

NATIONAL  
INDIAN  
GAMING  
COMMISSION

NOV 18 1993

Phillip Martin, Tribal Chief  
Mississippi Band of Choctaw Indians  
Tribal Administration Building  
Route 7, Box 21, Highway 16 West  
Philadelphia, Mississippi 39350

Dear Chief Martin:

This letter responds to your request to review and approve Title XV of the Choctaw Tribal Code which consists of ordinances 40, 16-O, 16-R, and 16-V for the Mississippi Band of Choctaw Indians (the Band). 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. Also, such approval does not constitute approval of specific games.

It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Band's gaming ordinance, the Band 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 Mississippi Band of Choctaw Indians for review and approval. The NIGC staff and I look forward to working with you and the Band in implementing the IGRA.

Sincerely yours,

Anthony J. Hope

Anthony J. Hope  
Chairman

cc: Stephen Gleason

MISSISSIPPI BAND OF CHOCTAW INDIANS  
Box 6010 Choctaw Branch  
Philadelphia Mississippi 39350

ORDINANCE No. 40

AN ORDINANCE AUTHORIZING CLASS III GAMING ACTIVITIES

WHEREAS, the Mississippi Band of Choctaw Indians has the right to permit, license, and regulate Class III (Casino-Type) Gaming activity on its tribal lands in accordance with the Indian Gaming Regulatory Act ("IGRA") only if such activities are (1) authorized by a tribal ordinance or resolution adopted by the Tribal Council of the Mississippi Band of Choctaw Indians that meets the requirements of the IGRA and that is approved by the Chairman of the National Indian Gaming Commission, (2) located in a State that permits such gaming, and (3) conducted in conformance with a Tribal-State compact entered into by the Mississippi Band of Choctaw Indians and the State of Mississippi pursuant to IGRA; and

WHEREAS, by separate Resolution CHO 137-90, the Chief has been authorized to take necessary steps to enter into a Tribal-State compact through the federal court proceedings prescribed by the IGRA and to obtain a legal resolution through such proceeding on the issue of whether the statutes of the State of Mississippi authorizing certain gaming activities are in violation of Section 98 of the Mississippi Constitution of 1890 so as to legally determine whether Class III gaming activities shall be lawful on the Mississippi Band of Choctaw Indians reservation in Mississippi under the provisions of IGRA; and

WHEREAS, the Tribal-State compact to be entered into pursuant to the federal court litigation process will provide the tribe with the opportunity to operate one or more gaming casinos on the Mississippi Band of Choctaw Indians tribal trust land in the State of Mississippi in a manner that will benefit the tribe economically and will ensure fair operation of the games; and

WHEREAS, the tribe, exercising powers of self-government as set forth in the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians, acting by and through its duly authorized and organized Tribal Council, hereby desires to enact the ordinance required by the IGRA to authorize Class III (Casino-Type) Gaming on the Mississippi Band of Choctaw Indians reservation in accordance with an inter-governmental compact with the State of Mississippi; now therefore be it

ENACTED, that the Tribal Council does hereby approve and authorize the conduct of Class III (Casino-Type) Gaming on the Mississippi Band of Choctaw Indians reservation in Mississippi pursuant to rules, regulations and limitations as may be contained in the Tribal-State compact to be entered into with the State of Mississippi, and be it further

ENACTED, that the Mississippi Band of Choctaw Indians will have the sole proprietary interest and responsibility for the conduct of any gaming activity, and be it further

ENACTED, that net revenues from any tribal gaming activities shall be used for

purposes determined by the Tribal Council, but such net revenues shall not be used for purposes other than (1) to fund tribal government operations or programs; (2) to provide for the general welfare of the Mississippi Band of Choctaw Indians and its members; (3) to provide tribal economic development; (4) to donate to such charitable organizations as may be approved by this Tribal Council; or (5) to help fund operations of local government agencies; and be it further

ENACTED, that annual outside audits of the gaming activities conducted by the tribe will be provided by the tribe to the National Indian Gaming Commission, and that all contracts in connection with such gaming activities or supplies, services or concessions for a contract amount in excess of \$25,000 annually (except contracts for professional, legal or accounting services) shall be subject to such independent audits; and be it further

ENACTED, that the construction and maintenance of the gaming facility or facilities, and the operation of the gaming must be conducted in a manner which adequately protects the environment and the public health and safety; and be it further

ENACTED, that there shall be an adequate system which (1) ensures that background investigations are conducted by the tribal Department of Law Enforcement on the primary management officials and key employees of the gaming enterprise and that oversight of such officials and their management is conducted on an ongoing basis and (2) includes (a) tribal licenses issued by the tribe's designated licensing agency (to be established by separate Ordinance of this Tribal Council) for primary management officials and key employees of the gaming enterprise with prompt notification to the National Indian Gaming Commission of the issuance of such licenses; (b) a standard whereby any person whose prior activities, criminal record, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation of gaming or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities, and the conduct of gaming shall not be eligible for employment in connection with the tribe's gaming activities; and (c) notification by the tribe to the Commission of the results of such background checks before the issuance of any such licenses; and be it further

ENACTED, that the Chief is further authorized to act on behalf of the Mississippi Band of Choctaw Indians in submitting this Ordinance to the Chairman of the National Indian Gaming Commission for approval and publication as required by the IGRA; and be it further

ENACTED, that this Ordinance shall remain in force until revoked by the Tribal Council of the Mississippi Band of Choctaw Indians.

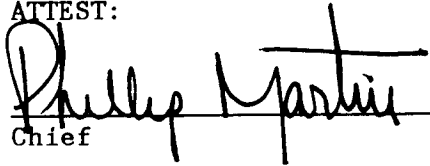
#### CERTIFICATION

I, the undersigned, as Secretary-Treasurer of the Mississippi Band of Choctaw Indians, certify that the Tribal Council of said Band is composed of 16 members,

of whom 15, constituting a quorum, were present at a special meeting thereof, duly called, noticed, convened, and held this 2nd day of August, 1990; and that the foregoing Ordinance was duly enacted by a vote of 13 members in favor, 2 opposed, and 0 abstaining.

Dated this 2nd day of August, 1990.

ATTEST:

  
\_\_\_\_\_  
Chief

  
\_\_\_\_\_  
Secretary-Treasurer

APPROVED:

\_\_\_\_\_  
Chairman, National Indian Gaming  
Commission

\_\_\_\_\_  
Date

**MISSISSIPPI BAND OF CHOCTAW INDIANS**  
Box 6010 Choctaw Branch  
Philadelphia Mississippi 39350

**ORDINANCE No. 16-V**

**AN ORDINANCE AMENDING TITLE XV OF THE TRIBAL CODE**

**WHEREAS, the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians, Article VIII, Sections 1(c) and (o), empowers the Tribal Council to "establish procedures for the conduct of all tribal government and business operations" and "establish policies relating to tribal economic affairs;" and**

**WHEREAS, by Ordinance No. 40, this Tribal Council has authorized Class III gaming with appropriate regulation, and**

**WHEREAS, by Ordinances Nos. 16-O and 16-R, this Tribal Council amended the Tribal Code by adding and amending a Title XV, Chapter 1, which created the Choctaw Gaming Commission, Chapter 2, which authorized the Choctaw Gaming Commission to regulate Class II gaming (bingo and related games and certain card games), and Chapter 3, which described regulation of casino-type games on the reservation, in full accord with the IGRA; and**

**WHEREAS, this Tribal Council does now desire to amend Title XV to respond to certain requirements of the National Indian Gaming Commission and for related purposes, and**

**WHEREAS, this Resolution has been reviewed and approved by the Committee on Judicial Affairs and Law Enforcement of the Tribal Council, now therefore be it**

**ENACTED, that the Tribal Council does hereby replace Title XV, Gaming, of the tribal Code with an amended Title XV, Gaming, to the Tribal Code in the form attached hereto; and be it further**

**ENACTED, that Title XV, in the form attached hereto, shall become effective upon approval of this Ordinance and amended Title XV, Chapters 1, 2, and 3, by the Chairman of the National Indian Gaming Commission (or the official of the U. S. Department of the Interior currently exercising authority for such Commission) or ninety days after submission to the Chairman of the Indian Gaming Commission, whichever shall first occur; and be it further**

**ENACTED, that except for the replacement of the Title XV with the attached amended Title XV, all provisions of Ordinances No. 16-O and -R shall remain in full force and effect, and references in such Ordinances Nos. 16-O and 16-R to Title XV shall be construed as referring to the amended Title XV and any additional amendments as may be authorized by this Tribal Council and approved by the Chairman of the National Indian Gaming Commission; and be it further**

ENACTED, that the Tribal Chief and the Secretary-Treasurer are hereby authorized to take such other and further actions as may be necessary to obtain approval for and implement the amended Title XV, Chapters 1, 2, and 3, attached hereto; and be it further

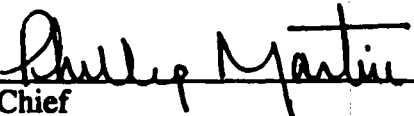
ENACTED, that the Chairman of the Committee on Judicial Affairs and Law Enforcement is hereby directed to ensure that a properly amended Tribal Code is prepared in accordance with this Ordinance by preparing substituted and additional pages for the provisions of the Code as amended by this Ordinance, with each amended page thereto to be date stamped October 19, 1993.

CERTIFICATION

I, the undersigned, as Secretary-Treasurer of the Mississippi Band of Choctaw Indians, certify that the Tribal Council of said Band is composed of 16 members, of whom 14, constituting a quorum, were present at a special meeting thereof, duly called, noticed, convened, and held this 19th day of October, 1993; and that the foregoing Ordinance was duly enacted by a vote of 12 members in favor, 1 opposed, and 1 abstaining.

Dated this 19th day of October, 1993.

ATTEST:

  
\_\_\_\_\_  
Chief

  
\_\_\_\_\_  
Secretary-Treasurer

RECOMMENDED:

\_\_\_\_\_  
Superintendent, Choctaw Agency

\_\_\_\_\_  
Date

**TITLE XV**

**GAMING**

**CHAPTER 1 - CHOCTAW GAMING COMMISSION**

**§ 15-1-1 Gaming Commission**

(1) There is hereby established the Choctaw Gaming Commission (Commission), which shall regulate all activities under this Title XV (Title). The Commission shall consist of three full-time members composed of a Chairman and two Associate Commissioners. Commissioners may or may not be members of the tribe. The Chairman and Associate Commissioners shall be appointed by the Tribal Chief and approved by resolution of the Tribal Council. Within sixty (60) days of passage of this Restated Title XV, the Tribal Chief shall appoint the initial Chairman to a four-year term ending in December of 1996, and the remaining members to an initial three-year term ending in December of 1995. Thereafter, the Tribal Chief shall appoint the Chairman and the Associate Commissioners to terms of four years, subject to approval by the Tribal Council.

(2) The Tribal Chief shall conduct or cause to be conducted an inquiry into each appointee's financial stability, integrity, and good reputation prior to appointing a member to the Commission. No individual who has been convicted of a felony or gaming offense or who has a conflict of interest prohibited by § 15-1-4 shall be eligible for appointment to or service on the Commission.

(3) The Chairman shall have overall supervision and responsibility of the Commission activities. It shall be the duty of the Chairman, with the concurrence of the two Associate Commissioners, to establish a plan of organization for the Commission and its staff.

**§ 15-1-2 No Waiver of Immunity**

In the exercise of its powers and duties, neither the Commission nor any of its members shall waive the immunity of the Commission or of the Mississippi Band of Choctaw

Indians from suit without the expressed consent of the Tribal Council of the Mississippi Band of Choctaw Indians.

**§ 15-1-3 Bonding**

Commission members and commission personnel, if any, must be bonded in an amount of at least \$10,000, which cost shall be borne from the Commission budget.

**§ 15-1-4 Conflict of Interest**

(1) No member or employee of the Commission shall solicit, accept or receive any gift, gratuity, emolument, or employment from any person, officer, agent, or employee of a gaming entity, supplier or contractor, or an applicant for a work permit or license subject to the provisions of this Title.

No such Commission member or employee shall solicit, request from, or recommend, directly or indirectly, to any gaming entity, supplier, contractor or applicant subject to this Title, or to any officer, agent, or employee thereof, the appointment of any person to any place or position of employment.

Every such person subject to regulation under this Title, and every officer, agent, or employee thereof, is hereby forbidden to offer to any member of the Commission, or to any person appointed or employed by the Commission any gift, gratuity, emolument, or employment.

(2) No member of the Commission or its employees, if any, may work for any tribal gaming entity, contractor, or supplier during such appointment or employment for a period of one year after termination of their appointment to or employment with the Commission.

(3) No Commission official or member of their immediate household shall receive any payment for the purpose of obtaining or maintaining a gaming management contract, or any license or work permit.

(4) No Commission member or member of their immediate household and no member of the Tribal Council shall be an owner, partner, beneficiary, shareholder, director, officer, or employee of the entity holding the management contract for any Mississippi Band of Choctaw Indians tribal gaming operations.

(5) No tribal member or non-member may be appointed as a Commissioner or hired as an employee of the Commission while holding any position of employment or accepting a



position of employment with any gaming enterprise or gaming supplier or contractor; nor may such person be appointed a Commissioner or continue to serve as a Commissioner or employee of the Commission while any member of their immediate household holds or accepts any position of employment with a gaming enterprise, supplier or contractor.

(6) Commissioners and Commission employees or members of their immediate household are prohibited from participating in any games of chance offered by any gaming entity on the reservation for the duration of their term or period of employment with the Commission.

(7) For purposes of this section "immediate household" is defined as son(s), daughter(s), step-son(s) or step-daughter(s), spouse, or spouse recognized by common law, and members living in the same house.

#### **§ 15-1-5 Removal of Commissioners**

Commission members may be removed from their position by a majority vote of the Tribal Council at a meeting at which a quorum is present only for neglect of duty, malfeasance in office, or other just cause, and only upon recommendation to the Tribal Council through the Tribal Chief by majority of the remaining Commissioners; provided, however, that the Tribal Council may remove any member without recommendation from the other Commissioners in cases of criminal violation of tribal, federal or state statutes or regulations.

#### **§ 15-1-6 Vacancies**

In the event of a vacancy occurring on the Commission for any reason, the vacancy shall be filled for the remainder of the term by appointment of the Tribal Chief approved by the Tribal Council. Upon expiration of the term of the vacated Commissioner position, the procedure set forth in § 15-1-1 shall apply.

#### **§ 15-1-7 Meetings**

Due to the need for ongoing oversight of gaming operations, management and key employees, the Commission shall hold meetings at a minimum of once every 60 days. Full minutes are to be kept and filed of all Commission meetings, subject to § 15-1-13 qualifications on confidential and proprietary information. Special meetings may be called by the Chairman or by any two Commissioners, provided formal notification in writing is given to all Commission members at least three days in advance of the meeting date. Formal

notification may be waived in emergency situations provided all members of the Commission are contacted by the Chairman and such contact and waiver are duly recorded.

#### **§ 15-1-8 Quorum**

Two members of the Board shall constitute a quorum, with all matters governed by a majority vote of the quorum.

#### **§ 15-1-9 Compensation**

(1) Subject to receiving funding pursuant to § 15-1-11, the Commission shall pay members of the Commission salaries in accordance with this section for their services in oversight and regulation of gaming enterprises on the reservation. The Commission shall also reimburse Commissioners for expenses on behalf of the Commission's activities. All reimbursable expenses shall conform to prevailing Tribal Government administrative procedures.

(2) The Chairman of the Commission shall be paid at a rate equal to the grade TS 30 of the tribal wage scale, as it may be adjusted from time to time. The associate members of the Commission shall be paid at a rate equal to the grade TS 25 of the tribal wage scale, as it may be adjusted from time to time.

#### **§ 15-1-10 Reports**

The Commission shall submit an annual report to the Tribal Council through the Tribal Chief and provide any other interim reports and information as requested by the Tribal Chief and in such form as may be specified certifying conformance of each gaming enterprise to applicable tribal and federal law and licensing requirements, applicable tribal-state compact provisions, and to the Commission's regulations in the conduct of their gaming activities.

#### **§ 15-1-11 Funding**

(1) The Commission shall annually adopt and assess a fee upon the gross revenue of all licensed gaming entities not to exceed one percent (1%) for the purpose of paying costs incurred in carrying out its specific investigative oversight and operational responsibilities. Assessments must be duly recorded and filed for audit purposes. The fee assessed pursuant to this section shall be payable quarterly and shall be in addition to any fee(s) required to be paid by licensees to the National Indian Gaming Commission.

(2) No monies may be expended by the Commission until a budget has been submitted for review and approval by the Tribal Council. All Commission operating revenues and expenditures must be reviewed by the Tribal Chief or his designate for conformance with standard tribal administrative financial procedures.

(3) Any Commission funding needs and expenditures beyond one percent of gross revenues of gaming activities licensed by the Commission must be submitted to the Tribal Chief for Tribal Council review, approval, and appropriation in amounts necessary for the operation of the Commission. Residual funds collected in excess of expenditures shall be returned to the Tribal Council to be deposited into the tribal general fund at the end of the tribe's fiscal year.

(4) For purposes of this section, "gross revenues" means total amount of money wagered, less amounts paid out as prizes or paid for prizes awarded.

#### **§ 15-1-12 Financial Records and Audit**

The Commission shall maintain accurate and complete records of the financial affairs of the Commission, and the Chairman of the Commission shall cause an annual audit of the Commission's financial affairs to be conducted by a certified public accountant in accordance with generally accepted accounting principles, consistently applied, and shall furnish an annual budget, an annual balance sheet, and complete financial report of the Commission to the Tribal Council through the Tribal Chief within three months of close of the tribe's fiscal year.

#### **§ 15-1-13 Confidential Records**

(1) The Commission shall maintain a file listing all applications for licenses and work permits under this Title and a record of all Commission actions on such applications, and such records shall not be confidential.

(2) Confidential information shall include (1) records and financial data acquired by the Commission in carrying out its background investigations of potential gaming entities, managers and key employees and (2) proprietary financial data. Except as otherwise provided herein, confidential information is prohibited from public disclosure either by the Commission or by individual Commissioners. Confidential or proprietary records, in whole or in part, shall not be included as sections of or attachments to Commission budget documents, annual reports, minutes or audit findings. Copies of confidential or proprietary records may be forwarded to the National Indian Gaming Commission or other applicable regulatory agency upon the written request of that agency or in compliance with the

appropriate reporting requirements of this Title, the Indian Gaming Regulatory Act and any tribal-state compact.

**§ 15-1-14 Licenses and Work Permits Required**

(1) No entity or person shall enter into a binding management contract for operation and management of gaming activity with the tribe or shall be hired as a primary management official or key employee of a gaming enterprise operated pursuant to this Title, unless such entity or person is the holder of a gaming license issued by the Commission. The Commission shall provide prompt notification to the Tribal Council through the Tribal Chief and to the National Indian Gaming Commission of any such gaming licenses issued pursuant to this Title. Separate licenses will be required for each place or location where gaming is conducted.

(2) Persons not required to be licensed as primary management officials or key employees shall not be employed to work in a gaming enterprise operated pursuant to this Title, unless such person is the holder of a work permit issued by the Commission.

(3) For purposes of this Title, a "key employee" means an employee of the tribe or a tribal gaming licensee:

- (a) Who performs one or more of the following functions:
  - (1) Bingo Caller;
  - (2) Counting room supervisor;
  - (3) Chief of security;
  - (4) Custodian of gaming supplies or cash;
  - (5) Floor manager;
  - (6) Pit boss;
  - (7) Dealer;
  - (8) Croupier;
  - (9) Approver of credit; or
  - (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices:
- (b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year, or
- (c) If not otherwise included, the four most highly compensated persons in the gaming operation.

(4) For purpose of this Title, a "primary management official", means an employee of the tribe or a tribal gaming licensee who performs the following functions:

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

(5) All licensed primary management officials, key employees, and permitted employees shall wear identification badges. Security personnel may be exempted from this requirement.

#### § 15-1-15 Application Process for Gaming Licenses: Background Investigations

(1) The Commission shall require all applicants for gaming licenses (entities proposing to enter into gaming management contracts and primary management officials and key employees) to pay a non-refundable application fee of \$2,000 and to complete an application form containing sufficient information to allow a background investigation of the applicant in conformance with requirements of federal regulations and any applicable tribal-state compact. If the Commission determines that investigative costs shall exceed such fee, the Commission shall notify the applicant in writing of the estimated costs to be incurred by the Commission in performing or causing to be performed a background investigation, and the applicant must pay such estimated costs to the Commission prior to the Commission processing the application.

(2) The Commission shall ensure that background investigations are conducted on all applicants for tribal gaming licenses and permits and that continuing oversight of primary management officials and key employees is conducted. The Commission shall notify the Tribal Chief and the National Indian Gaming Commission of the results of background checks on any applicants prior to issuance of any tribal gaming license, and shall provide other notifications or reports as may be required by any applicable tribal-state compact. All criminal history checks shall be conducted pursuant to the rules and regulations of the National Indian Gaming Commission and shall include a check through the Federal Bureau of Investigation, National Criminal Information Center.

**(3) All fingerprints for licensing or work permits shall be taken on fingerprint cards approved or supplied by the National Indian Gaming Commission and the Choctaw Department of Law Enforcement shall take said fingerprints. All fingerprint cards shall be processed through the National Indian Gaming Commission by procedures as may from time to time be established by the National Indian Gaming Commission.**

**§ 15-1-16 Application for Work Permit; Procedure**

**(1) An applicant for a gaming work permit shall furnish their fingerprints in duplicate on fingerprint impression cards and a current photograph in duplicate to the Commission. The photographs must be satisfactory to the Commission and must have been taken not earlier than three (3) months before the date of filing the application. The applicant shall also sign a written statement certifying that the applicant is not automatically disqualified for a work permit in accordance with the standards set forth in Section 15-1-17.**

**(2) An applicant for a work permit shall pay the application fee established by the Commission, by regulation, which shall be sufficient to cover the costs of processing the application.**

**(3) The Commission may either grant or deny the work permit based upon its investigation and review of the application.**

**§ 15-1-17 Automatic Disqualification for License or Work Permit**

**The Commission shall deny or revoke gaming licenses or work permits to persons or entities whose prior activities, criminal record, or records, habits and associations pose a threat to the public interest or to the effective regulation of gaming or create or enhance the dangers of unsuitable, unfair or illegal practices and activities in connection with gaming activities. All gaming licenses and work permits shall be reviewed and, if appropriate, renewed on an annual basis, with prompt notification to the National Indian Gaming Commission of renewals of licenses and other notifications as may be required by an applicable tribal-state compact. Without limiting the foregoing, the Commission must automatically deny or revoke gaming licenses or permits to persons:**

**(1) who have been convicted of a felony in any jurisdiction of any crime of moral turpitude;**

**(2) who have been convicted of a violation or conspiracy to violate the provisions of this Title or the Indian Gaming Regulatory Act or other federal laws relating to**

involvement in gaming without required licenses or willful evasion of gaming fees or taxes;

(3) having a notorious or unsavory reputation or association with such individuals which adversely affect public confidence and trust in gaming;

(4) whose license or work permit would violate conflict of interest rules in Section 15-1-4 hereof;

(5) who are individual applicants under the age of 21.

#### **§ 15-1-18 Authority to Adopt, Amend, Repeal Regulations**

The Commission shall, from time to time, adopt, amend or repeal such regulations consistent with this Title and Ordinance 16-V as it may deem necessary or desirable, subject to review and approval by the Tribal Council.

#### **§ 15-1-19 Indemnity**

The Commission shall indemnify, where Commission funds are available, any past, present, or future Commissioner for actual losses, expenses, costs of defense, or liabilities incurred in connection with any claim or suit brought against the Commissioner for alleged negligence or wrongful conduct while providing service to the Commission; provided, however, that no Commissioner shall be indemnified in connection with any claim or liability arising out of the Commissioner's own willful misconduct, bad faith or conduct outside the scope of his authorized powers or duties set forth in this title, and provided further that this indemnity shall be limited to the extent that insurance coverage does not adequately indemnify or make the Commissioner whole.

#### **§ 15-1-20 Commission Staffing**

(1) The Commission shall adhere to standardized tribal personnel and administrative practices in regard to any staff recruitment, employment, reduction in force, promotion, training and related employment actions to a publicly announced policy and practice of extending preferential treatment to Indians living on or near the Choctaw Reservation. The Commission is empowered to employ non-Indians when no qualified Indian living on or near the Choctaw Reservation can be recruited, trained or upgraded to fill the given hiring need of the Commission.

(2) The Commission shall hire a General Counsel and other persons as necessary for purposes of consultation, investigations, or operational support of the Commission and shall compensate such persons amounts within funding or budgets approved by the Tribal Council.

(3) The Commission may contract for the technical expertise of outside consultants in carrying out its authorized functions; provided such contracting conforms to standard tribal contracting administrative procedures.

#### **§ 15-1-21 Amendments**

Amendments to this Title may be proposed by the Commissioners in the form of a revised ordinance, a copy of which must be served by mail to the Tribal Chief at least two weeks in advance of the Tribal Council meeting at which it is to be introduced. An amended ordinance thereafter adopted by the Tribal Council shall become effective upon passage.

#### **§ 15-1-22 Complaints**

Any gaming participant wishing to contest an action of a licensed gaming entity or gaming official or employee must submit a complaint in writing to the Choctaw Gaming Commission within 10 days of the contested action. The Commission shall respond in writing within seven days. The Commission, by majority vote, may determine to hold hearings, conduct an investigation, dismiss or affirm the complaint and order appropriate remedial actions or decide to pursue civil or criminal penalties against the gaming entity or gaming official or employee.

#### **§ 15-1-23 Authority with Respect to Licenses; Enforcement Powers**

(1) The Commission shall exercise its continuing gaming oversight and shall issue, renew or disapprove any application, or limit, suspend or revoke gaming licenses and work permits on an annual basis. Any license or work permit granted under this Title is a revocable privilege, and no licensee or permittee holds any vested right to such license.

(2) The Commission is authorized to carry out investigations of all prospective and existing gaming licensees, to initiate hearings and to conduct or cause to be conducted announced or unannounced inspections of all gaming premises in order to ensure compliance with tribal and federal law and applicable requirements of any tribal-state compact. All licensees are obligated to comply immediately to such Commission requests for information and review of all licensee papers, books and records, or inspection of premises on an announced or unannounced basis.



(3) The Commission may hold hearings, take testimony, receive evidence, and administer oaths or affirmations to witnesses appearing before the Commission in accordance with procedural rules to be adopted by the Commission.

(4) The Commission, within three months from the effective date of this Title, shall submit to the Tribal Council through the Tribal Chief proposed regulations setting forth civil fines, penalties, license or work permit suspensions or revocations that may be imposed by the Commission against a licensee or other gaming employee for any violation of this Title XV or regulations adopted pursuant to this Title. Without limiting the foregoing, such regulations shall not restrict the Tribal Council or the Tribal Chief from exercising contractual rights to terminate any gaming management contract or exercise other contractual remedies due to default or breach of the management contract by the management contractor.

(5) The Commission shall, when its investigations of gaming indicate a violation of federal or tribal laws or regulations, provide information of indicated violations to appropriate law enforcement officials. It is hereby recognized that theft from gaming establishments on Indian lands and thefts by officers or employees of such gaming establishments are punishable by substantial fines and imprisonments pursuant to 25 U.S.C. §§ 1167 and 1168, and that tribal operators and management contractors may be separately fined up to \$25,000 per violation of this Title or the Indian Gaming Regulatory Act by the Chairman of the National Indian Gaming Commission.

#### **§ 15-1-24 Jurisdiction**

The Mississippi Band of Choctaw Indians' courts shall have jurisdiction over all violations of this Title and over all persons who are parties to a management contract entered pursuant hereto, except where otherwise provided by federal statute or applicable tribal-state compact, or where arbitration is provided for as an exclusive remedy by contract, and may grant relief as is necessary and proper for the enforcement of this Title and of the provisions of any management contract entered pursuant thereto, including but not limited to injunctive relief against acts in violation thereof. Nothing, however, in this Title shall be construed to authorize or require the criminal trial and punishment in tribal courts of non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decisions.

#### **§ 15-1-25 Designation of Tribal Agent under 25 CFR 519**

Pursuant to 25 CFR 519, the Tribal Chief is hereby designated as the agent for service for the Mississippi Band of Choctaw Indians of any official determination, order or notice of violation of the National Indian Gaming Commission and the official address for such notification shall be:

**STREET ADDRESS**

The Office of the Chief  
Mississippi Band of Choctaw Indians  
(Tribal Administration Building)  
Route 7, Box 21, Highway 16 West  
Philadelphia, MS 39350

**POST OFFICE ADDRESS**

The Office of the Chief  
P.O. Box 6010  
Choctaw Station  
Philadelphia, MS 39350

**TELEPHONE**

Office: (601) 656-5251  
Fax: (601) 656-1992

This official designation of an agent and address shall remain in force and effect until changed in writing with acknowledgement of receipt by the National Indian Gaming Commission.

**§ 15-1-26 Future Amendments**

Should any provision or definition of this Title be found to be incomplete or in variance with applicable Federal or Tribal Law or with regulations promulgated by the National Indian Gaming Commission, now in existence or as may be from time to time amended, then the terms of this Title shall be deemed to be conformed to said laws or regulations and the same shall be considered to be incorporated herein without further action of the Tribal Council.

## **CHAPTER 2 - CLASS II GAMING**

### **§ 15-2-1 Games of Chance**

This Part shall govern all Class II gaming activities on tribal lands within the tribe's jurisdiction as defined in the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2467, including and as may be amended by any amendments to Public Law 100-497, and as defined and interpreted by the National Indian Gaming Commission in regulations promulgated pursuant to Public Law 100-497:

Class II gaming means:

- (1) Bingo or lotto [whether or not electronic, computer, or other technologic aids are used] when players:
  - (a) Play for prizes with cards bearing numbers or other designations;
  - (b) Cover numbers or designations when object, similarly numbered or designated, are drawn or electronically determined; and
  - (c) Win the game by being the first person to cover a designated pattern on such cards;
- (2) If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;
- (3) Non-banking card games that;
  - (a) State law explicitly authorizes, or does not explicitly prohibit and are played legally anywhere in the state; and
  - (b) Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes:

### **§ 15-2-2 Commission's Powers and Duties for Class II**

The Choctaw Gaming Commission will have the following powers and duties with respect to Class II gaming on tribal trust lands:

- (1) to act in accordance with Sections 15-1-14 through 15-1-17 to issue, re-issue, or decline to issue, suspend, or revoke Class II licenses and work permits to management contractors, primary gaming entities, primary officials key employees, and work permittees with a separate license required for each place or facility at which Class II gaming is conducted;
- (2) to conduct background investigations and continuing oversight of any or all of the primary management officials, key employees and work permittees of the gaming entity or contractor, and to make known the results of those investigations to the Tribal Chief and the National Indian Gaming Commission prior to the issuance of any Class II license;
- (3) to preclude employment by Class II gaming enterprises of any person meeting the standards established in Section 15-1-17;
- (4) to cause to be held annual audits of Class II gaming operations and to submit those audits to the National Indian Gaming Commission, and to submit those audits, with recommendations, to the Tribal Council through the Tribal Chief;
- (5) to inspect Class II gaming activities at any time with or without notice to the entity holding the management contract or other licensee;
- (6) to monitor compliance of the tribe and any management contractor and licensees and permittees with provisions of any applicable management contract, Class II regulations promulgated by the Commission, and any other applicable federal and tribal laws;
- (7) to collect or cause to be collected and paid to the National Indian Gaming Commission fees levied on gross Class II gaming revenues pursuant to the Indian Gaming Regulatory Act; and
- (8) to exercise such other powers and responsibilities as are delegated to it by the Tribal Council.

### **§ 15-2-3 Tribal Gaming Only**

The Mississippi Band of Choctaw Indians shall have sole proprietary interest in any Class II gaming on designated tribal trust lands, and the Tribal Chief of the Mississippi Band of Choctaw Indians may enter into a contract, subject to approval by the Tribal Council and the Chairman of the National Indian Gaming Commission, with an entity, public or private, to manage Class II operations. No person may hold, operate or conduct any Class II game

or games on tribal trust lands except tribal Class II games conducted by the Mississippi Band of Choctaw Indians in accordance with the Provisions of this Title and the Indian Gaming Regulatory Act.

**§ 15-2-4 Location**

No Class II gaming shall take place within the jurisdiction of the Mississippi Band of Choctaw Indians unless the location has been approved by the Tribal Council and licensed by the Choctaw Gaming Commission.

**§ 15-2-5 Hours and Rules**

The Choctaw Gaming Commission shall regulate compliance with the hours and rules specified in regulations to be issued by the Commission for Class II gaming activities; but shall not restrict gaming hours to less than the specified time frame in any gaming management contract. Each Class II gaming facility must conspicuously display notice of hours and rules of play.

**§ 15-2-6 Minors Prohibited**

No one under the age of 21 years may be permitted on the premises of a tribal Class II gaming facility.

**§ 15-2-7 Class II Net Revenues**

(1) Net revenues to the tribe from Class II operations shall be used to fund tribal government operations or programs, to provide for the general welfare of the members of the tribe, to promote economic development, to donate to charitable organizations, or to help fund the operations of local government agencies, and shall be expended only in accordance with budgets adopted by resolution of the Tribal Council.

(2) Class II revenues shall not be used to make per capita payments.

**§ 15-2-8 Audits**

Tribal Class II operations shall be subject to special, outside annual audits, which the Choctaw Gaming Commission shall cause to be held. In addition, all contracts or

subcontracts for supplies, services, or concessions for a contract amount in excess of \$25,000 annually relating to Class II gaming shall be subject to audits which the Choctaw Gaming Commission shall cause to be held. The Choctaw Gaming Commission shall present the audit reports, with its own written findings and recommendations, to the Tribal Council at least annually. Copies of all audits shall be forwarded to the National Indian Gaming Commission by the Choctaw Gaming Commission.

**§ 15-2-9 Environment: Public Health and Safety**

The construction and maintenance of tribal Class II gaming facilities, and the operation of the gaming, shall be conducted in a manner which adequately protects the environment and the public health and safety and shall be subject to all applicable building, fire and safety codes and regulations.

**§ 15-2-10 Management Contract**

(1) Tribal Class II gaming may be operated through a management contract with a private or public entity which shall be adopted by the Tribal Council through resolution, conform with the Indian Gaming Regulatory Act and any regulations of the National Indian Gaming Commission, and shall also be approved by the Chairman of the National Indian Gaming Commission, or current official of the Department of the Interior exercising the Commission's authority under 25 U.S.C. § 2711.

(2) The Choctaw Gaming Commission shall require any proposed applicant for a Class II management contract with the tribe to submit in duplicate the following information and any additional information as may be required by applicable laws or regulations:

(a) the name, address, and other additional pertinent background information on each person or entity (including individuals comprising such entity) having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) five (5) percent or more of its issued and outstanding stock;

(b) a description of any previous experience that each person listed pursuant to subparagraph (2)(a) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming; and

- (c) a complete financial statement of each person listed pursuant to subparagraph (2)(a).

The Choctaw Gaming Commission shall retain one set of such submitted information and forward the other set of information to the National Indian Gaming Commission.

(3) Should the Choctaw Gaming Commission find that any Class II management contractor primary management official, owner or key employee whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest, or the tribal interest, or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Commission shall find such person not eligible for employment or continued employment or association with the management contractor, and shall notify the holder of the management contract of such findings, a copy of said notification to be sent to the Tribal Chief. Failure of the management contractor to disassociate and remove such person within 72 hours of notification by the Commission from Class II gaming conducted pursuant to this Title shall result in cancellation of the management contract and possible prosecution.

(4) The Choctaw Gaming Commission shall consult with the Chairman of the National Indian Gaming Commission or current official of the Department of Interior exercising the Commission's authority under 25 U.S.C. § 2711 as to the scope and cost of the background investigation to be conducted by the National Indian Gaming Commission as a precondition to approval of a proposed management contract. In order to avoid duplicative efforts and costs of background investigations, the Choctaw Gaming Commission may, in its discretion, elect to use the results of the background investigations conducted by the National Indian Gaming Commission to satisfy the Choctaw Gaming Commission's duties to conduct preliminary background investigations of entities proposing to enter into Class II management contracts pursuant to Section 15-1-15 of this Code. However, the Choctaw Gaming Commission shall retain the right and duty to update the initial investigations at least yearly. The results of such updated annual investigations shall be forwarded to the National Indian Gaming Commission.

#### § 15-2-11. Violations

Notwithstanding anything to the contrary in Section 3-4-6 of the Tribal Code, any person found in violation of any provisions of this Chapter, or any rule or regulation authorized hereunder, shall be guilty of a Class A offense.

## **CHAPTER 3 - CLASS III (CASINO-TYPE) GAMING**

### **§ 15-3-1 Incorporation of Tribal-State Compact**

The conduct of all Class III gaming activities as defined in the Indian Gaming Regulatory Act ("IGRA") on tribal lands within the tribe's jurisdiction shall be governed by a tribal-state compact duly executed by authorized tribal and state officials or procedures adopted by the United States Secretary of Interior or other authorized official in lieu of such tribal-state compact in accordance with the IGRA. The provisions of such tribal-state compact or any such procedures adopted in lieu thereof shall be incorporated hereby in the Choctaw Tribal Code.

### **§ 15-3-2 Class III Gaming**

For purposes of this Title Class III gaming means all forms of gaming that are not class I gaming or Class II gaming, including but not limited to:

- (1) Any house banking game, including but not limited to:
  - (a) Card games such as baccarat, chemin de fer, blackjack (21) and pai gow (if played as house banking games);
  - (b) Casino games such as roulette, craps, and keno;
- (2) Any slot machines as defined in 15 U.S.C. 1171(n)(1) and electronic or electromechanical facsimiles of any game of chance;
- (3) Any sports betting and parimutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or
- (4) Lotteries.