



NOV 8 2000

Ms. Mary Ann Martin
Chairperson
Augustine Band of Mission Indians
P.O. Box 846
Coachella, CA 92236

Dear Ms. Martin:

This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve the Gaming Code for the Augustine Band of Mission Indians (Resolution No. Aug-17-00) adopted July 28, 2000. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA). It is important to note that the gaming ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Band exercises jurisdiction.

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

Thank you for submitting the ordinance for review and approval. The NIGC staff and I look forward to working with you on future gaming issues.

Sincerely yours,

Montie R. Deer

Montie R. Deer
Chairman



AUGUSTINE BAND OF MISSION INDIANS

84481 Avenue 54 • Coachella, CA 92236 • (619) 398-4722 • Fax: (619) 398-4922
Chairperson: Maryann Martin

RESOLUTION NO. AUG-17-00 GAMING CODE

7/28/17 2:00

WHEREAS: The Augustine Band of Cahuilla Mission Indians ("the Band") is a federally recognized Indian tribe recognized by the United States Secretary of the Interior as having jurisdiction over Indian Lands in California which are eligible for gaming under the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq. ("IGRA"); and

WHEREAS: The Tribal Council is the governing body of the Band pursuant to Tribal law, having all the legislative powers and responsibilities of the Tribal Government; and

WHEREAS: The Council finds that operation of bingo and other games of chance is a valid means of promoting economic development and the health and welfare of Band citizens; and

WHEREAS: The Council finds that because of the particularly sensitive nature of gaming, it must be subject to strict regulation; and

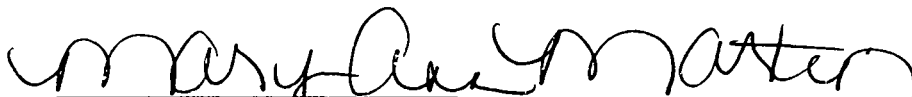
WHEREAS: In order to engage in Class II or Class III gaming, the governing body of a tribe must adopt a gaming ordinance and have the ordinance approved by the Chairman of the National Indian Gaming Commission ("NIGC"), pursuant to IGRA; and

WHEREAS: The Tribal Council previously adopted a Gaming Ordinance but wishes to replace this ordinance with a new Gaming Code to authorize and regulate gaming on the Augustine Reservation to reflect changes in the Band's gaming development plans and the Gaming Compact the Band has executed with the State of California, through Governor Davis, and that has been approved by the Department of Interior as required by IGRA; and

NOW, THEREFORE BE IT RESOLVED: That the Band, acting through its Tribal Council, hereby adopts the attached Gaming Code, as Title IV of the Laws of the Augustine Band of Cahuilla Mission Indians, to authorize license and regulate gaming on the Augustine Reservation. Such Gaming Code and this Resolution shall be submitted to the NIGC for approval.

CERTIFICATION

It is hereby certified that at a noticed meeting of the surviving half-blood descendant members of the Augustine Band of Mission Indians held the July 28, 2000, a vote was cast as follows: 1 for, 0 against, 0 abstaining.


Maryann Martin, Chairperson

**THE CODE OF LAWS OF THE
AUGUSTINE BAND OF CAHUILLA MISSION INDIANS**

TITLE IV - GAMING

*TO AUTHORIZE, LICENSE AND REGULATE
GAMING ON THE AUGUSTINE RESERVATION*

AUG 15 2000

CHAPTER 1: FINDINGS AND PURPOSE

Section 101 Findings

The Council finds:

- (a) That operation of bingo and other games of chance by the Band is a valid means of promoting economic development and the health and welfare of Band citizens;
- (b) That, under the principles established by the United States Supreme Court in California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987), Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the activity is not specifically prohibited by federal law and is conducted within a state which does not criminally prohibit the activity;
- (c) That the United States Congress has enacted the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., providing for certain federal regulation of Indian gaming;
- (d) The Band is a federally recognized Tribe that is the beneficial owner of trust lands on the Augustine Reservation. The Band, acting through its Tribal Council, has governmental authority over the trust lands owned by the Band and by individual allottees;
- (e) That tribal regulation of gaming activity on the Reservation is vital to the protection of trust lands and to the protection of the interests of the Band and its citizens; and
- (f) That the Band has entered into a Tribal-State Gaming Compact with the State of California which provides for the operation of class III gaming.

Section 102 Purposes

The purposes of this Code are to:

- (a) Provide standards and regulations governing the conduct of gaming activities on the Augustine Reservation;
- (b) Promote tribal economic development;
- (c) Enhance employment opportunities for Band citizens;
- (d) Strengthen the economy of the Band; and
- (e) Generate revenue for use in improving the health, education and general welfare of citizens of the Band.

CHAPTER 2: DEFINITIONS

The following terms shall have the meaning set forth below:

Section 201 Applicant

"Applicant" means an individual or entity that applies for a tribal license or state certification.

Section 202 California Compact

"California Compact" or "Compact" means the document entitled "Tribal-State Gaming Compact Between the Augustine Band of Mission Indians, a federally recognized Indian Tribe, and the State of California," entered into between the Augustine Band of Cahuilla Mission Indians and the State of California, and approved by the Department of Interior on July 6, 2000.

Section 203 Class I Gaming

"Class I Gaming" means:

- (a) Social games played solely for prizes of minimal value; and
- (b) Traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.

Section 204 Class II Gaming

"Class II Gaming" means:

(a) Bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players:

- (1) Play for prizes with cards bearing numbers or other designations;
- (2) Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
- (3) Win the game by being the first person to cover a designated pattern on such cards;

(b) If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;

(c) Nonbanking card games that:

- (1) State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
- (2) Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.

Section 205 Class III Gaming

"Class III Gaming" means all forms of gaming that are not class I gaming or class II gaming, including but not limited to:

(a) Any house banking game, including but not limited to:

- (1) Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
- (2) Casino games such as roulette, craps, and keno;

(b) Any slot machines as defined in 15 U.S.C. 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance;

(c) Any sports betting and parimutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or

(d) Lotteries.

Section 206 Class II Gaming Employee

“Class II Gaming Employee” means any person who does not meet the definition of a class III gaming employee and who (i) operates, maintains, repairs, assists in any class II gaming activity, or is in any way responsible for supervising such gaming activity or persons who conduct, operate, account for, or supervise any such gaming activity, (ii) is a key employee as defined in Section 215, or (iii) is a person whose employment duties require or authorize access to areas of the class II gaming facility that are not open to the public.

Section 207 Class III Gaming Employee

“Class III Gaming Employee” means any person who (i) operates, maintains, repairs, assists in any class III gaming activity, or is in any way responsible for supervising such gaming activity or persons who conduct, operate, account for, or supervise any such gaming activity, (ii) key employees as defined in Section 216 and whose duties involve class III gaming activity, (iii) is an employee of the Commission with access to confidential information, or (iv) is a person whose employment duties require or authorize access to areas of the class III gaming facility that are not open to the public.

Section 208 Commission

"Commission" or "Gaming Commission" means the Augustine Band of Cahuilla Mission Indians Gaming Commission established pursuant to Chapter 4 of this Code.

Section 209 Gaming Device

“Gaming Device” means a slot machine, including electronic, electromechanical, electrical, or video device that, for consideration, permits individual play with or against that device or the participation in any electronic, electromechanical, electrical, or video system to which that device is connected; the playing of games thereon or therewith, including, but not limited to, the playing of facsimiles of games of chance or skill; the possible delivery of, or entitlement by the player to, a prize or something of value as a result of the application of an element of chance; and a method for viewing the outcome, prize won, and other information regarding the playing of games thereon or therewith.

Section 210 Gaming Facility

“Gaming Facility” means any building in which class III gaming activities or gaming operations occur, or in which the business records, receipts, or other funds of the gaming operation are maintained (but exclude offsite facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including parking lots and

walkways, a principal purpose of which is to serve the activities of the class III gaming operation, provided that nothing herein prevents the conduct of class II gaming (as defined under IGRA) therein.

Section 211 Gaming Operation

“Gaming Operation” means each economic entity that is licensed by the Band, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by the Band directly, by a management contractor, or, under certain conditions, by another person or other entity.

Section 212 Gaming Resources

“Gaming Resources” means any goods or services provided or used in connection with class III gaming activities, whether exclusively or otherwise, including, but not limited to, equipment, furniture, gambling devices and ancillary equipment, implements of gaming activities such as playing cards and dice, furniture designed primarily for class III gaming activities, maintenance or security equipment and services, and class III gaming consulting services. “Gaming Resources” does not include professional accounting and legal services.

Section 213 Gaming Resource Supplier

“Gaming Resource Supplier” means any person or entity who, directly or indirectly, manufactures, distributes, supplies, vends, leases, or otherwise purveys gaming resources as defined in Section 212, to the gaming operation or gaming facility, provided that the Gaming Commission may exclude a purveyor of equipment or furniture that is not specifically designed for, and is distributed generally for use other than in connection with, class III gaming activities, if the purveyor is not otherwise a gaming resource supplier as described in Section 901(a)(6), the compensation received by the purveyor is not grossly disproportionate to the value of the goods or services provided, and the purveyor is not otherwise a person who exercises a significant influence over the gaming operation.

Section 214 Indian Lands

“Indian Lands” means:

- (a) Land within the limits of an Indian reservation; or
- (b) Land over which an Indian tribe exercises governmental power and that is either–
 - (1) Held in trust by the United States for the benefit of any Indian tribe or individual; or

- (2) Held by an Indian tribe or individual subject to restriction by the United States against alienation.

Section 215 Key Employee

"Key Employee" means (i) a person who performs one or more of the following functions: bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, pit boss, dealer, croupier, approver of credit, or custodian of gambling devices including persons with access to cash and accounting records within such devices; or (ii) if not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year, or (iii) if not otherwise included, the four most highly compensated persons in a gaming operation.

Section 216 National Indian Gaming Commission

"National Indian Gaming Commission" or "NIGC" means the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.

Section 217 Net Revenues

"Net Revenues" means gross revenues of an Indian gaming operation less (i) amounts paid out as, or paid for, prizes and (ii) total gaming-related operating expenses, excluding management fees.

Section 218 Non-Gaming Resource Supplier

"Non-Gaming Resource Supplier" means any person or entity who supplies, sells, leases or otherwise purveys to the gaming operation goods or services, but who does not come within the definition of "Gaming Resource Supplier," in Section 213 or Section 901(a)(6).

Section 219 Persons or Entities with a Financial Interest in, or having Management Responsibility for, a Management Contract

"Persons or Entities with a Financial Interest in, or having Management Responsibility for, a Management Contract" means:

- (a) Each person with management responsibility for a management contract;
- (b) Each person who is a director of a corporation that is a party to a management contract;
- (c) The ten persons who have the greatest direct or indirect financial interest in a management contract;

- (d) Any entity with a financial interest in a management contract; and
- (e) Any other person with a direct or indirect financial interest in a management contract.

Section 220 Primary Management Official

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

Section 221 Social Games for Prizes of Minimal Value

"Social Games for Prizes of Minimal Value" means games in which the total value of prizes awarded during the calendar year does not exceed \$10,000.

Section 222 State Gaming Agency

"State Gaming Agency" means the entities authorized to regulate gaming under the California Gambling Control Act.

Section 223 Traditional Forms of Indian Gaming

"Traditional Forms of Indian Gaming" means:

- (a) Gaming activities such as "stick" or "bone" games played as part of tribal ceremonies, celebrations, or pow-wows; or
- (b) Games such as rodeos or horse races, including those for which purses or prizes are awarded, that are played as part of tribal ceremonies, celebrations, or pow-wows. This does not include games operated prior to a ceremony, celebration, or pow-wow for the purpose of raising funds for the ceremony, celebration, or pow-wow; these are considered class II games unless they meet the definition set forth in Section 204.

Section 224 Tribe

"Tribe" or "Band" means the Augustine Band of Cahuilla Mission Indians.

CHAPTER 3: GAMES AND FACILITIES AUTHORIZED; NUMBER OF DEVICES

Section 301 Authorized Games

(a) The Band hereby authorizes gaming on Indian lands on the Augustine Reservation as follows:

- (1) Class I gaming is authorized on the Augustine Reservation, and may be conducted by any person. Class I gaming shall not be regulated by this Code.
- (2) Class II gaming is authorized on Indian lands owned by the Band on the Reservation. Class II gaming shall be regulated by the Tribal Gaming Commission and shall only be operated consistent with the provisions of this Code, applicable tribal laws, Commission regulations and IGRA.
- (3) Class III gaming activities are authorized on Indian lands owned by the Band. Class III gaming activities shall be regulated by the Tribal Gaming Commission and shall only be operated consistent with this Code, applicable tribal laws, Commission regulations, the Compact and IGRA. Authorized class III gaming activities include:
 - (i) The operation of gaming devices;
 - (ii) Any banking or percentage card game; and
 - (iii) The operation of any devices or games that are authorized under state law to the California State Lottery, provided that such games shall not be offered through use of the Internet unless others in the state are permitted to do so under state and federal law.

Section 302 Authorized Class III Gaming Facilities

The Tribe may establish and operate not more than two class III gaming facilities on its Indian lands. The Tribe may combine and operate in each class III gaming facility any forms and kinds of gaming permitted under law, except to the extent limited under IGRA, the Compact, or this Code.

Section 303 Authorized Number of Gaming Devices

The Band may operate no more gaming devices than are permitted to be operated by the Band under the Compact. As of the date of enactment of this Code, the Band is permitted to operate 700 gaming devices. The Band may, however, modify the number of gaming devices it may operate pursuant to the requirements of Section 4.3 of the Compact.

CHAPTER 4: TRIBAL GAMING COMMISSION

Section 401 Establishment of Augustine Band Gaming Commission

There is hereby established the Augustine Band of Cahuilla Mission Indians Gaming Commission ("Commission"), an agency of the Band, consisting of a Commission Chairperson and four other members.

Section 402 Function and Powers

The Commission shall have the following powers and duties:

(a) The Commission shall have primary responsibility for regulatory functions relating to the Band's gaming operations authorized under this Code and to ensure that the gaming facility is operated in compliance with this Code, the Compact, IGRA, and all applicable laws;

(b) The Commission shall review all gaming license applications and determine whether the application is complete and in compliance with the Code, and whether such license should be issued, and shall further determine if any license so issued shall be revoked, suspended or renewed, as appropriate;

(c) The Commission shall collect any fees required to be paid under this Code. Such fees shall become tribal gaming revenues, shall be subject to Tribal financial policies and procedures, and shall be disbursed as directed by the Council;

(d) The Commission shall propose an annual operating budget which shall be subject to review and approval of the Council. The Commission may in accordance with such budget employ such staff from time to time as it deems necessary to fulfill its responsibilities under this Code, and may retain professional services including investigative services to assist the Commission with respect to any issues over which the Commission exercises jurisdiction;

(e) The Commission shall promulgate, subject to review and approval by the Council, such rules, regulations or specifications as it deems necessary in order to implement and enforce the provisions of this Code. This authority shall include, but is not limited to, the promulgation of all rules, regulations or specifications contained in Chapter 11 of this Code;

(f) The Commission shall enforce the terms of the Compact, IGRA and this Code with respect to gaming operation and gaming facility compliance, and to protect the integrity of the gaming activities, the reputation of the Band and the gaming operation for honesty and fairness, and the confidence of patrons that tribal government gaming on the Augustine

Reservation meets the highest standards of regulation and internal controls;

(g) The Commission shall conduct ongoing monitoring and oversight of class II and class III gaming activities and other matters governed by this Code. The Commission shall investigate any possible violation of the Compact and this Code and shall require the gaming operation to correct the violation upon such terms and conditions as the Commission may, in its sole discretion, determine necessary;

(h) The Commission is empowered to impose fines or other sanctions within the jurisdiction of the Band against gaming licensees or other persons who interfere with or violate the Band's gaming regulatory requirements and obligations under IGRA, this Code, or the Compact;

(i) The Commission may bring any civil action or criminal complaint in any court of competent jurisdiction to enforce the provisions of this Code or to enjoin or otherwise prevent any violation of this Code, IGRA, or the Compact, occurring or threatened to occur; and

(j) The Commission may, upon approval of the Tribal Council, request the assistance of the State Gaming Agency whenever it reasonably appears that such assistance may be necessary for the Commission to carry out its duties under this Code and the Compact, or otherwise to protect public health, safety, or welfare. Nothing herein shall grant jurisdiction to the State Gaming Agency over the Band's gaming operation or gaming facility that is not expressly authorized by the Compact.

Section 403 Appointment of Members

The Chairperson of the Commission and its members shall each be appointed by majority vote of the Tribal Council. The Commission Chairperson and members may be tribal or nontribal citizens.

Section 404 Terms

The initial members of the Commission shall serve as follows:

- (a) Two members shall serve an initial two-year term.
- (b) Two members shall serve an initial one-year term.
- (c) The Chairperson of the Commission shall serve an initial three-year term.

Thereafter all terms shall be for three years and until a successor is appointed and qualified. If a vacancy occurs during a term, the Council may appoint a successor for the unexpired portion of the term.

Section 405 Executive Director

The Commission shall hire a qualified person to serve as the Executive Director of the Commission. The Executive Director shall manage the day-to-day affairs of the Commission, including oversight of the Commission gaming inspectors and other staff. The Executive Director shall serve at the direction of the Chairperson of the Commission. The salary of the Executive Director shall be set by the Commission and such employment shall be in accordance with the Band's personnel policies and procedures.

Section 406 Qualifications

To be eligible to serve as Chairperson, member of the Commission or staff of the Commission, a person shall:

- (a) Be of high moral character and reputation to promote public confidence in gaming by the Band;
- (b) Have sufficient education and work experience to be able to fulfill the functions of the Commission;
- (c) Have no financial stake in any gaming operated under the Code. A person has a "financial stake in any gaming operated under the Code" if that person, or that person's spouse, brother, sister, mother, father, grandmother, grandfather, son, daughter, grandson, granddaughter or first cousin has invested in, has a direct or indirect financial interest in, has a management contract in, or has any other pecuniary interest whatever in gaming operated under this Code. Citizenship in the Band does not, in itself, create a "financial stake in any gaming operated under this Code." Employment at a tribally licensed gaming facility, other than as a primary management official, by a person's spouse, brother, sister, mother, father, grandmother, grandfather, son, daughter, grandson, granddaughter or first cousin does not create in such person a "financial stake in any gaming operated under this Code";
- (d) Not be employed at or participate as a player in any gaming facility on the Reservation during the time such person is serving as Chairperson of the Commission, member of the Commission or staff;
- (e) Never have been convicted of a tribal, federal or state felony, or any crime involving fraud, misrepresentation, moral turpitude or gambling;
- (f) Submit to a background investigation conducted by the Band or a third party on its behalf and meet the requirements applicable to a management

contractor under IGRA; and

- (g) Not be delinquent on a debt to the Band, any agency of the Band, or corporation owned or controlled by the Band.

Section 407 Commission Member Conduct

The Chairperson, members of the Commission and Commission staff shall conduct themselves in accordance with the highest standards of professionalism and propriety and shall avoid all conflicts of interests arising from business or personal dealings or relationships that could, in appearance or fact, compromise their ability to discharge their duties and protect the honesty and integrity of all gaming on the Augustine Reservation.

Section 408 Removal and Vacancies

Members of the Commission, including the Chairperson, may be removed by a two-thirds vote of the Council, at a meeting at which a quorum is present. Members of the Commission, including the Chairperson, may be removed for cause, including malfeasance, neglect of duty, corruption, improper conflict of interest, unexcused failure to attend two successive Commission meetings, conviction of a felony, or failure to comply with the laws of the Band.

(a) Right to a Hearing. Any Commission member being considered for removal shall be provided with notice from the Chairperson or Secretary of the Tribal Council stating the grounds for removal, specifying a date, time, and place for a hearing to be held by the Council within 20 days of receipt of such notice. At the hearing, the Commission member shall be entitled to appear, present testimony and other evidence, and be represented by an attorney at the Commission member's own expense.

(b) Vacancies. Vacancies shall be filled by majority vote of the Council.

Section 409 Meetings

The Commission shall meet as scheduled to fulfill its duties and obligations under this Code, but in no event less frequently than once per month. Meetings may be called by the Chairperson of the Commission, or by any two members of the Commission, upon at least three days written notice to all members. If the Chairperson of the Commission or any two members certify in writing that a meeting must be held on less than three days notice, a meeting may be held as necessary, provided that best efforts must be made to provide the Chairperson and all members with as much advance notice of such meeting as possible. A majority of the number of Commission members seated shall constitute a quorum for the transaction of business. If only three Commission members are seated, all three members shall be in attendance at meetings at which the Commission holds hearings. The vote of a majority of the members present at a meeting at which a quorum is present shall be the act of the Commission.

Section 410 Monthly Reports

The Commission shall make a report to the Council at least once each month, or more as may be directed by Council. Each report shall include a summary of all licensing and enforcement activities, a summary of meeting and travel activities and dates, and any additional information requested by the Band Council. These reports shall not contain any confidential information unless specifically directed by the Council. Compensation of Commission members may be withheld in the event reports are unreasonably delayed.

Section 411 Hearing Examiner

Notwithstanding any other provision of this Code, upon the Commission's own motion or the motion of any party, any hearing authorized to be held by the Commission may, at the Commission's discretion, be assigned to a hearing examiner. The hearing examiner shall be impartial, and shall be a licensed attorney. The hearing examiner shall conduct hearings assigned in accordance with the provisions of the applicable sections of this Code, and, unless otherwise permitted in this Code, shall issue written proposed findings of fact and conclusions of law within 30 days of such hearing. Any party may file with the Commission, within 15 days of notice of the hearing examiner's recommended findings, exceptions or objections to those findings.

Section 412 Notice of Commission Decisions

The Commission shall provide written notice to any applicant and any other interested party of any decision or order. Notice shall be by personal service, or certified mail, to the person's last known address, or to such person's registered agent or attorney.

Section 413 Appeals

(a) When authorized by this Code, an aggrieved party may appeal from a final order or decision of the Commission by filing a notice of appeal with the Commission and Tribal Court within 30 days of receipt of notice of the final order or decision.

(b) If a motion for reconsideration of a Commission final order or decision is filed with the Commission within 20 days of issuance of such order, the time for appeal shall not begin to run until the motion for reconsideration is ruled upon by the Commission.

(c) The Commission shall certify the hearing record within 30 days of receipt of a notice of appeal.

(d) Review by the Tribal Court shall be based on the record. A decision or order of the Commission shall be affirmed unless arbitrary and capricious, or contrary to law.

(e) The Tribal Court shall have no jurisdiction to award money damages against the Commission or any member of the Commission for any action appealed under this section.

(f) The Tribal Court shall require parties to exhaust administrative remedies provided by this Code prior to judicial review, absent an express finding of futility or other good cause to the contrary.

Section 414 Gaming Inspectors

(a) The Commission shall employ tribal gaming inspectors who shall have responsibility for monitoring gaming operations authorized by this Code and assisting the Commission with the discharge of its other duties under the Code on a day-to-day basis.

(b) Commission gaming inspectors may be full-time tribal employees and shall be subject to the Band's personnel policies and procedures. The budget for the Commission shall include the costs associated with the gaming inspectors.

(c) Commission gaming inspectors shall report any violations of this Code, the Act, or the Compact to the Commission.

Section 415 Sovereign Immunity

Nothing in this Code shall be construed to waive the immunity from suit of the Band or the Commission; provided that judicial review of actions of the Commission shall be available as set forth in this Code. In no event shall this Code be construed as consent to any money judgment, lien or attachment of any property of the Band or Commission. No money damages shall be awarded against a Commission member or tribal official acting in good faith within the scope of their official duties under this Code.

CHAPTER 5: COMPLIANCE WITH FEDERAL LAW

Section 501 Applicability

All gaming on the Reservation shall be conducted according to the provisions of this Code, IGRA, applicable regulations of the NIGC, including, but not limited to, minimum internal control standards (25 CFR Part 542), regulations of the Commission and the Compact, where applicable.

Section 502 Sole Proprietary Interest

The Band shall have the sole proprietary interest and responsibility for the conduct of any gaming activity on the Reservation. Ownership of any class II or class III gaming operation by any other entity or individual is prohibited.

Section 503 Use of Revenues

Net revenues from class II and class III gaming activity may not be used for any purposes other than:

- (a) To fund tribal government operations or programs;
- (b) To provide for the general welfare of the Indian Band and its citizens;
- (c) To promote tribal economic development;
- (d) To donate to charitable organizations; or
- (e) To help fund operations of local government agencies of the State and its political subdivisions.

Section 504 Audits

All gaming activities shall be subject to an audit by independent certified accountants, not less than annually. The audit shall include all contracts for supplies, services or concessions for a contract amount of at least \$25,000 annually (except contracts for professional legal or accounting services). The audit shall be arranged by the licensee conducting the gaming, who shall provide a copy of the audit to the Commission upon completion. The Commission shall thereafter forward the audit report to the Tribal Council and the National Indian Gaming Commission.

Section 505 Compliance with NIGC Regulations

Notwithstanding any provision in this Code or any regulation promulgated thereunder, the Commission is fully empowered to comply with and enforce all regulations issued by the NIGC, including but not limited to, all requirements to report tribal codes, contracts, license applications, background checks, and other information to the NIGC, to comply with any assessments which may be authorized by the NIGC, such assessments to be considered an operating expense, and to undertake background investigations of any persons not subject to such investigation under this Code.

CHAPTER 6: PUBLIC AND WORKPLACE HEALTH, SAFETY AND LIABILITY

Section 601 Environmental and Public Health and Safety Standards

The construction and maintenance of any gaming facility, the operation of gaming activities, and all expansions, modifications or renovations to a gaming facility shall be conducted in a manner which adequately protects the environment and the public health and safety. The gaming operation and gaming facility shall comply with the standards enacted by the Band to address the following: building and safety codes, food and beverage handling, water quality and safe drinking water, workplace and occupational health and safety, public health and safety, disabilities, and discrimination in employment.

Section 602 Patron Tort Claims

The gaming operation shall carry no less than five million dollars (\$5,000,000) in public liability insurance for patron claims. The insurer shall be requested to promptly and fairly settle all valid claims. Such claims shall be governed by the Tort Liability Code.

Section 603 Unemployment Compensation for Employees of Gaming Operation

The gaming operation shall participate in the State of California program for providing unemployment compensation benefits and unemployment compensation disability benefits with respect to employees employed at the gaming facility, including compliance with the provisions of the California Unemployment Insurance Code.

Section 604 Cashing Government and Payroll Checks

The gaming operation shall not cash checks drawn against any federal, state, county or tribal fund, including, but not limited to, social security, unemployment insurance, disability payments, or public assistance payments. The gaming operation shall not cash payroll checks.

Section 605 Bank Secrecy Act

The provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. Sec. 5311-5314, as amended, and all reporting requirements of the Internal Revenue Service, insofar as such provisions and reporting requirements are applicable to casinos, shall apply to the gaming operation.

Section 606 Income Tax Withholding

With respect to persons employed at the gaming facility, other than members of the Band, the tribal gaming operation shall withhold all taxes due to the State as provided in the California Unemployment Insurance Code and the Revenue and Taxation Code, and shall forward such amounts as provided in said codes to the State.

Section 607 Alcoholic Beverages.

Alcohol shall be served in the gaming facility only in accordance with federal, tribal and state law.

Section 608 Firearms in the Gaming Facility.

Possession of firearms shall be prohibited at all times in any of the Band's gaming facilities except for state, local, or tribal security or law enforcement personnel authorized by tribal law and by federal or state law, as applicable, to possess firearms at the gaming facility.

**CHAPTER 7: ENVIRONMENTAL ASSESSMENT
OF CONSTRUCTION OR EXPANSION OF GAMING FACILITY**

Section 701 Policy

The Tribal Council has adopted a policy of seeking to protect and enhance the natural environment of the Reservation and surrounding areas which must be balanced with the objectives of economic development through the establishment of a gaming operation under this Code. In order to reconcile these sometimes competing policies, any project authorized under this Code shall be subject to an environmental review process as provided in this Chapter.

Section 702 Preparation of Environmental Assessment Report

(a) With respect to any project, in addition to any review of impacts on the Reservation required by federal law, the Band shall, prior to the commencement of the project, conduct an analysis of the potential impact of the project on the off-Reservation environment. Such an analysis shall identify any significant adverse impacts on the off-Reservation environment, how such effects might be minimized, any project alternatives available to avoid such impacts, and the Band's conclusions on how to best minimize the environmental impact of the project. The consideration of measures to mitigate significant adverse impacts and of project alternatives to avoid such impacts may be limited to those that are feasible, i.e. that are capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors. Such analysis shall be set out in a draft environmental assessment report.

(b) The term “Significant Adverse Impact” means an adverse impact that substantially changes or may substantially change the environment. The term “Project” means any expansion or any significant renovation or modification of an existing gaming facility, or any significant excavation, construction, or development associated with the Band’s gaming facility or proposed gaming facility.

Section 703 Circulation of Environmental Assessment Report

Prior to the commencement of a project, the draft environmental assessment report shall be provided to state and local government, as required in the Compact. An announcement containing the description of the project and stating that the Band has prepared the report and that it is available upon request shall be published in a newspaper with a circulation including the Reservation. The Band shall provide the report to any party requesting a copy.

Section 704 Public Hearing and Meeting with Local Government

(a) Prior to the commencement of the project, the Band shall hold a public hearing to hear comment on the report. All written responses shall be due within five days after the public hearing.

(b) The Band shall, if requested by an appropriate local government agency, as required by the Compact, meet with such agency to discuss the mitigation of any potential significant adverse off-Reservation impacts.

Section 705 Response to Report and Comments

The Band shall consider all comments and concerns raised at the hearing and in writing and shall prepare a final environmental assessment report. In the final report, in addition to those matters described in the initial report, the Band shall identify and consider any significant adverse impacts of the project on the off-Reservation environment, available measures to mitigate such impacts and project alternatives to avoid such impacts that were raised in the comment period and not considered in the initial report. In the final report, the Band shall also consider and respond to any comments on the analysis in the initial report with respect to the matters set out in Section 702(a).

Section 706 Project Progress.

During the period of construction of the project, the Band shall keep any appropriate local government agency, as required in the Compact, and potentially affected members of the public apprized of the progress of the project.

CHAPTER 8: FACILITY LICENSING

Section 801 Facility Licenses

The Commission shall, in conformity with the requirements of this Code, IGRA and the Compact, issue a license for each place, facility or location where gaming is conducted on Indian lands. The term of the facility license shall be two years.

Section 802 Certificate of Occupancy

(a) Any gaming facility in which class III gaming is conducted shall be issued a certificate of occupancy by the Commission prior to occupancy. The issuance of this certificate shall be reviewed for continuing compliance every two years in connection with the facility license application process. A certificate of occupancy shall not be issued unless the Commission concludes that the gaming facility complies with the Band's building and safety standards.

(b) The Commission shall inspect the facilities with qualified building and safety experts to determine compliance with applicable standards. If it so determines, the Commission shall certify that the gaming facility meets the applicable building and safety standards.

(c) Agents designated by the State Gaming Agency shall be given reasonable notice of inspections conducted pursuant to subsection (b) and shall be allowed to accompany the Commission's inspectors on such inspections. The Gaming Commission and the State's designated agent or agents shall exchange any reports of an inspection within ten days after completion of the report, which reports shall also be separately and simultaneously forwarded by both agencies to the Tribal Chairperson. Upon certification by the Gaming Commission's experts that a gaming facility meets applicable standards, the Gaming Commission shall forward the experts' certification to the State within ten days of issuance. If the State's agent objects to that certification, the Commission and the facility license applicant shall make a good faith effort to address the State's concerns, but if the State does not withdraw its objection, the matter will be resolved in accordance with the dispute resolution provisions of Section 9.0 of the Compact.

Section 803 Facility License Application

For each location to be licensed, the Band, through the highest ranking primary management official of the gaming operation, shall submit an application for a facility license at least 60 days prior to the initial establishment of any gaming activities and, thereafter, 180 days prior to the expiration of a current facility license. Such application must contain a full and complete showing of the following:

(a) Agreement by the applicant to accept and abide by all applicable provisions of this Code, applicable regulations and all conditions of the facility license;

(b) A description of the premises and proof that the applicant is the owner of the premises, or lessee of the premises, for the term of the license;

(c) That the applicant meets the criteria in Section 804 for a facility license; and

(d) Proof that notice of the application has been posted in a prominent place in the Tribal Administrative Building and in the gaming facility for at least 30 days prior to consideration by the Commission, and published at least twice in a local newspaper serving the Reservation. The notice shall state the date, time and place when the application shall be considered by the Tribal Gaming Commission.

Section 804 Hearing on Application for a License; Suitability Standard Regarding Gaming Licenses

(a) All applications for a facility gaming license shall be considered by the Gaming Commission in open session at which the applicant, his attorney and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application.

(b) In reviewing an application for a gaming license, and in addition to any other standards set out in this Code, the Commission shall determine whether the gaming facility complies with all requirements of this Code, the Compact and IGRA and applicable regulations. In addition, the Commission shall consider whether issuance of the license is inimical to public health, safety, or welfare and whether issuance of the license will undermine public trust that the Band's gaming operations are free from criminal and dishonest elements and would be conducted honestly. A license may not be issued by the Commission, unless, based on all information and documents submitted, the Commission is satisfied that the applicant is entitled to a certificate of occupancy and meets all other criteria for a facility license.

Section 805 Issuance of Facility License; Notice to State and NIGC; Posting

(a) The Commission shall consider all facility license applications within 60 days of receipt of a complete application and within thirty days of the hearing held pursuant to Section 804.

(b) Upon a finding that the facility license application meets all of the requirements in Section 804, the Commission shall issue the license. Each license shall state the name of the Band, the name, address and telephone number of the Gaming Commission, the name and address of the gaming facility, the type of gaming allowed in the facility, the effective date and expiration date. The license shall also bear the signature of the Chair of the Gaming Commission.

(c) The Commission shall provide a copy of the facility license and any renewal to

the State Gaming Agency and the NIGC.

(d) A copy of the facility license shall be posted in a conspicuous and public place in the gaming facility at all times.

Section 806 Conditions of the Facility License

The facility license issued under this Code shall be subject to such reasonable conditions as the Commission shall fix, including, but not limited to, the following:

(a) The licensee shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises;

(b) The licensed premises shall be subject to patrol by the tribal officials, BIA law enforcement officers or other law enforcement agencies authorized under law, and the licensee shall cooperate at all times with such law enforcement officers;

(c) The licensed premises shall be open to inspection by duly authorized tribal officials, officials of the National Indian Gaming Commission, and authorized state inspectors upon presentation of proper identification, at all times during the regular business hours;

(d) The licensee shall comply with all provisions of IGRA, the Compact, this Code, and any regulations issued pursuant to those laws;

(e) Licensee shall not allow any person who receives any compensation, directly or indirectly, for the operation of a class III game, to play any class III game at the facility where the person is compensated. Licensee shall not allow any person who, without payment, assists in the operation of any class III game of chance conducted by the operator, to play in any game conducted by the operator within 24 hours after the time said person did so assist; and

(f) Licensee shall notify the Commission of all contracts between the gaming operation and finance sources, gaming resource suppliers and non-gaming resource suppliers, including the nature of the contract and the amount, and shall advise all such contractors and potential contractors of the licensing requirements in this Code.

Section 807 Assignment or Transfer

No facility license shall be assigned or transferred without the written approval of the Commission and the Tribal Council, both expressed by formal resolution.

Section 808 Cancellation and Suspension

The licensee must have, and exercise, complete control over the premises being used for

gaming at all times said games are being played. The licensee, manager and employees shall be legally responsible for any violation of the Code. Any license issued hereunder may be canceled by the Commission for the breach of any of the provisions of this Code or of the tribal license, upon hearing before the Commission, after ten days notice of the claimed breach to the licensee. If the Band is the licensee, notice shall be served on the highest ranking primary management official of the gaming operation. The time and place of the hearing shall be posted in the Tribal Administrative Building and, if time permits, in a local newspaper serving the Reservation. The licensee, manager, their attorney and any person affected by the license shall have the right to be present and to offer sworn oral or documentary evidence relevant to the breach charged. A license may be suspended during the ten-day period by a majority vote of the Commission at a meeting at which a quorum is present.

**CHAPTER 9: LICENSING OF KEY EMPLOYEES,
PRIMARY MANAGEMENT PERSONNEL, PERSONS WITH
FINANCIAL INTERESTS IN MANAGEMENT CONTRACT AND
GAMING RESOURCE SUPPLIERS AND NON-GAMING RESOURCE SUPPLIERS**

Section 901 License Required

(a) The Commission shall ensure that the policies and procedures set out in this section are implemented with respect to all persons or entities subject to a background investigation and requiring a license, pursuant to IGRA or the Compact. Those required to obtain a license under this section are:

- (1) All primary management officials and key employees of any gaming facility on the Reservation;
- (2) Class II gaming employees;
- (3) Class III gaming employees;
- (4) All other employees;
- (5) All persons or entities with a financial interest in or having a management responsibility for a class III management contract and any other person having significant influence over the gaming operation;
- (6) Any gaming resource supplier who, directly or indirectly, provides, has provided, or is deemed likely to provide, at least twenty-five thousand dollars (\$25,000) in gaming resources in any 12-month period, or who has received at least twenty-five thousand dollars (\$25,000) in any consecutive 12-month period within the 24-month period immediately preceding

application, shall be licensed by the Gaming Commission prior to the sale, lease, or distribution of any such gaming resources to or in connection with the gaming operation or gaming facility.

- (7) Financial sources. "Financial Source" means any person extending financing, directly or indirectly, to the Band's gaming facility or gaming operation for class III gaming activity. A financial source shall be licensed prior to extending financing. A gaming resource supplier who provides financing exclusively in connection with the sale or lease of gaming resources obtained from the supplier may be licensed solely in accordance with licensing procedures applicable, if at all, to gaming resource suppliers. The Commission may, at its discretion, exclude from the licensing requirements of this section, financing provided by a federally regulated or state regulated bank, savings and loan, or other federally or state regulated lending institution; or any agency of the federal, state or local government; or any investor who, along or in conjunction with others, holds less than 10% of any outstanding indebtedness evidenced by bonds issued by the Tribe; and
- (8) Non-gaming resource suppliers, to the extent required by the Commission.

(b) No employee of the gaming operation may work without a valid temporary or permanent gaming license. The maintenance of a valid gaming license is legally required and a condition of continued employment or contractual relationship with the gaming operation. The validity of a gaming license is conditioned on compliance by the licensee with the requirements of this Code and any rules and regulations issued pursuant to its provisions.

(c) Nothing herein shall create a property or other right of an applicant in an opportunity to be licensed, or in a license itself, both of which shall be considered to be privileges granted to the applicant in the sole discretion of the Gaming Commission.

Section 902 License Fees

The initial license application fee and renewal application fee shall be set by the Commission by regulations approved by the Tribal Council.

Section 903 Suitability Standard

In reviewing an application for a gaming license, the Commission shall consider whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that the Band's gaming operations, or tribal government generally, are free from criminal and dishonest elements, and would be conducted honestly. A license may not be issued by the Commission, unless based on all information and documents

submitted, the Commission is satisfied that the applicant is all of the following, in addition to any other criteria in IGRA or this Code:

- (1) A person of good character, honesty and integrity;
- (2) A person whose prior activities, criminal record (if any), reputation, habits, and associations do not pose a threat to the public interest or to the effective regulation and control of gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gambling, or in the carrying on of the business and financial arrangements incidental thereto; and
- (3) A person who is in all other respects qualified to be licensed as provided in this Code, IGRA, the Compact, as to class III licenses, and any other criteria adopted by the Commission or the Band. Unless required under federal law, an applicant shall not be found to be unsuitable solely on the ground that the applicant was an employee of a tribal gaming operation in California that was conducted prior to the effective date of the Compact.

Section 904 License Eligibility Criteria

At a minimum, no one shall be issued a license by the Commission if he or she:

- (a) Is under the age of 21;
- (b) Has been convicted of or entered a plea of guilty or no contest to a felony in a federal, tribal or state court;
- (c) Has, within ten years of the date of the application, been convicted of or entered a plea of guilty or no contest to any misdemeanor involving dishonesty or moral turpitude, unless the applicant has been pardoned for the offense, been permitted to withdraw a plea of guilty or no contest, the court has set aside the verdict, or the record of conviction was sealed by the court because the applicant was a minor;
- (d) Has been found to have participated in organized crime activities or associated with participants in organized crime activities;
- (e) Supplies materially false or misleading information, or who has omitted material information in connection with the requirements of this Chapter.

Section 905 Application for License

- (a) Each applicant for a gaming license shall, prior to commencing employment or

providing goods or services to the gaming operation, fill out an application for a tribal license to be provided by the Commission. Each such application shall have printed on it the following notices:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et. seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a Band or the National Indian Gaming Commission in connection with hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a Band or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Band's being unable to hire you in a primary management official or key employee position.

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

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

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

(c) The Commission shall require from all applicants for a gaming license all of the following information:

- (1) Full name, other name used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (2) Currently and for the previous five years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
- (3) The names and current addresses of at least three personal references,

including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (c)(2) of this section;

- (4) Current business and residence telephone numbers;
- (5) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (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 for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition, if any;
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten years of the date of the application, the name and address of the court involved 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 years of the date of the application and is not otherwise listed pursuant to paragraphs (8) or (9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- (11) 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 was granted;
- (12) A current photograph;
- (13) Three sets of fingerprints, if made on paper fingerprint cards, or the number of fingerprints required for on-line computer fingerprint systems. Fingerprints shall be taken by the Gaming Commission to the extent permitted under federal law, or otherwise by the Riverside County Sheriff's Department. If the Commission takes fingerprints on paper

fingerprint cards, Commission staff shall be provided adequate training, and certification if required, from a law enforcement agency for taking such fingerprints. The National Indian Gaming Commission shall be the identified authorized entity that will process the fingerprint cards or fingerprints data through the Federal Bureau of Investigation; and

(14) Any other information the Commission deems relevant.

(d) For applicants who are business entities, these licensing provisions shall apply to the entity as well as (i) each of its officers and directors; (ii) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, and general manager, (iii) each of its owners or partners, if an unincorporated business; (iv) each of its shareholders who owns more than 10 percent of the shares of the corporation, if a corporation; and (v) each person or entity (other than a financial institution that the Commission has determined does not require a license) that, alone or in combination with others, has provided financing in connection with any gaming authorized under this Title, if that person or entity provided more than 10 percent of (a) the start-up capital, (b) the operating capital over a 12-month period, or (c) a combination thereof. For purposes of this section, where there is any commonality of the characteristics identified in clauses (i) to (v), inclusive, between any two or more entities, those entities may be deemed to be a single entity.

(e) An applicant for a tribal class III gaming license, a gaming resource supplier or a financial source license shall be required to provide releases to the State Gaming Agency to make available to the Commission background information regarding the applicant. The Commission shall provide sufficient safeguards to assure the State Gaming Agency that the information provided will remain confidential.

(f) The Commission shall cooperate with the State Gaming Agency to develop standard licensing forms for tribal gaming license applicants that reduce or eliminate duplicative or excessive paperwork, which forms and procedures shall take into account the Band's requirements under IGRA and the expense thereof.

Section 906 Processing Tribal Gaming License Applications

(a) Each applicant for a tribal gaming license shall submit the completed application along with the required information and application fee to the Commission in accordance with this Code and the rules and regulations of the Commission.

(b) With the exception of non-key employees, as defined by an agreement between the Commission and the State Gaming Agency, the Commission shall require applicants for licenses (including license renewals) for class III gaming employees, gaming resource suppliers and finance sources to also file an application with the State Gaming Agency prior to issuance of a temporary or permanent Tribal gaming license, for a determination of suitability for licensure

by the State Gaming Agency under the California Gambling Control Act. Upon request by the State Gaming Agency, the Commission shall provide additional information to assist the State Gaming Agency in its background investigation in accordance with Section 6.5.6 of the Compact. Applicants for licenses requiring state certification shall be advised that the State Gaming Agency may assess additional fees for its background investigation and that failure to pay such fees may be grounds for denial by the State Gaming Agency.

Section 907 Background Investigation

(a) The Commission shall conduct, or cause to be conducted, an investigation sufficient to make a determination under Section 908 of this Code, and to fulfill all requirements for licensing under IGRA, this Code and the Compact, where applicable. The Commission shall perform background investigations and issue licenses for all applicants for a gaming license according to requirements that are at least as stringent as those in 25 CFR Parts 556 and 558. If the applicant satisfies a background investigation conducted by the NIGC within the last six months of applying to the Commission, such investigation shall suffice for purposes of this subsection (a).

(b) The Commission shall employ qualified tribal investigators who shall be responsible for reviewing and verifying background information and criminal history reports. Individuals employed as gaming inspectors may serve as tribal investigators under this Section.

(c) Procedures for Conducting Background Investigations.

- (1) Information Verification. Tribal investigators shall review the required information provided by an applicant for a gaming license and shall:
 - a. Verify the applicant's name, place of birth, date of birth and citizenship by requiring the applicant to provide items such as a birth certificate, social security card or passport;
 - b. Confirm the applicant's business and employment positions held and ownership interests in those businesses currently and for the past five years by attempting to contact through written letter, telephone calls or personal visits to past employers listed in the application and through ownership documentation such as copies of tax returns;
 - c. Obtain the applicant's driving record by using the applicant's driving license number to contact the department of motor vehicles in the state where the license was issued;
 - d. Ascertain character information about the applicant by contacting

personal references identified in the application;

- e. Inquire into any existing or previous business relationships the applicant has had with Indian tribes or the gaming industry, including the scope of those relationships, by contacting respectively the tribes or entities identified in the application;
- f. Verify the applicant's history and status with any licensing agency by contacting those agencies listed in the application and the National Indian Gaming Commission;
- g. Obtain information regarding any past felonies, misdemeanor convictions or criminal charges within the last ten years by contacting state, city, county and tribal courts, and state, local and tribal police departments in the applicant's area of residence. This review of the applicant's criminal history shall include a check, through the NIGC, of the criminal history records information maintained by the Federal Bureau of Investigation; and
- h. Obtain and verify any other information the Commission deems relevant to complete a thorough background investigation.

(d) Once the tribal investigator has verified the accuracy of the information contained in the application, the tribal investigator shall analyze the information and determine whether further investigation is warranted. If an analysis of the information reveals problem areas such as an applicant's criminal activities, finances or character, the tribal investigator shall broaden the scope of the investigation on such problem areas.

(e) The tribal investigator shall prepare an investigative report which shall contain the following:

- (1) A description of the steps taken in conducting the background investigation by a checklist of procedures completed;
- (2) An explanation of the results obtained including describing any exceptions or negative information and additional steps taken to examine any exceptions or negative information; and
- (3) A statement as to the conclusions reached, whether positive or negative, and the basis or justification for such conclusion. Where exceptions, areas of concern or negative information were obtained, the conclusions and the justifications for the conclusions shall be included in the investigative report.

(f) In conducting the investigation, the Commission or its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation. Any costs of such investigation shall be paid by the applicant.

(g) The Commission, on its own or through staff, shall review and, if it is adequate, approve the background investigation conducted and report prepared on such investigation pursuant to Section 907(c)-(e).

(h) To ensure that the Commission may be considered an entity entitled to receive state summary criminal history information within the meaning of subdivision (b)(12) of section 11105 of the California Penal Code, Article 6 (commencing with section 11140) of Chapter 1 of Title 1 of Part 4 of the California Penal Code shall be applicable to members, investigators, and staff of the Commission, and those members, investigators and staff shall comply with the requirements set forth therein. The Commission shall take such action as it deems reasonably necessary to qualify for the receipt of services from the California Law Enforcement Telecommunications System (CLETS).

Section 908 Determination of Suitability

The Commission shall make a determination of suitability regarding each license applicant based on its review of the investigative report prepared by the tribal investigator and any other information the Commission deems relevant. Such determination shall be based on the standards for suitability in Section 903 and the eligibility criteria in Section 904.

Section 909 Temporary Licensing of Gaming Employees

If an applicant has completed a license application satisfactory to the Commission and the Commission has conducted a preliminary background investigation, and the investigation or other information held by the Commission does not indicate that the applicant has a criminal history or other information in his or her background that would either automatically disqualify the applicant from obtaining a license or cause a reasonable person to investigate further before issuing a license, or is otherwise unsuitable for licensing, the Commission may issue, subject to the requirements this Code, a temporary license and may impose such specific conditions thereon as it, in its sole discretion shall determine. The Commission may require special fees to issue or maintain a temporary license. A temporary license shall remain in effect until a final determination is made on the application by the Commission or until it is suspended or revoked for some other reason.

Section 910 Procedures for Forwarding Applications and Reports to the National Indian Gaming Commission and State Gaming Agency

(a) Upon issuance of a temporary gaming license to a key employee or a primary management official, the Commission shall forward to the NIGC a completed license application. Upon completion of a background investigation and determination of suitability, and within 60 days after granting a temporary gaming license, the Commission shall forward the investigation report to the NIGC. The investigative report shall include a description of the steps taken in conducting the background investigation, the results obtained, the conclusions reached, the bases for those conclusions and the Commission's suitability determination. The temporary license of a key employee or primary management official shall be suspended if the Commission has not issued the applicant a license within 90 days of granting the temporary license.

(b) Upon receipt of a completed license application from an applicant for a class III gaming license or for a license as a gaming resource supplier or a financial source and determination by the Commission that it intends to issue a temporary license, the Commission shall transmit to the State Gaming Agency a notice of intent to issue a license to the applicant, together with the following: (1) a copy of all tribal license application materials and information received by the Commission from the applicant; (2) an original set of fingerprint cards; (3) a current photograph; and (4) except to the extent waived by the State Gaming Agency, such releases of information, waivers, and other completed and executed forms as have been obtained by the Commission.

(c) If a license is not issued to an applicant for a key employee or primary management official, the Commission shall notify the NIGC and may forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

(d) The Commission shall retain applications for licensing and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his designee for no less than three years from the date of termination of employment.

Section 911 Granting or Denying a Gaming License

(a) If, within a 30-day period after the NIGC receives a report from the Commission, pursuant to Section 910, the NIGC notifies the Commission that it has no objection to the issuance of a license to the applicant for a key employee or primary management official, the Commission may issue a license to such applicant.

(b) The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a key employee or a primary management official who is the subject of a report forwarded to the NIGC pursuant to Section 910. Such a request shall suspend the 30-day period under subsection (a) of this section until the Chairman of the NIGC receives

the additional information.

(c) If, within the 30-day period described above, the NIGC provides the Commission with a statement itemizing objections to the issuance of a license to a key employee or a primary management official for whom the Commission has provided an application and investigative report to the NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such applicant.

(d) The Commission shall decline to issue a permanent license, or renewal thereof, to any person whose application to the State Gaming Agency for a determination of suitability, or for a renewal of such a determination, has been denied or has expired without renewal.

(e) Notwithstanding paragraph (d) above, the Commission may, if authorized under federal law, issue a gaming license to a person whose application for a determination of suitability, or for a renewal of such a determination, has been denied by the State Gaming Agency if, either the person is an enrolled citizen of the Band, as defined herein, or the person has been in the continuous employ of the Band for at least three years prior to July 6, 2000; and if (i) the person holds a valid and current gaming license issued by the Commission, (ii) the denial of the application by the State Gaming Agency is based solely on activities, conduct or associations that antedate the filing of the person's initial application to the State Gaming Agency for a determination of suitability, and (iii) the person is not an employee or agent of any other gaming operation. For purposes of this paragraph, "enrolled citizen" means a person who is either a person certified by the Tribal Council as having been a citizen of the Band for at least five years or a holder of confirmation of citizenship issued by the Bureau of Indian Affairs.

(f) Except as otherwise provided in this Code, the decision of the Commission granting or denying a gaming license shall be final and not subject to appeal.

Section 912 Duration of License; Renewal

(a) Each license issued by the Commission shall be effective for a period of two years.

(b) At least 180 days prior to expiration of the license, the licensee shall submit an application for renewal on forms prepared by the Commission. The Commission may require applications for renewal to only update the information provided in the original or previous renewal license application. The Commission shall conduct a review to determine that each licensee continues to meet the standards under this Code. As a part of such review, the Commission shall conduct a background investigation related to the period since the license to be renewed was granted and any other period the Commission deems necessary. If the Commission finds that the licensee continues to meet the standards, it shall renew the license for an additional two years, provided, however, that prior to renewing a license for a person or entity who must be

licensed pursuant to the Compact, the Commission shall deliver to the State Gaming Agency copies of all information and documents received in connection with the application for renewal. Also, the Commission shall require the applicant to apply for renewal of a determination of suitability by the State Gaming Agency at such time as the licensee applies for renewal of the Band's gaming license. Notice of any such renewal of application shall be forwarded to the NIGC and State Gaming Agency.

Section 913 Background Investigation During Term of License

At the Commission's discretion, an additional background investigation may be required at any time of the Commission determines the need for further information concerning the applicant's continuing suitability or eligibility for a license.

Section 914 License Suspension and Revocation

(a) If after issuance of a permanent license under this chapter the Commission determines that the continued licensing of the person or entity could constitute a threat to the public health or safety or that the licensee is unsuitable or otherwise unqualified for a gaming license, or the Commission receives from the NIGC or an appropriate law enforcement department reliable written information indicating that a key employee or a primary management official is not eligible for licensure, the Commission shall summarily suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation, and the time and place for a hearing on the proposed revocation of the license.

(b) If after issuance of a permanent license under this chapter the Commission receives notice that the State Gaming Agency has determined that a person would be unsuitable for licensure in a gaming establishment subject to the jurisdiction of the State Gaming Agency, the Commission shall suspend such license and, after notice and hearing, revoke the license. The Commission may, in its discretion, re-issue a license to the person following entry of a final judgment reversing the determination of the State Gaming Agency in a proceeding in state court conducted pursuant to section 1085 of the California Civil Code.

(c) The gaming operation shall not enter into, or continue to make payments pursuant to, any contract or agreement for the provision of gaming resources requiring state certification with any person whose application to the State Gaming Agency for a determination of suitability has been denied or has expired without renewal. Any agreement between the gaming operation and a gaming resource supplier shall be deemed to include a provision for its termination without further liability on the part of the gaming operation, except for bona fide repayment of all outstanding sums (exclusive of interest) owed as of, or payment for services or materials received up to, the date of termination, upon revocation or non-renewal of the gaming resource supplier's license by the Commission based on a determination of unsuitability by the State Gaming Agency.

(d) The gaming operation or the Band shall not enter into, or continue to make payments pursuant to, any contract or agreement for class III gaming activity with any person whose application to the State Gaming Agency for a determination of suitability has been denied or expired without renewal. Any agreement between the gaming operation or the Band and a financial source providing financing for class III gaming activity shall be deemed to include a provision for its termination without further liability on the part of the gaming operation or the Band, except for bona fide repayment of all outstanding sums (exclusive of interest) owed as of the date of termination, upon revocation or non-renewal of the financial source's license by the Commission based on a determination of unsuitability by the State Gaming Agency.

(e) Upon suspension of the license under this section, the Commission shall notify the licensee in writing of the suspension and proposed revocation. Such suspension shall not extend beyond ten days without a hearing.

(f) The Commission shall notify the licensee of the time and place of the hearing. At the hearing, the licensee shall have the right to be present, be represented by counsel at the licensee's own expense, to review all evidence before the Commission on the application, and to present additional oral or documentary evidence in support of the application. The decision of the Commission shall be in writing, and shall be rendered within five business days of the conclusion of the hearing.

(g) After a revocation hearing, the Commission shall determine, based on the evidence presented at the hearing, whether to revoke or reinstate the license. If the licensee continues to meet the standards of this chapter, the license shall be reinstated. If not, the license shall be revoked. The Commission shall notify the NIGC of its decision. The decision of the Commission may be appealed to Tribal Court.

Section 915 Reapplication After Denial or Revocation

A person or entity whose application for a license has been denied or whose existing license has been revoked shall be eligible to reapply for a license one year or more after the license denial or revocation.

Section 916 Identification Cards

(a) All persons who are required to be licensed under this Code shall wear, in plain view at all times while in the gaming facility, identification badges issued by the Commission. Identification badges must display information including, but not limited to, a photograph and an identification number that is adequate to enable agents of the Commission to readily identify the person and determine the validity and date of expiration of his or her license.

(b) The Commission shall provide the State Gaming Agency on a monthly basis with the name, badge identification number, and job descriptions of all class III gaming employees

who are not key employees.

Section 917 Information from Licensees

During the term of a license the Commission may require, by regulation, that licensees provide the Commission with information necessary to implement and enforce this Code, including but not limited to, information about changes of ownership of business entities, arrests, convictions, involvement in civil litigation and financial information, so long as such requirements are not prohibited by law.

CHAPTER 10: MONITORING AND OVERSIGHT

Section 1001 Inspection by Gaming Commission

(a) Gaming inspectors of the Commission and Commission members shall monitor on an on-going basis all gaming and other activities and facilities subject to this Code, IGRA, the Compact and applicable regulations. Such monitoring shall include but not be limited to announced and unannounced daily, weekly, monthly and annual reviews and audits. The Commission shall investigate any potential violations reported to it by third parties or discovered in the course of its monitoring activities and require any corrective action it deems necessary and bring other enforcement action authorized under this Code or its regulations.

(b) Gaming inspectors of the Commission and Commission members shall have the right to gain access without notice during normal hours of operation, to all premises used for the operation of class II and class III games of chance on the Reservation and otherwise subject to this Code, and may inspect all premises, equipment, records, documents or items related thereto.

Section 1002 Access by State to Gaming Facility and Records of Gaming Operation

The State Gaming Agency shall have the right to inspect the gaming facility with respect to class III gaming activity and gaming operation records related to class III gaming activity, subject to the following conditions:

(a) With respect to public areas, at any time during normal business hours without prior notice upon presentation of proper identification;

(b) With respect to private areas not accessible to the public, at any time during normal business hours upon notification of the Commission of an authorized State Gaming Agency inspector's presence, presentation of proper identification, and request for access, whereupon the state inspector is to be accompanied by a Commission gaming inspector. The Commission shall designate such personnel who shall be available at all times for those purposes and shall ensure that such personnel have the ability to gain immediate access to all non-public

areas of the gaming facility;

(c) With respect to inspection and copying of all tribal records relating to class III gaming, upon notice to the Commission, during the normal hours of the gaming facility's business office, provided that the inspection and copying of those papers, books, or records shall not interfere with the normal functioning of the gaming operation or facility. Pursuant to Section 7.4.3(a) of the Compact, all information and records that the State Gaming Agency obtains, inspects, or copies pursuant to the Compact shall be, and remain, the property solely of the Band, provided that such records and copies may be retained by the State Gaming Agency as reasonably necessary for completion of any investigation of the Band's compliance with the Compact. The State Gaming Agency shall be not denied access to papers, books, records, equipment, or places where such access is reasonably necessary to ensure compliance with the Compact; and

(d) The Commission is authorized to confer and agree upon protocols with the State Gaming Agency for the release to other law enforcement agencies information obtained during the course of background investigations.

Section 1003 Report of Violations to State

The Commission shall report significant or continued violations of the Compact or failures to comply with its orders to the State Gaming Agency.

CHAPTER 11: RULES AND REGULATIONS FOR THE OPERATION AND MANAGEMENT OF THE TRIBAL GAMING OPERATION

Section 1101 Adoption of Regulations for Operation and Management

(a) The Commission shall promulgate, at a minimum, rules and regulations or specifications governing the following and shall ensure their enforcement in an effective manner:

(1) Minimum internal control standards that satisfy the requirements of 25 CFR Part 542;

(2) The enforcement of all relevant laws and rules with respect to the gaming operation and gaming facility, and the conduct of investigations and hearings with respect thereto, and to any other subject within its jurisdiction;

(3) Ensuring the physical safety of gaming operation patrons, employees and any other person while in the gaming facility;

(4) The physical safeguarding of assets transported to, within, and from the gaming facility;

(5) The prevention of illegal activity from occurring within the gaming facility or with regard to the gaming operation, including, but not limited to, the maintenance of employee procedures and a surveillance system as provided under the Compact and this Code;

(6) The recording of any and all occurrences within the gaming facility that deviate from normal operating policies and procedures (hereafter "incidents"). The procedure for recording incidents shall: (i) specify that security personnel record all incidents, regardless of an employee's determination that the incident may be immaterial (all incidents shall be identified in writing); (ii) require the assignment of a sequential number to each report; (iii) provide for permanent reporting in indelible ink in a bound notebook from which pages cannot be removed and in which entries are made on each side of each page; and (iv) require that each report include, at a minimum, all of the following:

- a. The record number;
- b. The date;
- c. The time;
- d. The location of the incident;
- e. A detailed description of the incident;
- f. The persons involved in the incident; and
- g. The security department employee assigned to the incident.

(7) The establishment of employee procedures designed to permit detection of any irregularities, theft, cheating, fraud, or the like, consistent with industry practices.

(8) Maintenance of a list of persons barred from the gaming facility who, because of their past behavior, criminal history, or association with persons or organizations, pose a threat to the integrity of the gaming activities of the Band or to the integrity of regulated gaming within the State of California.

(9) As required by Section 504, the conduct of an audit of the gaming operation, not less than annually, by an independent certified public accountant, in accordance with the auditing and accounting standards for audits of casinos of the American Institute of Certified Public Accountants.

(10) Submission to, and prior approval by the Commission of the rules and regulations of each class II and class III game to be operated by the Band, and of any changes in those rules and regulations. No class III game may be played that has not received Commission

approval.

(11) Maintenance of a copy of the rules, regulations and procedures for each game as played, including, but not limited to, the method of play and the odds and method of determining amounts paid to winners.

(12) Specifications and standards to ensure that information regarding the method of play, odds, and payoff determinations shall be visibly displayed or available to patrons in written form in the gaming facility.

(13) Specifications ensuring that betting limits applicable to any gaming station shall be displayed at that gaming station.

(14) Procedures ensuring that in the event of a patron dispute over the application of any gaming rule or regulation, the matter shall be handled in accordance with industry practice and principles of fairness, pursuant to this Code.

(15) Maintenance of a closed-circuit television surveillance system, consistent with industry standards for gaming facilities of the type and scale operated by the Band, which system shall be approved by, and may not be modified without the approval of, the Commission. The Commission shall have current copies of the gaming facility floor plan and closed-circuit television system at all times, and any modifications thereof shall be approved by the Commission.

(16) Maintenance of a cashier's cage in accordance with industry standards for such facilities.

(17) Specifications of minimum staff and supervisory requirements for each gaming activity to be conducted.

(18) Technical standards and specifications for the operation of gaming devices and other games authorized under the Compact to be conducted by the Band, which technical specifications may be no less stringent than those approved by a recognized gaming testing laboratory in the gaming industry.

(19) The acquisition, maintenance through the payment of license fees, and disposal of gaming device licenses pursuant to Sections 4.3 and 5.0 of the Compact.

(b) The Commission's rules, regulations, standards and specifications shall conform to the requirements of Section 8.4.1 of the Compact.

Section 1102 Transportation of Gaming Devices

(a) The Commission shall not permit any gaming device to be transported to or from the Band's lands except in accordance with procedures established by agreement between the State Gaming Agency and the Commission and upon at least ten-days notice to the Riverside County Sheriff's Department.

(b) Pursuant to Section 7.4.5(b) of the Compact, transportation of a gaming device from an Indian gaming facility within California is permissible only if (i) the final destination of the device is a gaming facility of any Indian tribe in California that has a compact with the State; (ii) the final destination of the device is any other state in which possession of the device or devices is made lawful by state law or by tribal-state compact; (iii) the final destination of the device is another country, or any state or province of another country, wherein possession of the device is lawful; or (iv) the final destination is a location within California for testing, repair, maintenance, or storage by a person or entity that has been licensed by the Commission and has been found suitable for licensure by the State Gaming Agency. Gaming devices transported off the Band's land in violation of this section and Section 7.4.5 of the Compact are subject to the enforcement provisions of Section 7.4.5 of the Compact.

Section 1103 Prohibition Regarding Minors

(a) Persons under the age of 18 years are not permitted in any room in which class III gaming activities are being conducted unless the person is en-route to a non-gaming area of the class III gaming facility.

(b) Persons under the age of 21 years are prohibited from being present in any area in which class III gaming activities are being conducted and in which alcoholic beverages may be consumed, to the extent required by tribal and state law.

Section 1104 Accounting Standards

The accounting standards of American Institute of Certified Public Accountants are hereby adopted and incorporated into this Code.

CHAPTER 12: PATRON DISPUTES

Section 1201 Patron Disputes

Whenever a patron of the gaming facility disputes the resolution of a conflict by the management of the gaming facility or its employee(s), whether such dispute concerns payment of alleged winnings to a patron or other matters, and the management and the patron are unable to resolve the dispute to the satisfaction of the patron, the management shall inform the patron of

his/her right to request that the Commission conduct an investigation. The Commission shall conduct whatever investigation it deems necessary and shall determine what resolution of the dispute shall be made.

Section 1202 Notice to Patrons

Within 30 days after the date that the Gaming Commission first receives notification from the management of a request to conduct an investigation, or a request directly from a patron, the Gaming Commission shall mail written notice by certified mail, return receipt requested, to the management and to the patron setting forth the decision resolving the dispute.

Section 1203 Effective Date of Decision

The decision of the Commission shall be effective on the date it is received by the patron, as reflected on the return receipt.

Section 1204 Request for Hearing

Within ten days after the date of receipt of the written decision of the Commission, the aggrieved patron may file a written request with the Commission asking for a hearing concerning the decision. The Commission shall then set a hearing on the matter to be held within 14 days of the receipt of such written request. Any written documentation, or names of witnesses to be called, must be provided to the Commission at least seven days prior to the hearing date. The Commission shall then issue a written decision within seven days of the hearing, and shall mail a copy to the patron. The decision of the Commission may be appealed to Tribal Court.

CHAPTER 13: CIVIL PENALTIES

Section 1301 Civil Penalties

(a) Any person or entity who violates any term or condition of this Code, any regulation of the Gaming Commission, or any license issued pursuant to this Code may be assessed a civil penalty by the Gaming Commission. Such penalty may be assessed only after the person or entity has been given notice and an opportunity to be heard before the Gaming Commission. Each violation shall be treated separately and may be assessed as a separate violation. A decision assessing a civil penalty pursuant to this section may be appealed to the Tribal Court.

(b) The penalty assessed, pursuant to paragraph (a) above, shall not exceed \$5,000 per violation or twice the amount of any prize awarded in a gaming activity, which is directly associated with the violation, whichever is greater.

CHAPTER 14: MISCELLANEOUS

Section 1401 Severability

In the event that any section or provision of this Code is held invalid, the remaining sections or provisions shall continue in full force and effect.

Section 1402 Agent

For purposes of service under 25 CFR § 519.1 the Chairperson of the Augustine Band of Mission Indians shall be deemed the agent. Such service shall be delivered to 84481 Avenue 54, Coachella, CA 92236.

Section 1403 Amendments

(a) All regulations promulgated by the Commission are subject to proper revision, repeal, or amendment by the Tribal Council. The Commission may initiate and shall advise the Tribal Council on all proposed amendments to this Code.

(b) The Tribal Council shall approve, by majority vote in quorum, any such revision, repeal, or amendment of this Code.

(c) Within 15 days after adoption by the Tribal Council, pursuant to 25 CFR § 522.3, the Commission shall submit for the NIGC's approval, any amendment of this Code.

Section 1404 Repeal of Previous Enactments

All previous enactments of the Tribal Council inconsistent with this Code, including the Class II Gaming Ordinance adopted on January 17, 1997, are hereby repealed.