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TITLE 11. GAMING

ARTICLE I.

GENERAL PROVISIONS

[NOTE: Except as otherwise noted, the provisions of Article I, Title 11 were enacted on December 10, 1992 by Resolution No. 56-1992.]

CHAPTER 1. IN GENERAL

Sec. 11-1101. Title.

This Title shall be known as Title 11 of the Tribal Code or as the Sac and Fox Tribe of the Mississippi in Iowa Gaming Law.

Sec. 11-1102. Purpose.

The purpose of this Title is to regulate the conduct of Class II and Class III gaming activities conducted on Indian lands of the Sac and Fox Tribe to generate revenue for the operation of tribal government programs and services, promote tribal self-sufficiency and economic development, shield the operation of gaming from organized crime and other corrupting influences, and assure that gaming is conducted fairly and honestly by both the operator and players. This Title shall supersede any prior gaming ordinance or statute.

Sec. 11-1103. Definitions.

For purposes of this Title:

- (a) The term "Class I gaming" means: social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.
- (b) The term "Class II gaming" means:
 - (1) The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith),
 - (i) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
 - (ii) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - (iii) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards;

including pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo; and

- (2) Card games that are:
 - (i) explicitly authorized by the laws of the State of Iowa; or
 - (ii) are not explicitly prohibited by the laws of the State of Iowa and are played at any location in the State of Iowa.
- (3) The term “Class II gaming” does not include:
 - (i) any banking card games, including baccarat, chemin de fer, or blackjack (21) when played as house banking card games; or
 - (ii) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.
- (c) The term “Class III gaming” means all forms of gaming that are not Class I or Class II gaming and includes but is not limited to, gambling devices, dice games, wheel games, card games, pari-mutuel wagering on horses and dogs, lotteries, sports betting pools and sports betting including parlay cards.
- (d) The term “Commission” means the Sac and Fox Tribe of the Mississippi in Iowa Gaming Commission.
- (e) The term “Commissioners” means the Sac and Fox Tribe of the Mississippi in Iowa Gaming Commissioners.
- (f) The term “Compact” means any compact entered into between the Tribe and the State of Iowa for the purpose of regulating Class III gaming on the Settlement approved by the Secretary of the Interior and published in the Federal Register pursuant to 25 U.S.C. § 2710(d), and all amendments or modifications thereto.
- (g) The term “distributor” means a person or entity that sells, leases, markets or otherwise distributes gambling games or implements of gambling which are usable in the lawful conduct of gambling games pursuant to this Title, to a licensee authorized to conduct gambling games pursuant to this Title.
- (h) The term “gambling device” means video games of chance, progressive slot machines and slot machines.
- (i) The term “Gaming Facility” means a place or location on Indian Lands where Class II or Class III gaming is conducted.
- (j) The term “gross receipts” means the total sums wagered and, when applicable, shall include the total sums received from, non-gambling sales made on the premises of or in connection with the Tribe’s gaming enterprise.
- (k) The term “immediate family member” means a spouse, child, brother, brother-in-law, sister, sister-in-law; parent, parent-in-law, any person currently living in the same home; or currently a stepchild or stepparent.

- (l) The term “Indian land” means:
- (1) All lands within the limits of the Meskwaki Settlement and such other lands of the Sac and Fox Tribe as may have Indian reservation status under federal law;
 - (2) All lands title to which is held in trust by the United States for the benefit of the Sac and Fox Tribe or any member of the Tribe;
 - (3) All lands held by the Sac and Fox Tribe or any member of the Tribe subject to a restriction by the United States against alienation and over which the Sac and Fox Tribe exercises governmental power; and
- (m) The term “key employee” means a gaming employee:
- (1) Who performs one or more of the following functions:
 - (i) Bingo caller;
 - (ii) Counting room supervisor;
 - (iii) Chief of security;
 - (iv) Custodian of gaming supplies or cash;
 - (v) Floor manager;
 - (vi) Pit boss;
 - (vii) Dealer;
 - (viii) Croupier;
 - (ix) Approver of credit; or
 - (x) Custodian of gaming devices, including individuals with access to cash and accounting records within such devices;
 - (2) If not otherwise included, any other person whose total cash compensation is in excess of fifty thousand dollars per year; or
 - (3) If not otherwise included, the four most highly compensated individuals in the gaming operation.
- (n) “License” means an approval or certification issued by the Commission to any person to be involved in a gaming operation or in the providing of goods or services to any gaming operation.
- (o) “Licensee” means any person who has been approved, licensed, certified or found suitable by the Commission to be involved in gaming activities or gaming operations or in the providing of goods or services to gaming activities or gaming operations or within a gaming facility, but does not include the Commissioners or other employee of the Commission.
- (p) The term “lottery” means a gambling scheme in which:

- (1) The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one or more of which chances are to be designated the winning ones;
 - (2) The winning chances are to be determined by a drawing or by some other method based upon the element of chance; and
 - (3) The holders of the winning chances are to receive something of value in a game for which chances are sold, the winning chance or chances being secretly predetermined or later selected in a chance drawing and in which the holders of winning chances receive money or something of value. The term “chance drawing” includes the identification of winning numbers or symbols by a mechanical, electronic or electromechanical device which makes the selection in a random manner. The term “lottery” includes keno, if conducted as a Class III game, and the types of games actually being conducted by the Iowa Lottery unless the game is by definition a video game of chance or slot machine.
- (q) The term “management contract” means any contract, subcontract, or collateral agreement, or combination of contracts or other agreements, other than a contract with a gaming manager, between a gaming facility operator and a contractor or between a contractor and a subcontractor if such contract or agreement provides for:
- (1) The management of all or part of a gaming operation;
 - (2) The supplying of advice or consultation regarding the management of all or part of a gaming operation even if such contractor has no authority to implement or require the implementation of decisions; or
 - (3) Compensation to the contractor based on a percentage of revenues of gaming activities or a gaming operation.
- (r) The term “management contractor” means a person that has entered into a management contract with a gaming facility operator.
- (s) The term “manufacturer” means a person or entity that designs, assembles, programs, fabricates, produces, constructs, makes modifications to, or otherwise prepares a product or a component part of any gaming device and/or gaming equipment or implement of gambling usable in the lawful conduct of gaming, and includes any person or entity that designs, assumes responsibility for the design of, controls the design or assembly of, or maintains a copyright over the design of, a mechanism, electronic circuit or computer program which cannot be reasonably demonstrated to have any application other than in a gaming device.
- (t) The term “net revenues” means gross revenues of any gaming enterprise less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.
- (u) The term “pari-mutuel” means a betting system in which all persons who bet share in an established prize pool of similar bets.
- (v) The term “parlay cards” means a form of sports betting in which the player must correctly select the winners in a specified minimum number of events in order to win.
- (w) The term “primary management official” means:

- (1) a person having management responsibility for a management contract;
 - (2) Any person who has authority: to hire and fire employees or to set up working policy for the gaming operation; or
 - (3) The chief financial officer or other person who has financial management responsibility.
- (x) The term “progressive slot machine” means a slot machine with a payoff which increases as the slot machine is played.
- (y) The term “slot machine” means a mechanical or electronic gaming device into which a player deposits coins or tokens and from which certain numbers or coins are paid out when a particular, random configuration of symbols appears on the reels or screen of the device.
- (z) The term “sports betting” means the placing of bets or wagers on the outcome of any athletic event, sporting event or similar contest including, but not limited to, the playing of parlay cards.
- (aa) The term “sports betting pool” means a game in which numbers are randomly selected by the participants, and winners are determined by whether the numbers selected correspond to numbers relating to an athletic event in the manner prescribed by the rules of the game.
- (bb) The term “tribal court system” means the system of courts created and established under Title 5 of the Code of the Sac and Fox Tribe of the Mississippi in Iowa.
- (cc) The term “Tribe” means the Sac and Fox Tribe of the Mississippi in Iowa.
- (dd) The term “Vendor” means a manufacturer, distributor, contractor, seller, lessor or any other person or entity who contracts with the gaming enterprise. A Vendor may be gaming or non-gaming as defined by the Gaming Commission.
- (ee) The term “video game of chance” means a game of chance played on microprocessor-controlled devices that simulate games commonly referred to as poker, blackjack, craps, hi-lo, keno, roulette, line-up symbols and numbers, pulltabs, or other electronic or electromechanical facsimiles of any game of chance which are activated by the insertion of a coin, token or currency and which award coins, additional plays or a written or displayed statement of the amount of a prize which is redeemable for cash.

Sec. 11-1104. Implied Consent.

Nothing herein shall be construed to limit or alter the Tribe’s right and power to exclude persons from the Settlement, including the right and power of the Tribe to set conditions on the entry and continued presence of persons on the Settlement as a part of the Tribe’s right and power to exclude. Entry or presence upon the Settlement by any person to engage in gaming or any activity related thereto is expressly conditioned upon the consent of such person to the jurisdiction of the Tribe for purpose of enforcing this Title. Any person who enters or is present upon the Settlement shall be deemed to have given consent to the jurisdiction of the Tribe for purposes of enforcing this Title as a condition of such entry or presence upon the Settlement and any person who violates any provision of this Title shall be deemed to have violated an express condition of entry or presence on the Settlement.

Sec. 11-1105. Construction.

(a) Nothing in this Title shall be construed as limiting, waiving, diminishing, or abrogating the sovereignty, sovereign immunity, or jurisdiction of the Sac & Fox Tribe of the Mississippi in Iowa or any of its agencies, departments, enterprises, agents, officials or employees.

(b) Inclusion of or reference to language, definitions, procedures, or other statutory or administrative provisions of other jurisdictions in this Title shall not be deemed an adoption of that law or any foreign interpretation of that law by the Sac & Fox Tribe of the Mississippi in Iowa and shall not be deemed an action deferring to or consenting to such other jurisdiction by the Sac & Fox Tribe of the Mississippi in Iowa.

Sec. 11-1106. Severability.

If any article, chapter, section or provision of this Title or amendment made by this Title is held invalid, the remaining articles, chapters, sections or provisions of this Title and amendments made by this Title shall continue in full force and effect.

CHAPTER 2. GAMING ACTIVITIES GENERALLY**Sec. 11-1201. Gaming Activity Ownership.**

The Tribe acknowledges that Class I gaming is permitted under the Tribe's common law and the Tribe authorizes Class II and Class III gaming on its Indian lands, where such Class II or Class III gaming is conducted consistent with this Title. The Tribe shall have the sole proprietary interest in and the sole responsibility for the conduct of any Class II or Class III gaming activity on Indian lands. The Tribe shall have the sole control over any bank accounts holding any financial assets related to the Tribe's gaming enterprise except that the Tribe may place financial assets into accounts under the control of other entities pursuant to contracts for pari-mutuel wagering, progressive slot machines, or similar pooled wagering where such control by the other entity is reasonably necessary and where the Gaming Commission has approved the contract.

Sec. 11-1202. Allocation of Gaming Net Revenues.

The net revenues from any gaming enterprise conducted by the Tribe pursuant to this Title shall be allocated only to:

- (a) Fund tribal government operations or programs;
- (b) Provide for the general welfare of the Tribe and its members;
- (c) Promote tribal economic development;
- (d) Donate to charitable organizations; or
- (e) Help fund operations of local government agencies.

Sec. 11-1203. Gaming Facility Construction and Maintenance.

The construction and maintenance of any gaming facility, as well as the operation of any gaming, by the Tribe shall be conducted in a manner which adequately protects the environment and the public health and

safety.

Sec. 11-1204. Withholding Tax on Winnings.

All winnings received or prizes awarded by a licensed Class II or Class III gaming enterprise are Sac and Fox Tribe earned income and are subject to tribal and federal income tax laws. An amount deducted from winnings, or from a cash prize awarded to an individual, for payment of a tribal tax shall be remitted to the Tribe on behalf of the individual who won the wager or prize.

Sec. 11-1205. Civil Jurisdiction.

(a) The Tribe shall have exclusive civil regulatory jurisdiction over all authorized and unauthorized Class I, Class II, and Class III gaming conducted on Indian land and activities related thereto, whether such activities occur on or, if permitted under federal law, off Indian land, including, but not limited to:

- (1) All patrons of the Tribe's gaming enterprise, whether such patrons are located on or, if permitted under federal law, off Indian land;
- (2) All players of authorized or unauthorized Class I, Class II, and Class III gaming, whether such players are located on or off Indian land;
- (3) All contractors of the Tribe or Tribe's gaming enterprise, whether such contractors are located on or off Indian land;
- (4) All licensees and other persons or entities whose activities relate to any authorized or unauthorized Class I, Class II, or Class III gaming, whether such licensees or other persons or entities are located on or off Indian land;
- (5) All property related to authorized and unauthorized Class I, Class II, and Class III gaming, whether such property is located on or off Indian land; and
- (6) Any other person or entity who consents to the exclusive civil regulatory jurisdiction of the Tribe.

(b) The Tribal Court system shall have civil jurisdiction over all civil causes of action and all controversies involving or related to all authorized and unauthorized Class I, Class II, and Class III gaming conducted on Indian lands, including, but not limited to, all civil causes of action and all controversies involving or related to:

- (1) Patrons of the Tribe's gaming enterprise for activities, acts, or omissions related to them as patrons of the Tribe's gaming enterprise;
- (2) Players of authorized or unauthorized Class I, Class II, and Class III gaming on Indian land for activities, acts, or omissions related to their playing of authorized or unauthorized Class I, Class II, or Class III gaming;
- (3) Contractors of the Tribe or the Tribe's gaming enterprise and subcontractors of any such contractors for activities, acts, or omissions, arising out of such contracts or subcontracts, including the breach thereof;
- (4) Licensees and other persons or entities for activities, acts, or omissions related to any

authorized or unauthorized Class I, Class II, or Class III gaming on Indian land;

(5) The transaction of any business with the Tribe's gaming enterprise or otherwise related to authorized or unauthorized Class I, Class II, or Class III gaming on Indian land;

(6) The commission of any act or omission, wholly or in substantial part, on or within the Tribe's gaming enterprise or related to any authorized or unauthorized Class I, Class II, or Class III gaming;

(7) The commission of any act or omission which has, is intended to have, or is reasonably foreseeable to have substantial effect on or within the Tribe's gaming enterprise or any authorized or unauthorized Class I, Class II, or Class III gaming;

(8) The commission of any tortuous act or the engagement in tortuous conduct on or within the Tribe's gaming enterprise or related to any authorized or unauthorized Class I, Class II, or Class III gaming;

(9) The commission of any act or omission outside of Indian land by a person or entity that regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenues from goods used or consumed or services rendered on Indian land;

(10) The ownership, use, lease, or possession of any property related to the Tribe's gaming enterprise or any authorized or unauthorized Class I, Class II, or Class III gaming; and

(11) Any person or entity that consents to the exercise of civil jurisdiction by the Tribe.

(c) The Commission may require any person or entity licensed pursuant to this Title or any other person or entity employed by or doing business with the Tribe or the Tribe's gaming enterprise as a patron or otherwise to contractually or otherwise agree, as a condition of employment or of doing business with the Tribe or the Tribe's gaming enterprise, that the Tribal Court system shall have exclusive jurisdiction over all civil causes of action and all controversies related to such person's or entity's activities, conduct, acts, and omissions on, within, involving, or affecting the Tribe, the Tribe's gaming enterprise, patrons of the Tribe's gaming enterprise, employees of the Tribe and the Tribe's gaming enterprise, contractors and subcontractors of the Tribe and the Tribe's gaming enterprise, players of authorized or unauthorized Class I, Class II, or Class III gaming, and any other matter related to such person's or entity's activities on Indian land or having, intending to have, or reasonably foreseeable to have substantial effect on or within Indian land.

(d) Except for limitations, restrictions or exceptions imposed by or under the authority of the Constitution or laws of the United States or any Class III gaming compact entered into between the Tribe and the State of Iowa, the Tribe shall have criminal jurisdiction over any person whose acts or omissions relate to or involve any authorized or unauthorized Class I, Class II, or Class III gaming.

[As Amended February 22, 2002, Ord. No. 2002-1, § 1(A), adopted by Res. No. 5-2002.]

Sec. 11-1206. Federal Law and Tribe-State Compact Compliance.

Any provision of this Title or of any rule or regulation issued pursuant thereto notwithstanding, the requirements of any applicable federal law or regulation or of any Class III gaming compact between the Tribe and the State of Iowa shall govern whenever there is an inconsistency between this Title and any rule or

regulation issued thereunder and such federal law or regulation, or compact.

Sec. 11-1207. Prohibited Gaming Operations.

Any gaming activity, gaming operation, or gaming facility not specifically authorized pursuant to this Title is prohibited.

TITLE 11. GAMING

ARTICLE II.

GAMING COMMISSION

[NOTE: Except as otherwise noted, the provisions of Article II, Title 11 were enacted on December 10, 1992 by Resolution No. 56-1992.]

CHAPTER 1. ESTABLISHMENT

Sec. 11-2101. Gaming Commission; Establishment; Background Investigation; Waiver of Background Investigation; Ineligibility.

(a) There is hereby created the Sac & Fox Tribe of the Mississippi in Iowa Gaming Commission. The Commission shall consist of not less than three and not more than five members of the Tribe, all of whom shall be appointed by the Tribal Council for a term of three years or until a successor is duly installed by action of the Tribal Council; provided that the terms of the Commissioners serving as of the date of amendment of this Title in 2007 shall be set by the resolution approving the amendment, such that the terms of the Commission members will be staggered. Upon the resignation, removal, or death of a Commission member, the Tribal Council shall appoint a replacement Commission member to fill the remaining term of the Commission member being replaced. The Tribal Council shall designate one of the Commissioners to be the Chairperson of the Commission. For purposes of unemployment compensation laws and any other relevant purpose, Commissioners shall be deemed to hold major nontenured policymaking and advisory positions.

(b) Appointments to the Commission shall be temporary pending the completion of a background investigation and verification that the appointee is eligible to serve on the Commission. Each person appointed by the Tribal Council to serve on the Commission shall file a sworn statement with the Tribal Council, within twenty (20) days following appointment, containing the information described in Section 11-3201(a). A current photograph and two (2) sets of fingerprints on forms commonly used by the Federal Bureau of investigation shall be submitted with the sworn statement. The sworn statement shall include a waiver of any right of confidentiality and shall allow access to law enforcement records of the United States, any state and any tribe, extend to any financial or personnel record wherever maintained, and authorize the Commission to obtain information from other state and tribal gaming jurisdictions regarding license or permit applications or disciplinary actions, or conduct of the appointee in those jurisdictions.

(c) Upon receipt of the sworn statement, photograph, and fingerprints, the Council shall cause a thorough background investigation to be conducted to verify the truthfulness of the information provided and to ensure that the appointee is eligible for appointment. Background investigations may be conducted by the Federal Bureau of Investigation, by the Division of Criminal Investigation of the State of Iowa, by the Tribe's law enforcement agency or by another agency qualified to perform such an investigation. In conducting a background investigation, the identity of each person interviewed in the course of the investigation shall be kept confidential.

(d) The Tribal Council may waive the background investigation for persons appointed to the Commission whenever the Federal Bureau of Investigation, the Division of Criminal Investigation of the State of Iowa or another agency qualified to perform such an investigation has completed a background investigation on the appointee, within the one year preceding the appointment, for and on behalf of:

- (1) The Iowa Racing and Gaming Commission; or
- (2) A gaming regulatory body of the states of Nevada, South Dakota or New Jersey;

and the results of such background investigation have been provided to the Tribal Council in sufficient detail to assure that the appointee is eligible to serve on the Commission. Whenever a full background investigation is waived under this paragraph, the Tribal Council may require that a background investigation be conducted to update and make current the background investigation report received from another gaming jurisdiction.

(e) A person shall be ineligible to serve as a Commissioner or as an employee of the Commission if such person has violated any rule or regulation of the Commission or has pled guilty to or has been convicted of any of the offenses listed below, if the Tribal Council determines that the circumstances of the violation of such rule or regulation or of the offense giving rise to the conviction make the person's service as a Commissioner or as an employee of the Commission a hazard to the regulation and conduct of gaming or may reasonably undermine the public confidence in the integrity of the gaming conducted by the Tribe.

- (1) Offenses related to bookkeeping;
- (2) Offenses related to gambling;
- (3) Offenses related to cheating, theft, or to any fraud or deception while participating in gaming activities or otherwise;
- (4) Offenses related to the use of an alias;
- (5) Offenses that are felonies or are drug-related; or
- (6) Violations of this Title.

If a conviction occurred within the last five (5) years, the person shall be ineligible to serve as a Commissioner or to be employed by the Commission. In the event that the Tribal Council determines that sufficient evidence of rehabilitation exists, the Tribal Council may appoint a person to the Commission or authorize the Commission to employ a person who has been convicted within the last five (5) years of one of the offenses described herein.

If charges are pending against a Commissioner or an employee of the Commission which, if resulting in a conviction, would disqualify the Commissioner or employee from serving on or employment with the Commission, the Commissioner or employee shall be suspended pending the disposition of the charges.

(f) A person shall also be ineligible to serve as a Commissioner or as an employee of the Commission if he or she is determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming.

(g) A Commissioner or employee of the Commission shall become ineligible to continue to serve in such capacity upon the happening of any event which would have made the Commissioner or employee ineligible for appointment or employment if the event had occurred prior to such

appointment or employment, or if the Commissioner or employee of the Commission violates or permits a violation of a provision of this Title or of a rule or regulation adopted by the Commission

(h) If the Tribal Council determines that a person temporarily appointed to the Commission is ineligible to serve as a Commissioner for any reason stated in subsections (e-g), the appointment shall be immediately terminated and such person shall not be entitled to the hearing provided for in Section 11-2102(e).

(i) If, after the end of any period of temporary appointment to the Commission, the Tribal Council receives reliable written information which creates reasonable cause to believe that a Commissioner is ineligible to serve as a Commissioner for any reason stated in subsections (e-g), the Tribal Council shall institute and conduct a proceeding to determine whether the Commissioner's appointment should be terminated in accordance with Section 11-2102(e).

(j) The Commission shall terminate the appointment of any employee who is ineligible for employment for any reason stated in subsections (e-g).

(k) Every Commissioner shall swear or affirm the following oath before the Tribal Council or its designee:

"I, _____, do solemnly swear [or affirm] that I will support and defend the Constitution and laws of the Sac & Fox Tribe of the Mississippi in Iowa and the Constitution of the United States against all enemies; that I will carry out faithfully and impartially the duties of my office to the best of my ability; that I will cooperate, promote and protect the best interests of the Sac & Fox Tribe of the Mississippi in Iowa in accordance with the Constitution and laws of the Sac & Fox Tribe of the Mississippi in Iowa."

(l) Commissioners shall be compensated for their services to the Commission at a rate to be established annually by the Tribal Council, which shall not be reduced during a Commissioner's term of office, and shall be reimbursed for actual expenses related to their duties as Commissioners, including necessary travel expenses.

(m) A Commissioner may resign by delivering a written resignation to the Tribal Council. Such resignation shall be effective, upon receipt by Tribal Council unless otherwise provided by the terms thereof.

[As Amended February 22, 2002, Ord. No. 2002-1, §§2(A), 3(A), adopted by Res. No. 5-2002; February 22, 2002, Ord. No. 2002-2, § 1(A), adopted by Res. No. 6-2002.]

Sec. 11-2102. Restrictions on Commissioners and Commission Employees; Conflict of Interest; Removal from Office.

(a) No member of the Gaming Commission or any employee of the Commission or a member of their immediate family may be a Tribal Council member or license holder under this Title, except that such immediate family members shall be eligible to apply for an employee license under Section 11-3301 of this Title. Where a Gaming Commissioner is sworn into office as a member of the Council, that act shall terminate his or her tenure as a member of the Gaming Commission. Commissioners and Commission employees may not gamble in an establishment licensed by the Commission and shall have no personal financial interest in any gambling by any patron other than the financial interest shared equally with all other members of the Tribe.

(b) No member of the Commission or any employee of the Commission or a member of their immediate family, directly or indirectly, individually, or as a member of a partnership or other association, or as a shareholder, director, or officer of a corporation shall have an interest in a business which contracts for the operation and management of the Tribe's gaming enterprise, or any marketing or supplying of equipment and materials in connection therewith.

(c) A member of the Commission or any employee of the Commission or a member of their immediate family shall not ask for, offer to accept, or receive a gift, gratuity, or other thing of value from a person or entity licensed under this Title or from a person or entity contracting or seeking to contract with the Tribe's gaming enterprise for the operation and management of such enterprise or to supply gaming equipment or materials.

(d) A person or entity licensed under this Title or a person or entity contracting or seeking to contract with the Tribe's gaming enterprise for the operation and management of such enterprise or to supply gaming equipment or materials shall not offer a member of the Commission or any employee of the Commission or a member of their immediate family a gift, gratuity, or other thing of value.

(e) When the Tribal Council initiates a proceeding under section 11-2101(i), the proceeding shall be conducted as specified in this section. Upon initiation of the proceeding, the Tribal Council shall immediately suspend such Commissioner. Within five (5) days following any suspension, the Tribal Council shall notify the Commissioner of the alleged violation and of a hearing before the Tribal Council or its designee. Unless a suspended Commissioner is cleared of any wrongdoing before a hearing is held, the Tribal Council or its designee shall conduct a hearing on the alleged violation no later than thirty (30) days following the date of suspension, provided that the Tribal Council may extend this time for not more than an additional thirty (30) days if an investigation of the alleged violation has not been completed. Hearings under this section shall be conducted under procedures provided in Title 1, Article III, Chapter 2 of this Code, provided that where the procedures established under this Title are clearly inconsistent with Title 1, Article III, Chapter 2, the provisions of this Title shall control.

Whenever a preponderance of the evidence introduced at a hearing supports the conclusion that Commissioner did not violate any provision of this Title or any rule or regulation promulgated pursuant thereto, the Tribal Council shall be prohibited from subsequently taking action against the Commissioner based upon the same evidence, or evidence that was reasonably discoverable at the time of the hearing.

(f) A Commissioner shall not act as agent for or represent anyone in any matter coming before the Commission.

(g) No Commissioner shall vote on or otherwise participate in any action or decision by the Commission involving a Commissioner's immediate family member or in which such Commissioner's immediate family member has a financial or closely related personal interest, whether direct or indirect.

(h) A Commissioner may voluntarily recuse himself and decline to participate in any action or decision by the Commissioners when the Commissioner, in his own discretion, believes:

- (1) That he cannot act fairly or without bias; or
- (2) That there would be an appearance that he could not act fairly or without bias.

- (i) A proceeding to remove a Commissioner from office shall not prevent a subsequent criminal action related to the same conduct.

CHAPTER 2. COMMISSION FUNCTIONS

Sec. 11-2201. Gaming Commission; Powers.

The Commission shall regulate all Class II and Class III gambling on the Tribe's Indian lands, but shall not regulate Class I gambling. The Commission may adopt such rules and regulations as it may deem necessary to carry out the provisions of this Title and shall have the following powers:

- (a) To make the policy decision of identifying occupations within the Tribe's gaming enterprise which require licensing and to implement that policy and adopt standards for licensing such occupations, including the policymaking authority of defining classes of licenses, determining fees and durational terms for such occupational licenses as well as the authority to implement and establish such fees and durational terms;
- (b) To investigate applicants and determine the eligibility of applicants for a license;
- (c) To license any person, employee or vendor working in or for the Tribe's gaming enterprise who requires a license, to license any person, organization or entity selling, leasing or otherwise distributing gambling equipment to the Tribe's gaming enterprise; including the policymaking authority of determining fees and durational terms for such licenses as well as the authority to implement and establish such fees and durational terms;
- (d) To investigate and approve any contractors of the Tribe's gaming enterprise, or any ancillary contractors of any management contractor, who provide supplies, services, concessions or property to the Tribe's gaming enterprise or to any management contractor in connection therewith;
- (e) To investigate possible failures to obtain a gaming license as required by this Title, to investigate possible failures to submit contracts for approval as required by this Title, to investigate possible additional violations of this Title related to the unlicensed person or unapproved contract, and to assess fines and remedial orders related thereto;
- (f) To limit, condition, suspend, restrict or revoke any license it may issue, and assess fines;
- (g) To exercise the policymaking authority of determining standards, including game rules and the regulation of prize and wagering structures, under which all gambling operations shall be held, and to implement and adopt such standards, subject only to the applicable provisions of any Class III gaming compact between the Tribe and the State of Iowa entered into pursuant to federal law;
- (h) To inspect and examine all premises wherein gaming is conducted or gambling devices or equipment are manufactured, sold, or distributed;
- (i) To inspect all equipment and supplies in, upon or about a gaming establishment, or inspect any equipment or supplies, wherever located, which may or have been used in the gaming establishment;
- (j) To summarily seize and remove from a gaming establishment and impound equipment, supplies, and other property for the purpose of examination, inspection, evidence or forfeiture;

- (k) To enter the office, facilities, or other places of business of a licensee to determine compliance with this Title;
- (l) To access upon demand and inspect, examine, copy and audit all papers, books and records of applicants and licensees respecting any revenue or income produced by any gaming business;
- (m) To require verification of the daily gross revenues and income of any licensed gaming activity, and verification of all other matters affecting the enforcement of the policy of or any of the provisions of this Title;
- (n) To seize and impound any patron's winnings which the Commission may have reason to believe may have been won or obtained in violation of this Title or any other law pending a civil forfeiture hearing on such seizure and/or a criminal proceeding in connection therewith;
- (o) To investigate alleged violations of this Title, the Commission rules, regulations, orders or final decisions, any Class III gaming compact entered into between the Tribe and the State of Iowa, and any other applicable laws, and to take appropriate disciplinary action, including the imposition of civil fines, against a licensee or any employee of a licensee for the violation, or institute appropriate legal action for enforcement, or both;
- (p) To require the suspension, revocation or other appropriate disposition of the license of a licensee for a violation by the licensee or an employee of the licensee of this Title or a Commission rule or regulation or for engaging in a fraudulent practice;
- (q) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent documents, and administer oaths and affirmations to the witnesses, when, in the policymaking judgment of the Commission, it is necessary to enforce this Title or the rules and regulations of the Commission;
- (r) To exercise the policymaking authority of determining the payouts from the gambling games authorized under this Title and the policymaking authority of determining the payout rate for all slot machines, and to implement and set such payouts and payout rates, subject only to any applicable requirements of any compact between the Tribe and the State of Iowa governing Class III gaming on Indian lands of the Tribe;
- (s) To provide for the continuous video recording of all gambling activities conducted at the Tribe's gaming enterprise, the placement of cameras and equipment and other guidelines being subject to the policymaking authority of the Commission and to be implemented by the Commission through rule and regulation;
- (t) To provide for adequate security at the Tribe's gaming enterprise, the manner, method, mode, and all other details of such security being subject to the policymaking authority of the Commission and to be implemented by the Commission, subject only to the express provisions of this Title;
- (u) To adopt such rules and regulations as may be necessary to carry out the provisions of this Title and the responsibilities of the Tribe under any applicable federal law and any Class III gaming compact entered into between the Tribe and the State of Iowa; and
- (v) To advise the Tribal Council as to the needs of the Commission and the efficiency and adequacy of regulation of gambling on Indian land, including but not limited to, the direction, emphasis, and scope of regulation of gambling on Indian land and amendments to this Title that the

Commission believes are necessary or appropriate to effectuate the proper regulation of gambling on Indian land by the Commission or other governmental authorities; and

(w) To take any other action, including the authority to determine matters of policy concerning gaming regulation, as may be reasonable and appropriate to ensure the integrity of gambling on Indian land and to enforce this Title and the rules and regulations of the Commission.

[As Amended February 22, 2002, Ord. No. 2002-2, § 1(B), adopted by Res. No. 6-2002.]

Sec. 11-2202. Commission Approval of Non-Management Contracts.

Each contract entered into by the Tribe's gaming enterprise or by any management contractor on behalf thereof must be approved by the Commission if the contract:

(a) Exceeds a value in any 12-month period for \$5,000 or such other amount as set by Commission regulation.

(b) Is a contract in which any employee or vendor, including any management contractor employed by the Tribe or by the Tribe's gaming enterprise, or any officer or director of any such management contractor or of any parent company thereof has either a direct or indirect economic or beneficial interest.

Sec. 11-2203. Minimum Standards for Inspection and Approval of Gambling Devices and Other Gaming Equipment.

(a) Prior to the installation and use of a gambling device and other gaming equipment, the Commission shall inspect, test and consider the gambling device or other gaming equipment for approval. The Commission shall not approve a gambling device or other gaming equipment unless the tests or inspection conducted indicate that such gambling device or other gaming equipment meets the minimum standards established by the Commission consistent with any applicable provisions of a Class III gaming compact entered into between the Tribe and the State of Iowa.

(b) The Commission may make the policy decision to waive the inspection and testing requirements of this section for any gambling device whenever an identical gambling device is currently approved for use by:

(1) the Iowa Racing and Gaming Commission; or

(2) a gaming regulatory body of the state of Nevada, South Dakota, Minnesota or New Jersey,

and the test results from such jurisdictions show that the gambling device meets the standards established pursuant to subsection (a). The test results indicating that the device complies with the applicable standards must be submitted to the Commission and the manufacturer of the gambling device must certify to the Commission and, if required by a Class III gaming compact entered into between the Tribe and the State of Iowa, to the State of Iowa that each gambling device to be shipped complies in all respects with such standards.

(c) The Commission may make the policy decision of requiring a prototype or sample of any model of gambling device or other gaming equipment used in the Tribe's gaming enterprise to be placed and retained in its custody as a control for comparison purposes.

- (d) Any evidence that gambling devices or other gaming equipment used in the Tribe's gaming enterprise has been tampered with or altered in any way that would affect the integrity, fairness, honesty or suitability of the device or equipment shall be reported to the Commission.

[As Amended February 22, 2002, Ord. No. 2002-2, § 1(C), adopted by Res. No. 6-2002.]

Sec. 11-2204. Monthly Commission Reports.

The Gaming Commission shall make a monthly report to the Tribal Council. The report shall include a full and complete statement of gaming revenues paid to the Tribe and to any management contractor, expenses and all other financial transactions of the Commission, a summary of all licensing and enforcement actions, such other information as to which the Commission may wish to advise the Council, and information on any other matters requested by the Council. ;

Sec. 11-2205. Employee or Vendor Licensure Records.

The Commission shall retain all gaming license applications or vendor records which come into the possession of the Commission for at least the term of employment as an employee or vendor but in no event for a period less than 3 years from the date of termination of such employment or application, whichever is longer.

Sec. 11-2206. Gaming Information and Records.

- (a) Gaming information and records enumerated in this section are confidential and may not be disclosed, including to the Tribal Council, except pursuant to court order or pursuant to approval by the Commission, or as otherwise provided for in this section. No person may use a subpoena, discovery or other applicable statutes to obtain such information or records. Information and records considered confidential include:

- (1) Tax returns of individual licensees;
- (2) Applications, credit, medical and security reports of applicants for licenses and of other persons seeking or doing business with the Commission;
- (3) Marketing, financial or sales data, the disclosure of which may be harmful to the competitive position of the Tribe's gaming enterprise, its licensees or persons seeking or doing business with the Commission, provided that such information shall be released to the Tribe upon its request; and
- (4) Audit work papers, worksheets and auditing procedures used by the Commission, its agents or employees.

- (b) Nothing in this section shall be construed to prohibit the Commission from disclosing information and records in accordance with the provisions of any Class III gaming compact entered into between the Tribe and the State of Iowa, or with any applicable federal law or regulation.

Sec. 11-2207. Public Availability of Commission Rules and Regulations.

All rules and regulations, including game rules, issued or approved by the Commission shall be available to any person making a request for such.

TITLE 11. GAMING

ARTICLE III.

LICENSING

[NOTE: Except as otherwise noted, the provisions of Article III, Title 11 were enacted on December 10, 1992 by Resolution No. 56-1992.]

CHAPTER 1. LICENSING GENERALLY

Sec. 11-3101. Licensing; Employees or Vendors; Management Contractors.

(a) Any employee or vendor working in or for the Tribe's gaming enterprise who has access to cash, tokens or chips, machine components or other gaming supplies or who has management, security or accounting responsibilities, or any person, organization or entity selling, leasing, marketing or otherwise distributing gambling equipment, games or implements of gambling to the Tribe's gaming enterprise shall be required to have and display prominently, or display upon request, an appropriate, valid and current tribal license to do business at or with the Tribe's gaming enterprise.

(b) For the purposes of this Section, each person or entity having a direct financial interest in or management responsibility for a management contract, including:

(1) Each member of the board of directors and each officer of a management contractor;

(2) The ten (10) persons who have the greatest direct or indirect financial interests in an entity that is a party to a management contract;

(3) In the case of a corporation that is a party to a management contract, each shareholder who directly or indirectly owns 10 percent or more of the issued and outstanding stock of the corporation alone or in combination with another stockholder who is a spouse, parent, child or sibling;

(4) In the case of a trust that is a party to a management contract, each beneficiary or trustee; or

(5) In the case of a partnership that is a party to a management contract, each partner

shall be considered to have management responsibilities.

Sec. 11-3102. License Eligibility Requirements.

In order to be eligible for a gaming license to conduct business at the Tribe's gaming enterprise, applicants must:

(a) Be at least eighteen (18) at the time of their employment at the Tribe's gaming operation;

(b) Be of good repute and moral character;

(c) Not have been denied a gaming license by the Tribe, the State of Iowa or any other gaming licensing jurisdiction, or currently have a gaming license which has been suspended by the Tribe, the State of Iowa or any other gaming licensing jurisdiction, or have had a gaming license revoked by the Tribe, the State of Iowa or any other gaming licensing jurisdiction;

- (d) Not be employed in any part-time or full-time employment with a government or private employer in any capacity which would create a conflict of interest between the applicant's employment and the interests and objectives of the licensed employment; and
- (e) Not be ineligible for a license under section 11-3103 of this Title.

Sec. 11-3103. License Ineligibility; Suspension; Revocation; Employment Ineligibility.

- (a) The Commission shall not issue a license to any person or entity that has refused to sign the waiver of confidentiality required under section 11-3104(a).
- (b) The licensure of applicants convicted of offenses shall be governed by the following:

(1) The Commission may find an applicant ineligible for a license and deny, suspend, or revoke the license of any applicant who has violated any rule or regulation of the Commission or has pled guilty to or has been convicted of any of the offenses listed below, if the Commission determines that the circumstances of the violation of such rule or regulation or of the offense giving rise to the conviction make the applicant's presence at the Tribe's gaming enterprise a hazard to the regulation and conduct of gaming or may reasonably undermine the public confidence in the integrity of the gaming conducted at such enterprise.

- (i) Offenses related to bookkeeping;
- (ii) Offenses related to gambling;
- (iii) Offenses related to cheating, theft, or to any fraud or deception while participating in gaming activities or otherwise;
- (iv) Offenses related to the use of an alias;
- (v) Offenses that are felonies or are drug-related; or
- (vi) Violations of this Title.

(2) If a commission of any of the offenses enumerated in this Section occurred within the last five (5) years, the license shall be denied unless the licensed employment is excepted pursuant to regulations that the Commission shall promulgate and in accordance with the following:

- (i) The licensed employment is for a non-gaming position or services;
- (ii) The applicant is eligible for a license in all other respects except the presence of a conviction of an offense enumerated in this Section;
- (iii) The applicant is an enrolled member of the Tribe;
- (iv) The nature of the offense is such that the applicant, if licensed and employed, will pose no threat to the integrity of gaming or to tribal assets, patrons, or co-workers;

- (v) The applicant has demonstrated sufficient evidence of rehabilitation; and
 - (vi) The applicant has agreed to accept any conditions or stipulations on the license for the term of the license.
- (3) If a commission of any of the offenses enumerated in this Section occurred within the last ten (10) years, a license may be issued if the Commission determines that sufficient evidence of rehabilitation exists.
- (4) The Commission shall temporarily deny a license and shall suspend an existing license if charges are pending against an applicant which, if resulting in a conviction, would disqualify the applicant from receiving or holding a license.
- (c) The Commission shall not issue a license to any person or entity determined to be a person or entity whose prior activities, criminal record, if any, 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, methods and activities in the conduct of gaming. No licensed gaming enterprise shall employ such a person in any capacity.
- (d) The Commission shall not issue a license to any person or entity that has knowingly made a false statement of a material fact to the Commission and may deny a license to any person or entity that has made any false statement in the license application.
- (e) The Commission shall fine, revoke, suspend, limit or refuse to renew the license of any person or entity upon a determination that such person or entity delayed, maneuvered or took any action, or attempted to delay, maneuver or take any action to unlawfully divert gaming or other proceeds properly belonging to the Tribe.
- (f) The Commission shall fine, revoke, suspend, limit or refuse to renew the license of any person or entity having management responsibilities at the Tribe's gaming enterprise upon a determination that such person or entity failed to notify the Commission of any new prospective employee or vendor who, upon employment is to have access to cash, tokens or chips, machine components or other gaming supplies or who is to have management, security or accounting responsibilities.
- (g) The Commission shall fine, revoke, suspend, limit or refuse to renew the license of any person or entity having management responsibilities at the Tribe's gaming enterprise upon a determination that such person or entity failed to notify the Commission of any proposed or actual ancillary contractors who provide supplies, services, concessions or property to the Tribe's gaming enterprise or to the management contractor in connection therewith, as the case may be, and secure the approval of the Commission for the employment of such contractor.
- (h) The employment of any person required to have a license in order to conduct business at the Tribe's gaming enterprise as an employee, or the contract for goods and or services from a vendor shall automatically terminate if such employee or vendor is not licensed 90 days following the commencement of employment or other agency and continued use of the services of the employee or vendor shall be a violation of the public policy of the Tribe.
- (i) If, after the issuance of a gaming license, the Commission receives reliable information indicating that an employee or vendor is not eligible to have a license to conduct business at the Tribe's gaming enterprise, the Commission shall suspend such license and shall notify the licensee in

writing of the suspension and proposed revocation. When the suspension involves an employee or vendor who has access to cash, tokens or chips, machine components or other gaming supplies or who has management, security or accounting responsibilities, the notice shall include a time and place for a hearing on the proposed license revocation. After a revocation hearing, the Commission shall notify the National Indian Gaming Commission of its decision to revoke or to reinstate the license. The Commission may act to revoke or reinstate the license of any other licensee under such procedures as it may determine appropriate and under such standards it deems appropriate as a matter of policy to ensure the integrity of gambling on Indian lands

(j) The Commission shall revoke and refuse to renew an existing license upon the happening of any event which would have made the licensee ineligible for a license if the event had occurred prior to the issuance of the license, or if the licensee knowingly made a false statement on the license application, or if the licensee or an agent of the licensee violates or permits a violation of a provision of this Title or of a rule or regulation adopted by the Commission.

(k) An employee or vendor who must have a license in order to provide goods or services to the gaming enterprise shall immediately cease to provide such services once the employee or vendor is notified that its gaming license has been suspended, revoked, not renewed prior to expiration, or otherwise terminated or cancelled. The offer to provide or the actual provision of goods or services in violation of this section shall constitute grounds for permanent revocation of the gaming license.

(l) Failure of an employee or vendor to maintain a required gaming license constitutes misconduct by the employee or vendor in violation of the Tribe's public policy, and it voids any contract for the provision of such goods or services from the date of the action or inaction which resulted in loss of the license.

(m) A former licensee whose license is revoked is not eligible to receive another gaming license, unless excepted by regulation adopted by the Commission.

[As Amended February 22, 2002, Ord. No. 2002-1, § 4(A), adopted by Res. No. 5-2002; February 22, 2002, Ord. No. 2002-2, § 2(A), adopted by Res. No. 6-2002.]

CHAPTER 2. APPLICATION FOR LICENSE

Sec. 11-3201. License Application Requirements.

Any person, organization or entity required under Section 11-3101 to secure a license in order to conduct business at the Tribe's gaming enterprise must apply for the appropriate license at least thirty (30) days prior to conducting such business or as otherwise allowed in the discretion of the Commission. The application shall be sworn.

(a) **Employee License Application.** Except as otherwise provided by law, the license application of any person or entity required to have a license in order to conduct business at the Tribe's gaming enterprise as an employee (including a key employee or primary management official) shall contain, at a minimum, the following information about the applicant:

- (1) Full name, including other names used (oral or written);
- (2) Date of birth and place of birth;

- (3) Social security number(s);
- (4) Citizenship(s), including tribal affiliation(s);
- (5) Gender;
- (6) All languages (spoken or written);
- (7) Physical description;
- (8) Residence(s) addresses since age eighteen (18);
- (9) Employment history since age eighteen (18), including for the previous 5 years, businesses and employment positions held, ownership interests in those business, and business addresses;
- (10) Drivers license numbers for the previous 5 years;
- (11) Current business and residence telephone numbers;
- (12) Criminal history, including major traffic offenses, and including the date and place of any felony or misdemeanor (excluding minor traffic violations) arrest, the charge, details surrounding any arrest or charges, the name and address of the court, including courts martial, involved, the disposition of any charges filed and the date of disposition;
- (13) Whether the applicant has ever held or applied for a professional or occupational license or permit issued by any state, Indian tribe or any other jurisdiction, the jurisdiction in which the license or permit was issued or applied for, the type of license or permit, the license or permit number, and the details surrounding any denial of the license or permit or the withdrawal of the application therefor, the details surrounding any suspension, revocation, or other disciplinary action taken based on the license or permit, and if not current, the reason it is not current;
- (14) Whether the applicant has ever held or applied for a gambling related license or permit issued by any state, Indian tribe or any other jurisdiction, the jurisdiction in which the license or permit was issued or applied for, the name and address of any licensing or regulatory agency with which the application for a license or permit related to gaming was filed, the type of license or permit, the license or permit number, the details surrounding any denial of the license or permit or the withdrawal of the application therefor, the details surrounding any suspension, revocation, or other disciplinary action taken based on the license or permit, and if not current, the reason it is not current;
- (15) Whether the applicant has ever had any experience related to any agreement with any gaming operation, the exact nature of the applicant's role in the operation, the name and address of all parties to the agreement, the place the agreement was performed, and the dates covered by the agreement;
- (16) A description of any previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (17) A description of any previous business relationships with Indian tribes, including ownership interests in those businesses;

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

(19) Whether the applicant has ever been an investor in any gaming operation, the exact nature of the investment, the name and address of all other investors holding (directly or indirectly) an interest of ten (10) percent or more in the gaming operation, and the name and address of the gaming operation; and

(20) 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 paragraph (a)(8) of this section.

(21) The applicant will also be required to submit with an application a current photograph and two (2) sets of fingerprints on forms commonly used by the Federal Bureau of Investigation.

(22) The applicant will also be required to submit with the application any other information deemed relevant or requested, either orally or in writing, by the Commission or an employee of the Commission.

(23) The application shall include a waiver of any right of confidentiality and shall allow access to law enforcement and regulatory agency records of the United States, any state, any tribe, and any foreign government, extend to any financial or personnel record wherever maintained, and authorize the Commission to obtain information from other state and tribal gaming jurisdictions regarding license or permit applications or disciplinary actions, or conduct of the applicant or any of its shareholders, partners, agents, or employees in those jurisdictions. The waiver shall also authorize the Tribe to disclose any of the information contained in the application to appropriate federal, tribal, state, or foreign law enforcement and regulatory agencies in connection with a background investigation or when relevant to civil, criminal or regulatory investigations or prosecutions or investigations of activities associated with a gaming operation.

(24) A person who knowingly makes a false, misleading or erroneous statement on the application or in any statement attached to the Application commits a Class 3 offense as defined by Title 13 of this Code.

(25) The application form for key employees and primary management official licenses shall contain, and other application forms may contain, the following notices prior to the form being filled out by the applicant:

(i) In compliance with the Privacy Act of 1974, the following information is provided: solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with

the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

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

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

(b) Management contractor license application.

(1) In addition to the applicable information required under subsection (a), where the applicant for a management contract is an entity, the application shall state:

(i) Applicant's name and address;

(ii) Name and address of applicant's parent company, if any;

(iii) Names and addresses of each person comprising such entity or parent entity who has a direct financial interest in, or management responsibility for, the management contract. For each such person, the application shall include the information required under subsection (a);

(iv) Names and addresses of each director, officer, stockholders who hold (directly or indirectly) 10 percent or more of the issued and outstanding stock, and other owners who hold (directly or indirectly) 10 percent or more of the ownership interest in such applicant entity and in the applicant's parent company, if any, including the beneficiary or trustee of any trust, and any partner. For each such person, the application shall include the information required under subsection (a);

(v) Whether the applicant has ever failed to meet a monetary obligation in connection with any gambling enterprise;

(vi) Name and address of all proposed or actual ancillary contractors who provide supplies, services, concessions or property to the Tribe's gaming enterprise or to the management contractor in connection therewith. If the identity of any such contractor is not known at the time the application is submitted, the management contractor shall have a continuing duty throughout the term of any management contract to provide this information to the Commission;

(vii) Any previous business relationships with Indian tribes, including ownership interests in those businesses;

(viii) Any previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(ix) Criminal history, including the date and place of any felony or misdemeanor

charge, details surrounding any arrest or charges, the name and address of the court, including courts martial, involved, the disposition of any charges filed and the date of disposition; and

(x) Whether the entity has ever held or applied for a gambling related license or permit issued by any state, Indian tribe or any other jurisdiction, the jurisdiction in which the license or permit was issued or applied for, the name and address of any licensing or regulatory agency with which the application for a license or permit related to gaming was filed, the type of license or permit, the license or permit number, the details surrounding any denial of the license or permit or the withdrawal of the application therefor, the details surrounding any suspension, revocation, or other disciplinary action taken based on the license or permit, and if not current, the reason it is not current;

(2) The application shall also include

(i) Copies of documents establishing the existence of the entity, such as the partnership agreement, the trust agreement, or the articles of incorporation;

(ii) Copies of documents designating the person who is charged with acting on behalf of the entity;

(iii) Copies of bylaws or other documents that provide the day-to-day operating rules for the organization; and

(iv) Complete financial statements for the previous three (3) fiscal years.

(c) **Vendor License Application.** Except as otherwise provided by law, the license application of any person, organization or entity required to have a vendor license (including a gaming vendor license) shall contain, at a minimum, the following information about the applicant:

(1) Name(s) and mailing address of the person or entity making the application;

(2) Names and addresses of all parties having a direct or indirect financial interest in or with respect to the applicant and their interest in and connection to the applicant;

(3) Type of activity to be engaged in under the license;

(4) Whether the applicant is required to file reports with the Securities and Exchange Commission, and if so required, copies of all filings made during the last three (3) years;

(5) Explicit and detailed disclosure of any criminal record, including any delinquent taxes owed to the federal or any state government by the applicant, any person holding a managerial position or ownership interest greater than five percent (5%) in the applicant organization, and any party of interest whose name appears on the application;

(6) Whether the applicant is licensed by any Indian tribe, the State of Iowa or any other state to sell, lease or otherwise distribute gambling equipment together with proof that the applicant holds a current and valid distributor or manufacturer license from either the States of Iowa, New Jersey, Nevada, Minnesota or South Dakota;

(7) Whether the applicant has ever had a distributor or manufacturer license revoked or

suspended by an Indian tribe or by the state that issued the license and, if so, the circumstances surrounding the Indian tribe's or state's action; and

(8) A statement of waiver authorizing the Commission and/or the State of Iowa to conduct a background investigation of the applicant and any person whose name is required to appear on the application.

The Commission, in its discretion, may waive the requirements of this subsection if the applicant presents proof and the Commission verifies that the applicant holds a current and valid distributor or manufacturer license from either the States of Iowa, New Jersey, Nevada, Minnesota or South Dakota, provided that such applicant is not the subject of any investigation or other action that could result in the suspension or revocation of such license.

(d) The application for each type of license described in this section shall require the applicant to execute an acknowledgement that licensure pursuant to the provisions of this Title constitutes the applicant's formal acquiescence to the civil jurisdiction of the Tribe. Whenever the applicant is an Indian not a member of the Tribe, the acknowledgement shall express the applicant's formal acquiescence to the civil and criminal jurisdiction of the Tribe. The acknowledgment shall be stated in bold face and with each letter of each word capitalized.

Sec. 11-3202. License Application Fees.

The Commission shall set a fee to defray the costs associated with application processing, the search and classification of fingerprints and background investigations. The Commission shall not authorize the search and classification of fingerprints or begin any background investigation until it receives a deposit to cover the initial costs of the background investigation, including the search and classification of fingerprints. The fees may be periodically adjusted for each application to assure that the administrative and other costs of reviewing and investigating each application are covered by the license applicant. The license applicant or such other person or entity who, through contract, policy or other affirmative enactment or action has assumed liability for the payment of license application fees shall be billed for the costs of the investigation as it proceeds. The investigation shall be stopped if the unpaid costs exceed the amount of the deposit available.

Sec. 11-3203. Commission Background Investigation; Federal Notification of Results; Waiver of Background Investigation.

(a) Upon receipt of an application for a license to conduct business at or with the Tribe's gaming enterprise as an employee, management contractor or vendor, the Commission, prior to the issuance of any license, shall cause a thorough background investigation to be conducted on the applicant to verify the truthfulness of the information provided by the applicant and to ensure that persons and entities licensed by the Commission are eligible for licensure. Background investigations may be conducted by the Federal Bureau of Investigation, by the Division of Criminal Investigation of the State of Iowa, by the Tribal law enforcement agency or by another agency qualified to perform such an investigation. In conducting a background investigation, the identity of each person interviewed in the course of the investigation shall be kept confidential. Upon completion of any background investigation and before the issuance of a license to any employee, agent or contractor, the Commission shall notify the National Indian Gaming Commission of the results of such background investigation, including whether the license applicant was found eligible for licensure and the basis for such finding. The Commission shall also submit management contractor background investigation results to the State of Iowa in accordance with the applicable provisions of any Class III gaming compact entered into between the Tribe and the State.

(b) The Commission may make the policy decision to waive any background investigation required under this Section whenever the Federal Bureau of Investigation, the Division of Criminal Investigation of the State of Iowa or another agency qualified to perform such an investigation has completed a background investigation on the license applicant, within the one year preceding the date of the application, for and on behalf of:

- (1) The Iowa Racing and Gaming Commission; or
- (2) A gaming regulatory body of the states of Nevada, New Jersey, Minnesota or South Dakota;

and the results of such background investigation have been provided to the Commission in sufficient detail to assure that the applicant is eligible for licensure, provided that the Commission shall not have authority to waive background investigations for key employees or primary management officials. Whenever a full background investigation is waived under this paragraph, the Commission may require that a background investigation be conducted to update and make current the background investigation report received from another gaming jurisdiction.

[As Amended February 22, 2002, Ord. No. 2002-2, § 2(B), adopted by Res. No. 6-2002.]

CHAPTER 3. TYPES OF LICENSES

Sec. 11-3301. Classes of Licenses.

For each license other than a license issued to the Tribe or an entity wholly owned and operated by the Tribe, there shall be a license application fee. The license application fee shall be set by written Commission regulation, and the Commission shall have authority to set different application fees for different classes of licenses and for licenses within the same class as reasonable. The application fee shall be non-refundable. All fees shall be made payable to the Tribe.

Upon proper application and approval, the following classes of licenses may be issued by the Commission:

(a) **Class II gaming activity license.** The Commission may license and regulate a tribally owned Class II gaming activity on Indian Land if the State of Iowa permits such gaming for any purpose by any person, organization or entity and if federal law does not specifically prohibit such gaming at the proposed site. The license shall be site specific and shall be valid for a period of three years or such shorter period of time set by Gaming Commission regulation, provided that the Commission shall renew such license unless continued Class II gaming at the site would violate section 11-1203 of this Code or other applicable law.

(b) **Class III gaming activity license.** The Commission may license and regulate a tribally owned Class III gaming activity on Indian Land if the State of Iowa permits such gaming activity for any purpose by any person, organization or entity and the gaming is conducted in conformance with a Tribal-State compact entered into by the Tribe and the State of Iowa that is in effect and if federal law does not specifically prohibit such gaming at the proposed site. The license shall be site specific and shall be valid for three years or such shorter period of time set by Gaming Commission regulation, provided that the Commission shall renew such license unless continued Class III gaming at the site would violate section 11-1203 of this Code or other applicable law.

- (c) **Management contractor license.** The management contractor license shall be site specific and shall be valid for a period of one year subject to renewal for the term of any valid management contract. The holder of such a license shall be entitled to manage and operate the Tribe's Class II or Class III gaming enterprise on Indian lands subject to the laws and regulations of the Tribe and the Commission.
- (d) **Key employee or primary management official license.** Any employee, agent or contractor working in or for the Tribe's gaming enterprise who has access to cash, tokens or chips, machine components or other gaming supplies or who has management, security or accounting responsibilities must obtain such a license. The license shall be valid for a period of two years.
- (e) **Employee license.** Any employee, not licensed as a key employee or primary management official, must obtain such a license. The license shall be valid for a period of two years.
- (f) **Vendor or contractor license.** Every vendor with a Gaming Facility must obtain a vendor license, unless the vendor has a license listed in subsections (c)-(e), or unless the vendor is clearly and unequivocally not required to obtain a license by this Title or by written Commission regulations. The Gaming Commission shall have the authority, by written regulation, to create subclasses of vendor or contractor licenses and to set the licensing period for each subclass. The license shall be valid for two years unless a shorter licensing period for the class or subclass is set by Commission regulation.
- (g) **Machine license for leased machines.** Any person or entity entering into a lease or sales agreement with the Tribe regarding slot machines or video games of chance must obtain, for each slot machine or video game of chance to be placed in the Tribe's gaming enterprise, such a license for any period of time during which the Tribe is not the 100% owner of such slot machine or video game of chance.

Sec. 11-3302. Licensing of Gaming Activity; Display of License.

Class II and Class III gaming activities may be conducted on Indian lands only if licensed. The Commission shall issue a separate license for each place, facility, or location on Indian lands at which Class II or Class III gaming is conducted. The license shall be displayed in a prominent place on the premises where the Class II or Class III gaming activity is conducted.

Sec. 11-3303. Certain Licensees Ineligible as Vendor.

A management contractor or any person or entity licensed for employment in the Tribe's gaming enterprise shall not be a vendor of gambling games or implements of gambling.

Sec. 11-3304. Licensing of Vendors.

- (a) Each person or entity which must obtain a contractor or vendor license shall apply for a license upon a form prescribed by the Commission and shall submit the appropriate license fee. An applicant shall provide the necessary information as the Commission requires.
- (b) The following persons and entities are not required to obtain vendor licenses:
- (1) Those who are solely providing attorney or accounting services;

(2) Those who provide non-gaming related services under a contract which provides a maximum payment of less than \$5,000 per year or such other amount as set by Gaming Commission regulations.

(3) Vendors who provide services which the Gaming Commission by regulation or individualized review has determined do not need to be licensed because their services do not have the ability to impact the integrity of the Tribal gaming operation.

(c) The Commission shall suspend, revoke or refuse to renew the license of any vendor of gambling games or implements of gambling if the State of Iowa or any other state gaming jurisdiction has suspended, revoked or refused to renew the similar license of such vendor.

CHAPTER 4. MISCELLANEOUS PROVISIONS

Sec. 11-3401. License Contents.

Each license shall set forth the name of the licensee, the type of license granted, and the expiration date of the license.

Sec. 11-3402. Legal Effect of Licensure.

Any person or entity who accepts a license or the renewal thereof pursuant to the provisions of this Title shall be deemed to have agreed to be bound by the provisions of this Title, any rules and regulations issued in accordance therewith, the provisions of any Class III gaming compact entered into between the Tribe and the State of Iowa, and any amendments to such laws, rules or regulations and compact. It is the responsibility of the licensee to be informed regarding the provisions of this Title, the rules and regulations issued pursuant thereto and any Class III gaming compact entered into between the Tribe and the State of Iowa. Ignorance of such provisions will not excuse violations.

Sec. 11-3403. Licensee Consent to Search.

Each licensee shall consent to the search by the Commission without a warrant of the licensee's person, personal property and effects, and premises which are located within the Tribe's gaming enterprise or adjacent facilities under control of or utilized by the licensee to inspect for or investigate violations of this Title or violations of rules or regulations adopted by the Commission.

Sec. 11-3404. License Non-Transferable.

Any license issued by the Commission authorizing any person, organization, or entity to conduct business at the Tribe's gaming enterprise shall be non-transferable and shall prohibit the licensee from transferring, subcontracting or assigning to any other person, organization or entity any of its rights or duties relating to the license either directly or indirectly or, in the case of a management contractor, any ownership interest in the management contract.

Sec. 11-3405. License as Revocable Privilege.

Any license issued by the Commission to any person, organization or entity for the conduct of business at the Tribe's gaming enterprise is a revocable privilege. No holder thereof shall be deemed to have a part in any vested rights therein or thereunder. The burden of proving that a person, organization or entity is qualified to hold any license issued by the Commission rests at all times with the licensee. The Commission

shall continually monitor the conduct of all licensees to assure that licenses are not held by unqualified or disqualified persons or by any qualified person or persons whose operations are conducted in an unsuitable manner.

Sec. 11-3406. Notification of License Issuance.

The Commission shall notify the National Indian Gaming Commission of the issuance of a license to any person, organization or entity required under Section 11-3301 to secure a license in order to conduct business at the Tribe's gaming enterprise.

TITLE 11. GAMING**ARTICLE IV.****MANAGEMENT CONTRACTS**

[NOTE: Except as otherwise noted, the provisions of Article IV, Title 11 were enacted on December 10, 1992 by Resolution No. 56-1992.]

CHAPTER 1. APPROVAL OF CONTRACTS**Sec. 11-4101. Management Contract Contents; Approval.**

The Tribal Council may approve and, on behalf of the Tribe, enter into any management contract if it determines that such contract provides at least:

- (a) For compliance with this Title in the conduct of all gaming covered by the contract;
- (b) For an enumeration of the responsibilities of each of the parties for each identifiable function, including:
 - (1) Maintaining and improving the gaming facility;
 - (2) Providing operating capital;
 - (3) Establishing operating days and hours;
 - (4) Hiring, firing, training and promoting employees;
 - (5) Maintaining the gaming operation's books and records;
 - (6) Preparing the gaming operation's financial statements and reports;
 - (7) Hiring and scheduling auditors;
 - (8) Hiring and supervising security personnel;
 - (9) Providing fire protection services;
 - (10) Setting the advertising budget and placing advertising;
 - (11) Paying bills and expenses;
 - (12) Establishing and administering employment practices;
 - (13) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage;
 - (14) Complying with all applicable provisions of the Internal Revenue Code; and
 - (15) Complying with the Currency Transaction Reporting and related requirements of Title 31 of the United States Code;

- (c) For adequate accounting systems and procedures whenever the contractor is responsible for the establishment or maintenance of such systems and procedures. At a minimum, the accounting systems and procedures shall:
- (1) Include an adequate system of internal accounting controls;
 - (2) Permit the preparation of financial statements in accordance with generally accepted accounting principles;
 - (3) Permit an audit to be conducted by an independent CPA in accordance with the AICPA's generally accepted auditing standards;
 - (4) Allow a Class II gaming operation, the Tribe, and the National Indian Gaming Commission to calculate the annual fee under 25 C.F.R. §514.1;
 - (5) Permit the calculation and payment of the manager's fee; and
 - (6) Provide for the allocation of operating expenses or overhead expenses among the Tribe, the tribal gaming operation, the contractor, and any other user of shared facilities and services;
- (d) For verifiable financial reports that are prepared by or for the Council on a monthly basis, or for the contractor to provide the Tribe with all information necessary to prepare such reports, whenever the contractor is responsible for the preparation of such reports or for maintaining such information as may be necessary to prepare such reports;
- (e) For immediate access to the daily operations of the gaming enterprise, including its books and records whenever these are maintained by the contractor, by the Commission and other appropriate tribal officials who shall also have the right to verify the daily gross revenues and income from any tribal gaming activity and access to any other gaming-related information the Tribe deems appropriate;
- (f) For a minimum guaranteed payment to the Tribe in a sum certain that has preference over the retirement of development and construction costs;
- (g) For an agreed ceiling for the repayment of development and construction costs;
- (h) That the contract term not exceed five years, provided that the Tribal Council may request the National Indian Gaming Commission to authorize a contract term that exceeds five (5) years but does not exceed seven (7) years if the Council determines that the capital investment required, and the income projections, for the particular gaming activity require the additional time;
- (i) For grounds and mechanisms for modifying or terminating such contract;
- (j) For mechanisms to resolve disputes between the management contractor and:
- (1) Customers;
 - (2) The Tribe; and

- (3) Gaming operation employees;
- (k) For preference to members of the Tribe in hiring employees for the gaming enterprise;
- (l) That the method of compensating and reimbursing the management contractor be detailed and that any fee based upon a percentage of the net revenues of the tribal gaming activity is reasonable in light of surrounding circumstances and, in no event, shall exceed 30 percent of the net revenues, provided that the Tribal Council may request the National Indian Gaming Commission to approve a fee not to exceed 40 percent of the net revenues if the Council determines that the capital investment required, and the income projections, for such tribal gaming activity require the additional fee; and
- (m) That the management contractor cannot transfer, subcontract or assign any of its rights and duties under the contract or, without advance approval of the Tribe, any ownership interest in the contract.

Sec. 11-4102. Management Contract Disapproval; Termination.

The Tribal Council shall not approve and may terminate any management contract if it determines that:

- (a) Any principal, director, agent or employee of a management contractor or any person having an investment or ownership interest in a management contract, either directly or indirectly, is an elected member of the Tribal Council, or an immediate family member of a member of the Tribal Council; or
- (b) Any principal, director, agent or key employee of a management contractor or of any parent company of a management contractor, any person having a direct investment or ownership interest in a management contract, and, in the case of a management contractor that is a corporation, any person who holds (directly or indirectly) 10 percent or more of the issued and outstanding stock of the corporation or of any parent company of the corporation has been or is subsequently convicted of any felony or gaming offense; or
- (c) Any principal, director, agent, employee, or (directly or indirectly) 10 percent or more shareholder of a management contractor or of any parent company of a management contractor, any person having an investment or ownership interest in a management contract, or the management contractor entity or its parent company, if any, has provided materially important false statements or information to the Commission or other tribal officials, pertaining to matters where a provision of this Title or of any rules or regulations promulgated by the Commission requires the submission of information to the Tribe or an agency thereof, or has refused to respond to questions by the Commission or other tribal officials propounded for the purpose of carrying out their duties and responsibilities under this Title or the rules and regulations promulgated thereunder; or
- (d) Any principal, agent, employee, or (directly or indirectly) 10 percent or more shareholder of a management contractor or of any parent company of a management contractor, or any person having an investment or ownership interest in a management contract has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or in the carrying on of the business and financial arrangements incidental thereto; or

- (e) The management contractor or its parent company, if any, has or has attempted to unduly interfere with or influence for its gain or advantage any decision or process of tribal government relating to gaming activity; or
- (f) The management contractor or its agents have deliberately or substantially failed to comply with the terms of the management contract, the provisions of this Title, any rules or regulations adopted pursuant to this Title, any applicable federal law, any rules or regulations of the National Indian Gaming Commission, or any of the requirements of a Tribal-State compact entered into between the Tribe and the State of Iowa governing gaming on Indian lands; or
- (g) The management contract is inconsistent with any of the requirements of a Tribal-State compact entered into between the Tribe and the State of Iowa governing gaming on Indian lands; or
- (h) The background investigation of the management contractor warrants disapproval or termination of the management contract; or
- (i) A trustee, exercising the skill and diligence to which a trustee is commonly held, would not approve the contract.

CHAPTER 2. REQUIREMENTS OF MANAGEMENT CONTRACTORS

Sec. 11-4201. Management Contractor Records.

In addition to other records and information required by this Title or by any rules or regulations of the Commission, a licensed management contractor shall maintain the following records:

- (a) If a corporation:
 - (1) A certified copy of articles of incorporation and any amendments thereto both for itself and any parent corporation;
 - (2) A copy of bylaws and any amendments thereto both for itself and any parent corporation;
 - (3) A current list of officers and directors both for itself and any parent corporation;
 - (4) Minutes of all meetings of stockholders and directors both for itself, and, whenever the Tribe's gaming enterprise is the subject of discussion, for any parent corporation;
 - (5) A current list of all stockholders and stockholders of affiliates, including their names and the names of beneficial owners of shares;
 - (6) A complete record of all transfers of stock;
 - (7) A record of amounts paid to the corporation for issuance of stock and other capital contributions and dates thereof;
 - (8) A record, by stockholder, of all dividends distributed by the corporation; and
 - (9) A record of all salaries, wages, and other remuneration (including, but not limited to,

stock options granted and/or exercised and personal expenses paid by the corporation), direct and indirect, paid during the calendar or fiscal year, by the corporation, to all officers, directors, and stockholders with an ownership interest at any time during the calendar or fiscal year, equal to or greater than 5 percent of the outstanding stock of any class of stock.

The records required under this subsection shall be maintained and compiled in accordance with the requirements of the Securities and Exchange Commission.

(b) If a partnership:

- (1) A schedule showing the amounts and dates of capital contributions, the names and addresses of the contributors, and percentage of interest in net assets, profits and losses held by each;
- (2) A record of the withdrawals of partnership funds or assets;
- (3) A record of salaries, wages, and other remuneration (including perquisites), direct and indirect, paid to each partner during the calendar or fiscal year; and
- (4) A copy of the partnership agreement and certificate of limited partnership, if applicable;

(c) If a sole proprietorship:

- (1) A schedule showing the name and address of the proprietor and the amount and date of their original investment;
- (2) A record of dates and amounts of subsequent additions to the original investment and withdrawals therefrom; and
- (3) A record of salaries, wages, and other remuneration (including perquisites), direct and indirect, paid to the proprietor during the calendar or fiscal year;
- (4) Federal and state tax returns showing income and losses in connection with the Tribe's gaming enterprise.

All records shall be located in a place approved by the Commission.

Sec. 11-4202. Management Contractor Bond.

A management contractor shall post a bond, which may be a Standby Letter of Credit, to the Tribe before the effective date of any such contract in a sum as the Commission or the Tribal Council shall fix, with sureties to be approved by the Commission or Council. The bond shall be used to guarantee that the management contractor faithfully executes the management contract, keeps its books and records and makes reports, and conducts all gaming operations in conformity with this Title, any rules and regulations adopted by the Commission, the provisions of any compact entered into between the Tribe and the State of Iowa, and applicable federal law. The bond shall provide that the management contractor's failure to post a new bond 30 days prior to the termination date of the existing bond shall constitute a default. The bond shall not be cancelled by a surety on less than 30 days' notice in writing to the Commission and Council. If a bond is cancelled and the management contractor fails to file a new bond in the required amount on or before the effective date of cancellation, the management contract shall be terminated. The total and aggregate liability

of the surety on the bond is limited to the amount specified in the bond.

TITLE 11. GAMING

ARTICLE V.

AUDITING AND ACCOUNTING

[NOTE: Except as otherwise noted, the provisions of Article V, Title 11 were enacted on December 10, 1992 by Resolution No. 56-1992.]

CHAPTER 1. AUDITS AND ACCOUNTING

Sec. 11-5101. Audits of Gaming Operation; Accounting Requirements.

(a) The gaming enterprise books and records shall be audited annually by an independent Certified Public Accountant (CPA) licensed to practice in any state, and no CPA or CPA firm shall perform more than three (3) consecutive annual audits. The annual independent audit will include an audit of all gaming related contracts for supplies, services, or concessions for a contract amount in excess of \$25,000.00 (except contracts for professional legal or accounting services). The audit will also include an audit of gaming and cash procedures and equipment and an audit in conformance with this Title, applicable laws and regulations, and any compact entered into between the Tribe and the State of Iowa governing Class III gaming. All audits shall be conducted pursuant to the AICPA Standards for Audits of Casinos when applicable. A copy of this audit will be provided to the National Indian Gaming Commission and the Commission.

Whenever the annual or any other audit indicates a material weakness in the internal accounting control procedures or other internal control systems, or non-conformance with this Title, applicable laws and regulations, and any compact entered into between the Tribe and the State of Iowa governing Class III gaming, the Tribe's gaming enterprise, within 90 days from receipt of the audit report, shall indicate to the Commission the corrective actions taken.

(b) The gross receipts and adjusted gross receipts from gambling shall be separately accounted for from all other moneys received from operation of the Tribe's gaming enterprise. The Commission shall also have access to any bank records pertaining to the Tribe's gaming enterprise including those bank records of any management contractor showing deposits received from or withdrawals of monies in connection with the Tribe's gaming enterprise.

(c) The Tribe shall perform such additional audits of the books, records, equipment and procedures of any licensed Class III gaming enterprise and of any management contractor thereof as the Commission may deem necessary or as may be required under the terms of any Class III gaming compact entered into between the Tribe and the State of Iowa.

(d) The books of account, records and documents pertaining to the Tribe's gaming enterprise and of any management contractor or other person or entity licensed in connection therewith shall be made available to the Commission, any other authorized agency of the Tribe, or any authorized agency of the federal government or the State of Iowa for inspection and audit at reasonable times, with or without notice. Such books of account, records and facilities pertaining to any Class III gaming enterprise of the Tribe shall also be made available to authorities of the State of Iowa, under applicable provisions of any Class III gaming compact between the Tribe and the State, for the purpose of conducting such routine facility inspections, including equipment testing, casino surveillance, review and copying of records and other information as may be permitted under such compact. Such books of account, records and documents shall be organized and indexed in such a manner to provide immediate accessibility to the Commission or other authorized agency.

- (e) A failure to permit inspection or any falsification of any books or records related to any transaction connected with the holding, operating, and conducting of any gaming activity is a Class 3 offense as defined by Title 13 of this Code.
- (f) Throughout the term of any Class III gaming compact between the Tribe and the State of Iowa and for at least one year following the termination of any such compact, all books, records and documents pertaining to any authorized Class III gaming activities, including the records of any management contractor and the Tribe, shall be separately maintained pursuant to generally accepted accounting principles under standards of the AICPA in order to facilitate auditing to ensure compact compliance.
- (g) In no event shall the books, records, and documents pertaining to any authorized Class II or Class III gaming activities be removed from the premises of the Tribe's gaming enterprise prior to audit.
- (h) All original books, records and documents may be copied and stored on a microfilm, microfiche or other suitable media system approved by the Commission.
- (i) No original book, record or document may be destroyed by the Tribe's gaming enterprise or any licensee thereof without the prior approval of the Commission, unless the particular book, record or document has first been copied and stored on microfilm, microfiche or other suitable media in accordance with subsection (h) of this Section.

For the purpose of this section, "books, records and documents" shall be defined as any book, record or document pertaining to, prepared or generated by the Tribe's gaming enterprise or any licensee thereof including, but not limited to, all forms, reports, accounting records, ledgers, subsidiary records, computer-generated data, internal audit records, correspondence and personnel records.

[As Amended February 22, 2002, Ord. No. 2002-2, § 3, adopted by Res. No. 6-2002.]

Sec. 11-5102. Accounting Records.

- (a) A licensed Class II or Class III gaming enterprise of the Tribe shall maintain complete and accurate books of account and records showing in addition to any other information required by the Commission or the Tribal Council, gross receipts and the amount of any taxes collected or accrued in connection with any gambling activities, all expenses, charges, fees and other deductions, the cash amounts or the cost to the gambling enterprise of goods or other noncash valuables distributed to participants in the licensed activity, and evidences of indebtedness.
- (b) General accounting records shall be maintained on a double entry system of accounting with transactions recorded on an accrual basis.
- (c) Detailed, supporting, and subsidiary records shall be maintained. These records include, but are not necessarily limited to:
- (1) Statistical game records to reflect drop (amount of cash wagered by patrons) and win (amount of cash won by the gaming enterprise) amounts for each type of game on a daily basis;
 - (2) Records of all investments, advances, loans and receivable balances, due to the

licensed Class II or Class III gaming enterprise or any management contractor thereof;

- (3) Records related to investments in property and equipment;
- (4) Records which identify the handle, payout, win amounts and percentages, theoretical win amounts and percentages, and differences between theoretical and actual win amounts and percentages, for each slot machine or video game of chance on at least a week-to-date, month-to-date, and year-to-date basis;
- (5) Records of all loans and other amounts payable by the licensed Class II or Class III gaming enterprise;
- (6) Records which identify the purchase, receipt and destruction of gaming chips and tokens; and
- (7) Other records required by the Commission.

CHAPTER 2. REPORTS

Sec. 11-5201. Gaming Enterprise Reports.

(a) A licensed Class II or Class III gaming enterprise of the Tribe shall file monthly reports with the Commission indicating adjusted gross receipts from gambling games and from other related activities conducted on the premises of the Tribe's gaming enterprise.

(b) A licensed Class II or Class III gaming enterprise of the Tribe shall file an annual financial statement with the Commission covering all financial activities of the Tribe's gaming enterprise. This statement shall be filed within 90 calendar days following the end of the fiscal year.

(1) Any adjustments resulting from the annual audit shall be recorded in the accounting records of the year to which the adjustment relates. In the event any adjustments deemed "material" by the CPA conducting the audit were not reflected in the annual report of the Tribe's gaming enterprise and the Commission concludes the adjustments are significant, the Commission may require a revised annual report to be filed within 30 calendar days following notification.

(2) Required financial statements shall include a footnote reconciling and explaining any differences between the financial statements included in the annual report of the Tribe's gaming enterprise and the audited financial statements. Such footnote shall disclose the effect of such adjustments on:

- (i) Casino revenues;
- (ii) Revenues net of complimentary services;
- (iii) Total costs and expenses;
- (iv) Income before extraordinary items; and
- (v) Net income.

TITLE 11. GAMING

ARTICLE VI.

INTERNAL CONTROLS

[NOTE: Except as otherwise noted, the provisions of Article VI, Title 11 were enacted on December 10, 1992 by Resolution No. 56-1992.]

CHAPTER 1. IN GENERAL

Sec. 11-6101. Internal Control Systems.

A licensed Class II or Class III gaming enterprise of the Tribe shall operate all gaming under a system of adequate and effective internal controls which meets the requirements of the Sac and Fox Tribe of the Mississippi in Iowa Minimum Internal Control Standards (MICS). Internal control systems and any changes therein shall be approved by the Commission before any gaming operations may be commenced by a licensed Class II or Class III gaming enterprise. Once approved, no system of internal controls may be altered until the Commission has approved the changes. At a minimum, internal control systems shall include procedures or standards for:

- (a) Training personnel to understand prescribed procedures;
- (b) Segregating incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of their duties;
- (c) Accounting controls within the cashier's cage;
- (d) Use of drop boxes and drop buckets;
- (e) Transportation of drop boxes to and from gaming tables;
- (f) Storage of drop boxes;
- (g) Accepting cash or prepaid vouchers at gaming tables;
- (h) Distributing gaming chips to gaming tables;
- (i) Removing gaming chips from gaming tables;
- (j) Closing gaming tables;
- (k) Count room security;
- (l) Opening, counting and recording contents of drop boxes;
- (m) Slot machine or video game of chance identifying and non-identifying features and capabilities;
- (n) Jackpot payouts;
- (o) Filling payout reserve containers of slot machines or video games of chance; and

- (p) Counting and recording contents of slot machine or video game of chance drop buckets.
- (q) Compliance with all applicable provisions of 31 U.S.C. §§.5311-5332, as amended, which includes Currency Transaction Reporting (CTRs) and filing of Suspicious Activity Reports (SARs).

CHAPTER 2. SPECIFIC REQUIREMENTS

Sec. 11-6201. Computer Recording Requirements and Monitoring of Slot Machines or Video Games of Chance.

- (a) A licensed Class III gaming enterprise will have a computer connected to slot machines or video games of chance to record and monitor the activities of such machine. The computer will be designed and operated to automatically perform the function relating to slot machine or video game of chance meters as follows:
 - (1) Record the number and total value of coins or tokens placed in the slot machine or video game of chance for the purpose of activating play;
 - (2) Record the number and total value of coins or tokens in the drop bucket of the slot machines or video games of chance;
 - (3) Record the number and total value of slot tokens, cash or chips to be paid manually as the result of a jackpot; and
- (b) The computer shall store in machine-readable form all information required under this section and such stored data shall not be susceptible to change or removal by any personnel prior to submission to the Commission.

Sec. 11-6202. Security and Surveillance Procedures.

The Commission shall establish security and surveillance procedures and equipment standards consistent with any applicable security and surveillance requirements of a Class III gaming compact entered into between the Tribe and the State of Iowa. At a minimum, these procedures shall include the employment of a reasonably adequate security force and providing for a certified peace officer with the power to arrest all persons committing gaming violations to be present at all times when gambling is being conducted.

Sec. 11-6203. Gambling Equipment and Games Acquisition; Vendor's Notice.

- (a) A licensed Class II or Class III gaming enterprise shall acquire all gambling equipment, games or implements of gambling from a vendor licensed pursuant to this Title.
- (b) Prior to delivery to a gaming enterprise licensed under this Title, the vendor shall provide the Commission with a copy of the invoice showing the items shipped and a copy of the bill of lading.

Sec. 11-6204. Games and Game Rules; Approval and Posting.

The Commission will approve all games and game rules. Before any game may be played in the Tribe's gaming enterprise, the game must be authorized by the Commission and the game rules must be publicly posted in the gaming facility at such conspicuous locations, near where such gaming activity is conducted, so as to make them readily available and accessible to the public.

TITLE 11. GAMING

ARTICLE VII.

PROHIBITED AND UNLAWFUL ACTIVITIES

[NOTE: Except as otherwise noted, the provisions of Article VII, Title 11 were enacted on December 10, 1992 by Resolution No. 56-1992.]

CHAPTER 1. PROHIBITIONS

Sec. 11-7101. Prohibited Activities.

- (a) A person or entity is guilty of a Class 1 offense as defined in Title 13 of this Code for any of the following:
- (1) Engaging in any Class II gaming, or in Class III gaming where wagering is used or to be used, without a license issued by the Commission; or
 - (2) Acting or employing a person to act as a shill or decoy to encourage participation in a gambling game. If permitted by the Commission this provision shall not apply to on-duty employees of the Poker Room playing with their own funds.
- (b) A person or entity knowingly permitting a person under the age of eighteen years or such higher age restriction as agreed to by the Tribe in a gaming compact with the State of Iowa to make a wager is guilty of a Class 5 offense as defined in Title 13 of this Code.
- (c) A person or entity wagering or accepting a wager at any location outside a gaming enterprise licensed under this Title is guilty of a Class 5 offense as defined in Title 13 of this Code.
- (d) A person or entity commits a Class 1 offense as defined in Title 13 of this Code and, in addition, shall be barred for life from any gaming enterprise under the jurisdiction of the Commission, if the person or entity, either alone or in concert with others, does any of the following:
- (1) Offers, promises, or gives anything of value or benefit to a person who is connected to a gaming enterprise owned by the Tribe (including, but not limited to an officer or employee of the Tribe or an officer or employee of a management contractor), pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the Commission; or
 - (2) Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with a gaming enterprise owned by the Tribe (including but not limited to, an officer or employee of the Tribe or an officer or employee of a management contractor), pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the Commission;
 - (3) Uses a device, including any calculator, computer, or other electronic, electrical or mechanical device to assist in any of the following:

- (i) In projecting the outcome of a game;
 - (ii) In keeping track of the cards played;
 - (iii) In analyzing or changing the probability of the occurrence of an event relating to the gambling game; or
 - (iv) In analyzing or changing the strategy for playing or betting to be used in the game except as permitted by the Commission;
- (4) Cheats at a gambling game;
- (5) Manufactures, sells, or distributes any cards, chips, dice, game or device which is intended to be used to violate any provision of this Title;
- (6) Instructs a person in cheating or in the use of a device for that purpose with the knowledge or intent that the information or use conveyed may be employed to violate any provision of this Title;
- (7) Alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before it is revealed to the players;
- (8) Places, increases, decreases or cancels a bet after acquiring knowledge, not available to all players, of the outcome of the gambling game which is the subject of the bet or to aid a person in acquiring such knowledge for the purpose of placing, increasing, decreasing or canceling a bet contingent on that outcome;
- (9) Claims, collects, or takes, or attempts to claim, collect, or take, money or anything of value in or from the gambling games, with intent to defraud or steal, without having made a wager contingent on winning a gambling game, or claims, collects, or takes an amount of money or thing of value of greater value than the amount won;
- (10) Knowingly entices or induces a person to go to any place where a gambling game is being conducted or operated in violation of the provisions of this Title with the intent that the other person plays or participates in that gambling game;
- (11) Uses counterfeit chips, tokens, coins or other currency in a gambling game;
- (12) Knowingly uses other than chips, tokens, coin, currency or other methods or credit approved by the Commission or uses coin not of the denomination as the coin intended to be used in the gambling games;
- (13) Has in the person's possession any device intended to be used to violate a provision of this Title;
- (14) Has in the person's possession, except a licensee or employee of a licensee acting in furtherance of the employee's employment at a licensed gaming enterprise, any key or device designed for the purpose of opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or mechanical device connected with the gambling game or for removing coins, tokens, chips or other contents of a gambling game;

- (15) Uses any fraudulent scheme or technique;
 - (16) Has located on the premises of the Tribe's gaming enterprise any gaming equipment or implements of gaming not authorized under this Title or by the Commission; or
 - (17) Manipulates with intent to cheat (whether with or without a device), any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component.
- (e) The possession of more than one of the devices described in subsection (d), paragraphs 3, 5, 13 or 14, permits a rebuttable inference that the possessor intended to use the devices for cheating.

Sec. 11-7102. Wagering by Minors Prohibited.

A person under the age of eighteen years old or such higher age restriction as agreed to by the Tribe in a gaming compact with the State of Iowa shall not make a wager on any gambling activity conducted at the Tribe's gaming enterprise. If any person below the age of eighteen plays and otherwise qualifies to win any prize, the prize shall not be paid and the estimated amount wagered during the course of the game shall be returned to the player. If a person over eighteen but below such higher age restriction as agreed to by the Tribe in a gaming compact qualifies to win any prize, the wager and the prize shall be forfeited to the Tribe.

Sec. 11-7103. Gambling on Credit Unlawful; Licensee Loans Unlawful.

- (a) Any Class II or Class III gaming operation shall be operated for cash only. A person who, in connection with the Tribe's gambling enterprise, tenders and a person who receives any promise, agreement, note, bill, bond, contract, mortgage or other security, or any negotiable instrument, as consideration for any wager or bet commits a Class 3 offense as defined by Title 13 of this Code.
- (b) Any licensee or any employee of any licensee who loans to any person money or any other thing of value for the purpose of permitting that person to place any wager or bet at the Tribe's gaming enterprise commits a commits a Class 3 offense as defined by Title 13 of this Code.
- (c) Any licensee or any employee of any licensee who engages in pawn broking or who takes goods, materials or indicia of ownership, including a motor vehicle title, in hock from any person for the purpose of permitting that person to place any wager or bet at the Tribe's gaming enterprise commits a commits a Class 3 offense as defined by Title 13 of this Code.
- (d) Nothing in this section shall be construed to prohibit the Tribe or a management contractor from offering check cashing and credit card transactions as routinely offered by financial institutions. Credit card transactions may be consummated only through a bona fide credit card company whose services are offered to other businesses located within the Tribe's jurisdiction or within the State of Iowa.
- (e) Nothing in this section shall apply to credits won by players who activate play on slot machines or video games of chance after inserting coins, currency, or tokens into the game.

Sec. 11-7104. Possession of Firearms and Dangerous Weapons Prohibited.

The possession of a weapon as defined by section 13-5102 of this Code shall be prohibited, except for certified tribal, State of Iowa, county, or federal law enforcement officers carrying such weapons in the course

of their official duties and authorized to be on the premises of the Tribe's gaming enterprise.

A person who knowingly possesses a weapon at a gaming facility commits a Class 1 offense as defined by Title 13 of this Code.

A person who unintentionally, negligently, or recklessly possesses a weapon at a gaming facility commits a Class 3 offense as defined by Title 13 of this Code.

Sec. 11-7105. Alcohol Prohibited; Exception.

(a) The sale, possession or consumption of alcoholic beverages may be permitted on the premises of the Tribe's gaming enterprise and adjacent facilities only if authorized under a liquor ordinance approved by the Tribal Council and the Secretary of the Interior in accordance with applicable federal law.

(b) Unless permitted under subsection (a), the sale or possession of alcohol including, but not limited to, beer, liquor or any other beverage containing alcohol, on the premises of the Tribe's gaming enterprise is a Class 3 offense under Title 13 of this Code.

Sec. 11-7106. Complimentary Items.

No person shall offer or provide to a key employee, primary management official, Tribal Council member, or Gaming Commissioner, or immediate family member of any of the above any service or any item other than food and beverages valued at less than an amount set by written regulation of the Gaming Commission, and no key employee, primary management official, Tribal Council member, or Gaming Commissioner, or immediate family member of any of the above shall solicit or accept any such service or item; provided that provision of food, beverage or other items provided to the general public or to the general public of tribal members shall not be deemed to have value solely for purposes of this section.

CHAPTER 2. PENALTIES AND OTHER REMEDIES

Sec. 11-7201. Penalties and Fines.

(a) Whenever a person within the criminal jurisdiction of the Tribe is convicted of a crime, the person shall be sentenced consistent with the authority, limitations, and procedures provided for that level of crime under Title 13 of this Code.

(b) Whenever a person or entity within the civil jurisdiction of the Tribe violates any provision of this Title, any rule or regulation of the Commission, any provision of any Class III gaming compact entered into between the Tribe and the State of Iowa, or engages in any activity proscribed under such laws, rules or regulations or compact, such person or entity shall be subject to a civil fine or license suspension or license revocation or both a civil fine and license suspension or revocation. The Commission shall establish, enforce, and impose such schedule of civil fines as may be necessary to assure compliance with the provisions of this Title, the rules and regulations of the Commission, and any Class III gaming compact entered into between the Tribe and the State of Iowa. Upon determining that a person or entity may be the subject of a civil fine, the Commission or its agents or employees may immediately attach the personal property of such person or entity of a value sufficient to satisfy the applicable fine, and hold such property until a final determination is made on whether such person or entity shall be required to pay a civil fine. Nothing in any schedule of fines established by the Commission shall be deemed to limit the amount of any civil fine that may be imposed by a tribal court or by the Commission upon a finding that a person or entity has violated

any provision of this Title, any rule or regulation of the Commission, or any provision of any Class III gaming compact entered into between the Tribe and the State of Iowa.

(c) A violator shall be required to pay court costs or Commission costs, as the case may be, storage fees and auction or sales fees.

(d) No action authorized by this Title shall be taken unless a charge or complaint is filed with the Commission or tribal court, as the case may be, within three years of the commission of the violation.

Sec. 11-7202. Forfeiture of Property.

(a) Anything of value, including all traceable proceeds (including but not limited to, real and personal property, moneys, negotiable instruments, securities, and conveyances) belonging to any person or entity, is subject to forfeiture to the Tribe if the item was used for any of the following:

(1) In exchange for a bribe intended to affect the outcome of a gambling game;

(2) In exchange for, to facilitate, or in connection with a violation of this Title, any rule or regulation of the Commission, any provision of any Class III gaming compact entered into between the Tribe and the State of Iowa, or in taking any action proscribed under such laws, rules or regulations or compact; or

(3) In exchange for, to facilitate, or in connection with a violation of any management contract with the Tribe.

(b) All moneys, coin, and currency found in close proximity of wagers, or of records of wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.

(c) Subsections (a) and (b) do not apply if the act or omission which would give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.

(d) Upon determining that the property of a person or entity may be subject to forfeiture, the Commission or its agents or employees may immediately seize such personal property of the person or entity as may be subject to forfeiture, and hold such property until a final determination is made on whether such property is to be forfeited to the Tribe.

(e) Within five (5) days following the seizure of any property that may be subject to forfeiture, the Commission shall notify the person or entity from whom such property was seized and, if different, the owner of such property, if known, of a hearing before the Commission to determine whether the property was used for any of the purposes described in paragraph (a) of this section. The hearing shall be held no later than fifteen (15) days following the date of seizure of the property, provided that the Commission may extend this time for not more than an additional fifteen (15) days if an investigation into the circumstances of the use of the property has not been completed.

(1) At any hearing, the person or entity from whom the property was seized and, if different, the owner of the property shall have an opportunity to be heard, including an opportunity to present oral and documentary evidence, cross-examine witnesses and present oral arguments within limits established by the Commission.

(2) When holding a hearing under this subsection, the Chairman of the Commission or any presiding Commissioner may administer oaths and affirmations, issue subpoenas to

compel the attendance of witnesses or procure the production of documents, and take such other action as may be necessary to conduct the hearing in a manner most likely to result in a fair disposition.

(3) Whenever a preponderance of the evidence introduced at a hearing supports the conclusion that seized property was used for any of the purposes described in paragraph (a) of this Section, the Commission shall issue an order forfeiting such property to the Tribe.

(f) Upon receipt of forfeited property, the Tribe shall permit an owner or lienholder of record having a nonforfeitable property interest in the property the opportunity to purchase the property interest forfeited. If the owner or lienholder does not exercise the option under this subsection within thirty (30) days the option is terminated, unless the time for exercising the option is extended by the Tribe.

(g) A person having a valid, recorded lien or property interest in forfeited property, which has not been purchased pursuant to subsection (f), shall either be reimbursed to the extent of the nonforfeitable interest or to the extent that the sale of the item produces sufficient revenue to do so, whichever amount is less. The sale of forfeited property should be conducted in a manner which is commercially reasonable and calculated to provide a sufficient return to cover the costs of the sale and reimburse any nonforfeitable interest. The validity of a lien or property interest is determined as of the date upon which property becomes forfeitable.

(h) This section does not preclude a civil suit by an owner of an interest in forfeited property against the party who, by using the property for any of the purposes described in paragraph (a) of this section, caused the property to become forfeited to the Tribe.

Sec. 11-7203. Agreements in Violation of Public Policy.

Where a contract or agreement is made in violation of public policy as provided for either explicitly or by implication in this Title:

(a) The contract or agreement is unenforceable because it is in violation of public policy; and

(b) In an action filed by the Tribe, a court may award restitution to the Tribe, but may not award restitution to any other party to the purported contract or agreement.

CERTIFICATION:

The above version of Title 11 (Gaming) of the Code of the Sac and Fox Tribe of the Mississippi in Iowa is an authentic version indicating the amendments that were adopted on May 28, 2008 by the Tribal Council of the Sac and Fox Tribe of the Mississippi in Iowa.

BY: _____
Adrian Pushetonequa

TITLE: Chairman

Date: May 28, 2008