



January 5, 2011

Via U.S. Mail and Facsimile

Stephen Parsons, Tribal Council Speaker
Little River Band of Ottawa Indians
375 River Street
Manistee, MI 49660
FAX: (231) 398-0674

Kimberly McGrath, Legislative Attorney
Little River Band of Ottawa Indians
375 River Street
Manistee, MI 49660

RE: Little River Band of Ottawa Indians Gaming Ordinance No.10-400-01

Dear Mr. Parsons and Ms. McGrath:

This letter responds to your request on behalf of the Little River Band of Ottawa Indians for the National Indian Gaming Commission to review and approve the Band's amendments to its gaming ordinance.

The amendments to the gaming ordinance were adopted by Tribal Council Resolution No. 10-1006-330. The amended gaming ordinance includes the following revisions:

- Adds definitions for technologies that have become commonplace such as ATM and cash counters;
- Requires facility licenses to be renewed biennially rather than annually;
- Requires gaming facilities to certify compliance with Title 31 of the U.S. Code (Bank Secrecy Act);
- Provides for the licensing of Tribal government officials who are appointed to the oversight board for gaming operations.
- Provides a list of employee positions and others prohibited from gaming in the Tribe's facilities.

Thank you for bringing these amendments to our attention and for providing us a copy of the updated ordinance. The ordinance is approved as it is consistent with the

requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions, please contact Staff Attorney Jennifer Ward at (202) 632-7003.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tracie L. Stevens".

Tracie L. Stevens
Chairwoman



Little River Band of Ottawa Indians

375 River Street
Manistee, MI 49660
(231) 723-8288

OCT 12 2010

Resolution # 10-1006-330

*Adoption of Gaming Ordinance, Ordinance Number 10-400-01 and
Authorization for Legislative Attorney to Submit
to National Indian Gaming Commission for Review and Approval*

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; and

WHEREAS, the legislative powers of the Little River Band are vested in the Tribal Council at Article IV, Section 7 of the Constitution; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) of the Constitution to enact ordinances and adopt resolutions to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members and to govern the conduct of members of the Little River Band and other persons within its jurisdiction; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(f) of the Constitution to create by ordinance regulatory commissions or subordinate organizations and to delegate to such organizations the power to manage the affairs and enterprises of the Little River Band; and

WHEREAS, the Tribal Council adopted the Gaming Ordinance, Ordinance #02-400-01, to regulate the gaming enterprises of the Tribe and authorize and preemptively regulate the terms and conditions under which gaming may be conducted on the lands of the Tribe; and

WHEREAS, Section 2710 of the Indian Gaming Regulatory Act requires that a Tribe adopt and submit its Gaming Ordinance to the Chairperson of the National Indian Gaming Commission for review and approval; and

WHEREAS, Tribal Council adopted a revised Gaming Ordinance, Ordinance Number 07-400-01, by Resolution Number 07-0912-494, which would have been effective upon approval by the National Indian Gaming Commission; and

WHEREAS, the National Indian Gaming Commission reviewed Ordinance Number 07-400-01 and made recommendations to the Tribal Council for further revisions; and

WHEREAS, Tribal Council has worked diligently on a new draft of the Gaming Ordinance which incorporates the recommendations received by the National Indian Gaming Commission and also amends other substantive provisions of the Ordinance; and

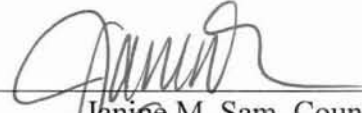
WHEREAS, the amendments to the Gaming Ordinance, Ordinance #10-400-10, were posted for public comment from July 28, 2010 to August 27, 2010; public comments were received and reviewed by Tribal Council at a final work session held on September 22, 2010.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby adopts, under authority of the Little River Band of Ottawa Indians Constitution, Gaming Ordinance #10-400-10, which Ordinance shall be effective after approval by the National Indian Gaming Commission.

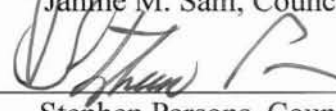
IT IS FURTHER RESOLVED THAT the Tribal Council authorizes Legislative Counsel to submit Gaming Ordinance #10-400-10 to the National Indian Gaming Commission for review and approval in accordance with the Indian Gaming Regulatory Act.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 6 FOR, 2 AGAINST, 0 ABSTAINING, and 1 ABSENT at a regular session of the Little River Band of Ottawa Indians Tribal Council held on October 6, 2010, at the Little River Band's Dome Room in Manistee, Michigan, with a quorum being present for such vote.



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Court
Gaming Commission
LRCR General Manager

GAMING ORDINANCE
Ordinance # 10-400-01

Article I. Purpose; Findings

1.01. *Purpose.* The Little River Band of Ottawa Indians, acting through its Tribal Council in the exercise of its inherent sovereign power to enact ordinances, regulate the commercial enterprises of the Tribe, and otherwise safeguard and provide for the health, safety, and welfare of the members of the Tribe, hereby establishes this Ordinance for the purpose of authorizing and comprehensively and preemptively regulating the terms and conditions under which Class II and Class III gaming may be conducted on the lands of the Tribe.

1.02. *Findings.* The Tribal Council of the Little River Band of Ottawa Indians finds that:

a. The Constitution of the Little River Band of Ottawa Indians delegates to the Tribal Council the responsibility to “...exercise the inherent powers of the Little River Band of Ottawa Indians by establishing laws through the enactment of ordinances and adoption of resolutions not inconsistent with this Constitution:

1. to govern the conduct of members of the Little River Band of Ottawa Indians and other persons within its jurisdiction.

2. to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band of Ottawa Indians and its members[.]”

Article IV, Section 7(a).

b. The Constitution delegates to the Tribal Council the power and responsibility to manage all Tribal funds and direct how those funds may be used; Article IV, Section 7(i)(2).

c. Article V, Section 4(a)(8), authorizes the Tribal Ogema to manage the economic affairs, enterprises, property and other interests of the Tribe, consistent with ordinances and resolutions enacted by the Tribal Council.

Article II. Adoption; Amendment; Repeal; Severability

2.01. *Adoption.* This ordinance is adopted by the Tribal Council through:

a. Resolution # 97-0115-01 which adopted the original ordinance;

b. Resolution # 99-0325-01 which re-codified and amended the ordinance;

c. Resolution # 00-1218-01 which further amended the ordinance; and

d. Resolution # 02-0508-08 which repealed ordinance # 97-400-01 and replaced it with ordinance # 02-400-01.

e. Resolution # 05-0323-121 which deleted references to management contractors, and made numbering clarifications among other amendments.

f. Resolution #07-0912-494 which repealed Gaming Ordinance #02-400-01 and adopted Gaming Ordinance #07-400-01, amending the ordinance to clarify and define gaming and non-gaming activities arising out of the growth of the gaming enterprise effective upon receipt of approval by the National Indian Gaming Commission.

g. Resolution #10-1006-330, correcting technical deficiencies identified by the National Indian Gaming Commission among other amendments, renumbering the ordinance, and

authorizing resubmission to the National Indian Gaming Commission.

h. Resolution #10-____ -____, acknowledging receipt of approval of the National Indian Gaming Commission and providing that the Ordinance is effective as of _____.

2.02. *Amendment*. This Ordinance may be amended from time to time in accordance with the procedures set forth in the in the Administrative Procedures Act – Ordinance.

2.03 *Repeal*. This Ordinance may be repealed in accordance with the procedures set forth in the administrative Procedures Act – Ordinance.

2.04 *Short Title*. This Ordinance may be cited as the Gaming Ordinance.

2.05. *Severability*. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Article III. Definitions

3.01. *General*. In this ordinance, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings. The word “shall” is always mandatory and not merely advisory.

3.02. *Automated teller machines* means machines that dispense currency prompted by a customer’s own credit or debit card that are not affixed to any gaming device and are not considered gaming devices.

3.03. *Class I Gaming* means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, Tribal ceremonies or celebrations.

3.04. *Class II Gaming* shall mean Class II gaming as defined in IGRA.

3.05. *Class III Gaming* means all forms of gaming that are not Class I gaming or Class II gaming

3.06. *Coin sorter* and/or *Cash counter* is mechanical equipment the purpose of which is to count and display the value of coin or currency.

3.07. *Compact* shall mean a Tribal-State Compact concerning Class III gaming approved or deemed approved by the Secretary of the Interior and published in the Federal Register pursuant to 25 U.S.C. §2710(d).

3.08. *Complimentary Service or Item* means a service or item provided at no cost or at a reduced cost to a customer.

3.09. *Employee* means any individual employed by a gaming enterprise. Employees may be either gaming employees or non-gaming employees.

3.10. *Gaming employee* means a Key Employee or Primary Management Official, and includes individuals employed in one of the following capacities:

- a. the person(s) having management responsibility for a management contract;
- b. any person who has authority to hire and fire employees;
- c. any person who has authority to set up working policy for a gaming activity in the gaming enterprise;
- d. the chief financial officer or other person who has financial management responsibility;
- e. any person whose job description falls within the following areas: finance; information

technology; security; gaming operations; and marketing.

f. if not otherwise included, any person whose total cash compensation is in excess of \$50,000.

3.11. *Gaming* means Class II and Class III gaming authorized by this Ordinance, the Compact, and as may be further authorized under IGRA.

3.12. *Gaming Activities* means a process, action, or procedure that touches on gaming, on the presentation of a game or on interactive gaming devices aimed at the general public, and includes, by way of example and not limitation, table games, slot machines, cash handling derived from gaming, vault, security, accounting systems, and information systems.

3.13. *Gaming employee license* means a license issued to a gaming employee, including individuals hired by or contracted within an employment position with the gaming enterprise. Gaming employee licenses are classified as Primary Management Official licenses and Key employee licenses.

3.14. *Gaming Enterprise* shall mean any commercial enterprise of the Tribe authorized to engage in gaming, and all ancillary commercial activities within the gaming (facility(ies) and other improvements constructed for the conduct of gaming

3.15. *Gaming device* shall mean a microprocessor-controlled electronic device which allows a player to play games of chance, some of which are affected by skill, which device is activated by the insertion of a coin, currency, tokens, tickets, or by the use of credit, and which awards game credits, cash tokens, replays or a receipt that can be redeemed by the player. For any of the foregoing, the game play may be displayed by video facsimile or mechanical rotating reels whereby the software of the device predetermines the stop positions and the presence, or lack thereof, of a winning combination and payout, if any.

3.16. *Gaming equipment or supplies* shall mean any equipment or mechanical, electromechanical or electronic contrivance, component or machine used in connection with gaming; any game that would not otherwise be classified as a gaming device, including, but not limited to, dice and playing cards; equipment which affects the proper reporting of gaming revenue; computerized systems for monitoring gaming devices; and devices for weighing or counting money.

3.17. *Gaming Facility* shall mean the building, buildings, or structures, wherein gaming is permitted, performed, conducted, or operated, and associated or adjacent real property owned by the Tribe.

3.18. *Gaming rules* means the Tribal laws and regulations and federal laws and regulations regarding gaming activities, including by way of example the Gaming Ordinance, the Compact, and the Indian Gaming Regulatory Act.

3.19. *Gaming Service* means any goods or services which directly relate to the conduct of gaming, security, or surveillance at a gaming enterprise, including without limitation, providers of casino credit reporting services, casino surveillance systems or services, and suppliers, service providers or repairers of any gaming equipment or supplies, computerized gaming monitoring systems, drop boxes, bill exchangers, and credit voucher machines. No contract may be broken up into parts for the purpose of avoiding this definition or any requirement of licensure or certification required by this Ordinance.

3.20. *Gaming Vendors* shall mean any vendors providing gaming services or concessions,

gaming equipment or supplies.

3.21. *General Manager* means the highest level employee of the gaming enterprise.

3.22. *IGRA* shall mean the Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2701 et seq, as amended from time to time.

3.23. *Immediate family* means, with respect to the person under consideration, persons residing in the same household.

3.24. *Key employee* shall mean any employee that is:

a. not required to have a Primary Management Official license; and

b. any employee not issued a Non-Gaming employee license.

3.25. *License* shall mean any official and revocable authorization granted for a limited period of time by the regulatory agency pursuant to this Ordinance to an applicant to conduct business or employment in any gaming facility. There are three types of licenses: facility license, vendor license, and employee license.

3.26. *National Indian Gaming Commission* shall mean the Commission established pursuant to IGRA.

3.27. *Net Revenues* shall mean gross gaming revenues of an Indian gaming operation less --

a. Amounts paid out as, or paid for, prizes; and

b. Total gaming-related operating expenses, excluding management fees.

3.28. *Non-gaming employee* means an individual not required to be licensed as a Key employee or Primary Management Official as approved by the regulatory agency.

3.29. *Non-Gaming Vendor* means any vendor providing goods and services to the gaming enterprise, other than gaming services or gaming equipment and supplies, in any given twelve month period.

3.30. *Primary Management Official* shall mean an employee who meets the following qualifications:

a. Any person who has authority:

1. To hire and fire employees; or

2. To set up working policy for any gaming activity; or

b. The chief financial officer or other person who has financial management responsibility.

c. Any person having management responsibility for a management contract.

3.31. *Primary management official license* means a license issued to a Primary Management Official, including individuals hired by or contracted within an employment position with the gaming enterprise.

3.32. *Regulatory Agency* shall mean the Little River Band of Ottawa Indians Gaming Commission, created by Ordinance Number 04-400-04, or such other Gaming regulatory body created by Ordinance.

3.33. *Indian Lands* means all lands now or in the future held in trust by the United States for the benefit of the Tribe acquired by or for the Tribe, or such other lands upon which gaming may lawfully be conducted pursuant to IGRA.

3.34. *Secretary* shall mean the Secretary of the United States Department of the Interior or his/her designee.

3.35. *Service Vendor* shall mean any vendor providing goods, services or concessions to any gaming enterprise, other than gaming services or gaming equipment and supplies, in an amount less than \$50,000.00 in any given twelve month period.

3.36. *State* shall mean the State of Michigan.

3.37. *Tribal Court* shall mean the Tribal Court and Tribal Court of Appeals of the Little River Band of Ottawa Indians and all other tribal judicial forums now or hereinafter established by the Tribe.

3.38. *Tribe* shall mean the Little River Band of Ottawa Indians.

3.39. *Vendor* means a person or business entity selling goods, concessions, or services to a gaming enterprise.

3.40. *Tribal Member* shall mean an individual enrolled in the Little River Band of Ottawa Indians.

Article IV. Classes of Gaming Authorized

4.01. *Class II Gaming Authorized.* Class II gaming is hereby authorized.

4.02. *Class III Gaming Authorized.* Class III gaming is also authorized.

4.03. *Class II and/or Class III License Required.* Class II and Class III gaming authorized by this Ordinance shall be conducted only by persons or entities which have obtained a valid gaming facility license issued by the regulatory agency pursuant to criteria set forth in this Ordinance and regulations adopted pursuant to and consistent with this Ordinance.

4.04. *Gaming Age Minimum.* No person under age 21 may gamble in a gaming enterprise authorized under this Ordinance.

Article V. Tribal Ownership Required

5.01. *Sole Proprietary Interest Required.* The Tribe shall have the sole proprietary interest in, and responsibility for, the conduct of any gaming enterprises authorized by this ordinance.

5.02. *Private/Individual Ownership Prohibited.* No individual, partnership, corporation or entity of any kind shall own in whole or in part any Class II or Class III gaming enterprise authorized or regulated by this Ordinance.

5.03. *Management Contracts Authorized.* Nothing in this ordinance shall preclude the Tribe from entering into management contracts as authorized under IGRA.

Article VI. Use of Gaming Revenue

6.01. *Permitted Uses.* Net revenues from Class II and Class III gaming shall be used only for the following purposes:

- a. to fund tribal government operations and programs;
- b. to provide for the general welfare of the Tribe and its members;
- c. to promote tribal economic development;
- d. to donate to charitable organizations;
- e. to help fund operations of local governmental agencies.

Article VII. Audit Required; Report to National Indian Gaming Commission

7.01. *Annual Audit.* The regulatory agency shall conduct or have conducted an independent audit of all gaming enterprises on an annual basis and shall submit the resulting audit reports to the Tribal Council and the National Indian Gaming Commission.

7.02. *Audit to Include Contracts for Gaming Services, Equipment or Supplies.* All contracts for gaming services, gaming equipment or supplies shall be specifically included within the scope of the audit, provided, that the regulatory agency or the Tribal Council may require that contracts for gaming services, gaming equipment or supplies which are less than \$25,000.00 annually be included in the scope of the audit if inclusion is deemed necessary to protect the public interest in the integrity of the operation of the gaming enterprise.

7.03. *Record-keeping Requirements.* Each gaming enterprise conducting Class II or Class III gaming shall keep accounting records on a double entry system of accounting, maintaining detailed, supporting, and subsidiary records which can be identified to each gaming facility. Gaming enterprises subject to this provision shall maintain the following records for not less than five years:

- a. Revenues, expenses, assets, liabilities and equity for the location at which Class II or Class III gaming is conducted;
- b. Daily cash transactions for each Class II or Class III game at the location at which gaming is conducted, including but not limited to transactions relating to each gaming table bank, game drop box and gaming room bank;
- c. All markers, IOUs, returned checks, hold checks or other similar credit instruments;
- d. Individual and statistical game records (except card games) to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;
- e. Contracts, correspondence and other transaction documents relating to all vendors;
- f. Records of all gaming enforcement activities;
- g. Audits prepared by or on behalf of the Tribe; and
- h. Personnel information on all employees, including rotation sheets, hours worked, employee profiles and background checks.

Article VIII. Licensing

8.01. *Licenses Required.* The regulatory agency, consistent with IGRA, the Compact, and this Ordinance, shall ensure that the following minimum groups are licensed. Provided that, the regulatory agency may develop additional licensing requirements or background information requirements within regulations that meet or exceed the requirements set forth in IGRA, the Compact or this Ordinance.

- a. Gaming facilities.
- b. Employees of a gaming enterprise.
- c. Vendors.

8.02. *Gaming Facility.* No person shall conduct Class II or Class III gaming within the jurisdiction of the Tribe unless such gaming is conducted at a facility licensed by the regulatory

agency as set forth in Article IX.

8.03. *Employees of a Gaming Enterprise.* No person shall be employed in any gaming enterprise in any capacity, including but not limited to consultants, independent contractors, and contracted employees, within the jurisdiction of the Tribe unless licensed by the regulatory agency as set forth in Article X.

8.04. *Vendor.* No vendor shall contract with any gaming enterprise within the jurisdiction of the Tribe unless licensed by the regulatory agency in accordance with Article XI.

8.05. *Temporary Licenses.* The regulatory agency shall issue regulations that authorize the use of temporary licenses. Temporary licenses shall only be issued to an applicant after the completion of an application for a license and following a preliminary review period, during which time the regulatory agency shall perform a credit check and a background check. Temporary licenses shall be valid for no longer than thirty (30) days from the date of issuance. A temporary license may be rescinded prior to the conclusion of the thirty (30) day period if the applicant has been determined unsuitable for licensure under applicable gaming rules. Notice of rescission of a temporary license shall be presented to the applicant and the gaming enterprise.

Article IX. Gaming Facility Licenses

9.01. *License Required.* As set forth in Section 8.02, no person shall conduct Class II or Class III gaming activities within the jurisdiction of the Tribe unless such gaming activity is conducted at a gaming facility licensed by the regulatory agency. No license may be issued for any gaming facility that is owned or operated by any person other than the Tribe. If a gaming activity is proposed in more than one building at the site of any gaming enterprise, a separate gaming facility license shall be required for each building or location where Class II or Class III gaming is conducted under this ordinance.

9.02. *Types of Licenses.* The Tribe may issue each of the following types of gaming facility licenses.

a. *Class II Operations in a Gaming Facility.* This license shall be required of all gaming enterprises operating one or more Class II gaming activities in each gaming facility.

b. *Class III Operations in a Gaming Facility.* This license shall be required for all gaming enterprises operating any gaming other than Class I or Class II gaming in each gaming facility. A Class III gaming license includes the operation of Class I or Class II gaming when so noted on the license application and on the issued license.

9.03. *Gaming Facility Application Procedures.* In order to obtain a gaming facility license, the gaming enterprise requesting such license shall submit an application on the form provided by the regulatory agency. The applicant shall include all of the following information:

a. A description of the gaming activity proposed, including, but not limited to:

1. the type of gaming proposed, along with all instructions, procedures, internal controls, and other documents related to the proposed gaming;
2. the maximum number and types of gaming equipment and gaming devices expected to be in the gaming facility at any one time;
3. the number and types of gaming equipment and gaming devices expected to be in use when the gaming facility first opens; and

- 4. the days and hours of operation proposed.
- b. A description of the gaming facility proposed, including the layout of the gaming equipment and gaming devices and the surveillance systems within the gaming facility.
- c. The location proposed for such gaming facility.
- d. A description of the security, police, fire protection, environmental, health, safety, and other public safety services to be available in the proposed gaming facility and to the patrons of such gaming facility.
- e. A description of the accounting procedures as required in Section 7.03 in each gaming facility.
- f. The name, address, title, and a job description which includes the duties and responsibilities of each employee who will be employed at the proposed gaming facility.

9.04. *Threshold Criteria Which a Gaming Facility Must Meet.* In addition to the information required in the gaming facility license application, any applicant for a Class II or Class III gaming facility license must provide documentation that the gaming enterprise and proposed gaming facility will meet the following threshold criteria:

- a. The proposed gaming facility is to be located on Indian lands, and if the lands are acquired after October, 17, 1988, they must be eligible for gaming under a specific provision of 25 U.S.C. § 2719.
- b. The proposed gaming activity is to be played as Class II or Class III gaming as defined by this Ordinance and IGRA.
- c. The gaming enterprise and proposed gaming facility is authorized by a Tribal Council resolution.
- d. The Tribe or one of its subdivisions will have the sole proprietary interest and the Tribe will have the exclusive responsibility for the conduct of any gaming activity.
- e. The Tribal Council resolution authorizing the gaming enterprise and proposed gaming facility provides that:
 - 1. The revenues of the gaming enterprise shall be audited annually and copies of those audits will be provided to the regulatory agency, Tribal Council and the National Indian Gaming Commission.
 - 2. The gaming enterprise shall comply with all Internal Revenue Service reporting and filing requirements.
 - 3. All of the net revenues of the gaming enterprise shall be used for the purposes stated in Article VI.
 - 4. All gaming and non-gaming vendor contracts shall be subject to the annual audit.
 - 5. The construction or maintenance of the gaming facility and the operation of the proposed gaming facility shall be conducted in a manner that adequately protects the environment health and safety of the general public or employees.
 - 6. Any management contract between the Tribe and a principal has been approved by the Tribal Council and the National Indian Gaming Commission.
 - 7. The gaming enterprise shall pay to the National Indian Gaming Commission such fees as federal law may require.

8. In the event that Class III Gaming is proposed, such gaming meets all other criteria established by the Compact, federal and tribal laws and regulations.
9. The gaming enterprise shall comply with Tribal, Federal and State revenue laws relating to gaming and non-gaming activities and shall collect, report and remit all taxes required under such laws.
10. The gaming enterprise shall comply with the duties imposed upon casinos by Title 31 of the United States Code.

9.05. *Gaming Facility License Application Procedures.*

- a. Upon receipt of a complete application for a gaming facility license for any Class II or Class III gaming facility, the regulatory agency shall:
 1. Review the proposed gaming facility application to ensure that all threshold criteria required by this ordinance shall be met.
 2. Ensure that all employees of the gaming enterprise possess a valid and current employee license.
 3. Ensure that the gaming enterprise has provided the regulatory agency with a list of all individuals employed by the gaming enterprise.
 4. Review and approve the accounting procedures to be used in the gaming enterprise, or as may be necessary at the gaming facility if more than one gaming facility is licensed by the regulatory agency.
 5. Review and approve the layout of the games and surveillance systems for the gaming facility, including any instructions, procedures, internal controls or other documents related to the layout of games and any instructions, policies, procedures, internal controls or other documents related to surveillance systems.
 6. Review and approve the plan for the protection of public safety and the physical security of patrons of the gaming facility.
 7. Review all aspects of the proposed gaming facility to ensure that it will be in compliance with the provisions of the Compact, federal and tribal laws and regulations.
- b. The regulatory agency shall approve the gaming facility application within forty-five (45) days following the receipt of a complete application unless the regulatory agency believes, based upon reasonable evidence, that gaming will be operated at the proposed gaming facility in violation of tribal, federal or other applicable law or the terms and conditions of the Compact.
- c. If the regulatory agency denies an application for a gaming facility license, the regulatory agency shall promptly notify the applicant of the specific reasons for such denial and a description of any corrective actions which the regulatory agency determines will cure the deficiencies which resulted in denial of the application.

9.06. *License Application Fees.* The license application and renewal fee shall be as set forth in the Gross Gaming Revenue Tax Ordinance.

9.07. *Terms of License.* A Class II and Class III gaming facility license shall be valid for a period of twenty-four (24) months from the date of issuance.

9.08. *Posting of Licenses.* The gaming facility license must be posted in a conspicuous location at

all times on the premises of each gaming facility. If the gaming enterprise conducts gaming at more than one location, the gaming enterprise must obtain and post a separate license for each gaming facility.

9.09. *Gaming Facility License Renewals.*

- a. Each gaming facility license must be renewed biennially. A renewal fee shall be required for each Class II or Class III gaming facility license in accordance with the Section 9.06.
- b. In order to obtain a renewal of a license, the gaming enterprise shall submit a written renewal application to the regulatory agency on the form provided by the regulatory agency. No renewal application shall be approved until the Annual Reports required by Section 9.10 have been filed.
- c. All renewal applications submitted shall be approved within forty-five (45) days or less unless the regulatory agency believes, based on reasonable evidence, that the gaming enterprise has been or will be operated in violation of tribal, federal or other applicable law or the terms and conditions of the Compact.
- d. If the regulatory agency denies a renewal application for a gaming facility license, the regulatory agency shall, within seven calendar days, notify the applicant of the specific reasons for such denial and a description of any corrective actions that the regulatory agency determines will cure the deficiencies which resulted in denial of the application.

9.10. *Annual Reports.* Each gaming enterprise which possesses a Class II or Class III gaming facility license must file an Annual Report with the regulatory agency and the Tribal Council between the 15th and the last day of June of each year which shall include, at a minimum, the following information:

- a. The name, address and telephone number of the gaming enterprise and gaming facility;
- b. The names, addresses and titles of all of the current general managers of the gaming enterprise and at each gaming facility;
- c. A description of the gaming activities of the gaming enterprise for each gaming facility, including, but not limited to:
 1. the number and type of games and gaming devices operated which shall include all Class II gaming activities expected to be conducted by the gaming enterprise;
 2. the number of days and hours of operation; and
 3. the total gross sales during the reporting period(s).
- d. A written copy of any changes anticipated or proposed in the gaming activities of the gaming enterprise for each gaming facility, including any changes in its instructions, procedures, policies, internal controls, rules, health, environmental, public safety/security plan, layout of the games or surveillance systems, or other documents related to activities in the gaming facility or of the gaming enterprise;
- e. The name, address, title, and a job description that includes the duties and responsibilities of each employee of the gaming enterprise at each gaming facility;
- f. The name and addresses of the person who will be designated as a contact person for service of process, notice and other official correspondence from the regulatory agency over the next license period for each gaming facility;

- g. A statement of any changes in the duties or designation of the primary management officials and key employees who will operate the gaming enterprise over the next license period;
- h. A sworn statement that the gaming enterprise has complied with all federal and tribal laws relating to the health, safety and welfare of the public and employees along with copies of any controlling policies;
- h. Written proof that the gaming enterprise has paid to the National Indian Gaming Commission such fees as federal law may require it to pay and will continue to do so;
- i. A sworn statement that the gaming enterprise has complied with the Internal Revenue Codes and regulations, including written notice of customer winnings, and a statement that the gaming enterprise shall continue to obey all tribal and federal laws and shall hold the regulatory agency and the Tribe harmless for failure to do so;
- j. A verified copy of the last annual audited financial report following the end of the gaming enterprise's last fiscal year;
- k. The number of full-time equivalent people, on an annualized basis, employed by the gaming enterprise at each gaming facility during the past twelve (12) months, together with a projection of the number of full-time equivalent people who are expected to be employed during the next license period;
- l. The total gross revenue of the gaming enterprise attributable directly or indirectly to gaming activity over the preceding twelve (12) months;
- m. A sworn statement that the gaming enterprise and all of its employees continue to consent to Tribal Court jurisdiction and service of process in all matters arising from the conduct of gaming activity. The required sworn statement shall be provided based on the consent given by applicants as per Section 10.04(p).
- n. A sworn statement that the gaming enterprise has complied with the Bank Secrecy Act of the United States Code.

Article X. Employee Licensing

10.01. *General - Types of Employees; License Requirements.* There are two categories of employees at a gaming enterprise - non-gaming and gaming. Individuals under the age of 21 may be hired only in a non-gaming employee capacity

10.02 *Non-Gaming Employees.* All persons who are not gaming employees but are employed by at any gaming facility, must obtain a non-gaming license from the regulatory agency before commencing employment. Such licenses may be issued upon a determination by the regulatory agency that the employee is not a threat to the effective regulation of gaming and creates no risk or enhances no danger of unfair or illegal practices, methods or activities in the conduct of gaming. All applicants for a non-gaming license shall provide such information that the regulatory agency requires under this Ordinance.

- a. *General.* An applicant for a non-gaming employee license may be approved upon a determination by the regulatory agency that the individual will not create a risk of injury or loss to the person or property of guests of the gaming enterprise or the assets of the gaming enterprise and that the individual is not a threat to the effective regulation of

gaming activities, including the absence of all disqualifying circumstances described in subsection (b) below. In reaching its determination, the regulatory agency will consider the criminal history, habits and reputation of the applicant in light of the particular position the applicant is applying for.

b. *Specific Disqualifying Circumstances.* An applicant shall not be eligible for a non-gaming employee license if the application or background investigation confirms that the applicant:

1. Is under the age of (18); or
2. Has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, or to an adult felony charge of theft, fraud, or misrepresentation within the preceding three (3) years, except if that person has been pardoned by the Governor of the State where the conviction occurred or, if a tribal member, the regulatory agency has determined that the person has been rehabilitated, and is not likely to engage in future criminal or offensive actions; or
3. Has been convicted of or entered a plea of guilty or no contest to any criminal offense involving threats or acts of violence where the individual was charged as an adult, within the immediately preceding three (3) years; except if that person has been pardoned by the Governor of the State where the conviction occurred or, if a tribal member, the regulatory agency has determined that the person has been rehabilitated, and is not likely to engage in future criminal or offensive actions; or
4. Has been convicted of participating in organized crime or unlawful gambling; or
5. Has knowingly and willfully provided materially false and misleading statements or information to the regulatory agency or has refused to respond to questions asked by the regulatory agency specifically related to the person's eligibility to obtain or retain a license; or
6. Has been convicted of any offense related to criminal sexual conduct where the perpetrator was convicted as an adult at the time the crime was committed, and/or is registered in any jurisdiction's list of sexual offenders.

c. *Non-Gaming Employees Clearly Distinguishable.* Non-Gaming employees shall be clearly identifiable and distinguished from gaming employees by badges.

10.03. *Gaming Employees.* Employees of the gaming enterprise who perform gaming activities as part of their defined job descriptions are considered gaming employees.

a. *General.* Gaming employees may be transferred, promoted, or otherwise moved to a non-gaming employee position in accordance with the gaming enterprise's employment policies. Upon acceptance of the position and on no later than his or her first day of employment as a non-gaming employee, the gaming employee shall be required to relinquish his or her gaming license to the regulatory agency and obtain a non-gaming license. The gaming enterprise shall be required to maintain a list of gaming employees, their positions, and a copy of all job descriptions on file with the regulatory agency. Voluntary relinquishment of a gaming license will not preclude the regulatory agency from addressing license issues that occurred during the time the licensee held a gaming

license.

b. *Specific Disqualifying Circumstances.* The regulatory agency shall not grant a license to any applicant for a gaming employee license who:

1. Is a member of the Tribal Council, the Ogema, a Judge or Appellate Judge on the Tribal Court, the prosecutor or a law enforcement officer of the Tribe. This subsection shall not apply to members of the Tribal Council or a Tribal Ogema sitting on a Gaming Enterprise Board of Directors or any subsequent Board established by Tribal law to provide oversight to a Gaming Enterprise.
2. Is under the age of 21; or
3. Has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, fraud or misrepresentation. The terms “fraud or misrepresentation” shall mean a criminal offense committed in Michigan or any other jurisdiction, involving theft, fraud or misrepresentation, which is a felony or would be a felony if committed in Michigan, and which was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from the employee's criminal record by executive pardon, state court order, or operation of law; or
4. Has been convicted of or entered a plea of guilty or no contest to any offense not specified in paragraph (3) within the immediately preceding five years; this provision shall not apply if that person has been pardoned by the Governor of the State where the conviction occurred or, if a Tribal member, has been determined by the regulatory agency to be a person who is not likely again to engage in any offensive or criminal course of conduct and the public good does not require that the applicant be denied a gaming employee license. The term “any offense” shall mean any criminal offense not described in paragraph (3), whether committed in Michigan or any other jurisdiction, that is, or would be, a crime under the provisions of the Michigan Penal Code, Act 328 of the Public Acts of 1931, as amended, or the controlled substances provisions of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended or any other criminal offense not included within the scope of paragraph (3); or
5. Is determined by the regulatory agency to have participated in organized crime or unlawful gambling or whose prior activities, criminal records, reputation, habits, and/or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or to the carrying on of the business and financial arrangements incidental to the conduct of gaming; or
6. Has knowingly and willfully provided materially false and misleading statements or information to the regulatory agency or refused to respond to questions asked by the regulatory agency specifically related to the person's eligibility to obtain or retain a license; or
7. Has been convicted of any offense related to sexual crimes or criminal sexual

conduct where the perpetrator was convicted as an adult at the time the crime was committed, and/or is registered in any jurisdiction's list of sexual offenders; or

10.04. *Application for an Employee License.* The regulatory agency shall require each potential employee to submit an application to the regulatory agency on the form and in the manner required by the regulatory agency. The application shall clearly identify whether the applicant is applying for a gaming or non-gaming license. The application shall include all of the following information:

- a. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, and all languages (spoken or written);
- b. Currently and for the previous five years:
 1. business and employment positions held,
 2. ownership interests in those businesses,
 3. business and residence addresses; and
 4. driver's license numbers;
- c. The names and current addresses of at least three personal references;
- d. Current business and residence telephone numbers;
- e. A description of any existing and previous gaming or other business relationships with any Indian tribe;
- f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- g. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, the current status of the application, and whether or not such license or permit was granted.
- h. A list of all felony charges and dispositions against the applicant, if any, and for each felony for which there is ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any.
- i. A list of all misdemeanor charges and dispositions against the applicant, if any, (excluding traffic violations for which incarceration was not a possible punishment), and for each misdemeanor conviction or ongoing misdemeanor prosecution within 10 years of the date of the application, the name and address of the court involved and the date and disposition, if any
- j. For each criminal charge, whether or not there is a conviction, if such criminal charge was within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (h) or (i) of this section, the criminal charge, the name and address of the court involved, and the date and disposition;
- k. The name and address of any licensing or regulatory agency with which the person has filed an application for a business or occupational license or permit, whether or not such license or permit was granted;
- l. Two current photographs;
- m. A list of all professional or business licenses the applicant has applied for, whether or not those licenses were granted and the name, address and phone number of the regulatory agency involved;

- n. A sworn statement that to the best of his knowledge the applicant or any member of his immediate family does not have a past or current financial interest, other than a salary interest, in any gaming enterprise anywhere. If the applicant has an immediate family member or member of his or her household who has such a relationship, the applicant shall fully disclose his name and the nature of the relationship;
- o. Written permission giving the regulatory agency the right to investigate the applicant's background, including his criminal records, civil and criminal judgments and credit history;
- p. Each application shall be accompanied by a sworn statement that the applicant will submit to the jurisdiction of the Tribe and the Tribal Court, if employed;
- q. For all applications for licenses for all employees, fingerprints obtained on fingerprint impression cards taken by the regulatory agency, Tribal law enforcement agency, or the Federal Bureau of Investigation, consistent with procedures adopted by the regulatory agency according to 25 C.F.R. 522.2(h);
- r. Other information required by the regulatory agency rules or regulations.
- s. For all applications for licenses for general managers or other primary management officials, a complete financial statement and/or income tax records showing all sources of income for the previous three years, and assets, liabilities, and net worth as of the date of the application.

10.05. *Application Forms - Notices.*

- a. *Privacy Act Notice.* The following notice shall be placed on the application form for an employee license so that it can be read before that form is filled out by an applicant:
“In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a license. The information will be used by the Tribe’s regulatory agency and the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you in a primary management official or key employee or non-gaming 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. *False Statements Notice.* The following notice shall be placed on the application form for a gaming employee license so that it can be read before that form is filled out by an applicant:
“A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or

imprisonment (U.S. Code, title 18, section 1001).”

10.06. *Burden of Proof on Employee License Applicants.* It is the determination of the Tribe that the public interest in the integrity of gaming is such that the burden of proof to establish fitness or eligibility to obtain or maintain a gaming employee license shall be upon the applicant or licensee, as the case may be.

10.07. *Background Investigation.* The regulatory agency shall conduct, or cause to be conducted, an investigation sufficient to make a determination under this Article of all employee license applicants. In conducting a background investigation, the regulatory agency shall keep confidential the identity of each person interviewed in the course of the investigation and shall maintain in a confidential manner the information obtained. Such information may be released to the Tribal Court in the event of an appeal of a licensing decision. The background investigation shall consist of at least the following:

- a. The regulatory agency shall contact each reference provided in the application and verify the accuracy of the other information presented and prepare a report of their findings for the regulatory agency.
- b. The criminal background of each applicant for a license shall be investigated by obtaining information concerning the applicant from law enforcement where the applicant has resided and submitting impressions of the applicant's fingerprints, taken under Section 10.04 (q), to the Federal Bureau of Investigation Criminal Information Center, and any other law enforcement agency(ies) that the regulatory agency deems appropriate, requesting a criminal history report. The vital information which may be provided to identify the applicant may include: the applicant's full name, any other names used by the applicant, date and place of birth, citizenship, driver's license numbers, social security number, and a physical description.
- c. With respect to applicants for a Primary Management Official's application for a gaming employee license, the regulatory agency shall also investigate and verify the accuracy of financial information provided by the applicant by contacting banks, other financial institutions or other sources as deemed necessary. The regulatory agency shall also obtain a credit bureau report on the applicant which will be updated annually.
- d. The regulatory agency shall attempt to complete the background investigation described in this section within 30 days following receipt of a complete application.
- e. The regulatory agency may contract with private, municipal, state, and/or federal investigation agencies to perform the required background and/or criminal history investigations.

10.08. *Eligibility Determination.* The regulatory agency shall review a person's prior activities, criminal records, if any, reputation, habits, and associations to make a finding concerning the eligibility of an applicant to receive an employee license. If the regulatory agency determines that employment of, or contract with, a person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, it will not grant that individual a license.

10.09. *Action on Applications for an Employee License*

- a. Within 15 days following the completion of the background investigation(s) described

in this Article, the regulatory agency shall review the application, the results of background investigation, the criminal history reports, and financial report, if required, to determine if the applicant qualifies for the license applied for.

b. If the regulatory agency determines that an applicant qualifies on a preliminary basis pursuant to Section 8.05 for the issuance of a license, then the regulatory agency may issue a temporary license to the applicant. A temporary license shall not be valid for more than 30 (thirty) days from the date of issuance.

c. Before issuing a license to a Primary Management Official or to a Key employee, the regulatory agency shall forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

1. Steps taken in conducting a background investigation;
2. Results obtained;
3. Conclusions reached; and
4. The basis for those conclusions.

The regulatory agency shall submit, with the investigative report, a copy of the regulatory agency's eligibility determination and notify the National Indian Gaming Commission of the regulatory agency's intention to issue the applicant a license and request that the agency review the application and investigative report pursuant to IGRA.

d. The regulatory agency may grant final approval of a license application submitted under this subsection only after any of the following has occurred:

1. The regulatory agency has received notice from the National Indian Gaming Commission that it has no objection to the issuance of the license; or
2. Thirty days have elapsed since the National Indian Gaming Commission was notified of the regulatory agency's intent to issue the license and the National Indian Gaming Commission has not responded; or
3. The National Indian Gaming Commission timely objected to the issuance of the license, the regulatory agency has reconsidered the application in light of the objections received and has determined that the applicant may be licensed notwithstanding those objections.

e. The regulatory agency shall promptly notify the applicant that the application is approved and shall issue the employee license. If a temporary license was previously issued, the effective date of the license shall be the date the temporary license was issued.

f. The gaming enterprise shall not employ as an employee a person who has not received either a temporary or a regular employee license.

g. If the regulatory agency denies an application for a license under this Article, the regulatory agency shall, within seven calendar days, notify the applicant that the application was denied and specify the reasons, including information concerning any criminal conviction(s), which prompted the denial. The notice to each applicant shall also inform the applicant of the applicant's right to request a hearing and appeal provided in Article XII.

h. If a license is not issued to an applicant, the regulatory agency:

1. Shall notify the National Indian Gaming Commission;
 2. May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System; and
 3. Shall notify the gaming enterprise.
- i. With respect to employees, the regulatory agency shall retain reports (if any) of background investigations for inspection by the National Indian Gaming Commission or his or her designee for no less than five years from the date of termination of employment or denial of a license.
- 10.10. *Licensing Period.* Any employee's license issued pursuant to this Article, other than a temporary license, shall be effective for a period of one year from the date of issuance and shall contain the licensee's photograph and shall state on its face the name of the employee, the gaming facility at which the employee is licensed to work, the type of license, the date that the license became effective and the date that it expires.
- 10.11. *Renewals.* It is the responsibility of holders of an employee licenses to file renewal applications in accordance with the regulatory agency's notifications and regulations. A holder of an employee license shall apply to the regulatory agency for a renewal before the current license has expired as directed by the regulatory agency and is required to update all information contained in the original and any subsequent renewal application(s). Notification will be sent to the gaming enterprise upon completion of the renewal process. Under all circumstances, an employee is required to obtain a valid license prior to the expiration of any current license.
- 10.12. *Requirement to Produce License Upon Request.* Any person receiving an employee license must carry that license upon his or her person during all working hours and must produce that license upon request.

Article XI. Vendor License

11.01. *General - Types of Licenses.* All vendors contracting with the gaming enterprise are required to be licensed. These licenses shall be broken into the following categories – gaming vendors, non-gaming vendors, and service vendors. The regulatory agency shall be required to develop a vendor license inquiry form which would tend to identify the type of license required and cause to be forwarded an application for that license to the vendor.

11.02. *Service Vendor Permits.* Vendors contemplating less than \$50,000 of business with the gaming enterprise and who enter into contracts not related to a gaming service or gaming equipment or supplies, are required to maintain a service vendor permit. The regulatory agency shall define processes in regulations which set forth how the amount of business conducted with the gaming enterprise will be calculated. The regulatory agency shall create application forms which tend to identify appropriate levels of information from which to issue a service vendor permit.

11.03. *Non-Gaming Vendors License.* Vendors contemplating \$50,000 or greater of business with the gaming enterprise during the fiscal year, and who enter into contracts not related to a gaming service or gaming equipment or supplies, are required to maintain a non-gaming vendor's license. Non-gaming vendors shall be required to fill out the same form required for a gaming vendor's license, provided that, the regulatory agency shall clearly identify the level of background

investigation that will be conducted. The regulatory agency may identify specific exceptions to the background investigation for vendors which conduct business activities in highly regulated areas such that the presentation of a permit, license or other document is sufficient to identify that a background investigation is unnecessary; provided that, the qualifications for any exceptions shall be clearly identified in regulations.

11.04. *Gaming Vendors License.* Vendors contemplating any business with the gaming enterprise that contains any element, which includes the supply of gaming services, equipment, or supplies regardless of value or proportion of the contract, are required to maintain a gaming vendor's license. The regulatory agency shall identify appropriate levels of information and releases necessary to assure the integrity of the vendor in supplying gaming services or gaming equipment or supplies.

Article XII. Denial/Suspension/Revocation of License; Right to Appeal

12.01. *Applicability.* This Article shall apply to the denial, suspension or revocation of any license issued by the regulatory agency under Article X or XI of this Ordinance, except actions taken under Section 11.02.

12.02. *Hearing upon Denial of License.* Any applicant who is denied a license applied for under this Ordinance may request a hearing before the regulatory agency by written request submitted within fourteen (14) days following receipt of notice of the action by the regulatory agency.

a. Within 21 days following receipt of a notice requesting a hearing, the regulatory agency shall afford the applicant an opportunity to appear and be heard before the regulatory agency, in person or with a representative or legal counsel, and to submit such evidence as the applicant deems relevant in the matter. The regulatory agency may receive evidence from the applicant or licensee, the Tribe, any gaming regulatory agency, or any person or entity that the regulatory agency deems relevant to the matter.

b. The regulatory agency shall either affirm or reconsider its decision to deny the license within seven (7) days following hearing.

12.03. *Suspension or Revocation of License.*

a. If, after issuance of a license, the regulatory agency receives and verifies information that a person licensed under this Ordinance has violated or been charged with a violation of any criminal law that disqualifies the licensee from holding a license, any provision of this Ordinance, or any Regulation promulgated under this Ordinance, or is otherwise not eligible for a license, the regulatory agency shall conduct an investigation to determine whether revocation proceedings should be initiated.

b. The person's license shall be suspended and revocation proceedings shall be initiated if:

1. The licensee has been convicted of or pled guilty or no contest to any criminal offense that disqualifies the licensee from holding a license under applicable law or the Tribal-State Compact.
2. The information came to the regulatory agency by notification from the NIGC pursuant to 25 CFR 558.5.
3. The licensee has been charged with any criminal offense related to gambling, fraud, theft, or other activities arising during the course of employment.

c. The person's license may be suspended for not more than seven (7) days pending completion of an investigation by the regulatory agency to determine whether any of the following have occurred:

1. The licensee has violated any gaming rule as defined in this Ordinance.
2. The licensee has engaged in conduct that poses a threat to the integrity of the gaming activities; the health or safety of the general public or employees at the gaming enterprise; or the assets of the Tribe.
3. The licensee knowingly and substantially made a materially false and misleading statement in a license application.
4. The licensee has participated in unauthorized gaming activity whether or not regulated by this Ordinance.
5. The licensee has knowingly and substantially refused to comply with any lawful order of the regulatory agency, the Tribal Court or the National Indian Gaming Commission.

12.04. *Right to Hearing Before the Regulatory Agency.* In any case governed by Section 12.03(a) above, and in all cases where the regulatory agency determines that a revocation is warranted under section 12.03(b), the regulatory agency shall notify the licensee of the proposed revocation of the license. The notification shall be served upon the licensee and shall state the legal basis for the revocation and any evidence the regulatory agency relied upon in making its determination. The licensee shall be informed of the date and time set for the hearing, and of the licensee's right to offer sworn oral and documentary evidence to rebut the regulatory agency's determination. Any hearing scheduled in accordance with this Section shall be held within seven (7) business days from the date of the letter. After the hearing, the regulatory agency shall either (a) revoke; (b) reinstate the license; or (c) reinstate the license with conditions or limitations.

12.05. *Appeal to the Tribal Court.* Any decision of the regulatory agency to revoke a license pursuant to this Ordinance may be appealed to the Tribal Court by the applicant or licensee within 14 days of the date of receipt of the regulatory agency's decision.

- a. In all appeals before the Tribal Court, there shall be deference given by the Tribal Court to the determination of the regulatory agency as the agency charged with responsibility for interpreting its own regulations. The Tribal Court does not have authority to grant injunctive relief authorizing a return to work pending any appeal. The Tribal Court review of regulatory agency hearing determinations is limited to interpretation and application of law or regulation. The decision of the Tribal Court shall be final.

12.06. *Notice to NIGC of Revocation.* The regulatory agency shall notify the National Indian Gaming Commission of any decision to revoke a license.

Article XIII. Customer Complaints

13.01. *Resolution of Disputes between the Gaming Public and the Gaming Enterprise.* Disputes between a customer and a gaming enterprise shall be resolved as follows:

- a. The customer shall have the opportunity to present his/her complaint, verbally or in writing, to the general manager of the gaming enterprise or a person designated by the general manager to resolve complaints by customers.

- b. If the complaint is not resolved under paragraph (a) to the satisfaction of the customer, he/she may file a written complaint with the regulatory agency. The regulatory agency shall provide the customer with a complaint form that requires sufficient information to conduct an investigation.
- c. The regulatory agency shall have processes in place, through regulations, to review and, if necessary, hold hearings in regards to customer complaints.

Article XIV. Tribal Government Employees and Gaming Regulatory Agency Members and Employees Prohibited from Gaming

14.01. *Prohibition Against Participation in Gaming Activities at the Gaming Enterprises.* This Article shall identify individuals who shall be prohibited from participating in gaming activities at the gaming enterprises. Such prohibition is limited to Class III gaming activities, and does not extend to conference, training, dining, hotel and other non-gaming activities.

14.02. *Gaming Enterprise Board of Directors Prohibited.* All members of the Gaming Enterprise Board are prohibited from engaging in gaming activities.

14.03. *Tribal Government Employees Prohibited.* Individuals that hold the following positions are prohibited from participating in gaming activities. The position names shall be for the purposes of identification and shall include any reasonably related position title that may be created in the future.

- a. All attorneys within the Legislative Legal Department.
- e. All attorneys within the Executive Legal Department.
- c. Chief Financial Officer and Controller.
- d. Comptroller General, auditors and Internal Audit Department support staff.
- e. Public Safety Department, officers and support staff.

14.04. *Prohibition on Regulatory Agency Personnel Participating in Gaming Activities.* No member of a regulatory agency or employee of a regulatory agency may participate in any gaming activity at any Little River Band of Ottawa Indians gaming enterprise unless as part of a job related duty.

Article XV. Gaming Enterprise Employee Prohibitions and Limitations to Participation in Gaming Activities

15.01. *Gaming Enterprise Employees Prohibited.* The following employment positions are prohibited from participating in gaming activities. The position names shall be for the purposes of identification and shall include any reasonably related position title that may be created in the future.

- a. All Primary Management Officials.
- b. Chief Financial Officer, Controller and Revenue Audit staff.
- c. All Security Department staff.
- d. All Management Information Services or other networking/computer service office or personnel.
- e. All gaming employees as defined in Section 3.10.

Article XVI. Prohibitions on Participating in Gaming Activities.

16.01. *Elected Officials.* Elected Officials eligible to participate in gaming activities shall not be eligible to participate in the following:

- a. Promotional activities or give-aways;
- b. Tournaments; and
- c. Class III Table Games.

16.02. *Non-Gaming Enterprise Employees.* Non-Gaming Enterprise Employees eligible to participate in gaming activities shall not be eligible to participate in the following:

- a. Promotional activities or give-aways;
- b. Tournaments; and
- c. Class III Table games.

16.03. *Limitation on Hours of Gaming Activities.* Participation in No non-gaming enterprise employee shall participate in gaming activities within two (2) hours of the beginning of his/her shift or within two (2) hours after the end of his/her shift.

16.04. *Complimentary Services and Goods.* Elected Officials and Non-Gaming Enterprise Employees eligible to participate in gaming activities shall neither accept complimentary services or items nor accrue complimentary value with their play.

16.05. *Point Redemption Awards.* Elected Officials and Non-Gaming Enterprise Employees eligible to participate in gaming activities shall accrue Point Redemption Awards solely based on their gaming play. Accrued points shall be redeemable only at non-gaming retail outlets located at the Gaming Enterprise.

16.06. *Regulations Required.* The Gaming Commission shall issue Regulations consistent with this Article to govern the conduct of elected officials and non-gaming enterprise employees who are eligible to participate in gaming activities. Any Regulations issued shall require approval by Tribal Council.

CERTIFICATION

I, Janine M. Sam, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Gaming Ordinance approved for authorization to submit to the National Indian Gaming Commission by Tribal Council on October 6, 2010.



[Seal]

Gaming Enterprise(s) Board of Directors Act of 2010

Ordinance # 10-800-03

Article I. Purpose; Findings

1.01. *Purpose.* The purpose of this Act is to establish a Gaming Enterprises Board of Directors to provide monitoring, oversight, and direction regarding the management of the gaming enterprise in order to maximize the income for existing and future Gaming Enterprise(s) and the Tribe.

1.02. *Authority.* The Tribal Council of the Little River Band of Ottawa Indians adopts this Ordinance in accordance with the following authority:

- a. the Constitution of the Little River Band of Ottawa Indians delegates to the Tribal Council the responsibility to "...exercise the inherent powers of the Little River Band by establishing laws through the enactment of ordinances and adoption of resolutions not inconsistent with this Constitution:
 1. to govern the conduct of members of the Little River Band and other persons within its jurisdiction;
 2. to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members[.]" Article IV, Section 7(a); and
- b. Article V, Section 5(a)(2) of the Constitution provides that the Ogema shall oversee the administration and management of the Tribal government in accordance with the laws, resolutions and motions adopted by the Tribal Council; and
- c. Article V, Section 5(a)(8) of the Constitution provides that the Ogema shall manage the economic affairs, enterprises, property, and other interests of the Tribe, consistent with ordinances and resolutions enacted by the Tribal Council; and
- d. Article V, Section 5(a)(4), of the Constitution provides that the Ogema has the power, with the approval of the Tribal Council, to appoint heads of subordinate organizations created by ordinance; and
- e. Article V, Section 7(f), of the Constitution provides that Tribal Council has the power to create by ordinance regulatory commissions or subordinate organizations and to delegate to such organizations the power to manage the affairs and enterprises of the Little River Band; and
- f. Article IV, Section 7(h), of the Constitution provides that the Tribal Council has the power to approve appointments to regulatory commissions and heads of subordinate organizations created by ordinance.

1.03. *Findings.* The Tribal Council finds that:

- a. The Indian Gaming Regulatory Act identifies that a principal goal of federal Indian policy is to promote Tribal economic development, tribal self-sufficiency, and strong Tribal Governments, and has set forth limitations regarding the use of gaming revenues by Indian Tribes, as well as imposing on Tribes the manner in which they must operate their gaming enterprises; and
- b. The Gaming Enterprise(s) continue to grow and expand as the Tribe's primary source of governmental revenue and jobs; and
- c. The nature of the Gaming Enterprise(s)' 24-hour year-round operations requires constant monitoring, oversight, and direction; and
- d. The establishment of a Board of Directors for the Gaming Enterprise(s) to provide appropriate monitoring, oversight, and direction regarding the management and operation of any and all existing and future Gaming Enterprise(s) will serve the best interests of the Tribe by maximizing generation of income from gaming for the benefit of the Tribe, reducing expenses where appropriate, and minimizing the potential for political interference of business decision-making, all in accordance with the goals and budgets established by the Tribal Council by law or resolution.

Article II. Adoption; Amendment; Repeal; Severability

2.01. Adoption.

a. This Ordinance is adopted by resolution #10-0825-292, which repeals all previous versions of the Board of Directors Act of 2005, Ordinance #05-800-03 effective thirty (30) days from the date of adoption, and replaces that Act with this Ordinance #10-800-03.

b. Resolution #10-0915-310, which adopted amendments on an emergency basis to clarify the terms of office for members of the Interim Board of Directors, the First Board of Directors, and all subsequent Boards of Directors appointed in accordance with the provisions of this Ordinance.

c. Resolution #10-0922-318, which adopted amendments on an emergency basis to eliminate provisions of this Ordinance that required an Elected Official to establish a quorum for the Board of Directors to conduct business.

2.02. *Amendment.* This Ordinance may be amended by the Tribal Council in accordance with the Constitution, the Administrative Procedures Act, and any other laws or rules set forth governing amendment of laws of the Little River Band of Ottawa Indians.

2.03. *Repeal.* The following Resolutions are hereby repealed: Resolution #04-0721-307, Resolution #04-0922-380, Resolution #04-1013-405, Resolution #04-1027-432, Resolution #05-720-328, Resolution #09-0325-84, and Resolution #09-0325-85. This Ordinance may be repealed in accordance with the procedures set forth in Article IV of the Administrative Procedures Act – Ordinance #04-100-07.

2.04. *Severability Clause.* If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

2.05. *Title.* This Ordinance shall be referred to as the “Gaming Enterprise(s) Board of Directors Act of 2010” (“Act”).

Article III. Definitions.

3.01. *Definitions.* For purposes of this Ordinance, certain terms are defined in this Article. The word “shall” is always mandatory and not merely advisory.

3.02. *At-Large Member* means a Member of the Gaming Enterprise Board who is not an elected official of the Tribe. At-Large Members shall be enrolled members of the Little River Band of Ottawa Indians.

3.03. *Capital Expenditures* means the amount spent to add to the value of or extend the useful life of property, plant or equipment or to adapt it to a new or different use. Expenses that keep property, plant and equipment in an ordinarily efficient operating condition and do not add to its value or appreciably add to its useful life are not capital expenditures. For purposes of this ordinance, only expenditures in excess of \$10,000 shall be considered capital expenditures.

3.04. *Collective Bargaining Agreement* means a contract between a Gaming Enterprise and a labor organization regarding wages, hours, terms or conditions of employment pursuant to the Fair Employment Practices Code.

3.05. *Contract* means an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law.

3.06. *Elected Official*, as used in this Ordinance, shall mean the Ogema and any sitting Tribal Council member appointed to serve on the Gaming Enterprise Board of Directors.

3.07. *First Board of Directors* shall mean the First Board appointed in accordance with Article XIV of this Ordinance.

3.08. *Gaming Enterprise(s)*, as used in this Ordinance, shall mean the Little River Casino Resort and any future facility at which gaming is authorized under Tribal, State, and/or Federal Law including, but not limited to, the Indian Gaming Regulatory Act, the Tribal-State Gaming Compact(s), and the Tribal Gaming Ordinance. Gaming Enterprises are considered public employers, and are authorized to conduct activities including, but not limited to, the following:

Gaming Enterprise Board Ordinance

Permanent Adoption – August 25, 2010

Emergency Amendments – Adopted September 15, 2010 [2]

Emergency Amendments – Adopted September 22, 2010

- a. Gaming activities authorized under the Tribal-State Gaming Compact.
- b. Hotel and recreational activities.
- c. Entertainment and conference activities.
- d. Dining and banquet activities.
- e. Activities reasonably related to the above.
- f. Other activities as may be authorized from time to time by Resolution of the Tribal Council amending this ordinance.

3.09. *Gaming License Eligibility Standards*, as used in this Ordinance, shall mean the standards to be applied when determining whether elected officials are eligible to hold and/or maintain a gaming license. "Gaming License Eligibility Standards" shall include application of all Tribal and federal licensing eligibility requirements governing Primary Management Officials.

3.10. *Good Cause*, as used in this Ordinance as a basis for removal of a Member of the Board of Directors, shall have the meaning ascribed to it under Article V of this ordinance.

3.11. *Official Action* shall mean an action taken by Resolution or Motion approved by a majority of the Members of the Board of Directors present and voting at an official meeting.

3.12. *Official Capacity*. A Member of the Board of Directors is acting in his or her official capacity only when undertaking actions officially sanctioned and approved by a majority of Members of the Board of Directors present and voting at an official meeting.

3.13. *Primary Management Official* shall have the meaning ascribed to it under the Indian Gaming Regulatory Act, as amended from time to time.

3.14. *Public Employer* means a Gaming Enterprise or other subordinate economic organization, department, commission, agency, or authority of the Tribe engaged in any Governmental Operations of the Tribe.

Article IV. Board of Directors –Creation, Composition, Qualifications.

4.01. *Creation of the Board of Directors*. The Tribal Council hereby creates and establishes the Board of Directors for the Gaming Enterprise(s), to act as a subordinate organization of the Tribe in overseeing the Tribe's Gaming Enterprise(s), subject to the following conditions:

- a. The Board of Directors and its Members shall be subject to the Constitution, laws, and resolutions of the Tribe, including the legislative authority of the Tribal Council to enact laws and resolutions and the executive authority of the Ogema to carry out the laws and resolutions enacted by the Tribal Council.
- b. The Board of Directors and its Members shall be subject to all federal laws, or any laws promulgated pursuant to federal law, including but not limited to the Indian Gaming Regulatory Act, the Tribal-State Gaming Compact, the Gaming Ordinance of the Tribe, and all applicable laws, regulations, internal operating procedures and minimum internal control standards.
- c. The Members of the Board of Directors shall take an oath of office given by a member of the Judiciary of the Little River Band Tribal Court, and shall file a signed confidentiality statement with the Tribal Council Recorder.

4.02. *Composition and Qualifications of the Board of Directors*. The Board of Directors shall be comprised of five (5) Members seated as follows:

- a. Elected Officials.
 - 1. One Member of the Board of Directors may be the Tribal Ogema. In the event that the Ogema declines to sit as a Member of the Board, then he or she shall appoint a Tribal Council member to sit in his or her place. Any appointment made under this subsection shall be approved by the Tribal Council and shall have no effect on subsection 4.02(a)(2) below.
 - 2. One Member of the Board of Directors shall be a sitting member of the Tribal Council, appointed by the Ogema and approved by the Tribal Council.

3. Elected Tribal officials serving on the Board of Directors shall not be required to hold a Gaming License issued by the Tribe's Regulatory Authority, but shall be required to meet all Gaming License Eligibility Standards as defined in Section 3.08 of this Ordinance.
- b. *At-Large Members.* Three Members of the Board of Directors shall be at-large, and shall be appointed by the Ogema and approved by the Tribal Council.
1. The Ogema and Tribal Council shall ensure that every effort is made to appoint and approve individuals who possess relevant experience in the fields of business, finance, and/or the hospitality industry, with a particular emphasis on gaming facility experience
 2. All at-large Members of the Board of Directors shall possess and maintain a Gaming License issued by the Gaming Commission or other Gaming Regulatory Agency of the Tribe.
 3. All at-large Members of the Board of Directors shall be duly enrolled members in the Little River Band of Ottawa Indians.
- c. *Officers; Chairperson; Vice-Chairperson.*
1. If the Ogema is a sitting Member of the Board of Directors, then the Ogema may serve as Chairperson of the Board. In the event the Ogema chooses to not serve on the Board, the Ogema shall appoint another Member of the Board to act as Chairperson. Any appointment made under this subsection shall require approval by Tribal Council.
 2. The Office of Vice-Chairperson shall be filled by a Board Member duly seated on the Board of Directors.
- d. The Tribal Council may elect to secure a bond and/or insurance covering activities of Members of the Board of Directors. All Members of the Board of Directors shall cooperate fully with the Tribe to secure bonding and/or insurance covering his or her activities as a Member of the Board of Directors.
- e. The following individuals shall be prohibited from serving as a Member of the Board of Directors:
1. Any person who previously held a seat on the Board of Directors who was removed for good cause.
 2. Any person previously disqualified from serving on the Board of Directors.
 3. Any person sitting as a Commissioner on the Little River Band of Ottawa Indians Gaming Commission or other Tribal Gaming Regulatory Agency.
 4. Any person employed by any Gaming Enterprise.
 5. Any person employed by the Little River Band of Ottawa Indians Gaming Commission or other Tribal Gaming Regulatory Agency.

Article V. Removal.

5.01. *Removal by Board of Directors.* The Board of Directors shall have the power to remove a Board Member for good cause upon a majority vote of the Board.

5.02. *Good cause,* as used in this ordinance as a basis for removal, means that a Member of the Board of Directors shall be removed for the following reasons by the Board of Directors:

- a. Failure to attend four meetings of the Board of Directors, including special or emergency meetings, within a twelve month period.
- b. Revocation of a professional license, permit or certification that reflects on the qualifications of the member to sit on the Board or reflects on the professional responsibilities and integrity of the member.
- c. Conviction of a felony, or conviction of a misdemeanor act that impinges on the professional responsibilities and integrity of the member.

d. Failure to carry out the fiscal obligations mandated by this Ordinance.

5.03. *Removal Process.* The following process for removal of a member of the Board of Directors shall be strictly adhered to:

a. *Notification – Reasons for Removal.* The member of the Board of Directors subject to removal shall receive written notification that sets forth, with specificity, the reason(s) for removal. The Notification shall include, at a minimum, the conduct, incident, or action that is the basis for the removal and the date and place the conduct, incident or action occurred; any documents relevant to the conduct, incident, or action; and the names of witnesses or other individuals with information regarding the conduct, incident or action.

b. *Notification – Hearing Date and Time.* The Notification shall include the place, date and time of the meeting at which the Board Member may answer the charge for removal. Removal hearings shall only be heard in a closed session meeting; provided that the Board Member subject to removal may request a public hearing.

c. *Filing of Notification.* A copy of the Notification and any attachments shall be forwarded to the Tribal Council Recorder.

d. *Witnesses; Documents.* The Board Member who is the subject of a removal proceeding shall submit, no later than forty-eight (48) hours prior to the hearing date and time, a list of proposed witnesses that will be called and/or a copy of all documents that will be presented at the removal hearing. Witnesses, at the time of the hearing, shall swear an oath as to the truth and accuracy of their statements.

e. *Majority Vote Required.* A Board Member shall only be removed by majority vote.

f. *Final Decision.* A majority vote of the Board of Directors, or the Tribal Council in accordance with Section 5.05 below, to remove a Board Member shall be final and may not be appealed to the Tribal Court.

5.04. *Return of Property.* Any Board Member subject to removal shall immediately, upon receipt of notification of removal, return any property, including documents or records of any type, that rightfully belongs in the possession of the Board of Directors.

5.05. *Removal by Tribal Council.* In the event the Board of Directors fails to bring a charge for removal against a Board Member for good cause under Section 5.02 above, the Tribal Council may remove the Board Member in accordance with the procedures identified in Section 5.03.

Article VI. Automatic Disqualification.

6.01. *Automatic Disqualification - General.* Automatic disqualifications are non-discretionary and must be strictly enforced by the Chairperson, or the Vice-Chairperson presiding in the Chairperson's absence.

6.02. *Grounds for Disqualification.* A Board Member shall be automatically disqualified from serving on the Board of Directors when one of the following occurs:

- a. The Board Member no longer holds or is eligible to hold a valid gaming license issued by the Tribe's gaming regulatory agency; or
- b. The Board Member is no longer an enrolled member of the Little River Band of Ottawa Indians; or
- c. The Board Member is an elected official who no longer holds an elected office during that term.

6.03. *Disqualification – Procedure.* When a Board Member is subject to disqualification under Section 6.02 above, the Chairperson, or the Vice-Chairperson presiding in the Chairperson's absence, shall notify the Board Member in writing. The notification shall contain, at a minimum:

- a. The reason(s) for the disqualification; and
- b. Notice that the Board Member is disqualified effective immediately; and
- c. Notice that the disqualification is not appealable to any hearing body.

6.04. *Return of Property.* Any Board Member disqualified from serving on the Board of Directors shall immediately return any property, including documents or records of any type, that rightfully belongs in the possession of the Board of Directors.

Article VII. Notice; Posting Required; Vacancies.

7.01. *Notification Required.* The Board of Directors is required to notify the Ogema and Tribal Council, in writing, when a vacancy is created by conclusion of a term, removal by the Board or Tribal Council, disqualification, or resignation of a member.

7.02. *Posting Notice of Vacancy for Applicants.* The Ogema shall post for 30 days in the Tribal newspaper, a notice that a vacancy on the Board of Directors exists, the preferred qualifications for the vacant position, the term of office for the vacant position, and the open and closing date of the application period. All applications received shall be forwarded to the Tribal Council with the appointments presented under Section 7.04 of this Ordinance. This Section shall not apply to appointments to the First Board of Directors appointed in accordance with this Ordinance.

7.03. *Vacancy Exists.* A vacancy exists upon removal by the Board of Directors or Tribal Council, automatic disqualification, resignation, expiration of term of office, or upon receipt of the notice of vacancy by the Ogema.

7.04. *Procedure for Filling Vacancies.* The following procedures shall be adhered to when filling vacancies on the Board of Directors:

- a. The Board of Directors performs duties necessary to the activities of the Gaming Enterprise(s) such that it is important that vacancies be filled in an efficient and timely manner. The Ogema shall submit appointments for vacancies on the Board of Directors within 45 days of receipt of notice of a vacancy.
- b. With respect to vacancies existing on the date of adoption of this ordinance, the Ogema shall submit appointments to Tribal Council for approval within thirty (30) days after the date of adoption.
- c. If the Ogema is unable to appoint individuals to fill vacancies on the Board, he or she shall identify the reasons why vacancies cannot be filled within the timelines set forth in this section, identify all attempts made to nominate qualified persons, and identify with specificity what qualifications each applicant is lacking.
- d. If a vacancy occurs on the Board of Directors in one or more of the seats which requires a minimum qualification as set by Section 4.02 above, the remaining Members of the Board of Directors may continue to conduct business.
- e. A vacancy in either an Elected Official or an At-Large seat shall be filled for the remainder of that term.
- f. A vacancy in the Board of Directors' seat reserved for the Ogema due to removal, disqualification or resignation shall be filled in accordance with Section 4.02(a)(1) of this Ordinance.

Article VIII. Meetings; Minutes; Compensation

8.01. *Quorum.* A quorum of the Board of Directors shall consist of any three (3) Members of the Board of Directors. A quorum shall be required to conduct business.

8.02. *Meetings.* The Board of Directors shall hold meetings at least once per month.

8.03. *Requirement to Attend Meetings.* All Board Members shall attend all regularly scheduled monthly meetings in order to be compensated for attendance. In the event that an emergency meeting is necessary in which the Board is required to take official action, Board Members may participate by telephone but shall not be compensated for attendance.

8.04. *Procedures.* The Board of Directors shall be authorized to establish its own meeting procedures not inconsistent with this Ordinance; provided that the Board of Directors shall act only by Resolution under the following circumstances:

- a. When committing funds, including approval of contracts in accordance with Section 9.03 and
- b. When authorizing a waiver of the sovereign immunity of the Gaming Enterprise(s) in accordance with Article X.

8.05. *Minutes.* The Board of Directors shall prepare minutes of all open and closed session meetings which shall describe with specificity all official actions taken by the Board, and shall memorialize all discussions related to those official actions. Copies of the Board of Directors' minutes shall be submitted to Tribal Council for acceptance to the record in a timely manner.

8.06. *Compensation.* Each at-large Member of the Board of Directors shall be paid reasonable compensation as authorized by Resolution of the Tribal Council subject to the following limitations:

- a. Compensation for at-large Members of the Board of Directors shall not be diminished during any term of office.
- b. The Ogema and Tribal Council Member(s) sitting on the Board of Directors shall not receive additional compensation for sitting on the Board.
- c. Compensation shall be subject to the power of the Tribal Council to appropriate funds for such purposes.
- d. In the event that an elected Tribal official sitting on the Board is not re-elected to his or her Tribal government position, he or she shall be paid the same compensation as at-large Members of the Board of Directors for a period of not more than sixty (60) days following the swearing-in of the new Ogema and/or Tribal Council, consistent with the hold-over provision in Article XIV below.

Article IX. Responsibilities and Duties

9.01. *Responsibilities.* The Board of Directors shall be responsible for the following:

- a. To ensure compliance with the laws and resolutions enacted by the Tribal Council, including any goals for the Gaming Enterprise(s) established by the Tribal Council; and
- b. to ensure compliance with all applicable laws and regulations, including the Indian Gaming Regulatory Act, the Tribal-State Gaming Compact, the Gaming Ordinance of the Tribe, and all applicable laws, regulations, internal operating procedures, policies and minimum internal control standards; and
- c. to account for and transfer, or to direct the accounting and transfer of, all revenues generated by the Gaming Enterprise(s), excluding authorized operating funds, on at least a 48-hour basis to an account or accounts authorized and established by the Tribal Council by law or resolution; provided that such transfers shall be made according to written procedures established by the Board of Directors which shall be subject to modification by the Tribal Council by law or resolution; and,
- d. to increase the number of Tribal Members employed by the Gaming Enterprise(s) in accordance with the Indian Preference in Employment Ordinance; and,
- e. to increase the number of Tribal Members employed by the Gaming Enterprise(s) in management level positions in accordance with the Indian Preference in Employment Ordinance; and,
- f. *General Manager.* The Board of Directors shall have the power to hire a General Manager for the Little River Casino Resort in accordance with the laws and resolutions of the Tribe. The Board of Directors may enter into an employment contract with the General Manager; provided, that such contract shall be subject to ratification by the Tribal Council. The Board of Directors shall evaluate the performance of the General Manager on an annual basis or more frequently as needed. The Board of Directors shall have the power to terminate the employment of the General Manager in accordance with the laws and resolutions of the Tribe.
- g. to maintain a consistent and regular attendance record; and,

- h. to be held accountable, to the highest degree, for the accuracy and thoroughness of the records and reports of the Gaming Enterprise(s); and,
- i. to be responsible for the successful overall direction and operation of all activities of the Gaming Enterprise(s) in accordance with the laws and resolutions enacted by the Tribal Council.

9.02. *General Duties.* The Board of Directors shall:

- a. create, develop, and implement an effective strategy of business organization for the Gaming Enterprise(s) including setting objectives for future growth and expansion in accordance with the Annual Operating Plan and Annual Budget approved by the Tribal Council; and,
- b. ensure the quality of management activities and operations in all areas of the Gaming Enterprise(s); and,
- c. have all duties and responsibilities customary for a Board of Directors of a gaming, restaurant, hotel, and entertainment enterprise, including responsibility for the overall operation of the Gaming Enterprise(s), subject to any limitations or prohibitions set forth in this Ordinance.

9.03. *Specific Duties.*

a. *Primary Management Official Employment.* The General Manager shall have the power to employ Primary Management Officials for the Gaming Enterprise(s) in accordance with the laws and resolutions of the Tribe. Any employment contract entered into in accordance with this Section shall be ratified by the Board of Directors. The Board of Directors shall be provided the evaluation reports regarding the performance of all Primary Management Officials on an annual basis or more frequently as needed. The General Manager shall keep the Board informed of any matters concerning performance of primary management official employees

b. *Personnel Manual.* The Board of Directors shall have the power to approve and amend the Personnel Manual for the Gaming Enterprise(s), subject to the overriding authority of the Tribal Council to alter such Personnel Manual by law or resolution. The Board of Directors shall provide at least a 30-day advance notice to the Ogema and Tribal Council of all proposed amendments to the Personnel Manual.

c. *Grievance Procedures.* Within thirty (30) days of the effective date of this Ordinance, the Board of Directors, in consultation with the General Manager, shall prepare and forward to Tribal Council for approval a comprehensive Grievance Procedure Policy which clearly identifies what personnel actions may be grieved. At a minimum, the Policy shall create a Board of Review made up of Enterprise employees who shall be authorized to hear grievances and make binding decisions. Any grievances pending before the Board of Directors on the date this Ordinance goes into effect shall be stayed and held in abeyance until a Board of Review has been created. Employees within a bargaining unit represented by an exclusive bargaining representative on or after the effective date of this Ordinance shall be exempt from application of this Grievance Procedure Policy.

d. *Collective Bargaining Agreements; Contracts.* The Board of Directors is expressly delegated the authority to enter into Collective Bargaining Agreements for the Gaming Enterprise(s) on behalf of the Tribe in accordance with Article X of this Ordinance. Collective Bargaining Agreements shall only be approved by a duly authorized Resolution which shall be forwarded to the Tribal Council Recorder for filing with the Board's Monthly Report.

e. *Contracts.* The Board of Directors shall have the power to approve contracts up to and including \$500,000.00 without Tribal Council approval subject to those limitations identified in Article XI of this Ordinance.

f. *Expenditures.* The Board of Directors shall authorize all Gaming Enterprise expenditures in excess of \$50,000.00.

9.04. *Additional Duties of Chairperson and Vice-Chairperson.* In addition to all other duties of the Board of Directors contained in this Ordinance, the Chairperson, or in his or her absence the Vice-Chairperson, shall be responsible for carrying out the following additional duties:

a. *Mandatory Reporting Requirements.* Ensuring the accuracy and timely submission of all mandatory budgets and reports in accordance with the schedules set forth in XII of this Ordinance.

b. *Mandatory Distributions.* Ensuring the accuracy and timeliness of all mandatory distributions of gaming revenues in accordance with the schedules set forth in Article XIII of this Ordinance.

c. In the event that any mandatory distribution or reporting requirements are not met in accordance with the provisions of this Ordinance, then the Chairperson, or Vice-Chairperson in his or her absence, shall submit to the Tribal Council a comprehensive Corrective Action Plan which, at a minimum:

1. identifies with specificity the individual(s) responsible for the Gaming Enterprise's failure to comply with the provisions of this Ordinance;
2. identifies with specificity any disciplinary action taken against the responsible individual(s); and
3. identifies with specificity what action the Board has taken to avoid future non-compliance with the provisions of this Ordinance; and
4. a Corrective Action Plan submitted under this Section shall be delivered to the Tribal Council Recorder within three (3) business days of the date of default. The Tribal Council Recorder shall place the matter on the next available Tribal Council closed session agenda for discussion.

Article X. Limited Authority to Waive Sovereign Immunity.

10.01. *Limited Delegation of Authority – General.* The Tribal Council expressly delegates its authority to the Board of Directors to waive or limit the right of the Gaming Enterprise(s) to be immune from suit in accordance with Article XI, Section 1 of the Constitution, subject to the limitations contained in this Article.

10.02. *Authority.* The Board of Directors shall have limited authority to waive the sovereign immunity of the Gaming Enterprise(s) in accordance with the terms and limitations set forth in this Article in the following circumstances:

a. The Board of Directors shall have limited authority to execute Collective Bargaining Agreements for the Gaming Enterprise(s) on behalf of the Tribe. To the extent a Collective Bargaining Agreement provides for a waiver of the Tribe's sovereign immunity, the Board is authorized to execute such a waiver, but only to the extent that such a waiver is consistent with the waiver of sovereign immunity provided by Article XVI of the Fair Employment Practices Code, or any amendments thereto.

b. The Board of Directors shall have the additional limited authority to waive the sovereign immunity of the Gaming Enterprise(s) only when contracting for essential daily operational needs.

10.03. *Limitations to Waiver Authority.* Any waiver of sovereign immunity shall be subject to the following limitations in order to be valid and enforceable:

a. A waiver of sovereign immunity authorized in accordance with Section 10.02(b) above shall be limited to claims against the Gaming Enterprise(s) and not the Tribe; and

- b. The Board of Directors shall not have authority to waive the right of the Gaming Enterprise(s) to be immune from suit for damages; and
- c. For purposes of this Ordinance only, "damages" do not include remedies or awards for wages or other "make whole" remedies that employees may be entitled to recover pursuant to a Collective Bargaining Agreement entered into pursuant to Article XVI of the Fair Employment Practices Code.

10.04. *Procedure.* Only waivers of the sovereign immunity of the Gaming Enterprise(s) that strictly comply with the procedures set forth in this Section shall be valid and enforceable:

- a. The Board of Directors shall only waive the sovereign immunity of the Gaming Enterprise(s) by duly authorized Resolution which contains the following information:
 - 1. The precise waiver and any limitation(s) to the waiver as identified in the contract or Collective Bargaining Agreement; and
 - 2. The forum and choice of law which will govern claims or disputes.
- b. A copy of the authorizing Resolution shall be forwarded to the Tribal Council Recorder for filing with the Board's Monthly Report.

10.05. *Non-Delegable Authority.* The Tribal Council expressly reserves all other authority to waive the sovereign immunity of the Tribe and the Gaming Enterprise(s) in accordance with Article XI of the Constitution.

Article XI. Limitations to Authority and Access.

11.01. *Official Action Required.* No Member of the Board of Directors shall be authorized to act independently or in the absence of an official action taken by roll call vote.

11.02. *Limitations on Access.* The Board of Directors shall not be authorized to access pits, cage, surveillance, count rooms, vaults, and behind bars serving food and/or alcohol in any Gaming Enterprise.

11.03. *Limitations on Contracting Authority.* The Board of Directors shall not have the power to enter into or approve any contracts for legal counsel or construction contracts, nor may the Board enter into any form of contract or agreement or initiate negotiations with any municipality, nation, Indian Tribe, state or body politic, without the approval of the Tribal Council. Contracts shall only be approved by a duly authorized Resolution which shall be forwarded to the Tribal Council Recorder for filing with the Board's Monthly Report.

11.04. *Limitation on Authority to Terminate Employment.* The Board of Directors shall have no independent authority to intervene or intercede in any personnel related matter, including termination of employment. The Board shall retain authority related to employment of the General Manager in accordance with Section 9.01(f) of this Ordinance.

11.05. *Limitation on Authority to Obligate Funds.* The Board of Directors shall have no authority to obligate funds outside the parameters of the approved budget without prior approval by the Tribal Council including, but not limited to, funding connected to any bonus or profit sharing programs.

Article XII. Budgets; Reporting Requirements; Schedules - Required

12.01. *Operation of Gaming Enterprise(s).* The operation of the Gaming Enterprise(s) is governed by the provisions contained within this Article. No deviation from approved plans and budgets shall occur unless approved by the Board of Directors and ratified by Tribal Council Resolution.

12.02. *Annual Budget, Reports and Operating Plan*

- a. The Board of Directors shall prepare, or cause to be prepared a separate proposed Annual Budget for each Gaming Enterprise in accordance with the power of the Ogema to prepare and present an annual budget to the Tribal Council under Article V, Section 5(a)(5) of the Constitution, and in accordance with the power of the Tribal

Council to approve or amend the annual budget; provided, that the Annual Budget shall include at a minimum:

1. Statements of revenue and expenses for three years:
 - i. For the budget year
 - ii. Actual results for the prior year
 - iii. Actual results year to date plus budget for the current year
2. The statement of revenue and expenses shall be presented:
 - i. By month
 - ii. Summary statement of all departments and other operating segments
 - iii. Detailed statements by department or other operating segment
 - iv. Detailed statement of monthly revenue by category
3. Schedule of budgeted depreciation & capital replacement reserves
4. Detail of budgeted capital expenditures by month including justification for each expenditure/project over \$100,000
5. Budget cash flow statement by month
6. Loan amortization schedule for the budget year
7. Loan covenant compliance calculation by month for the budget year
8. Schedule and discussion of risks and opportunities for the budget year
9. Budgeted Board of Directors expenditures including but not limited to:
 - i. Compensation
 - ii. Expenses
 - iii. Office space requirements
 - iv. Staff costs
 - v. Consulting fees
 - vi. Professional fees

b. *Annual Marketing Report.* The annual marketing report shall report on the activities of the current fiscal year to date as well as for the upcoming fiscal year by month and shall include but not be limited to the following:

1. Executive summary
2. Situation analysis
3. Market analysis/target markets
4. Competitive analysis
5. Marketing strategies
6. Direct mail
7. Player development activities
8. Event profiles and pro-formas

c. *Annual Human Resources Report.* The human resources report shall report on the activities of the current fiscal year to date as well as for the upcoming fiscal year by month and shall include but not be limited to the following:

1. Head count schedule
2. Preference employment report
3. Hiring plans
4. Training schedule
5. Employee development plans
6. Proposed changes to employee benefits / plans
7. Compensation plans
8. Disclosure of any bonus type plans
9. Status of Collective Bargaining Agreements and other union activities
10. Termination report

d. *Annual Operating Plan & Report.* The operating plan shall report on the proposed activities for the upcoming fiscal year by month and shall include but not be limited to the following:

1. Operating goals for the enterprise
2. Operating goals for each department
3. Proposed changes in operations
4. Status of Collective Bargaining Agreements and other union activities
5. Schedule and discussion of risks and opportunities

e. *Schedule for Submission of Annual Budgets and Reports.* The annual budget and annual reports described in items a. through d. above shall be submitted to the Ogema and Tribal Council no later than September 1.

12.03. *Monthly Reports*

a. The Board of Directors shall prepare, or cause to be prepared, a written monthly report to be submitted to the Ogema and Tribal Council. The monthly report shall include as attachments all Resolutions authorized by the Board during the reporting period, and shall summarize the status of all material aspects of the operation of each Gaming Enterprise. The monthly report shall include, at a minimum:

1. Statements of revenue and expenses that shall include:
 - i. Actual, budget and prior year results for the current month and year to date
 - ii. Summary statement of all departments and other operating segments
 - iii. Detailed statements by department or other operating segment
 - iv. Detailed statement of revenue by category
 - v. Cash flow statement
 - vi. Capital replacement reserve schedule
2. Three month forecast of revenues by category
3. Balance sheet
 - i. Current month
 - ii. Prior month
 - iii. Prior year end
4. Schedule of actual capital expenditures vs. budget for the current month and year to date
5. Schedule of forecast capital expenditures vs. budget for the next three months
6. Loan covenant compliance schedule
7. Management narrative of operations
8. Schedule and discussion of risks and opportunities for the next three months
9. Marketing Department Report
 - i. Impact of the current month's promotions
 - ii. Promotions scheduled for the next three months
 - iii. Entertainment venue and conference center use schedule for the next three months
10. Human Resources Report
 - i. Headcount schedule
 - ii. Preference employment report
 - iii. Summary of new hires
 - iv. Headcount forecast for the next three months
 - v. Termination report
11. Status of Collective Bargaining Agreements and other union activities

b. *Schedule for Submission of Monthly Reports.* The monthly report shall be submitted no later than the 20th day following month end.

12.04. *Applicable Accounting Standards.* The Board of Directors shall ensure that all budgets and reporting requirements contained in this Ordinance comply with Generally Accepted Accounting Practices in the United States as applicable.

Article XIII. Mandatory Distributions

13.01. *Mandatory Distributions.* The Board of Directors shall be responsible for ensuring the timely payment of all distributions required by applicable Federal, State or Tribal laws, Resolutions, Regulations, Compacts, or Agreements including, but not limited to, the following:

a. *Distributions Required by Compact(s).* Distributions mandated by any Compact between the Little River Band of Ottawa Indians and the State of Michigan shall be made in accordance with the terms of that Compact or any other Agreement entered into between the Tribe and the State

b. *National Indian Gaming Commission Payments.* All payments required to be made to the National Indian Gaming Commission, or any other payments mandated by the Indian Gaming Regulatory Act.

c. *Tribal Gross Gaming Tax.* The Tribal Gross Gaming Tax shall be distributed monthly in arrears to the Tribe along with a certificate signed by an officer stating the amount of the tax and showing how such amount was computed. The distribution of the tax shall be made no later than twenty days after the end of each month and shall be based on percentages as set forth by Ordinance.

d. *Net Gaming Revenue.* Distributions of net gaming revenue to the Tribal Government shall be made monthly, no later than twenty days after the end of each month.

Article XIV. Terms of Office; Hold-Over Period; First Board of Directors.

14.01 *Terms of Office.* Each Member of the Board of Directors appointed under the provisions of this ordinance shall have a term of office in accordance with the following schedule:

a. Seat 1. Seat 1 may be filled by the Ogema for a term of office consistent with the Ogema's term of office. If, at the commencement of the Ogema's term, the Ogema appoints a Tribal Council member to sit in her or his seat, that Tribal Council Member shall serve a term of office of two (2) years. Upon the expiration of this two (2) year term, the Ogema may fill this seat her or himself until the expiration of her or his term of office, or the Ogema shall appoint a Tribal Council Member to serve a two (2) year term of office that shall expire consistent with the expiration of the Ogema's term of office.

b. Seat 2. Seat 2 shall be filled by a Tribal Council member, who shall serve a term of office of two (2) years.

c. Seat 3. Seat 3 is an At-Large Member, who shall serve a term of office of four (4) years.

d. Seat 4. Seat 4 is an At-Large Member, who shall serve a term of office of four (4) years.

e. Seat 5. Seat 5 is an At-Large Member, who shall serve a term of office of four (4) years.

14.02. *Hold-Over Period.* To accommodate the appointment and approval provisions for seating Board Members, each member of the Board of Directors appointed and approved in accordance with this Ordinance may be held-over in office for a period not to exceed sixty (60) days.

14.03 *First Board of Directors and Initial Staggering of Terms of Office.* To stagger the terms of the At-Large Members of the Board of Directors for all subsequent Ogemas and to provide for the period beginning from the original adoption of this Ordinance, past its effective date, through the expiration of the term of office of the current Ogema and the commencement of the next Ogema's term of office, the First Board of Directors shall be comprised as follows:

- a. Seat 1. Seat 1 may be filled by the current Ogema until the expiration of his current term of office. If the Ogema appoints a Tribal Council member to sit in his seat, that Tribal Council Member shall serve a term of office that expires consistent with the expiration of the current Ogema's term of office.
- b. Seat 2. Seat 2 shall be filled by a Tribal Council member, who shall serve a term of office that expires consistent with the expiration of the current Ogema's term of office, at which time the next Ogema shall appoint a Tribal Council Member to serve as provided in section 14.01 (b).
- c. Seat 3. Seat 3 is an At-Large Member, who shall serve a term of office that expires consistent with the expiration of the current Ogema's term of office, at which time the next Ogema shall appoint an At-Large Member to serve as provided in section 14.01 (c)
- d. Seat 4. Seat 4 is an At-Large Member, who shall serve a term of office beginning from initial appointment, through the expiration of the current Ogema's term of office, and for two (2) years after the commencement of the next Ogema's term of office, at which time the next Ogema shall appoint an At-Large Member to serve as provided in section 14.01 (d).
- e. Seat 5. Seat 5 is an At-Large Member, who shall serve a term of office beginning from initial appointment, through the expiration of the current Ogema's term of office, and for two (2) years after the commencement of the next Ogema's term of office, at which time the next Ogema shall appoint an At-Large Member to serve as provided in section 14.01 (e).

Article XV. Effective Date. This Ordinance shall be in effect thirty (30) days from the date of its original adoption by Tribal Council Resolution.

CERTIFICATION

I, Janine M. Sam, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Gaming Enterprise(s) Board of Directors Act of 2010 adopted by the Tribal Council on September 22, 2010.

