties in an adjudicative proceeding.

(7) "Presiding officer" means the individual designated to conduct an adjudicative proceeding, and can include a member of the Commission or an administrative law judge appointed by the Commission.

(8) "Respondent" means a person against whom an adjudicative proceeding is initiated, whether by the Commission or any other person.

### **Section 803. Licensing Determinations.**

a) No revocation, suspension, limitation or modification of a license by the Commission shall be lawful unless, it has given the licensee notice in writing of facts or conduct that may warrant such action and afforded the licensee an opportunity for a hearing before the Commission.

b) Where the Commission has reasonable grounds to believe and finds that the licensee has been guilty of deliberate and willful violation or that the public health, safety, or welfare requires emergency action and incorporates such findings in its order, it may summarily suspend the license pending proceedings for suspension or revocation which shall be promptly instituted and determined.

c) In an appropriate case, a revoked or suspended license may be reissued.

d) Written notice of the revocation, suspension, limitation, or modification of a license and the grounds therefor shall be served on the licensee personally or by mailing by first class mail to the last address furnished the Commission by the licensee, with a copy of such notice to be provided to the gaming operator.

e) An application for a license shall be acted upon promptly, and, immediately after the taking of action on such application by the Commission, a written notice of the action taken shall be provided to the applicant. If the license is denied, the grounds therefor shall be given in writing to the applicant. The giving of such notice shall be by personal service upon the applicant or by mailing by first class mail to the address of the applicant as shown on the application or as subsequently furnished in writing by the applicant to the Commission.

f) If an application for a new license is denied without a hearing, the applicant, within thirty (30) days after the giving of notice of such action, may request a hearing before the Commission; the action of the Commission after any hearing shall be subject to Tribal Council review. A limitation or a condition on a license applied for, unless consented to by the applicant, shall be treated as a denial.

g) Any applicant who supplies false information to the Commission in an application for a license may be punished by fine or imprisonment pursuant to 18 U.S.C. Section 1001. Any application shall bear notice, in accordance with the Code of Federal Regulations, that false

statements made therein are so punishable.

**Section 804. Pre-Adjudication Findings.**

- a) Whenever upon specific factual finding, the Commission determines that any person has failed to comply with the provisions of this Ordinance or any regulation or rule or the MICS, promulgated hereunder, or any term, condition or restriction on a license issued by the Commission, it shall make a certification of findings with a copy thereof to the subject of that determination.
  
- b) The Commission shall provide an applicant for a license an opportunity for a hearing prior to a final action denying such application and shall afford a licensee, or any other person(s) subject to this Title, the opportunity for a hearing prior to taking a final action resulting in the revocation, suspension, limitation or modification of a license or any other adverse action, provided that the Commission may summarily suspend temporarily or extend suspension of a license for thirty (30) days in those cases where such action is deemed appropriate by the Commission, pursuant to finding grounds as set forth in Section 803(b). In cases where a license is suspended prior to a hearing, an opportunity for a hearing shall be provided.

**Section 805. Tribal Council Review.**

- a) The Tribal Council has jurisdiction to review all final actions of the Commission resulting from adjudicative proceedings provided that the appellant has filed all required petitions for reconsideration of the decision and complied with the procedural requirements.
  
- b) Any party adversely affected or aggrieved by final Commission action resulting from adjudicative proceedings, may commence an action for Tribal Council review within ten (10) days after such Commission action becomes effective by filing a petition for review of final Commission action with the Tribal Council.

**Section 806. Emergency Orders.**

- a) The Commission may issue an emergency order where it finds, and states of record the reasons for so finding, that immediate issuance of the order is necessary for the preservation of public health, safety or welfare and is in the public interest.
  
- b) In issuing its emergency order, the Commission shall limit its order to the action necessary to protect the public health, safety or welfare. The order shall be written, shall include a brief statement of findings of fact, conclusions of law and the reasons for the Commission's use of emergency procedures, and shall be served on all persons required to comply with the order.
  
- c) Any person against whom an emergency order is issued, who would otherwise be entitled to a hearing pursuant to this Section, shall be entitled upon request to an immediate hearing, in which proceeding the Commission shall be deemed the proponent of the order.

**Section 807. Declaratory Orders.**

The Commission shall provide by rule for handling petitions for declaratory orders to terminate controversies or to remove uncertainties as to the applicability to the petitioners of any provision of this Ordinance or of any rule or order of the Commission. The order disposing of the petition shall constitute final Commission action subject to Tribal Council review.

**Section 808. Transition Procedures.**

a) The procedures for Commission action, Commission review and Tribal Council review contained in this Ordinance are applicable to all Commission adjudicative proceedings commenced on or after the effective date of this Ordinance, which shall be the date this Ordinance is approved by the National Indian Gaming Commission.

b) Ordinance provisions and rules governing Commission action, Commission review and Tribal Council review of Commission action in effect prior to the effective date of this Ordinance shall govern all proceedings commenced by that date, even if those proceedings are still pending before the Commission or on appeal to the Tribal Council.

**TITLE IX  
Excluded Persons**

**Section 901. Persons Excluded or Ejected - Factors Considered.**

a) The Tribal Council finds that the exclusion or ejection of certain persons from tribal gaming operations is necessary to carry out the policies of this Ordinance and to maintain effectively the strict regulation of tribal gaming.

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

1) 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 or territories, or of any foreign country;

2) A violation, attempt to violate, or conspiracy to violate the provisions of this Ordinance relating to the failure to disclose an interest in a gaming operation for which the person must obtain a license or make disclosures to the Commission or intentional evasion of fees;

3) A reputation that would adversely affect public confidence and trust that tribal gaming is free from criminal or corruptive influences;

4) Prior exclusion or ejection under the gaming regulations of any Indian tribe, state, the United States, any of its possessions or territories, or any foreign country which regulates gaming;

- 5) Career or professional offenders or associates of career or professional offenders and such others as defined by regulation of the Commission.
- c) If the name and description of any person is placed on the exclusion list, the Commission shall serve notice of that action upon the person by at least one of the following means:
- 1) By personal service;
  - 2) By certified mail to the last known address of the person; or
  - 3) By publication in one or more official newspapers on the Ute Mountain Ute Reservation and in Montezuma County, Colorado.
- d) 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.
- e) The Commission may impose sanctions upon any licensee in accordance with the provisions of this Ordinance if such licensee fails to exclude or eject from the licensed premises any person placed by the Commission on the list of persons to be excluded or ejected from licensed gaming establishments, which sanctions may include, but not be limited to, suspension, revocation, limitation, modification, denial or restriction of any license.

## TITLE X CHEATING AND OTHER UNLAWFUL ACTS

### **Section 1001. False Statement on Application – Violations of Rules or Provisions.**

Any person who knowingly makes a false statement in any application for a license or in any statement attached to the application, or who provides any false or misleading information to the Commission or its staff, or who fails to keep books and records to substantiate the receipts, expenses or uses resulting from gaming conducted under this Ordinance as prescribed in rules or regulations promulgated by the Commission, or who falsifies any books or records which relate to any transaction connected with the holding, operating and conducting of any gaming regulated under this Ordinance, or who knowingly violates any of the provisions of this Ordinance or any Commission Rule or Regulation or any terms of any license granted under this Ordinance shall be subject to prosecution and punishment under applicable law, which may be tribal, state or federal.

### **Section 1002. Slot Machines - Shipping Notices.**

a) Any slot machine manufacturer or distributor shipping or importing a slot machine onto the Ute Mountain Ute Reservation shall provide to the Commission at the time of shipment a copy of the shipping invoice which shall include, at a minimum, the destination, the serial number of each machine, and a description of each machine. Slot machines may only be located in a licensed facility operated by a licensed gaming operator. Any gaming operation within the Ute Mountain Ute Reservation receiving a slot machine shall, upon receipt of the machine, provide to the Commission upon a form available from the Commission, information showing at

a minimum the location of each machine, its serial number and description. Such report shall be provided regardless of whether the machine is received from a manufacturer or any other person. Any machine licensed pursuant to this Section shall be licensed for a specific location, and movement of the machine from that location shall be reported to the Commission in accordance with rules adopted by the Commission.

b) Any slot machine which is not in compliance with this Ordinance is declared contraband and may be summarily seized and disposed of after notice and hearing.

**Section 1003. Age of Participants.**

a) It is unlawful for any person under twenty-one (21) years of age to participate, play, place wagers or collect winnings, whether personally or through an agent, in or from any gaming activity licensed by the Commission except for Bingo, for which a person must be eighteen (18) years of age or older to participate.

b) It is unlawful for any person to engage in gaming activity with, or to share proceeds from gaming activity with, any person under twenty-one (21) years of age except for Bingo, for which a person must be eighteen (18) years of age or older to participate.

c) It is unlawful for any licensee to permit any person who is less than twenty-one (21) years of age to participate, play, place wagers or collect winnings in or from any gaming activity, except for Bingo, for which a person must be eighteen (18) years of age or older to participate.

d) It is unlawful for any person under twenty-one (21) years of age to linger in any area of a gaming facility where casino gaming occurs.

e) Any person violating any of the provisions of this Section shall be subject to prosecution and punishment under applicable law, which may be tribal, state or federal.

f) Any person violating any of the provisions of this Section with a person under eighteen (18) years of age may also be prosecuted for contributing to the delinquency of a minor under applicable law.

**Section 1004. Minimum Age of Persons Conducting Gaming.**

No person under the age of twenty-one (21) years shall be employed as a gaming employee, conduct or assist in conducting any gaming activity, and no such person shall manage or handle any of the proceeds from gaming, except for Bingo, for which a person must be eighteen (18) years of age or older to participate.

**Section 1005. Key and Support Licensed Employees.**

a) A gaming operation shall not employ any person to work as a gaming employee or to handle the proceeds of gaming, unless such person holds a valid key employee or support employee license issued by the Commission.

b) It is unlawful for any person holding a key employee or support employee license to

participate in gaming in the gaming facility where such licensee is employed with the following exceptions:

(1) a gaming licensee who works exclusively in bingo may participate in all gaming except bingo;

(2) a gaming licensee who works in a gaming department other than bingo may participate in bingo;

(3) a gaming licensee may participate in gaming if such participation is performed as part of such licensee's employment responsibilities.

c) It is unlawful for surveillance and security personnel to participate in any gaming.

#### **Section 1006. Extension of Credit Prohibited.**

No person licensed under this Ordinance may extend credit to another person for participation in gaming.

#### **Section 1007. Failure to Pay Winners.**

a) It is unlawful for any licensee to willfully refuse to pay the winner of any game unless the person participating in the gaming as a winner is underage or has engaged in cheating.

b) Any person violating any provision of this Section shall be subject to prosecution and punishment under applicable law, which may be tribal, state or federal.

#### **Section 1008. Rules for Card Games.**

Specific rules for card games shall be approved by the Commission and clearly posted within plain view of any applicable card table. No licensee shall offer any variation of poker or blackjack without prior approval of the game by the Commission.

#### **Section 1009. Exchange or Redemption of Chips.**

It is unlawful for any person to exchange or redeem chips for anything whatsoever, except currency, negotiable personal checks, negotiable counter checks or other chips.

#### **Section 1010. Persons in Supervisory Positions - Tips and Gratuities.**

It is unlawful for any dealer, floorperson or any other employee who serves in a supervisory position to solicit or accept any tip or gratuity from any player or patron at the premises where he is employed. A dealer may, however, accept tips or gratuities from a patron at the table at which such dealer is conducting play, subject to the provisions of this Section. All such tips or gratuities shall be immediately deposited in a lockbox reserved for that purpose, accounted for and placed in a pool for distribution based upon criteria established in advance by the gaming operation.



### **Section 1011. Cheating.**

- a) It is unlawful for any person to cheat at any gaming activity.
- b) For purposes of this Section, “cheating” means to alter the selection of criteria which determine the result of a game or the amount or frequency of payment in a game.

### **Section 1012. Fraudulent and Unauthorized Acts.**

It is unlawful for any person:

(1) To 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;

(2) To place, increase, or decrease a bet or to 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 to 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;

(3) To claim, collect or take, or attempt to claim, collect or take money or anything of value in or from a gaming activity with intent to defraud and without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;

(4) To knowingly entice or induce another to go to any place where gaming activity is being conducted or operated in violation of the provisions of this Ordinance, with the intent that the other person play or participate in that gaming activity;

(5) To place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets;

(6) To reduce the amount wagered or to cancel a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets;

(7) To manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, with knowledge or belief that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game;

(8) To win or attempt to win money or property or a representative of either, or reduce a losing wager or attempt to reduce a losing wager in connection with a gaming activity, for himself or another, by any trick or slight of hand performance, or by fraud or fraudulent scheme, cards or device;

(9) To conduct any gaming activity or operation without a valid license;

(10) To conduct any gaming activity in an unlicensed facility;

(11) To place any gaming activity or device into play or on display without the authorization of the Commission;

(12) To employ or continue to employ any person in a gaming operation who is not duly licensed in a position whose duties require licensing pursuant to this Ordinance;

(14) To be employed, work, or otherwise act in a position whose duties require licensing pursuant to this Ordinance, without first obtaining the requisite license; or

(15) To counterfeit or alter a gaming license.

**Section 1013. Use of Device for Calculating Probabilities.**

It is unlawful for any person at a licensed gaming facility to 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; or

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

**Section 1014. Use of Counterfeit, Unapproved or Unlawful Chips, Tokens, Coins or Devices - Possession of Certain Unlawful Devices, Equipment, Products, or Materials.**

a) It is unlawful for any person to use counterfeit chips or other counterfeit wagering instruments in any gaming activity.

b) It is unlawful for any person, in playing any gaming activity or using any gaming device designed to be played with, receive, or be operated by chips, tokens or other wagering instruments approved by the Commission or by lawful coin of the United States of America to:

(1) Knowingly use anything other than chips, tokens or other wagering instruments approved by the Commission or lawful coin or legal tender of the United States of America; or to use coin not of the same denomination as the coin intended to be used in that gaming activity; or

(2) Use any device or means to violate the provisions of this Ordinance.

c) It is unlawful for any person, not a duly authorized licensed employee acting in furtherance of his or her employment within a gaming facility, to possess any device, equipment or material which he knows has been manufactured, distributed, sold, tampered with or serviced in violation of the provisions of this Ordinance.

d) It is unlawful for any person, not a duly authorized licensed employee acting in furtherance of his or her employment within an establishment, to have on his or her person or in

his or her possession any device intended to be used to violate the provisions of this Ordinance.

e) It is unlawful for any person, not a duly authorized licensed employee acting in furtherance of his or her employment within an establishment, to have on his or her person or in his or her possession any key or device known to have been designed for the purpose of and suitable for opening, entering or affecting the operation of any gaming activity, drop box or electronic or mechanical device connected thereto, or for removing money or other contents therefrom.

f) It is unlawful for any person to use or possess any cheating or thieving device, including but not limited, to tools, drills, wires, coins or tokens attached to strings or wires or electronic or magnetic devices, to facilitate the alignment of any winning combination or to facilitate removing from any slot machine any money or contents thereof, unless the person is a duly authorized licensed employee acting in the furtherance of his or her employment.

g) Possession of more than one of the devices, equipment, products or materials described in this Section shall give rise to a rebuttable presumption that the possessor intended to use them for cheating.

**Section 1015. Cheating Game and Devices.**

It is unlawful for any licensee dealing, or any person playing, any licensed game to:

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

b) Knowingly deal, conduct, carry on, operate, or expose for play any game or games played with cards or any mechanical device, or any combination of games or devices, which have in any manner been 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 of characteristics or the normal chance of the game which could determine or alter the result of the game.

**Section 1016. Unlawful Manufacture, Sale, Distribution, Marking, Altering or Modification of Equipment and Devices Associated with Gaming Activity - Unlawful Instruction.**

a) It is unlawful to manufacture, sell or distribute any cards, chips, game or device which is intended to be used to violate any provision of this Ordinance.

b) It is unlawful to mark, alter or otherwise modify any gaming device or equipment associated with gaming in a manner that:

(1) Affects the result of a wager by determining win or loss; or

(2) Alters the normal criteria of random selection, which affects the operation of a game or which determines the outcome of a game; or

(3) Gives any player an advantage in determining the outcome of the game.

c) It is unlawful for any person to instruct another in cheating or in the use of any device for that purpose, with the knowledge or intent that the information or use so conveyed may be employed to violate any provision of this Ordinance.

**Section 1017. Seizure of Evidence.**

Gaming investigators or other tribal law enforcement officers may seize any property which constitutes evidence of a violation of this Ordinance, consistent with the Indian Civil Rights Act and pursuant to applicable standards of lawful search and seizure.

**Section 1018. Disposition of Seized Property or Evidence.**

Property seized as evidence as a result of a violation of this Ordinance shall be disposed of in the following manner at the conclusion of all official proceedings, including appellate proceedings:

a) Unlawfully obtained gaming money, chips or tokens shall be returned to the gaming operation.

b) Unlawful counterfeit money, chips or tokens shall be either destroyed by the Commission or may be retained by the Commission for display or training purposes.

c) Cheating devices shall be either destroyed by the Commission or may be retained by the Commission for display and training purposes.

d) Surveillance videotapes, records or logs shall be returned to the gaming operation.

**Section 1019. Unlawful Entry by Excluded Persons.**

a) It is unlawful for any person whose name is on an exclusion list promulgated by the Commission to enter the licensed premises of a gaming operation.

b) It is unlawful for any person whose name is on an exclusion list promulgated by the Commission to have any personal financial interest, direct or indirect, in any gaming license, management contract or business involved in or with gaming activity or in any corporation, partnership, trust or association or other legal entity formed under state or tribal law licensed pursuant to this Ordinance. However, nothing in this Section shall prohibit a person from having a financial interest in a gaming enterprise operating pursuant to the provisions of this Ordinance as would any member of the Tribe if entitled to such interest solely as a member of the Tribe, including any per capita payments derived from revenues of the gaming enterprise.

**Section 1020. Detention and Questioning of Person Suspected of Violating Gaming Laws - Limitations on Liability - Posting of Notice.**

a) Any gaming operator, gaming facility security officer or Commission staff may detain and question any person in a gaming facility suspected of violating any of the provisions of this Ordinance or the Commission Rules and Regulations and shall not be criminally or civilly liable:

(1) On account of any such questioning; or

(2) For reporting to the Commission, State gaming authorities, or tribal, state or federal law enforcement authorities the person suspected of the violation.

b) Any gaming operator, gaming facility security officer or Commission staff who has probable cause to believe that there has been a violation of this Ordinance or the Commission Rules and Regulations in a gaming facility by any person may detain that person in the facility in a reasonable manner and for a reasonable length of time. Such detention does not render the gaming facility security officer or Commission staff criminally or civilly liable unless it is established by clear and convincing evidence that the detention is unreasonable under all the circumstances.

c) A gaming operator, gaming facility security officer or Commission staff is not entitled to the immunity from liability provided for in subsection (b) of this Section unless there is displayed in a conspicuous place in the gaming facility a notice in boldface type clearly legible and in substantially this form:

**“Any gaming operation which has probable cause to believe that a person has violated any applicable provision of tribal, state or federal gaming law may detain that person.”**

#### **Section 1021. Failure to Display Operator Licenses.**

It is unlawful for any gaming operator to fail to permanently display in a conspicuous manner:

a) Current operator licenses granted by the Commission; and

b) A notice in bold face type which is clearly legible and in substantially the following form:

**“IT IS UNLAWFUL FOR ANY PERSON UNDER THE AGE OF TWENTY-ONE TO ENGAGE IN CASINO GAMING OR LINGER IN AN AREA WHERE CASINO GAMING OCCURS.”**

#### **Section 1022. Personal Financial Gain or Conflict of Interest.**

It is unlawful for any person to issue, suspend, revoke or renew any license pursuant to this Ordinance for any personal pecuniary gain or any thing of value, or for any person to violate any of the conflict of interest provisions in this Ordinance.

#### **Section 1023. False or Misleading Information**

It is unlawful for any person to provide any false or misleading information under the provisions of this Ordinance.

#### **Section 1024. Violations of Ordinance - Penalties.**

a) Any person violating this Ordinance shall be subject to prosecution and punishment under applicable law, which may be tribal, state or federal, depending on the offense and whether the defendant is Indian or non-Indian.

1) Indians, as that term is defined in federal and tribal law, shall be prosecuted in the courts of the Ute Mountain Ute Reservation and shall be subject to punishment of up to one (1) year in jail and/or a \$5,000 fine, or as otherwise permitted by the Indian Civil Rights Act.

2) Non-Indians may be prosecuted and punished, pursuant to the terms of the Compact, under state or federal law.

3) A non-Indian violating any provision of this Ordinance may also be deemed to have committed a tribal civil infraction and may be subject to a civil penalty in an amount not greater than \$5,000 per infraction. The Commission shall adopt provisions in its Rules and Regulations governing civil infractions.

b) Any licensee who violates any provision of this Ordinance shall not only be subject to prosecution and punishment under applicable law, but shall also be subject to disciplinary proceedings concerning his license.