

NATIONAL
INDIAN
GAMING
COMMISSION

JAN 10 1995

Lynn Le Roy, Chairperson
San Manuel Band of Mission Indians
5771 North Victoria Avenue
Highland, California 92346

Dear Chairperson Le Roy:

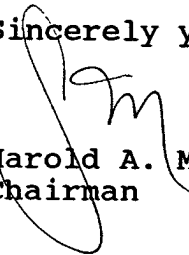
This letter responds to your request to review and approve the San Manuel Gaming Act of 1989 adopted on August 31, 1989, and amended on September 19, 1994, by the San Manuel Band of Mission Indians (Band). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

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 San Manuel Band of Mission 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,


Harold A. Monteau
Chairman

cc: Mary L. Prevost, Esq.
Levine & Associates
2029 Century Park East, Suite 1700
Los Angeles, California 90067-3003

San Manuel Band of Mission Indians

CERTIFICATE OF RESOLUTION

GENERAL COUNCIL OF THE SAN MANUEL BAND OF MISSION INDIANS

WHEREAS, the General Council of the San Manuel Band of Mission Indians, a federally recognized Indian tribe ("Tribe") desires to amend the "San Manuel Gaming Act of 1989" adopted by the General Council on August 31, 1989 as Ordinance 89.02 (the "Ordinance") in order to facilitate the Tribe's regulation of certain forms of gaming conducted on the Tribe's reservation;

WHEREAS, the Tribe finds that tribally controlled gaming on its reservation is a valuable means of promoting tribal economic development, self-sufficiency, employment, job training and strong tribal government;

WHEREAS, the Tribe determines that when regulated by the Tribe, gaming on its reservation can remain free from organized crime and other corrupting influences, and can be conducted fairly and honestly by both the operators and the players;

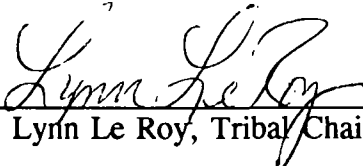
WHEREAS, the Tribe has determined that the attached Ordinance, as amended, is necessary to establish additional terms for gaming on tribal land in connection with the continuing development and operation of such gaming consistent with the Ordinance and in compliance with the federal Indian Gaming Regulatory Act ("25 U.S.C. § 2701 *et. seq.*") and regulations promulgated thereunder;

NOW, THEREFORE, IT IS AGREED that the attached Ordinance, as amended, is hereby adopted and approved by the Tribe's General Council pursuant to its authority under Tribal law.

CERTIFICATION

By a vote of the General Council of the San Manuel Band of Mission Indians at a duly noticed meeting at which a quorum was present, held at approximately 9:00 p.m. on September 19, 1994, at the Tribal Meeting Hall on the San Manuel Indian Reservation, the above-recited resolution was passed by the General Council following a vote of 10 "for", 0 "against" and 0 abstentions.

DATED: September 19, 1994


Lynn Le Roy, Tribal Chairperson

DATED: September 19, 1994


Christine Hernandez, Tribal Secretary

CHAPTER 6. THE SAN MANUEL GAMING ACT OF 1989.¹

SMTC 6.1 Title.

This Chapter shall be known as the "SAN MANUEL GAMING ACT OF 1989."

SMTC 6.2 Findings and Policy.

This Ordinance is adopted by the General Council of the Tribe, a federally recognized Indian Tribe, pursuant to its authority under the Tribal Constitution; for the purpose of establishing the terms for gaming on Tribal Lands for Tribal governmental and charitable purposes, and to continue to develop and operate such gaming consistent with the findings herein and in conformity with the federal Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. § 2701 *et seq.*, and regulations promulgated thereunder. The Tribe has been engaged in controlled gaming on its reservation for Tribal governmental and charitable purposes for over three years prior to the enactment of this Act. Based on its experience and observations in connection with such gaming and its studies of similar experiences by other Indian tribes, the Tribe finds that Tribally controlled gaming on its reservation is a valuable means of promoting Tribal economic development, self-sufficiency, employment, job training and strong Tribal government. The Tribe further finds that when regulated by the Tribe, such gaming can remain free from organized crime and other corrupting influences and can be conducted fairly and honestly by both the operators and the players.

The General Council finds that:

6.2.1 Revenues from gaming activities are needed for economic development, to promote Tribal self-sufficiency and a strong Tribal government, and to fund and ensure essential social programs and services;

6.2.2 The Tribe desires to conduct certain forms of gaming to provide needed revenues to the Tribe and to regulate and control such gaming in a manner that will protect the environment; the reservation; the health, security and general welfare of the Tribe; the players; and the community; and

6.2.3 The Tribe desires to manage and regulate such gaming as authorized under this Ordinance in a manner that will adequately address the special interests and needs of the Tribe.

¹Adopted by the General Council on August 31, 1989 as Ordinance 89.02.

SMTC 6.3 Definitions.

6.3.1 Unless specified otherwise, terms used herein shall have the same meaning as in IGRA and any regulations promulgated thereunder, including but not limited to references to "Class I," "Class II," and "Class III" gaming.

6.3.2 "Applicable Law" shall mean the IGRA and regulations promulgated thereunder, any Compact between the Tribe and the State, and all other applicable laws and regulations under State, Federal, and Tribal law, including ordinances and regulations.

6.3.3 "Closely Associated Independent Contractors" shall mean any contractor that shares common ownership, officers or directors with any management principal or person related thereto.

6.3.4 "Commissioner" shall mean a commissioner of the San Manuel Gaming Commission.

6.3.5 "Gaming" shall mean an activity in which a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event, not under his or her control or influence, upon an agreement or understanding that the person, or someone else, will receive something of value in the event of a certain outcome, but shall not include bona fide business transactions.

6.3.6 "Gaming Activities" shall mean any Class I, Class II, or Class III gaming conducted by or under the jurisdiction of the Tribe.

6.3.7 "Gaming Commission" shall mean the gaming commission established by the Tribe to monitor gaming activities, investigate wrongdoing, conduct background investigations and issue licenses, and perform other duties as required for the regulation of gaming on the Reservation. For the purpose of conducting background investigations of and issuing licenses to the Commissioners and Gaming Commission staff, such persons shall be deemed to be key employees under this ordinance and shall be required to hold a valid license consistent therewith.

6.3.8 "Gaming Contractor" shall mean any Person or entity supplying materials, supplies, equipment, food, beverages, or services to the Gaming Enterprise.

6.3.9 "Gaming-Related Contract" shall mean any agreement under which materials, supplies, equipment, food, beverages or services are to be supplied to the Gaming Enterprise.

6.3.10 "Gaming Enterprise" shall mean any gaming business, event, enterprise or activity conducted by or under the jurisdiction of the Tribe.

6.3.11 "General Council" shall mean the governing body of the Tribe.

6.3.12 "Key Employee" shall mean a person who performs one or more of the following functions: bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, pit boss, dealer, croupier, approver of credit, or custodian of gaming devices including those persons with access to cash and accounting records within such devices. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year, and the four most highly compensated persons in the gaming enterprise are included in the definition of Key Employees. At the discretion of the Gaming Commission, other positions or Persons may be included under the definition of Key Employee and shall be subject to the requirements thereof.

6.3.13 "National Indian Gaming Commission" ("NIGC") shall mean the federal gaming commission established under IGRA.

6.3.14 "Ordinance" or "Act" shall mean the San Manuel Gaming Act of 1989.

6.3.15 "Person" shall mean any natural person or entity, including but not limited to corporations, partnerships and trusts.

6.3.16 "Primary Management Official" shall mean the person who has management responsibility for a management contract; any person who has authority to hire and fire employees or to set up working policy for the gaming enterprise; or the chief financial officer or other person who has financial management responsibility. At the discretion of the Gaming Commission, other positions or Persons may be included under the definition of Primary Management Official and shall be subject to the requirements thereof.

6.3.17 "Related to" shall refer to persons who are related as a father, mother, sister or brother.

6.3.18 "Reservation" shall mean all lands under the jurisdiction and control of the Tribe.

6.3.19 "State" shall mean the State of California.

6.3.20 "Tribal Court" shall mean any court established by the Tribe to hear disputes, or if there is none, the General Council.

SMTC 6.4 Gaming Commission.

6.4.1 There is established by the Tribe hereby a Commission to be known as the San Manuel Gaming Commission. The Gaming Commission shall be composed of three (3) members of the San Manuel General Council, all of whom shall be elected by the General Council. The Commissioners shall serve for two (2) year terms, except that immediately after enactment of this Act two (2) of the Commissioners shall serve for three (3) years and the other Commissioner

shall serve for two (2) years. Commissioners may serve for more than one term, and may serve past the expiration of their term until replaced or removed. A Commissioner may not be an elected official of the Tribe or employed in any Gaming Enterprise while serving as a Commissioner.

6.4.2 Background investigations of Gaming Commissioners and staff shall be conducted by an independent investigator under the direction of the Tribe's attorney. The attorney shall keep the details of the investigation confidential, but the attorney may confer with the investigator or any other person experienced in conducting or evaluating background investigations provided such other person agrees to maintain the confidentiality of the information obtained about the applicant. The attorney shall make a determination as to whether this Ordinance's requirements for suitability have been met, and if so shall certify that finding in writing to the General Council. In the event the attorney determines there is any reason to believe the applicant may not meet the suitability standards under this Ordinance, the attorney shall so inform the applicant of that determination on a confidential basis. The applicant shall have three (3) business days in which to respond, by providing additional information or other reasons why the applicant should be deemed suitable. If the attorney still believes the applicant is unsuitable, the attorney shall so notify the applicant in writing, who shall have three (3) business days in which to either withdraw from the employment committee (in which case the file shall be sealed) or request that the application be reviewed by the Business Committee of the Tribe. In the event of such review, only those items which the attorney believed rendered the applicant unsuitable shall be revealed to the Business Committee by the attorney. The applicant can request any additional information obtained by the attorney to be submitted to the Business Committee, and may provide such further information as the Business Committee shall permit. Within ten (10) days after closing its own review and investigation of such applicant, the Business Committee shall render a final decision as to the applicant's suitability. In the event of such a finding, the Gaming Commission shall issue a Class A license to the applicant. Appeals from the Business Committee decision shall follow the same procedures as appeals from other license denials.

6.4.3 Commissioners may only be removed from office before the expiration of their terms by the General Council for neglect of duty, malfeasance or other good cause shown. Good cause shall include repeated (at least three or more) failures to attend Commission meetings.

6.4.4 Two (2) members of the Gaming Commission shall constitute a quorum.

6.4.5 The Gaming Commission shall annually elect, by majority vote, a Chairman, Secretary, and Treasurer to serve one-year terms. The Chairman shall preside over meetings of the Gaming Commission. No Commissioner shall hold more than one position except where there are insufficient Commissioners seated to fill all positions. The Secretary shall record in writing the minutes of all Gaming Commission meetings and all official actions taken by the Gaming Commission, and shall preside over meetings in the absence of the Chairman. The Treasurer will oversee receipt and disbursement of Gaming Commission funds. Checks drawn on Gaming Commission accounts must be signed by any two (2) Commissioners.

6.4.6 All actions of the Gaming Commission shall be taken by majority vote. The Commission Chairman may vote on any issue.

6.4.7 Subject to approval by the General Council, Commissioners may be reimbursed for expenses incurred in connection with the performance of their duties as Commissioners.

6.4.8 Meetings of the Gaming Commission shall be held at least once per month, on the second Friday of the month at 10:00 a.m. at the offices of the Gaming Commission ("Scheduled Meetings"). Any Tribal member may attend Scheduled Meetings. Scheduled Meetings may be changed at any time by the Gaming Commission, with notice of such change posted prominently at least five (5) business days in advance at the Office of the Gaming Commission. Additional meetings shall be held as called by the Chairman or by at least two (2) Gaming Commissioners. Notice of meetings shall be given in writing to each Gaming Commissioner, served by first class mail or personal delivery at least five (5) business days prior to such meeting. Meetings may be called at any time, by any means, with unanimous consent of the Gaming Commissioners. All Commission discussions, deliberations, and votes taken regarding specific license applications and related background investigations, or any other investigations, and any other matter the Commission deems must be kept confidential in order to preserve the integrity of the Gaming Enterprise or Tribe or to protect the privacy of the applicant, shall be held in Executive Session.

6.4.9 The Commission shall be deemed to be an agency of the Tribal government and as such shall be subject to the personnel and other governmental administrative policies of the Tribal government as the General Council shall determine from time to time. In the absence of specific personnel policies, those affecting management level employees of the Gaming Enterprise shall be applied to the operation of the Commission. Any exceptions to such policies must be approved by the Tribe's Business Committee. The Commission shall be funded through an annual appropriation by the General Council and such additional funding actions as the General Council shall deem necessary. The Commission shall propose a budget sixty (60) days before the end of each Tribal fiscal year after meeting and conferring with the Business Committee regarding such budget, which shall be submitted to the General Council for approval or modification. Within five (5) days after approval of the budget, funds from the Tribe's treasury shall be appropriated and transferred to the Commission's bank account, except that at any time the General Council may prescribe other schedules for disbursing such funds. The Commission shall maintain its accounts, books and records, including records of all income and expenditures, in accordance with generally accepted accounting principles and consistent with Tribal governmental policies regarding management of funds and records. A financial report shall be rendered by the Commission to the General Council at least quarterly. All expenditures shall stay within ten percent (10%) of the approved budget. Notwithstanding the fact that the Commission is a Tribal governmental agency and is accountable to the Business Committee, on behalf of the General Council, for its administration, the decisions of the Commission regarding licensing, suitability and compliance with Applicable Law shall be within the exclusive province of the Commission, except that the Business Committee may review any allegation that the Commission has exceeded its authority under this Ordinance and if it deems the allegation to be

true, shall refer the allegation to the General Council for action, which may include removal of a Commissioner for cause.

SMTC 6.5 Powers and Duties.

The Gaming Commission shall have the power and duty to:

6.5.1 Inspect, examine and monitor gaming activities, including the power to demand access to and inspect, examine, photocopy and audit all papers, books and records respecting such gaming activities;

6.5.2 Investigate any suspicion of wrongdoing in connection with any gaming activity;

6.5.3 Conduct or cause to be conducted such investigations as may be necessary to determine in connection with any gaming activity, compliance with law or this Act or any contracts, agreements, goods, services, events, incidents, or other matters related to gaming activities;

6.5.4 Conduct background investigations regarding any person or entity in any way connected with any gaming activity and issue licenses to, at minimum, all Key Employees and Primary Management Officials under requirements at least as stringent as those established in 25 C.F.R. Parts 556 and 558;

6.5.5 Hold such hearings, sit and act at such times and places, summon persons to attend and testify at such hearings, take such testimony, and receive such evidence as the Gaming Commission deems relevant in fulfilling its duties;

6.5.6 Administer oaths or affirmations to witnesses appearing before the Gaming Commission;

6.5.7 Establish procedures and implement and administer the system for investigating, licensing and monitoring employees and others connected with gaming activities, as described in Section 6 below, including the issuance of licenses to gaming facilities, individuals and entities as required under this Act and IGRA;

6.5.8 Carry out such other duties with respect to the regulation of gaming activities on the Reservation as the General Council shall direct;

6.5.9 Issue any regulations it deems appropriate to implement the provisions of this Act;

6.5.10 Hear disputes against the gaming establishment, in accordance with procedures established in this Act;

6.5.11 Hire such staff and obtain support services as deemed necessary, subject to a budget approved by the General Council;

6.5.12 Promulgate rules for each Class I game recognized hereunder, and of any Class II or Class III games permitted hereunder, to govern the conduct of such games;

6.5.13 On or before April 30th of each year, provide to the General Council an Annual Report summarizing the Gaming Commission's activities during the prior twelve month period ending on December 31st, and accounting for all receipts and disbursements; and

6.5.14 To the extent required, comply with any reporting requirements established under a tribal-state compact to which the Tribe is a party and other applicable law, including IGRA.

SMTC 6.6 Enforcement

In the event any Commissioner determines that a licensee of the Gaming Enterprise has violated Applicable Law, including any internal control procedures or policy of the Gaming Enterprise, a written report of such incident shall immediately be made to the Commission. The Commission shall then determine, by majority vote, what action should be taken, if any. If action is required, the Commission shall issue a citation to the Gaming Enterprise, notifying it of the specific violation(s) or issues, measures which must be taken for correction, and a reasonable time limit in view of all the circumstances in which such action must be taken. Copies of any such citation shall simultaneously be served on the Business Committee of the Tribe. The Commission may enforce such citations by: (a) suspending or revoking the licenses of any persons found to have violated Applicable Law; or (b) such lesser penalty or other remedy as the Commission shall determine, including the imposition of fines not to exceed \$100 per offense. Nothing herein shall prevent or prohibit the Gaming Commission from seeking compliance assistance from law enforcement agencies, the Bureau of Indian Affairs, or the National Indian Gaming Commission, particularly but not limited to any instance in which the Gaming Enterprise and the General Council have failed to correct a violation of Applicable Law.

SMTC 6.7 Permitted Gaming Activities; Use of Funds; Regulation of Gaming Activities.

6.7.1 All gaming activities on the reservation (whether Class I, II or III) are prohibited except as expressly permitted under this Act.

6.7.2 Class I gaming activities are hereby permitted to the extent consistent with Tribal custom and practice and provided the General Council is given at least seven (7) days prior notice in writing of any intention to engage in such gaming. The General Council may prohibit any conduct which is claimed to be Class I gaming if the Council finds that such conduct is not in accordance with Tribal customs or practices or violates IGRA or any other law.

6.7.3 Class II and Class III gaming on the Reservation is hereby authorized, provided that such gaming is controlled and operated by the Tribe, which shall have the sole proprietary interest in and responsibility for the conduct of such Gaming Enterprise, or has, to the extent permitted, contracted with and licensed a person or entity to own, operate or manage the Gaming Enterprise pursuant to the provisions of IGRA or as otherwise authorized by law. Nothing herein shall prohibit the Tribe from engaging the services of non-Tribal persons as employees thereof or engaging any person or entity to assist the Tribe in the management of a Gaming Activity pursuant to a management agreement entered into under the provisions of IGRA or any other applicable law. Class III gaming shall be conducted in accordance with any Tribal-State compact between the Tribe and the State of California, or any alternative thereto as provided by IGRA.

6.7.4 Except as provided for under the terms of an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, all revenues generated from any Class II or Class III gaming activity are the property of the Tribe. Any profits or net revenues from gaming activities (other than those which may constitute a fee to any consultant or manager) shall be deposited into the general treasury of the Tribe and shall only be used:

- A. to fund Tribal programs or operations;
- B. to provide for the general welfare of the Tribe and its members;
- C. to promote Tribal economic development;
- D. to donate to charitable purposes; or
- E. to help fund operations of local governmental agencies.

6.7.5 Except for rights to per capita payments, if any, or as set forth below, no Tribal member shall have any interest or expectation in any funds generated by any gaming activity. All such funds are deemed Tribal funds only and are and shall remain the property of the Tribe until disbursed, if at all, from the general treasury. The General Council shall retain the sole discretion as to how such funds are utilized, and once becoming part of the treasury such funds shall lose any identity as gaming revenues except to the extent necessary to identify them as such for accounting purposes or to comply with applicable law. Notwithstanding anything herein to the contrary, if the Tribe elects at any time to make per capita payments to the members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3). Payments out of general treasury funds to tribal members under other tribal programs, including those relating to health, welfare, education, elderly care, and housing, shall not be deemed to be "per capita" payments when such funds are paid from the tribe's general treasury.

SMTC 6.8 Operation of Gaming Establishments.

6.8.1 Tribal License. Except to the extent authorized by an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, Gaming Activities shall only be conducted in Tribally owned, operated and licensed facilities. Such activities shall be conducted pursuant to the terms and conditions of a license to be issued by the Tribe for such purposes as to each facility before any gaming activities may occur therein. Such licenses shall specify the hours of operation, type and scope of gaming activities allowed therein, permitted uses of the facility for other activities, applicable rules of conduct, regulation of alcoholic beverages, food handling and entertainment, and such other matters as the Gaming Commission may deem necessary to the conduct of gaming activities therein.

6.8.2 Protection of Environment and Public Health and Safety. Any construction or maintenance of any gaming facility, and the operation of gaming therein, shall be conducted in a manner which adequately protects the environment and the public health and safety.

6.8.3 Ownership of Gaming. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this gaming Ordinance, except to the extent the Tribe may contract with and license a person or entity to own, operate, or manage the enterprise pursuant to the provisions of IGRA or as otherwise permitted by law.

6.8.4 Dispute Resolution. Patrons who have complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief with the Gaming Commission. For such purposes, disputes of patrons with any management contractor or its employees shall be made to the Gaming Commission, and such shall be the exclusive remedy for patron complaints. Complaints shall be submitted in writing and, at the discretion of the Gaming Commission, the petitioner may be allowed to present evidence. The Gaming Commission will render a decision in a timely fashion and all such decisions will be final when issued. Any patron having a claim against the gaming establishment or a management contractor or its employees must submit such claim to the Gaming Commission within thirty (30) days of its occurrence. All claims by patrons shall be limited to a maximum recovery of \$10,000 per occurrence and a cumulative limit of \$20,000 per patron in any twelve (12) month period.

SMTC 6.9 Audits.

6.9.1 The Tribe shall cause to be conducted annually, by a recognized independent accounting firm, an audit of all gaming operations. The results of the audit shall be submitted to the General Council and, to the extent required by law, to the Bureau of Indian Affairs and the National Indian Gaming Commission.

6.9.2 All Gaming-Related Contracts for an amount in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to the Gaming Enterprise shall

be subject to such independent audits. At least three (3) bids shall be required before any contract for goods or services in connection with any gaming activity for an amount in excess of \$5,000 or to be performed over a period of more than twenty (20) days may be executed. The General Council may waive the requirement of three (3) bids upon good cause shown. All proposals for bids as well as all bids received shall be reviewed at the discretion of the Gaming Commission. The Gaming Commission shall receive a copy of all Gaming-Related Contracts for an amount in excess of \$5,000 for filing and possible review. Any contract which is the subject of this Section must be approved by the General Council before becoming effective. To the extent possible, the Tribe will approve the lowest responsive and qualified bid.

SMTC 6.10 Licenses.

6.10.1 It is the declared policy of the Tribe that all gaming activities be licensed and controlled so as to protect the morals, good order and welfare of Tribal members and other persons on the reservation and to preserve the honesty, fairness and integrity of such gaming activities. Accordingly, no person shall engage in any gaming activity on the reservation without an appropriate and valid license issued by the Gaming Commission for such gaming activity, except as provided in the Act or the regulations issued by the Gaming Commission. Any gaming license which is issued, or finding of suitability or approval by the Gaming Commission, shall be deemed a privilege subject to suspension or revocation. No License shall be issued that would place the Tribe in violation of IGRA of any Tribal-State Compact to which the Tribe is a party, or of any applicable law.

6.10.2 The burden of proving an applicant's qualification to receive any license hereunder is at all times on the applicant. Applicants must accept any risk of adverse public notice, embarrassment or other action which may result from the application process and expressly waive any claim for damages as a result thereof.

6.10.3 An applicant may claim any privilege afforded by law in connection with a gaming license application or investigation, but a claim of privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension or revocation.

6.10.4 Two classes of licenses shall be issued to Persons associated with gaming activities, and a work permit shall be issued to minors employed in non-gaming activities:

A. Class A Licenses. Before permitting any Person to become associated with any gaming activity as an investor or other Person owning or controlling 10% or more of any interest in any management entity, or any Primary Management Official, Key Employee, or Closely Associated Independent Contractor, or at the discretion of the Gaming Commission, any Gaming Contractor, or other Persons or positions the Gaming

Commission may designate, shall obtain a Class A license. The Gaming Commission shall conduct a background investigation to determine if such Person has:

1. Any criminal record or any reputation, prior activities, habits or associations which might pose a threat to the public interest or to the effective regulation of gaming;
2. Anything else in their background which might create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.

B. Class B Licenses. Persons who are not among those identified in subsection A but are to be employed in Gaming Activities or non-gaming employment in the gaming facility, or are otherwise associated with or doing business with the Gaming Enterprise, shall be required to obtain a Class B license from the Gaming Commission. Such Persons must establish that they have not been convicted of a crime, or engaged in any activity, which the Gaming Commission in its sole discretion deems to render such Person a danger to the safety or integrity of the Gaming Activities or the safety or property of the Tribe, any Tribal member, any gaming employee or patron, or the public.

C. Class C Work Permits. Minors employed in non-gaming activities at the Reservation may be issued a Class C work permit, provided such minors are not deemed by the Gaming Commission to pose any threat to the safety or integrity of Gaming Activities or the safety or property of the Tribe, any Tribal member, any gaming employee or patron, or the public, and such work permits shall be valid for no more than two (2) years. Minors shall not be employed as dealers or otherwise to operate or supervise the Gaming Activities, or to serve liquor.

6.10.5 All Class A and Class B licenses, as well as Class C work permits, shall be subject to renewal at least every two (2) years, and may be revoked or suspended upon the occurrence of any act which, if known during the application process, would have tended to disqualify such Person for such a license or permit.

6.10.6 Pending completion of an investigation for a Class A or Class B license, temporary licenses of no more than ninety (90) days duration may be issued by the Gaming Commission if in its sole discretion it deems it appropriate to do so. Notwithstanding anything in this Act to the contrary, prior to obtaining a temporary license, natural persons may be hired to perform Class A or Class B duties for no more than three (3) days in any one (1) year period.

6.10.7 The Gaming Commission may employ all reasonable means, including the engagement of outside services and investigators and the holding of hearings, to acquire the information necessary to determine whether or not a license should issue. Unless specifically waived by the Gaming Commission, each applicant for a Class A or B license, as well as for Class C work permits, shall be required to pay the established license fee and reimburse the Gaming Commission for all costs incurred in obtaining background information for processing such application. Unless otherwise waived by the Gaming Commission, all fees and costs must be received by the Gaming Commission prior to issuance of the license. Estimates of such costs will be provided to an applicant upon request.

6.10.8 All Persons applying for a license or work permit shall agree to release all information necessary in order for the Gaming Commission to achieve its goals under this Section and to furnish such information to the Bureau of Indian Affairs, the NIGC or such other governmental agency as may be required by law.

6.10.9 Any Person engaged by or associated with any Gaming Activities on the Reservation shall conduct themselves with honesty, integrity, and with such decorum and manners as may be necessary to reflect positively on the Tribe, its members and the Gaming Activities involved. Any failure to abide by such standards, or any violation of any rule, ordinance, custom or tradition of the Tribe, the Reservation or the Gaming Activity, or the terms or conditions of the license, may be grounds for immediate suspension or revocation of any license issued hereunder.

6.10.10 Background Investigations.

A. The Gaming Commission shall request from, at minimum, each applicant for a Key Employee or Primary Management Official license all of the information specified in subsections (1) through (14) below. The Gaming Commission may, at any time, request additional information either prior to, during, or subsequent to any background investigation for any license applicant.

(1) Full name, other names used (oral or written), social security number(s), date of birth, place of birth, citizenship, gender, all languages (spoken or written);

(2) Currently and for at least the previous five (5) years; business and employment positions held, ownership interest in those business, business and residence addresses and drivers license number(s);

(3) 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 as listed above under subsection (2);

- (4) Current business and residence telephone numbers;
- (5) Description of any existing and previous business relationships with the Indian tribes, including ownership interest in those businesses;
- (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (7) Name and address of any licensing or regulatory agency with which the person has ever filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (8) For each felony for which there is an 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;
- (9) For each misdemeanor conviction or on-going misdemeanor prosecution (excluding minor traffic violations), whether or not such information is still listed on the applicant's records, within 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;
- (10) For each criminal charge (excluding minor traffic charges), whether or not there is or was a conviction and whether or not such information is still listed on the applicant's records, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed above pursuant to subsections (8) or (9): the criminal charge, the name and address of the court involved and the date and disposition, if any, of the case;
- (11) Name and address of any licensing or regulatory agency (Federal, Tribal, State, local or foreign) with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (12) Current photograph;
- (13) Any other information the Tribe deems relevant; and
- (14) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h).

B. The Gaming Commission shall conduct or cause to be conducted an investigation sufficient to make a determination of eligibility as required under this Ordinance. In conducting the background investigation, the Gaming Commission or its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation, except to the extent such information must be disclosed in a hearing conducted under this Ordinance on the licensee's suitability and qualifications for a license. The Gaming Commission may establish guidelines and procedures for disclosure of licensing information, as appropriate.

6.10.11 Eligibility Determination.

The Gaming Commission shall review a Person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a Key Employee or Primary Management Official for employment in a gaming operation. If the Gaming Commission determines that employment of the Person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the gaming enterprise shall not employ that Person except as specifically established by the Gaming Commission.

6.10.12 Forwarding Licensing Applications and Reports to the NIGC.

6.10.12.1 On or before the date any Key Employee or Primary Management Official is employed by a gaming enterprise authorized under this Ordinance, the Gaming Commission shall forward to the NIGC the Person's completed application for employment containing the information required above under Section 6.10.10 A. of this Ordinance.

6.10.12.2 Prior to issuing a license to a Primary Management Official or Key Employee, the Gaming Commission shall forward to the NIGC, together with a copy of the eligibility determination made under Section 6.10.11 above, an investigative report on each background investigation. The investigative report on each background investigation shall be forwarded to the NIGC within sixty (60) days after the employee begins work, or within sixty (60) days of the approval of this Ordinance by the NIGC. In no case shall the gaming enterprise employ or continue to employ any Person as a Key Employee or Primary Management Official who does not have a license within ninety (90) days of beginning work.

The investigative report shall include the following information:

6.10.12.2.1 Steps taken in conducting a background investigation;

- 6.10.12.2.2 Results obtained;
- 6.10.12.2.3. Conclusions reached; and
- 6.10.12.2.4 The bases for those conclusions.

6.10.12.3 The Gaming Commission shall provide to the NIGC or other agency, any other reports and information required by IGRA and regulations promulgated thereunder. Further, with respect to Key Employees and Primary Management Officials, the Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the NIGC for no less than three (3) years from the date of termination of employment.

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

6.10.13 Granting a Gaming License.

6.10.13.1 If, within a thirty (30) days period after the NIGC receives a report as required under subsection 6.10.12.2 above, the NIGC notifies the Gaming Commission that it has no objection to the issuance of a license pursuant to the license application filed for a Key Employee or Primary Management Official for whom the Gaming Commission has provided an application and investigative report, the Gaming Commission may issue the license.

6.10.13.2 The Gaming Commission shall provide any additional information requested by the NIGC concerning a Key Employee or Primary Management Official who is the subject of a report as required under subsection 6.10.12.2 above. A NIGC request for additional information shall suspend the thirty (30) day period under subsection 6.10.13.1 above until the NIGC receives the additional information.

6.10.13.3 If, within the thirty (30) day period established under subsection 6.10.13.1 above, the NIGC provides a statement itemizing objections to issuance of a license to a Key Employee or Primary Management Official, the Gaming Commission shall reconsider the application, taking into account such objections. The Gaming Commission retains the right to make the final determination whether to issue the license to such applicant.

6.10.14 Appeals.

All decisions of the Gaming Commission regarding the issuance of licenses shall be considered final and effective when issued. Provided, within fifteen (15) days of receipt of the written decision regarding issuance of the license, an applicant may file a petition for reconsideration with the Gaming Commission. Any member of the Tribe who is denied a license by the Gaming Commission may, within thirty (30) days of receiving written notice of such denial, appeal the denial to the General Council, which shall have the power to order that such license be issued, provided that no such license shall be issued for more than one (1) year, subject to the renewal procedures set forth in this Ordinance. No license issued shall be valid if such issuance would place the Tribe in violation of any Tribal-State Compact to which the Tribe is a party, or of any applicable law.

6.10.15 License Suspension.

6.10.15.1 If, after issuance of a gaming license, the Gaming Commission receives reliable information from the NIGC or other reliable sources indicating that a Key Employee or a Primary Management Official is not eligible for employment under the eligibility criteria established in Section 6.10.10 above, the Gaming Commission shall suspend the license and shall notify the licensee in writing of the license suspension and proposed revocation.

6.10.15.2 The Gaming Commission shall notify the licensee of a time and place for a hearing on the proposed revocation of a license.

6.10.15.3 After the revocation hearing, the Gaming Commission shall determine whether to revoke or to reinstate the gaming license. For actions taken in response to information provided by the NIGC, the Gaming Commission shall notify the NIGC of its decision.

6.10.16 Application Forms.

A. Each application form for a Key Employee or Primary Management Official, as well as for all other Class A license applicants, unless otherwise specifically exempted by the Gaming Commission, shall contain the notices set forth in subsections (1) and (2) below:

(1) Privacy Act Notice:

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 the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe's being unable to hire you in a Primary Management Official or Key Employee position.

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

(2) Notice Regarding False Statements.

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).

B. Any existing Key Employee or Primary Management Official, or other Class A licensee unless otherwise specifically exempted by the Gaming Commission, shall be notified that they shall either:

(1) Complete a new application form that contains the Privacy Act notice and the notice regarding false statements; or

(2) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice, and sign a statement that contains the notice regarding false statements.

SMTC 6.11 Class III Gaming, Tribal-State Compacts.

In addition to the provisions set forth above, Class III gaming shall be engaged in on the reservation pursuant to a Tribal-State compact or alternative as provided by IGRA. All negotiations for such compacts shall be conducted through the Tribal Chairman, with the advice and suggestion of the Gaming Commission, and shall be finalized only upon majority vote of the General Council after consideration of the terms of such compact.

SMTC 6.12 Tribal Corporation.

Nothing in this Ordinance shall prevent the Tribe, through its General Council, from delegating authority to conduct gaming to one or more Tribal corporations, so long as the Tribal Gaming Enterprise to which such authority is delegated agrees to meet all criteria and requirements established under this Ordinance.

SMTC 6.13 Gaming by Tribal Members; Interest in Management Contracts by Tribal Officials.

No Tribal member shall engage in or be permitted to engage in either directly or indirectly through another person, any Class II or Class III Gaming Activities authorized hereunder. No elected official of the General Council, Gaming Commission, or any other committee or agency of the Tribe shall have a financial interest in or management responsibility for, any management agreement entered into pursuant to IGRA, nor shall such elected official serve on the board of directors or hold (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of any corporation having a financial interest in, or management responsibility for, such contract.

SMTC 6.14 Service of Process.

The Tribe designates as its agent for the service of any official determination, order, or notice of violation, the Chairperson of the Tribe.

SMTC 6.15 Repeal of Prior Gaming Ordinances; Effective Date.

To the extent inconsistent with this Ordinance, all prior gaming ordinances are hereby repealed on the effective date of this Ordinance. After adoption by the Tribe's General Council, this Ordinance becomes effective on the date of final approval by the NIGC.