

**NATIONAL  
INDIAN  
GAMING  
COMMISSION**

MAY 15 1995

Marcel Simon, Tribal Chairperson  
Middletown Rancheria  
P.O. Box 1035  
Middletown, CA 95461

Dear Chairperson Simon:

This letter responds to your request to review and approve the tribal gaming ordinance adopted by Resolution No. GC/O 94-1 by the Lake Miwok Nation of Middletown Rancheria (the Tribe) on December 3, 1994. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

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

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

Thank you for submitting the ordinance of the Lake Miwok Indian Nation of Middletown Rancheria for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

*Thomas R. Acevedo*  
(for)  
Harold A. Monteau  
Chairman

***Verification of Adoption of  
Tribal Gaming Ordinance GC/O 94-1***


950214-0000  
03003

Lake Miwok Indian Nation  
Middletown Rancheria  
Middletown, CA

Verification of adoption of Tribal Gaming Ordinance GC/O 94-1

On this date, December 3, 1994, by majority vote of the voting members of the Middletown Rancheria, with the tally of votes as indicated below, the General Council of the Lake Miwok Indian Nation of the Middletown Rancheria did \_\_\_\_\_ adoption of Ordinance GC/O 94-1 setting policy and procedure for the legal performance of class II gaming on the land of the Middletown Rancheria: with 13 voting YES; 0 voting NO; and 0 abstaining.

  
by testimony of the Secretary, Laura Galupe

  
and enacted by signature of the Chairman, Marcel Simon

## GENERAL PROVISIONS

### SECTION 1 - SHORT TITLE

This Ordinance may be cited as the "Middletown Rancheria Tribal Gaming Ordinance."

### SECTION 2 - DECLARATION OF TRIBAL POLICY

- 2-1. It is the policy of the Middletown Rancheria, hereinafter referred to as "Tribe":
- (a) That the Tribe shall have the sole proprietary interest in any gaming operation;
  - (b) That all gaming operations of Tribal lands shall be conducted by the Tribe, or its management contractors only;
  - (c) That it is the objective of this Ordinance to provide revenue to promote (i) Tribal economic development and self-sufficiency and (ii) the health, education, and welfare of Tribal members; and
  - (d) That the gaming activities provided for by this Ordinance within lands of the Tribe shall be conducted in conformance with the requirements of the Ordinance, the Indian Gaming Regulatory Act, 102 Stat. 2467, 25 U.S.C. } 2701, et sea, as implemented by the regulations promulgated by the National Indian Gaming Commission, and the provisions of any Tribal-State, compact governing class III gaming on Middletown Rancheria Tribal lands.

### SECTION 3 - FINDINGS

- 3-1. The Tribal Gaming Commission finds that -
- (a) Class II gaming may be conducted on Tribal lands of the Tribe by reason of the fact that the State of California permits -
    - (i) Bingo;
    - (ii) Pull Tabs;
    - (iii) Penny-Ante card games.

- (b) Class III gaming may be conducted on Tribal lands of the Tribe by reason of the fact that the State of California permits -
  - (i) Lottery
  - (ii) Pari-Mutuel wagering on horse racing;
  - (iii) Card games, including poker, pinochle, bridge, rummy, canasta, hearts, dominoes, and mah jong;
  - (iv) Casino nights;
  - (v) Off-Track betting and/or simulcasting horse races.

#### **SECTION 4 - DEFINITIONS**

4-1. For the purpose of this Ordinance, the following definitions shall apply:

- (a) "Act" means the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2466, codified at 25 U.S.C. } } 2701, et sea.
- (b) "Applicant" means any person that completes an application with the Tribe for a gaming license.
- (c) "Assessable gross revenues" means the annual total amount of money wagered and admission fees, less any amounts paid out as prizes or paid for prizes awarded, and less an allowance for amortization of capital expenditures for structures.
- (d) "Bingo" means that game of chance (whether or not electronic, computer, or other technologic aids are used in connection therewith):
  - (i) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
  - (ii) in which the holder of the cards cover such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
  - (iii) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards.

- (e) "Chairman" means Chairman of the National Indian Gaming Commission or his or her designee.
- (f) "Cheating" means operating or playing in a game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for himself/herself or someone in privity with him/her an advantage over and above the chance of the game.
- (g) "Class II gaming" means that gaming defined in 25 C.F.R. } 502.3.
- (h) "Class III gaming" means that gaming defined in 25 C.F.R. } 502.4.
- (i) "Collateral agreement" means any contract, whether or not in writing, that is related, either directly or indirectly, to a management contract, or to any rights, duties, or obligations created between the Tribe (or any of its members, entities, or organizations) and a management contractor or subcontractor (or any person or entity related to a management contractor or subcontractor).
- (j) "NIGC" means the National Indian Gaming Commission.
- (k) "Commission" means the Tribal Gaming Commission as described in the Constitution of the Middletown Rancheria.
- (l) "Employee manager" is a manager other than a "management contractor" employed by the Tribe to manage a tribal gaming establishment.
- (m) "Gaming" means risking any money or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gaming apparatus, or the happening or outcome of an event over which the person taking the risk has no control.
- (n) "Gaming establishment" means any location or structure, wherein gaming is licensed, promoted, performed, conducted, or operated.
- (o) "Gaming License" means the permit granted by the Tribe to an applicant for employment with a gaming operation.
- (p) "Gaming operation" means each economic entity that is licensed by the Tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by the Tribe directly or by a management contractor.
- (q) "Gross gaming revenues" means the annual total amount of money wagered and admission fees.

- (ii) Total gaming-related operating expenses, excluding management fees.
- (x) "Operating expenses" means total gaming-related expenses excluding management fees.
- (y) "Person" means any individual, firm, partnership, corporation, company, or association.
- (z) "Person having a direct or indirect financial interest in a management contract" means:
  - (I) When a person who is a party to a management contract, any person having a direct financial interest in such management contract;
  - (ii) When a trust is a party to a management contract, any beneficiary or trustee;
  - (iii) When a partnership is a party to a management contract, any partner;
  - (iv) When a corporation is a party to a management contract, any person who is a director or who holds at least ten percent (10%) of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child or sibling; or
  - (v) When an entity other than a natural person has an interest in a trust, partnership, or corporation that has an interest in a management contract, all parties of that entity are deemed to be persons having a direct financial interest in a management contract.
- (aa) "Person having management responsibility for a management contract" means the person designated in the management contract as having engagement responsibility for the gaming operation, or a portion thereof.
- (ab) "Player" means a person participating in a game with the hope of winning money or other benefit, but does not include a licensee, any assistant of a licensee, or their immediate family.
- (ac) "Primary management official" means:
  - (i) The person having management responsibility for a management contract;
  - (ii) Any person who has authority;

- (1) To hire and fire employees; or
- (2) To set up working policy for the gaming operation; or
- (iii) The chief financial officer or other person who has financial management responsibility.
- (ad) "Secretary" means the Secretary of the Interior.
- (ae) "Tribal lands" means all lands which are held in trust by the United States of America for the Tribe and all lands owned by the Tribe which are subject to restriction against alienation imposed by the United States.
- (af) "Tribe" means the Lake Miwok Indian Nation of the Middletown Rancheria.
- (ag) "Tribal-State compact" means an agreement between the Tribe and the State of California about class III gaming under 25 U.S.C. } 2710(d).

**SECTION 5 - AUTHORITY OF TRIBAL GAMING COMMISSION.**

- 5-1 The Gaming Commission shall have the power and responsibility to;
- (a) enforce and administer the provisions of this Ordinance;
  - (b) issue and renew gaming licenses as provided in this Ordinance and in any regulation which may be promulgated by the Gaming Commission;
  - (c) revoke, suspend, or condition a gaming license or deny an application for a license for violation of applicable law or Ordinance regulating gaming, or conviction of any offense involving a gaming related crime or moral turpitude;
  - (d) collect fees and interest as provided for in this Ordinance;
  - (e) assess and collect penalties provided for in this Ordinance;



- (f) adjust the respective amounts of the annual license fees, provided that such fees shall not be increased retroactively;
- (g) audit or cause to be audited expenditures, receipts, and reports of a licensee responsible for managing a Tribal gaming enterprise;
- (h) review, on demand, such books and records and inspect the premises and operations of licensees as it deems necessary for the enforcement of this Ordinance;
- (i) supervise, operate and maintain gaming surveillance systems in coordination with Tribal Police/Casino Security Department;
- (j) draw up such forms as it deems necessary;
- (k) institute such legal proceedings in the name of the Tribe in a court of competent jurisdiction as it deems necessary for the enforcement of this Ordinance;
- (l) conduct hearings provided for in this Ordinance;
- (m) deposit all fees, penalties, and interest collected under authority of this Ordinance into an account to the credit of the Tribe;
- (n) maintain a correct and full accounting of all fees, penalties, and interest received under authority of this Ordinance, and provide a monthly record of that accounting; and
- (o) take such other actions and issue such orders and promulgate such regulations as the Gaming Commission may deem necessary to properly and fully perform its duties and responsibilities under this Ordinance.

5-2. The Tribal Council may appoint not more than three (3) Tribal members to the Gaming Commission to exercise any or all of the powers and responsibilities set out in }5-1 of this Ordinance, above.

## **SECTION 6 - GAMES AUTHORIZED**

6-1. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation.

- 6-2. If the Tribe elects to allow individually owned gaming operations it shall authorize such operations in accordance with the requirements set forth in 25 C.F.R. §§ 522.10 and 522.11.
- 6-3. Class II games as follows may be licensed for conduct on Tribal lands:
- (a) bingo, pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo as defined under 25 C.F.R. § 502.3(c).
  - (b) non-banking card games defined as class II gaming under 25 C.F.R. § 502.3(c).
  - (c) any game determined to be a class II game by Congressional amendment of the Act, by regulation, or by decision of the NIGC or the federal courts.
- 6-4. Class III games as follows may be licensed for conduct on Tribal lands:
- (a) such class III games as may be authorized by a Tribal-State compact, and
  - (b) such class III games authorized under procedures specified in 25 U.S.C. § 2710(d) (7) (B).

**SECTION 7-1.** A separate gaming license is required for:

- (a)
  - (i) each person having a management contract;
  - (ii) each primary management official and each key employee whether employed by the management contractor or directly by the Tribe; and
  - (iii) all other employees
- (b) each place, facility, or location on Tribal lands at which class II or class III gaming is conducted.

**SECTION 8 - APPLICATION FOR GAMING LICENSES**

- 8-1. Each person having a management contract, each primary management official and each key employee whether employed by the management contractor or directly by the Tribe, and all other employees shall complete an application for an initial gaming license or renewal of an existing gaming license for each gaming establishment on an application form prescribed by the Gaming Commission. The application shall set forth:

- (a) the name under which the applicant transacts or intends to transact business on Tribal lands; and
  - (b) the location of the gaming establishment for which the gaming license is sought; and
  - (c) the application shall be signed by the applicant if a natural person, or, in the case of an association or partnership, by a member or partner thereof, or, in the case of a corporation, by an executive officer thereof, or by some other person specifically authorized by the corporation to sign the application, in which case written evidence of the signator's authority shall be attached. The applicant shall provide evidence of authority of the signator or any other representative to act for and bind the applicant. If any change is made in that authority, the Gaming Commission shall be immediately informed in writing and, until that information is filed with the Gaming Commission, any action of the representative shall be presumed to be that of the applicant.
- 8-2. Each application shall be accompanied by payment of the appropriate annual license fee, and an appropriate fee to cover the cost of the background investigation conducted pursuant to Section 11 below.
- 8-3. The management contractor shall file along with the application an organizational chart of its management organization and job descriptions of the employees of the gaming operation. The chart shall identify which employees are or will be the primary management officials and the key employees of the gaming operation.
- 8-4. An application for a gaming license shall include:
- (a) a description of the place, facility, or location on Tribal lands where the applicant will operate a gaming operation or where the applicant will be employed.
  - (b) the following privacy notice prescribed by 25 C.F.R. } 556.2:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. } 2701, et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a Tribe or the National Indian Gaming Commission in

connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe's being unable to hire you in a primary management official or key employee position.

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

- (c) the following notice regarding false statements is prescribed by 25 C.F.R. }  
556.3:

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

- (d) the following background investigation information from each primary management official and each key employee:
- (i) full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
  - (ii) currently and for the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
  - (iii) the names and current addresses of at least five (5) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (d) (ii) of this Section;
  - (iv) current business and residence telephone numbers;
  - (v) a description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
  - (vi) a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
  - (vii) the name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

- (viii) for each felony for which there is an ongoing prosecution or a conviction, the charge the name and address of the court involved, and the date and disposition if any;
- (ix) for each misdemeanor conviction or on-going misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;
- (x) for each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph (d) (viii) or (d) (ix) of this Section, the criminal charge, the name and address of the court involved, and the date and disposition;
- (xi) the name and address of any licensing or regulatory agency with which the applicant has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (xii) a current photograph;
- (xiii) a complete history of the applicant's educational background, including the names of any colleges, universities, trade or vocational schools, and high schools attended;
- (xiv) a description of the applicant's family including an explanation of the relationships described (e.g., parents, guardians, etc.);
- (xv) any financial statement from the applicant's accountant or other financial information specifically requested on the application form, for example, income sources, assets owned, insurance policies, mortgages, and other information relating to the filing of bankruptcy or other obligations;
- (xvii) copies of the applicant's tax returns for the prior three (3) years;
- (xviii) a description of the applicant's spousal status including, if applicable, the existence of any previous marriages;

- (xix) fingerprints of the applicant to be taken by the Lake County Sheriff's Department of Law Enforcement for a criminal history check. A criminal history check will include a check of criminal history records information maintained by the Federal Bureau of Investigation;
  - (xx) a statement authorizing law enforcement agencies and prior employers to release information and respond to questions relating to the applicant's records, habits, reputation, and associations;
  - (xxi) all applicants are required to submit to a drug screening test and, if employed, random screening tests thereafter; and
  - (xxii) any other information the Gaming Commission deems relevant.
- 8-5. Each applicant for a gaming license who has or will have a contract with the Tribe to manage a Tribal gaming operation shall state whether or not he/she already has a management contract to operate any Indian gaming operation and, if so, a description of the location of each such operation.
- 8-6. A management contractor's application shall include information required by 25 U.S.C. } 2711 and 25 C.F.R. } 537.1.
- 8-7. Existing key employees and primary management officials shall be notified in writing that they shall either:
- (a) complete a new application form that contains the Privacy Act notice described in Section 8-4(b) above; or
  - (b) sign a statement that contains the Privacy Act notice described in Section 8-4(b) above and consent to the routine uses described in that notice.
- 8-8. Existing key employees and primary management officials shall be notified in writing that they shall either:
- (a) complete a new application form that contains the notice regarding false statements described in Section 8-4(c) above; or
  - (b) sign a statement that contains the notice regarding false statements described in Section 8-4(c) above.
- 8-9. When a key employee or a primary management official begins work at a gaming operation the Gaming Commission shall forward a copy of the person's completed application for a gaming license to the NIGC.

## **SECTION 9 - QUALIFICATIONS FOR GAMING LICENSES**

- 9-1. The Gaming Commission may issue or renew a gaming license to an applicant who submits a proper and completed application and pays the appropriate annual license fee, provided that the Gaming Commission determines that the applicant:
- (a) is not a minor;
  - (b) is a person of good character, honesty, and integrity;
  - (c) has no prior activities, criminal record, reputation, habits, and associations which pose a threat to the public interest or the interest of the Tribe 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 or gaming or the carrying in if the business and financial arrangements incidental to the conduct of gaming;
  - (d) has not supplied false and/or misleading information or who has not omitted material information required under this Ordinance, the Act, and 25 C.F.R. Chapter III;
  - (e) has not had, or is not in privity with anyone who has had, a gaming license revoked for cause in any jurisdiction since the effective date of the Act;
  - (f) has complied with this Ordinance or any resolution adopted by the Gaming Commission;
  - (g) does not occupy a competing position in the employ of another Tribe within a five hundred (500) mile radius of any Tribal gaming operation; and
  - (h) does not violate any of the requirements set forth in 25 U.S.C. } 2711(a) and (e).
- 9-2. Subject to the requirement of payment of annual license fees, each gaming license shall be valid for the three (3) fiscal years commencing July 1 and ending June 30 of a respective year, provided that, in the discretion of the Gaming Commission, a gaming license may be granted for a term to run concurrently with the term of a management contract.
- 9-3. A gaming license may not be assigned or transferred and is valid only for use by the person in whose name it is issued and at the gaming establishment for which it is issued. A gaming license shall be conspicuously displayed at all times at the gaming establishment for which issued.

- 9-4. The Gaming Commission shall make the final decision as to whether a gaming license shall be issued, suspended, or revoked.
- 9-5. Until authorized by a Tribal-State compact, no gaming license shall be issued by the Gaming Commission for class III gaming.

#### **SECTION 10 - GAMING LICENSE FEES**

- 10-1. The annual fee for each gaming license issued pursuant to this Ordinance to the holder of a valid management contract shall be Ten Thousand (\$10,000) Dollars; and for each primary management official and key employee it shall be One Hundred (\$100) Dollars. The annual fee for all other employees shall be Fifty (\$50) Dollars. The Gaming Commission may waive the annual fee on a case-by-case basis.
- 10-2. The Gaming Commission may annually adjust, not exceeding ten percent (10%), the amount of the annual fee, provided that any increase shall take effect only on the ensuing July 1.
- 10-3. The initial annual license fee shall be paid with the submission of the applicant's completed application.
- 10-4. The annual license fee shall be prorated in the case of each initially issued gaming license. Licenses issued after December 31 each year shall be one half (1/2) the annual fee.
- 10-5. All moneys collected or received at a gaming establishment, except any individual winnings or prizes of Ten Thousand (\$10,000) Dollars or less paid in cash immediately, shall be deposited by the licensee in bank accounts approved by the Gaming Commission, which accounts shall contain only such moneys. Other cash prizes, the purchase prices of non-cash prizes, and all expenses for such gaming activities shall be withdrawn from such accounts approved by the Gaming Commission by consecutively numbered checks duly signed by a specified officer or officers of the licensee and payable to a specific person or organization. There shall also be documentation for each check designating the nature of the expense or prize for which the check is drawn. No check shall be drawn to "cash" or a fictitious payee. Wire transfers shall be allowed with proper supporting documentation.



## SECTION 11 - BACKGROUND INVESTIGATIONS

- 11-1. The Gaming Commission shall conduct, or cause to be conducted, a background investigation of each applicant for a position which is designated as a key employee or primary management official sufficient to make a qualification determination under Section 9 above. In conducting the investigation, the Gaming Commission shall keep confidential the identity of each person interviewed in the course of the investigation.
- 11-2. Investigative Reports.
- (a) The Gaming Commission shall prepare and forward to the NIGC an investigative report summarizing each background investigation of a key employee or primary management official that the Gaming Commission intends to employ.
  - (b) The Gaming Commission shall forward an investigative report to the NIGC within sixty (60) days after a key employee or primary management official begins work or within sixty (60) days of the approval of this Ordinance by the NIGC.
  - (c) Each investigative report shall include the following:
    - (I) the steps taken in conducting the background investigation;
    - (ii) the results obtained;
    - (iii) the conclusions reached; and
    - (iv) the basis for those conclusions.
  - (d) The Gaming Commission shall submit to the NIGC, along with the investigative report, a summary of the Gaming Commission's qualification determination made under Section 9 above.
  - (e) If a gaming license is not issued to an applicant, the Gaming Commission:
    - (I) shall notify the NIGC; and
    - (ii) may forward copies of its qualification determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

- (f) With respect to key employees and primary management officials, the Gaming Commission shall retain applications for gaming licenses and reports (if any) of background investigations for inspection by the Chairman or his or her designee for no less than three (3) years from the date of termination of employment.
- (g) A gaming operation shall not employ as a key employee or primary management official a person who does not have a gaming license ninety (90) days after a license application has been submitted.

#### 11-3. Granting a Gaming License.

- (a) If, within a thirty (30) day period after the NIGC received an investigative report, the NIGC notifies the Gaming Commission that it has no objection to the issuance of a gaming license pursuant to a license application filed by a key employee or a primary management official, the Gaming Commission may issue a license to such applicant.
- (b) The Gaming Commission shall respond to a request for additional information from the Chairman concerning a key employee or a primary management official who is the subject of an investigative report. Such a request shall suspend the thirty (30) day period under Subsection (a) above until the Chairman receives the additional information.
- (c) If, within the thirty (30) day period described in Subsection (a) above, the NIGC provides the Gaming Commission with a statement itemizing objections to the issuance of a gaming license to a key employee or to a primary management official application, the Gaming Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Gaming Commission shall make the final decision whether to issue a gaming license to such applicant.

#### 11-4. Gaming License Suspension.

If, after the issuance of a gaming license, the Gaming Commission receives from the NIGC reliable information indicating that a key employee or a primary management official is not eligible for employment under Section 9 of this Ordinance, the Gaming Commission shall suspend such license and shall notify in writing the management of the gaming enterprise and the licensee of the suspension and the proposed revocation.

## **SECTION 12 - MAINTENANCE OF GAMING FACILITY**

- 12-1. The Gaming Commission shall establish standards and procedures for inspection and enforcement by which a gaming facility licensed under this Ordinance shall be maintained in a manner which adequately protects the environment and the public health and safety.

## **SECTION 13 - USE OF NET REVENUES**

- 13-1. Net revenues from gaming permitted under this Ordinance shall only be expended for one or more of the following purposes:
- (a) to fund Tribal government operations or programs;
  - (b) to provide for the welfare of the Tribe and its members;
  - (c) to promote Tribal economic development;
  - (d) to donate to charitable organizations; or
  - (e) to support operations of local governmental agencies.
- 13-2. If the Commission elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary pursuant to 25 U.S.C. } 2710(b) (3).

## **SECTION 14 - RECORDS AND REPORTS**

- 14-1. A gaming operation shall keep permanent books of account or records, including inventory records of gaming supplies, sufficient to establish the amount of gross and net income, deductions and expenses, receipts and disbursements, and other information required in any financial statement, report, or other accounting prepared pursuant to the Act or Chapter III in Title 25 C.F.R.
- 14-2. No later than the fifteenth (15th) day of each month, each gaming operator shall provide, in a report form prescribed by the Gaming Commission, a statement of gross revenues, assessable gross revenue and net revenues received or collected at each gaming establishment during the immediate preceding month.

- 14-3. All papers, books, and records including computer records of the gaming operation relating to licensed gaming activities shall be subject to inspection, examination, photocopying, and auditing by the Gaming Commission and the NIGC's authorized representatives at any time during reasonable hours. All such papers, books, and records shall be retained not less than six (6) years.

#### **SECTION 15 - ANNUAL AUDIT**

- 15-1. (a) The Gaming Commission shall cause to be conducted, at least annually, an independent audit of the books and records of each gaming operation.
- (b) **Audit Standards.** The Tribe shall engage an independent certified public accountant, licensed in California to provide an annual audit of the financial statements of each gaming operation on Tribal lands. Such financial statements shall be prepared in accordance with generally accepted accounting principles and the audit(s) shall be conducted in accordance with generally accepted auditing standards. Audit(s) of the gaming operation required under this Section may be conducted in conjunction with any other independent audit of the Tribe, provided that the requirements of Chapter III in Title 25 C.F.R. are met.
- (c) **Copies of Audit Reports.** The Tribe shall submit to the NIGC a copy of the audit report(s) and management letter(s) setting forth the results of each annual audit within one hundred twenty (120) days after the end of each fiscal year of the gaming operation(s) resulting from the audit(s) conducted pursuant to Subsection (a) above.
- (d) **Relationship of Audited Financial Statements to Fee Assessment Reports.** The Tribe shall reconcile its quarterly fee assessment reports, submitted under 25 C.F.R. Part 514, with its audited financial statements and make available such reconciliation upon request by the NIGC's authorized representative.
- 15-2. All gaming related contracts that result in purchases of supplies, services, or concessions for more than Twenty Five Thousand (\$25,000) Dollars in any year (except contracts for professional legal or accounting services) shall be specifically included within the scope of the audit conducted pursuant to this Section.

## **SECTION 16 - GAMING SURVEILLANCE SYSTEMS**

- 16-1. The Gaming Commission in coordination and cooperation with the Tribal Police/Casino Security Department shall install, operate and maintain adequate surveillance systems to assure the security of the gaming operations.
- 16-2. The Gaming Commission shall provide an adequate staff of investigators to maintain 24-hour surveillance in coordination with the Tribal Police/Casino Security Department.
- 16-3. Commission Investigators will meet NIGC security clearances and will be required to have completed adequate investigative training commensurate with their responsibilities.
- 16-4. Commission Investigators are employed by and directly supervised by the Tribal Gaming Commission, but will work cooperatively with Tribal Police/Casino Security Department.

## **SECTION 17 - GROSS GAMING REVENUES**

- 17-1. The gross gaming revenues derived from gaming operations are Tribal funds and may be expended by a licensee whose authority is either delegated or provided for by the Tribal Council through an employee Manager or in an approved management contract.

## **SECTION 18 - VIOLATIONS**

- 18-1. No person shall operate or conduct any gaming activity in a gaming operation within the exterior boundaries of Tribal lands without a gaming license issued by the Gaming Commission as required by this Ordinance.
- 18-2. No person shall knowingly submit false or misleading information to the NIGC or the Tribe in response to any provision of the Act, Chapter III in Title 25 C.F.R., or a Tribal Ordinance or resolution that the Chairman has approved under parts 522 or 523 in Title 25 C.F.R.
- 18-3 (a) No management contractor shall fail to account fully for all moneys received or collected in connection with gaming activities or to file any report required by the management contract.
- (b) A gaming operation shall not refuse to allow an authorized representative of the NIGC or an authorized Tribal official to enter or inspect a gaming

operation in violation of 25 C.F.R. } 571.5 or } 571.6, or of a Tribal Ordinance or resolution approved by the Chairman under parts 522 in Title 25 C.F.R.

- 18-4. No person under the age of eighteen (18) years shall be employed by a gaming operation or shall otherwise be permitted to participate in any gaming activities.
- 18-5. No person shall engage in cheating (as that term is defined in } 4-1(f) of this Ordinance) in any gaming activity or engage in any fraudulent conduct affecting either the Tribe or a customer of a gaming operation.
- 18-6. No person, other than an officer or the Lake County Sheriff's Department of Law Enforcement or the Tribal Police Department, may enter or remain in a gaming establishment licensed under this Ordinance while in the possession of a firearm or other weapon.
- 18-7. Any person who is in privity with a person who violates this Ordinance shall be deemed to be in violation of this Ordinance to the same extent as the violator, and shall be treated accordingly.
- 18-8. No person, whether playing in or conducting any gaming activity authorized under this Ordinance, shall:
  - (a) use bogus or counterfeit cards, or substitute or use any game cards that have been tampered with;
  - (b) employ or have on one's person any cheating device to facilitate cheating in any gaming activity; or
  - (c) knowingly cause, aid, abet, or conspire with another person or cause any person to violate any provision of this Ordinance or any rule adopted under this Ordinance.
- 18-9. A gaming operation's facility shall be constructed, maintained, and operated in a manner that does not threaten the environment or the public health and safety.
- 18-10. Alcohol, which is not for sale by the licensee to customers, and/or controlled substances are not to be brought into the gaming establishment.
- 18-11. If management fails to correct violations within the time permitted in a notice of violation issued by the Chairman or within fifteen (15) calendar days after the Tribe provides notice of a violation, such failure shall be deemed a further violation by the management.

## **SECTION 19 - NOTICE OF VIOLATION**

- 19-1. The Gaming Commission may issue a notice of violation to any person for violation of any provision of this Ordinance.
- 19-2. A notice of violation shall contain:
- (a) a citation to the Ordinance provision that has been or is being violated;
  - (b) a description of the circumstances surrounding the violation, set forth in common and concise language; (c) measures required to correct the violation;
  - (d) a statement that the violation must be corrected within five (5) calendar days from the date the notice was issued;
  - (e) a statement of the alleged violator's rights of appeal; and
  - (f) the amount of civil fines that the alleged violator must pay pursuant to Section 19, below.

## **SECTION 20 - CIVIL FINES**

- 20-1. In issuing a notice of violation under Section 18 of this Ordinance, the Gaming Commission may:
- (a) impose a civil fine not to exceed Five Hundred (\$500) Dollars for each violation and, if such violation is a continuing one, for each day, that the violation occurs; and/or
  - (b) impose a penalty of One Hundred (\$100) Dollars per day for failure to submit to the Gaming Commission any report required under this Ordinance when it is due, and One Thousand (\$1,000) Dollars per day for failure to file any such report after three-day notice and demand.
- 20-2. How assessments are made.

The Gaming Commission shall review each notice of violation to determine whether a civil fine will be assessed, the amount of the fine, and, in the case of a continuing

violation, whether such daily violation will be deemed a separate violation for purposes of the total civil fine assessed.

- (a) within five (5) calendar days after service of a notice of violation, the alleged violator shall submit written information about the violation and any corrective measures undertaken to the Gaming Commission. The Gaming Commission shall consider any information so submitted in determining the facts surrounding the violation and the amount of the civil fine;
- (b) the Gaming Commission shall serve a copy of the proposed assessment on the alleged violator within ten (10) calendar days after the notice of violation was issued, when practicable; and
- (c) the Gaming Commission may review and reassess any civil fine if necessary to consider facts that were not reasonably available on the date of issuance of the proposed assessment.

20-3. Final assessment:

- (a) if the alleged violator fails to request a hearing as provided in } 21 of this Ordinance, the proposed civil fine assessment shall become a final order of the Gaming Commission;
- (b) civil fines assessed under this Section shall be paid by the person assessed and shall not be treated as an operating expense of the gaming operation; and
- (c) the Gaming Commission shall transfer civil fines paid under this Ordinance to the Treasurer of the Tribe for deposit into the Tribal Treasury.

## **SECTION 21 - ENFORCEMENT**

21-1. The Gaming Commission shall take any one or a combination of the following actions with respect to any person who violates any provision of this Ordinance:

- (a) suspend or revoke any gaming license issued by Gaming Commission; or
- (b) bring an action in a court of competent jurisdiction for imposition of one or more of the following sanctions;



- (i) seizure of any gaming apparatus, proceeds, or other property of a licensee connected with the gaming activities engaged in by the licensee;
  - (ii) collection of any unpaid fees, interest, penalties, and of any civil fines unpaid after thirty (30) calendar days; or
  - (iii) execution on any nonexempt property of a violator located within the exterior boundaries of Tribal lands.
- 21-2. Civil actions may be brought by the Gaming Commission pursuant to this Ordinance in any court of competent jurisdiction to enforce the imposition of any and all sanctions provided for under this ordinance.
- 21-3. Before taking any action authorized in } 19 and } 20-1 of this Ordinance, the Gaming Commission shall use its best efforts to notify the alleged violator, in person or by letter delivered to his/her last known address, of the charges against him/her, and allow the alleged violator an opportunity for a prompt hearing. If the alleged violator fails to respond, or cannot be found, the Gaming Commission may proceed with a hearing notwithstanding, and take such action as it deems appropriate. Said notice of the alleged violation shall be served at least three (3) business days prior to the hearing.
- 21-4. Every person who applies for a gaming license and accepts such license thereby acknowledges the civil enforcement jurisdiction and authority of the Gaming Commission under this Ordinance to order an execution on his/her further conduct of gaming activities and the seizure of his/her gaming equipment or proceeds or other property, upon a proper finding of the Gaming Commission or the court that the person has violated a provision of this Ordinance, despite lack of actual notice, provided that the Gaming Commission has used its best efforts to notify the person, in person or by letter delivered to his/her last known address.

## **SECTION 22 - HEARINGS AND APPEALS**

- 22-1. This Section provides procedures for appeals to the Gaming Commission regarding;
- (a) a violation alleged in a notice of violation; and
  - (b) civil fines assessed by the Gaming Commission in this Ordinance.
- 22-2. The Gaming Commission shall hold a hearing on the proposed revocation of a gaming license held by a primary management official or key employee after it has suspended such license pursuant to 25 C.F.R. } 558.5. The licensee shall be notified by the Gaming Commission of the time and place for hearing. After the hearing, the Gaming

Commission shall decide to revoke or reinstate the gaming license. The Gaming Commission shall notify the NIGC of its decision.

- 22-3. Any licensee paying a civil fine or penalty for any violation enumerated in this Ordinance because of excusable neglect may petition the Gaming Commission for partial or full waiver of suit, fine, or penalty. The petition shall be filed within thirty (30) business days after the payment was made.
- 22-4. Any person aggrieved by a decision made or action taken by the Gaming Commission without notice and opportunity for hearing to the aggrieved person, may petition the Gaming Commission for a hearing and reconsideration. The petition shall be filed within thirty (30) business days after the petitioner knew or should have known of the decision or action. The Gaming Commission shall grant a prompt hearing upon receiving such a petition, and shall reconsider its decision or action, affirm, modify, reverse and/or vacate the Gaming Commission's order in light of what is presented at a hearing.
- 22-5. Any person aggrieved by a decision made or action taken by the Gaming Commission after notice and opportunity for hearing may petition the Tribal Council for review. Such petition shall specifically set forth the reasons for grievance and be filed with the Tribal Council no later than thirty (30) business days after the Gaming Commission's decision or action. The Tribal Council shall set the matter for hearing no later than thirty (30) business days and no sooner than three (3) business days after receipt of the petition, and may upon establishing that it has jurisdiction, affirm, modify, reverse and/or vacate the Gaming Commission's order.

### **SECTION 23 - SERVICE**

- 23-1. The Gaming Commission shall designate by written notification to the NIGC an agent for service of any official determination, order, or notice of violation.
- 23-2. A management contractor or a Tribal operator shall designate by written notification to the NIGC an agent for service of any official determination, order, or notice of violation.

### **SECTION 24 - RESOLUTION OF DISPUTES BETWEEN MANAGEMENT CONTRACTOR OR TRIBE AND CUSTOMERS**

- 24-1. Notice of warning regarding the improper conduct set out in } 23-2 of this Ordinance or other gaming rules established and enforced by the gaming operation shall be posted at the entrance of each gaming establishment and/or given to the customer upon entering the premises.
- 24-2. The following improper conduct shall result in ejection of a customer from any gaming establishment:
- (a) cheating;
  - (b) possession of weapons in the gaming establishment;
  - (c) possession of alcohol that has been brought by a customer into the gaming establishment;
  - (d) possession of a controlled substance in the gaming establishment;
  - (e) disorderly conduct, including the willful, or wanton disregard for the rights of others; and
  - (f) any other act which is disruptive to the gaming operation.
- 24-3. Failure by a customer to provide proof of age when requested by gaming operation personnel shall result in ejection of the customer from the premises but admission fees (if any) shall be refunded.
- 24-4. Ejection of a customer shall be accomplished by the Tribal Police/Casino Security Department in cooperation with the Lake County Sheriff's Department of Law Enforcement if necessary, upon request of the gaming operation.
- 24-5. (a) Either the employee manager or management contractor of the gaming operation or an alternate designated by either shall be present at all times to resolve complaints by customers involving the operation of bingo and other class II games at the establishment.
- (b) If the employee manager or management contractor or their alternates are unable to resolve any dispute, as provided in (a) the matter may, upon request of the customer, be referred to the Gaming Commission for resolution. Action by the Gaming Commission may be initiated by making a written request to the Legal Department of the Tribe. The decision of the Gaming Commission on any dispute so referred to it for resolution shall be final.

## **SECTION 25 - APPLICABLE LAW**

- 25-1. All controversies involving contracts relating to gaming entered into under the authority of the Gaming Commission on Tribal lands shall be resolved, as appropriate, in accordance with:
- (a) the Indian Gaming Regulatory Act;
  - (b) National Indian Gaming Commission Regulations;
  - (c) the laws of the Tribe; and
  - (d) if no Tribal laws exist, the laws of the State of California, which are incorporated herein by reference.
- 25-2. To the extent that the provisions of any Tribal-State compact entered into by the Middletown Rancheria and the State of California are inconsistent with any provisions of this Ordinance, the provisions of the compact shall govern Class III gaming on Tribal lands.

## **SECTION 26 - SAVINGS PROVISION**

- 26-1. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions or application, and, to this end, the provisions of this Ordinance are severable.

## **SECTION 27 - EFFECTIVE DATE/REPEAL**

- 27-1. This Ordinance shall be effective immediately upon approval by appropriate governmental authority and, once approved, all previous gaming Ordinances shall be repealed.

***Resolution GC/R 94-6***

Lake Miwok Indian Nation  
**Middletown Rancheria**  
Middletown, CA

Resolution GC/R 94-6

December 3, 1994

Whereas, it is the expressed interest and intent of the General Council of the Middletown Rancheria to enter into gaming on the Middletown Rancheria.


And whereas, it is in the best interest of the people of the Middletown Rancheria to maintain direct and close observation over the operations of gaming on the Middletown Rancheria.

And whereas, the encumbrances of decision-making on a monthly basis by the General Council renders its direct observation and influence on gaming operations non-feasible,

Therefore, be it resolved that the General Council, by majority vote of eligible voting members present at a duly noticed and called meeting held this date, December 3, 1994, does empower the Tribal Council to enter into any and all necessary agreements for the establishment of gaming on the Middletown Rancheria and further empowers the chairman to sign and execute any such agreements with approval of the Tribal Council.

  4   YES   0   NO   0   ABSTAIN

  
by testimony of the Secretary, Laura Galupe

  
and enacted by signature of the Chairman, Marcel Simon

***Resolution GC/R 94-7***

Lake Miwok Indian Nation  
Middletown Rancheria  
Middletown, CA

Resolution GC/R 94-7

December 3, 1994


Whereas, it is required under the laws of Tribal Ordinance GC/O 94-1 regulating gaming on the Middletown Rancheria to establish a Tribal Gaming Commission,

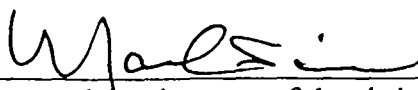
and whereas, The Tribal Council is empowered under the Tribal Gaming Ordinance to appoint the three commissioners of the Tribal Gaming Commission,

and whereas, the expedient and timely creation of a gaming complex on the Middletown Rancheria has rendered it economically prudent to begin operations prior to the Tribal Council's reasonable ability to select, conduct appropriate background investigations of, and train commissioners for, the immediate establishment of the Tribal Gaming Commission,

be it therefore resolved, that the General Council, by majority vote of eligible voting members present at a duly noticed and called meeting held this date, December 3, 1994, does empower the Tribal Council to operate as a temporary Tribal Gaming Commission until such time that commissioners can be selected and seated. Members of the Tribal Council are directed to use due diligence in the selection and training of commissioners.

  4   YES   0   NO   0   ABSTAIN

  
by the Secretary, Laura Galupe

  
enacted by signature of the chairman,  
Marcel Simon