

NATIONAL
INDIAN
GAMING
COMMISSION

JUL 14 1995

Virgil Murphy
President
Stockbridge-Munsee
Band of Mohican Indians
N8476 Moh He Con Nuck Road
Bowler, WI 54416

Dear President Murphy:

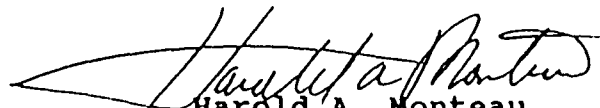
This letter responds to your request to review and approve the amendment to the tribal gaming ordinance of the Stockbridge-Munsee Band of Mohican Indians (Band). The amendment to the ordinance was adopted by the Band by Resolution No. 1498-95 on May 24, 1995. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review amendments to ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations.

We received your letter of July 13, 1995, agreeing to strike the definition of class I gaming. Please send a revised copy of the page containing the change.

Thank you for submitting the amendment to the tribal gaming ordinance of the Stockbridge-Munsee Band of Mohican Indians. The NIGC staff and I continue to look forward to working with you and the Band in implementing the IGRA.

Sincerely yours,


Harold A. Monteau
Chairman

cc: Sharon Greene Esq.

Stockbridge-Munsee Community

BAND OF MOHICAN INDIANS

TRIBAL COUNCIL OFFICES

No. 1498-95

May 24, 1995

RESOLUTION

WHEREAS, the Stockbridge-Munsee Community is a sovereign nation of the Stockbridge-Munsee Band of Mohican Indians, governed by a Constitution that authorizes the Tribal Council to enact legislation on behalf of the Community; and

WHEREAS, the Stockbridge-Munsee Community retains the inherent authority to enact and implement Ordinances and Regulations concerning gaming on the Stockbridge-Munsee Reservation; and

WHEREAS, the Stockbridge-Munsee Tribal Council, having previously adopted a Gaming Ordinance to regulate gaming on tribal lands, that was submitted to and approved by the National Indian Gaming Commission; and

WHEREAS, said Ordinance requires revisions in order to accommodate the growing needs of the tribal gaming enterprise and to enhance the regulatory integrity of the tribal gaming; now

THEREFORE BE IT RESOLVED, that the Stockbridge-Munsee Tribal Council hereby adopts the attached Revised Gaming Ordinance and approves its submission to the National Indian Gaming Commission.

CERTIFICATION

I, the undersigned, as Secretary of the Stockbridge-Munsee Tribal Council, hereby certify that the Tribal Council is composed of 7 members, of whom 5 constituting a quorum, were present at a meeting duly called, noticed and convened on the 24th day of May, 1995, that the foregoing resolution was duly adopted at such meeting by a vote of 4 members for, 0 members against, 0 members abstained, and that said resolution was not rescinded or amended in any way.

Virgil Murphy
Virgil Murphy, President
S-M Tribal Council

Carol Goss
Carol Goss, Secretary
S-M Tribal Council

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**STOCKBRIDGE-MUNSEE BAND OF
MOHICAN INDIANS
GAMING ORDINANCE**

A law to authorize, license and regulate certain forms of gaming, including Class II and Class III gaming, within the jurisdiction of the Stockbridge-Munsee Band of Mohicans.

Section 1. FINDINGS, PURPOSES AND POLICY

1.1. Findings. The Stockbridge-Munsee Tribal Council on behalf of the Stockbridge-Munsee Tribe finds that:

1.1.1 Tribal regulation and control of gaming activity within the jurisdiction of the Stockbridge-Munsee Tribe is essential for the protection of public health and welfare, and the interests of the Tribe and the residents of and visitors to the tribal community, and such other areas as may be used for tribal gaming.

1.1.2 The Tribe has the legal authority to license and regulate all gaming activity not specifically prohibited by federal law and which is not, as a matter of criminal law and public policy, prohibited by state law, within the jurisdiction of the Tribe.

1.1.3 It is essential that the Tribe, through its Tribal Council, regulate gaming in a manner commensurate with applicable federal and tribal law and policy, including the Tribal-State Gaming Compact.

1.1.4 The present needs of the Tribe include increased employment, job and skills training, housing, quality health care, educational opportunities, social services, law and order, public safety and judiciary, and economic development needs that are not adequately addressed by present tribal, federal and state programs.

1.1.5 Tribal operation and licensing of gaming activities within the jurisdiction of the Tribe are an appropriate means of generating revenue to address the needs of the Tribe.

1.2 Purposes. The purposes of this Ordinance are to:

1.2.1 Regulate, control and license the operation of all gaming within the jurisdiction of the Stockbridge-Munsee Tribe.

1.2.2 Make clear and explicit that a tribal license to operate a gaming activity, to provide gaming related services or equipment or to work as a gaming employee is a revocable privilege, not a right or a property interest.

1.2.3 Ensure that the operation of tribally regulated gaming will continue as a means of generating tribal revenue.

1.2.4 Ensure that tribally regulated gaming is conducted fairly and honestly by both gaming operators and players and that it remains free from corrupt, incompetent, unconscionable and dishonest persons and practices.

1.2.5 Promote and strengthen tribal economic development and self-determination and enhance employment opportunities for its members.

1.2.6 Generate revenue to strengthen and improve tribal self-government and the provision of tribal governmental services.

1.2.7 Ensure that the tribal gaming laws are strictly and fairly enforced against all persons involved in gaming activities within the jurisdiction of the Tribe.

1.2.8 Ensure that the Tribe provide a fair and impartial forum for the resolution of gaming disputes.

1.3 Tribal Policy of Self-Government. The Tribe is firmly committed to the principle of tribal self-government. Consistent with federal policy, tribal government provides a wide range of public services, including general governmental services, maintenance of peace and good order, establishment of educational systems and programs and promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

1.4 Tribal Gaming Policy. The establishment, promotion and operation of gaming is necessary and desirable, provided that such gaming is regulated and controlled by the Tribe pursuant to tribal and federal law and any tribal-state gaming compact entered into pursuant to the Indian Gaming Regulatory Act, and that all proceeds of such gaming are used for the benefit of the Tribe as required by the Indian Gaming Regulatory Act and tribal law. When operated in accordance with the provisions of this Ordinance, such gaming will be conducive to the general welfare of all residents in the community where such gaming is conducted.

SECTION 2. INTERPRETATION

2.1 This Ordinance shall be deemed a reasonable and proper exercise of police power of the Stockbridge-Munsee Tribe for the protection of the public health, welfare and safety of the people living on lands under the jurisdiction of the Stockbridge-Munsee Tribe and all those who enter said lands for lawful purposes. The provisions of this Ordinance shall be liberally construed

for accomplishment of this purpose.

SECTION 3. OWNERSHIP OF GAMING

3.1 The Stockbridge-Munsee Tribe shall be the sole operator, conductor, manager and owner of all gaming enterprises on tribal lands, except that in those cases where the Tribe may deem it appropriate to enter into a management contract, it shall have the authority to do so, in a manner consistent with federal laws governing the terms and approval of such contracts, and provisions of this Ordinance that may apply.

SECTION 4. DEFINITIONS

In this Ordinance, except where otherwise specifically provided or where the context otherwise requires, the following terms and expressions shall have the following meanings:

4.1 "Cheating" means operating or playing in any game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for oneself or for someone in privity with one an advantage over and above the chance of the game.

4.2 "Class I Gaming" means those forms of gaming not classified as Class II or Class III gaming, including raffles.

4.3 "Class II gaming" means:

4.3.1 The game of chance commonly known as bingo (whether or not electronic, computer or other technologic aids are used in connection therewith)

4.3.1.a which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,

4.3.1.b in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

4.3.1.c in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in same location) pull-tabs, lotto, punch boards, tip jars, instant bingo and other games similar to bingo, and

4.3.2 card games that

4.3.2.a are explicitly authorized by the laws of the State, or

4.3.2.b are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

Class II gaming does not include any banking card games, including baccarat, chemin de fer, or blackjack (21), or electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

4.4 "Class III gaming" means all forms of gaming that are not Class I gaming or Class II gaming, more specifically, as provided for in the Tribal State-Compact with the State of Wisconsin:

4.4.1 Electronic games of chance with video facsimile displays.

4.4.2 Electronic games of chance with mechanical displays.

4.4.3 Blackjack.

4.4.4 Pull-tabs or break-open tickets when not played at the same location as bingo and any other games hereinafter authorized by the Act or through modifications to the Compact.

4.5 "Compact" means a gaming compact between the Tribe and the State of Wisconsin, or such other state as might apply, authorized by the Indian Gaming Regulatory Act.

4.6 "Council" or "Tribal Council" means the duly elected governing body of the Stockbridge-Munsee Tribe.

4.7 "Fraud" means intentional deception resulting in an injury to another. Included in this definition, but not limited to, are those crimes and misdemeanors involving bad check writing, embezzlement, insurance fraud and welfare fraud.

4.8 "Gaming Commission" means the Stockbridge-Munsee Gaming Commission as established pursuant to this Ordinance, replacing the previously established "Gaming Board."

4.9 "Gaming Enterprise" or "Gaming Facility" means the Mohican Northstar Casino and Bingo, and any other tribal gaming facility that shall be operated by the Tribe, pursuant to its Constitution, adopted under Section 16 of the Indian Reorganization Act. No tribal gaming enterprises are nor shall be organized under the Federal Corporate Charter.

4.10 "Gaming Related Contract" means any agreement under which the Tribe procures

for gaming any materials, supplies, equipment or services that are unique to the operation of gaming and not common to ordinary tribal operations.

4.11 "Gaming Related Contractor" means any contractor, service provider or vendor, individual or entity, that provides gaming materials, supplies, equipment or services that are unique to the operation of gaming and not common to ordinary Tribal operations. See Section VII of the Tribal-State Compact for examples.

4.12 "Gaming Vendor" see "Gaming Related Contractor."

4.13 "General Manager" is a Tribal Council appointed position responsible for managing the day-to-day business of a tribal gaming enterprise. Each gaming facility shall have a general manager.

4.14 "Gross Gaming Proceeds" means any money collected or received from any gaming activity.

4.15 "Key Employee" means any employee who does not fit into the description of a Primary Management Official .

4.16 "Management Contract" means any contract, subcontract or collateral agreement between the Tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

4.17 "Net Gaming Revenues" means gross gaming revenues of an Indian Gaming activity less amounts paid out as, or paid for, prizes and total gaming-related operating expenses, excluding management fees.

4.18 "Primary Management Official" means:

4.18.1 The person having management responsibility for a management contract;

4.18.2 Any person who has authority:

4.18.2.a To hire and fire employees; or

4.18.2.b To set up working policy for the gaming operation; or

4.18.3 The chief financial officer or other person who has financial management responsibility.

4.19 "Tribe" means the Stockbridge-Munsee Band of Mohican Indians, a federally recognized Indian Tribe acting through a duly elected Tribal Council pursuant to the tribal

constitution, unless the context clearly indicates a general meaning.

4.20 "Tribal Lands" means:

4.20.1 Land within the limits, or within the original boundaries of the Stockbridge-Munsee Reservation, including the townships of Bartelme and Redsprings; or

4.20.2 Land over which the Tribe exercises governmental power and that is either:

4.20.2.a Held in trust by the United States Government for the benefit of the Tribe or an individual tribal member; or

4.20.2.b Held by the Tribe or an individual tribal member subject to restriction by the United States against alienation; or

4.20.3 Land held in fee simple by the Stockbridge-Munsee Community.

4.21 "Waiver Policy" means that policy approved by the Tribal Council and implemented by the Tribal Gaming Commission and the Council, that pardons or waives a gaming applicant's criminal background history that would otherwise act as a bar to obtaining a tribal gaming license.

SECTION 5. USE OF GAMING REVENUE

5.1 Net revenues from Class II and Class III Gaming shall be used only for the following purposes:

5.1.1 To fund tribal government operations and programs.

5.1.2 To provide for the general welfare of the Tribe and its members.

5.1.3 To promote tribal economic development.

5.1.4 To donate to charitable organizations.

5.1.5 To help fund operations of local government agencies.

5.2 If the Tribe elects to make per capita payments to tribal members, it shall authorize such payment only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. Section 2710(b)(3).

SECTION 6. HANDLING OF GAMING RECEIPTS

6.1 All monies collected or received from the operation of a tribal gaming enterprise shall be deposited in a special bank account(s) of that gaming enterprise, which shall contain only such money.

All operating expenses shall be withdrawn from such account(s) by consecutively numbered checks duly signed by the General Casino Manager or his or her Commission-approved designee, and a person(s) designated by the Tribal Council.

6.2 Any cash prize over Two Thousand and Five Hundred Dollars (\$2,500.00) may be paid partially by cash, not to exceed a maximum cash payout of Two Thousand and Five Hundred Dollars (\$2,500.00), with the remaining balance to be paid by check.

Such checks shall be signed by the General Casino Manager or his or her Commission-approved designee, and a person(s) designated by the Tribal Council.

6.3 The General Casino Manager shall ensure that the gaming enterprise complies with the provisions of Section XIII of the Tribal-State Gaming Compact pertaining to taxes.

SECTION 7. GENERAL PROVISIONS

7.1 **Authority and Sovereign Powers and Responsibilities.** This Ordinance is enacted pursuant to the inherent sovereign powers of the Tribe and powers expressly delegated to the Tribal Council pursuant to the terms of the tribal constitution.

7.2 **Application of Federal Policy.** In 1970, President Nixon announced the policy of the United States Government to promote self-determination for Indian tribes. At the heart of this policy is a commitment by the federal government to foster and encourage tribal self-government, economic development and self-sufficiency. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act, Public Law 93-638, 88 Stat. 2203, 25 U.S.C. Sections 450-450n. In 1983, President Reagan reaffirmed that commitment in his Indian Policy Statement, encouraged tribes to reduce their dependence on federal funds by generating more of their own revenues and pledged to assist tribes in that endeavor.

In 1988 the federal commitment to promote tribal economic development, tribal self-sufficiency and strong tribal government was expressly legislated in the Indian Gaming Regulatory Act ("IGRA"). Public Law 100-497, 102 Stat. 2426, 25 U.S.C. Section 2710, *et. seq.* (1988), which recognized the inherent sovereign right of tribes to operate and their exclusive right to regulate on Indian lands gaming that is not specifically prohibited by federal law and is conducted within a state that does not, as a matter of criminal law and public policy, prohibit such gaming, and provided a federal statutory basis for operation and regulation of Indian gaming.

7.3 **Stockbridge-Munsee Policy of Self-Government.** The Tribe is firmly committed to the principal of tribal self-government. Consistent with federal policy, tribal government provides

a wide range of public services, including general governmental services, the maintenance of peace and good order and the promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

7.4 Title, Repeal of Prior Laws, and Effect of Repeal. This Ordinance may be cited as the Stockbridge-Munsee Gaming Ordinance. The Ordinance shall be appropriately inserted in the Stockbridge-Munsee Book of Tribal Ordinances.

All Ordinances of the Tribe that pertain to gaming and are in effect as of the effective date of this revised Ordinance are hereby repealed, and all other tribal laws or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed.

Repeal of this Ordinance or any portion thereof shall not have the effect of reviving any prior tribal law heretofore repealed or suspended.

7.5. Construction. In construing the provisions of this Ordinance, unless the context otherwise requires, the following rules shall apply:

7.5.1 This Code shall be liberally construed to effect its purpose and to promote substantial justice.

7.5.2 Words in the present tense include the future and past tenses.

7.5.3 Words in the singular number include the plural, and words in the plural number include the singular.

7.5.4 Words of the masculine gender or neuter include masculine and feminine genders and the neuter.

7.6 Severability. If any section of this Ordinance is invalidated by a court of competent jurisdiction, the remaining sections shall not be affected thereby.

SECTION 8. TRIBAL COUNCIL, POWERS AND DUTIES

8.1 This Ordinance is authorized and adopted by the Stockbridge-Munsee Tribal Council pursuant to its powers under the tribal constitution.

8.2 The Stockbridge-Munsee Tribal Council may further delegate responsibilities under the constitution to subordinate organizations in order to carry out the purposes and terms of this Ordinance and to assure compliance with the Indian Gaming Regulatory Act, the Tribal-State Compact and all other regulations, policies and procedures promulgated therefrom.

8.3 The Stockbridge-Munsee Tribal Council shall retain the exclusive power to enter into agreements or compacts with the federal government, states, tribes, counties, municipalities and other local governments or entities.

8.4 The Stockbridge-Munsee Tribal Council shall retain the exclusive power to waive sovereign immunity.

8.5 The Stockbridge-Munsee Tribal Council shall retain the exclusive power to enter into contracts and agreements effecting any sale, lease, encumbrance or other disposition of tribal lands, interest in lands or other assets of the Tribe.

8.6 The Stockbridge-Munsee Tribal Council shall retain the exclusive power to enter into business contracts and agreements pertaining to the operation of gaming, except in those cases where that power has been expressly delegated to another entity, and in such cases of delegation, the Tribal Council shall have review of said contracts prior to signing.

8.7 The Tribal Council shall establish the use of gaming revenues transferred from the gaming enterprises in accordance with this Ordinance and applicable laws for use of such revenues according to tribal needs and requirements for continued growth.

8.8 Until such time as a tribal court is established, the Tribal Council may act as an appellate court for disputes arising under this Ordinance or policies and procedures developed for the gaming enterprises.

8.9 The tribal president shall be the spokesperson for the Tribe and shall respond to the media on gaming issues, but may delegate this role as necessary and reasonable.

8.10 The Tribal Council has authority to appoint and dismiss Gaming Commissioners, pursuant to the standards for appointment and dismissal set forth in Section 9 hereinafter.

8.11 The Tribal Council shall retain authority to hire the Casino General Manager and the Casino Financial Manager, and to approve any management contractors. The Council shall also retain authority to terminate or discipline these positions, such termination not to be arbitrary but done pursuant to criteria set forth in this Ordinance or in separate policies and procedures, or pursuant to an approved management contract.

8.12 The Tribal Council shall review all monthly financial reports forwarded from the Gaming Management or other designated entity, and have final approval of the annual gaming operating budget, as well as revisions that may be recommended by Casino Management or another designated entity.

8.13 The Tribal Council shall have final approval over any proposed structural changes to facilities in which the gaming enterprise is operated.

8.14 The Tribal Council, consistent with an approved waiver policy, shall have the final authority in granting or denying a waiver request from a gaming employee applicant with a criminal history background.

SECTION 9. TRIBAL GAMING COMMISSION

9.1 Establishment. The Tribe hereby charters, creates and establishes the Stockbridge-Munsee Tribal Gaming Commission, a subordinate organization, as a governmental subdivision of the Tribe, while reserving the right to review actions of this body.

9.2 Location and Place of Business. The Tribal Gaming Commission shall be a resident of and maintain its headquarters, principal place of business and office(s) on the Stockbridge-Munsee Reservation or lands held in trust for the benefit of the Stockbridge-Munsee Band of Mohicans.

9.3 Duration. The Tribal Gaming Commission shall have perpetual existence and succession in its own name, unless dissolved by the Tribe pursuant to Tribal law.

9.4 Attributes. As a governmental subdivision of the Tribe, the Tribal Commission has been delegated the right to exercise one or more of the substantial governmental functions of the Tribe, including rule-making authority for the purposes of regulation of tribal gaming pursuant to the Indian Gaming Regulatory Act ("IGRA"), tribal law and the Tribal-State Compact. It is the purpose and intent of the Tribe in creating the Tribal Gaming Commission that the operations of the Tribal Gaming Commission be conducted on behalf of the Tribe for the sole benefit and interests of the Tribe, its members and the residents of the Reservation and communities surrounding the tribal gaming enterprises. In carrying out its purposes under this Ordinance, the Tribal Gaming Commission shall function as an arm of the Tribe.

Notwithstanding any authority delegated to the Tribal Gaming Commission under this Ordinance, the Tribe reserves to itself the right to bring suit against any person or entity in its own right, on behalf of the Tribe or on behalf of the Tribal Gaming Commission, whenever the Tribe deems it necessary to protect the sovereignty, rights and interests of the Tribe or the Tribal Gaming Commission.

9.5 Sovereign Immunity of the Tribal Gaming Commission. The Tribal Gaming Commission and their duly appointed agents are hereby clothed with all the privileges and immunities of the Tribe, except as specifically limited by this Ordinance or other tribal law, including sovereign immunity from suit in any tribal, federal or state court.

Except as provided in this section, nothing in this Ordinance nor any action of the Tribe or the Tribal Gaming Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribal Gaming Commission or its duly appointed agents, or to be a consent of the Tribe or the Tribal Gaming Commission to the jurisdiction of the United States or of any state or any other tribe with regard to the business affairs of the Tribe or the Tribal Gaming Commission to any cause of action, case or controversy, or to the levy of any judgment, lien or attachment upon any property of the Tribe or of the Tribal Gaming Commission, or to be a consent of the Tribe or the Tribal Gaming Commission or its duly appointed agents, to suit in respect to any Indian land, or to be a consent of the Tribe or the Tribal Gaming Commission to the alienation, attachment or encumbrance of any such land.

9.6 Sovereign Immunity of the Tribe. All inherent sovereign rights of the Tribe as a federally recognized Indian tribe with respect to the existence and activities of the Tribal Commission are hereby expressly reserved, including sovereign immunity from suit in any tribal, federal or state court. Except as provided in section 9.7 below, nothing in this Ordinance nor any action of the Tribal Gaming Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribe, or to be a consent of the Tribe to the jurisdiction of the United States or of any state or of any other tribe with regard to the business or affairs of the Tribal Gaming Commission or the Tribe, or to be a consent of the Tribe to any cause of action, case, or controversy, or to the levy of any judgment, lien, or attachment upon any property of the Tribe, or to be a consent to suit in respect to any Indian land, or to be a consent to the alienation, attachment, or encumbrance of any such land.

9.7. Assets of the Tribal Gaming Commission. The Tribal Gaming Commission shall have only those assets specifically assigned to it by the Tribal Council or acquired in its name by the Tribe or by the Tribal Gaming Commission on its own behalf. No activity of the Tribal Gaming Commission nor any indebtedness incurred by it shall implicate or in any way involve or effect any assets of tribal members or the Tribe not assigned in writing to the Tribal Gaming Commission.

9.8 Membership.

9.8.1 Number and Terms of Commissioners. The Tribal Commissioners shall be comprised of seven (7) Tribal Gaming Commissioners appointed by the Tribal Council. The terms of the Gaming Commissioners shall be staggered, such staggering to be achieved by allowing one of the seven to serve for a four-year term, one of the seven to serve a one-year term, two of the seven to serve a two-year term, and three of the seven to serve a three-year term.

The Tribal Council reserves the right to add additional Commissioners upon determination by the Council that such position would add stability to the Commission and otherwise enhance the effectiveness of the Commission.

In order to promote stability of the Commission in the long-term, it is necessary that, in the first appointment of Commissioners only, one of the two-year terms shall be for three years, but thereafter for only two years. One of the three-year terms shall be for four years, but thereafter only three years. One of the three-year terms shall be for two years, but thereafter for three years.

9.8.1.a. Paid Positions. The Tribal Council authorizes at least two paid Commissioner positions in the first year of the Tribal Gaming Commission, and reserves the right to add more paid positions as needed, upon presentation of adequate justification. The paid positions shall be one four-year term and one two year term.

9.8.2 Qualification of Commissioners.

9.8.2.1 Shall be an enrolled member at least twenty-one (21) years of age.

9.8.2.2 Shall have at least one year of experience in at least one of the following areas:

- a) Business Management
- b) Economic Development
- c) Marketing
- d) Law
- e) Finance/Accounting
- f) Security/Law Enforcement
- g) Gaming
- h) A degree or formal training in any of the above

9.8.2.3 Shall not serve in any elected position in the Stockbridge-Munsee Tribe while at the same time serving as a Gaming Commissioner.

9.8.2.4 No individual shall be eligible for appointment to or to continue services on the Tribal Gaming Commission who has any financial interest in, or management responsibility for any gaming activity operated by the Tribe, or any direct or indirect interest in any gaming-related contract with the Tribe.

9.8.2.5 No individual shall be eligible for appointment to or to continue services on the Tribal Gaming Commission who has any conflict of interest as defined in this Ordinance, UNLESS such conflict has been fully disclosed to the entire board of Commissioners and to the Tribal Council and both entities have agreed, in writing, to permit the individual to be appointed or to continue with his or her term.

9.8.2.6 No individual shall be eligible for appointment to or continue services on the Tribal Gaming Commission who is an employee of any tribal gaming enterprise or of another gaming enterprise outside the tribe's ownership and/or management.

9.8.3 Background Check. Prior to the time any Tribal Commissioner takes office on the Tribal Gaming Commission, the Tribe shall perform a comprehensive background check on each prospective member. No person shall serve as a Commissioner if:

9.8.3.1. His or her prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest; or threaten the effective regulation and control of gaming; enhance the dangers of unsuitable, unfair, or

illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto; or

9.8.3.2. If he or she has been convicted of or entered a plea of guilty or nolo contendere (no contest) to a felony or any gaming offense in any jurisdiction or to a misdemeanor involving dishonesty, fraud, misrepresentation in any connection or any offense involving moral turpitude.

9.8.3.3 The Tribal Waiver Policy shall not apply to Gaming Commissioner positions.

9.9 Meetings.

9.9.1 **Regular Meetings.** The Tribal Gaming Commission shall hold at least one regular monthly meeting that shall take place on the date determined by the Commission By Laws, or as otherwise determined by the Tribal Gaming Commission.

9.9.2 **Special Meetings.** Special meetings may be called at the request of the Tribal Council, Gaming Management, the Chairperson of the Tribal Gaming Commission or four (4) or more members of the Tribal Gaming Commission.

9.9.3 **Compensation of Commissioners.** Full-time, paid Tribal Gaming Commissioners shall receive a salary set by the Tribal Council. The remaining Commissioners shall receive a monthly stipend for attending meetings and in addition, shall receive an hourly wage, equal to the hourly wage of the full-time Commissioners, for time spent at hearings related to the regulatory process, and for other Commission work as assigned, excluding trainings and regular meetings.

9.9.4 **Quorum.** A quorum for all meetings shall consist of four (4) members.

9.9.5 **Voting.** All questions arising in connection with the action of the Tribal Commission shall be decided by majority vote. The Chairperson of the Tribal Gaming Commission shall only be entitled to vote to break a tie.

9.9.6 **Executive Session.** Executive session may be used when deemed necessary by the Commission. No decisions shall be made in Executive Session. Use of executive session shall include, but not be limited to matters of personnel or other issues of a confidential or privileged nature.

9.10 **Organization.** The Tribal Gaming Commission shall develop its own operating procedures and shall elect from within itself a Chairperson to direct meetings, and such other officers as the Commission has need of.

9.11 Removal of Members and Filling Vacancies.

9.11.1 Removal. A Commissioner may be removed by the Tribal Council for serious inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, misconduct in office, or for any conduct that threatens the honesty or integrity of the Tribal Commission or otherwise violates the letter or intent of this Ordinance. Except as provided below, no Commissioner may be removed without notice and an opportunity for a hearing before the Tribal Council, and then only after the Commissioner has been given written notice of the specific charges at least ten days prior to such hearing.

At any such hearing, the Commissioner shall have the opportunity to be heard in person or by counsel and to present witnesses on his or her behalf. If the Tribal Council determines that immediate removal of a Commissioner is necessary to protect the interests of the Tribe, the Tribal Council may immediately remove the Commissioner temporarily, and the question of permanent removal shall be determined thereafter pursuant to Tribal Gaming Commission hearing procedures.

A written record of all removal proceedings together with the charges and findings thereon shall be kept by the Tribal Secretary.

9.11.2 Vacancies. If any Commissioner shall die, resign, be removed, or for any reason be unable to serve as a Commissioner, the Tribal Council shall declare his or her position vacant and shall appoint another person to fill the position. The terms of office of each person appointed to replace an initial Commissioner shall be for the balance of any unexpired term for such position, provided, however, that any prospective appointee must meet the qualifications established by this Ordinance.

9.12 Powers and Duties of the Tribal Gaming Commission. In furtherance, but not in limitation, of the Tribal Gaming Commission's purposes and responsibilities, and subject to any restrictions contained in this Ordinance or other applicable law, the Tribal Gaming Commission shall have and is authorized to exercise by majority vote the following powers in addition to all powers already conferred by this Ordinance:

9.12.1 To issue, suspend, revoke and renew licenses of primary management officials, key employees and gaming services vendors and principals upon completion of background investigations.

9.12.2 To conduct background investigations on primary management officials, key employees and gaming services vendors and principals or to coordinate such investigations, as needed, with the Licensing Review Officer or other agents, in preparation for the licensing process.

9.12.3 To forward completed employment applications and completed investigative reports for primary management officials and key employees to the National Indian Gaming Commission ("NIGC") prior to issuing a gaming license.

9.12.4 To review a person's prior activities, criminal record if any, reputation, habits and associations to make a finding concerning the eligibility for licensing, to work for or do business with the tribal gaming enterprise(s) or to continue such employment or business relationship.

9.12.5 To issue separate license to each place, facility or location on tribal lands where the Stockbridge-Munsee Tribe elects to allow gaming.

9.12.6 The Tribal Gaming Commission shall obtain annual independent outside audits, pursuant to the terms of the Tribal-State Compact, and submit these audits to the National Indian Gaming Commission as required by federal regulations.

9.12.7 To ensure that net revenues from any gaming activities are used for the limited purposes set forth in the Tribal Gaming Ordinance.

9.12.8 If the tribe elects to authorize individually owned gaming, to issue licenses according to the requirements contained in the Tribal Gaming Ordinance.

9.12.9 To promulgate and or approve gaming regulations pursuant to tribal law.

9.12.10 To monitor and regulate all tribal gaming activities to ensure compliance with tribal law/regulations. The Tribal Gaming Commission shall have such access to tribal gaming facilities and to gaming employees as necessary in order to carry out this responsibility.

9.12.11 To interact with other regulatory and law enforcement agencies regarding the regulation of gaming, as necessary to fulfill their duties.

9.12.12 To be completely familiar with the Indian Gaming Regulatory Act, the Federal Regulations promulgated thereunder, the Tribal Gaming Ordinance, the Tribal-State Compact and related laws.

9.12.13 To conduct investigations of possible violations and take appropriate enforcement action with respect to the Tribal Gaming Ordinance and regulations.

9.12.14 To provide independent information to the Tribe on the status of the Tribe's gaming activities. See Reporting section below for more detail.

9.12.15 To issue oaths, take testimony and conduct hearings on regulatory matters, including matters related to the revocation of primary management official and key employee licenses or any other licenses they are authorized to issue under this Ordinance. Hearings may also be held for licensing of tribal gaming vendors.

9.12.16 Be familiar with and approve the minimum internal control standards or procedures for all tribal gaming operations, including credit policies and procedures for acquiring supplies and equipment.

9.12.17 Establish any supplementary criteria for the licensing of primary management officials, key employees and other employees, vendors or contractors that the Tribe deems necessary.

9.12.18 Establish or approve standards for and issue licenses or permits to persons and entities who deal with the gaming operation(s) such as manufacturers and suppliers of machines, equipment and supplies, such license to be called a "gaming services vendor license."

9.12.19 To maintain records on licensees and on persons denied licenses including persons otherwise prohibited from engaging in gaming activities within the tribe's jurisdiction, consistent with federal law and the Tribl-State Compact requirements.

9.12.20 To perform audits of business transactions to ensure compliance with regulations and/or policy.

9.12.21 To establish or approve rules of new games consistent with the requirements of the Tribal-State Compact and other applicable laws, and inspect games, tables, equipment, machines, cards, dice and chips or tokens used in the gaming operation. To inspect from time to time the video surveillance standards.

9.12.22 To resolve patron disputes, employees' grievances and other problems, pursuant to the tribal Gaming Ordinance and other tribal regulations and policies that may be in place regarding those issues.

Unless, or except as otherwise provided for through an Employee Rights Ordinance, the Gaming Commission shall serve as a forum for hearing grievances from gaming employees after all administrative remedies provided in the personnel policies and procedures have been exhausted.

The Gaming Commission shall not accept a grievance that failed to follow the proper internal procedure.

At such point that the Employees Rights Ordinance becomes effective, the Gaming Commission shall cease to function as a grievance forum.

9.12.23 To purchase, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, and use property and assets of every description, real and personal, tangible or intangible, including money, securities, or any interests therein, rights and services of any kind and description or any interest therein; provided that the Tribal Commission shall have authority to purchase any interest in real property, whether located on or off the Reservation, only with the express, prior written consent of the Tribal

Council as to each such action, and that title to such real property and property which is to become a fixture or permanent improvement or part of the real property shall be taken in the name of the Tribe or in the name of the United States in trust for the Tribe, and title to all trust and restricted real property shall remain in trust or restricted status.

9.12.24 To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its personal property and assets, with prior written consent from the Tribal Council.

9.12.25 To deal in inventions, copyrights, and trademarks; to acquire by application, assignment, purchase, exchange, lease, hire, or otherwise; and to hold, own, use, license, lease and sell, either alone or in conjunction with others, the absolute or any partial or qualified interest in and to inventions, improvement, letters patent and applications therefor, licenses, formulas, privileges, processes, copyrights and applications therefore, trademarks and applications therefor, and trade names, provided that title to all such interests shall be taken in the name of the Tribe.

9.12.26 To arbitrate, compromise, negotiate or settle any dispute to which it is a party relating to the Tribal Commission's authorized activities, except that no binding arbitration shall be used without prior consent, by resolution, from the Tribal Council.

9.12.27 To enter into, make, perform and carry out any agreement, partnership, joint venture contract or other undertaking with any federal, state or local governmental agency, tribe, person, partnership, corporation or other association or entity for any lawful purpose pertaining to the business of the Tribal Commission or which is necessary or incidental to the accomplishment of the purpose of the Tribal Commission, subject to prior review and approval by the Tribal Council.

9.12.28 To engage in any and all activities that directly or indirectly carry out the purposes of the Tribe as set forth in this Ordinance.

9.12.29 With prior approval of the Tribal Council, to make application and accept grants and other awards from private and governmental sources in carrying out or furthering the purposes of the Tribal Commission or the Tribe.

9.12.30 To exercise all authority delegated to it or conferred upon it by law and to take all action that shall be reasonably necessary and proper for carrying into execution the foregoing powers and all of the powers vested in this Ordinance as permitted by the purposes and powers herein stated and that are deemed to be in the best interests of the Tribe, exercising prudent and good judgment, all in compliance with applicable law.

9.12.31 To establish and maintain such bank accounts as may be necessary or convenient for Commission operation.

9.12.32 Reporting. To require by regulation the filing of any records, forms and reports and all other information desired by the Council for implementation of this Ordinance relating to any gaming activity or operation or any investigation as required by tribal law and the IGRA.

The Gaming Commission shall submit to the Tribal Council on a regular basis minutes from all meetings and a monthly status report on the tribal gaming enterprise(s).

9.12.33 To provide for an internal system of record-keeping with adequate safeguards for preserving confidentiality as deemed necessary by the Tribal Commission. All applications, background investigations and Tribal Commission decisions related to the licensing of primary management officials, key employees or any other entity licensed by the Commission, shall be retained in Tribal Commission files for a period of at least seven (7) years and not less than three (3) years from termination of employment or business relationship.

9.12.34 To adopt a schedule of fees to be charged for gaming licenses issued pursuant to this Ordinance.

9.12.35 To adopt a schedule of fees and charges for services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files and records.

9.12.36 To conduct background investigations of all persons who propose to participate in any gaming activity or operation.

9.12.37 To compel obedience of its lawful orders by proceedings of mandamus or injunction or other proper proceedings in the name of the Tribe in Tribal Court, at such time as the Tribe has established a tribal court, or in any other court having jurisdiction of the parties and of the subject matter; provided that no suit shall be brought by the Tribal Commission without the prior explicit written approval of the Tribal Council after consultation with the Tribal attorney(s).

9.12.38 To discipline any licensee or other person participating in any gaming activity by ordering immediate compliance with this Ordinance or Tribal Commission regulations and to issue an Order of Temporary Suspension of any license issued under this Ordinance, consistent with the terms under this Ordinance governing such suspension, whenever the Tribal Commission is notified of a violation by any such person of this Ordinance or any other applicable law.

9.12.39 To issue an order of temporary closure of any gaming activity or operation in the event the Tribal Commission, based on regulatory violations, determines that immediate closure is necessary to protect assets or interests of the Tribe, pursuant to Tribal Commission regulations.

9.12.40 To become self-regulating when the Tribe becomes eligible for a certificate of self-regulation under the IGRA.

9.12.41 **Annual Budget.** The Tribal Commission shall prepare an annual operating budget for all Tribal Commission activities and present it to the Tribal Council by August 15th of each year.

9.12.42 **Confidentiality.** The Tribal Gaming Commission shall maintain confidentiality of information specified as confidential, including information gathered in the background and licensing process and any financial information regarding performance of the gaming enterprise.

Violation of this confidentiality provision shall be subject to disciplinary action from the Tribal Council and may be deemed "cause" for suspension or termination from the Commission.

9.12.43 **Waiver Hearings.** The Tribal Gaming Commission shall accept applications for waivers from those persons interested in working for the tribal gaming enterprise(s), but who have criminal backgrounds or other violations requiring a waiver.

The Commission shall conduct the waiver hearing and forward a recommendation to the Tribal Council regarding the waiver determination. The Tribal Council shall make the final decision on waiver applications.

9.13 Tribal Commission Regulations.

9.13.1 Tribal Commission Regulations necessary to carry out the orderly performance of its duties and powers shall include, but shall not be limited to:

9.13.1.1 Internal operational procedures of the Tribal Commission and its staff;

9.13.1.2 Interpretation and application of this Ordinance as may be necessary to carry out the Tribal Commission's duties and exercise its powers;

9.13.1.3 A regulatory system to monitor all gaming activity, including accounting, contracting, management and supervision, not to be confused with day-to-day management activities;

9.13.1.4 The findings of any reports or other information required by or necessary to implement this Ordinance; and

9.13.1.5 The conduct of inspections, investigations, hearings, enforcement actions and other powers of the Tribal Commission authorized by this Ordinance.

9.13.2 No regulation of the Tribal Commission shall be of any force or effect unless it is adopted by the Tribal Commission by written resolution and subsequently approved by a resolution of the Tribal Council and filed for record both in the office of the Tribal Secretary and in the Office of the Clerk of the Tribal Court, at such time as a Tribal Court is established.

9.13.3 The Tribal Court and any other court of competent jurisdiction shall take judicial notice of all Tribal Commission regulations adopted pursuant to this Code, and not inconsistent with any other tribal or federal law.

9.14 Right of Entrance; Monthly Inspection of Tribal Books and Records. The Tribal Commission and duly authorized officers, employees and agents of the Tribal Commission, during regular business hours, may enter upon any premises of any gaming operator or gaming facility for the purpose of making inspections and examining the accounts, books, papers and documents of any such gaming operator or gaming facility. Such gaming operator shall facilitate such inspection or examinations by giving every reasonable aid to the Tribal Commission and to any properly authorized officer, employee or agent.

9.15 Right of Entrance; Two-Week Inspections of Gaming Operations. A Commissioner or a member of the Tribal Commission's staff shall visit each tribally owned or tribally operated gaming facility at least once every two weeks during normal business hours for the purpose of monitoring its operation. Such visits shall be unannounced.

9.16 Investigations. The Tribal Commission, upon complaint or upon its own initiative or whenever it may deem it necessary in the performance of its duties or the exercise of its powers, may investigate and examine the operation and premises of any facility that is subject to the provisions of this Ordinance. In conducting such investigation, the Tribal Commission may proceed either with or without a hearing as it may deem best, but it shall make no order without affording any affected party notice and an opportunity for a hearing pursuant to Tribal Commission regulations.

9.17 Hearings; Examiner. Pursuant to regulations, the Tribal Commission may hold any hearing it deems to be reasonably required in administration of its powers and duties under this Ordinance. Whenever it shall appear to the satisfaction of the Tribal Commission that all of the interested parties involved in any proposed hearing have agreed concerning the matter at hand, the Tribal Commission may issue its order without a hearing.

The Tribal Commission may designate one of its members to act as examiner for the purpose of holding any such hearing or the Tribal Commission may appoint another person to act as examiner under subsection 9.19 below. The Tribal Commission shall provide reasonable notice and the right to present oral or written testimony to all people interested therein as determined by the Tribal Commission.

9.18 Appointment of Examiner; Power of Examiner. The Tribal Commission may appoint any person qualified in the law or possessing knowledge or expertise in the subject matter of the hearing to act as examiner for the purpose of holding any hearing which the Tribal Commission or any member thereof has power or authority to hold. Any such appointment shall constitute a delegation to such examiner of all powers of a Commissioner under this Ordinance with respect to any such hearing.

9.19 Bank Account for Tribally Owned or Tribally Managed Gaming Facility. The Tribal Commission shall ensure that the Tribe opens a separate bank account for each tribally owned or tribally managed gaming activity, and all money of such facility shall be deposited in that account. The Tribal Commission shall ensure that the check writing authority designated in Section 6 of this Ordinance is followed.

9.20 Quarterly Report of Gaming General Manager Reports. The Tribal Commission shall file a quarterly report with the Tribal Council summarizing reports received from each manager of any tribally owned or managed gaming activity and make such comments as it deems necessary to keep the Council fully informed as to the status of its various gaming activities.

9.21 Annual Plan of Operation. The Gaming Commission shall submit an approved Annual Plan of Operation for each tribal gaming enterprise, developed by Gaming Management, to the Tribal Council by June first of each year (see subsection 10.4.4 of this Ordinance for description of Annual Plan of Operation).

9.22 Travel. The Gaming Commission shall notify the Tribal Council and Gaming Management regarding travel plans. Travel plans shall be made taking into consideration the best duties and responsibilities of the Commission, the best interest of the gaming enterprise and the amount of money for such travel available in the Commission's operating budget.

Abuse of travel shall be subject to review by the Tribal Council.

SECTION 10. GAMING MANAGEMENT; POWERS, DUTIES AND LIMITATIONS

10.1 Each tribal gaming enterprise shall have a Casino General Manager ("Manager") authorized to manage the gaming enterprise on a day-to-day basis and to facilitate quick and efficient business decision-making, while respecting the broad guidelines of the Gaming Commission and the Tribal Council. The General Manager shall have such authority as the Tribal Council or the Tribal Gaming Commission shall delegate.

The Manager shall be hired by the Tribal Council.

Each General Manager shall undergo a background check by the Tribal Gaming Commission and shall obtain an employee gaming license before commencing work.

The Manager may be removed by the Tribal Council for cause. Grounds for removal must be clear and strictly limited to objective evidence of mismanagement or failure to

adhere to policies and procedures or to tribal and federal laws and regulations.

The Manager shall be subject to a semi-annual and an annual review by the Tribal Council or an entity designated by the Council for that purpose.

10.2 Purpose. The purpose of the Manager and the management structure s/he creates, is to oversee the day-to-day activities, make the day-to-day business decisions and to create a successful gaming enterprise.

10.3 Qualifications. The Manager shall have the experience and demonstrated skills necessary to manage a growing gaming enterprise according to the job description.

10.4 Responsibilities.

10.4.1 Day-to-day business management, including, but not limited to such things as hiring, contracting, payroll and schedules. Contracting is subject to applicable sections of this Ordinance.

10.4.2 Hiring staff pursuant to the process adopted in the Personnel Policies and Procedures for the gaming enterprise.

10.4.3 Operating Policies and Procedures. It is the responsibility of the Manager to develop and implement operating policies and procedures for the gaming enterprise, including personnel, financial management, contracting, purchasing, marketing and other areas as needed. Operating policies and procedures must be submitted to the Gaming Commission for approval before becoming effective.

10.4.4 Annual Plan of Operation. Each Manager shall submit an Annual Plan to the Tribal Council for review and approval. The Plan shall be submitted by June first to the Tribal Council. The Plan shall contain the following:

10.4.4.1 Operating budget.

10.4.4.2 Capital budget.

10.4.4.3 Growth target.

10.4.4.4 Staffing requirements, including training requirements.

10.4.4.5 Expense and revenue projections.

10.4.5 Budget Revisions. Any expenditures in excess of the approved operating and/or capital budgets shall be submitted by management to the Tribal Council for approval.

10.4.6 Accounting for Gaming Funds. The Manager is responsible for keeping accurate, up-to-date financial records and accounts of all business and for hiring or contracting with necessary resources to do so (subject to the terms of the Tribal-State Compact, this Ordinance and Federal law), except that the Tribal Council shall retain hiring authority over the Chief Financial Officer for all tribal gaming enterprises.

10.4.7 The Manager shall be familiar with all terms of the Compact and be directly responsible for managing the gaming enterprise in compliance with the Compact.

10.4.8 The Manager shall be familiar with the terms of the National Indian Gaming Commission's regulations, effective February 22, 1993, and any amendments or updates thereto, and operate all games in compliance with said regulations.

10.4.9 The Manager may delegate that authority necessary to ensure compliance with rules and regulations and effect a more efficient and productive operating environment.

10.4.10 The Manager shall ensure that a system for bonding of all employees is in place.

10.5 Reporting. The General Manager shall provide the Gaming Commission and the Tribal Council with a monthly report that details the number of patrons served, the amount of income generated, the numbers of employees working at the facility, a detailed description of any patron complaints and other problems experienced at the facility. The report shall also contain a detailed financial report, a written statement of any changes in key employees or primary management officials, a listing of all bills that are thirty (30) days or more past due and any other information the Gaming Commission may require.

Annual Plan of Operation shall be submitted to the Gaming Commission annually, who in turn, after review and approval, shall submit same to the Tribal Council.

10.6 Travel. The Manager shall notify the Gaming Commission regarding travel plans. Travel plans shall be made by the Manager based on the best interest of the gaming enterprise and money available for such travel in the approved operating budget.

Abuse of travel shall be subject to the review of the Gaming Commission.

10.7 The General Manager shall propose and the Tribal Gaming Commission shall approve a patron's complaint process. Each tribally owned and tribally operated gaming facility shall post at least one sign in each gaming room informing patrons of the established process.

10.8 Confidentiality. The General Casino Manager shall maintain confidentiality of information specified as confidential, including information gathered in the hiring process and any financial information regarding performance of the gaming enterprise.

Violation of this confidentiality provision shall be subject to disciplinary action

from the Tribal Council and may be deemed "cause" for suspension or termination.

SECTION 11. AUDIT

11.1 The Tribal Gaming Commission shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission, the Tribal Council and the State Gaming Commission. The Tribal-State Compact terms for both financial and security audits shall be followed for the audit of Class III games.

The Tribal Gaming Commission shall be responsible for keeping track of deadlines regarding audits, shall submit requests for proposals to eligible audit firms and shall have the authority to engage an audit firm to comply with the terms of the Compact. All provisions of the Compact shall be adhered to in this process.

11.2 All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of Twenty-Five Thousand Dollars (\$25,000.00) annually, except contracts for professional legal and accounting services, shall be included within the scope of the audit that is described in Section 11.1 above.

SECTION 12. PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

12.1 Class II and Class III Gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

Terms of the Tribal-State Compact regarding construction shall be adhered to.

SECTION 13. GAMING LICENSES

13.1 **Applicability.** This Ordinance applies to all persons engaged in gaming within the jurisdiction of the Stockbridge-Munsee Tribe. Any application for license pursuant to this Ordinance and participation in any gaming activity within the jurisdiction of the Tribe shall be deemed to be a consent to the jurisdiction of the Tribe and the Tribal Court (at such time as the Tribal Court shall become operational) in all matters arising from the conduct of such gaming and all matters arising under any of the provisions of this Ordinance or other tribal laws.

13.2 **License Required.** No person shall operate Class II or Class III gaming within the jurisdiction of the Tribe unless such gaming is licensed by the Tribe.

13.3 **Types of Licenses.** The Tribe shall issue each of the following types of gaming licenses:

13.3.1 **Tribally Owned or Tribally Operated Class II.** This license shall be required of all tribally owned or tribally operated gaming activity operating one or more

Class II games of chance.

13.3.2 Tribally Owned or Tribally Operated Class III. This license shall be required for all tribally owned or operated gaming activity operating any games of chance other than Class I or Class II gaming.

13.4 No License Requirement for Class I Gaming. A tribal license shall not be required for any Class I gaming activity or operation provided, however, that each Class I gaming activity or operation must have written permission of the Tribal Commission, and such permission must be on file with the Tribal Secretary before any such Class I gaming is conducted.

13.5 Applications Procedures.

13.5.1 Application for Gaming License. For any proposed Class II or Class III gaming activity, the Tribal Council shall file with the Tribal Gaming Commission an application for a tribally owned or tribally operated Class II or Class III gaming license, whichever is appropriate, which shall contain the name of the proposed enterprise, its location and all other pertinent information required by this Ordinance and Tribal Commission regulations.

13.5.2 Tribally Owned or Tribally Operated Class II. Before issuing a license to a tribally owned or operated Class II gaming activity the Tribal Gaming Commission shall:

13.5.2.1 Review the proposed gaming activity to ensure that all criteria required by this Ordinance shall be met.

13.5.2.2 Perform the necessary background checks on management contractors, primary management officials and key employees required by this Ordinance.

13.5.2.3 Review and approve the accounting procedures to be used in such gaming activity.

13.5.2.4 Take any additional steps necessary to ensure the integrity of such gaming activity.

13.5.3 Tribally Owned or Tribally Operated Class III. Before issuing a license to a tribally owned or operated Class III gaming activity, the Tribal Commission shall:

13.5.3.1 Review the proposed gaming activity to ensure that all criteria required by this Ordinance shall be met.

13.5.2.2 Perform the necessary background checks on management contractors, primary management officials and key employees required by this Ordinance.

13.5.2.3 Review and approve the accounting procedures to be used in such gaming activity.

13.5.2.4 Take any additional steps necessary to ensure the integrity of such gaming activity.

13.5.2.5 Review all aspects of the proposed gaming operation to ensure that it will be in compliance with the provisions of the Tribal-State Compact.

13.6 Criteria That a Potential Gaming Operator Must Meet. The Tribal Gaming Commission shall issue the above license to any tribally owned or tribally operated Class II or Class III proposed gaming activity only if all of the following criteria are met:

13.6.1 The proposed gaming activity or facility is to be located on tribally owned land or land held in trust for the Tribe, within the exterior boundaries of the tribal reservation, prior to October 17, 1988; or on after acquired lands that meet the requirements of Section 2719 of the Indian Gaming Regulatory Act for after acquired lands, and appropriate amendments to the Tribal-State Compact, if required, are made.

13.6.2 The proposed gaming activity is to be played as Class II gaming as defined by this Ordinance and the IGRA or as Class III gaming authorized by a Tribal-State Compact.

13.6.3 The proposed gaming activity is authorized by Tribal Council Resolution.

13.6.4 The Tribe will have the sole proprietary interest and the exclusive responsibility for the conduct of the proposed gaming activity, or if the Tribe does not have the sole proprietary interest or management responsibility, the management contract for such gaming is consistent with this Ordinance, tribal or federal law and is properly approved by the National Indian Gaming Commission.

13.6.5 The Resolution authorizing the proposed gaming activity provides that:

13.6.5.1 The revenues of the proposed gaming activity shall be audited annually and copies of those audits will be provided to the Tribal Commission and the National Indian Gaming Commission.

13.6.5.2 The proposed gaming activity shall comply with all IRS reporting and filing requirements.

13.6.5.3 All of the net proceeds of the proposed gaming activity shall be used for the purposes stated in Section 5 of this Ordinance.

13.6.5.4 All contracts for supplies, services or concessions for an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) (except for contracts for legal and consulting services) shall be subject to an annual independent audit.

13.6.5.5 The construction or maintenance of the gaming facility and the operation of the proposed gaming activity shall be conducted in a manner that the Tribal Commission finds will adequately protect the environment and the public health and safety.

13.6.5.6 The General Manager, all primary management officials and all key employees have passed the background investigations and obtained the tribal gaming licenses required by this Ordinance. Each application must state in writing that all future management officials and key employees will be required to pass background investigations and obtain tribal gaming employee licenses before they are hired, or within a reasonable time thereafter, with continued employment being made contingent upon the successful licensing of said individual.

13.6.5.7 The Tribal Gaming Commission shall have the authority to regulate the proposed gaming activity.

13.6.5.8 The proposed gaming activity shall pay to the National Indian Gaming Commission and to the State Gaming Commission such fees as federal law and the Tribal-State Compact may require to be paid.

13.6.5.9 If the gaming activity is Class III gaming, such gaming activity meets all other criteria established by the Tribal-State Compact.

13.7 License Application Fees. No application fee shall be required for a tribally owned or tribally operated Class II or Class III gaming activity.

13.8 License Tax. No annual license tax shall be required for a tribally owned or tribally operated Class II or Class III gaming activity.

13.9 Form of Gaming License. Every gaming license issued by the Tribal Commission shall include the name and address of the authorized licensee and the signature of an authorized officer of the Tribal Commission.

13.10 Scope of Gaming License. A gaming license issued by the Tribal Gaming Commission shall be effective only for the gaming activity and location specified in the application. Such license may be transferred only upon prior approval of the Tribal Commission

upon written request that details the proposed new gaming activity, its location and proposed gaming operator.

13.11 Term of License. A tribally owned or operated Class II and Class III Gaming Operator's license shall be valid for a period of one year from the date of issuance.

13.12 Posting of Licenses. Each gaming operator shall post its tribal gaming license in a conspicuous location at the gaming operator's gaming facility. If a gaming operator has more than one gaming facility, the gaming operator must obtain and post a separate license for each gaming facility.

13.13 Gaming License Renewals. Each tribal gaming license must be renewed annually. No renewal fee shall be required for a tribally owned or tribally operated Class II or Class III license. In order to obtain a renewal of a license, the gaming operator shall submit a written renewal application to the Tribal Commission on the form provided by the Tribal Commission.

No renewal application shall be approved until the annual report required by subsection 13.14 has been properly filed. All renewal applications submitted by a tribally owned Class II or Class III gaming activity shall be approved within a reasonable time unless the Commission determines, based on reasonable grounds, that the enterprise has been or will be operated in violation of tribal, federal or other applicable law or the terms of the Tribal-State Compact.

13.14 Annual Reports. Each gaming operator who possesses a Class II or Class III tribal gaming license must file an annual report (not to be confused with the Annual Plan of Operation) with the Tribal Commission between the fifteenth (15th) day and the last day of the twelfth (12th) month of the duration of each such license. The report shall be submitted to the Tribal Commission on the annual report form provided by the Tribal Gaming Commission and shall include the following information:

13.14.1 The name, address and telephone number of the gaming operator;

13.14.2 The names, addresses and titles of its current general manager and all other managers;

13.14.3 A description of each gaming activity that it operates and the total gross proceeds of each;

13.14.4 A written copy of any changes the gaming operator proposes to initiate in its operating rules or policies;

13.14.5 A statement of the specific dates and times during which the gaming activity will be operated during the next license period;

13.14.6 The name and address of the person who will be the general manager and the names and addresses of all persons who will be the primary management officials during the next license period;

13.14.7 A statement of any changes in the general manager or in the primary management officials or key employees who will operate the gaming activity over the next license period;

13.14.8 The names and addresses of any employees who the Tribal Commission may determine to be key employees during review of the application;

13.14.9 Written proof that the gaming operator has paid to the National Indian Gaming Commission such fees as federal and tribal law may require it to pay, and will continue to do so;

13.14.10 Written proof that the gaming operator has paid to the State Gaming Commission such fees as the Tribal-State Compact may require it to pay;

13.14.11 A sworn statement that the gaming operator has complied with the Internal Revenue Code and regulations, including written notice of customer winnings, and a statement that the gaming operator shall continue to obey all tribal and federal laws and shall hold the Tribal Commission and the Tribe harmless for failure to do so;

13.14.12 The description of any location at which the gaming activity has been conducted and any new location that is expected to be established during the next license period;

13.14.13 The number of full-time equivalent persons, on an annualized basis, employed by the operation during the past twelve (12) months, together with a projection of the number of full-time equivalent persons who are expected to be employed during the next license period;

13.14.14 The total gross proceeds of the gaming operator attributable directly or indirectly to tribally licensed gaming activity over the proceeding twelve (12) months;

13.14.15 A sworn statement that the gaming operator will continue to comply with all tribal and federal laws applicable to the gaming operator's gaming operation;

13.14.16 A sworn statement that the gaming operator and all of its key employees and management officials continue to consent to Tribal Court jurisdiction and service of process in all matters arising from the conduct of tribally licensed gaming activity;

13.14.17 The name, address and signature of the agent who will accept service of

process on behalf of the gaming operator, who must reside on the Reservation; and

13.14.18 If the gaming operator is a corporation, a copy of any amendment to its articles of incorporation, properly certified by the incorporating government, unless a current copy has already been filed with the Tribal Gaming Commission.

13.15 Procedure to Remedy Gaming License Violation. If the Tribal Gaming Commission finds that a tribally owned or operated gaming activity is being operated in violation of this Ordinance or otherwise presents a threat to the Tribe or to the public, the Tribal Commission shall immediately take all necessary steps to bring such activity into compliance, including, but not limited to, closing down such activity temporarily or permanently pursuant to enforcement procedures and regulations duly promulgated by the Tribal Commission under this Ordinance. Nothing contained in this Section or in this Ordinance shall be construed as limiting, restraining or effecting a waiver of the Tribe or the Tribal Council's right and authority to take appropriate action to remedy any gaming violation pursuant to tribal and federal law.

SECTION 14. GAMING EMPLOYEE LICENSES

14.1 Current and Valid Gaming Employee License Required. Every primary management official and every key employee of any Class II or Class III gaming activity subject to this Ordinance shall possess a current, valid gaming employee license. Eligibility for and obtaining a valid gaming employee license is a requirement of continued employment for those employees who began working at the gaming enterprise prior to the development of the licensing process.

14.2 Application for Gaming Employee License.

14.2.1 A person seeking a tribal gaming employee license must be at least eighteen (18) years of age. All applicants shall submit an application to the Tribal Commission on such form and in such manner as the Tribal Commission may require.

14.2.2 Such application shall include, but is not limited to the following information:

14.2.2.1 The applicant's full name, including all other names used (oral or written), current home and work addresses and telephone numbers, social security number (optional), place of birth, date of birth, citizenship and gender, all languages (spoken or written);

14.2.2.2 Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;

14.2.2.3 The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed in subsection 14.2.2.2 above;

14.2.2.4 Current business and residence telephone numbers;

14.2.2.6 A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;

14.2.2.7 A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

14.2.2.8 The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit relating to gaming, whether or not such license or permit was granted;

14.2.2.9 For each gaming offense and for each felony for which there is an ongoing prosecution or a conviction, the name and address of the court involved, the charge, and the dates of the charge and of the disposition;

14.2.2.10 For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved, and the dates of the prosecution and the disposition;

14.2.2.11 For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraphs 14.2.2.9 or 14.2.2.10 above of this section, the criminal charge, the name and the address of the court involved and the date and disposition;

14.2.2.12 The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license, permit or certificate, whether or not such license, permit or certificate was granted;

14.2.2.13 A recent photograph;

14.2.2.14 Any other information the Tribe or the Tribal Gaming Commission may deem necessary and relevant; and

14.2.2.15 Fingerprints consistent with procedures adopted by Tribe according to the requirements under Federal Regulations, 25 CFR Section

522.2(h);

14.2.2.16 Written permission giving the Tribal Commission and their duly appointed agents the right to investigate information including but not limited to the applicant's background, including his or her criminal record, civil and criminal judgments, educational record, military record and credit history.

14.2.3 Each application shall be accompanied by a sworn statement that if the license is issued, the applicant will submit to the jurisdiction of the Tribe, the Tribal Gaming Commission and the Tribal Court.

14.2.4 Each application shall be accompanied by a sworn statement that the applicant will abide by this Ordinance and all other applicable laws.

14.2.5 Each application shall contain or be accompanied by a written statement that the applicant has read, understands and approves of the following 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. 2710, et seq. The purposed of the requested information is to determine the eligibility of individuals to be employed in gaming activities. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or 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.

14.2.6 Each application for a gaming employee license shall, if required, be accompanied by a nonrefundable application fee of to be established by the Tribal Gaming Commission.

14.2.7 The disclosure of an applicant's social security number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing the application.

14.2.8 Each application shall contain a False Statement notice as follows:

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 a fine or imprisonment. (18 U.S.C.

Section 1001).

14.2.9 If another tribe has previously employed the applicant, the Tribe or Tribal Gaming Commission may request investigative information from the other tribe.

14.2.10 The Tribal Gaming Commission, its employees and agents and the Tribe, its employees and agents shall promise to keep confidential the identity of each person interviewed in the course of an investigation on an applicant for a gaming employee license, as required by 25 CFR 556.4(b).

14.3 Review Procedure for Gaming Employee License Application. Before issuing a gaming employee license, the Tribal Commission shall:

14.3.1 Perform or arrange to have performed the necessary background investigation of the applicant required by this Ordinance. Such investigation shall include contacting each reference provided in the application and taking all appropriate steps to verify the accuracy of information contained in the application. Arrange for a law enforcement agency to take the applicant's fingerprints and forward them to either the State of Gaming Commission or to the National Indian Gaming Commission to be forwarded to the Federal Bureau of Investigation, National Criminal Information Center, for a criminal records search.

The Tribal Gaming Commission may require asset and liability disclosure for key employees and primary management officials when it deems that information necessary to adequately protect the gaming enterprise and determine the suitability of a particular individual for employment or continued employment.

Make the required reportings, outlined in subsection 14.4 below, to the National Indian Gaming Commission prior to issuing a determination on the findings.

Review the person's prior activities, criminal record, if any, 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. Where the Tribal Gaming Commission determines that employment of the person poses a threat to the public interests 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, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

Provide an opportunity for a hearing on the denial of a license, or for such other cause as the Commission may determine.

14.4 Procedures for Forwarding Applications and Reports for Key Employment and Primary Management Officials to the National Indian Gaming Commission.

14.4.1 When a key employee or primary management official begins work at a gaming operation authorized by this Ordinance, the Tribal Gaming Commission shall

forward to the National Indian Gaming Commission a completed application for employment and an application for a tribal employee gaming license, conduct the background investigation and make the eligibility determination regarding the issuance of an employee gaming license.

14.4.2 The Tribe shall forward the report referred to in subsection 14.5 below, to the National Indian Gaming Commission within sixty (60) days after an employee begins work.

14.4.3 The gaming operation shall not employ as a key employee or primary management official a person who does not have an employee gaming license after ninety (90) days. (Note: this time-line was developed by the National Indian Gaming Commission and is difficult to implement given the time FBI checks take; therefore, a good faith effort to meet this deadline is presumed to suffice.)

14.5 Report to the National Indian Gaming Commission.

14.5.1 Pursuant to the procedures set out in subsection 14.4 above, the Tribal Gaming Commission, or designated agent thereof, shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

14.5.1.a Steps taken in conducting a background investigation;

14.5.1.b Results obtained;

14.5.1.c Conclusions reached, and

14.5.1.d The basis for those conclusions.

14.5.2 The Tribal Gaming Commission shall submit, with the report, a copy of the eligibility determination.

14.5.3 If a license is not issued to an applicant, the Tribe or the Tribal Gaming Commission shall:

14.5.3.1 Notify the National Indian Gaming Commission; and

14.5.3.2 May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

14.5.4 With respect to key employees and primary management officials, the

Tribal Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for seven (7) years and for not less than three (3) years from the date of termination of employment.

14.6 Granting an Employee Gaming License.

14.6.1 If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or primary management official for whom the Tribe has provided an application and an investigative report to the National Indian Gaming Commission ("NIGC"), the Tribe may issue a license to such applicant.

14.6.2 The Tribal Gaming Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a key employee or primary management official who is the subject of a report. Such a request shall suspend the thirty-day (30) period under subsection 14.6.1 above until the Chairman of the NIGC receives the additional information.

14.6.3 If, within the thirty-day (30) period described above, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report, the Tribe shall reconsider the application, taking into account the objections itemized by the NIGC. The Tribal Gaming Commission shall make the final decision whether to issue a license to such applicant.

14.7 Standards for Denial of a Key Employee or Primary Management Official License. The Commission shall not license, hire or employ as a key employee or primary management official in connection with Class II or Class III gaming, any person who:

14.7.1 Is under the age of eighteen (18);

14.7.2 Has been convicted of or entered a plea of guilty or no contest to a gambling offense, fraud or misrepresentation; or

14.7.3 Has been convicted of or entered a plea of guilty or no contest to any offense in subparagraph 14.7.2 within the immediately preceding ten (10) years; this provision shall not apply if that person has been pardoned by the Governor of the State where the conviction occurred or, if the applicant/employee has been granted a waiver of their criminal history background by the Tribal Council pursuant to the Tribal Waiver Policy.

14.7.4 If person has participated in organized crime or unlawful gambling or is a person whose prior activities, criminal record, reputation, habits and/or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming or to the carrying on of the business and financial arrangements incidental to the conduct of gaming.

14.7.5 Is found to have supplied false or misleading information or has omitted material information on his license application or application for employment.

14.7.6 Provided further that the Tribal Gaming Commission may, by regulations, add additional limitations and conditions for denial of said license.

14.8 Scope of Gaming Employee License. A gaming employee license shall be effective only for the person to whom it is issued and only with respect to the gaming facility specified in the application. Any such license may be transferred to a new gaming facility only upon prior approval of the Tribal Commission, upon written request of the licensee identifying the proposed new gaming facility, its location and the proposed gaming operator thereof.

14.9 Licensing Period. An employee gaming license issued pursuant to this Ordinance shall be effective for a period of two years from the date of issuance and shall state on its face the date that the license became effective and the date that it expires. This license shall be subject to annual reviews consisting of a name check, financial check and civil litigation check.

14.10 Renewals. A holder of an employee gaming license shall apply to the Tribal Gaming Commission for a renewal before his original license has expired, updating all information contained in the original application.

14.11 Requirement to Produce License Upon Request. Any person receiving an employee gaming license must carry that license upon his or her person during all working hours and must produce that license upon the request of any law enforcement official with jurisdiction over the gaming activity or any agent of the Tribe, the Tribal Gaming Commission, the NIGC or the State Gaming Commission.

14.12 Permanent License Revocation of Employee Gaming License.

14.12.1 Grounds for Permanent Revocation. The Tribal Gaming Commission may permanently revoke an employee gaming license, after notice and an opportunity for a hearing, for any of the following reasons:

14.12.1.1 The employee has withheld pertinent information on his application;

14.12.1.2 The employee has made false statements on the application;

14.12.1.3 The employee has participated in gaming activity that was not authorized by any tribal gaming license;

14.12.1.4 The employee has attempted to bribe a Tribal Council member, Tribal Gaming Commissioner or other person in an attempt to avoid or circumvent this Ordinance or any other applicable law;

14.12.1.5 The employee has offered something of value or accepted a loan, financing or other thing of value from a Tribal Gaming Commissioner, a subordinate employee or any person participating in any gaming activity;

14.12.1.6 The employee has knowingly promoted, played or participated in any gaming activity operated in violation of this Ordinance or any other applicable law;

14.12.1.7 The employee has been knowingly involved in the falsification of books or records that relate to a transaction connected with the operation of a gaming activity;

14.12.1.8 The employee has violated any provision of this Ordinance or the rules and regulations of the Tribal Gaming Commission;

14.12.1.9 The employee has been convicted of, or has entered a plea of guilty or no contest to any crime involving gaming, fraud, theft, embezzlement, misrepresentation or any other activity that, if perpetrated at his or her gaming operator's place of employment, would injure or pose a threat to the public interest, or the integrity of the gaming activity, or the effective regulation of gaming or enhance the dangers of unfair, unsuitable, or illegal gaming practices;

14.12.1.10 The employee has been convicted or entered a plea of guilty or no contest to a crime involving the sale of illegal narcotics or controlled substances;

14.12.1.11 The employee has failed to comply with any lawful order, inquiry or directive of the Tribal Gaming Commission, the Tribal Council or any administrative or judicial body of competent jurisdiction, arising from any gaming activity whether or not subject to this Ordinance; or

14.12.1.12 The employee is determined to have present or prior activities, including criminal record, or reputation, habits or associations that pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming.

14.12.2 Procedure for Permanent Revocation. Whenever the Tribal Gaming Commission has reasonable cause to believe that an employee has violated any of the conditions in section 14.12.1 or has failed to comply with any condition of his or her tribal gaming license, or has failed to obtain a license, the Tribal Commission or its designee may either undertake an investigation or serve upon such employee an Order to Show Cause why the employee's license should not be revoked, or why the employee should not be enjoined from conducting gaming activities within the jurisdiction of the Tribe.

The Order shall state the grounds for which such revocation or injunction is sought and that the employee shall have an opportunity to present testimony and to cross examine opposing witnesses, and to present any other evidence as to why revocation or injunction should not be issued.

The hearing shall be set for not less than ten (10) days nor more than fourteen (14) days from the date of notice. The hearing shall be governed in all respects in accordance with the tribal law and Tribal Gaming Commission regulations.

14.13 Temporary Suspension of Employee Gaming License.

14.13.1 Grounds for Temporary Suspension. The Tribal Gaming Commission may temporarily suspend an employee gaming license for not more than thirty (30) days for any of the following reasons:

14.13.1.1 The employee has been charged with a violation of any gaming law;

14.13.1.2 The employee's continued employment as a primary management official or key employee of a gaming enterprise or gaming activity poses a threat to the general public;

14.13.1.3 The employee has made a material false statement in his or her license application or application for employment;

14.13.1.4 The employee has participated in gaming activity unauthorized by his or her tribal gaming license;

14.13.1.5 The employee has refused to comply with any lawful order of the Tribal Gaming Commission, the Tribal Council, any other tribal body having jurisdiction over the individual, the NIGC or the State Gaming Commission pursuant to the Tribal-State Compact, arising from or relating to gaming.

14.13.2 Immediate Temporary Suspension. The Tribal Gaming Commission shall immediately temporarily suspend an employee gaming license for not more than thirty (30) days upon receipt of notification from the NIGC pursuant to 25 CFR Section 558.5 that reliable information exists that such gaming employee is not eligible for employment.

Upon receipt of such notification, the Tribal Gaming Commission shall notify the gaming employee of the suspension and proposed revocation and the time and place for hearing under section 14.13.3 below.

14.13.3 Procedure for Temporary Suspension. The Tribal Gaming Commission, upon reasonable cause to believe that a person has violated any of the conditions in subsections 14.12.1, or has failed to comply with any condition of his or her employee gaming license or of this Ordinance, constituting a direct and immediate threat to the peace, safety, morals or health or welfare of the community or the gaming enterprise, or upon the notification from the NIGC referred to in subsection 14.13.2, the Tribal Gaming Commission or its designee shall issue a Notice of Temporary Suspension of such person's employee gaming license, which shall be served upon the employee.

The notice shall state the grounds upon which such temporary suspension is ordered and that the employee shall have an opportunity to present testimony and to cross-examine opposing witnesses, and to present any other evidence as to why suspension should not issue.

The employee shall immediately cease and desist operating in his or her management position or in his or her capacity as a key employee upon receipt of the order, but such person may file a Notice of Appeal with the Tribal Gaming Commission within five (5) days of such receipt.

Upon receipt of such Notice of Appeal, the Tribal Gaming Commission shall hold a hearing on the order within fourteen (14) calendar days of its receipt of the appeal.

At the hearing, the employee shall have the opportunity to present testimony and cross-examine witnesses, and present any other evidence as to why the Temporary Suspension Order should not be issued. Such hearing shall be governed in all respects by tribal law and Tribal Gaming Commission regulations.

SECTION 15. TRIBAL GAMING SERVICES VENDOR LICENSE

15.1 Requirement for Gaming Services Vendor License. No person or entity may provide gaming services, gaming apparatus or gaming equipment to any gaming facility or gaming operator unless such person or entity is the holder of a valid and current gaming services vendor license issued by the Tribal Gaming Commission; provided, however, that such vendor may automatically be granted said license if:

15.1.1 The person or entity has a current, valid license or certificate to provide the same type of gaming services, apparatus or equipment to tribes from the State of Wisconsin; provided that consent is given to the Tribal Gaming Commission to review all evidence supporting the issuance of such license or certificate, and provided further that consent is given to pursue a separate investigation should the Commission find cause.

15.1.2 Any license granted under subsection 15.1.1 may be revoked or suspended

by the Tribal Gaming Commission in the same manner and for the same reasons as provided elsewhere in this Section.

15.2 Application for Gaming Services Vendor License. The application for this license shall include all provisions included in the gaming employee license listed in Section 14.2 of this Ordinance with the following additional requirement:

15.2.1 A complete financial statement showing all sources of income for the previous three (3) years, and assets, liabilities, and net worth as of the date of the submission of the application.

15.3 Procedure for Licensing. Each applicant for a gaming services vendor license shall submit a completed application to the Tribal Gaming Commission on forms provided by the Commission. The gaming application shall contain such information, documentation and assurances as may be required by the Commission and shall identify all of the applicant's principals and the applicant's and each such principal's personal and family history, personal and business references, criminal conviction record, business activities, financial affairs, prior gaming industry experience and general education background.

Each application shall be accompanied by a fingerprint card(s) and photograph(s) of the applicant and of each principal of the applicant in such form as required by the Tribal Gaming Commission.

Upon receipt of a completed application, the Tribal Gaming Commission shall forward a copy thereof to the State or to the NIGC, for an FBI criminal information check through the FBI National Criminal Information Center.

15.4 Fee for License. Any person or entity filing an application for a gaming services vendor license pursuant to this Section shall pay to the Tribal Gaming Commission a fee, set by the Commission, sufficient to compensate the Tribal Gaming Commission for the cost of the background investigation and review of the license applications.

15.5 Background Investigation of Applicants. Upon receipt of an application for a gaming services vendor license, the Tribal Gaming Commission shall conduct an investigation of the applicant and each of its principals and shall include a criminal records check on the applicant and on each of the applicant's principals.

The Tribal Gaming Commission shall conduct such other investigation of applicant and its principals as may be deemed appropriate by the Commission.

15.6 Action by Tribal Gaming Commission. Except as provided in subsection 15.1.1, the Commission shall, as soon as practicable after completion of the background investigation under subsection 15.4, either grant or deny the license.

The Tribal Gaming Commission may deny license to any applicant upon a determination that the applicant, or any principal identified with such applicant:

15.6.1 Is a person or entity whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods and activities in the conduct of the gaming activities permitted hereunder; or

15.6.2 Has failed to provide information reasonably required to investigate the applicant's suitability for a license or has failed to reveal any fact material to such application or has furnished any information that is untrue or misleading in connection with such application.

15.7 Duration of License and Renewal. Any gaming services vendor license issued by the Tribal Gaming Commission shall be effective for not more than two years and shall expire on the date two years from the date of issuance; provided, that a licensee that has applied for renewal prior to expiration may continue to provide services under the expired license until the Tribal Gaming Commission takes final action on the renewal application.

Previously licensed applicants or applicants for renewal shall provide currently updated application material but will not be required to resubmit historical data already available to the Commission. The license shall be subject to an annual review consisting of such checks as the Gaming Commission shall determine necessary.

No additional background investigation of an applicant for license renewal shall be required unless new information concerning the renewal applicant's continuing suitability or eligibility for a license has been presented to the Commission; except that, a new credit check shall be performed, the status of the entity's regulatory licenses in other jurisdictions, if applicable, shall be checked and a litigation check shall be performed.

15.8 Revocation or Suspension of License. The Commission may investigate any licensed person or entity or any principal of any entity at any time and the Tribal Gaming Commission may suspend or revoke any license issued under this Section if new information concerning any facts not available to the Commission at the time a license was issued or any renewal thereof, is presented to the Commission, and if such new information would justify revocation of an original license or any renewal thereof pursuant to this Section.

No license shall be revoked or suspended except after notice and hearing under the procedures described below.

A licensed person or entity shall be entitled to any payment due for services provided or for goods delivered prior to the effective date of suspension or revocation of its license.

15.8.1 When the Tribal Gaming Commission has reasonable cause to believe that a person or entity holding a valid gaming services vendor license did not qualify for said license or that the person or entity or any principal of the entity has engaged in activities that would justify denial of the renewal of said license, the Tribal Gaming Commission or its designee shall issue a notice of suspension of such person or entity's license, which shall be served upon the licensee at its principal place of business.

This notice shall state the grounds upon which such temporary suspension is ordered and provide that the person or entity shall have an opportunity to present testimony and to cross-examine opposing witnesses, and to present any other evidence as to why a permanent suspension should not be issued.

Such hearing shall be governed in all respects by tribal law and Tribal Gaming Commission regulations.

15.8.2 When the Tribal Gaming Commission suspends a license under this subsection, the licensee shall immediately cease and desist from all gaming services to tribally licensed gaming operators and facilities. Decisions of the Commission pursuant to this Section, following any administrative review or appeal allowed under this Ordinance or otherwise permitted by the Commission, constitutes final Commission action for purposes of judicial review under tribal law.

15.9 Regulation of Non-Gaming Persons and Entities. Any person or entity that provides goods or services to a tribally licensed gaming operation or facility, other than gaming services or gaming equipment, in an amount in excess of Fifty Thousand Dollars (\$50,000.00) in any twelve-month period, shall agree to cooperate with the Tribal Gaming Commission and the Tribal and federal law enforcement in any investigation deemed necessary by either the Commission or the federal government relative to the fitness of such enterprise or organization to engage in business with a gaming operation or facility.

The Commission may bar such person or entity from providing goods or services to a tribally licensed gaming operation or facility upon a determination that such person or entity, or principal thereof is a person or entity whose prior activities, criminal record if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the dangers of unfair or illegal practices, methods and activities in the conduct of gaming.

Any person or entity affected by a bar under this subsection shall have a right to notice and hearing as provided in subsection 15.8.

15.10 Labor organizations are barred from representation of tribally licensed gaming employees at tribally owned gaming facilities within the Tribe's jurisdiction, consistent with federal law.

SECTION 16. GENERAL PROVISIONS GOVERNING OPERATION OF TRIBALLY OWNED OR TRIBALLY OPERATED GAMING FACILITY

16.1 **Maintenance of Records.** The Tribal Gaming Commission shall insure that all accounting records of each tribally licensed gaming facility is kept on a double entry system of accounting, maintaining detailed, supporting, subsidiary records. The Tribal Gaming Commission shall also insure that both the operator and the Tribal Gaming Commission maintain the following records for not less than seven (7) years:

16.1.1 Revenues, expenses, assets, liabilities and equity by game at each location where any component of Class III gaming, including ticket sales, is conducted.

16.1.2 Daily cash transactions for each game at each location at which any component of Class III gaming is conducted, including but not limited to transactions relating to each gaming table bank, game drop box and gaming room bank.

16.1.3 For electronic games of chance, analytic reports that, by each machine, compare actual hold percentages to theoretical hold percentages.

16.1.4 Contracts, correspondence and other transaction documents relating to all vendors and contractors.

16.1.5 Records of all tribal enforcement activities relating to gaming operated under the Tribal-State Compact and other tribal laws.

16.1.6 All audits prepared by or on behalf of the Tribe.

16.1.7 Personnel information on all Class III gaming employees or agents, including complete sets of each employee's fingerprints, employee photographs, and employee profiles and background investigations, except that employee work schedules shall be maintained for a period of at least two (2) years. This provisions shall not include personnel records of tribal members as to matters that are not related to gaming.

16.1.8 Records of background investigations and determinations for licensing.

16.1.9 The Tribal Gaming Commission shall also be responsible for all the above information pertaining to Class II Gaming owned or operated by the Tribe.

16.2 Management Contracts. Each management contract shall fully comply with applicable federal regulations and is subject to the prior approval of the NIGC.

Before submission to the NIGC, each management contract shall be approved by the Tribal Council with the advice and comment of the Tribal Gaming Commission. Before giving final consideration to any proposed management contract, the Tribal Council shall direct the Tribal Gaming Commission to conduct a complete background investigation of persons and entities with a financial interest in, or having management responsibility for, the management contract, including requiring the submission of all information required under 25 CFR Section 537.1, as amended, incorporated herein by this reference.

16.2.1 Background information on the proposed management contractor including: its name; address; the names and addresses of each person or entity having a direct financial interest or management responsibility for the proposed management contractor; and in case of a corporation, the names and addresses of each member of its

board of directors and all stockholders who hold directly or indirectly ten (10%) percent or more of its issued or outstanding stock.

16.2.2 A description of any previous experience that each person listed in subsection 16.2.1 above has had with other gaming contracts with Indian tribes or with any gaming activity or operation wherever located, including the name and address of any tribal government or licensing agency with which such person has applied, or held a contract, license, or other agreement or permit relating to gaming, whether granted or not.

16.2.3 A complete financial statement of each person listed in subsection 16.2.1 for the past three (3) years.

16.2.4 The Tribal Gaming Commission shall contact each of the tribal governments and licensing agencies in subsection 16.2.2 to determine the performance history of the proposed management contractor.

16.2.5 The Tribal Gaming Commission shall arrange to have each proposed management contractor investigated to learn of his or her personal attributes and to determine whether he or she has a prior criminal record or any pending criminal charges.

16.2.6 The Tribal Gaming Commission shall obtain an independent verification of the completed financial statements of the proposed management contractor.

16.2.7 The Tribal Gaming Commission shall undertake any additional steps it can to determine the character and reputation of the proposed management contractor and each person listed in subsection 16.2.1.

16.2.8 If the Tribal Council, after reviewing the information described above, still desires to enter into a management contract with the proposed management contractor, such management contract shall be made in writing and submitted to the Tribe's attorney(s) for review.

16.2.9 Any management contract approved by the Tribal Council must include at a minimum, with respect to the gaming activity to which the contract is applicable, all of the required provisions contained in 25 CFR Section 531.1, as amended, incorporated herein by this reference.

16.2.10 All persons who possess an ownership or management position in the proposed management contract shall apply for a gaming employee license under this Ordinance. No management contract shall be approved by the Tribal Council until all gaming employee license applications have been reviewed and the Tribal Gaming Commission has submitted written findings on such application(s) to the Tribal Council.

16.2.11 If the Council is satisfied with the information it receives it shall submit the proposed contract along with all of the above described information to the Chairman of the NIGC for approval.

16.3 Each tribally owned or tribally operated gaming facility shall carry sufficient liability insurance to protect the public in the event of an accident, and in any event, such coverage must meet the level required by the Tribal-State Compact.

SECTION 17. CONFLICT OF INTEREST

17.1 No person employed by the gaming enterprise may have a direct or indirect interest in any gaming-related contract with the Tribe, nor may they be employed by any person who has a gaming-related contract with the Tribe.

Definition. A direct or indirect interest is one in which the employee has an economic interest or receives personal gain from the transaction in question.

17.2 An employee of the gaming enterprise may have an interest in a nongaming-related contract with the Tribe or with the gaming enterprise if such employee makes a full disclosure to the Tribal Gaming Commission prior to such contract and the Gaming Commission finds that the contract is not unfair to the gaming enterprise and is satisfied that the contract is nongaming-related. This clause seeks to avoid the appearance of a conflict of interest while not altering the original conflict of interest prohibition contained in the Tribal-State Compact.

SECTION 18. CONDUCT OF GAMES

18.1 The conduct of Class III games shall be as provided for in Section V of the Tribal-State Compact.

18.2 Electronic Games of Chance shall be governed by Section XV of the Tribal-State Compact and Blackjack shall be governed by Section XVI of the Tribal-State Compact.

18.3 The premises where any gaming is conducted shall at all times be open to inspection by the Stockbridge-Munsee Tribal Council and the Tribal Gaming Commission, and such other inspections as may be required by federal regulations or the Tribal-State Compact.

18.4 Gaming may be conducted each and every day of the week at any hour of the day or night, at the discretion of the Tribal Gaming Commission and the General Casino Manager, EXCEPT that Blackjack, according the Tribal-State Compact, shall not be played at any location for more than eighteen (18) hours in any day.

18.5 The Tribal Council shall retain the sole authority to set limits on gaming.

18.6 All employees who are working at a tribal gaming enterprise shall be clearly

identified with legible tags evidencing their names and shall be licensed pursuant to federal and tribal regulations.

SECTION 19. SALE OF ALCOHOL

19.1 The sale of alcohol shall be governed by the Stockbridge-Munsee Liquor Ordinance and Section V.F. of the Tribal-State Compact.

SECTION 20. JURISDICTION AND ENFORCEMENT

20.1 **Jurisdiction.** Except as provided in this Ordinance or in any Tribal-State Compact under the IGRA, the Tribal Court shall have jurisdiction over all violations of this Ordinance. Until such time as the Tribal Court is functioning, the Tribal Council shall act in its stead under this Ordinance.

20.2 **Prohibited Acts.** In addition to other civil and criminal offenses provided for in this Ordinance or under other applicable law, the following acts are prohibited and subject any violator to the civil or criminal penalties specified herein:

20.2.1 Knowingly making a false statement in an application for employment with any gaming operator or with the Tribal Commission.

20.2.2 Knowingly making a false statement in connection with any contract to participate in any gaming activity.

20.2.3 Bribing or attempting to bribe any person participating in any gaming activity or in the Tribal Government.

20.2.4 Offering or accepting a loan, financing or other thing of value between a Tribal Commission member or tribal gaming employee or tribal government official and any person participating in any gaming activity, excluding the tribal loan program.

20.2.5 Failing to keep sufficient books and records to substantiate receipts, disbursements and expenses incurred or paid from any gaming activity authorized pursuant to this Ordinance.

20.2.6 Falsifying any books or records that relate to any transaction connected with any gaming activity pursuant to this Ordinance.

20.2.7 Conducting or participating in any gaming activity that in any manner results in cheating or misrepresentation or that allows any other disreputable tactics that detract from the fair nature and equal chance of participation between gaming players, or that otherwise creates an advantage over and above the chance of such gaming activity

and that affects its outcome.

20.2.8 To conduct a gaming activity with or to allow participation in a gaming activity by an intoxicated or disorderly player.

20.2.9 To allow or participate in the sale of liquor at gaming sites if such sale is prohibited by tribal law; to allow the sale of alcohol to anyone below the age of twenty-one (21), or below the age permitted under Wisconsin State law.

20.2.10 To accept consideration other than money, personal checks or other approved consideration for the chance to play or participate in any gaming activity.

20.2.11 To solicit, directly or indirectly, or to use inside information on the nature or status of any gaming activity for the benefit of any person.

20.2.12 To tamper with a gaming device or conspire to tamper or manipulate the outcome or the payoff of a gaming device, or otherwise interfere with the proper functioning of the machine.

20.2.13 To alter or counterfeit a gaming license.

20.2.14 To aid, abet or conspire with another person knowingly, or knowingly to cause any person to violate any provision of this Ordinance or any rules and regulations adopted hereunder.

20.2.15 To operate, use or make available to the public any illegal gaming device, apparatus, material or equipment.

20.2.16 To sell or hold out for sale or transport into or out of the jurisdiction of the Tribe any illegal gaming device, apparatus, material or equipment.

20.2.17 To assist or allow a person who is under age to participate in any gaming activity.

20.2.18 To possess any illegal narcotics or controlled substances on any licensed gaming site.

20.2.19 To steal or attempt to steal funds or other items of value from any gaming facility or from the Tribal Gaming Commission.

20.2.20 No gaming operator shall knowingly employ any person who has been convicted of or entered a plea of guilty or no contest to a crime of theft, embezzlement, fraud or other gaming crime, unless that person is eligible for and has received an official

waiver from the Tribal Council.

20.2.21 To conspire with or induce any person to violate any of the provisions of this Ordinance or any tribal, federal or applicable state law.

20.2.22 No gaming operator or any of his or her employees or agents shall engage in any act, practice, or course of operation that could result in a fraud or deceit upon any person.

20.2.23 To use bogus or counterfeit chips, or to substitute or use any game, cards, or gaming equipment that have been marked or otherwise altered.

20.2.24 To bring onto tribal lands, to employ or have on tribal property any device to facilitate cheating in any game of chance.

20.2.25 To knowingly use any fraudulent scheme or technique, or to solicit, provide or receive inside information about any gaming activity with the intent of benefiting any person.

20.2.26 To take, solicit or encourage any action that undermines the integrity of any game of chance.

20.3 Civil Violation. Any person who violates any provision of the Ordinance or any rule or regulation authorized hereunder, or fails or neglects to comply with any order of the Tribal Gaming Commission, shall be liable for civil fine not to exceed five thousand dollars (\$5,000). Each day during which such violation or failure to comply continues shall constitute a separate violation of this Ordinance.

20.3.1 Any person who violates any provision of this Ordinance or any rule or regulation authorized hereunder shall be subject to the Indian Gaming Regulatory Act, 27 U.S.C. 2713, which states that civil penalties for such violations of tribal law or the federal act may result in fines not to exceed twenty-five thousand (\$25,000) against a tribal operator or management contractor.

20.4 Cumulative Fines. All civil fines accruing under this Ordinance shall be cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, judgment, penalty, forfeiture or damages, nor bar the power of the Tribal Court (or the Tribal Council) to punish for contempt, nor bar any criminal prosecution.

20.5 Purpose of Civil Penalties. The civil fines imposed under this Ordinance are intended to be remedial and not punitive and are designed to compensate the Tribe for the damage done to the peace, security, economy and general welfare of the Tribe and the tribal community and to compensate the Tribe for costs incurred by the Tribe in enforcing this Ordinance. The civil

finer under this Ordinance are also intended to coerce persons into complying with this Ordinance and the Tribal Gaming Commission regulations and not to punish such persons for violation of such laws and regulations.

20.6 Civil Action for Penalties. In enforcing the civil infraction provisions of this Ordinance, the Tribal Gaming Commission shall proceed, in the name of the Tribe, by civil complaint pursuant to the provisions of this Ordinance. The Tribal Gaming Commission in such action shall have the burden of showing, by the preponderance of the evidence, that such person violated the applicable provision of this Ordinance.

20.7 Seizure and Forfeiture of Property. All property utilized in violation of this Ordinance shall be subject to seizure and forfeiture by order of the Tribal Court, or Tribal Council, pursuant to tribal law.

20.8 Reporting of Offenders. Upon final order of the Tribal Court in any action for civil violation under this Ordinance, the Clerk of the Tribal Court shall notify the Tribal Gaming Commission in writing of the final court disposition.

In the event that the tribal court is not functioning, the Tribal Council Secretary shall inform the Tribal Gaming Commission, in writing, of a final determination on any action for civil violation under this Ordinance.

20.9 Criminal Violations. State criminal law shall apply as mandated under P.L. 280 and as specifically addressed in the Tribal-State Compact. In those areas where the state has no criminal statutes to cover the criminal violation that occurs on tribal property, pertaining to a gaming-related incident, the Tribe and the state shall work together to devise a means of enforcement against the specific violation.

Where cooperation is not forthcoming from the state, the Tribal Gaming Commission shall seek assistance from Federal agents for enforcing tribal gaming laws.

SECTION 21. SEVERABILITY

In the event that any section or provision of this Ordinance is held invalid, it is the intent of the Tribal Council that the remaining sections or provisions of this Ordinance shall continue in full force and effect.

Legislative History

1. November 3, 1993 amendments amend Gaming Ordinance Section 5, to incorporate Bingo and Gaming Boards into one entity "Gaming Board."
2. March 19, 1993 - Ordinance revised in its entirety. Approved by Tribal Council 6/1/93.
3. July 27, 1993 - Ordinance combined both Class II and Class III gaming, approved by Tribal Council 8/19/93. Approved by National Indian Gaming Commission and published in the Federal Register December 14, 1993.
4. March 21, 1995 - Ordinance revised in its entirety, creating a Gaming Commission instead of a Gaming Board to regulate the tribal gaming enterprise(s).
5. May 24, 1995 - Council adopted resolution 1498-95 approving revisions to Gaming Ordinance.
6. _____ NIGC approval of revisions.