

**NATIONAL
INDIAN
GAMING
COMMISSION**

September 13, 1999

Candace Penney
Gaming Commissioner
Smith River Rancheria
250 N. Indian Road
Smith River, CA 95567

Dear Ms. Penney:

This letter is in response to your request for review and approval of the amended Smith River Rancheria (Tribe) Gaming Ordinance of 1994 (No. 94-101). The Ordinance was originally passed in 1994, and amended February 23, 1999 by the Tribal Council. 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. 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.

The Tribal Gaming Commission is 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, pursuant to 25 C.F.R. § 556.5(b), before the Tribal Gaming Commission issues a license to a key employee or primary management official.

Thank you for submitting the ordinance for review and approval. The NIGC staff and I look forward to working with you and the Smith River Rancheria on future gaming issues.

Sincerely yours,



Montie R. Deer
Chairman

AUG - 9 1999

Smith River Rancheria

250 North Indian Road
Smith River, CA 95567-9525

Tel.: (707) 487-9255

Fax: (707) 487-0930

RESOLUTION 99 - 25

Date of Approval: June 3, 1999

RESOLUTION: Newly Elected Officers of the Smith River Rancheria at the May 25, 1999 Election.

WHEREAS, Smith River Rancheria is a federally recognized Tribe located in the State of California and the Tribal Council for the Smith River Rancheria has been authorized to conduct all tribal business, **AND,**

WHEREAS, the Council of the Smith River Rancheria of California is authorized to conduct all tribal business on behalf of its general membership, **AND,**

WHEREAS, elections held the 25th day of May 1999 by the Smith River Rancheria Tribal Council **AND,**

WHEREAS, new officers were elected to the following positions: Chairman Loren Bommelyn, Vice Chair Marilyn Bray **AND,**

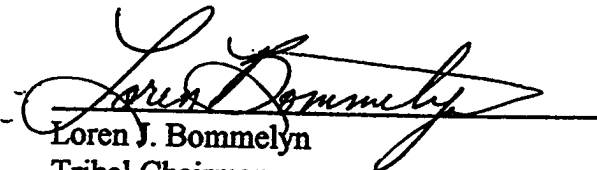
WHEREAS, we certify that the Tribal Chairman is duly elected and whose term of office expires in May 2000, and is authorized under the constitution to negotiate and execute grants and contracts on the behalf of the Smith River Rancheria, **AND,**

WHEREAS, the Vice-Chairman, who is duly elected officer and whose term of officer expires in May 2000, is authorized to act on behalf of the Chairman in his absence;

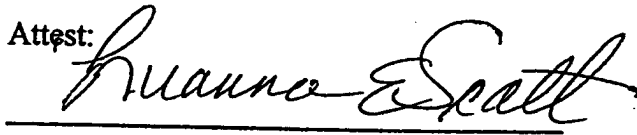
THEREFORE BE IT RESOLVED, the Smith River Rancheria Tribal Council have duly elected a new Chairman and Vice Chair, who have now taken their places in office.

CERTIFICATION

We, the undersigned, as duly elected officers of the Tribal Council of the Smith River Rancheria, do hereby certify that the Tribal Council of the Smith River Rancheria is composed of seven members of which a quorum were present at a regular meeting thereof: duly and regularly called, notice, convened and held this 3rdth day of June 1999; and that this Resolution 99 - 25 was adopted by a vote of (4) For, with (0)Against, (1) Abstained.


Loren J. Bommelyn
Tribal Chairman

June 3, 1999
Date

Attest:

Luanna E. Scott
Council Secretary

June 3, 1999
Date

SMITH RIVER RANCHERIA

250 North Indian Road
Smith River, CA 95567-9525
TEL (707) 487 - 9255
FAX (707) 487 - 0930

RESOLUTION 96-32

Date of Approval: December 10, 1996

Resolution: Authorizing Smith River Rancheria's Gaming Commission to finger print employees of the Lucky "7" Casino.

WHEREAS, Smith River Rancheria is a federally recognized tribe as a result of the Tillie Hardwick decision and the Tribal Council of the Smith River Rancheria has been authorized to conduct all tribal business, **AND**

WHEREAS, The Council of the Smith River Rancheria of California is authorized to conduct all tribal business on behalf of its general membership, **AND**

WHEREAS, The Tribe owns and operates the Smith River Rancheria Lucky "7" Casino as provided for under the Tribe's duly enacted gaming ordinances authorizing such activities, **AND**

WHEREAS, The Indian Gaming Regulatory Act of 1988 provides the regulatory authority by which The Tribe can regulate gaming activities conducted within the exterior boundaries of its reservation, **AND**

WHEREAS, The Tribe established the Smith River Rancheria Gaming Commission to comply with the Tribe's gaming ordinances; the regulatory provisions within the Indian Gaming Regulatory Act; any applicable regulations enacted by the National Indian Gaming Commission and terms of any approved Tribal/State compact **AND**

WHEREAS, We certify that the Tribal Chairman is duly elected and whose term of office expires in May 1997. And is authorized under the constitution to negotiate and execute grants and contracts on the behalf of the Smith River Rancheria, **AND**

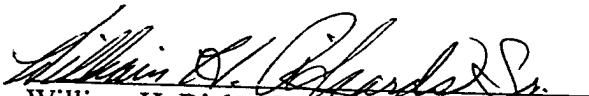
WHEREAS, The Vice-Chairman, who is duly elected officer and whose term of office expires in May 1997, is authorized to act on behalf of the Chairman in his absence, **AND**

HEREFORE BE IT RESOLVED, that the Tribal Council of the Smith River Rancheria Gaming Commission, do hereby agree that we should adopt Resolution No. 96-32. The Tribe designates the Smith River Gaming Commission, or their designee thereof as the agent for service of process from state or federal gaming regulatory agencies.

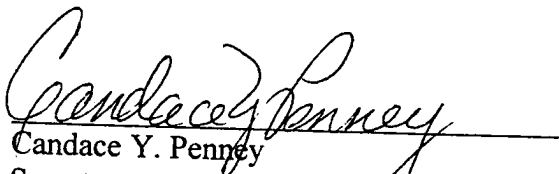
BE IT FURTHER RESOLVED, the Tribe authorizes the Smith River Gaming Commission to enforce all provisions of Tribal and federal gaming regulations or provisions of any Tribal/State compact, and that the Tribe authorized the Smith River Gaming Commission to take fingerprints and process the fingerprint cards through the Federal Bureau of Investigations via the National Indian Gaming Commission.

CERTIFICATION

We, the undersigned, as duly elected officers of the Tribal Council of the Smith River Rancheria, do hereby certify that the Tribal Council of the Smith River Rancheria is composed of seven members of which a quorum were present at a regular meeting thereof: duly and regularly called, notice, convened and held this day of December 10 1996; and that this Resolution 96-32 was adopted by a vote of (4) **For**, with (0) **Against**, (1) **Abstained**.


William H. Richards, Sr.
Tribal Chairman

December 10, 1996
Date


Candace Y. Penney
Secretary

December 10, 1996
Date

WHR:CYP:mma

AUG - 9 1999



GAMING ORDINANCE
OF THE
SMITH RIVER RANCHERIA

TABLE OF CONTENTS

	<u>Page</u>
Section 1. <u>Findings and Policy</u>	1
Section 2. <u>Ownership of Gaming</u>	2
Section 3. <u>Definitions</u>	2
Section 4. <u>Tribal Gaming Commission</u>	6
A. Establishment of Gaming Commission	6
B. Qualifications	6
C. Disqualifications For Office	6
D. Terms of Office	7
E. Appointment	7
F. Removal From Office	7
G. Quorum	8
H. Officers and Duties	8
I. Voting	8
J. Meetings	8
K. Compensation For Serving	8
L. Powers and Duties	8
M. Reports	13
N. Disclosure of Information	13

O.	Administrative Hearings	13
P.	Public Information	13
Section 5.	<u>Enforcement of Tribal/State Compact Provisions</u>	14
A.	Investigations and Sanctions	14
B.	Assistance by State gaming agency	14
Section 6.	<u>Authorization of Gaming Activities</u>	16
A.	Class I Gaming	16
B.	Class II Gaming	16
C.	Class III Gaming	17
D.	Conditions For Conducting Class II and Class III Gaming	17
Section 7.	<u>Gaming Revenues</u>	18
A.	Tribal Property	18
B.	Use of Net Revenues	18
C.	Per Capita Payments	19
Section 8.	<u>Operation of Gaming Establishments</u>	19
A.	Gaming Permitted as Licensed	19
B.	Protection of Environment and Public	20
C.	Public/Patron Dispute Resolutions	20
Section 9.	<u>Audits</u>	21
A.	Annual Audits	21

Section 10. Contracts 22

A. Procurement 22

B. Audit Requirements 22

C. Preference 22

Section 11. Licenses 22

A. Licensing Requirements 22

B. Burden on Applicant 23

C. Standard For License 23

D. Standards of Conduct 24

E. Applicant Claim of Privilege 24

F. Release of Information 24

G. License Renewal 24

H. Temporary Licenses 24

I. License Investigations 25

J. License Fees 25

K. Appeals 25

L. Background Investigations 25

M. Suitability Determination 28

N. Forwarding License Applications and Reports to NIGC 29

O. Granting a Gaming License 30

P. License Suspension	30
Q. Facilities License	31
R. Gaming Resource Supplier	32
S. Financial Sources	32
Section 12. Application Forms	32
A. Privacy Ordinance Notice	32
B. Notice Regarding False Statements	33
Section 13. Class III Gaming; Tribal/State Compact	33
Section 14. Interest in Management Contracts by Tribal Officials	34
Section 15. Service of Process	34
Section 16. Tribal Gaming Corporation	34
Section 17. Repeal of Prior Gaming Ordinance – Effective Date	34
Section 18. Severability	34
Section 19. Amendments	34
CERTIFICATION	35

ORDINANCE NO. 94 – 101

AN ORDINANCE OF THE SMITH RIVER RANCHERIA, OF CALIFORNIA ADOPTING AN ORDINANCE AUTHORIZING AND REGULATING GAMING ON THE SMITH RIVER RANCHERIA

The Smith River Rancheria of California, a federally recognized Indian Tribe (“Tribe”), acting through its Tribal Council in the exercise of its inherent sovereign power to enact ordinances and otherwise safeguard and provide for the health, safety and welfare of the Smith River Rancheria (“Rancheria”) and the members of the Tribe, hereby enacts this Ordinance which shall hereinafter be cited as the Smith River Rancheria Gaming Ordinance of 1994 (“Ordinance”). This Ordinance and any regulations promulgated thereunder shall constitute the entire gaming regulations for the Tribe.

SECTION 1. FINDINGS AND POLICY

This Ordinance is adopted by the Tribal Council, pursuant to its authority granted under the Tribe’s Constitution, Art. III, Sec.1, for the purpose of establishing the terms for gaming on the Rancheria for tribal governmental and charitable purposes, and to develop, operate and regulate such gaming consistent with the findings herein and in conformity with the federal Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq. (“IGRA”) and regulations promulgated thereunder.

The Tribe finds that:

- A. Gaming on its Rancheria is a valuable means of generating revenues that are needed for economic development, to promote tribal self-sufficiency, employment, job training, a strong tribal government and to fund and ensure essential social programs and services;
- B. The Tribe desires to conduct certain forms of gaming to provide needed revenues for the Tribe, and to regulate and control such gaming in a manner that will protect the environment, the Rancheria, the health, security and general welfare of the Tribe, the players, the community and;
- C. The Tribe desires to own all gaming on tribal lands, and to manage and regulate such gaming in a manner that will adequately address such special interests and needs of the Tribe.

SECTION 2. OWNERSHIP OF GAMING

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation facilities and/or enterprise(s) authorized by this Ordinance, except to the extent the Tribe may contract with and license a person or entity to, operate or manage the enterprise pursuant to the provisions of IGRA and the regulations promulgated thereunder, or as otherwise permitted by law. It shall be unlawful for any person, organization or other legal entity, other than the Tribe itself, to conduct gaming activities on the Rancheria.

SECTION 3. DEFINITIONS

Unless specified otherwise, the terms used herein shall have the same meaning as in IGRA, including but not limited to references to "Net Revenues", "Class I, Class II or Class III" gaming and except for references to "Commissioners", "Commission", or "Gaming Commission", which shall mean the Smith River Rancheria Gaming Commission or its Commissioners, established and described herein.

A. "Confidential Records and Information" shall mean:

1. Records or information maintained by the Commission about individuals (such as, but not limited to, personnel records and records containing information about applications for Commission licenses, permits or benefits);
2. Records or information reported to the Commission about business transactions and finances of a gaming facility or an applicant for a license or a licensee such as, but not limited to, real or personal property transactions, financial records (e.g., income statements, balance sheets, profit and loss statements), except for financial information subject to disclosure under other provisions of this Ordinance;
3. Records or information about complaints to the Commission or investigations of those complaints by Commission officials, or other investigations conducted by the Commission;
4. Correspondence of and to the Commission or the Commission Chairman;
5. Records which reveal the deliberative processes, impressions,

evaluations, opinions, recommendations, meeting minutes, research, work product, theories or strategy of the Commission.

B. **“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/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.

C. **“Gaming Activities”** shall mean any Class I, Class II or Class III gaming activity conducted by or under the jurisdiction of the Tribe.

D. **“Gaming Commission”** or **“Tribal Gaming Agency”** shall mean the Gaming Commission as established herein under tribal law, including, but not limited to, an inter-tribal gaming regulatory agency approved to fulfill such functions set by the National Indian Gaming Commission, to be primarily responsible for carrying out the Tribe’s regulatory responsibilities under IGRA and this Gaming Act, and including the duties and responsibilities set forth in any Gaming Compact adopted by the Tribe.

E. **“Gaming Contractor”** shall mean any person or entity that supplies gaming devices or other gaming equipment, personnel, or services (including gaming management or consulting services) to any gaming activity or enterprise.

F. **“Gaming Employee”** shall mean any person who operates, maintains, repairs, assists in, or is in any way responsible for supervising gaming activities or persons who conduct, operate, account for, or supervise any gaming activity, is in a category under federal or tribal gaming law, or an applicable tribal-state gaming compact, requiring licensing, or is a person whose employment duties require or authorize access to areas of the gaming facility which are not open to the public. In defining those categories of persons who are required to be licensed under tribal gaming law, the Tribe shall consider the inclusion of persons who are required to be licensed pursuant to state gaming law.

G. **“Gaming Enterprise”** shall mean any gaming business, event, enterprise or activity operated or licensed by the Tribe and located on the Smith River Rancheria.

H. **“Gaming Facility”** shall mean any building or room in which class III gaming activities or gaming operations occur, or in which the business records, receipts or other funds of the gaming operation are maintained (but excluding offsite facilities primarily dedicated to storage of such records, and financial institutions), and all rooms, buildings and areas, including parking lots, walkways and means of ingress and

egress associated therewith, provided nothing herein shall prevent the conduct of class II gaming (as defined under IGRA) therein.

I. "Investor" shall mean any person who manages any gaming activity or owns or leases equipment or facilities used in gaming activities or has loaned to or invested funds in any gaming activities, or who owns or controls ten percent (10%) or more of any entity that is an investor or has contributed more than Five Thousand Dollars (\$5,000) to any such person or entity. Investor does not include a federally or state chartered bank or savings and loan.

J. "Key Employee" shall mean a person who performs one or more of the following functions:

1.
 - (a) Bingo Caller,
 - (b) Counting Room Supervisor,
 - (c) Chief of Security,
 - (d) Custodian of gaming supplies or cash,
 - (e) Floor Supervisor/Manager,
 - (f) Card Table Supervisor/Manager,
 - (g) Pit Boss,
 - (h) Dealer,
 - (i) Croupier,
 - (j) Approver of credit,
 - (k) Custodian of gaming devices including those persons with access to cash and accounting records within such devices.
2. If not otherwise included, the four most highly compensated persons in the gaming operation.
3. If not otherwise included, any other person employed in the gaming facility whose total compensation is in excess of \$30,000 per year. At the discretion of the Gaming Commission, or the Tribal Council, other positions or persons may be included under and subject to the requirements for key employees.

K. "National Indian Gaming Commission: (NIGC)" shall mean the Commission established under IGRA.

L. "Net Revenues" shall mean gross gaming revenues from all Gaming Activities of a Gaming Enterprise, less amounts paid out as, or paid for, prizes and less total gaming-related operating expenses, excluding management fees.

M. **“Public Information”** means any information in the Commission records that is not confidential records or information.

N. **“Person”** shall mean any natural person or entity, including but not limited to, corporations, partnerships and trusts.

O. **“Primary Management Official”** shall mean the person who has management responsibility for a management contact or any person who has authority to:

1. Hire and fire employees;
2. Set up working policy for the Gaming Enterprise;
3. Be the chief financial officer or other person who has financial management responsibility, and;
4. At the discretion of the Gaming Commission and approval of the Tribal Council, other positions or persons may be included under and subject to the requirements for primary management officials.

P. **“Rancheria”** shall mean all lands under the jurisdiction and control of the Tribe.

Q. **“Related To”** shall mean immediate family member defined as: Domestic Partner, Husband, Father, Son, Brother, Wife, Mother, Daughter, Sister, Grand Parent, Grand Child, Step Parent, Step Child, In-Laws of immediate family. There shall be no waiver of the Nepotism provision set out above.

R. **“State”** shall mean the State of California.

S. **“Tribe”** shall mean the federally recognized entity known as the Smith River Rancheria of California as cited in Federal Register, Volume 53, No. 250, December 29, 1988.

T. **“Tribal Council”** shall mean the governing body of the Smith River Rancheria as established by Article III of the Constitution of the Smith River Rancheria, adopted on December 14, 1993.

U. **“Tribal Court”** shall mean any court established by the Tribe to hear disputes or, if there is none that can exercise jurisdiction, then the Tribal Council.

V. **“Tribal Member”** shall mean any duly enrolled member of the Smith River Rancheria.

SECTION 4. TRIBAL GAMING COMMISSION

A. Establishment of Tribal Gaming Commission. There is established by the Tribe a Commission, acting under the authority of the Tribal Council, to be known as the Smith River Rancheria Gaming Commission. The Commission shall be composed of three (3) to five (5) tribal members, if qualified, and appointed by the Tribal Council, as further provided herein.

B. Qualifications. Commissioners must meet the following minimum qualifications:

1. Must be an enrolled, eligible voting member of the Smith River Rancheria.
2. Have knowledge in at least one of the following: gaming operations, practice of gaming law, gaming control, law enforcement, accounting or public administration.
3. Qualify for a license as a key employee or management official, after submitting to a background investigation as authorized by this Ordinance.
4. Must sign and be bound by a Confidentiality Agreement.
5. Agree to refrain from all forms of gambling at Lucky 7 Casino while serving on the Smith River Rancheria Gaming Commission.
6. Agree to participate in random drug testing.

C. Disqualifications From Office. The following persons may not serve as Commissioners:

1. Employees of any Gaming Enterprise on the Rancheria.
2. Persons related to any Gaming Contractor (including any principal thereof or Closely Associated Independent Contractor);
3. Persons who fail to qualify for license as a key employee or primary management official after the completion of a background investigation as provided in this Ordinance; and

4. Tribal Council members, their spouses or “domestic partner.”

D. **Terms of Office.** The Tribal Gaming Commission shall remain in full force and effect for the duration of the Gaming Enterprise.

E. **Appointment.** Commissioners shall be appointed by the Tribal Council, using the following procedure:

1. All applicants for Commissioner shall complete an application form adopted by the Tribal Council, and submit to a background investigation as authorized by this Ordinance.
2. At a duly called Tribal Council meeting, the Tribal Council shall vote for candidates who have applied. They shall vote separately to fill each vacancy. The candidate with the highest number of votes cast shall be appointed.

F. **Removal From Office.** Except as provided herein, Commissioners may only be removed from office by the Tribal Council for neglect of duty, misconduct, malfeasance, any cause that would disqualify them from serving on the Commission, any material omission or false statement in applying for appointment, or other acts that would render such persons unqualified for such duties or for licensing hereunder.

1. An affirmative two-thirds (2/3) majority vote of the Tribal Council, after a duly noticed hearing at which the member charged with misconduct shall have the right to hear and present evidence concerning his/her removal, shall be required to remove a member of the Commission.
2. At the request of the member whose removal is at issue, a hearing may be held in closed session. The Tribal Council may also elect to receive in closed session any evidence of public disclosure which might compromise any on-going law enforcement investigation. Notwithstanding the foregoing and without any prior notice or opportunity for a hearing, the Tribal Council shall remove any Commissioner who fails a background investigation or who becomes disabled from performing his/her duties. The Tribal Council shall fill any vacancy as provided in subsection E, above.

G. **Quorum.** Two (2) members of the Gaming Commission shall constitute a quorum; if there are three members. More than three members, two-thirds (2/3) will constitute a quorum.

H. **Officers and Duties.** The Gaming Commission shall select, by majority vote, a Chairman, Vice-Chairman and Secretary. The Chairman shall preside over meetings of the Gaming Commission and the Vice-Chairman shall preside in absence of the Chairman. The Secretary shall record in writing the minutes of all Gaming Commission meetings and all official actions taken by the Commission. The Commission shall work as a team and will maintain an equal status.

I. **Voting.** All actions of the Gaming Commission shall be taken by majority vote. The Commission Chairman may vote on any issue. Roberts rules of Order shall apply, unless the Commission adopts specific rules that differ from Roberts Rules of Order.

J. **Meetings.** Meetings shall be held at least twice per month at the Tribe's primary meeting facility. Additional meetings shall be held as called by at least two (2) other Commissioners. Meetings may be called at any time, by any means, with unanimous consent of the Commissioners.

K. **Compensation for Serving.** The Tribal Council shall determine and authorize the compensation to be paid to Commissioners based on a determination of time required to be expended upon Commission duties and the qualifications of the appointed Commissioners.

L. **Powers and Duties:** In order to meet the terms and responsibilities set forth in this Gaming Ordinance and required by the Tribal/State Compact and IGRA with respect to the gaming operation and facility compliance, and to protect the integrity of the gaming activities, the reputation of the Tribe and the gaming operation for honesty and fairness, and the confidence of patrons that Tribal government gaming in California meets the highest standards of regulation and internal controls, the Gaming Commission shall be vested with the authority to promulgate, at a minimum, rules and regulations governing the following subjects, and ensure their enforcement in an effective manner:

1. Provide independent information to the Tribal Council on the status of Gaming Activities being conducted within any Gaming Enterprise of the Smith River Rancheria;
2. Establish and administer standards and procedures for the

licensing of employees, persons and entities who deal with the Gaming Enterprise, such as, manufacturers, and suppliers of machines, equipment and supplies;

3. Conduct or cause to be conducted, background investigations regarding any person in any way connected with any Gaming Activities and issue licenses to all employees according to requirements at least as stringent as those in 25 CFR, parts 556 and 558;
4. To deny any application for license, to limit, cancel, revoke, terminate, condition, modify, suspend or restrict any license, to make findings of suitability, (and approve the imposition of a fine for any cause deemed reasonable by the Commission) upon any person holding a license.
5. Notify National Indian Gaming Commission of licensing actions;
6. Retain licensing records and reports for three years from termination of employment;
7. License each facility where gaming is allowed;
8. Ensure that gaming facility is constructed, to meet the building and safety codes of the Tribe, which, as a condition for engaging in that construction, shall amend its existing building and safety codes if necessary, or enact such codes if there are none, so that they meet the standards of either the building and safety codes of any county within the boundaries of which the site of the facility is located, or the Uniform Building Codes, including all uniform fire, plumbing, electrical, mechanical and related codes, then in effect, provided nothing herein shall be deemed to confer jurisdiction upon any county or the State with respect to any reference to such building and safety codes. Ensure the gaming facility is maintained and operated in a manner that adequately protects the environment, public health and safety and persons employed by the facility;
9. Shall cause to be conducted an audit of the gaming operation, not less than annually, by an independent certified public accountant, in accordance with the auditing and accounting standards for audits of casinos of the American Institute of Certified Public

Accountants.

- 10. Ensure that net revenues from Gaming Activities are used for the limited purposes set forth in the Tribal Gaming Ordinance;**
- 11. Approve Minimum Internal Control Standards (MICS) and procedures for the Gaming Enterprise, including credit policies and procedures for acquiring supplies and equipment;**
- 12. Establish or approve rules of various games and inspect games, tables, equipment, machines, cards, chips or tokens used in the Gaming Enterprise. Establish standards/criteria for gaming machines and facilitate the testing of machines for compliance;**
- 13. Inspect, examine and monitor Gaming Activities, including the power to demand access to and inspect and examine any gaming facility, machine, device, practice, paper, book, record or area and in addition, to photocopy and audit all papers, books and records to ensure compliance with tribal law and regulations;**
- 14. Establish and supervise a video surveillance department for casino monitoring purposes; Maintenance of a closed circuit television surveillance system consistent with industry standards for gaming facilities of the type and scale operated by the Tribe, which system shall be approved and shall not be modified without the approval of the Gaming Commission. The Gaming Commission shall have current copies of the gaming facility floor plan and closed circuit television system at all times and any modifications thereof first shall be approved by the Gaming Commission;**
- 15. Conduct investigations and/or hearings of possible violations of regulatory or licensing matters and hold such hearings, sit and act at such times and places, summon persons on the Rancheria to attend and testify at such hearings, take such testimony, and receive such evidence as the Gaming Commission deems relevant in fulfilling its duties and take appropriate enforcement action;**
- 16. Interact with other regulatory and law enforcement agencies regarding the regulation of gaming;**
- 17. Resolve patron disputes, employee's grievances and other problems**

pursuant to the Gaming Ordinance;

18. Determine standards of customer conduct for patron exclusions and maintain a list of those persons barred from the gaming facility who, because of their past behavior, criminal history or association with persons or organizations, pose a threat to the integrity of the gaming activities of the Tribe or to the integrity of regulated gaming within the State;
19. Protect patrons and property from illegal activity; the detention of persons who may be involved in illegal acts for the purpose of notifying appropriate law enforcement authorities;
20. Record any and all unusual occurrences within the Gaming Enterprise, that deviate from normal operating policies and procedures (incidents, hereafter) in indelible ink in a bound notebook from which pages cannot be removed. The procedure for recording incidents shall:
 - (a) Specify that security personnel record all incidents, regardless of an employee's determination that such incident may be immaterial (all incidents shall be identified in writing);
 - (b) Require the assignment of a sequential number to each report, and;
 - (c) That each report include at a minimum:
 - (i) The record number;
 - (ii) The date;
 - (iii) The time;
 - (iv) The location of the incident;
 - (v) A detailed description of the incident;
 - (vi) The persons involved in the incident, and;
 - (vii) The security department employee assigned to the incident.
21. Copies of all incident reports from Security shall be forwarded to the Gaming Commission within 24 hours of the incident.
22. To the extent required, comply with any reporting requirements required by this Ordinance, Tribal law or IGRA or established under

a Tribal-State compact to which the Tribe is a party and other applicable law;

23. Promulgate and issue such regulations as it deems appropriate, subject to review and approval by the Tribal Council, in order to implement and enforce the provisions of this Ordinance;
24. Carry out such other duties with respect to Gaming Activities on the Rancheria as the Tribal Council shall direct.
25. Establishment of employee procedures designed to permit detection of any irregularities, theft, cheating, fraud or the like;
26. Submission to and prior approval from the Gaming Commission of the rules and regulations of each class III game to be operated by the Tribe, and of any changes of such rules and regulations. No Class III game shall be played which has not received Gaming Commission approval.
27. Maintenance of a copy of the rules, regulations and procedures for each game as presently played, including, but not limited to, the method of play and the odds and method of determining amounts paid to winners. Information regarding the method of play, odds, payoff determinations, and player pool balances shall be visibly displayed or available to patrons in written form in the gaming facility. Betting limits applicable to any gaming stations shall be displayed at such gaming station. In the event of a patron dispute over the application of any gaming rule or regulation, the matter will be handled in accordance with the Tribal gaming ordinance and any rules and regulations promulgated by the Gaming Commission.
28. Maintenance of a cashier's cage in accordance with industry standards for such facilities.
29. Maintain a description of minimum staff and supervisory requirements for each gaming activity to be conducted; and
30. Regulations specific to technical standards for the operation of gaming terminals and other games authorized herein to be adopted by the Tribe, which technical specifications shall be no less stringent

than those approved by a recognized gaming testing laboratory in the gaming industry.

M. Reports.

1. **Monthly Reports.** The Commission shall make at least one report a month to the Tribal Council to include a summary of gaming activities and all licensing and enforcement actions.
2. **Annual Reports.** On or before April 30th of each year, the Gaming Commission shall provide to the Tribal Council an Annual Report summarizing its activities during the prior twelve (12) month period ending on December 31st. The Tribal Council shall release a summary of the Annual Report to Tribal Members within thirty (30) days after receipt.
3. **Other Reporting Requirements.** As required, the Gaming Commission shall comply with any reporting requirements established under a Tribal-State compact to which the Tribe is a party, and other applicable law, including the IGRA and regulations promulgated thereunder.

N. Disclosure of Information. The Commission shall adopt rules consistent with this Ordinance governing the disclosure of information in its records.

O. Administrative Hearings. The Gaming Commission may hold administrative hearings to resolve any issue arising under this Ordinance. Such hearings shall be conducted according to the Rules and Regulations of the Commission established pursuant to this Ordinance. In order to fully exercise the power granted under this Section, the Commission may issue subpoenas in accordance with the Rules and Regulations.

P. Public information. Shall be available to any Tribal official or member during normal business hours, (9:00 a.m. to 4:00 p.m.), upon reasonable notice. Any Tribal official or member may request copies of any identifiable public record. Commissioners shall not disclose confidential records or confidential information, except as required to perform their specific job duties or to comply with applicable legal requirements.

SECTION 5. ENFORCEMENT OF TRIBAL/STATE COMPACT PROVISIONS

A. Investigations and Sanctions.

1. The Gaming Commission shall investigate any reported violation of the Tribal/State Compact provisions and shall require the gaming operation to correct the violation upon such terms and conditions as the Gaming Commission determines are necessary.
2. The Gaming Commission shall be empowered by this Ordinance to impose fines or other sanctions within the jurisdiction of the Tribe against gaming licensees or other persons who interfere with or violate the Tribe's gaming regulatory requirements and obligations under IGRA, the Tribal/State Compact or this Ordinance.
3. The Gaming Commission shall be required to report continued violations or failures to comply with their orders to the State gaming agency, provided such continued violations and compliance failures have first been reported to the Tribe and no corrective action has been taken within a reasonable period of time.

B. Assistance by State gaming agency

1. If requested by the Tribal Gaming Commission, the State gaming agency shall assist in any investigation initiated by the Tribal Gaming Commission and provide other requested services to ensure proper compliance with the provisions of the Tribal/State compact.
2. The State shall be reimbursed for its reasonable costs of such assistance provided it has received approval from the Tribe in advance for such expenditures.
3. Access to premises by State gaming agency: Notification and Inspection. The State gaming agency shall have the right to inspect the Tribe's gaming facilities with respect to Class III gaming activities only, and all gaming operation or facility records relating thereto, subject to the following conditions:
 - (a) With respect to public areas of a gaming facility, at any time

without prior notice during normal gaming facility business hours;

- (b) With respect to private areas of a gaming facility not accessible to the public, at any time during normal gaming facility business hours, immediately after the State gaming agency's authorized inspector notifies the tribal Gaming Commission and gaming facility management of his/her presence on the premises and presentation of proper identification, and requests access to the nonpublic areas of the gaming facility.
- (c) The Gaming Commission, in its sole discretion, may require an employee of the gaming facility or a tribal Gaming Commissioner to accompany the State gaming agency inspector at all times that he/she is on the premises of the gaming facility. If the tribal Gaming Commission imposes such a requirement, it shall require such an employee of the gaming facility or the Tribal gaming agency to be available at all times for such purposes.

- 4. With respect to the inspection and copying of gaming operation records, at any time, immediately after notice to the Tribal gaming agency, during the normal hours of the facility's business office, provided that the inspection and copying of such records may not interfere with the normal functioning of the gaming operation or facility. Notwithstanding any other provision of the law of the State of California, all information, records and copies thereof that the State gaming agency obtains, inspects or copies pursuant to the Tribal/State Compact shall be and remain the sole property of the Tribe, and shall not be released or divulged for any purposes without the Tribe's prior written consent, except that the production of such records may be compelled by subpoena in a criminal prosecution or in a proceeding for violation of the Tribal/State Compact without the Tribe's prior written consent, and provided further that prior to the disclosure of the contents of any such records, the Tribe shall be given at least 10 court days' notice and an opportunity to object or to require the redaction of trade secrets or other confidential information that is not relevant to the

proceeding in which the records are to be produced.

5. Whenever a representative of the State gaming agency enters the premises of the gaming facility for any such inspection, such representative shall immediately identify himself/herself to security or supervisory personnel of the gaming facility.

SECTION 6. AUTHORIZATION OF GAMING ACTIVITIES

A. Class I Gaming. Class I Gaming Activities shall mean social games solely for prizes of minimal value or traditional forms of Indian gaming as part of Tribal ceremonies or celebrations and are hereby permitted to the extent consistent with tribal custom and practice. The Gaming Commission may prohibit and prevent any conduct which is claimed to be Class I gaming if the Tribal Council finds that such conduct is not in accordance with tribal customs or practices or violates IGRA or any other law.

B. Class II Gaming. Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 27039(7)(A) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. § 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized. Class II Gaming Activities shall mean:

1. The games of chance known as Bingo or Lotto whether or not electronic, computer or other technological aids are used in connection therewith, which are played for prizes, including monetary prizes, with cards bearing numbers or designations, are drawn or electronically determined and the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards;
2. If played in the same location as Bingo, pull-tabs, punch board, tip jars, instant Bingo, and other games similar to Bingo;
3. Non-banking card games that are: explicitly authorized by the laws of the State or are not explicitly prohibited by the laws of the State and played at any location in the State, but only if such card games are played in conformity with laws and regulations of the State regarding hours or periods of operation of such card games or limitation on wagers or pot sizes in such card games;

4. Class II gaming does not include baccarat, blackjack, or electronic or electro-mechanical facsimiles of any game of chance or slot machines of any kind.

C. **Class III Gaming.** Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(8) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission ("NIGC") at 25 C.F.R. § 502.4 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized. Class III gaming shall mean all forms of gaming that are not Class I gaming or Class II gaming, including but not limited to:

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

D. **Conditions for Conducting Class II and Class III gaming.** Class II and Class III gaming is authorized as provided in subsections B. and C. above, provided the Tribe has the sole proprietary interest in and responsibility for the conduct of any Gaming Enterprise.

1. Nothing herein shall prohibit the Tribe from engaging the services of non-tribal persons as employees thereof or engaging any person or entity to provide consulting or other technical assistance or to assist the Tribe in the management of Gaming Activities pursuant to a management agreement entered into under the provisions of IGRA.
2. Any Compact, when approved and published pursuant to IGRA, is hereby incorporated within and enacted as an integral part of this Ordinance with respect to all forms of Class III gaming as set forth herein; provided, however, that nothing in the adoption of a

Compact shall be deemed to affect the operation by the Tribe of any Class II gaming, whether conducted within or without the gaming facilities, or to confer upon any state any jurisdiction over such Class II gaming conducted by the Tribe on the Tribe's lands.

SECTION 7. GAMING REVENUES.

A. Tribal Property. 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 Activities are the property of the Smith River Rancheria.

1. Any profits or net revenues from Gaming Activities shall be deposited into the Tribe's general treasury or such other tribal account as the Tribe shall determine. 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 in order to comply with applicable law.
2. No Tribal Member shall be deemed to have any interest in such profits or net revenues, provided that the Tribal Council may adopt rules for distributing gaming proceeds to Tribal Members on a per capita basis provided such plan meets the requirements of IGRA, 25 U.S.C. § 2710 (b)(3).
3. Payments from the general treasury funds to Tribal Members under other tribal programs, including those related to health, welfare, education, elderly care, and housing shall not be deemed to be per capita payments.

B. Use of Net Revenues. Net Revenues from Gaming Activities shall not be used for purposes other than:

1. To fund tribal government operations or programs;
2. To provide for the general welfare of the Tribe and its members;
3. To promote economic development for the Tribe;
4. To donate to charitable organizations;
5. To help fund operations of local government agencies; or
6. Per capita payments.

C. **Per Capita Payments.** When per capita payments are authorized under subsection (B.6.) above, and the Tribal Council, in its sole discretion, determines to make per capita payments:

1. The Tribal Council shall prepare a financial plan or ordinance to allocate revenues to uses authorized under Section 6. The Tribal Council may form an advisory committee consisting of Tribal Council members to make recommendations regarding the financial plan.
2. The financial plan or ordinance to allocate revenue must be approved by majority vote of the Tribal Council present at a duly called meeting with a quorum present.
3. No per capita payments shall be made pursuant to the financial plan or ordinance until it has been approved by the Secretary of the Interior, or his duly authorized designee.
4. All per capita payments made to Smith River Rancheria Tribal Members are subject to federal taxation. The members will be notified of such tax liability and any required withholding when payments are made.

SECTION 8. OPERATION OF GAMING ESTABLISHMENTS.

A. **Gaming Permitted as Licensed.** Gaming Activities shall only be conducted in tribally owned, operated and licensed facilities pursuant to the provisions of this Ordinance.

1. Such activities shall be conducted in accordance with the terms and conditions of any license issued by the Tribe for such purposes as to each facility before any Gaming Activities may occur therein.
2. Such licenses shall specify the hours of operation, type and scope of Gaming Activities allowed therein, permitted uses of the facility for other activities, rules of conduct for employees and patrons, regulation of alcoholic beverages, food handling and entertainment, and such other matters as the Gaming Commission

or the Tribal Council may deem necessary to the conduct of Gaming Activities therein.

B. **Protection of Environment and Public.** 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.

C. **Public/Patron Dispute Resolutions.** If any customer or member of the general public has a dispute with the manager or employee of a gaming facility, or the Tribe, it shall be resolved using the following procedure. Any gaming facility manager and the Tribe must endeavor to resolve disputes at the lowest level of management possible. Toward that end, any dispute involving gaming must be presented using a multi-step process.

1. **Step 1.** If a patron has a complaint involving the conduct of a game or his/her treatment at the facility, he/she must discuss the matter with the employee involved in the incident. The employee must listen carefully and courteously to the patron's complaint. All employees shall receive training in customer relations. If the employee fails to resolve the complaint to the customer's satisfaction or lacks the authority to remedy the complaint, he/she shall immediately contact his/her immediate supervisor, if available, or the floor manager.
2. **Step 2.** If the supervisor or floor manager fails to resolve the dispute to the customer's satisfaction or lacks the authority to remedy the complaint, he/she shall refer the complaint to the gaming facility manager. The supervisor or floor manager shall also notify Security. If a customer is referred to the gaming facility manager, the gaming facility manager shall interview the customer and, if necessary, the involved employee(s) and shall make a decision within a reasonable time, not to exceed five (5) days. The manager shall obtain the customer's name, address and telephone number. The manager shall notify the customer that if he/she remains dissatisfied, he/she can request in writing, review by the Tribal Gaming Commission within seven (7) days of the manager's decision.

3. **Step 3.** The Tribal Gaming Commission shall review the customer's written appeal and may interview the customer, the manager and any involved employees. The Commission shall issue a written decision to the customer within five (5) working days of receiving the customer's appeal. The Commission's written decision shall include a notice that the customer may appeal the Commission's decision to a hearing panel, to be appointed by the Tribal Council. The written appeal must include all information the customer wants the hearing panel to consider in acting on the appeal. The appeal must be filed within seven (7) days of the date on the Commission's decision.
4. **Step 4.** The hearing panel shall conduct such hearing on the appeal as it deems appropriate. It may limit its review to the written appeal and the written decision of the Commission or it may invite the customer to present written testimony and it may receive testimony from the involved employees. Tribal Council, based on the recommendation of the hearing panel, shall issue a written decision which shall be final.
5. All written notices and decisions shall be sent by regular first class mail to the customer at the address furnished by the customer. The time limits for complaints shall be calculated from the date appearing on the notices or decisions, provided these items are mailed on that date. The time limits for tribal officials shall be calculated from the postmarks appearing on the envelopes containing the appeals.
6. 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.

SECTION 9. AUDITS.

A. Annual Audits. The Tribal Council shall contract with a qualified, independent certified public accountant or firm of accountants to conduct annual audits of each gaming activity and the results thereof reported to the Gaming Commission, and, to the extent required by law, the National Indian Gaming Commission ("NIGC").

SECTION 10. CONTRACTS.

A. **Procurement.** The Tribal Council shall adopt procurement policies from time to time. All purchases of services or supplies shall comply with the tribally adopted procurement policies.

B. **Audit Requirements.** All contracts for supplies, services, or concessions for a contract amount in excess of \$25,000 annually (except contracts for professional, legal or accounting services) relating to Class II or Class III gaming on the Rancheria shall be subject to independent audits, and such contracts shall so specify.

1. The Gaming Commission shall cause to be conducted an audit of the gaming operation, not less than annually, by an independent certified public accountant, in accordance with the auditing and accounting standards for audits of casinos of the American Institute of Certified Public Accountants.
2. A minimum bi-annual certification of compliance to established Minimum Internal Control Standards shall be promulgated by the Gaming Commission.

C. **Preference.** Any management and investment gaming contracts or other contracts must make provision for the preferential hiring of Smith River Rancheria members and their spouses followed by a preference for Native American Indian people and their spouses from the Smith River and surrounding areas for jobs in the construction and operation of any gaming facilities or activities.

SECTION 11. LICENSES.

A. **Licensing Requirements.** It is the declared policy of the Smith River Rancheria 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 Rancheria and to preserve the honesty, fairness and integrity of such Gaming Activities. Accordingly, no person shall engage in any Class II or Class III Gaming Activities on the Rancheria without an appropriate and valid independent Class II or Class III license issued by the Gaming Commission.

1. 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.

2. No license shall be issued that would place the Rancheria in violation of the IGRA and regulations promulgated thereunder and, as applicable, provisions of a Tribal-State compact, or of any applicable law.
3. The Gaming Commission shall require that all persons who are required to be licensed shall wear, in plain view at all times while in the gaming facility, identification badges issued by the Gaming Commission.
4. Identification badges must include information including but not limited to, a photograph and an identification number which is sufficient to enable agents of the Gaming Commission and of the National Indian Gaming Commission (NIGC), to readily identify such employees and determine the validity and date of expiration of their license.
5. The licensing requirements of this Ordinance are in addition to any state certificates or licenses required by the Tribal/State Compact and the NIGC.
6. Persons: The following persons must obtain licenses as a precondition to employment in, or management of, any Gaming Operation:
 - a. All Primary Management Officials;
 - b. All Key Employees; and
 - c. Any other employee or class of employees as determined by the Commission or the Tribal Council.

B. Burden on Applicant. 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.

C. Standard for License. Licenses issued hereunder shall be issued according to requirements at least as stringent as those set forth in 25 CFR parts 556 and 558, and any amendments thereto, and, in the case of Class III Gaming Licenses, also according to requirements at least as stringent as those set forth in the Compact. The Tribal Council and the Gaming Commission reserve the right in any case to issue

Licenses pursuant to standards which are more stringent than those required either by NIGC or the Compact.

D. **Standards of Conduct.** All persons engaged by or associated with any gaming activity on the Rancheria 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 Rancheria 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.

E. **Applicant Claim of Privilege.** An applicant may refuse to disclose information based upon a claim of 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.

F. **Release of Information.** All persons applying for a license shall agree to release the information necessary in order for the Gaming Commission to achieve its goals under this Ordinance, and to furnish such information to the Bureau of Indian Affairs, the NIGC, or such other governmental agency as may be required by law.

G. **License Renewal.** All licenses 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 for any material omission or false statement in an application.

H. **Temporary Licenses.** Pending completion of an investigation for a 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.

1. Such licenses shall permit the licensee to engage in such activities and pursuant to such terms and conditions as may be specified by the Gaming Commission.
2. Such temporary licenses shall expire ninety (90) days from date of issuance, upon issuance of a regular license, or at an earlier specified expiration date, whichever occurs first.

I. **License Investigations.** The Gaming Commission may employ all reasonable means, to acquire the information necessary to determine whether or not a license should be issued. Applicants shall also agree to release the information necessary in order for the Gaming Commission to achieve its goals under this section and to furnish such information to the NIGC, or such other agency as may be required by law.

J. **License Fees.** Unless specifically waived by the Gaming Commission, all license applicants shall be required to pay all applicable license fees and costs when due, including a reasonable deposit for costs incurred in obtaining information in connection with the license application. Estimates of licensing costs shall be provided to applicants upon reasonable request. Payment for all reasonable fees and costs must be received prior to the issuance of a license.

K. **Appeals.** All decisions of the Gaming Commission regarding the issuance or revocation of licenses shall be effective when issued.

1. An applicant or licensee whose license is denied, revoked or suspended may, within thirty (30) 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, and shall have the right to appeal such decision to the Tribal Court in accordance with such rules and regulations as may be promulgated by the Tribal Court for that purpose.
2. Any Tribal Member who is denied a license by the Gaming Commission may, within sixty (60) days of written notice of such denial, appeal the denial to the Gaming Commission, which shall have the power to reverse its prior decision and order that such license be issued, and shall have the right to appeal such decision to the Tribal Council, provided that no such license shall be issued for more than one (1) year, subject to the renewal procedures set forth herein, and provided further that no order of the Gaming Commission or Tribal Council that a license be 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.

L. **Background Investigations.**

1. The Gaming Commission shall request from each employee all of the information specified in subsections (a) through (n) below.

The Gaming Commission reserves the right, at any time, to request additional information either prior to, during or subsequent to any background investigation.

- (a) 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);
- (b) 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 number(s);
- (c) 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 under subsection (b) above;
- (d) Current business and residence telephone numbers;
- (e) Description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (f) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (g) 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;
- (h) 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;
- (i) For each misdemeanor conviction or on-going misdemeanor prosecution (excluding minor traffic charges), whether or not there is, or was a conviction, if such criminal charge is

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;

- (j) For each criminal charge (excluding minor traffic charges), whether or not there is or was a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed above pursuant to subsections (h) or (i) above: the criminal charge, the name and address of the court involved and the date and disposition, if any, of the case;
 - (k) 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;
 - (l) Current photographs;
 - (m) Any other information the Tribe and the Gaming Commission deems relevant; and
 - (n) Fingerprints consistent with procedures adopted by the Gaming Commission according to 25 C.F.R. § 522.2 (h).
2. The Tribe shall conduct or cause to be conducted an investigation, through the Gaming Commission, sufficient to make a "Suitability Determination" as required under this Ordinance. In conducting the background investigation, the Gaming Commission and its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.
 3. The Gaming Commission shall arrange to take the applicant's fingerprints and forward those fingerprints directly to the NIGC, to be forwarded to the Federal Bureau of Investigation ("FBI"), National Criminal Information Center ("NCIC"), for review of the applicant's criminal history, and perform or arrange to have performed the necessary background investigation of the applicant required by this Ordinance.
 4. Such investigation shall include contacting each reference provided

in the application and taking all appropriate steps necessary to verify the accuracy of the information contained in the application.

5. There shall be a written investigation report of the findings and conclusions of each investigation. The investigative report shall include:
 - (a) the steps taken in conducting a background investigation;
 - (b) the results obtained;
 - (c) the conclusions reached; and
 - (d) the basis for those conclusions.
6. The Gaming Commission shall review the findings and conclusions of the report for the purpose of determining whether to grant or deny the license applied for.

M. Suitability 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 an applicant for employment in a Gaming Enterprise.

1. The Gaming Commission shall consider whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that the Tribe's gaming operations, or tribal government gaming generally, are free from criminal and dishonest elements and would be conducted honestly.
2. No license shall be issued unless, based on all information and documents submitted, the Gaming Commission is satisfied that the applicant is all of the following, in addition to any other criteria in IGRA or this Ordinance:
 - (a) A person of good character, honesty and integrity;
 - (c) A person poses no 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;

- (c) A person that may have been deemed to have violated a law in the exercise of or protection of a Tribe's sovereignty rights in connection with fishing, hunting, protection of burial grounds, repatriation of remains of artifacts or gaming.

N. Forwarding License Applications and Reports to NIGC.

1. On or before the date a Key Employee or Primary Management Official is employed by a Gaming Enterprise authorized under this Ordinance, the Gaming Commission, acting on behalf of the Tribe, shall forward to the NIGC, the person's completed application for employment containing the information required above under Section 11 of this Ordinance.
2. Prior to issuing a license to a Primary Management Official or Key Employee, the Gaming Commission, acting on behalf of the Tribe, shall forward to the NIGC, together with a copy of the Suitability Determination made under section 11.M. above, an investigative report on each background investigation.
4. 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. The Gaming Enterprise shall not 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:
 - (a) Steps taken in conducting a background investigation;
 - (b) Results obtained;
 - (c) Conclusions reached; and
 - (d) The basis for those conclusions.
4. The Gaming Commission, acting on behalf of the Tribe, shall provide to the NIGC or any 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.

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

O. Granting a Gaming License.

1. If, within a thirty (30) day period after the NIGC receives a report as required under subsection 11.1 above, the NIGC notifies the Tribe 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 a license.
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 this subsection. An NIGC request for additional information shall suspend the thirty (30) day period established under this subsection until the NIGC receives the additional information.
3. If, within the thirty (30) day period established under this subsection, 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.

P. License Suspension.

1. If, after issuance of a gaming license, the Gaming Commission receives reliable information from the NIGC or other reliable source indicating that a Key Employee or Primary Management Official is not eligible for employment under the eligibility criteria established in section 10 above, the Gaming Commission shall suspend the license and shall notify the licensee in writing of the license suspension and proposed revocation.

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

Q. Facilities Licenses. A separate license shall be required for each place, facility, or location on any land where Class II and/or Class III gaming is to be conducted on the Rancheria. Before Class II or Class III Gaming Activities can be conducted therein, the Gaming Commission shall inspect and license each such facility in accordance with this Ordinance, the Tribal/State Compact and any such requirements of IGRA.

1. The issuance of this license shall be reviewed and renewed every two years thereafter. Inspections by qualified building and safety experts shall be conducted under the direction of the tribal Gaming Commission as the basis for issuing or renewing any license hereunder, who shall determine and certify that as to new construction or new use for gaming, the facility meets the Tribe's building and safety code, or as to facilities or portions of facilities that were used for the Tribe's gaming activities prior to the Tribal/State Compact, such facility or portions thereof do not endanger the health or safety of occupants or the integrity of the gaming operation.
2. The State gaming agency shall be given at least 30 days notice of each inspection by such experts, and, on 10 days notice to the Tribe, and accompany any such inspection. The Tribe agrees to correct any facility condition noted in an inspection that does not meet the standards set forth above.
3. The tribal Gaming Commission and the State gaming agency shall exchange any reports of such inspection within ten days after their completion, which reports shall also be separately and simultaneously forwarded by both agencies to the Tribal Chairperson.
4. Upon certification by such experts that a facility meets applicable standards, the Tribal gaming agency shall forward the experts

certification to the State within 10 days of issuance. If the State objects to such certification, the Tribe shall make a good faith effort to address the State's concerns, but if the State does not withdraw its objection the matter will be resolved in accordance with the dispute resolution provisions provided in the Tribal/State Compact..

R. **Gaming Resource Supplier.** Any gaming resource supplier who provides, has provided or is deemed likely to provide at least twenty-five thousand dollars (\$25,000) in gaming resources in any 12-month period, shall be licensed by the Gaming Commission prior to the sale, lease or distribution, or further sale, lease or distribution of any such gaming resources to or in connection with the Tribe's gaming operation or facility. These licenses are to be renewed every two years.

S. **Financial Sources.** Any party extending financing, directly or indirectly, to the Tribe's gaming facility or gaming operation shall be licensed prior to extending such financing. These licenses are to be renewed every two years. Financing from a federal or state regulated bank, savings and loan, or other lending institution, a federally recognized Tribal government or tribal entity thereof, or any agency of the federal, state or local government may be excluded from obtaining a license.

Section 12. **Application Forms.**

Each application form for a Key Employee or Primary Management Official, or any employee shall contain the notices set forth in subsections (1) and (2) below:

A. **Privacy Ordinance Notice:**

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.
2. The purpose of the requested information is to determine the suitability of individuals to be employed in a gaming operation.
3. 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.
4. 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 NIGC 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.

5. 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.

B. Notice Regarding False Statements.

1. Any existing Key Employee or Primary Management Official, or any other employee, that has not completed an application form containing the language set forth in Section 11.a.(1) and (2) above, shall be notified that they shall either:
 2. Complete a new application form that contains the Privacy Ordinance Notice and the Notice Regarding False Statements; or
 3. Sign a statement that contains the Privacy Ordinance Notice and consent to the routine uses described in that notice, and sign a statement that contains the Notice Regarding False Statements.
6. 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).

Section 13. Class III Gaming: Tribal-State Compacts.

1. The standards of operation and management for Class III games shall be those set forth in a Compact.
2. The Tribe may adopt standards of operation and management for Class III games that are no less stringent than, or not otherwise inconsistent with, a Compact.

3. All negotiations for such Compacts shall be conducted through the Tribal Council, with the advice and suggestion of the Gaming Commission on issues of regulation, monitoring and Internal Controls, and shall be finalized in accordance with tribal law.

Section 14. Interest in Management Contracts by Tribal Officials.

No elected official of the Tribe, including the 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, or ten percent (10%) or more of the beneficial interest in any partnership, trust, or other entity, having a financial interest in, or management responsibility for, such contract.

Section 15. Service of Process.

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

Section 16. Tribal Gaming Corporation.

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

Section 17. Repeal of Prior Gaming Ordinance; Effective Date.

This Ordinance and the regulations promulgated thereunder shall constitute the entire gaming regulations of the Tribe. All prior gaming acts and ordinances of the Tribe are repealed, and this Ordinance shall become effective upon its approval by the NIGC.

Section 18. Severability.

If any provision or application of this Ordinance is determined by review to be invalid, such determination shall not be held to render such provision inapplicable to other persons or circumstances, nor shall such determination render invalid any other provision of this Ordinance.

Section 19. Amendments.

All provisions of this Ordinance are subject to revision, repeal, or amendment by the Gaming Commission or the Tribal Council at any time. Regulations promulgated by the Gaming Commission under this Ordinance are subject to revision, repeal or amendment by the Tribal Council at any time.

CERTIFICATION

We, the undersigned duly elected officials of the Smith River Rancheria, do hereby certify that the foregoing Ordinance was adopted on September 8, 1994, at a duly called meeting of the Tribal Council for the Smith River Rancheria with a quorum present by a vote of (6) For, (0) Against, (1) Abstaining and (0) Absent.

THIS ORDINANCE WAS REVISED AND AMENDED ON:

February 23, 1999, at a duly called meeting of the Tribal Council for the Smith River Rancheria with a quorum present by a vote of (6) For, (0) Against (1) Abstaining and (0) Absent.

William H. Richards, Sr.
William H. Richards, Sr.
Tribal Council Chairman

Feb. 23, 1999
Date

Tamara E. Husberg
Tamara E. Husberg
Tribal Council Secretary

Feb. 23, 1999
Date