

NATIONAL
INDIAN
GAMING
COMMISSION

OCT 24 1995

Michael L. Stepetin, Chairman
Nisqually Indian Community
4820 She-Nah-Num Drive S.E.
Olympia, Washington 98513


Dear Chairman Stepetin:

This letter responds to your request for review and approval of the amendment to the tribal gaming ordinance of the Nisqually Indian Tribe (Tribe). The amendment to the ordinance was adopted by the Tribe by Resolution 51-1995 on August 1, 1995. 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 amendments to 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.

Thank you for submitting the amendment to the tribal gaming ordinance of the Nisqually Indian Tribe. The NIGC staff and I continue to look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,



Harold A. Monteau
Chairman

NISQUALLY TRIBAL COUNCIL
RESOLUTION # 51 -1995

RESOLUTION ADOPTING NISQUALLY GAMING LICENSE REGULATIONS
AND BACKGROUND INVESTIGATION PROCEDURES

WHEREAS, the Nisqually Indian Tribe is the successor descendent entity of the Nisqually Nation signatory to the Treaty of Medicine Creek of 1854 (10 Stat. 1132), and unto this day has retained and maintained its Tribal identity, its governing body, and its sovereign powers; AND,

WHEREAS, the Nisqually Indian Tribe is the federally recognized American Indian Tribe organized under its governing Constitution and Bylaws approved by the U.S. Secretary of Interior on September 9, 1946, and as amended on October 28, 1994, pursuant to Section 16 of the Indian Reorganization Act, 25 U.S.C. 476; AND,

WHEREAS, the Nisqually Indian Tribe General Council is the duly constituted governing body of the Nisqually Tribe, and the Tribal Council the duly elected representative body of the Community Council by the authority of the Tribe's Constitution and Bylaws; AND,

WHEREAS, the Tribal Council on the 13th day of June, 1995, adopted an amended version of Interim Nisqually Gaming Ordinance Title 22T, Resolution #43-1995, at the recommendation of the National Indian Gaming Commission; AND,

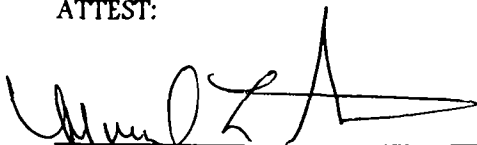
WHEREAS, further deficiencies in the gaming laws of the Nisqually Tribe are hereby corrected with the adoption of this Resolution and the Nisqually Gaming License Regulations and Background Investigation Procedures attached; NOW

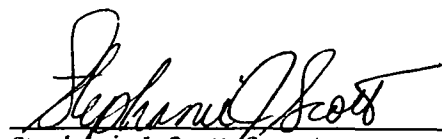
THEREFORE LET IT BE RESOLVED BY THE NISQUALLY TRIBAL COUNCIL that the attached Nisqually Gaming License Regulations and Background Investigation Procedures is hereby adopted for review by the National Indian Gaming Commission.

CERTIFICATION

I certify that the above Resolution # 51 -1995 was adopted at a regular meeting of the Nisqually Tribal Council, following prescribed procedures, on the 1st day of August, 1995, on the Nisqually Indian Reservation, Washington, at which time a quorum was present and voting 7 FOR, 0 AGAINST, and 0 ABSTAINED.

ATTEST:


Michael L. Stepetin, Chairman
Nisqually Indian Community


Stephanie J. Scott, Secretary
Nisqually Indian Community

Superintendent's approval pursuant to authorities to 208 C.M.R. 8, Secretary's Order No. 3177, Secretary's Order No. 3150, 10 BIAM Bulletins 13, 14, 15 and Amendments thereto, and Portland Area Office 10 BIAM Bulletin No. 9402 dated May 6, 1994.

Signature 

Date 8/11/95

**GAMING LICENSE REGULATIONS
AND
BACKGROUND INVESTIGATION PROCEDURES**

Under the Nisqually Gaming Act of 1992, as Amended

**Nisqually Gaming Commission
Nisqually Indian Tribe**

1.01 Licensing Program.

The Nisqually Indian Tribe ("Tribe") gaming licensing program is an investigative licensing process under which applicants for a Class III or Class II gaming license or for a license to work in a non-gaming position in a Tribal gaming facility are evaluated against the standards set forth in, and subject to applicable provisions of the following: Nisqually Gaming Act of 1993, as amended; and tribal regulations, the Indian Gaming Regulatory Act ("IGRA") and regulations promulgated thereunder; and any other applicable law or tribal-state compact requirement. An applicant that meets the standards for licensing will receive a license and will be subject to relicensing at least annually. All Class II and Class III gaming activities shall be licensed and controlled and no person shall engage in any Class II or Class III gaming activities on the Reservation without a valid license for that activity issued by the Nisqually Gaming Commission ("Gaming Commission"). Any gaming license granted shall be deemed a privilege that is subject to suspension or revocation at any time.

1.02 License Applications.

A license applicant must submit all applicable material, including any fees required, to the office of the Gaming Commission. License applications are subject to the following requirements:

a. Applications must be submitted on forms approved by the Gaming Commission. An application is considered incomplete until all information requested is provided to the Gaming Commission. If the application is incomplete or if the applicant fails to promptly provide any additional materials requested, the license may be denied. If the applicant does not respond to written notification of an incomplete application, the failure to submit additional materials, or the failure to submit required fees, within thirty (30) days of the written notice, the Gaming Commission may close the applicant's file.

b. Applications must be signed under oath by an individual attesting that the information provided in the application and any accompanying materials is true, accurate and complete.

c. Applications must be signed by the following:

(1) For a corporation (non-profit or for profit), the highest ranking officer or official of the corporation.

(2) For a sole proprietorship, the principal owner.

(3) For a partnership, all partners; for a limited partnership, the general partner.

(4) For employee licenses, the individual seeking a license.

d. The Gaming Commission may also require the following persons to sign the application:

(1) The chair or members of the board of directors or trustees.

(2) The individual in charge of financial records.

(3) Any person with a substantial interest in the applicant's business, organization or corporation.

e. Applicants must provide a general release and waiver for release of information required to conduct the review and investigation. The release/waiver allows the Gaming Commission to obtain from any and all sources that information that is otherwise privileged.

f. The Gaming Commission reserves the right, at any time, to require drug or alcohol testing for any gaming license applicant or licensee.

g. The Gaming Commission shall require fingerprinting and background checks for Class A license applicants (to include any key employee or primary management official, as defined in IGRA), and may require fingerprinting and background checks as part of the licensing investigation for any person seeking a license or holding an interest in any gaming activity, including but not limited to an interest in equipment, financing, supplies or services. The Gaming Commission may submit fingerprints to the Federal Bureau of Investigation (FBI), the National Indian Gaming Commission (NIGC) or another tribal, federal, local, or state agency for the purpose of searching agency records for any criminal background information.

h. The Gaming Commission will only consider applications that are fully completed and submitted on the Gaming Commission's forms. Application forms are available from the office of the Gaming Commission or will be mailed upon request.

1.03 Burden on Applicant.

The burden of proof with respect to the granting of any license is at all times upon the person applying for or holding such license. No license shall be granted unless and until the applicant has satisfied the Gaming Commission of their good character, honesty, and integrity.

1.04 Waiver of Liability.

a. The application to receive a gaming license constitutes a request for determination of the applicant's general character, integrity and ability to participate or engage in or to be associated with the gaming operation. Any written or oral statement made in the course of an investigation, proceeding or process of the Gaming Commission by any member, employee or agent of the Tribe or by any witness, testifying under oath, which is relevant to the investigation, proceeding or process, is absolutely privileged and shall not impose any liability for slander, libel or defamation, or constitute any grounds for recovery in any legal action. An applicant must accept all risk of adverse public notice, embarrassment or other action *that* may result from the application and investigation process, and must expressly waive any claim for damages as a result of the process.

b. All applicant shall expressly waive any and all liability as to the Tribe, its commissions, employees and agents for any damages resulting from disclosure or publication in any manner of information acquired by the Gaming Commission during its licensing or other investigations, inquiries or hearings.

1.05 Applicant Claim of Privileges.

At any time during the licensing process or later investigation, the applicant may claim any privilege afforded by law in connection with the application or investigation. The applicant's claim of privilege however, with respect to any testimony or evidence, or the applicant's failure to introduce documents or information required for licensing, may be grounds for denial, suspension or revocation of the license.

1.06 Withdrawal of Application.

An applicant may request to withdraw the application by submitting to the Gaming Commission a written request for withdrawal. The Gaming Commission retains the right, in its sole discretion, to grant or deny a request for withdrawal. To be effective, the written request to withdraw must be received by the Gaming Commission at least twenty-four (24) hours *before* the Gaming Commission's issuance of denial of the license.

1.07 Classes of Licenses.

a. Any license issued to an individual or entity for employment in, association with, or to do business with any Class II or Class III gaming activity or enterprise in a related capacity, shall be considered a Class A license. Further, any person associated with the Tribe's gaming activities, including Class II activities, as an investor or other person owning or controlling ten percent (10%) or more of an interest in any management entity, or any primary management official, key employee or closely associated independent contractor shall obtain a Class A license.

b. Those individuals or entities employed by, associated with, or doing business with a gaming activity or enterprise in a non-gaming related capacity, and not identified in Section

1.07 a. above may apply for a Class B or Class C license. The Gaming Commission reserves the right to require such individual or entity to acquire licensing under the Class A licensing criteria and requirements.

c. Minors employed at a gaming facility are only eligible to apply for a Class C license. Class C licensees may not be employed to operate, participate in, or supervise any gaming activities.

1.08 Types of Licenses Issued.

a. The Gaming Commission will license all persons employed in gaming related activities, whether working within or outside of the gaming facility, and all employees working in a gaming facility in a non-gaming related position.

b. Employees in any Class II or Class III gaming enterprise including, but not limited to, those who perform one or more of the following functions are considered to be key employees, and must qualify for and be licensed as Class A employees: Bingo caller; counting room supervisor; chief of security; custodian of gaming supplies or cash; floor manager; pit boss; dealer; croupier; approver of credit; or custodian of gambling devices. Including persons with access to cash and accounting records within such devices. If not otherwise included, all persons whose total cash compensation exceeds \$50,000 per year and the four (4) most highly compensated persons in the gaming operation must qualify for and obtain a Class A license.

c. The following persons, whether employed at a Class II or a Class III gaming enterprise, are considered primary management officials and must qualify for and be licensed as Class A employees: (a) any person having management responsibility for a management contract; (b) any person who has authority to hire and fire employees or to set up working policy for the gaming operation; and (c) the chief financial officer or other person who has financial management responsibility.

d. The Gaming Commission may issue the following types of licenses:

(1) Class II Gaming Employee License. All persons employed in or associated with Class II gaming activities, including bingo, non-banking, or other Class II card games, pull tabs, punch boards, or any other Class II gaming activities, as well as any Class II employee who is considered a key employee or primary management official must qualify for and hold a Class A gaming employee license.

(2) Class III Gaming Employee License. All persons employed in Class III gaming activities, including banking card games; lottery-type games; roulette; crap; and other table games or activities designated as Class III gaming, must qualify for and hold a Class III gaming employee license issued under the requirements for the Class A license.

(3) Employee License - Non-Gaming Activity. All persons employed in a Class II or Class III gaming facility in a position unrelated to any gaming activity including, but

not limited to, facility's maintenance and food services employees, must qualify for and hold a non-gaming employee license issued under the criteria for the Class B license.

(4) Class C (Minors) License. An employee license for non-gaming activities granted to a minor shall be a Class C license, valid for no more than six (6) months, and shall be revoked when the minor reaches the age of eighteen (18), at that time, the employee may apply for a regular Class A or B license.

(5) Management Company / Financiers License.

(a) Any individual or business entity with which the Tribe enters into a contractual agreement for financing, development, management or operation of any Class II or Class III gaming enterprise, must qualify for and receive a Class A license. Any individual or entity, other than a commercial lending institution, the Tribal government or the federal government, who extends financing either directly or indirectly to the gaming facility or operation must qualify for and receive a Class A license.

(b) No license shall be granted to a management company if any elected official of the Tribe, or a member of a committee or agency of the band serves on the board of directors or holds (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of the corporation, or ten percent (10%) or more of the beneficial interest in any partnership, trust, or other entity, in any such corporation, partnership, trust or other entity, having a financial interest in, or management responsibility for, such contract. Notwithstanding the foregoing, no license shall be granted to the management company if any member of the Gaming Commission holds any interest whatsoever (directly or indirectly), in such company. Nor shall any such license be granted if any elected official of the Tribe, member of the Gaming Commission, or a member of any other committee or agency of the Tribe has a financial interest in or management responsibility for any agreement between such management company and the Tribe.

(c) The Gaming Commission, in its sole discretion, may require any employee, official, or corporation director of a management or financing company to be licensed individually if the public interest will be served by such licensing. Upon request, the management or financing company shall require such persons to apply for a Gaming Commission license in accordance with the laws and regulations in effect at that time.

(6) Suppliers, Distributors and Manufacturers License.

(a) Any manufacturer, distributor, or supplier of gaming services or goods must qualify for and receive a Class A license. Individuals or entities who supply legal and accounting services are not required to be licensed.

(b) The Gaming Commission reserves the right, in its sole discretion, to waive the licensing requirements for suppliers, distributors, or manufacturers providing goods or services of no more than \$25,000 in value in any twelve (12) month period. Once goods or

services provided by that entity total \$25,000 in any twelve (12) month period, all licensing requirements shall be applicable.

(c) The Gaming Commission, in its sole discretion, may require any employee, officer, or corporation director of a supplier, distributor or manufacturer to be licensed individually, if the public interest will be served by such licensing. Upon request, the company shall require such persons to apply for a Gaming Commission license in accordance with the laws and regulations in effect at that time.

(7) Gaming Facility License.

(a) The Gaming Commission will issue a license to each facility or location where Class II or Class III gaming is to be conducted on the Reservation. Gaming facility licenses are valid for no more than two (2) years from date of issuance. Inspection of gaming facilities includes review of security and surveillance procedures and equipment; compliance with tribal ordinances and other applicable laws and regulations, including requirements of any Tribal-state compact to which the Tribe is a party; and compliance with applicable safety requirements and codes.

(b) Tribal gaming facilities in operation on or before February 19, 1993 shall be deemed by the Gaming Commission to be qualified for and operating under such a license, but shall be subject to the license requirements no later than two (2) years from the date of approval of the Nisqually Gaming Act, and to inspection by the Gaming Commission at any time.

(c) The Gaming Commission may inspect a licensed gaming facility at any time, with or without prior notice, and may take any action deemed necessary to:

(i) Ensure the safety and welfare of employees, Tribal members, patrons, or the general public;

(ii) Ensure the honesty and integrity of any gaming activity offered;

(iii) Ensure that rules of conduct for employees and patrons are provided and that regulation of alcoholic beverages, food handling, entertainment, and other matters as the Gaming Commission, in its sole discretion, shall determine are provided; and

(iv) Ensure compliance with Tribal ordinances and other applicable laws or regulations and the requirements of any tribal-state compact to which the Tribe is a party.

(8) Renewal License. All applicants for renewal of a license must submit updated information as requested on the appropriate Class A, Class B, or Class C license renewal application form. Applicants for a renewal license will not be required to re-submit historical data already available to the Gaming Commission. With the exception of Class C

licenses, or as specifically provided in these regulations, all licenses shall be effective for one (1) year from the date of issuance, unless revoked or suspended prior to expiration. A licensed employee or entity that has applied for renewal of their license in a timely manner may continue to be employed or provide goods or services under an expired license until the Gaming Commission takes action to grant or deny the license or until the license is revoked or suspended.

(9) Temporary or Conditional License. Any person or entity applying for a license under these regulations may, at the sole discretion of the Gaming Commission, be granted a temporary or conditional license in lieu of a regular license, pending completion of a full and complete investigation and review of the application, or in order to address specific areas of concern. The expiration date and any applicable conditions to be satisfied prior to issuance of the regular license will be stated on the temporary or conditional license. The Gaming Commission will not authorize the continuation of employment of any person as a key employee or primary management official for more than ninety (90) days, unless that person or entity holds a valid license (issued under the criteria for Class A licenses), issued by the Gaming Commission.

1.09 Application Forms.

a. The Gaming Commission shall provide application forms and instructions, as applicable, to any individual or entity seeking to be licensed.

b. Class A license applicants (to include key employee and primary management officials) and Class B license applicants, unless specifically exempted by the Gaming Commission, must acknowledge in writing the applicability of the Privacy Act of 1974 and sign a notice regarding the penalty for making false statements on the application. The following notices shall be placed on the application form.

(1) *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 the 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 supply a SSN may result in errors in processing your application.*

(2) *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, § 1001).*

c. Any gaming employee identified in subsection b. above, who has not signed an application containing the above notices, must either: (1) sign a statement which contains the notices; or (2) complete and sign a new application form which contains the notices.

1.10 Information Required From License Applicants.

a. All Class A license applicants (to include key employees and primary management officials), as well as Class B license applicants unless specifically exempted by the Gaming Commission, shall provide information to the Gaming Commission including, but not limited to, the following:

(1) For a corporate entity, a copy of the corporate applicants' articles of incorporation and bylaws; or, if a business entity or organization but not a corporation, a copy of any bylaws and other documents which set out the organizational structure and purposes of the organization;

(2) Details and copies of any franchise or other agreements, whether written or oral, between the applicant and distributors or manufacturers or suppliers of equipment, or between the applicant and any person or entity where those agreements relate to gaming activities or gaming equipment;

(3) Full name, current address and telephone number(s) (both business and residence), date and place of birth, Social Security number(s); any other names used (oral or written), citizenship, gender, and all languages spoken or written;

(4) The name, address, and telephone number for all businesses and organizations in which the applicant has any financial interest and the details of that financial interest;

(5) Completed copy of the Gaming Commission's "Personal History Information" form;

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

(7) Names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period-of residence listed in subsection (6) above;

(8) Description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(9) Description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(10) Name and address of any licensing or regulatory agency (federal, tribal, state, local or foreign) with which the person has ever filed either: (a) an application for a license or permit related to gaming, and whether or not such license or permit was granted, or (b) an application for an occupational license or permit, whether or not such license or permit was granted;

(11) For each felony for which there is currently or has been, during at least the previous ten (10) years, an on-going prosecution or a conviction: the charge, the name and address of the court involved, and the date and disposition if any, of the case;

(12) For each misdemeanor conviction or on-going prosecution (excluding minor traffic violations for which the fine is no more than twenty-five dollars (\$25.00) within at least ten (10) years of the date of the application, the name and address of the court involved, and the date and disposition, if any, of the case;

(13) For each criminal charge (excluding minor traffic charges), whether or not there is or was a conviction, if such criminal charge is within no less than ten (10) years of the date of the application and is not otherwise listed above in subsections (11) or (12): the criminal charge, the name and address of the court involved and the date and disposition, if any, of the case;

(14) Current photographs;

(15) Fingerprints consistent with procedures adopted by the Gaming Commission consistent with 25 C.F.R. § 522.2(h); and

(16) Any other information the Tribe or the Gaming Commission deems relevant.

b. The Gaming Commission may require any Class C applicant to submit some or all of the information required under Section 1.10 for Class A and Class B applicants.

1.11 Supplemental or Additional Information.

In addition to the completed application form and attachments, an applicant or licensee shall submit to the Gaming Commission any supplemental or additional information requested. Supplemental or additional information must be submitted within thirty (30) days from the request, or within such other time as the Gaming Commission may direct. Failure to submit any of the requested information in a timely manner shall be grounds for denial of the license sought and for revocation of any license held. Drug or alcohol testing may be required at any time for any license applicant or licenses

1.12 Licensing Prior to Employment.

Unless otherwise exempted by the Gaming Commission, or as provided for in the Gaming Act or regulations promulgated thereunder, an individual or entity required to be licensed must obtain the required license, whether regular, temporary or conditional, prior to the commencement of their employment at or by any Tribal gaming activity or enterprise.

1.13 License in Compliance with Applicable Laws.

No gaming license shall be granted in violation of any provision of tribal laws and regulations, provisions of an applicable Tribal-state compact, IGRA and regulations promulgated thereunder, or other applicable law. The Gaming Commission shall deny a license to any individual or entity based on such criteria.

1.14 Continuing Duty to Provide Information.

Any applicant or licensee shall have a continuing duty to provide any materials, assistance or other information required by the Gaming Commission, and to fully cooperate in any investigation conducted by or on behalf of the Gaming Commission. Any information relevant to the application or to the licensee or applicant's character or fitness to be involved with the gaming activity or enterprise, shall be delivered to the Gaming Commission promptly with or without a formal request from the Gaming Commission. If any information provided on the application changes or becomes inaccurate in any way, the applicant or licensee shall promptly notify the Gaming Commission of such changes or inaccuracies. If subsequent to a formal request to respond or produce information, evidence, or testimony, an applicant or licensee or any person with a substantial interest in the applicant or licensee refuses or fails to comply with such request, the Gaming Commission may deny the application or revoke the license.

1.15 License Information / Confidentiality.

The Gaming Commission may disclose to the public or discuss at a public meeting all information set forth in the application and all supplemental information provided. All licensing information submitted becomes the property of the Gaming Commission and is subject to inspection and disclosure unless otherwise protected under provisions of a tribal law or regulation, or under an applicable exception as indicated below:

a. Documents Designated as Confidential. An applicant may designate specific materials or documents it reasonably believes to contain confidential information by clearly marking, prior to providing the information to the Gaming Commission, the materials or documents as "Confidential". These materials and documents shall not be subject to public disclosure or made part of a public record of the Gaming Commission without first providing the license applicant notice and an opportunity to seek a ruling by the Gaming Commission that the materials or documents or information contained therein should not be made public. The Gaming Commission will balance the license applicant's claimed confidentiality concern against the materiality of the information to the license application, the public's right to be made aware

of the information, and the Gaming Commission's need to make the information part of the public record in order to remain fully accountable for the licensing decision. The Gaming Commission shall consider all facts and circumstances relevant to making a proper ruling. All decisions of the Gaming Commission shall be final when issued.

b. Protection of Arrest and Conviction Records. Information or statements regarding arrests or convictions of any person will not be disclosed to the public, except as relevant to the applicant's suitability in an administrative hearing to appeal denial, revocation, or suspension; or other legal proceeding.

c. Protection of Persons Interviewed. The identity of each person interviewed in the course of a license applicant background investigation shall be kept confidential.

1.16 License Investigations - General.

a. All Class A license applicants, and other applicants unless exempted by the Gaming Commission, shall be subject to a complete background investigation, including fingerprinting, prior to granting of a license. The Gaming Commission will refer persons to the Thurston County Sheriffs Office or the Tribal Police Department for fingerprinting, and will coordinate with these law enforcement agencies regarding criminal history check procedures. The Gaming Commission shall use any information available to it in conducting such investigation.

b. Inspection of Applicant Books and Records. The books and records of any person, organization or entity applying for a license shall be subject to inspection at any time, on demand and with or without notice, during the background investigation process and the term of any license granted.

1.17 License Investigations - Authority, Responsibility and Standards.

a. The Gaming Commission shall have the responsibility for the conduct of any required background investigations, development and transmittal to the NIGC of the eligibility determination and investigative reports, and the licensing of all gaming employees as well as other individuals and entities involved in gaming activities or doing business with the gaming enterprise on the Reservation. For each Class A applicant (to include key employees and primary management officials), and other applicants, unless exempted by the Gaming Commission, the Gaming Commission will conduct, or cause to be conducted, a background investigation. After independent review of all background investigation materials, the Gaming Commission will issue or deny the license requested.

b. Each applicant for a gaming license will be assessed and evaluated and the investigation shall be conducted under standards at least as stringent as those contained in tribal laws and regulations as well as other applicable laws and regulations, including IGRA and regulations promulgated thereunder and the provisions of any applicable tribal-state compact to which the Tribe is a party. All background investigations will be conducted to ensure that the Tribe does not employ or contract with persons whose prior activities, criminal record,

reputation, habits and associations pose a threat to the public interest or the effective regulation of gaming, or create or enhance the danger of unfair, unsuitable or illegal practices, methods and activities in the conduct of such gaming. The Gaming Commission reserves the right to conduct a more comprehensive background investigation than required by other licensing jurisdictions or any applicable law.

1.18 Conduct of Investigations.

The Gaming Commission is authorized to conduct investigations and develop eligibility and suitability determinations using Gaming Commission employees; by using the State Gambling Commission as may be required under a tribal-state compact for Class III gaming; or contracting for such services with a qualified independent investigation entity (either private or public entity) to perform all or any portion of the work required in completing the background investigation and providing information for the eligibility or suitability determination. The Gaming Commission shall make such determinations regarding how investigations are conducted based on requirements under applicable law, availability of staff and resources, and other considerations and requirements. In the event the Gaming Commission contracts with an independent investigation entity for such investigative work, the Gaming Commission Supervisor and Agents (as necessary) will review each background investigation report from the independent investigator (whether public or private), approve or disapprove the investigative work, compile the eligibility determination materials, and make a preliminary recommendation to deny or issue a license. This recommendation, together with the application materials, shall be forwarded to the members of the Gaming Commission for a final determination. In all cases, the final decision regarding the issuance or denial of any license remains, at all times, with the Gaming Commission.

1.19 License and Investigation Reports to NIGC.

a. Within sixty (60) days after a Class A license applicant or licensee begins work in a gaming operation, or within sixty (60) days after approval of the Gaming Act by the NIGC, the Gaming Commission will complete and forward to the NIGC the application materials, investigative reports and eligibility determination used to evaluate the applicant or licensee eligibility for a license. The responsibility for transmittal (or causing the transmittal) of investigative reports to the NIGC remains with the Gaming Commission Chairman at all times. The investigative report provided shall include at least the following information:

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

b. If, upon investigation and for any reason, the Gaming Commission does not issue or renew a Class A license, the Gaming Commission will notify the NIGC of such denial and may forward copies of the eligibility determination and investigative report, if any, to the NIGC for inclusion in the Indian Gaming Individuals Records System.

c. The Gaming Commission will retain applications for Class A licenses, including reports of background investigations, for a period of no less than three (3) years from the date of license denial or termination of employment, whichever is later. Those records will be made available for inspection by the Chair of the NIGC or his or her designee.

d. For Class B or Class C license applicants who are not key employees or primary management officials, no investigative report or eligibility determination will be forwarded to the NIGC, unless specifically requested by the NIGC and approved by the Gaming Commission.

1.20 Gaming Commission Staff.

Gaming Commission staff responsible for review of gaming applications, either directly or by outside investigators, includes the Administrator, Reviewing Agents ("Agents"), and the Supervisor. Gaming Commission staff selected must be qualified for such review and investigation work to ensure accurate and complete review and investigation of all applicants. In general, staff will be trained and have experience in auditing, or law enforcement, or both. At least one agent in the review section must be qualified by experience or training to review law enforcement matters. All candidates for Gaming Commission positions must apply through the Gaming Commission office and will be tested and pre-screened by that office prior to interviewing for a position with the Gaming Commission. The Gaming Commission may request any potential employee to submit an application and authorize a background investigation to be conducted. At the discretion of the Gaming Commission such investigation of potential employees may include a review of the individual's personal history, criminal history, and financial history.

1.21 Gaming Commission Office.

In addition to the responsibility of the Gaming Commission staff in background investigations and licensing of applicants, the office will distribute application materials, provide information regarding the application and licensing process and accept license applications for processing. Any individual or business entity seeking a license to work in, or to do business with, the Tribe's gaming or other enterprise(s) may contact the Gaming Commission for application information and materials.

1.22 Review Process - License Applications.

a. Upon receipt, applications will be date-stamped, logged in, accepted and reviewed for completeness by the Gaming Commission Administrator. Each application question will be checked to ensure that information requested has been provided, including any required attachments. The Administrator will contact the applicant by telephone facsimile or in writing regarding any incomplete information or additional materials required prior to processing of the application. Fingerprint cards, if required, will be handled according to the process required by the agency transmitting such cards to the FBI for processing. All fingerprint cards that are required to be or will be sent to the NIGC for processing through the FBI must be sent directly from the law enforcement agency completing those cards to the NIGC. If the Tribe receives fingerprint cards under other requirements for processing, such as those imposed under an

applicable Tribal-State Compact, the fingerprint cards will be processed according to the required procedures of the authorized processing agency and, if appropriate, the Administrator will forward the fingerprint cards to the authorized agency for processing.

The Administrator will ensure that a check or money order in the correct amount of the basic license fee is included with the application, note the amount received, and forward the check or money order for deposit.

b. When the application is deemed complete and ready for full review and investigation, the Administrator will separate the application sections and forward each section (or the entire application) to the appropriate Agent for review. The Administrator will maintain a complete and updated record of each license application, noting each portion of the application and the date and to whom is it forwarded for investigation and review.

c. All portions of the license application will be fully reviewed by one or more Gaming Commission Agents. An Agent with experience or training in law enforcement will, at minimum, review the criminal history portion of each application prior to completion of the review process.

d. Any application, and in particular those for management companies, manufacturers, suppliers, or distributors, may require an on-site review of records and operations prior to completion of the review process. This review will be conducted by at least one Agent who is experienced in auditing and is qualified to review and assess applicant's records.

e. On or before the date a key employee or primary management official begins work at a gaming operation, the Gaming Commission Administrator will forward a copy of the employee's application for employment to the NIGC.

1.23 Class "A" License Review Process.

a. For all Class "A" license applicants (to include key employees and primary management officials), reviewing Agent(s) will complete, during their review and investigation, a checklist containing the information required for development of the eligibility determination. Information will be verified, any problem areas and discrepancies will be noted, and other comments will be provided as applicable.

b. At minimum, the review of a Class "A" license application will include a complete review of applicant's criminal history, personal history and financial history in order to detect any unusual relationships or criminal associations, and to assess applicant's reputation. Background investigations will include, but are not limited to:

(1) Verification (written or oral) of information submitted by applicant.

(2) A search of law enforcement records (such as NCIC) to ensure the applicant has no outstanding warrants.

(3) A request for information about the applicant, directed to the law enforcement authority in each jurisdiction where the applicant has worked or lived in at least the past ten (10) years. Agents may send such a request for information to jurisdictions where applicant has lived prior to the ten (10) year period in order to obtain complete background information. At minimum, the Gaming Commission Agent will inquire into applicant's prior activities, criminal record, if any, and reputation, habits and associations. Personal and professional references, as well as other individuals may be interviewed in order to develop a complete and accurate picture of the applicant, including any unusual relationships, financial problems, or criminal record. Such inquiries shall be of sufficient number and depth for the Gaming Commission to make a finding concerning the applicant's eligibility or suitability for employment in or association with the gaming enterprise.

(4) A complete review of the criminal history record information (CHRI) from the FBI fingerprint check.

(5) A review of applicant's credit report.

(6) Documentation of the disposition of all potential problems noted and any disqualifying information obtained.

c. During the investigation, reviewing Agent(s) will note all potential problem areas and any possible disqualifying information obtained for development of the eligibility determination statement. When the Agent(s) has completed the review process, the completed file with comments and other information received by the Agent(s) will be forwarded to the review section Supervisor. The Supervisor will review all materials, approve investigative work performed, and make a preliminary recommendation to approve or disapprove issuance of the license based on the recommendations of reviewing Agents, and an independent review of all investigative materials. The eligibility (suitability) determination will be completed by the Supervisor for review and approval by the Gaming Commission.

(1) The investigative report for each applicant, to be completed by the Gaming Commission supervisor, will establish a record of the review process, including the steps taken in conducting the background investigation, the results obtained, conclusions reached, and the process in reaching such conclusions and determinations.

(2) All applicant materials and pertinent investigative work will be reviewed, and approved or disapproved by action of the members of the Gaming Commission.

(3) For key employees and primary management officials, if the determination of the Gaming Commission is that a license be issued to the applicant, all portions of the file which must be reviewed by the NIGC will, at that time, be copied and forwarded by the Gaming Commission, together with a copy of the license eligibility determination and the investigative report, to the NIGC for review.

d. Upon approval by the Gaming Commission a license, either with or without restrictions, may be issued to the applicant.

e. The Gaming Commission may issue a temporary license to the applicant prior to completion of the investigative process; provided, no temporary license will be valid for more than ninety (90) days.

1.24 Review Process for Class "B" and "C" Applicants.

a. Class "B" and Class "C" license applicants will obtain and submit forms as above. Applications will be reviewed by Agents of the Gaming Commission and an eligibility determination will be developed for internal use. Licenses will be granted or denied based on information obtained during the review process.

b. Although the background investigation will generally be narrower than that for Class "A" applicants, it will be conducted in a similar manner by the Gaming Commission staff, at minimum, investigative procedures to be performed for all license applicants shall include the following:

- (1) Review of application for completeness.
- (2) Verification of information submitted by applicant.
- (3) Search of law enforcement records for any outstanding warrants.
- (4) Review of credit history including a review of applicant's credit report if necessary.
- (5) Sufficient inquiry into applicant's prior work record, personal, and criminal record, if any, to develop an understanding of applicant's reputation, habits and associations. This inquiry may include interviewing (by phone or in person) personal and professional references, former employers, and others in order to provide a basis for the development of an eligibility determination, and to assess the applicant's chance for development of a successful working relationship with the tribal gaming operation.
- (6) Documentation of any potential problem areas and disqualifying information obtained.

1.25 Applicants and Licensees / Penalty for Bribes and Rewards.

No applicant or licensee shall give or provide, or offer to give or provide, either directly or indirectly, to any official of the Tribe, the Gaming Commission or any other Commissions or agents of the Tribe any compensation or reward or share of the money received through gambling activities, in consideration for obtaining any license, authorization or privilege to participate in any gaming activity or enterprise. Any violation shall result in denial or revocation of any license held or sought.

1.26 License Fees.

a. Basic license fees are established by the Gaming Commission, and may be changed without prior notice at any time, for any class of license. The Gaming Commission will publish notice of the basic fee for license applications. If the cost of investigation and processing the license exceeds the fee established, the Gaming Commission may request that additional fees be paid prior to issuance of the license. License application fees, including renewal fees, may include an amount sufficient to cover the reasonable costs of regulation and enforcement under the requirements of Tribal laws and regulations, a tribal-state compact, and other applicable laws and regulations. Applicants must comply promptly with any requests for a deposit to cover the estimated cost of investigation and processing. The applicant's failure to pay any deposit as and when requested may result in denial of the license. The Gaming Commission, in its sole discretion, may delay the issuance of a license for a sufficient period of time to ensure that a check offered to cover such fees has cleared the bank.

b. The Gaming Commission reserves the right to waive or adjust license fees for a member of the Tribe or a member of another Tribe. The decision of the Gaming Commission regarding such requests shall be final and non-appealable.

1.27 NIGC Review of Licensing.

a. The NIGC has a period of thirty (30) days after receipt of the report provided by the Gaming Commission as established above, to notify the Tribe of any objections to the issuance of the Class A license. If the NIGC, within the thirty (30) day period, provides to the Tribe a statement itemizing objections to the issuance of a license to a Class A license applicant, the Gaming Commission will reconsider the application taking into account the objections raised. The Gaming Commission will fully consider the information provided by the NIGC and issue a final decision after full reconsideration of the application and additional information.

b. If, within the thirty (30) day period, the NIGC requests additional information concerning a Class A applicant for whom a report is provided, that request will suspend the thirty (30) day period until the Chairman of the NIGC receives the information requested.

c. If, after issuance of a Class A license, the Tribe receives reliable information from the NIGC that the licensee is not eligible for employment under the above provisions, the Gaming Commission will take the following steps:

(1) Suspend the license and notify the licensee immediately of the suspension and proposed revocation of the license;

(2) Notify the licensee of a time and a place for a hearing on the proposed revocation of the license;

(3) Conduct the revocation hearing and make a determination whether to revoke or to reinstate the Class A license; and

(4) Notify the NIGC of the final decision regarding the revocation or reinstatement of the Class A license.

d. The above provisions may, in the sole discretion of the Gaming Commission, be applicable to Class B licenses.

1.28 Grounds for Denial Suspension or Revocation of License.

The Gaming Commission may deny a license, or suspend or revoke a license when the applicant or licensee, or any other person or entity with any interest if the applicant or licensee:

a. has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by the Tribe's Gaming Act and regulations provision of any applicable tribal-state compact, the IGRA and regulations promulgated thereunder, or any other applicable laws or regulations;

b. knowingly causes, aids, abets or conspires with another to cause any person to violate any of the Tribe's laws or regulations or applicable laws or regulations;

c. has obtained a license by fraud, misrepresentation, concealment or through inadvertence or mistake;

d. fails to promptly produce for inspection or audit any book, record, or document required by the Tribe's laws or regulations;

e. has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to the crime of forgery, larceny, extortion, conspiracy defraud, tax evasion, or similar offenses, or of any crime, whether a felony or misdemeanor, involving moral turpitude or any gambling activity; or

f. allows any person who has been convicted of, or forfeited bond upon, any of the offenses above to participate in the management or operate in a key position with the entity licensed by the Gaming Commission, without prior notice to and written approval from the Gaming Commission.

Upon receiving written notice of the suspension or revocation of any license issued by the Gaming Commission the licensee is required, within five (5) days, to surrender and return the license to the Gaming Commission.

1.29 License. Suspension or Revocation Process.

Any license issued under these regulations may be suspended or revoked by the Gaming Commission for the breach or violation of the requirements or provisions of the Tribe's laws or regulations upon a hearing before the Gaming Commission held not more than twelve (12) or less than eight (8) working days from the time licensee is given notice of the alleged breach or violation. The licensee, and any person directly affected by the license action shall have the

right to be present and to offer sworn oral or documentary evidence relevant to the breach or violation charged. Notwithstanding the foregoing, the Gaming Commission may summarily suspend or revoke any license if the continued licensing appears to constitute a threat to the public health, safety or welfare.

1.30 Appeal of Denial, Suspension or Revocation of License.

a. Decisions of the Gaming Commission regarding the denial, suspension or revocation of licenses shall be final and effective when issued.

b. An applicant or licensee whose license is denied, revoked or suspended may, within fifteen (15) days after the date of receipt of a written decision of the Gaming Commission, file a petition with the Gaming Commission requesting a hearing to reconsider the decision. The petition must set forth the basis of the request for reconsideration. If no petition for reconsideration is filed within the time prescribed, the decision shall be deemed final and not subject to further reconsideration or appeal to and review by the Gaming Commission.

c. Notwithstanding the above, a member of the Tribe may, in addition, appeal a denial, suspension or revocation of a license to the Gaming Commission under the following procedures. Such appeals from Tribal Members must be in writing and be delivered to the Gaming Commission within sixty (60) days of receiving notice of the denial, suspension or revocation. The Gaming Commission shall consider the evidence presented by the applicant and the Gaming Commission, prior to making a determination on the licensing decision. The appellant and the Gaming Commission may offer such information and documents as are relevant to the determination of the applicant's suitability for a license and may call witnesses to testify in such a proceeding if such witnesses can provide information regarding the applicant's suitability. No determination of the Gaming Commission shall be considered valid if it would place the Tribe in violation of an applicable tribal-state compact, the IGRA and regulations promulgated thereunder, or any other applicable law. Any license so issued, based on a reversal of the Gaming Commission denial shall be issued for a period no longer than one (1) year.

1.31 Hearings Closed to Public.

All hearings regarding gaming licensing proceedings or reconsideration of an application shall be closed to the public unless specifically opened to the public by a two-thirds (2/3) majority vote of the Gaming Commission.

1.32 Notification of Licensing Action.

The Gaming Commission shall promptly notify, in writing, each applicant upon the grant or denial of the license. To the extent required under federal or state laws and regulations, or other applicable law, the Gaming Commission shall promptly notify the NIGC and any other applicable federal or state agency of all licenses issued.