NATIONAL
INDIAN
GAMING
COMMISSION

JUN 4 1997

Rhonda R. Swaney
Chairwoman
Confederated Salish and Kootenai
Tribes of the Flathead Nation
P.O. Box 278
Pablo, MT 59855

Dear Chairwoman Swaney:

This letter responds to your request to the National Indian Gaming Commission (NIGC) for review and approval of your Tribal Gaming Ordinance, Ordinance #92(d), adopted on May 6, 1997, by the Confederated Salish and Kootenai Tribes of the Flathead Nation (Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the 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 Tribe's gaming ordinance, the Tribe 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).

1441 L STREET, N.W. 9TH FLOOR WASHINGTON, D.C. 20005 TEL.: 202-632-7003 FAX: 202-632-7066

Thank you for submitting the Tribal Gaming Ordinance of the Confederated Salish and Kootenai Tribes of the Flathead 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,

Tom Foley

Tom Foley
Vice Chairman

MAY - 9 1997

BE IT ENACTED BY THE COUNCIL OF THE
CONFEDERATED
SALISH AND KOOTENAI TRIBES
OF THE
FLATHEAD RESERVATION

TRIBAL GAMING ORDINANCE

ORDINANCE #92 (d)

TABLE OF CONTENTS

Definitions 1
Applicant 1
Application 1
Chairman 1
Class I Gaming 1
Class II Gaming 1
Class III Gaming 2
Commission 2
Commissioner 2
Compact 3
Council or Tribal Council 3
Executive Director 3
Fiscal Year 3
Gaming 3
Gaming Device 3
Gaming Device Supplier 2
Gaming Establishment 3
Gaming Operation 3
Gross Revenue 3
Key Employee 4
License 5
Licensee 5
Management Contract 5
Management Entity 5
Management Fee 6
Net Revenue 6
NIGC 6
Operating Expense 6
Ordinance 6
Patron 6
Person 6
Primary Management Officials 6
Reservation 6
Rules 7
Secretary 7
Traditional forms of Indian Gaming 7
Tribe and Tribal 7

Chapter I. Purpose, Public Policy, Applicability and Authorizations

1.01 Short Title 7
1.02 Purpose 7
1.03 Public Policy 7
1.04 Class I Gaming Authorized 8
1.05 Class II Gaming Authorized 8
1.06 Class III Gaming Authorized 8
1.07 Location of Gaming 8
1.08 Tribal Share of Revenue 8
1.09 Use of Gaming Revenue 8
1.10 Unauthorized Gaming 8
1.11 Conduct of Games 8
1.12 Applicability of Ordinance 9

Chapter II: Establishment, Administration and Powers of Commission

2.01 Establishment of Commission 9
2.02 Removal from Commission 9
2.03 Independence of Commission 9
2.04 Licensing of Commissioners 9
2.05 Restrictions on Commissioners 10
2.06 No Financial Interest in Gaming 10
2.07 Compensation of Commissioners 10
2.08 Commission Meetings 10
2.09 Commission Offices 11
2.10 Quorum 11
2.11 Organization of commission 11
2.12 Commission Record-keeping 11
2.13 Reports 12
2.14 Budget 12
2.15 Powers 13
2.16 Promulgation of Gaming Rules 15
2.17 Promulgation of Auditing and Internal Control Rules 15

Chapter III: Executive Director

3.01 Qualifications 15
3.02 Authority of Executive Director 16

3.03 Files and Records to be Maintained by the Executive Director

Confidentiality of Information 16
3.04 Removal of Executive Director from Office 17

Chapter IV: Class I Gaming

4.01 Class I Generally 17

Chapter V. Class II Gaming

5.01 Licensing and Regulation of Non-Tribal Gaming 18

Chapter VI. Licenses, Applications and License Procedures

6.01 Gaming License Required 19
6.02 Standard of License 20
6.03 Application for License 20
6.04 Required Application Forms 22
6.05 Fingerprint Cards Required 23
6.06 Withdrawal of Application 23
6.07 Continuing Duty to Provide Information 23
6.08 Term of License, Parameters of License, Fees 23
6.09 Conditions of License 24
6.10 Facility License 25
6.11 Certification of Gaming Devises 25
6.12 Provisional license 25
6.13 Provisions Employment Pending Issuance of License and During Temporary License Period 26
6.14 Assignment or Transfer 26

Chapter VII. Background Investigations and License Decisions

7.01 Required Background Investigations 26
7.02 Standards for Background Investigations 27
7.03 Information Required for Background Investigations 27
7.04 Completion of Investigations 28
7.05 Issuance of License 28
7.06 Denial of License Application 29
7.07 Cancellation of Suspension 29
7.08 Eligibility Determination and Procedures of Forwarding Applications and Reports for Key Employees and Primary Management Officials to National Indian Gaming Commission 30
7.09 Granting of Gaming License 31
7.10 License Revocation and Suspension Following Receipt of Information from NIGC 31

7.11 Show Cause Hearing for Manager and Primary Management Officials 32

Chapter VIII Rules of Procedure for Hearings

8.01 Scope of Rules of Procedures 32
8.02 Hearings 32
8.03 Notice of Hearing 33
8.04 Ex Parte Communications 33
8.05 Appearance through Counsel 34
8.06 Discovery Procedures for Enforcement Hearings 34
8.07 Confidential Materials 35
8.08 Subpoenas 36
8.09 Hearing Procedures 36
8.10 Evidence 37
8.11 Determinations by the Commission 38
8.12 Sanctions 39

Chapter IX. Appeals

9.01 Right of Appeal; Appeals Procedures 39
9.02 Sovereign Immunity of the Commission 40
9.03 Limited Waiver of Sovereign Immunity of the Commission 40

Chapter X. Auditing and Internal Controls

10.01 Minimum Procedures for Control of Internal Fiscal Affairs 40
10.02 Oversight of Internal Fiscal Affairs 41
10.03 Conduct of Audit 41
10.04 Prohibition Against Embezzlement 42
10.05 Non-Compliance 42

Chapter XI. Exclusion or Rejection of Individuals

11.01 Prohibition Against Certain Individuals 42
11.02 Right to Exclude or Remove 42

Chapter XII. Prohibited Acts

12.01 Prohibited Acts 43
12.02 Prohibition Against Electronic Aids 44

Chapter XIII. National Indian Gaming Commission and Compact

13.01 National Indian Gaming Commission - Regulations 45
13.02 National Indian Gaming Commission - Assessment 45
13.03 Compact with the State of Montana 45

Chapter XIV. General Requirements

14.01 Security and Surveillance 45
14.02 Compliance with Environmental and Other Laws 45
14.03 Amendments 45
14.04 Severability 46
14.05 Words and Terms 46
14.06 Repeal 46
14.07 Unclaimed Winnings 46
14.08 Patron Disputes 46
14.09 Patron Rights Regarding Disputes 47
14.10 Gaming Commission Action on Patron Disputes 47
14.11 Agent for Service of Process 47
14.12 Consent to Jurisdiction 47
14.13 Comity and Concurrent Jurisdiction 47
14.14 Other Powers of Commission 47
14.15 Enforcement Provisions 48

CONFEDERATED SALISH AND KOOTENAI TRIBES
TRIBAL GAMING ORDINANCE

Definitions

Definitions. Unless a different meaning is set forth below, the terms used in this Ordinance shall have the same meaning as defined in the Indian Gaming Regulatory Act, Public Law 100497, 102 Stat. 2467 (Oct. 17, 1988), 25 U.S.C. 2701, et seq. ("IGRA").

"Applicant" means any person, partnership, corporation, joint venture or other entity applying for, or requesting renewal of, any License described in or required by this Ordinance.

"Application" means a request for the issuance or renewal of a License described in or required by this Ordinance.

"Chairman" means the Chairman of the National Indian Gaming Commission or his or her designee.

"Class I Gaming" means

a. Social games played solely for prizes of minimal value; or

b. Traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies, or celebrations.

"Class II Gaming" means,

(a) Bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players:

(1) Play for prizes with cards bearing numbers or other designations;

(2) Cover numbers or designations when object, similarly numbered or designated, are drawn or electronically determined; and

(3) Win the game by being the first person to cover a designated pattern on such cards;

(b) If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;

(c) Non-banking card games that:

(1) State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and

(2) Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes;

(d) Card games played in the states of Michigan, North Dakota, South Dakota, or Washington if:

(1) An Indian tribe actually operates the same card games as played on or before May 1, 1988, as determined by the Chairman; and

(2) The pot and wager limits remain the same as on or before May 1, 1988, as determined by the Chairman; and

(e) Individually owned class II gaming operations–

(1) That were operating on September 1, 1986;

(2) That meet the requirements of 25 U.S.C. 2710(b)(4)(B);

(3) Where the nature and scope of the game remains as it was on October 17, 1988.

(4) Where the ownership interest or interests are the same as on October 17, 1988.

"Class III Gaming" means all forms of gaming that are not class I gaming or class II gaming, including but not limited to:

(a) Any house banking game, including but not limited to–

(1) Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);

(2) Casino games such as roulette, craps, and keno;

(b) Any slot machines as defined in 15 U.S.C. 1117(a)(1) and electronic or electromechanical facsimiles of any game of chance;

(c) Any sports betting and parimutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or

(d) Lotteries.

"Commission" means the Confederated Salish and Kootenai (CS&K) Tribal Gaming Commission.

"Commissioner" means an individual member of the (CS&K) Tribal Gaming Commission.

"Compact" means the "Tribal State Compact including all renewals, amendments, appendices, exhibits and other attachments thereto between the Confederated Salish and Kootenai Tribes and the State of Montana providing for the Conduct of Tribal Class III Gaming by the Confederated Salish and Kootenai Tribes of the Flathead Reservation," entered pursuant to 25 U.S.C. §2710(d).

"Council" or "Tribal Council" means the Tribal Council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

"Executive Director" The Chief Administrative offices assigned to aide the Commission in the administration of the duties and responsibilities created by this Ordinance.

"Fiscal Year" means the period beginning at 12:01 a.m. on October 1 of each year and ending at midnight, September 30 of the following year.

"Gaming" means any Class II Gaming or Class III Gaming activity, either individually or collectively, whether authorized or unauthorized.

"Gaming Device" means any equipment or mechanical, electromechanical or electronic contrivance, component or machine, used remotely or directly in connection with any Gaming which affects the result of a wager by determining or predicting the outcome of such game or the odds of winning or losing such game. The term shall be broadly construed to promote the purposes of this Ordinance and shall also include any devices, machines, components or contrivances which do or are capable of affecting, in any way, the playing of any Gaming.

"Gaming Device Supplier" means any Person who manufactures, sells, leases, distributes, supplies or makes modifications to, any Gaming Device of the Tribe and all Persons holding any device or indirect financial interest in such Gaming Device Supplier.

"Gaming Establishment" means any premises where Gaming is operated or conducted on the Tribe's Reservation, and includes all buildings, improvements, appurtenances, equipment and facilities used or maintained in connection with such gaming.

"Gaming Operation" means each economic entity that is licensed by a tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by a tribe directly; by a management contractor; or, under certain conditions, by another person or other entity.

"Gross Revenue" means the total of all of the following, less the total of all cash paid out as losses to patrons and any items made deductible as losses by calculation of Gross Revenues:

(i) cash received as winnings;

(ii) compensation received for conducting any game in which the licensee is not a part to a wager.

For the purposes of this definition, cash or the value of noncash prizes awarded to patrons in a contest or tournament are not losses.

The term does not include:

(i) counterfeit money or tokens;

(ii) coins of other countries which are received in gaming devices or gaming devises;

(iii) cash taken in fraudulent acts perpetrated against a licensee for which the licensee is not reimbursed;

(iv) cash received as entry fees for contests or tournaments in which the patrons compete for prizes.

Calculation of Gross Revenues. Certain expenses not deductible.

(1) In calculating gross revenue, any prizes, premiums, drawings, benefits or tickets which are redeemable for money or merchandise or other promotional allowance, except money or tokens paid at face value directly to a patron as the result of a specific wager and the amount of cash paid to purchase an annuity to fund winnings must not be deducted as losses from winnings.

(2) In calculating gross revenue from gaming devices, the actual cost to the licensee of any personal property distributed to a patron as the result of a legitimate wager may be deducted as a loss, but not travel expenses, food, refreshments, lodging or services. For the purposes of this section, "as the result of a legitimate wagers means that the patron must make a wager prior to receiving the personal property, regardless of whether the receipt of the personal property is dependent on the outcome of the wager.

"Key Employee" means:

(a) a person 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) custodian of gambling terminals or other devices operated by the

management of any Gaming Operation, including persons with access to cash and accounting records for such devices;

(b) if not otherwise included, any other person whose total cash compensation from employment in any Gaming Operation exceeds $50,000 per year;

(c) if not otherwise included, the four most highly compensated persons in any Gaming Operation; or

(d) any other employee of any Gaming Operation that the Commission designates by its Rules as a Key Employee.

"License" means any authorization granted by the Commission, pursuant to this Ordinance, to any Person which is required for such Person to perform certain acts or engage in certain activities. The issuance of a License shall not create a property or liberty interest in such License for the benefit of the Licensee.

"Licensee" means any Person who has been issued a valid and current License pursuant to the provisions of this Ordinance.

"Management Contract" means any contract, agreement or other document, including all collateral agreements, establishing a relationship between the Tribal government and any Person, pursuant to which such Person has managerial responsibilities in or for any Gaming Operation.

"Management Entity" or "Controlling Shareholder" means:

(a) any Person having a direct financial interest in any Management Contract, including those Persons who own five (5) percent or more of any Management Entity's outstanding capital stock;

(b) when a trust is a party to a Management Contract, any beneficiary or trustee of such trust;

(c) when a partnership is a party to a Management Contract, any partner, general or limited, in such partnership;

(d) when a corporation is a party to a Management Contract, any Person who is an officer or director of such corporation, or who holds five (5) percent or more of the issued and outstanding capital stock of such corporation either alone or in combination with a spouse, parent, child or sibling; or

(e) with respect to any non-natural Person with an interest in a trust, partnership or corporation that has an interest in a Management Contract, all beneficiaries, trustees, partners, or directors of, and five (5) percent stockholders of, such non-natural Person.

"Management Fee" means any monies paid from Gaming revenue to any Person pursuant to an NIGC approved contract to operate a Gaming Establishment. Such term shall not include monies paid for the operating expenses of such Gaming Establishment.

"Net Revenue" means gross gaming revenues of an Indian gaming operation less-

(a) Amounts paid out as, or paid for, prizes; and

(b) Total gaming-related operating expenses, excluding management fees.

"NIGC" means the National Indian Gaming Commission.

"Operating Expense" means any expense incurred in the operation of Gaming that is specifically designated as an Operating Expense in any Management Contract or which by operation of Generally Accepted Accounting Principles, consistently applied, is so treated.

"Ordinance" means this Tribal Gaming Ordinance of the Confederated Salish and Kootenai Tribes, as amended from time to time, and any Rules promulgated hereunder.

"Patron" means any Person who participates in Gaming, or who is physically present on premises wherein or whereon Gaming is conducted.

"Person" means any association, partnership, corporation, firm, trust or other form of business association or entity, as well as a natural person.

"Primary Management Officials" means:

(a) the Person(s) having management responsibility over all or any part of any Gaming Operation;

(b) any Person who has authority;

(i) to hire and fire employees of a Gaming Operation, or

(ii) to establish working policy for a Gaming Operation;

(c) the chief financial officer or other Person who has financial management responsibility for any Gaming Operation;

(d) any Person who is considered a Controlling Shareholder;

(e) any Person the Commission designated by Commission Rules as a Primary Management Official.

"Reservation"the term "reservation" means the Flathead Indian Reservation as established by

the Treaty of Hell Gate, 12 Stat. 975.

"Rules" means any Rules governing the conduct of games or the control of internal fiscal affairs of Gaming Operations as may be promulgated by the Commission established pursuant to this Ordinance.

"Secretary" means the Secretary of the United States Department of the Interior.

"Traditional forms of Indian Gaming" means

a. Gaming activities such as "stick games," "bone games," "hand games," and card games played in conjunction with tribal ceremonies, celebrations, or pow-wows.

b. Games such as horse races, foot races, including those for which purses or prizes are awarded, that are played as part of tribal ceremonies, celebrations, or pow-wows. This includes raffles and bingo conducted prior to a ceremony, celebration, or pow-wow for the purpose of raising funds for the ceremony, celebration, or pow-wow.

"Tribe" means, and "Tribal" shall refer to, the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

CHAPTER I
PURPOSE, PUBLIC POLICY, APPLICABILITY AND AUTHORIZATIONS

Section 1.01 Short Title. This Ordinance shall be known and may be cited as the "Confederated Salish and Kootenai Gaming Ordinance."

Section 1.02 Purpose. The Tribal Council of the Confederated Salish and Kootenai Tribes enacts this Ordinance in order to regulate all forms of Gaming on the Reservation.

Section 1.03 Public Policy.

(a) All Gaming which is conducted within the Tribe's Reservation and which is otherwise authorized by law shall be regulated and licensed pursuant to the provisions of this Ordinance.

(b) The Tribal Council hereby finds, and declares it to be the public policy of the Tribe, that:

(1) Regulation of licensed Gaming is important in order that licensed

Gaming is conducted honestly and that Gaming is free from criminal and corruptive elements.

(2) Public confidence and trust can only be maintained by strict regulation of all Persons, locations, practices, associations and activities related to the operation of licensed Gaming Establishments and the manufacture or distribution of Gaming Devices.

(3) All Management Entities or Controlling Shareholders, Primary Management Officials, Key Employees, Gaming Establishments and Suppliers of Gaming Goods and Services must therefore be licensed and controlled to protect the public health, safety, morals, good order and general welfare of the Tribe.

Section 1.04 Class I Gaming Authorized. Class I Gaming is hereby authorized to be conducted on lands within the Reservation; provided, however, that such Class I Gaming shall be conducted only in accordance with the provisions of this Ordinance.

Section 1.05 Class II Gaming Authorized. Class II Gaming is hereby authorized to be conducted on lands within the Reservation; provided, however, that such Class II Gaming shall be conducted only in accordance with the provisions of this Ordinance, the Rules, and IGRA.

Section 1.06 Class III Gaming Authorized. Class III Gaming is hereby authorized on lands within the Reservation; provided, however, that Class III Gaming shall be conducted only in accordance with the provisions of this Ordinance, the Compact, the Rules, and the IGRA.

Section 1.07 Location of Gaming. The Commission shall ensure that (i) such Gaming as it authorizes and licenses pursuant to this Ordinance is conducted on lands within the Reservation, and (ii) such gaming is not otherwise specifically prohibited by Federal law.

Section 1.08 Tribal Share of Revenue. The Tribe shall receive, at a minimum, not less than sixty (60) percent of the Net Revenues from any Gaming Operation.

Section 1.09 Use of Gaming Revenue. Net Revenues received by the Tribe from any form of Gaming authorized under this Ordinance shall be used only for the following purposes: to fund Tribal government operations and programs; to provide for the general welfare of the Tribe and its members; to promote Tribal economic development; to make donations to charitable organizations; or to help fund operations of local government agencies.

Section 1.10 Unauthorized Gaming. Any person who commits any act of unauthorized Gaming on the Reservation or any other Tribal land shall be guilty of a crime and shall be prosecuted in Tribal Court or any other court of competent jurisdiction.

Section 1.11 Conduct of Games. All Gaming shall be conducted by persons duly Licensed by the Commission. No Person licensed by the Commission shall engage in, conduct or condone any

Gaming that is not conducted in accordance with such Rules governing the conduct of games as may be promulgated by the Commission under this Ordinance.

Section 1.12 Applicability of Ordinance. Unless specifically indicated otherwise, all provisions of this Ordinance shall apply to both Class II Gaming and Class III Gaming including, but not limited to, all licensing and background investigation procedures.

CHAPTER II
ESTABLISHMENT, ADMINISTRATION AND POWERS OF COMMISSION

Section 2.01 Establishment of Commission. The CS&K Tribal Gaming Commission having been previously established under prior Gaming Ordinances shall continue to consist of three (3) enrolled Tribal members. The Commission members currently serving in those positions shall upon ratification of this Ordinance be replaced by three new commission members. All three (3) members of the Commission shall be enrolled Tribal members. A Commissioner shall serve for three (3) years. Vacancies on the Commission shall be filled within thirty (30) days by nominations and a majority vote of the Council. The Tribal Council shall select annually, from the membership of the Commission, a Commission Chair.

Section 2.02 Removal from Commission. A Tribal Gaming Commission member may be removed from office prior to the end of the Commissioners term by the Tribal Council with or without cause and by a majority vote of the Tribal Council.

Section 2.03 Independence of Commission. In all matters within its purview and responsibilities, the Commission shall be and shall act independently and autonomously from the Tribal Council. No prior or subsequent review by the or Tribal Council of any actions of the Commission shall be required or permitted, except as otherwise explicitly provided in this Ordinance.

Section 2.04 Licensing of Commissioners. Nominees for the position of Commissioner must meet the requirements of Chapters 4 and 5 of this Ordinance and must first obtain a License from the Council prior to assuming office. A Commissioner shall complete a License Application and shall be subject to the same background investigation as a Key Employee under this Ordinance. Such background investigation shall be performed at the direction of the Council by a duly appointed agent of the Council. Upon completion of the background investigation, the Council shall, by majority vote, either (i) issue a License, or (ii) notice the Commissioner for a hearing before the Council. All investigations and hearings under this Section shall be conducted as provided in Chapter 6 of this Ordinance, except that all hearings shall be conducted by and before the Council.

(a) Failure to Meet License Requirements or License Violations. If the Tribal Council has reason to believe that a Licensed Commissioner fails at any time to meet the License requirements under this Ordinance or that the Commissioner has violated this Ordinance, the Rules, the Compact, or the

IGRA and regulations promulgated thereunder or any other applicable law, the Tribal Council shall direct an investigation to be conducted and may notice the Commissioner for a hearing before the Council. All investigations and hearings under this Section shall be conducted as provided in Chapters 5 and 6 of this Ordinance and a Commissioner shall have all of the rights and obligations given to a Licensee or Applicant therein, except that all hearings shall be conducted by and before the Council.

Section 2.05 Restrictions on Commissioners. No person shall serve on the Commission if that:

(a) person's other employment or responsibilities conflict or could potentially conflict with the duties and responsibilities of a member of the Commission;

(b) person is an employee of the Gaming Operation or the person's other employment or responsibilities create an impression or appearance of impropriety in the fulfillment of the duties and responsibilities of a member of the Commission; or person is a:

(1) Member or officer of the Tribal Council; or

(2) Judge in any Tribal Court.

Section 2.06 No Financial Interest in Gaming. No Commissioner shall have any direct or indirect financial interest in any Gaming Operation. For purposes of this section, indirect financial interest shall not include ownership of any mutual funds which holds stock in a publicly traded company but shall include direct ownership of such stock. No Commissioner may accept gratuities or any other thing of value from any Licensee or Applicant. Commissioners may not gamble in any Tribal Class II or Class III Gaming Establishment.

Section 2.07 Compensation of Commissioners. Commissioners shall be compensated at a rate to be established annually by the Council. Commissioners shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses.

Section 2.08 Commission Meetings.

(a) Regular Meetings. The Commission shall meet quarterly at the Commission's main office or at any other designated meeting place.

(b) Special Meetings. Special meetings shall be convened by the Commission Chair as necessary to carry out the official duties of the Commission. Notice of each special meeting shall be given by the Commission Chair by telephone or mail to each Commissioner. Notice shall be received at least 24 hours in advance of such meeting, and shall include the date, time and place of the proposed meeting.

(c) Emergency Meetings. An emergency meeting may be called by the Chair of the Commission with less than 24 hours notice; provided, however, that the Chair of the Commission shall use best efforts to assure that all Commissioners are notified of such meeting, with as much prior notice as possible under the circumstances.

(d) Meetings Open to the Public. All meetings of the Commission shall be open to the public; provided, however, the Commission may, in its discretion, close any portion of any meeting to the public when discussing any information which the Commission deems confidential pursuant to the provisions of this Ordinance.

Section 2.09 Commission Offices. The Commission shall maintain an administrative office. Such office shall serve as the Commission's main business office and shall be the site at which Commission records and documents are maintained and stored on a permanent basis. No individual except a Commissioner or other authorized employee or agent of the Commission may possess a key to or may enter any Commission office without the permission of the Commission. No person may access such records except a Commissioner, a person duly authorized by the Commission or an attorney for the Commission.

Section 2.10 Quorum. A quorum of the Commission shall consist of three (3) Commissioners. All decisions shall be made by a majority vote of a quorum of the Commission, unless indicated otherwise in this Ordinance.

Section 2.11 Organization of Commission. The Commission may organize itself into any functional division it deems necessary, and may alter such plan of Organization as it deems expedient.

Section 2.12 Commission Record-Keeping. The Commission shall maintain complete records regarding the following:

(a) Applications, financial statements, fingerprints, contracts, Licenses, suspension and cancellation notices and correspondences of all Applicants, including Management Entities or Controlling Shareholders, Key Employees, Primary Management Officials, Gaming Establishments and Suppliers of Gaming Goods and Services;

(b) Commission Licenses;

(c) Meeting minutes from all Commission meetings;

(d) Compact compliances;

(e) Reports relating to customer disputes, complaints or other issues that affect the integrity of the Gaming Operation;

(f) Commission budget and expenditures;

(g) Council communications and correspondences;

(h) Gaming Device list pursuant to Section 4.11 of this Ordinance; and

(i) Any other records or documents the Commission deems necessary or appropriate.

Section 2.13 Reports. The Commission shall make quarterly reports to the Council within thirty (30) days after the end of each quarter. Such Reports shall contain the following information:

(a) number and types of Licenses issued during the previous quarter;

(b) information regarding License denials, suspensions or revocations;

(c) report of any events of non-compliance, breach or violations of this Ordinance, the Rules, the Compact, IGRA, License or any other law or regulation; provided, however, that these reports are not the subject of or relating to a pending investigation being conducted by the Commission, or hearing before the Commission;

(d) a report of Commission expenditures for the prior quarter;

(e) a summary of any Commission travel and training;

(f) all other information which the Commission deems relevant in order to keep the Council informed and current on all Gaming regulatory matters.

Nothing in this Section shall authorize or permit the Commission to provide the Council with any information pertaining to a pending investigation being conducted by the Commission or hearing before the Commission. All such information shall be kept confidential. Any willful or careless breach of this provision shall present due cause for removal of the person from office and a penalty of up to $5,000.00 (FIVE THOUSAND DOLLARS) for each offense. Claims of such disclosure shall be presented to the Commission within 60 days of the act complained of, or within 60 days the disclosure becomes known, whichever is later.

Section 2.14 Budget. The Commission shall establish a budget for its operations and submit it to the Tribal Council for review and approval. It shall acquire such furnishings, equipment, supplies, stationery, books and other items as it deems necessary or desirable to carry out its functions, and incur such other expenses, within the limit of funds available to it, as it deems necessary. Such Commission budget shall be funded annually through the normal Confederated Salish and Kootenai Tribal government administration funding process to operate in conjunction with the Tribal fiscal year of October 1 to September 30. Any surplus remaining in the Commission's budget at the end of any budget year shall be transferred to the Tribal General fund.

Section 2.15 Powers. The Commission shall:

1) Exercise all powers necessary to effectuate the purposes of this Ordinance and all other powers provided for in this Ordinance;

2) Promulgate Rules pursuant to this Ordinance, for the operation of games and the control of internal fiscal affairs of Gaming Operations and the conduct of all business properly brought before the Commission;

3) In all decisions, the Commission shall act to promote and ensure the integrity, security, honesty and fairness of the operation and administration of all Gaming;

4) In accordance with this Ordinance, the Commission shall have the power and authority to deny any application for License, to limit, cancel, revoke, terminate, condition, modify, suspend, or restrict any License;

5) Make findings of suitability;

6) Impose fines or sanctions for any cause deemed reasonable by the Commission upon any Licensee;

7) Conduct, or cause to be conducted, background investigations on all Applicants and Licensees;

8) Hold administrative licensing hearing pursuant to this Ordinance.

9) Have the power, upon duly recorded vote, to grant limited waivers of the Commission's sovereign immunity status, including the limited waiver of sovereign immunity contained in Section 9.02 of this Ordinance.

10) Employ staff in accordance with Ordinance 69B, Tribal Personnel Policies and Procedures, or contract for the services of, such professional, technical and operational personnel and consultants as the execution of the Commission's duties may require.

11) Use the Tribal Legal Department as its legal counsel to maintain consistency and the furtherance of Tribal policy as embodied in this Ordinance.

12) The Commission may on its own initiative investigate any aspect of

the operations of a license in order to protect the integrity of such gaming activities and to assure compliance with this Ordinance, its implementing rules, and other applicable laws or the Compact, and shall investigate any report of a failure of the licensee to so comply. The Commission may order the licensee to take any corrective action deemed necessary by the Commission upon such terms and conditions as the Commission may determine appropriate. The Commission may compel any person employed by or doing business with the licensee to appear before it and to provide such information, documents, or other materials as may be in their possession to assist in any investigation.

13) The Commission shall recommend to the Council for adoption a plan for the protection of public safety and the physical security of patrons in each gaming facility, following consultation with appropriate law enforcement agencies and with any security officials of the gaming facility.

14) The Commission shall approve any floor plans and surveillance systems required for gaming facilities and, with respect to such plans and systems for Class III gaming activities, may confer with the Montana Gambling Control Division prior to approving same.

15) The Commission shall establish a list of individuals barred from licensed gaming facilities because of their criminal history or association with career offenders or career offender organizations that pose a threat to the integrity of licensed gaming activities.

16) Enforce any health and safety standards, promulgated by rules, applicable to the gaming operation of any Licensee.

17) The Commission shall enforce any health and safety standards, promulgated by rule, applicable to the gaming facilities of any licensee.

18) The Commission shall carry on a continuous study and annually report to Tribal Council the investigation of Reservation gaming activities for the purposes of:

    (a) ascertaining any defects in or abuses of the provisions of this Ordinance, or its implementing regulations, or Standards of Operation and Management;

    (b) reporting the social and economic impacts of Reservation gaming activity;

(c) formulating recommendations for changes in the Ordinance or regulations; and

(d) preventing abuses and evasions of the same.

(19) Conduct or cause to be conducted, the review and approval of investigative work.

(20) Verify or cause to be verified, information submitted by licensee applicants.

Section 2.16 Promulgation of Gaming Rules. The Commission may promulgate Rules governing the conduct of all games authorized by the Compact or IGRA, including Rules governing the equipment, (tokens, chips, cards, tiles, etc.), used in such games. The Rules of each authorized game offered at any duly licensed Gaming Establishment shall be posted in a conspicuous location in such Gaming Establishment.

Section 2.17 Promulgation of Auditing and Internal Control Rules. The Commission may promulgate Rules governing the control of internal fiscal affairs of Gaming Operations as provided in Chapter 8 of this Ordinance.

CHAPTER III
EXECUTIVE DIRECTOR

Section 3.01 Qualifications of Executive Director. Salary

(1) The position of Executive Director of the Commission is hereby authorized to be created. The Commission shall appoint the Executive Director, and the Executive Director shall serve at the will and pleasure of the Commission.

(2) No-member of the Tribal Council, no person holding any elective office, nor any officer or official of any political party is eligible for the appointment of Executive Director.

(3) The Executive Director must have at least five (5) years of responsible administrative experience in public or business administration or possess broad management skills and at minimum a Bachelors degree in business education in a business related field.

(4) The Executive Director shall devote his or her entire time and attention to the duties imposed under this Chapter and the business of the Commission and shall not pursue any other business or occupation or hold any other position of profit.

(5) The Executive Director shall not be pecuniarily interested in any businesses or company holding a license under this Chapter or doing business with any person licensed under this Chapter.

(6) The Executive Director is entitled to an annual salary in the amount specified by the Tribal Council.

Section 3.02 Authority of Executive Director.

(1) The Executive Director shall furnish to the Commission such administrative and clerical services and such furnishings, equipment, supplies, stationery, books and all other things that the Commission may deem necessary or desirable in carrying out its functions.

(2) The Executive Director may employ division directors that possess at least two (2) years of training and experience in the fields of accounting, investigation, law enforcement, law or gaming.

(3) The Executive Director in pursuit of the attainment of the objectives and the purposes of this Chapter may

(a) Organize and aide administrative actions of the Commission.

(b) Sue on behalf of the commission.

(c) Upon approval of the Commission, make, execute and effectuate any and all agreements or contracts, including contracts for the purchase of good and services as are necessary.

(d) Upon approval of the Commission, employ the services of such person(s) as is considered necessary for purposes of consultation or investigation and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants.

(e) Consult with the Tribal Legal Department for any legal advice, counsel, legal work or action necessary on behalf of the Commission.

(f) Perform such other duties which he or she may deem necessary to effectuate the purposes of this Chapter.

Section 3.03 Files and Records to be Maintained by the Executive Director. Confidentiality of Information.

(1) The Executive Director shall maintain a file of all applications for licenses under this Ordinance, together with a record of all actions taken with respect

to those applications.

(2) The Commission and Executive Director may maintain such other files or records as they deem desirable.

(3) All information and data:

(a) Required by the Commission or the Executive Director to be furnished to them under this Ordinance or which may otherwise be obtained relative to the finances, earnings or revenue of any applicant or licensee;

(b) Pertaining to an applicant's criminal record, antecedents and background which have been furnished to or obtained by the Commission or the Executive Director from any source;

(c) Provided to the members of the Commission or the Executive Director of his employees by a governmental agency or an informer or on the assurances that the information will be held in confidence and treated as confidential; or

(d) Obtained by the Executive Director or the Commission from a supplier relating to the manufacturing of gaming devices or gaming goods;

are confidential and may be revealed in whole or in part only in the course of the necessary administration of this Ordinance or upon the lawful order of a court of competent jurisdiction.

Section 3.04 Removal of Executive Director from Office.

The Executive Director being hired by the Commission may be removed from office by the commission upon a majority vote of the Commission after a showing of cause.

CHAPTER IV.
CLASS I GAMING

Section 4.01 Class I Generally. The Commission may inspect the premises where any Class I gaming is held, to obtain and review financial information concerning the game, and to investigate as necessary to determine whether the activity meets the definition of a Class I game. The Tribal Gaming Commission shall make the final determination on whether a particular gaming activity in question constitutes Class I gaming within the meaning of this Ordinance and shall consult with the tribal cultural committees in making such determination. Class I games may be subject to other regulation designed to protect the health and welfare of tribal members.

CHAPTER V.
CLASS II GAMING

Section 5.01 Licensing and Regulation of Non-Tribal Gaming.

(1) No person or entity shall conduct non-tribal gaming within the Flathead Reservation without obtaining a license from the Commission. A separate license is required for each place, facility, or establishment where gaming activity is conducted. Pursuant to 25 U.S.C. § 2710 (b) (4), the licensing requirements shall be at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State, and no person(s) or entity shall be eligible to receive a license if such person(s) or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State. The Commission may, however, adopt more stringent licensing requirements and may limit the number of licenses issued. Non-tribal gaming for live bingo and those forms of card games authorized by State law are authorized by this Ordinance. No other form or type of Class II non-tribal gaming is authorized on the Flathead Reservation.

(2) No license may be issued to an enrolled member of the Salish and Kootenai Tribes, individually or doing business under a fictitious business name, or to a partnership in which one or more of the partners is a tribal member; provided, however, licenses may be issued to corporations duly established under tribal or state law. Such corporations may be owned by one or more enrolled members of the Salish and Kootenai Tribes.

(3) Any license issued shall be subject to such reasonable conditions as the Commission may fix, including, but not limited to, the following:

(a) The licensee shall maintain an orderly, clean, and sanitary establishment.

(b) The licensed premises may be inspected by agents of the Commission for the purpose of monitoring and enforcing compliance with license terms, and the license shall cooperate at all times with Commission agents;

(c) The licensed premises shall be open to inspection by the Commission agents and officials of the National Indian Gaming Commission at all times during regular business hours;

(d) No person who is under the age of eighteen shall participate nor shall

be allowed to participate in any manner in the operation of any game;

(e) The licensee shall agree to accept and abide by all applicable provisions of this Ordinance, applicable regulations, and conditions of the license; and

(f) Each licensee shall display its license in a conspicuous location in the gaming establishment.

CHAPTER VI
LICENSES, APPLICATIONS AND LICENSE PROCEDURES

Section 6.01 Gaming License Required. A separate license is required for each place, facility, or establishment where gaming activity is conducted. Pursuant to 25 U.S.C. § 2710 (b) (4), the licensing requirements shall be at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State, and no person(s) or entity shall be eligible to receive a license if such person(s) or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State. The Commission may, however, adopt more stringent licensing requirements and may limit the number of licenses issued. The Commission is hereby authorized to issue all Licenses for the conduct of all Gaming authorized under this Ordinance or any other License related to Gaming which the Commission may, by Rule require.

(a) Persons. The following Persons must obtain Licenses as a precondition to employment in or management of any Gaming Operation:

(1) any Management Entity or Controlling Shareholder. Any Person deemed a Controlling Shareholder must comply with the same licensing requirements as if such Person were a Primary Management Official; however, if any Controlling Shareholder is a non-natural person, such Controlling Shareholder shall be subject to Management Entity licensing procedures;

(2) all Primary Management Officials;

(3) all Key Employees;

(4) Suppliers of Gaming Goods and Services. Any Person who is a Supplier of Gaming Goods and Services must comply with the same licensing requirements as if such Person were a Primary Management Official; however, if any Supplier is a non-natural person, such Supplier shall be subject to Management Entity licensing procedures;

(5) any other employee or class of employees as determined by

Commission Rules, and

(b) Gaming Establishments. Each place, facility, or location where Gaming is conducted must obtain a separate Facility License from the Commission.

Section 6.02 Standard for License. Licenses issued hereunder shall be issued according to requirements at least as stringent as those set forth at 25 C.F.R. parts 556 and 558, and any amendments thereto, and also according to requirements at least as stringent as those set forth in the Compact.

Section 6.03 Application for License. No License shall be issued under this Ordinance except upon a sworn Application filed with the Commission, in such form as may be prescribed by the Commission, containing a full and complete showing, at a minimum, of the following:

(1) satisfactory proof that the Applicant is of good character and reputation, and is financially responsible;

(2) if applicable, a complete description of the premises at which Gaming will be conducted;

(3) agreement by the Applicant to abide by all conditions of the License, this Ordinance, the Rules, the Compact and IGRA;

(4) a separately sworn statement that the Applicant has never been convicted of, or entered a plea of guilty or no contest to, any of the following criminal offenses:

(a) any felony, other than a felony conviction for an offense under b, c, or d, within the preceding five (5) years; provided, however, that this record limitation to the preceding five (5) years shall not apply to any Applicant which is a Management Entity or Controlling Shareholder,

(b) any gaming-related offense,

(c) fraud, misrepresentation or any other crimes of moral turpitude in any context, or

(d) a violation of any provision of this Ordinance, the Rules, or any other ordinance or rules of the Tribe or any state agency regulating or prohibiting gaming; and

(5) the Applicant's fulfillment of all applicable requirements of IGRA, all provisions of this Ordinance, including, but not limited to, those in

Chapter 7, and the Compact.

(a) No License shall be issued to any Applicant who is determined by the Commission to be a Person whose prior activities, criminal record, reputation, habits 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, methods, or activities in the operation of Gaming or the carrying on of the business and financial arrangements incidental thereto.

(b) The issuance of Licenses shall also be subject to the provisions of Chapter 7 of this Ordinance regarding background investigations.

(c) The following notices shall be placed on the application form for a Key Employee, Management Entity, Primary Management Official or Supplier of Gaming Goods and Services before such form is completed by an Applicant:

(i) "compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by Chapter 25 U.S.C. 2701 *et seq*. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by the Commission, Tribal Law Enforcement, the State of Montana, and/or the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming License, or investigations of activities while associated with a Licensee or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Licensee being unable to hire you in a Primary Management Official or Key Employee position."

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

(iii) "A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, Section 1001)."

Section 6.04 Required Application Forms.

(a) Each individual applying for a License, whether as a Primary Management Official or Key Employee, and any person who is subject to a background investigation in connection with an entity application for a License, shall be required to complete the following forms:

(1) Application for Gaming License by Individual, if applicable;

(2) Personal History Record, with attached Personal Financial Questionnaire, including Statement of Assets and Statement of Liabilities;

(3) Two Complete Fingerprint Cards;

(4) Request to Release Information - Individual; and

(b) Each individual in subsection (a) of this Section applying for a License renewal shall supplement the Personal History Record and shall also be required to complete the following forms:

(1) Application for Gaming License by Individual, if applicable;

(2) Request to Release Information - Individual

(c) Each entity, including a Management Entity and Supplier of Gaming Goods and Services, applying for a License must complete the following forms:

(1) Application for Gaming License by Entity;

(2) Request to Release Information - Entity

(d) The Commission may request any additional forms or information from an Applicant as it deems necessary or appropriate.

(e) Pursuant to the Compact the Commission shall create an individual file for

each applicant which includes the Applicant's Personal History Record and all background information compiled by the Commission.

Section 6.05 Fingerprint Cards Required. All Applicants for a License are required to submit fingerprint cards. The Tribal Law Enforcement Division is hereby identified as the enforcement agency to take fingerprints. Pursuant to 25 C.F.R. § 522.2(h), the Commission shall forward an Applicant's fingerprint cards to the NIGC to be processed by the Federal Bureau of Investigation National Criminal Information Center. The Commission may submit an Applicant's fingerprint card to any additional tribal, local or state criminal history check system or center as the Commission or the Executive Director deem necessary or appropriate. Reports obtained from such fingerprint processing shall be incorporated into the Applicant's personnel file.

Section 6.06 Withdrawal of Application. An Application may not be withdrawn without the permission of the Commission. An Applicant may request to withdraw an Application by submitting to the Commission a written request for withdrawal. The Commission retains the right, in its sole discretion, to grant or deny a request for withdrawal.

Section 6.07 Continuing Duty to Provide Information. Applicants and Licensees shall have a continuing duty to provide any materials, assistance or other information required by the Commission, and to fully cooperate in any investigation conducted by or on behalf of the Commission. If any information provided on the Application changes or becomes inaccurate in any way, the Applicant or Licensee shall promptly notify the Commission or Executive Director of such changes or inaccuracies.

Section 6.08 Term of License, Parameters of License, Fees.

(a) Licenses, except Provisional Licenses (See § 6.12 Provisional License), shall be for a term of one year, expiring on the last day of the Tribal fiscal year (September 30th).

(b) In order for the Tribe to recover the costs of complying with federal, Tribal, and state regulatory processes applicable to Class II Gaming and Class III Gaming, annual License fees shall be imposed:

(1) each Class III gaming facility license shall be charged an annual licensee fee of $200.00 per class III gaming device located in such facility;

(2) each application for Class II licenses shall be accompanied by an administrative fee in an amount of Fifty and no/100 dollars ($50.00).

(3) each employment license application shall be accompanied with an application fee of $100.00.

(4) a facility license application shall be accompanied with an application fee of $100.00

(5) the amount of $ 7,500 annually on each, other than the Tribe, to a Management Contract;

(6) on any Person(s) required to obtain a License, in accordance with a fee schedule to be established by the Commission and approved by the Tribal Council; and

(7) in addition to the License fees imposed pursuant to subsection (b) (1)-(5) of this Section, the Commission may impose such fees on Licensees as are reasonably related to costs of enforcement, including investigations and proceedings before the Commission, and which will in the aggregate be sufficient to enable the Tribe and the Commission to recover its reasonable costs of enforcing this Ordinance. Such costs may be estimated by the Commission and imposed prior to a final Commission action regarding a particular Licensee or Applicant. Such fees shall be subject to the approval of the Tribal Council.

(c) Violations of any provision of this Ordinance or the Rules, or relevant License provision(s), by a Licensee shall be deemed contrary to the public health, safety, morals, good order and general welfare of the Tribe and the inhabitants of the Reservation, and shall be deemed grounds for refusing to grant or renew a License, suspension or revocation of a License. Acceptance of a License, or renewal thereof by a Licensee, constitutes an agreement on the part of the Licensee to be bound by the provisions of this Ordinance and the Rules as they are now, or as they may hereafter be amended or restated, and to cooperate fully with the Commission. It is the responsibility of the Licensee to remain informed of the contents of this Ordinance, the Rules and all other applicable regulations, amendments, provisions, and conditions, and ignorance thereof will not excuse violations. A license issued hereunder is a privilege license and no right shall attach thereto.

Section 6.09 Conditions of License. All Licensees shall comply with such reasonable conditions as may be fixed by the Commission, including but not limited to the following conditions:

(a) Facility Licensees–

(1) the Licensee shall at all times maintain an orderly, clean and neat Gaming Establishment, both inside and outside the premises of the Gaming Establishment;

(2) the Gaming Establishment shall be subject to patrol by the Tribe's

security and law enforcement personnel and, when authorized, local and state law enforcement, and the Licensee shall cooperate at all times with such security and law enforcement officials;

(3) the Gaming Establishment shall be open to inspection by authorized Tribal officials at all times during business hours;

(4) there shall be no discrimination in any Gaming Operations by reason of race, color, sex or creed; provided, however, that nothing herein shall prevent the Licensee from granting preferences in employment to Native Americans as permitted by law; and

(b) Persons, Management Entities and Suppliers of Gaming Goods and Services licensed by the Commission shall comply with such conditions of the License as the Commission, in its reasonable discretion, may require.

Section 6.10 Facility License. The Commission may issue an annual Facility License to a Gaming Establishment, if the Gaming Establishment:

(a) is a sound physical structure with adequate and safe plumbing, electrical, heating, cooling and ventilation systems in place and operational;

(b) has been inspected and approved for safety by a building and fire inspector designated by the Commission;

(c) is adequate in all respects to accommodate the Gaming intended to be carried on within the structure;

(d) is equipped with security and surveillance equipment meeting or exceeding provisions set forth in regulations established by the Commission;

(e) meets all requirements of applicable federal, tribal and state law; and

(f) has paid all applicable License fees and costs.

Section 6.11 Certification of Gaming Devices. All Gaming Devices purchased, leased or otherwise acquired by the Tribe must, pursuant to Section VI of the Compact, meet the technical equipment standards set forth therein. The Commission shall maintain a complete list of all Gaming Devices (whether or not such devices are in use) located at any Gaming Establishment.

Section 6.12 Provisional License. The Commission may issue Provisional Licenses pending the satisfactory completion of all background investigations and other requirements of this Ordinance, IGRA, or the Compact, and, if applicable, pending expiration of the thirty (30) day NIGC review period provided for at 25 C.F.R. part 558. In no event shall a Provisional License be valid for greater than ninety (90) days, subject to the issuance of another Provisional license if such

background investigations are not completed so long as no information to date has been received which would otherwise disqualify the applicant for a License.

Section 6.13 Provisional Employment Pending Issuance of License and During Temporary License Period. As provided in Section 6.12, Primary Management Officials and Key Employees may be employed in Gaming Operations prior to the issuance of a License hereunder and during the period that a License shall be effective on a provisional basis, but such employment shall be provisional only and subject to the requirements of this Section. Employment may begin prior to issuance of a License only if the Commission has made a preliminary finding of eligibility for employment in Gaming Operations, which shall require a preliminary determination that the Primary Management Official or Key Employee in question is not a person whose prior activities, criminal record or reputation, habits 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, methods, or activities in the operation of Gaming or the carrying on of the business and financial arrangements incidental thereto. Provisional employment shall be terminated upon the occurrence of any of the following:

(a) denial of a relevant License by the Commission;

(b) unsatisfactory completion of a background investigation or NIGC review resulting in nullification of a provisional License, as described in Section 7.10; or

(c) to the extent required under 25 C.F.R. part 558 and, at the end of thirty (30) days after the starting date of provisional employment, if at the end of such period no License has been issued hereunder or if a License issued hereunder remains effective only on a provisional basis, as provided in Section 6.12; provided, however, that provisional employees terminated for the reason described in this subsection shall be qualified for reemployment upon the satisfactory completion of background investigations and NIGC reviews.

Section 6.14 Assignment or Transfer. No License issued under this Ordinance may be assigned or transferred unless the proposed assignee or transferee would independently be qualified to hold the License proposed to be assigned or transferred and the Commission approves of such assignment or transfer.

CHAPTER VII
BACKGROUND INVESTIGATIONS AND LICENSE DECISIONS

Section 7.01 Required Background Investigations. Background investigations shall be conducted by the Commission, or other agents retained by the Commission, under the supervision and direction of the Commission, on all Persons specified in Section 6.01 of this Ordinance.

Section 7.02 Standards for Background Investigations. All background investigations shall be conducted to ensure that Gaming Operations shall not employ or contract with persons whose prior activities, or reputation, habits and associations 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 such Gaming. Such investigations shall be conducted according to requirements at least as stringent as those set forth at 25 C.F.R. parts 556 and 558, the Compact, and this Chapter VII. Background investigations shall be conducted in a manner which takes all reasonable steps to ensure the confidentiality of the information generated by the investigation as well as that submitted by the Applicants. Any willful or careless breach of this requirement may result in a penalty ranging from censure, suspension removal from office and a fine of up to a $5,000. The Commission shall have jurisdiction to hear and decide upon any such claims.

Section 7.03 Information Required for Background Investigations.

(a) Each Person subject to a background investigation under Section 5.01 of this Ordinance shall be required to provide, subject to the Privacy Act of 1974, at a minimum, and in such form as designated in Section 6.04, or as may be prescribed by the Commission or the Executive Director, all of the following information:

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

(2) currently and for the previous 10 years, all business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;

(3) the names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the Applicant during each period of residence listed under subsection (a) (2) of this Section;

(4) current business and residence telephone numbers;

(5) a description of any existing and previous business relationships with any Native American Indian tribe, including but not limited to a description of the amount and type of ownership interest in those businesses;

(6) a description of any existing and previous business relationships with gaming, including but not limited to a description of the amount and type of ownership interest in those businesses;

(7) the name and address of any licensing or regulatory agency with which the Person has filed an application for a license or permit

related to any gaming or gambling, whether or not such license or permit was granted;

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

(9) for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within five (5) years of the date of the application, the name and address of the court involved and the date and disposition;

(10) for each criminal charge (excluding misdemeanor traffic charges, but including any DUI, reckless or careless driving charges), whether or not there is a conviction, if such criminal charge is within five (5) years of the date of the application and is not otherwise listed, the type of criminal charge, the name and address of the court involved and the date and disposition of such charge;

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

(12) a current passport type photograph;

(13) any other information the Commission deems relevant; and

(14) fingerprints consistent with the provisions of Section 6.05.

(b) Background investigations conducted by the Commission must be sufficient to make the determination described in Section 7.08(a). In conducting a background investigation, the Commission or its agents, shall make every reasonable effort to maintain the confidentiality of the identity of each Person interviewed in the course of the investigation. Willful or careless violations of this requirement are subject to penalty ranging from censure, suspension, removal from office and a fine of up to a $5,000.

Section 7.04 Completion of Investigation. Upon completion of the investigation, the Commission may either (1) grant a License to the Applicant, or (2) notice the Applicant for a hearing under Chapter 6 of this Ordinance. The Commission may notice the Applicant for a hearing at any time during the investigation.

Section 7.05 Issuance of License. The Commission after a hearing conducted under Chapter 6 of this Ordinance, may, subject to the requirements of Section 7.09, issue a License only after it has determined that the following minimum requirements have been met:

(a) the Applicant has fully completed all required Application forms and has provided the Commission with all other information that the Commission has requested;

(b) the Applicant meets all of the licensing requirements of this Ordinance;

(c) the Applicant meets all of the licensing requirements and criteria contained in the Compact;

(d) the Commission has reviewed the Applicant's criminal history record and deems the Applicant's criminal history to be satisfactory to hold a License; and

(e) all applicable License fees and Costs have been paid.

Section 7.06 Denial of a License Application. The Commission, after a hearing conducted pursuant to Chapter 8 of this Ordinance, may deny an Applicant a License only after it has determined that the minimum requirements contained in Section 7.05 have not been met by the Applicant or the Applicant's Application, or if the Commission determines that the Applicant is a Person whose prior activities, criminal record, reputation, habits 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, methods, or activities in the operation of Gaming or the carrying on of the business and financial arrangements incidental thereto.

Section 7.07 Cancellation or Suspension. Licensees and Applicants shall be legally responsible for any violation of this Ordinance, any relevant License provisions, the Rules, the Compact or IGRA. Any License issued hereunder may be canceled, limited, revoked, suspended, terminated or modified by the Commission, after a hearing as provided in Chapter 8, for the breach of any of the provisions of the License, this Ordinance, or Rules. In addition:

(a) unless otherwise stated in this Ordinance or the Rules, a Licensee's attorney has the right to be present and to participate in any proceeding concerning the cancellation, limitation, revocation, suspension, termination or modification of a License;

(b) a License may be summarily suspended, without a prior hearing, only upon notice to that effect from the NIGC; and

(c) all decisions of the Commission regarding the cancellation, limitation, revocation, suspension, termination or modification of Licenses shall be final, unless appealed as provided in Chapter 8 of this Ordinance. No Gaming shall be conducted by the Licensee after cancellation, even during the pendency of an appeal.

Section 7.08 Eligibility Determination and Procedures for Forwarding Applications and

Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

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

(b) When a Key Employee or Primary Management Official commences work at a Gaming Operation, the Commission shall within a reasonable period of time forward to the NIGC a completed application for employment for such Key Employee or Primary Management Official, and shall conduct all necessary background investigations. The Commission shall make the eligibility determination referred to in subsection (a) of this section.

(c) A report shall be submitted to the NIGC within sixty (60) days after a Key Employee or Primary Management Official commences work at a Gaming Operation or within sixty (60) days of the approval of this Ordinance by the Chairman. Such report shall, at a minimum, include all of the following:

(1) steps taken in conducting the background investigation;

(2) results obtained;

(3) conclusions reached by the Commission;

(4) the Commission's basis for those conclusions; and

(5) a copy of the eligibility determination made pursuant to Section 7.08(a).

(d) Subject to the provisions of section 6.12 No Gaming Operation shall continue to employ as a Key Employee or Primary Management Official any Person who does not have a License within ninety (90) days of commencing work at a Gaming Operation.

(e) If a License is not issued to an Applicant, the Commission:

(1) shall notify the NIGC; and

(2) may forward copies of its eligibility determination and any relevant

report regarding a background investigation of the Applicant to the NIGC for inclusion in the Indian Gaming Individuals Records System.

(f) With respect to Key Employees and Primary Management Officials, applications for employment and reports of background investigations shall be retained by the Commission for inspection by the Chairman or his designee for no less than three (3) years from the date of termination of employment of each Key Employee or Primary Management Official.

Section 7.09 Granting a Gaming License.

(a) If, within a thirty (30) day period after the NIGC receives all required applications and reports, the NIGC 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 a Primary Management Official, the Commission may issue a License to such Applicant.

(b) The Commission shall respond in a timely manner to requests for additional information from the NIGC concerning Key Employees or Primary Management Officials who are the subject of any report filed with the NIGC by the Commission. Any such request by the Chairman shall suspend the thirty (30) day period referred to in this Section until the Chairman receives the additional information requested.

(c) If, within a thirty (30) day period after the NIGC receives all required applications and reports, 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 Commission has submitted an application and all required reports to the NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a License to such Applicant.

Section 7.10 License Revocation and Suspension Following Receipt of Information from NIGC.

(a) If, after the issuance of a License, the Tribe receives information from the NIGC indicating that a Management Entity or Controlling Shareholder, Key Employee, or Primary Management Official is not eligible for employment under Section 6.02 of this Ordinance, the Commission shall suspend such License, shall notify the Licensee in writing of such suspension and the potential revocation of the Licensee's License, and shall conduct a hearing in accordance with the Rules regarding the proposed License revocation.

(b) After a hearing, the Commission shall revoke or reinstate a License suspended pursuant to subsection (a) of this Section. The Commission shall notify the NIGC of its decision. A decision of the Commission to revoke a License after the hearing called for by subsection (a) of this Section shall be final and there shall be no appeal. A Management Entity whose License has been revoked or suspended pursuant to this Section may not operate a Gaming Operation.

Section 7.11 Show Cause Hearing for Manager and Primary Management Officials.

Excepting the provisions of Section 7.10 and notwithstanding the foregoing, in the event that the Tribal Gaming Commission obtains reliable information that the duly licensed Manager and/or a Primary management Official may have breached any provision of this Ordinance, the Compact, IGRA, or its license, the Tribal Gaming Commission shall issue a Notice for Show Cause to the licensee prior to any action of suspension or the giving of notice of a revocation hearing with respect to its / their license(s). The Notice for Show Cause shall describe the alleged breach, shall describe the steps necessary to effect a cure and shall provide the licensee with an opportunity to meet with the Tribal Gaming Commission to discuss the matter. The discontinuance or correction of the alleged breach shall constitute a cure thereof, except where such alleged breach constitutes a criminal violation by the Manager or the Primary Management Official. If the alleged breach is not corrected or discontinued as required herein, then the Tribal Gaming Commission shall institute the notice and hearing procedure set forth above.

CHAPTER VIII
RULES OF PROCEDURE FOR HEARINGS

Section 8.01 Scope of Rules of Procedure. All License hearings, enforcement hearings and exclusion hearings conducted pursuant to this Ordinance shall be governed by this Chapter.

Section 8.02 Hearings.

(a) The Commission shall afford an Applicant an opportunity for a hearing prior to any final action by the Commission on a Application, other than an unconditional grant of a License.

(b) The Commission shall afford a Licensee the opportunity for a hearing prior to taking final action resulting in the revocation of the License or the imposition of any penalties which the Commission is authorized to impose pursuant to these Rules and the Ordinance.

(c) Nothing in this Section shall limit the Commission's authority to summarily suspend or revoke a License without a hearing pursuant to Section 7.07(b) of this Ordinance.

Section 8.03 Notice of Hearing.

(a) The Commission shall provide written notice to the Applicant or Licensee of the hearing at least ten (10) days prior to the date set for the hearing. The day the Applicant or Licensee receives the notice shall be considered a full day's notice under this Section. The notice shall be sent by registered or certified mail, or may be personally served upon the Applicant or Licensee. The notice shall state the date, time and place of the hearing. The notice shall also contain an indication of the action(s) being considered by the Commission, including, but not limited to:

(1) whether the Commission is holding the hearing for the purpose of obtaining further information from the Applicant;

(2) whether the Commission will be considering the grant or denial of the License Application;

(3) whether the Commission will be examining any alleged violations of the Ordinance, the Compact, the IGRA, the conditions of any License issued by the Commission, any order by the Commission, or any other applicable laws, regulations or agreements; or

(4) whether any other sanctions or penalties will be considered.

The notice shall also contain a short, plain statement of the reasons the Commission determines the hearing is necessary.

Section 8.04 Ex Parte Communications.

(a) No ex parte communication relative to the action(s) being considered by the Commission, or a threat or offer of reward shall be made, before a decision is rendered, to any member of the Commission by or on behalf of the Applicant or Licensee, or any legal representative or counsel of the Applicant or Licensee.

(b) Nothing in this Section shall prohibit the Applicant, Licensee or its authorized agent from communicating with the Commission's legal counsel, its investigators or other authorized agents.

(c) Any member of the Commission who receives an ex parte communication shall immediately report such communication to the Commission's legal counsel.

(d) For purposes of this Section only, the action(s) being considered by the

Commission shall be those matters identified in the written notice as provided in Section 8.03(a) of this Ordinance, as well as any other matters that are actually considered by the Commission during a hearing. All matters identified in the written notice shall be subject to the prohibition against ex parte communications. All matters not identified in the written notice that are considered by the Commission during a hearing become subject to the prohibition against ex parte communications as soon as they are discussed during the hearing.

(e) The Commission shall have the power to impose any sanction pursuant to this Chapter upon its determination that an Applicant or Licensee has made an ex parte communication in violation of this Section.

Section 8.05 Appearance through Counsel.

(a) Parties to all hearings governed by this Chapter may appear personally or through an attorney, except that a party must personally attend any hearing on

the merits unless his/her attendance has been waived, in writing, by the Commission.

(b) When a party has appeared through an attorney, service of all notices, motions, orders, decisions and other papers shall thereafter be made upon the attorney, unless the party requests otherwise in writing.

(c) When a party is represented by an attorney, the attorney shall sign all motions, notices, requests, and other papers on behalf of the party, including a request for subpoenas.

(d) Any attorney appearing before the Commission must be duly admitted to practice law in the Tribal Court of the Confederated Salish and Kootenai Tribes.

Section 8.06 Discovery Procedures for Enforcement Hearings.

(a) The Commission's legal counsel and the Licensee shall exchange a list of persons that each party intends to call as witnesses no later than five (5) business days before a scheduled enforcement hearing. The day the list is received shall be considered a full day's notice under this Section. Each witness shall be identified by name, if known, position, and business address. If no business address is available, a home address for the witness shall be provided. Any witness not identified in accordance with this Section may be prohibited from testifying at a hearing in the Commission's discretion.

(b) The Commission's legal counsel and the Licensee shall exchange a copy of

all documents or tangible things that they intend to offer as evidence in support of the party's case in chief. This exchange shall be made to the opposing party no later than five (5) business days before a scheduled enforcement hearing. The day the documents are received shall be considered a full day's notice under this Section. Failure to make available any document or tangible thing in accordance with this section may, in the Commission's discretion, be grounds to deny the admission into evidence of such document or tangible thing.

Section 8.07 Confidential Materials.

(a) Prior to making any documents available to the Commission's legal counsel or designated agent, the Applicant or Licensee may designate any document it believes to contain confidential information as "Subject to a Confidentiality Claim" by so marking the document prior to providing a copy of the document to the Commission's legal counsel.

(b) Documents provided to the Commission's legal counsel or designated agent which have been marked in accordance with Paragraph (a) above and any non-public information contained within the document, shall not be made a part of the public record of the Commission proceedings otherwise disclosed by the Commission to any person (except as may be required under any applicable law, rule, regulation, court or administrative order, or the Compact), without first providing the applicant or licensee with the opportunity to seek a ruling by the Commission that the document or non-public information contained therein should not be made public. The request for such a ruling and any discussions relating to the document shall be heard and ruled upon by the Commission in an Executive Session meeting. If the request for such a ruling is made during a public hearing session, the hearing session shall be adjourned and the Commission shall conduct an Executive Session meeting in order to hear and rule upon the applicant's or respondent's request. The Applicant or Licensee may present to the Commission in Executive Session written and oral argument regarding the confidentiality claim, along with any facts the Applicant or Licensee believes to be relevant to such argument.

(c) In determining whether a document marked in accordance with subsection (a) above should be made part of the public record of the Commission proceedings on the Application, the Commission will balance the Applicant's claimed confidentiality concerns against the materiality of the information to the Application, the public's right to be made aware of the information, and the Commissioner's need to make the information part of the public record in order to remain fully accountable for the licensing decision. In making this determination, the Commission shall consider all facts and circumstances relevant to making a proper ruling.

(d) In the event that the Commission rules during executive session that the document in question and/or information contained therein should be made part of the public record of the Commission's proceedings on the Application, the document and/or information contained therein will be made part of the public record unless the Applicant withdraws the document from the Commission's possession.

(e) In the event the Applicant chooses to withdraw the document from the Commission's possession, the Commission will then weigh the withdrawal along with the other evidence in making its determination on the Application. Withdrawal of documents from the application process shall be looked upon by the Commission with disfavor, and depending on the facts and circumstances, the Commission may deem the withdrawal of any document to be sufficient cause in and of itself for denial of the License.

(f) In the event that the Commission rules during Executive Session that the document and/or information contained therein should not be made part of the public record, the document shall be designated "Confidential" and will not be made part of the public record. The Commission may consider the document and information contained therein in camera in making its determination on the Application.

(g) At the conclusion of the Commission proceedings on the License application, the Commission will return to the Applicant all documents marked as "Subject to a Confidentiality Claim" pursuant to Paragraph (c) above that were not (i) made part of the public record of the gaming License application or (ii) designated as "Confidential" and considered by the Commission in camera.

Section 8.08 Subpoenas.

(a) The Commission has the power and discretion to issue subpoenas and to impose such reasonable penalties for noncompliance.

(b) Subpoenas may be issued to compel any person to appear at the hearing on the merits of the case, to give oral testimony, or to produce documents or other tangible things.

Section 8.09 Hearing Procedures.

(a) The Chair of the Commission shall preside over all hearings, and shall call the proceedings to order, control the presentation of evidence, the appearance of witnesses, and the order of the proceedings.

(b) The Commission may require any person, including, but not limited to, any Applicant or Licensee, or any agent, employee or representative of any Applicant or Licensee, to appear and testify before it with regard to any matter within its jurisdiction at such time and place as it may designate. Such testimony shall be under oath and may include any matters which the Commission deems relevant to the discharge of the Commission's official duties. Testimony shall be recorded by a duly certified court reporter and may be used by the Commission as evidence in any proceeding or matter before the Commission. Failure to appear and testify fully at the time and place designated shall result in sanctions. Failure to appear may constitute grounds for:

(1) the refusal to grant a License to the person summoned, and /or that person's principal, or employer;

(2) the revocation or suspension of a License held by the person summoned, and/or that person's principal, or employer; or

(3) the inference that the testimony of the person summoned would have been adverse to that person and/or that person's principal or employer.

(c) Any party to the hearing may call and examine witnesses. The Commission shall exercise its discretion to limit the testimony of witnesses where that testimony is argumentative or repetitive.

(d) The Commission shall have the authority to eject from the hearings any person who is disruptive, disorderly, or who shows a lack of proper respect for the Commission or the nature of the proceedings.

(e) Persons shall be permitted to speak only when recognized by the Chair.

(f) Any member of the Commission may ask questions of witnesses, and may request or allow additional evidence at any time.

(g) Any party to the hearing may conduct cross-examinations reasonably required for a full and true disclosure of the facts.

(h) All hearings held under this Ordinance shall be open to the public

(i) The Commission, in its discretion, has the power to sequester witnesses.

Section 8.10 Evidence

(a) In hearings governed by this Chapter, the Commission shall not be bound by technical rules relating to evidence and witnesses. The Commission shall

admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant or unduly repetitious testimony. The Commission shall give effect to the rules of privilege unless such privilege is waived. Basic principles of relevancy, materiality and probative force shall govern the proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

(b) All evidence, including records and documents in the possession of the Commission or which the Commission desires to avail itself, shall be duly offered and made a part of the record in the case. Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.

(c) The Commission may take official notice of any generally recognized fact or any established technical or scientific fact; but parties shall be notified either before or during the hearing or by full reference in preliminary reports or otherwise, of the facts so noticed, and they shall be afforded an opportunity to contest the validity of the official notice.

(d) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy to the original.

(e) The record in a hearing governed by these Rules shall include:

(1) All Applications, intermediate rulings and exhibits and appendices thereto.

(2) Evidence received or considered, stipulations and admissions, including but not limited to confidential evidence received pursuant to Section 8.07 of this Ordinance.

(3) A statement of matters officially noticed.

(4) Questions and offers of proof, objections, and rulings thereon.

(5) Any decision, opinion, findings or report by the Commission.

(6) The transcript prepared by a duly certified court reporter.

Section 8.11 Determinations by the Commission.

(a) The Commission shall make all determinations of issues before it by a majority vote of the Commission.

(b) All determinations made by the Commission involving the grant, denial, cancellation or revocation of a License, a finding of a violation of this

Ordinance, the Rules, the Compact, IGRA, the conditions of any License issued by the Commission, any order by the Commission, or any other applicable laws, regulations or agreements, and the imposition of any sanctions or penalties shall be made by motion and on the record.

(c) A copy of any resolution reached pursuant to Section 8.11(b) of this Ordinance shall be served upon the Applicant or Licensee by registered or certified mail, or may be served personally

Section 8.12 Sanctions. If any party or its attorney fails to comply with any provision of this Ordinance, the Rules, the Compact, IGRA, the conditions of any license issued by the Commission, any order by the Commission, or any other applicable laws, regulations or agreements, including, but not limited to any agreement, regarding any matter, including, but not limited to, discovery matters and the failure to appear at a hearing at the scheduled time, the Commission upon motion or upon its own initiative, may in its discretion impose upon such party or attorney, or both, appropriate sanctions in regard to the failure(s) as are just, including, but not limited to, the following:

(a) An order prohibiting the use of any witness, document or tangible thing which should have been disclosed, produced, exhibited or exchanged pursuant to these Rules or any order of the Commission;

(b) An order that designated facts shall be taken to be established;

(c) An order that the disobedient party may not support or oppose designated claims or defenses;

(d) An order striking any pleadings or parts thereof, or staying further proceedings or dismissing the proceeding or any part thereof, or entering a judgment by default against the disobedient party;

(e) A finding against the disobedient party; or

(f) Any sanction otherwise set forth in this Ordinance.

CHAPTER IX
APPEALS

Section 9.01 Right of Appeal: Appeals Procedures. A Person directly affected by any finding of the Commission pursuant to Section 8.11 of this Ordinance, or any licensing decision of the Commission under this Ordinance, shall have the right to appeal such finding by filing for a rehearing before the Commission. Any such appeal must be filed with the Commission in writing on or before the tenth (10th) day following receipt by such affected Person of the written finding of the

Commission. The Commission shall certify the hearing record within thirty (30) days of the date of the filing of the appeal. In any case which comes before the Commission for final action, the Commission may determine to review all findings of facts and of law, or proceed pursuant to a *de novo* standard. The Commission's decision on rehearing shall be final, and no further appeal may be had.

Section 9.02 Sovereign Immunity of the Commission. The Confederated Salish and Kootenai Tribes, acting through the Tribal Council, confers on the Commission all of the Tribe's rights, privileges, immunities and sovereign immunity from suit, to the same extent that the Tribes would have such rights, privileges, and immunities, if it engaged in the activities undertaken by the Commission.

Section 9.03 Limited Waiver of Sovereign Immunity of the Commission. The Commission hereby expressly waives its sovereign immunity from suit: in any suit against the Commission wherein relief is limited to injunctive or declaratory relief against the Commission.

CHAPTER X
AUDITING AND INTERNAL CONTROL

Section 10.01 Minimum Procedures for Control of Internal Fiscal Affairs. The Commission shall promulgate Rules governing-the control of internal fiscal affairs of all Gaming Operations. At a minimum, such Rules shall require the consistent application of Generally Accepted Accounting Principles, and shall:

(a) prescribe minimum procedures for the safeguarding of a Gaming Operation's assets and revenues, including recording of cash and evidence of indebtedness, and mandatory count procedures. Such Rules shall establish a controlled environment, accounting system, and control procedures that safeguard the assets of the Gaming Operation, assure that operating transactions are properly recorded, promote operational efficiency, and encourage adherence to prescribed policies;

(b) prescribe minimum reporting requirements to the Commission;

(c) provide for the adoption and use of internal audits;

(d) formulate uniform accounts and accounting classifications to assure the consistency, comparability and effective disclosure of financial information. Such accounts shall require that records be retained that reflect statistical drop (amount of cash wagered by Patrons), statistical win (amount of cash won by the Gaming Operation), and the percentage of statistical win to

statistical drop, or provide similar information for each type of game in each Gaming Operation;

(e) prescribe the intervals at which such information shall be furnished;

(f) provide for the maintenance of documentation, (i.e., checklists, programs, reports, etc.), to evidence all internal work performed as it relates to the requirements of this Section;

(g) and provide that all financial statements and documentation referred to in this Section be maintained for a minimum of five (5) years.

Section 10.02 Oversight of Internal Fiscal Affairs. The Commission may require independent audits of the financial statements of any Gaming Operation. Such independent audit must apply and require the consistent application of Generally Accepted Accounting Principles, and shall:

(a) be conducted by independent accountants, knowledgeable in casino audits and operations and licensed or certified to practice public accounting in the State of Montana;

(b) include an opinion, qualified or unqualified, or if appropriate, disclaim an opinion on the financial statements taken as a whole in accordance with standards of the accounting profession established by rules and regulations the American Institute of Certified Public Accountants;

(c) disclose whether the accounts, records and control procedures maintained by the Gaming Operation conform with this Ordinance and the Rules; and

(d) provide a review of the internal financial controls of the audited Gaming Operation to disclose any deviation from the requirements of this Ordinance and the Rules and report such findings to the Commission and the management of the audited Gaming Operation; and

(e) provide such other information as the Commission deems necessary or appropriate.

Section 10.03 Conduct of Audit.

(a) The Commission shall cause to be conducted annually an independent audit of Gaming Operations and shall submit the resulting audit reports to the NIGC.

(b) All Gaming related contracts that result in the purchase of supplies, services, or concessions in excess of $25,000.00 annually, except contracts for

professional legal and accounting services, and any other information the Commission deems necessary or appropriate shall be specifically included within the scope of the audit described in Section 10.03(a).

Section 10.04 Prohibition Against Embezzlement. Any delay or action of any kind which, in the opinion of the Commission, is effectuated by any Licensee to unlawfully or improperly divert Gaming or other proceeds properly belonging to the Tribe, shall constitute grounds for taking disciplinary action against that Licensee. If the Commission finds an unlawful diversion was attempted, it may sanction the Licensee, report the matter to appropriate law enforcement and gaming regulatory agencies for further action and take such other action as it deems necessary or appropriate. Sanctions may include the imposition of fines, and/or the revocation, suspension, or limitation of, or refusal to renew, any License.

Section 10.05 Non-Compliance. Failure to comply with any of the requirements of this Chapter, or the Rules promulgated hereunder may be found to constitute a violation of this Ordinance.

CHAPTER XI
EXCLUSION OR REJECTION OF INDIVIDUALS

Section 11.01 Prohibition Against Certain Individuals. It shall be a violation of this Ordinance for any Licensee to knowingly fail to exclude or eject from the gaming area of a Gaming Establishment any individual who:

(a) is visibly under the influence of liquor, a drug or other intoxicating substance;

(b) is under the age of eighteen years;

(c) is displaying disorderly conduct;

(d) is a person known to have committed a gaming related felony;

(e) is known to have a reputation for cheating or manipulation of games; or

(f) has been personally excluded, or is a member of any group or type of persons which has been excluded, for cause from Gaming Establishments by a resolution of the Commission.

Section 11.02 Right to Exclude or Remove. If the Commission deems it in the best interest of the Tribe, the Commission may exclude or remove any persons from the premises of any Gaming Operation. Any person so excluded shall be entitled to a hearing as provided for by Chapter 8 and shall have the rights provided to an "Applicant" therein. The Manager of any Gaming Operation shall

also have the authority to exclude or remove any person from the Gaming Establishment, and all such actions shall be reported to the Commission within 24 hours of the taking of such action.

CHAPTER XII
PROHIBITED ACTS

Section 12.01 Prohibited Acts. In addition to other civil and criminal acts that may be regulated or prohibited by this Ordinance, the Compact, other Tribal law or applicable Federal law, the following shall constitute prohibited activities and unauthorized Gaming under this Ordinance and shall subject any perpetrator to Commission action, including, but not limited to, the imposition of civil penalties, referral to appropriate law enforcement authorities for criminal proceedings, and License suspension or revocation:

(a) altering or misrepresenting the outcome of Gaming or other event on which wagers have been made after the outcome of such Gaming or event has been determined but before such outcome revealed to the players;

(b) placing or increasing a bet or wager after acquiring knowledge of the outcome of the Gaming or event which is the subject of the bet or wager, including past-posting and pressing bets;

(c) aiding anyone in acquiring such knowledge referred to in subsection (b) of this Section for the purposes of increasing or decreasing any bet or wager, or for the purpose of determining the course of play;

(d) claiming, collecting or taking, or attempting to claim, collect or take, money or anything of value in or from a game with intent to defraud or claiming, collecting or taking an amount greater than the amount actually won in such game;

(e) knowingly to entice or induce another to go to any place where Gaming is conducted or operated in violation of the provisions of this Ordinance, with the intent that the other person play or participate in such Gaming;

(f) reducing the amount wagered or canceling a wager after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets;

(g) manipulating, with intent to cheat or defraud, any component or part of a game in a manner contrary to the designed and normal operational purpose for such component or part, with knowledge that such manipulation will affect the outcome of the game, or with knowledge of any event that affects the outcome of the game;

(h) defrauding the Tribe, any Licensee or any participant in any Gaming;

(i) participating in any Gaming not authorized under this Ordinance and the Compact;

(j) knowingly providing false information or making any false statement with respect to an application for employment or for any License, certification or determination provided for in this Ordinance;

(k) knowingly providing false or misleading information or making any false or misleading statement to the Tribe, the Commission or the Executive Director in connection with any contract for services or property related to Gaming;

(l) knowingly making any false or misleading statement in response to any official inquiry by the Commission or its agents;

(m) offering or attempting to offer any thing of value, to a Licensee in an attempt to induce the Licensee to act or refrain from acting in a manner contrary to the official duties of the Licensee under this Ordinance, the Rules, Tribal and Federal law or specifically IGRA;

(n) acceptance by a Licensee of any thing of value with the expectation that receipt of such thing of value is intended, or may be perceived as intended, to induce the Licensee to act or refrain from acting, in a manner contrary to the official duties of the Licensee under this Ordinance, the Rules, Tribal and Federal law or IGRA;

(o) falsifying, destroying, erasing or altering any books, computer data, records, or other information relating to a Gaming Operation in ways other than is provided in approved internal control procedures;

(p) taking any action which interferes with or prevents the Commission or the Council from fulfilling its duties and responsibilities under this Ordinance, the Rules, or IGRA; and

(q) entering into any contract, or making payment on any contract for the delivery of goods or services to a Gaming Operation, when such contract fails to provide for or result in the delivery of goods or services of fair value for the payment made or contemplated.

Section 12.02 Prohibition Against Electronic Aids. Except as specifically permitted by the Commission, no person shall possess, with the intent to use in connection with Gaming, either individually, or in concert with others, any calculator, computer, or other electronic or mechanical device to assist in projecting the outcome or odds of such Gaming, to keep track of or analyze cards, or to change probabilities of any game or the playing strategies regularly utilized in such Gaming.

CHAPTER XIII
NATIONAL INDIAN GAMING COMMISSION AND COMPACT

Section 13.01 National Indian Gaming Commission-Regulation. Notwithstanding any provision in this Ordinance or the Rules, the Commission is hereby fully empowered to comply with all regulations promulgated by the NIGC, including, but not limited to, reporting requirements relating to ordinances, contracts, license applications, background checks, and other information.

Section 13.02 National Indian Gaming Commission-Assessment. Notwithstanding any provision in this Ordinance or the Rules, the Commission is hereby fully empowered to comply with all assessments authorized by the NIGC. Such assessments shall be payable solely from funds of Gaming Operation revenues as an operating expense.

Section 13.03 Compact with the State of Montana. Notwithstanding any provision in this Ordinance or the Rules, the Commission is hereby fully empowered to comply with the provisions of the Compact, including, but not limited to, any licensing, approval, or monitoring requirements contained in the Compact.

CHAPTER XIV
GENERAL REQUIREMENT

Section 14.01 Security and Surveillance. Each Gaming Establishment must provide for full security and surveillance within the Gaming Establishment at all times. All security personnel in a Gaming Establishment must be licensed by the Commission. The security and surveillance departments shall interact when necessary to carry out their official duties and to coordinate their activities in order to effectuate the best protection for the gaming patrons and the Tribal and management interests and assets of the enterprise.

Section 14.02 Compliance with Environmental and Other Laws. The construction, maintenance and operation of any Gaming Operation shall be in a manner which protects the environment, public health and safety, and shall comply with all applicable Tribal and Federal laws relating to environmental protection and public health and safety including, but not limited to, 25 C.F.R. §522.4 (b) (7).

Section 14.03 Amendments. All provisions of this Ordinance are subject to amendment by the Council. All Rules promulgated by the Commission are subject to proper revision, repeal, or amendment by the Commission. All amendments to this Ordinance shall be effective upon the date of passage by the Council.

Section 14.04 Severability. If any provision of this Ordinance, or any portion of any provision to this Ordinance, is found to be invalid by any court of competent jurisdiction, the full remainder of such provision(s) shall not be affected.

Section 14.05 Words and Terms. Tense, number and gender. In interpreting the provisions of this Ordinance, save when otherwise plainly declared or clearly apparent from the context:

(a) words in the present tense shall include the future tense;

(b) words in masculine, feminine and neuter genders shall include all genders; and

(c) words in the singular shall include the plural, and words in the plural shall include the singular.

Section 14.06 Repeal. To the extent that they are inconsistent with this Ordinance, all prior gaming laws, rules, ordinances or regulations of the Tribe are hereby repealed.

Section 14.07 Unclaimed Winnings.

(a) Any winnings, whether property or cash, which are due and payable to a participant in any Gaming Activity, and which remain unclaimed at the end of a Gaming session, shall be held in safekeeping for the benefit of such participant if his or her identity is known. Such winnings shall be held for twelve months or such longer period as the Commission deems reasonable in consideration of all relevant facts and circumstances. The Commission shall make such efforts as are reasonable under the circumstances to locate such participant. At the end of the safekeeping period, such winnings shall revert to the ownership of the Tribal Government and shall be transferred to the account or place designated by the Executive Treasurer

(b) In the event the identity of a participant entitled to unclaimed winnings is unknown, the Commission shall use its best efforts to learn the identity of such individual and shall follow the procedure set forth in Section 14.08 if the Commission is able to identify such individual with reasonable certainty; provided. however, if after six months from the time the winnings were payable, the Commission has been unable to identify the individual entitled thereto, such winnings shall revert to the ownership of the Tribal Government.

Section 14.08 Patron Disputes. Any Person who has any dispute, disagreement or other grievance with the Gaming Operation that involves currency, tokens, coins, or any other thing of value, may seek resolution of such dispute from the following persons and in the following order: (a) a member of the staff relevant of the Gaming Operation, (b) the supervisor in the area of the relevant

Gaming Operation in which the dispute arose, (c) the manager of the relevant Gaming Operation, and (d) the Commission.

Section 14.09 Patron Rights Regarding Disputes. When a Person brings a dispute for resolution pursuant to Section 14.10, the complainant has the right to explain his or her side of the dispute, and to present witnesses in connection with any factual allegations. At each level, if the dispute remains unresolved, the complainant shall be informed of the right to take the dispute to the next higher level as set forth in Section 14.08. Resolution of any dispute by the personnel of a Gaming Operation shall always involve two or more staff members. All disputes, whether resolved or not, shall be reported in detail by the staff persons involved to their supervisor, or, in the case of the general manager of the Gaming Operation, to the Commission.

Section 14.10 Gaming Commission Action on Patron Disputes. All disputes which are submitted to the Gaming Commission shall be decided by the Commission based on information provided by the complainant and the Gaming Operation, including any witnesses for, or documents provided by or for, the complainant. The decision of the Commission shall be in writing, shall be issued within fourteen (14) days of submission of the matter to the Commission, and shall be provided to the general manager of the Gaming Operation and to the complainant.

Section 14.11 Agent for Service of Process. The Commission Chairman shall be designated agent for service of process for the Tribal Gaming Commission of the Confederated Salish and Kootenai Tribes. The Chairman shall promptly report any such service to the Commission, and shall promptly provide the Commission with a copy of any complaints or other documents served.

Section 14.12 Consent to Jurisdiction. Any person who applies for a License under this Ordinance, applies for employment in any Gaming Establishment, enters into any contract or agreement related to Gaming, or participates in any Gaming on the Reservation, shall be deemed to consent to the civil jurisdiction of the Tribe, the Commission and the Tribal Court. Nothing in this Section shall limit the jurisdiction of the Tribe, the Commission or the Tribal Court under any circumstances not explicitly contemplated in the Section.

Section 14.13. Comity and Concurrent Jurisdiction. The Commission is empowered to seek comity and enforcement of the orders of the Commission by the courts of any other jurisdiction whose assistance may be required to give effect to the orders of the Commission. The Commission is also empowered to issue orders to enforce the lawful orders of other gaming regulatory agencies and the courts of foreign jurisdictions.

Section 14.14. Other Powers of Commission. In addition to and in conjunction with the powers and responsibilities listed in this Ordinance, Rules and other applicable laws and regulations the Commission shall have power to:

(a) issue orders of temporary closure of gaming activities for violations of this gaming ordinance or of contractual obligations to the Tribe, the IGRA or the approved Class III compact or orders of permanent closure of gaming activities for violations of this gaming ordinance, Tribal gaming regulations

or contractual obligations to the Tribe;

(b) initiate civil and criminal actions in court to enforce provisions of this ordinance, tribal gaming regulations or the IGRA;

(c) negotiate and approve management agreements for Class II gaming to be submitted to the Tribal Council for approval by Tribal Council resolution;

(d) approve, deny or revoke gaming licenses for Class II or Class III gaming;

(e) monitor all gaming activities conducted on the Reservation lands on a continuing basis;

(f) insure that background investigations are conducted as required by this ordinance and the IGRA as well as conduct such additional investigations as the Commission may deem necessary;

(g) demand access to and inspect, examine, copy and audit all papers, books and records concerning activities and revenues of any gaming activity conducted on the Reservation and any other matters necessary to carry out their duties under this ordinance;

(h) conduct such hearings as the Commission may deem appropriate in carrying out its duties, including administering oaths or affirmations to witnesses and issuing subpoenas to compel witnesses to appear at such hearings;

(i) when information is received through audits or other investigations that indicates a violation of Tribal, Federal or applicable State ordinances, laws or regulations, to treat as confidential and provide such information to the appropriate law enforcement officials;

(j) adopt regulations deemed necessary to clarify or enforce the provisions of this Ordinance or Tribal rights and interests established in approved management agreements or an approved Class III Compact; and

(k) adopt Confederated Salish and Kootenai Tribal Class II and Class III gaming license applications.

Section 14.15. Enforcement Provisions.

(a) All matters and occurrences which indicate that a criminal act under the Tribe Code, Federal Law or State Law may have occurred in or around any gaming establishment shall be immediately reported to the appropriate law enforcement agency and the Commission.

(b) All matters and occurrences contrary to this Ordinance, rules or regulations promulgated by the Commission which are not covered under a Criminal Code shall be deemed to be a Civil violation. The Commission is hereby authorized to establish a civil violations list of penalties and fines which shall be imposed by the Commission for all such civil violations with the violator afforded the rights to a hearing as provided in Chapter VIII herein.

CERTIFICATION

The foregoing Ordinance was adopted by the Tribal Council on the 6th day of May 1997, with a vote of 6 for, 2 opposed, 2 not voting, pursuant to authority vested in it by Article VI, Section I, subsections (a), (i), (l), (n), (t), and (u) of the Tribal Constitution and Bylaws; said Constitution adopted and approved under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

Chairwoman of the Tribal Council

ATTEST:

Executive Secretary

APPROVED
5-07-97
SUPERINTENDENT FLATHEAD AGENCY

APPROVED:

National Indian Gaming Commission

Date