

NATIONAL  
INDIAN  
GAMING  
COMMISSION

OCT 22 1993

Theodore Smith, Sr.  
Chairman  
Yavapai-Apache Nation  
P.O. Box 1188  
Camp Verde, Arizona 86322

Dear Chairman Smith:

This letter responds to your request to review and approve the tribal gaming ordinance submitted on July 7, 1993, and amended by resolution on October 8, 1993, for the Yavapai-Apache Nation. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

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

With the Chairman's approval of the Yavapai-Apache Nation's gaming ordinance, the Nation is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Yavapai-Apache Nation for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

**Anthony J. Hope**

Anthony J. Hope  
Chairman

cc: Susan Williams, Esq.  
James Cooney, Esq.

**RESOLUTION NO. 93- 35**  
**OF THE GOVERNING BODY OF THE**  
**YAVAPAI-APACHE NATION**

**WHEREAS** the Yavapai-Apache Nation is a tribal organization as defined under the Indian Reorganization Act of June 18, 1934 as amended, and a sovereign Indian tribal government, recognized as such by the Secretary of the Interior of the United States of America (the "Secretary") and having a Constitution approved by the Secretary; and

**WHEREAS**, pursuant to the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. §§ 2701 et seq., the Nation has entered into a Gaming Compact ("Compact") with the State of Arizona, which Compact defines the respective obligations and responsibilities of the Nation and the state with respect to Class III gaming activity on the Reservation; and

**WHEREAS** the IGRA and Compact require the Nation to enact a gaming ordinance to regulate the gaming activity on the Reservation and to ensure that such activity complies with all applicable laws; and

**WHEREAS** the Tribal Council has reviewed the attached Gaming Ordinance of the Yavapai-Apache Nation ("Gaming Ordinance") and finds that it is equitable and comprehensive and that it complies with all applicable laws;

**NOW, THEREFORE, BE IT RESOLVED** that the attached Gaming Ordinance is hereby approved and adopted as the law of the Nation, and that its provisions go into effect as soon as the Gaming Ordinance is approved by the National Indian Gaming Commission.

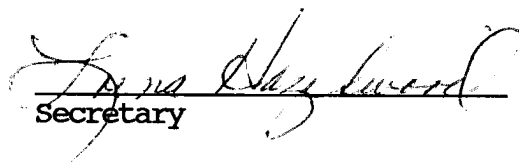
**CERTIFICATION**

I, the undersigned, hereby certify that at a duly called meeting of the Yavapai-Apache Tribal Council on July 26, 1993, the Tribal Council voted to adopt this Resolution by an affirmative vote of a quorum of Tribal Council Members.



\_\_\_\_\_  
Theodore Smith, Sr., Chairman  
Yavapai-Apache Nation

**ATTEST:**

  
\_\_\_\_\_  
Secretary

RESOLUTION NO. 44-93  
OF THE GOVERNING BODY OF THE  
YAVAPAI-APACHE NATION

WHEREAS, the Tribal Council has reviewed and approved a Gaming Ordinance of the Yavapai-Apache Nation ("Gaming Ordinance") and sent it to the National Indian Gaming Commission ("NIGC") for approval; and

WHEREAS, the NIGC has informed the Nation that, if the Gaming Ordinance is revised in certain respects the NIGC will approve it; and

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council hereby approves the following amendments to the Gaming Ordinance and that, as of this day, Sections 2(L), 2(Z), and 5(B) of the Gaming Ordinance are hereby amended to read as follows:

Section 2(L)

L. "Gaming Device" means

(1) any so-called "slot machine" or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and (A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(2) any other machine or mechanical device (including but not limited to roulette wheels and similar devices) designed and manufactured primarily for use in connection with gambling, and (A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(3) any subassembly or essential part intended to be used in connection with any such machine or mechanical device, but which is not attached to any such machine or mechanical device as a constituent part.

Section 2(Z)

Z. "Net Revenues" means the gross receipts less (a) amounts paid out as, or paid for, prizes, and (b) total gaming related operating expenses, excluding management fees.

Section 5(B)

B. Ownership of Gaming Enterprise The Yavapai-Apache Nation acting through the Tribal Council and any enterprise wholly owned by the Nation, shall have the sole proprietary interest in and responsibility for the operation and conduct of any Gaming Activity conducted on the Reservation.

BE IT FURTHER RESOLVED that the Gaming Ordinance be revised and restated in accordance with this Resolution, and that the revised and restated Gaming Ordinance be resubmitted to the NIGC for final approval.

CERTIFICATION

I, the undersigned, hereby certify that at a duly called meeting of the Yavapai-Apache Tribal Council, on October 8, 1993, the Tribal Council voted

to adopt this Resolution with an affirmative vote of a quorum of Tribal Council members.

Theodore Smith Sr  
Theodore Smith, Sr., Chairman

ATTEST:

Karla Reimer  
Karla Reimer, Tribal Secretary

**GAMING ORDINANCE OF THE YAVAPAI-APACHE NATION**

Gaming Ordinance No. 12

**BE IT ENACTED BY THE COUNCIL OF THE YAVAPAI-APACHE NATION:**

A Gaming Ordinance to Govern, Regulate, and Control Gaming Activities conducted within the jurisdiction of the Yavapai-Apache Nation.

**Section 1. Name.**

The name of this Gaming Ordinance shall be the Gaming Ordinance of the Yavapai-Apache Nation.

**Section 2. Definitions.**

The following words shall have the following meanings under this Gaming Ordinance, unless the context otherwise requires:

A. "Applicant" means any person who has applied for a license from the Commission or certification from the State Gaming Agency under this Gaming Ordinance and the Compact;

B. "Bingo Game" means the Gaming Activity commonly known as "bingo" (whether or not electronic, computer, or other technologic aids are used in connection therewith) which is played for prizes, including monetary prizes, with cards bearing numbers and other designations in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and 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 the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo;

C. "Chairman" means the Chairman of the Yavapai-Apache Nation;

D. "Class I Gaming" means all forms of gaming defined as Class I in Section 4(6) of the Indian Gaming Regulatory Act;

E. "Class II Gaming" means all forms of gaming defined as Class II in Section 4(7) of the Indian Gaming Regulatory Act, 25 U.S.C. § 2703(7);

F. "Class III Gaming" means all forms of gaming as defined in Section 4(8) of the Indian Gaming Regulatory Act, 25 U.S.C. § 2703(8);

G. "Commission" means the Yavapai-Apache Nation Gaming Commission established by this Gaming Ordinance;

H. "Compact" means the Gaming Compact between the Yavapai-Apache Nation and the State of Arizona;

I. "Enrolled Tribal Member" means an enrolled member of the Yavapai-Apache Nation whose name appears in the tribal membership roll and who meets the written criteria for membership;

J. "Equipment" includes, with respect to Bingo Games, the receptacle and numbered objects drawn from it; the master board upon which such objects are placed as drawn; the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them; the board or signs, however operated, used to announce or display the numbers or designations as they are drawn; the public address system; and all other articles essential to the operation, conduct, and playing of Bingo Games;

K. "Gaming Activity" or "Gaming Activities" means all forms of Class II and Class III gaming owned and operated by the Nation and conducted within the territorial jurisdiction of the Nation;

L. "Gaming Device" means a microprocessor-controlled electronic device which allows a player to play a Gaming Activity, some of which are affected by skill, which device is activated by the insertion of a coin, currency, tokens or by the use of a credit, and which awards game credits, cash, tokens, replays or a receipt that can be redeemed by the player for any of the foregoing. Game play may be displayed by:

- (1) Video facsimile; or
- (2) Mechanical rotating reels whereby the software of the device predetermines the stop positions and the presence, or lack thereof, of winning combination and pay out, if any;

M. "Gaming Employee" means a Primary Management Official or Key Employee of a Gaming Operation of the Nation and any other Person employed in the operation or management of a Gaming Operation, including but not limited to any Person whose employment duties require or authorize access to restricted areas of a Gaming Facility not otherwise open to the public;

N. "Gaming Facility" means the buildings or structures in which Class III Gaming is conducted;

O. "Gaming Facility Operator" means the Nation, an enterprise owned by the Nation, or such other entity of the Nation as the Nation may from time to time designate by written notice to the State of Arizona under the Compact as the wholly-owned tribal entity having full authority and responsibility for the operation and management of Class III Gaming activities;

P. "Gaming Operation" means any Gaming Activity conducted within any Gaming Facilities;

Q. "Gaming Ordinance" means this Gaming Ordinance of the Yavapai-Apache Nation and any rules or regulations promulgated hereunder;

R. "Gaming Services" means the providing of any goods or services except for legal services, to the Nation in connection with the operation of Class III Gaming in a Gaming Facility, including but not limited to equipment, transportation, food, linens, janitorial supplies, maintenance, or security services for the Gaming Facility, in an amount in excess of \$10,000 in any single month;

S. "Gross receipts" means receipts from the sale of shares, tickets, or rights in any manner connected with participation or the right to participate in Class II or Class III Gaming, including but not limited to any admission fee or charge, the sale of merchandise, refreshments, souvenirs, services, equipment, or supplies, interest earned on deposits, and all other miscellaneous receipts;

T. "Key employee" means:

(a) a Gaming Employee who performs one or more of the following functions:

- (1) Bingo caller;
- (2) Counting room supervisor;
- (3) Chief of security;
- (4) Custodian of gaming supplies or cash;
- (5) Floor manager;
- (6) Pit boss;
- (7) Dealer;



(8) Croupier;

(9) Approver of credit; or

(10) Custodian of Gaming Devices including Persons with access to cash and accounting records within such devices;

(b) If not otherwise included, any other Person whose total cash compensation is in excess of \$50,000 per year; or

(c) If not otherwise included, the four most highly compensated Persons in the Gaming Operation;

U. "License" means an approval issued by the Tribal Gaming Commission to any Person involved in the Gaming Operation or in providing Gaming Services to the Nation;

V. "Licensee" means any Person who has been licensed by the Commission to be involved in the Gaming Operation or in the provision of Gaming Services to the Nation;

W. "Management Contract" means a contract within the meaning of 25 U.S.C. §§ 2710(d)(9) and 2711;

X. "Management Contractor" means a Person that has entered into a Management Contract with the Nation or been hired pursuant to Section 7 of this Gaming Ordinance;

Y. "National Indian Gaming Commission" means the National Indian Gaming Commission established by the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-21, 18 U.S.C. §§ 1166-68;

Z. "Net revenues" means the gross receipts less the operating expenses, which expenses include but are not limited to wages, management fees, prizes, utilities costs, insurance costs, advertising costs, repair costs, maintenance costs, costs of supplies, security services costs,

janitorial services costs, trash removal costs, taxes, rent, lawyers' and accountants' fees, repayment of capital contributions, and such other deductions or charges as may be specifically authorized hereunder;

AA. "Occasion" means a gathering at which a Gaming Activity is conducted;

AB. "Person" means a natural person, trust, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other legal entity whatsoever;

AC. "Premises" means any room, hall, building, enclosure, or outdoor or other area used for the purpose of conducting a Gaming Activity;

AD. "Primary Management Official" means:

(1) The Person having management responsibility under a management contract;

(2) Any Person who has authority:

(a) to hire and fire employees; or

(b) to set up working policy for a Gaming Operation; or

(3) The chief financial officer or other Person who has financial management responsibility;

AE. "Principal" means with respect to any Person:

(1) Each of its officers and directors;

(2) Each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer or general management;

(3) Each of its owners or partners, if an unincorporated business;

(4) Each of its shareholders who own more than ten (10) percent of the shares of the corporation, if a corporation;

(5) Each person other than a banking institution who has provided financing for the entity constituting more than ten (10) percent of the total financing of the entity; and

(6) Each of the beneficiaries or trustees of a trust;

AF. "Reservation" means the Yavapai-Apache Nation Reservation and any lands the title to which is held in trust by the United States for the benefit of the Yavapai-Apache Nation or a member thereof or held by the Yavapai-Apache Nation subject to a restriction by the United States against alienation, and over which lands the Yavapai-Apache Nation exercises governmental power;

AG. "State" means the State of Arizona;

AH. "State Gaming Agency" means the agency of the state which the Governor may from time to time designate by written notice to the Nation as the single state agency authorized to act on behalf of the state under the Compact;

AI. "Tribal Council" means the Tribal Council of the Yavapai-Apache Nation, the governing body of the Nation; and

AJ. "Tribal Court" means the judiciary of the Yavapai-Apache Nation.

### Section 3. Purposes.

The purposes of this Gaming Ordinance are to make lawful and to regulate the operation and conduct of Gaming Activities on the Reservation

so that revenue may be produced to fund tribal governmental operations and programs which promote the health, education, and welfare of the Nation and its members and which promote tribal economic development.

**Section 4. Interpretation.**

This Gaming Ordinance is an exercise of the sovereign power of the Nation and shall be liberally construed for the accomplishment of its purposes and to comply with the Indian Gaming Regulatory Act.

**Section 5. Gaming Policy.**

A. Gaming Activity Prohibited. No Person may operate or conduct any Gaming Activity within the boundaries of the Reservation except in accordance with the provisions of this Gaming Ordinance and the applicable provisions of the Compact.

B. Ownership of Gaming Enterprise. The Yavapai-Apache Nation, acting through the Tribal Council, an enterprise owned by the Nation, or such other entity designated by the Nation pursuant to the Compact, shall have the sole proprietary interest in and responsibility for the operation and conduct of any Gaming Activity conducted on the Reservation.

C. Protection of Environment; Public Health and Safety. The construction and maintenance of any Gaming Facility, and the conduct of any Gaming Activity, shall be done in a manner that adequately protects the environment and the public health and safety.

**Section 6. Yavapai-Apache Nation Gaming Commission.**

A. Establishment of Commission. There hereby is established the Yavapai-Apache Nation Gaming Commission for the purposes of regulating

all Gaming Activity within the Reservation and enforcing this Gaming Ordinance.

B. Powers and Duties. The Commission shall have the following powers and duties:

1. To permit or refuse to permit the operation or conduct of any Gaming Activities within the exterior boundaries of the Reservation, and to specify the conditions for the operation and conduct of such Gaming Activities within the exterior boundaries of the Reservation, including hours of operation and compliance with all applicable liquor laws;

2. To grant, suspend, or revoke licenses in accordance with this Gaming Ordinance and the Compact;

3. To monitor and oversee the operation and conduct of all Gaming Activity within the exterior boundaries of the Reservation on a continuing basis, including but not limited to ongoing monitoring and oversight of Licensees engaged in the operation and conduct of such games;

4. To inspect and examine all premises within the Reservation at which a Gaming Activity is conducted;

5. To conduct or cause to be conducted background investigations of Persons involved, directly or indirectly, in the operation or conduct of Gaming Activities within the Reservation;

6. To inspect, examine, photocopy, and audit all papers, books, and records respecting gross receipts of Gaming Activities operated or conducted within the Reservation and any other matters necessary to carry out the duties of the Commission under this Gaming Ordinance and the Compact;

7. To bring suits in the Tribal Court seeking temporary and permanent orders closing a Gaming Activity in accordance with this Gaming Ordinance and the Compact;

8. To enter into contracts with tribal, federal, state, and private entities for activities necessary to the discharge of the duties of the Commission under this Gaming Ordinance and the Compact and to contract with the National Indian Gaming Commission for the enforcement of federal regulations governing gaming on Indian reservations;

9. Subject to the approval of the Tribal Council, to adopt the budget of the Commission annually;

10. Subject to the approval of the Tribal Council, to establish fees for applications for licenses and renewals thereof and fees for Licensees based on a percentage of the gross receipts of Gaming Activities operated or conducted by such Licensees;

11. To require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under consideration or investigation by the Commission, and to bring actions in the Tribal Court for the enforcement of such subpoenas;

12. To administer oaths and affirmations to witnesses appearing before the Commission;

13. To hear appeals in accordance with this Gaming Ordinance;

14. To keep minutes, records, and books in which shall be kept a true, faithful, and correct record of all proceedings of the Commission;

15. To hire and/or designate an Executive Director and such other employees as may be necessary to discharge the Commission's duties under this Gaming Ordinance and the Compact;

16. To promulgate rules and regulations as it deems appropriate to implement the provisions of this Gaming Ordinance and the Compact;

17. To require the Gaming Facility Operator to have the responsibility for on-site operation, management, and security and to adopt reasonable procedures designed to provide for the physical safety of Gaming Employees, patrons in the Gaming Facility, assets transported to, from, and within the Gaming Facility, and the property of the patrons and Gaming Facility Operator;

18. To recommend amendments to this Gaming Ordinance to the Tribal Council;

19. To submit an annual report to the Tribal Council on the activities of the Commission, such report to include information on the funding, income, and expenses of the Commission; and

20. To detain persons who may be involved in illegal acts for the purpose of notifying appropriate law enforcement authorities.

C. Composition; Staggered Terms. The Commission shall consist of five (5) Commissioners appointed by the Tribal Council. Each Commissioner shall serve for a term of five (5) years; provided that, in order to stagger the expiration of terms of office, the first Commissioner appointed shall serve a five-year term, the second Commissioner appointed shall serve a four-year term, and the third Commissioner appointed shall serve a three-year term, the fourth Commissioner appointed shall serve a

two-year term, and the fifth Commissioner appointed shall serve a one-year term. A Commissioner may serve after the expiration of his or her term of office until a successor has been appointed, unless such Commissioner has been removed for cause under Subsection E of this Section.

D. Qualification of Commissioners. At least three (3) Commissioners must be an enrolled member of the Nation. No Person shall be eligible or qualified to serve or continue to serve as a Commissioner or as an appointee or employee of the Commission, who:

1. Has been convicted of a felony or gaming offense;
2. Has any financial interest in, or management responsibility for, any gaming activity;
3. Has any financial interest in, or management responsibility for, any gaming management contract submitted to the Commission for review or approval; and/or
4. Is a Gaming Employee or other employee of a Gaming Facility Operator.

E. Removal of Commissioners. A Commissioner may be involuntarily removed from office before the expiration of his or her term in accordance with the following procedures:

1. Removal of a Commissioner may be initiated by a member or members of the Tribal Council providing the Secretary of the Tribal Council with a written request specifying the cause for removal, signed by not less than five (5) of the members of the Tribal Council;
2. The cause for removal shall be limited to:
  - (1) conviction in any court of a felony or crime involving moral turpitude;
  - (2) failure to meet or maintain the qualifications for Commissioners set



forth in Subsection D of this Section; (3) gross neglect of duty; (4) malfeasance in office; or (5) conduct which amounts to gross and intentional disregard of the laws and procedures applicable to the affairs of the Commission;

3. Not less than twenty (20) nor more than thirty (30) days following receipt of the written request for removal, the Tribal Council shall convene a special meeting for the sole purpose of voting on the removal of the Commissioner. Before any vote is taken, the Commissioner shall be given a full opportunity, either in person or through a representative of his or her choice, to answer or otherwise respond to any and all charges against him or her; and

4. To remove a Commissioner from office, the affirmative vote of no less than six (6) of the members of the Tribal Council is required.

F. Resignations and Vacancies. Any Commissioner may resign at any time by giving written notice of such to the Secretary of the Commission and to the Secretary of the Tribal Council. The resignation shall become effective at the time specified in such notice, and the acceptance of such resignation shall not be necessary to make it effective. Any vacancy on the Commission, howsoever caused, shall be filled for the unexpired portion of the vacated Commissioner's term by a qualified person appointed by the Tribal Council.

G. Selection of Officers. The Commission shall select annually by majority vote one (1) of its members to serve as Chairman, one (1) of its members to serve as Vice Chairman, and one (1) of its members to

serve as Secretary. The Vice Chairman shall serve as Chairman during meetings of the Commission at which the Chairman is absent.

H. Executive Director. The Commission shall hire and/or designate an Executive Director of the Commission who shall serve as the formal liaison to the person holding the similarly titled position with the State Gaming Agency and have overall responsibility for the administrative functions of the Commission.

I. Motions and Resolutions; Meetings; Quorum. The powers of the Commission are vested in the Commissioners. All official actions of the Commission shall be taken by motion or resolution approved by the affirmative vote of a majority of the Commission. The Commission shall meet at the call of the Chairman or a majority of the Commissioners. Three (3) members of the Commission shall comprise a quorum.

J. Cooperation With Law Enforcement Agencies. The Commission may cooperate with law enforcement officials of the State of Arizona, the Bureau of Indian Affairs, the Federal Bureau of Investigation, and other law enforcement agencies, when such cooperation is in the best interests of the Nation and will help to insure that fair, honest, and efficient Gaming Activities are conducted within the Reservation. The Commission shall notify the State Gaming Agency within forty-eight (48) hours of the time a violation or suspected violation of the Gaming Ordinance or Compact is reported to the Commission.

K. Compensation. Commissioners shall be reasonably compensated as determined by the Tribal Council and in accordance with the annual budget of the Commission.

**Section 7. License For Operating And Conducting Gaming Activity.**

A. License Required. The Gaming Facility Operator, including its Principals, Primary Management Officials, and Key Employees, Management Contractor, including its Principals, Manufacturer and Supplier of Gaming Devices, and each Person providing Gaming Services within or without a Gaming Facility shall apply for and receive a license from the Commission before their participation in any way in the operation or conduct of any Gaming Activities within the Reservation. A separate license shall be required for each location of a Gaming Facility.

B. License Application. Each Applicant for a license shall file with the Commission a written application in the form prescribed by the Commission, along with the Applicant's fingerprint card, current photograph, and the fee required by the State Gaming Agency and Commission.

1. The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an Applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a Gaming Operation. The information will be used by members and staff of the Yavapai-Apache Nation Gaming Commission and the National Indian Gaming Commission who have need for the information in the performance of their official duties. The information may be disclosed to appropriate federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when, pursuant to a requirement by a tribe or the National Indian Gaming Commission, the information is relevant to 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 with a tribal gaming enterprise.

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

2. Existing Key Employees and Primary Management Officials shall be notified in writing that they shall either:

(a) Complete a new application form that contains a Privacy Act notice; or

(b) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

3. The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an Applicant:

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. See 18 U.S.C. § 1001.

4. The Nation shall notify in writing existing Key Employees and Primary Management Officials that they shall either:

(a) Complete a new application form that contains a notice regarding false statements; or

(b) Sign a statement that contains the notice regarding false statements.

C. Background Investigations.

1. Upon receipt of a completed Application and required fee for licensing, the Commission shall conduct or cause to be conducted a

background investigation to ensure the Applicant is qualified for licensing.

2. The Commission shall request from each Applicant, and from each Principal, Primary Management Official and Key Employee of each Applicant, all of the following information:

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

(b) Currently and for the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers; provided that all Applicants who are a Primary Management Official, Key Employee, Management Contractor, Manufacturer and Supplier of Gaming Devices, and/or a Person providing Gaming Services, must provide such information currently and from the age of eighteen;

(c) 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 paragraph (1)(b) of this section;

(d) Current business and residence telephone numbers;

(e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses, and a description of any potential or actual conflict of interest between such businesses and Indian tribes;;

(f) A description of any existing and previous business relationships in the gaming industry, including ownership interests in those businesses;

(g) The name and address of any licensing or regulatory agency with which in the Person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the date of the charge, the name and address of the court involved, and the disposition, if any;

(i) For each misdemeanor for which there is an ongoing prosecution or conviction (excluding minor traffic violations), the charge, the date of the charge, the name and address of the court involved, and the disposition, if any;

(j) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is not otherwise listed pursuant to paragraph (2)(h) or (2)(i) of this section, the criminal charge, the date of the charge, the name and address of the court involved, and the disposition, if any;

(k) The name and address of any licensing or regulatory agency with which the Person has filed an application for an occupational license or permit, as an Applicant, Primary Management Official, or Key Employee, and whether or not such license or permit was granted;

(l) A current photograph;

(m) Any other information the Commission deems relevant;

(n) Fingerprints consistent with procedures adopted by the Nation according to 25 C.F.R. § 522.2(h); and

(o) The fee required by the State Gaming Agency and the Commission.

3. In conducting a background investigation, the Commission and its agents shall promise to keep confidential the identity of each Person interviewed in the course of the investigation.

D. Temporary License. Within twenty (20) days of the receipt of a completed Application for licensing, and upon request of an Applicant, the Commission may issue a temporary license to the Applicant unless the background investigation undertaken discloses that the Applicant has a criminal history, or unless other grounds sufficient to disqualify the Applicant are apparent on the face of the Application. The temporary license shall become void and be of no effect upon either (1) the issuance of the license; (2) the issuance of a notice of denial; or (3) ninety days after the Licensee has begun working.

E. Eligibility Determination.

1. The Commission shall review a Person's prior activities, criminal record, if any, and reputation, habits, and associations to make a finding concerning the eligibility of an Applicant, Key Employee or Primary Management Official of an Applicant, for employment or involvement in a Gaming Operation. Upon completion of the investigation, the Commission shall either issue a license or deny the

Application. If the Commission determines that employment or involvement of the Person or Applicant poses a threat to the public interest or to the effective regulation of a Gaming Activity, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming Activities, the Commission shall deny the Application. If the Commission denies the Application, the Commission shall forward to the State Gaming Agency, together with all documents relied on, a statement setting forth the grounds of denial.

2. Pursuant to the Compact, the State Gaming Agency also shall conduct a background investigation of all applicants and shall provide the Commission with a written recommendation as to whether the Commission should license the Applicant.

F. Additional Background Investigations. The Commission retains the right to conduct additional background investigations of any person required to be licensed at any time while the license is valid.

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

1. When a Key Employee or Primary Management Official begins work at a Gaming Operation authorized by this Gaming Ordinance, the Commission shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection E of this Section.

2. Pursuant to the Compact the State Gaming Agency also shall conduct a background investigation of all Applicants and shall



provide the Commission with a written recommendation as to whether the Commission should license the Applicant.

3. The Commission shall forward the report referred to in subsection H of this Section to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this Gaming Ordinance by the Chairman of the National Indian Gaming Commission.

4. The Gaming Operation shall not employ as a Key Employee or Primary Management Official a Person who does not have a License after ninety (90) days.

H. Report to the National Indian Gaming Commission.

1. Pursuant to the procedures set out in subsection (G) of this Section, the Commission 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:

(a) steps taken in conducting the background investigation;

(b) results obtained;

(c) conclusions reached; and

(d) the bases for those conclusions.

2. The Commission shall submit with the report a copy of the eligibility determination made under subsection (E) of this Section.

3. If a license is not issued to an Applicant the Commission:

(a) shall notify the National Indian Gaming Commission; and

(b) 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.

4. With respect to Key Employees and Primary Management Officials, the 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 no less than three (3) years from the date of termination of employment.

I. Granting a Gaming License.

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Commission that it has no objection to the issuance of a License pursuant to a license application filed by a Key Employee or a Primary Management Official for whom the Commission has provided an application and investigative report to the National Indian Gaming Commission, the Commission may issue a License to such Applicant.

2. The Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph I. 1. of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Commission with a statement itemizing objections to the issuance of a license to a Key Employee or to a Primary Management Official for whom the Commission has provided an application and investigative report to the National Indian Gaming Commission, the Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission and make a final decision whether to issue a License to such Applicant.

J. Duration and Renewal of Tribal Licenses.

Any tribal License shall be effective for one (1) year from the date of issuance; provided, that a licensed Gaming Employee or other Person that has applied for renewal may continue to be employed or engaged under the expired License until action is taken on the renewal application by the Commission. Applicants seeking renewal of a License shall provide the renewal fee and updated material as requested, on the appropriate renewal forms, but may not be required to resubmit historical data already available to the Commission. Additional background investigations shall not be required of Applicants for renewal unless new information concerning the Applicant's continuing eligibility for a license is discovered by either the Tribal Gaming Office or the State Gaming Agency.

K. Tribal Employment Standards. The issuance of a license by the Commission does not create or imply a right of employment or continued employment. The Gaming Facility Operator shall not employ, and if already

employed, shall terminate, a Gaming Employee if it is determined by the Commission that the Applicant:

1. has been convicted of any felony or gaming offense;
2. has knowingly and willfully provided materially important false statements or information or omitted materially important information on his or her employment Application for employment at the Gaming Facility or background questionnaire; or
3. is determined to be a person whose prior activities, criminal record if any, or reputation, habits, and 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 the carrying on of the business and financial arrangements incidental thereto.

L. Notification of Change of Principals. After an Applicant who is not a natural person is licensed by the Commission, such entity shall file a report of each change of its Principals with the Commission and the State Gaming Agency. Each new Principal shall file a complete application within (30) days after appointment or election. The Commission shall forward a copy of the application to the State Gaming Agency. The entity's License shall remain valid unless the Commission disapproves the change or denied the application. Pursuant to the Compact, the entity's certification also shall remain valid unless the State Gaming Agency disapproves the change or denies the Application.

**M. Grounds for Revocation, Suspension, or Denial of License.**

1. The Commission may revoke, suspend, or deny a License when an applicant or Licensee:

(a) if the Commission receives from the National Indian Gaming Commission reliable information indicating that a Key Employee or a Primary Management Official is not eligible for employment under subsection E above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation. After a revocation hearing, pursuant to subsection N of this section, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the National Indian Gaming Commission of its decision;

(b) has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of this Gaming Ordinance, the Compact, or any provision of any Commission rule, or when any such violation has occurred upon any premises occupied or operated by any such Person or over which he or she has substantial control;

(c) knowingly causes, aids, abets, or conspires with another to cause any Person or entity to violate any of the laws of the Nation, the rules of the Commission or State Gaming Agency, the provisions of this Gaming Ordinance, or the Compact;

(d) has obtained a tribal License or State certification by fraud, misrepresentation, concealment or through inadvertence or mistake;

(e) has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payment or reports to any tribal, state or United States governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of the Nation, or any state of the United States, or of any crime, whether a felony or misdemeanor, involving any gaming activity, physical harm to individuals, or moral turpitude;

(f) makes a misrepresentation of, or fails to disclose a material fact to the Commission or State Gaming Agency;

(g) fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this Section;

(h) is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under subsection (d) of this Section; provided, that at the request of any Applicant, the Commission may defer decision upon the Application during the pendency of such prosecution or appeal;

(i) has had a gaming license issued by any state or tribe in the United States revoked or denied;

(j) has demonstrated a willful disregard for compliance with gaming regulatory authority in any jurisdiction, including suspension, revocation, denial of an application or forfeiture of license;

(k) has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the applicable

criminal laws of any state or tribe if such pursuit creates probable cause to believe that the participation of such person in gaming or related activities would be detrimental to the proper operation of an authorized Gaming Activity on the Reservation;

(l) is a career offender or a member of a career offender organization or an associate of a career offender or career offender organization in such a manner which creates probable cause to believe that the association is of such a nature as to be detrimental to the proper operation of the authorized Gaming Activities on the Reservation. For the purposes of this paragraph, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purposes of economic gain using such methods as are deemed criminal violations of tribal law, federal law or the laws and the public policy of this State. For the purposes of the paragraph, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain. A career offender organization shall be defined as any group of persons who operate together as career offenders;

(m) is a person whose prior activities, criminal record, if any, reputation, habits and associations pose a threat to the public interest of the Nation to the effective regulation and control of Gaming Activities, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of Gaming Activities, or the carrying on of the business and financial arrangements incidental thereto;

(n) fails to keep sufficient books and records to substantiate the reports required by this Gaming Ordinance or falsifies any books and records related to any Gaming Activity; or

(o) fails to provide any information requested by the Commission within fourteen (14) days of the request for the information.

N. Notice, Suspension and Revocation of License.

1. Proceedings to suspend or revoke a License shall be initiated by the Commission by serving a complaint upon the Licensee. If, in the Commission's judgment, the public interest; the effective regulation and control of Gaming Activities; or the safe, fair, and honest conduct of Gaming Activities so require, the Commission may suspend a License immediately subject to the holding of a hearing as described herein. Such an immediate suspension shall take effect upon service of the complaint upon the Licensee.

2. Contents of Complaint; Service. The complaint shall set forth the violations of this Gaming Ordinance which the Commission has reasonable cause to believe the Licensee has committed. The Commission shall cause the complaint and notice of hearing to be served personally upon the Licensee or any agent of the Licensee, or to be sent by certified mail or overnight delivery to the Licensee at the address shown upon the License. The complaint shall notify the Licensee of the place and date of a hearing, such date to be not less than twenty (20) days after the Licensee receives a copy of the complaint.

3. Answer; Subpoenas. Upon receipt of a complaint and notice of hearing, the Licensee shall answer the complaint and shall inform



the Commission whether the Licensee desires to present evidence. At the request of the Licensee for good cause shown, or on its own motion, the Commission may issue subpoenas for the attendance of witnesses and for the production of papers, books, records, and documents.

4. Hearing; Written Decision. Without unreasonable delay, the Commission shall hear the matter and make a decision in writing, including findings of fact in support of its decision. The Commission shall issue its decision within thirty (30) days of the hearing. The Commission shall inform the Licensee in writing of its decision within seven (7) days of its decision and, in the event of a suspension or revocation of his or her License, of the effective date of the suspension or revocation.

5. Surrender of License. When the Commission suspends or revokes a License, the Licensee shall surrender the License to the Commission on or before the effective date of the suspension or revocation. No License shall be valid as of the effective date of the suspension or revocation, whether surrendered or not.

6. Additional Sanctions. Upon its determination to suspend or revoke a License, the Commission, in addition to any other penalties that may be imposed, may declare the Licensee ineligible to operate or conduct Gaming Activity, to participate, directly or indirectly, in the operation or conduct of Gaming Activity, or to apply for a License for a period not exceeding twenty-four (24) months. Such declaration of ineligibility may be extended to include any Primary Management Officials, Key Employees, Principals, owners, officers, or

directors of the Licensee, and any of its subsidiary organizations, parent organizations, or affiliates.

**Section 8. Appeal to Tribal Court.**

A. Except as otherwise provided in the Gaming Ordinance, any Licensee aggrieved by a decision or order of the Commission, within fifteen (15) days after issuance of the order or decision by the Commission, may appeal the decision or order in writing to the Tribal Court, and the Tribal Court shall have jurisdiction to consider and resolve such appeal. A copy of the appeal also must be sent simultaneously to the Executive Director.

B. In reaching its decision, the Tribal Court shall consider only such evidence relating to the order from which appeal is taken as appears in the records of the Commission and was available to the Commission at the time of its decision.

C. The Tribal Court may affirm, reverse, vacate, or modify a decision or order of the Commission; provided that the Tribal Court shall affirm the order of the Commission unless such decision or order is arbitrary, capricious, or otherwise in contravention of applicable law.

**Section 9. Financial Practices And Reporting.**

A. Monthly Reports. On or before the tenth day of each month, the Gaming Facility Operator and the Management Contractor, if any, shall file with the Commission a certified financial report for the preceding calendar month showing the amount of gross receipts derived from Gaming Activities, the operating expenses incurred or paid, the specific classifications of such expenses, the names and addresses of each Person to whom has been paid Six Hundred Dollars (\$600.00) or more in the aggregate and the purposes of such payments, and the net revenues derived

from Gaming Activities. It is the duty of the Gaming Facility Operator and the Management Contractor to maintain and keep such books and records as may be necessary to substantiate the particulars of each report. If the Gaming Facility Operator or the Management Contractor fails to file a report within the time allowed, or if a report is not properly certified or not fully, accurately, and truthfully completed, the License(s) of the Gaming Facility Operator and/or the Management Contractor may be suspended by the Commission until such time as the deficiency has been corrected.

B. Maintenance of Books and Records; Commission Access. Full and accurate books of account shall be kept on the Reservation at the places of business of the Gaming Facility Operator and the Management Contractor, showing the condition of the business and all transactions relating to Gaming Activities on the Reservation. The Commission and the Chairman of the Nation shall have access to such books of account and shall be entitled to examine them without notice at any time during ordinary business hours or during Gaming Activities either in Person or by an agent. All records of Gaming Activities in whatever medium shall be maintained for five (5) years.

C. Allowable Operating Expenses. No item of expense shall be incurred or paid in connection with operating or conducting any Gaming Activity except a bona fide expense in a reasonable amount. Expenses may be incurred only for the following purposes:

1. For the purchase of goods, wares, and merchandise furnished;
2. For services rendered by the Management Contractor (including repayment of development fees and construction costs, if any)

for maintenance or repairs of Gaming Devices and related equipment, and for operating or conducting a Gaming Activities;

3. For rent, janitorial, and security services;
4. For legal and accounting fees;
5. For taxes and license fees;
6. For utilities;
7. For insurance; and
8. For prizes for winners of Gaming Activity.

D. Deposit of Gross Receipts; Payment of Operating Expenses.

All gross receipts shall be deposited in a special account of the Gaming Facility Operator which shall contain only gross receipts. All operating expenses shall be withdrawn from such account by consecutively numbered checks duly signed by the Management Contractor or an official or officials thereof designated by the Management Contractor, and the Gaming Facility Operator or an official or officials thereof designated by the Gaming Facility Operator, payable to a specific Person or organization. No check shall be drawn to "cash" or a fictitious payee.

E. Annual Audit. The Gaming Facility Operator and the Management Contractor shall cause to be produced an annual outside independent certified audit of all Gaming Activities and shall deliver the same to the Tribal Council, the Commission, and the National Indian Gaming Commission in accordance with all applicable regulations.

F. Audit of Contracts. Any contract for supplies, services, or merchandise in an amount greater than \$25,000 per year, except contracts for professional legal or accounting services, which contract relates to gaming activities, shall be subject to annual outside independent

certified audits on the order of the Tribal Council or the Commission at the expense of the Gaming Facility Operator and/or the Management Contractor.

G. Disposition of Net Revenues. The net revenues derived from Gaming Activities shall be deposited into a separate fund of the Nation on a quarterly basis and shall not be used for purposes other than:

1. To fund Nation governmental operations and programs;
2. To provide for the general welfare of the Nation and its members; and
3. To promote tribal economic development.

H. Compliance with Internal Revenue Code. The Management Contractor shall maintain a permanent record containing the name and address of each player who receives a prize if and as required by and in accordance with the Internal Revenue Code.

#### **Section 10. Bingo And Class III Games.**

A. Bingo. The Commission may authorize the establishment and conduct of a bingo operation at designated locations on the Reservation, as well as any other Class II Gaming, such as pull-tabs, lotto, and tip jars.

B. Class III Games; Tribal-State Compact Required. Class III Gaming may be conducted or operated on the Reservation only in conformance with the Compact.

C. Enforcement Action by the Commission. The Commission may, based on reasonable grounds or on reliable complaint made, and after written notice giving the Gaming Facility Operator and the Management Contractor thirty (30) days to cure an alleged violation of this Gaming

Ordinance, the Compact, or rules of the Commission, seek such relief from the Tribal Court as is authorized in this Gaming Ordinance, against the Gaming Facility Operator, the Management Contractor, or their Principals, Primary Management Officials, Key Employees, or employees having duties to perform respecting the operation and conduct of Class II and/or class III Gaming, as may be necessary in the judgment of the Commission for the proper enforcement of this Gaming Ordinance.

D. Designation of Officer In Charge. The Management Contractor shall designate a Person to be the officer in charge of the Gaming Facility at all times. The officer in charge shall be primarily responsible for the operation and conduct of Class II or Class III Gaming in the Gaming Facility. The officer in charge must have obtained a license from the Commission at least ten (10) days prior to the occasion. The officer in charge shall supervise all Gaming Activities and shall be present on the premises continuously during the conduct of Gaming Activities and for a period of at least one (1) hour after the last Bingo Game or Class III Game of the occasion has been completed.

E. Premises Open to Commission. Premises where any Class II or Class III Gaming is being operated or conducted, or where it is intended that Class II or Class III Gaming will be operated or conducted, shall at all times be open to inspection by the Commission and its agents and employees.

F. Merchandise Prizes. When any merchandise is awarded as a prize in a Class II or Class III Gaming, the value of such merchandise shall be its current retail price. Merchandise awarded as a prize shall not be redeemable or convertible into cash, directly or indirectly.

G. Usual Prices. Equipment, prizes, and supplies for Gaming Activities shall not be purchased or sold at prices in excess of the usual price thereof.

H. Limits on Prizes. The size of the prizes offered or given in Class II or Class III Gaming or on any occasion shall be subject to such limits as may be established by regulations duly promulgated by the Commission or set in the Compact.

I. Employees; Prohibition Against Employees Playing. All Persons who operate or conduct, or assist in operating or conducting Class II or Class III Gaming shall be employees of the Gaming Facility Operator or the Management Contractor and shall wear legible tags evidencing their names and the legend of the Nation. No employee of the Gaming Facility Operator or the Management Contractor may play any Class II or Class III Gaming or win any prize or thing of value during his or her employment and for ninety (90) days after termination of such employment.

J. Qualification for Employment; Testing. Employees of the Gaming Facility Operator and the Management Contractor shall be of good moral character, shall not have been convicted of any felony or gaming offense, and, as a condition of their contract of employment, shall agree to any lawful means of testing for truthfulness, including but not limited to polygraph testing, at any time and without prior notice, concerning the handling, collection, and/or disbursement of gross receipts, and to any lawful drug testing. No Person shall be employed by the Gaming Facility Operator or the Management Contractor, whose prior activities, criminal record if any, reputation, habits, or associations pose a threat to the public interest or to the effective regulation and control of Gaming

Activities, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the operation or conduct of Gaming Activities or the carrying on of the business and financial arrangements incidental thereto.

K. Preference in Employment. Members of the Nation and their spouses and children shall receive preference in employment and advancement if they meet the qualifications for employment with the Gaming Facility Operator and/or the Management Contractor.

L. Personnel Policies. The Gaming Facility Operator and the Management Contractor shall adopt written personnel policies that shall be provided to each employee; these shall provide an informal grievance procedure and shall provide for an employee's right to receive a written statement of reasons for dismissal in the event such employee is dismissed.

M. Hiring and Training of Employees. The Gaming Facility Operator and the Management Contractor shall provide sufficient and timely training to all employees. The Gaming Facility Operator and Management Contractor shall train all employees who are Enrolled Tribal Members and their spouses and children pursuant to written training programs containing specified time lines to allow such employees to acquire the experience and skills necessary to become managers and supervisors in Gaming Activities.

N. Expenses of Training Employees. The expense of providing training to Enrolled Tribal Members, and to their spouses and children, shall be an operating expense of the Gaming Facility Operator and/or the Management Contractor.



**Section 11. Enforcement; Jurisdiction; Subpoenas.**

A. Civil Remedies. Except as otherwise provided in this Gaming Ordinance, any Person authorized to enforce this Gaming Ordinance, may bring a civil action in the Tribal Court against any Person who violates this Gaming Ordinance or engages in an activity or activities prohibited herein and recover monetary damages, attorney fees, injunctive relief, and/or any other relief that is just and equitable under the circumstances from the Tribal Court. The Tribal Court may order a Person who commits an intentional or wilful violation to pay punitive damages, which shall be assessed in an amount not to exceed three (3) times the actual damages, or one thousand dollars (\$1,000.00), whichever is greater. The Tribal Court may order a civil penalty not to exceed five thousand dollars (\$5,000.00) for each day that a violation occurs and for each separate violation. For good and sufficient cause found, the Tribal Court may exclude from the Reservation any Person who engages in an activity or activities in violation of this Gaming Ordinance to the extent such exclusion is not inconsistent with the laws of the Nation. Any Person who violates this Gaming Ordinance, or whose employees or agents in the course of their employment or agency violate this Gaming Ordinance, may have the right to engage in business on the Reservation suspended or terminated. Nothing in this Gaming Ordinance shall be construed to authorize or require the exercise of criminal jurisdiction over non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.

B. Tribal Court Jurisdiction. Except as otherwise provided in this Gaming Ordinance, the Tribal Court shall have exclusive

jurisdiction over all matters concerning the administration and enforcement of this Gaming Ordinance; provided, however, that nothing in this Gaming Ordinance is intended nor shall it be interpreted to preclude prosecution in federal court pursuant to the Indian Gaming Regulatory Act, as may be amended from time to time, or any regulations promulgated thereunder, or any other applicable federal or tribal law.

C. Enforcement of Commission Subpoenas. If a Person subpoenaed by the Commission to attend or to produce books, accounts, records, or other documents in any investigation or hearing conducted by the Commission fails to obey the command of the subpoena without reasonable cause, or if a Person in attendance at any hearing or investigation refuses without lawful cause to be examined, to answer a legal and pertinent question, or to exhibit any book, account, record, or other document when ordered to do so by the representative of the Commission conducting such investigation or hearing, the Commission may apply to the Tribal Court for an order returnable in not less than five (5) nor more than ten (10) days directing the Person to show cause why he or she should not comply with such subpoena or order. The Tribal Court may execute that authority necessary to enforce its and the Commission's orders consistent with applicable law. For purposes of this Gaming Ordinance, no Person shall be excused from testifying or producing any books, accounts, records, or other documents in any investigation or hearing on the ground that such testimony or documentary evidence may tend to incriminate him or her, if the Commission or the Tribal Court agree in writing that such Person shall not be prosecuted, punished, or subjected to any penalty or forfeiture resulting from such testimony or production, provided that no Person shall be exempt

from prosecution or punishment for any act of perjury committed by him or her under a grant of immunity under this Subsection.

**Section 12. Severability.** In the event that any provision in this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

**Section 13. Effective Date.**

This Gaming Ordinance shall be effective as of \_\_\_\_\_ July \_\_\_\_\_ 26th, 1993.

**CERTIFICATION**

I, the undersigned, duly elected Chairman of the Yavapai-Nation do hereby certify that the foregoing Gaming Ordinance was duly adopted by a quorum of 8 members of the Yavapai-Apache Tribal Council by a vote of 8 for and 0 against, with 0 abstaining, at a duly called meeting of the Tribal Council on the 26th day \_\_\_\_\_ July \_\_\_\_\_, 1993.

YAVAPAI-APACHE NATION

By Theodore Smith Sr  
Theodore Smith, Sr., Chairman

ATTEST:  
Lorna Hazelwood  
Secretary

**RESOLUTION NO. 93-35**  
**OF THE GOVERNING BODY OF THE**  
**YAVAPAI-APACHE NATION**

**WHEREAS** the Yavapai-Apache Nation is a tribal organization as defined under the Indian Reorganization Act of June 18, 1934 as amended, and a sovereign Indian tribal government, recognized as such by the Secretary of the Interior of the United States of America (the "Secretary") and having a Constitution approved by the Secretary; and

**WHEREAS**, pursuant to the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. §§ 2701 et seq., the Nation has entered into a Gaming Compact ("Compact") with the State of Arizona, which Compact defines the respective obligations and responsibilities of the Nation and the state with respect to Class III gaming activity on the Reservation; and

**WHEREAS** the IGRA and Compact require the Nation to enact a gaming ordinance to regulate the gaming activity on the Reservation and to ensure that such activity complies with all applicable laws; and

**WHEREAS** the Tribal Council has reviewed the attached Gaming Ordinance of the Yavapai-Apache Nation ("Gaming Ordinance") and finds that it is equitable and comprehensive and that it complies with all applicable laws;

**NOW, THEREFORE, BE IT RESOLVED** that the attached Gaming Ordinance is hereby approved and adopted as the law of the Nation, and that its provisions go into effect as soon as the Gaming Ordinance is approved by the National Indian Gaming Commission.

**CERTIFICATION**

I, the undersigned, hereby certify that at a duly called meeting of the Yavapai-Apache Tribal Council on July 26, 1993, the Tribal Council voted to adopt this Resolution by an affirmative vote of a quorum of Tribal Council Members.



\_\_\_\_\_  
Theodore Smith, Sr., Chairman  
Yavapai-Apache Nation

**ATTEST:**

  
\_\_\_\_\_  
Secretary