Chapter 7

Employee Licensing Regulation
Regulation # R400-4:GC-07

Chapter 7 Employee Licensing Regulation

Section 1. Purpose; Authority
1-1. *Purpose.* It is the purpose of this Chapter to:

a. Define the standards and processes to be followed by prospective employees and the Gaming Commission to make determinations about whether to grant a license to prospective employees of a gaming enterprise in accordance with applicable federal, state, and Tribal laws; and

b. Assist the gaming enterprise and licensees to understand the licensure process that Tribal law imposes upon persons that seek a license to be employed by a gaming enterprise.

1-2. *Authority.* These rules and regulations are issued under and pursuant to the authority of the Gaming Ordinance #10-400-01, Gaming Commission Ordinance #04-400-04, and Commissions Ordinance #04-105-01.

Section 2. Definitions
2-1. *General.* For purposes of this regulation, certain terms are defined in this section. The word "shall" is always mandatory and not merely advisory. Unless defined elsewhere, terms defined in this Chapter and the Gaming Ordinance and Gaming Commission Ordinance are defined for the purposes of all Gaming Commission Regulations.

2-2. *Applicant* means the person seeking a license from the Gaming Commission that authorizes the person to be employed or contracted by a gaming enterprise or the Gaming Commission. "Applicant" also encompasses re-applicants.

2-3. *Gaming Commission Agents* means officials or employees of the Gaming Commission, including the Commissioners, Director, Compliance personnel, Surveillance personnel, Internal Audit personnel, the Background Investigator, and Administrative staff of the Gaming Commission.

2-4. *Compact* means a Tribal-State Compact concerning Class III gaming approved or deemed approved by the Secretary of the Interior and published in the Federal Register pursuant to 25 U.S.C. §2710(d).

2-5. *Employee* means any individual employed by a gaming enterprise in any capacity, whether by general operational terms of employment, contract, or agreement. Employees may be either Gaming Employees or Non-Gaming Employees.

2-6. *Gaming employee* means a Key Employee or Primary Management Official, and includes individuals employed in one of the following capacities:

a. the person(s) having management responsibility for a management contract;

b. any person who has authority to hire and fire employees;

c. any person who has authority to set up working policy for a gaming activity in the gaming enterprise;

d. the chief financial officer or other person who has financial management responsibility;

e. any person whose job description falls within the following areas: finance; information technology; security; gaming operations; and marketing.

f. if not otherwise included, any person whose total cash compensation is in excess of $50,000.

2-7. *Gaming* means Class II and Class III gaming authorized by this Ordinance, the Compact, and as may be further authorized under IGRA.

2-8. *Gaming Activities* means a process, action, or procedure that touches on gaming, on the presentation of a game or on interactive gaming devices aimed at the general public, and includes, by way of example and not limitation, table games, slot machines, cash handling derived from gaming, vault, security, accounting systems, and information systems.

2-9. *Gaming employee license* means a license issued to a gaming employee, including individuals hired by or contracted within an employment position with the gaming enterprise. Gaming Employee licenses are classified as Primary Management Official licenses and Key Employee licenses.

2-10. *Gaming Enterprise* means any commercial enterprise of the Tribe authorized to engage in gaming, and all ancillary commercial activities within the gaming (facility(ies) and other improvements constructed for the conduct of gaming

2-11. *Gaming Facility* means the building, buildings, or structures, wherein gaming is permitted, performed, conducted, or operated, and associated or adjacent real property owned by the Tribe.

2-12. *Gaming rules* means the Tribal laws and regulations and federal laws and regulations regarding gaming activities, including by way of example the Gaming Ordinance, the Compact, and the Indian Gaming Regulatory Act.

2-13. *IGRA* means the Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2701 *et seq.*, as amended from time to time.

2-14. *Key employee* means

a. A person who performs one of more of the following functions:
   1. Bingo caller;
   2. Counting room supervisor;
   3. Chief of security;
   4. Custodian of gaming supplies or cash;
   5. Floor manager;
   6. Pit boss;
   7. Dealer;
   8. Croupier;
   9. Approver of credit; or
   10. Custodian of gaming devices, including persons with access to cash and accounting records within such devices.

b. If not otherwise included, any person whose total cash compensation is in excess of $50,000.00 per year;

c. If not otherwise included, the four most highly compensated persons in the gaming operation; or

d. Any other person designated by the Tribe as a Key Employee.

a. not required to have a Primary Management Official license; and

b. any employee not issued a Non-Gaming Employee license.

2-15. *License* means any official and revocable authorization granted for a limited period of time by the regulatory agency pursuant to the Gaming Ordinance to an applicant to conduct business or employment in any gaming facility. There are three types of licenses: facility license, vendor license, and employee license.

2-16. *National Indian Gaming Commission* means the Commission established pursuant to IGRA.

2-17. *Non-Gaming Employee* means an individual not required to be licensed as a Key Employee or Primary Management Official as approved by the regulatory agency.
2-18. *Primary Management Official* means an employee who meets the following qualifications:

a. Any person who has authority:

1. To hire and fire employees; or
2. To set up working policy for any gaming activity; or

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

c. Any person having management responsibility for a management contract.

2-19. *Primary Management Official license* means a license issued to a Primary Management Official, including individuals hired by or contracted within an employment position with the gaming enterprise.
2-20. *Regulatory Agency* means the Little River Band of Ottawa Indians Gaming Commission, created by Ordinance #04-400-04, or such other Gaming regulatory body created by Ordinance.
2-21. *State* means the State of Michigan.
2-22. *Tribal Court* means the Tribal Court and Tribal Court of Appeals of the Little River Band of Ottawa Indians and all other tribal judicial forums now or hereinafter established by the Tribe.
2-23. *Tribe* means the Little River Band of Ottawa Indians.
2-24. *Tribal Member* means an individual enrolled in the Little River Band of Ottawa Indians.

Section 3. Construction and Application of the Rules

3-1. *Construction and Amendments.*

a. These rules shall be liberally construed to permit the Gaming Commission to effectively carry out its statutory functions and secure a just and expeditious determination of issues properly presented to the Gaming Commission.

b. These rules may be amended by the Gaming Commission from time to time in accordance with the provisions of the Gaming Ordinance, the Gaming Commission Ordinance and any regulation promulgated by the Gaming Commission.

3-2. *Severability, Preemption, Adoption and Repealer.*

a. If any clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion of these rules or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of these rules or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion thereof directly involved in such holding or to the person or circumstances therein involved.

b. The Gaming Commission shall have jurisdiction over all matters delegated to it or within the scope of its powers under the provisions of the Gaming Ordinance, Gaming Commission Ordinance and these rules.

c. Chapter 7 – Employee Licensing #400-04:GC-07 adopted June 8, 2010 is hereby repealed and replaced with Chapter 7 – Employee Licensing #400-04:GC-07 upon adoption and approval.

d. This regulation is adopted pursuant to Gaming Commission Resolution #GC11-0111-02 and approved by Tribal Council Resolution #11-0119-018.

e. This regulation is adopted pursuant to Gaming Commission Resolution #GC15-0106-01 and approved by Tribal Council Resolution #15-0211-031.

f. This regulation shall be effective upon the effective date of Gaming Ordinance #10-400-01.

Section 4. Classification of Employee Licenses.

4-1. *Non-Gaming Employee License*. All employees of a gaming enterprise who are not required to be licensed as a Key Employee or a Primary Management Official ~~or who are under the age of 21~~ shall be required to obtain a Non-Gaming Employee license.

4-2. *Gaming Employee License*. Gaming employees shall be classified as Key Employees or Primary Management Officials for purposes of licensing.

4-3. *Gaming Commission Employees*. All employees of the Gaming Commission shall be required to be licensed in accordance with the standards applied to Gaming Employees as defined in Section 3.25 of Gaming Ordinance #10-400-01 Nothing in this Section shall be construed to mean that Gaming Commission employees be considered Gaming Employees for any purpose. License applications of Gaming Commission employees shall be reviewed and approved or denied in accordance with the same criteria applied to determinations of Key Employee licenses.

Section 5. General Rights and Duties of Applicants.

5-1. *No Property Interest or Promise of Employment*. Neither the consideration of the issuance of a license nor the issuance of a license creates or grants a property interest or due process rights to the applicant or licensee that are specifically granted by the Tribe's laws or these regulations. The granting of a license by the Gaming Commission does not constitute a commitment on behalf of the Gaming Commission or any other party to hire or continue to employ the licensee.

5-2. *Duties of Applicants and Licensees*. Applicants are required to provide or perform the following:

a. *Responsibility to establish qualifications*. An applicant for a license governed by these regulations is seeking the granting of a privilege. The burden of proving qualifications to receive a license is on the applicant. It shall be the further responsibility and continuing duty of each applicant/licensee to produce such information, documentation and assurances as may be required to demonstrate by clear and convincing evidence his/her qualifications to hold a license in accordance with the Gaming Ordinance, the Tribal-State Compact and Gaming Commission regulations. No license shall be granted to any applicant who fails to prove his/her qualifications.

b. *Duty to disclose and cooperate*. It shall be the responsibility and continuing duty of each applicant/licensee to promptly furnish all information, documentation, assurances, consents, waivers, fingerprint impressions, photographs, or other materials required or requested by the Gaming Commission and to cooperate with the Gaming Commission in the performance of its duties. Failure to furnish same after receipt of request shall constitute grounds for delaying consideration or denial of the application.

c. *Licensees' continuing duty to promptly furnish information.* Licensees shall provide information within five (5) days of an occurrence or event in their life which constitutes a material change (i.e., arrest or criminal charges, address change) in the information provided in their application. Failure to report information within five (5) days or refusing to comply with a formal request for information, evidence or testimony shall be a basis for suspension or revocation of a license.

d. *Authority to seize, revoke and suspend license*. The Gaming Commission may seize, revoke or suspend any license issued under the these regulations in accordance with the procedures prescribed in the Gaming Ordinance, the Gaming Commission Ordinance and Gaming Commission regulations.

e. *Waiver of liability for disclosure of information*. Applicants/licensees accept and assume the risks of any adverse public notice, embarrassment, criticism, or other action, as

well as financial loss which may result from any licensing action. Applicants/licensees expressly waive any claims against the Gaming Commission, the Gaming Commission and its agents, and the Tribe as well as any entity or individual furnishing information in good faith to the Gaming Commission or its agents in any matter relating to licensing and the licensing process.

f. *Consent to examination of accounts and records*. Each applicant/licensee shall, in writing, consent to the examination of all accounts, bank accounts and records in his/her possession or under his/her control and shall authorize all third parties in possession or with control of such accounts or records to allow such examination thereof as may be deemed necessary by the Gaming Commission.

g. *Non-transferability of license*. All licenses shall be non-transferable and shall prohibit the licensee from transferring any rights or duties related to the license either directly or indirectly.

h. *Unauthorized Use of License*. Licensees are expressly prohibited from allowing any other person to use their license for any purpose. Any unauthorized use of a licensee's license may subject both the licensee and person using the license to civil and criminal penalties, including suspension or revocation of a license.

i. *Licensing Period.* Any employee license issued in accordance to the Gaming Ordinance, other than a temporary license, shall be effective for a period of one year from the date of issuance and shall contain the licensee's photograph and shall state on its face the name of the employee, the gaming facility at which the employee is licensed to work, the type of license, the date that the license became effective and the date it expires. Employee licenses do not automatically renew and become invalid as of the date of expiration.

j. *Renewals.* It is the responsibility of holders of a license to ensure that their license is valid at all time. Holders of a license shall file their renewal applications 60 days before their original license expires, including updating all information contained in the original application. Temporary licenses may be granted where the holder of a license has timely filed for renewal, but has not been reviewed by the Gaming Commission. Employee licenses must be renewed annually. A holder of a license who fails to renew their license within the timeframe specified shall be assessed the following fines, unless defined otherwise by Gaming Commission Order:

1. $25.00 – first offense
2. $50.00 – second offense
3. Revocation hearing before the Gaming Commission – third offense

A license shall not be granted to an employee who has been assessed a fine until such time that the fine is paid in full.

k. *Expired License*. A holder of a license who allows their license to expire shall be assessed the following reinstatement fees, unless defined otherwise by Gaming Commission Order:

1. $50.00 – first offense
2. $100.00 – second offense
3. Revocation hearing before the Gaming Commission – third offense

A license shall not be granted to an employee who has been assessed a reinstatement fee until such time that the fee is paid in full. An expired license will result in immediate removal from the gaming enterprise and the inability to work until such time that the license is renewed and the reinstatement fee is paid in full.

l. *Requirement to Produce License upon Request.* Any person receiving an employee license must carry that license upon his/her person during all working hours and must produce that license upon request.

Section 6. Standards for License Eligibility.

6-1. *Non-Gaming Employee Licenses.*

a. *General.* An applicant for a Non-Gaming Employee license may be approved upon a determination by the Gaming Commission that the individual will not create a risk of injury or loss to the person or property of guests of the gaming enterprise or the assets of the gaming enterprise and that the individual is not a threat to the effective regulation of gaming activities, including the absence of all disqualifying circumstances described in subsection (b) below. In reaching its determination, the Gaming Commission will consider the criminal history, habits and reputation of the applicant in light of the particular position the applicant is applying for. This section is further subject to any future Ordinance or Tribal law enacted by the Tribal Council that provides for a determination of rehabilitation by the Gaming Commission.

b. *Specific Disqualifying Circumstances.* An applicant shall not be eligible for a Non-Gaming Employee license if the application or background investigation confirms that the applicant:

1. Is under the age of eighteen (18); or
2. Has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, or to an adult felony charge of theft, fraud, or misrepresentation within the preceding three (3) years, except if that person has been pardoned by the Governor of the State where the conviction occurred or, if a Tribal member, the Gaming Commission has determined that the person has been rehabilitated, and is not likely to engage in future criminal or offensive actions; or
3. Has been convicted of or entered a plea of guilty or no contest to any criminal offense involving threats or acts of violence where the individual was charged as an adult within the immediately preceding three (3) years; except if that person has been pardoned by the Governor of the State where the conviction occurred or, if a Tribal member, the Gaming Commission has determined that the person has been rehabilitated, and is not likely to engage in future criminal or offensive actions; or
4. Has been convicted of participating in organized crime or unlawful gambling; or
5. Has knowingly and willfully provided materially false and misleading statements or information to the Gaming Commission or has refused to respond to questions asked by the Gaming Commission specifically related to the person's eligibility to obtain or retain a license; or
6. Has been convicted of any offense related to criminal sexual conduct where the perpetrator was convicted as an adult at the time the crime was committed, and/or is registered in any jurisdiction's list of sexual offenders.

6-2. *Gaming Employee Licenses.*

a. *General.* Gaming employees are a Key Employee or Primary Management Official. Gaming employees may be transferred, promoted, or otherwise moved to a Non-Gaming employee position in accordance with the gaming enterprise's employment policies. Upon acceptance of the position and on no later than his/her first day of employment as a Non-Gaming employee, the gaming employee shall be required to relinquish his/her gaming license to the Gaming Commission and obtain a Non-Gaming License. The

gaming enterprise shall be required to maintain a list of gaming employees, their positions, and a copy of all job descriptions on file with the Gaming Commission. Voluntary relinquishment of a gaming license will not preclude the Gaming Commission from addressing license issues that occurred during the time the licensee held a license. This section is further subject to any future Ordinance or Tribal law enacted by the Tribal Council that provides for a determination of rehabilitation by the Gaming Commission in accordance with the Tribal-State Compact.

b. *Specific Disqualifying Circumstances.* An applicant shall not be eligible for a Gaming Employee license if the application or background investigation confirms that the applicant:

1. Is member of the Tribal Council, the Ogema, a Judge or Appellate Judge on the Tribal Court, the Tribal Prosecutor or a Law Enforcement Officer of the Tribe. This subsection shall not apply to members of the Tribal Council or a Tribal Ogema sitting on a Gaming Enterprise Board of Directors or any subsequent Board established by Tribal law to provide oversight to a gaming enterprise; or
2. Is under the age of eighteen (18); or
3. Has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, fraud, or misrepresentation. The terms "fraud or misrepresentation" shall mean a criminal offense committed in Michigan or any other jurisdiction, involving theft, fraud or misrepresentation, which is a felony or would be a felony if committed in Michigan, and which was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from the applicant's/licensee's criminal record by executive pardon, state court order, or operation of law; or
4. Has been convicted of or entered a plea of guilty or no contest to "any offense" not specified in paragraph (3) within the immediately preceding five (5) years; this provision shall not apply if that person has been pardoned by the Governor of the State where the conviction occurred or, if a Tribal member, has been determined by the Gaming Commission to be a person who is not likely again to engage in any offensive or criminal course of conduct and the public good does not require that the applicant be denied a license. The term "any offense" shall mean any criminal offense not described in paragraph (3), whether committed in Michigan or any other jurisdiction, that is, or would be, a crime under the provisions of the Michigan Penal Code, Act 328 of the Public Acts of 1931, as amended, or the controlled substances provisions of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended or any other criminal offense not included within the scope of paragraph (3); or
5. Is determined by the Gaming Commission to have participated in organized crime or unlawful gambling or whose prior activities, criminal records, reputation, habits, and/or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or to the carrying on of the business and financial arrangements incidental to the conduct of gaming; or
6. Has knowingly and willfully provided materially false and misleading statements or information to the Gaming Commission or has refused to respond to questions asked by the Gaming Commission specifically related to the person's eligibility to obtain or retain a license; or

7. Has been convicted of any offense related to sexual crimes or criminal sexual conduct where the perpetrator was convicted as an adult at the time the crime was committed, and/or is registered in any jurisdiction's list of sexual offenders.

Section 7. License Applications.

7-1. *Complete Application Required.* A prerequisite to the issuance of a Non-Gaming or Gaming license to an individual is the receipt by the Gaming Commission of an application completed by the prospective licensee on the application form provided by the Gaming Commission together with all other required documents. The application shall clearly identify whether the applicant is applying for a Gaming Employee license or Non-Gaming Employee license.

7-2. *Privacy Act Notice.* The following notice shall be placed at the beginning of the application form so that it can be read before that form is filled out by an applicant:

> *"In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C.§§ 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribe's regulatory agency or the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC 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 issuance, denial or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for 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."*

7-3. *False Statement Notice.* The following additional notice shall be placed on the application form for a key employee or a primary management official so that it can be read before that form is filled out by an applicant:

> *"A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment. (U.S. Code, title 18, section 1001)."*

7-4. Burden of Proof on Employee License Applicants. It is the determination of the Tribe that the public interest in the integrity of gaming is such that the burden of proof to establish fitness or eligibility to obtain or maintain a Gaming Employee license shall be upon the applicant or licensee, as the case may be.

7-5. *Application for an Employee License.* Each applicant for an employee license, including persons applying for employment with the Gaming Commission, shall be required to complete an application on the form provided by the Gaming Commission which shall require the applicant to provide the following information:

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

b. Currently and for the previous five (5) years:

1. business and employment positions held,
2. ownership interests in those businesses,
3. business and residence addresses; and
4. Driver's License numbers;

c. The names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under Section 7-5(b)(3);
d. Current business and residence telephone numbers and all cell phone numbers;
e. A description of any existing and previous gaming or other business relationships with any Indian tribe, including any ownership interest in the business;
f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
g. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, the current status of the application, and whether or not such license or permit was granted.
h. A list of all felony charges and dispositions against the applicant, if any, and for each felony for which there is ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any.
i. A list of all misdemeanor charges and dispositions against the applicant, if any, (excluding traffic violations for which incarceration was not a possible punishment), and for each misdemeanor conviction or ongoing misdemeanor prosecution within 10 years of the date of the application, the name and address of the court involved and the date and disposition, if any
j. For each criminal charge, whether or not there is a conviction, if such criminal charge was within 10 years of the date of the application and is not otherwise listed pursuant to subsections (h) and (i) of this section, the criminal charge, the name and address of the court involved, and the date and disposition;
k. The name and address of any licensing or regulatory agency with which the person has filed an application for a business or occupational license or permit, whether or not such license or permit was granted;
l. Two (2) current photographs which may include a photographic identification card, and consent to be photographed by a Gaming Commission agent;
m. For all applications for licenses for principals and general managers, or Primary Management Officials, a complete financial statement and/or income tax records showing all sources of income for the previous three (3) years, and assets, liabilities, and net worth as of the date of the application;
m. A list of all professional or business licenses the applicant has applied for, whether or not those licenses where granted and current status, and the name, address and phone number of the regulatory agency involved;
n. A sworn statement that to the best of his/her knowledge the applicant nor any member of his/her immediate family has/had a past or current financial interest, other than a salary interest, in any gaming enterprise anywhere. If the applicant has an immediate family member or member of his/her household who has such a relationship, the applicant shall fully disclose his/her name and the nature of the relationship;
o. Written permission giving the Gaming Commission the right to investigate the applicant's background, including his criminal records, civil and criminal judgments, and credit history;
p. Each application shall be accompanied by a sworn statement that the applicant will submit to the jurisdiction of the Tribe and the Tribal Court, if employed;
q. Other information required by the Gaming Commission rules and regulations;
r. For all applications for Key Employee and Primary Management Official licenses, fingerprints shall be taken by the Gaming Commission and will then be forwarded to the

NIGC for process through the Federal Bureau of Investigation (FBI) and the National Criminal Information Center to determine the applicant's criminal history, if any.

7-6. *Prompt Amendment of Application for New Information.* It shall be the duty of each license holder to promptly file with the Gaming Commission, a written amendment to the application explaining any changed facts or circumstances whenever any material change of facts or circumstances shall occur with respect to any matter set forth in the application or other documents relating thereto.

7-7. *Fees.* The Gaming Commission may collect fees from applicants to defray the cost of processing and evaluating requests for licensure by applicants. If fees are imposed, the Gaming Commission will promulgate and publish a fee schedule.

Section 8. Background Investigation Process.

8-1. *Verification of Completed Application.* Prior to accepting an application for a license from an applicant, an agent of the Gaming Commission will review the application with the applicant to verify that all necessary information has been provided on the form. The Gaming Commission agent shall ensure that the applicant fully understands his/her obligation to disclose the facts relative to any criminal history as required in Section 7-5 (h) and (i).

8-2. *Steps to Complete Background Investigation.* An investigation will be conducted sufficient to make a determination of eligibility under Sections 6-1 and 6-2. In conducting a background investigation, the Gaming Commission agent shall keep confidential the identity of each person interviewed in the course of the investigation. The background investigation must be sufficient to allow the Gaming Commission to make an eligibility determination under Section 10.08 of Gaming Ordinance #10-400-01 and shall consist of at least the following:

a. A Gaming Commission agent shall contact each reference provided in the application and take other appropriate steps to verify the accuracy of the other information presented and prepare a report of their findings.

b. The criminal background of each applicant for a license shall be investigated by obtaining information concerning the applicant from law enforcement where the applicant has resided and submitting impressions of the applicant's fingerprints, taken under Section 10.04 (q) of the Gaming Ordinance, to the Federal Bureau of Investigation Criminal Information Center, and any other law enforcement agency(ies) that the Gaming Commission deems appropriate, requesting a criminal history report. The vital information which may be provided to identify the applicant may include: the applicant's full name, any other names used by the applicant, date and place of birth, citizenship, Driver's License numbers, Social Security number, and a physical description.

c. If the criminal history provided by applicant, or obtained in initial phase of the background investigation, identify incidents which may disqualify the applicant as a result of his habits, reputation or associations, the Gaming Commission agent shall endeavor to obtain copies of police reports, court records or other information to determine specific details relative to such criminal offenses or charges.

d. The criminal background of each applicant for a Non-Gaming Employee license shall be investigated by obtaining information concerning the applicant's criminal history from law enforcement where the applicant has resided. The vital information which may be provided to identify the applicant may include: the applicant's full name, any other names used by the applicant, date and place of birth, citizenship, Driver's License numbers, Social Security number, and a physical description. The Gaming Commission may, at its discretion, submit fingerprint impressions of any Non-Gaming applicant to an appropriate agency if deemed necessary to make a determination of eligibility for licensure.

e. With respect to applicants for a Primary Management Official's application for a Gaming Employee license, the Gaming Commission agent shall also investigate and verify the accuracy of financial information provided by the applicant by contacting banks, other financial institutions or other sources as deemed necessary. A credit bureau report on the applicant shall also be obtained which will be updated annually.

f. The Gaming Commission agent may contract with private, municipal, state, and/or federal investigation agencies to perform the required background and/or criminal history investigations.

8-3. *Eligibility Determination.*

a. Before an employee license is issued to an applicant, the Gaming Commission shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations.

b. If the Gaming Commission, in applying the standards adopted in Gaming Ordinance #10-400-01, determines that licensing the person poses a threat to the public interest of to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and / or activities in the conduct of gaming, it shall not license that person in an employee position.

c. Copies of the eligibility determination shall be included with the Notice of Results that must be submitted to the NIGC before the licensing of a Primary Management Official or Key Employee.

Section 9. Action by the Gaming Commission; Suitability Determinations.

9-1. *Action on Applications for Employee Licenses.*

a. Within 15 days a Gaming Commission agent shall review the application, the results of background investigation, the criminal history reports, and financial report, if required, to determine if the applicant qualifies for the license applied for.

b. If a determination is made that an applicant qualifies on a preliminary basis pursuant to Section 9-2 for the issuance of a license, then the regulatory agency may issue a temporary license to the applicant. A temporary license shall not be valid for more than 30 (thirty) days from the date of issuance.

c. Within 7 days after granting preliminary approval of a Primary Management Official or Key Employee license application under subsection (b), an investigative report shall be prepared and forwarded to the National Indian Gaming Commission. The investigative report shall include the following:

1. Steps taken in conducting a background investigation;
2. Results obtained;
3. Conclusions reached; and
4. The basis for those conclusions.

The Gaming Commission shall submit, with the investigative report, a copy of the eligibility determination and notify the National Indian Gaming Commission of the Gaming Commission's intention to issue the applicant a license and request that the agency review the application and investigative report pursuant to IGRA.

d. The Gaming Commission may grant final approval of a Primary Management Official or Key Employee license application submitted under this subsection only after any of the following has occurred:

i. Notice has been received from the National Indian Gaming Commission that it has no objection to the issuance of the license; or

ii. Thirty (30) days have elapsed since the National Indian Gaming Commission was notified of the Gaming Commission's intent to issue the license and the National Indian Gaming Commission has not responded; or

iii. The National Indian Gaming Commission timely objected to the issuance of the license, the Gaming Commission has reconsidered the application in light of the objections received and has determined that the applicant may be licensed notwithstanding those objections.

e. The Gaming Commission may grant final approval of a Non-Gaming Employee license upon completion of the background investigation.

f. The applicant shall be promptly notified that their application is approved and the license shall be issued. If a temporary license was previously issued, the effective date of the license shall be the date the temporary license was issued.

g. If any application for a license is denied under this section the temporary license shall be seized, if one was issued. The applicant shall be notified within seven (7) calendar days that the application was denied and the reasons specified, including information concerning any criminal conviction(s), which prompted the denial with reference to the specific eligibility criteria described in Sections 6-1 or 6-2. The notice to each applicant shall also inform the applicant of the applicant's right to request a hearing within 14 days following receipt of the notice of the denial.

1. Within 21 days following receipt of a notice requesting a hearing, the Gaming Commission shall afford the applicant an opportunity to appear and be heard before the Gaming Commission, in person or with a representative or legal counsel, and to submit such evidence as the applicant deems relevant in the matter. The Gaming Commission may receive evidence from the applicant or licensee, the Tribe, any gaming regulatory agency, or any person or entity that the Gaming Commission deems relevant to the matter.

2. The Gaming Commission shall either affirm or reconsider its decision to deny the license within seven (7) days following hearing.

h. If a license is not issued to a Primary Management Official or a Key Employee applicant, the Gaming Commission:

1. Shall notify the National Indian Gaming Commission; and

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

3. Shall notify the gaming enterprise.

i. If a license is not issued to a Non-Gaming Employee applicant the Gaming Commission shall notify the gaming enterprise.

j. The Gaming Commission shall retain applications and reports (if any) of background investigations for inspection by the National Indian Gaming Commission or its designees for no less than five (5) years from the date of termination of employment or denial of a license.

9-2. *Temporary License*. Temporary licenses shall only be issued to an applicant after the completion of the application for a license and following a preliminary review period, during which time the Gaming Commission shall perform a credit check and a cursory background check. Temporary licenses shall be valid for no longer than thirty (30) days from the date of issuance. A temporary license may be rescinded prior to the conclusion of the thirty (30) day period if the applicant has been determined unsuitable for licensure under applicable gaming rules. Notice of rescission of a temporary license shall be presented to the applicant and the

gaming enterprise.

Section 10. Re-applications

10-1. *Re-application by applicant after denial or revocation of license.*
Except as provided below, any person required to be licensed under the provisions of the Gaming Ordinance or regulations of the Gaming Commission whose license is either denied or revoked by the Gaming Commission on the basis of that individual's failure to satisfy the eligibility criteria of the Gaming Ordinance or Gaming Commission regulations, or due to a Gaming Commission finding that such person is disqualified under the criteria of the Gaming Ordinance or Gaming Commission regulations, or both, may not reapply for a license until six (6) months after notice of the denial or revocation. This prohibition on re-application shall not apply to persons who have been denied a license prior to the effective date of Gaming Ordinance #10-400-01, which denial was based on an offense that no longer constitutes a disqualifying circumstance. This prohibition on re-application shall also not apply to persons who, after receiving notice of denial or revocation, have had an offense that was the sole basis for his/her license denial or revocation removed from their criminal record by executive pardon, court order, or operation of law. This section is further subject to any future Ordinance or Tribal law enacted by the Tribal Council that provides for a determination of rehabilitation by the Gaming.

10-2. *Re-Application for returning licensees.* Licensees that voluntarily terminate their employment or are involuntarily terminated by the gaming enterprise may, if subsequently offered a position with the gaming enterprise within one (1) year of termination, seek reinstatement of the license by updating their most recent license application. This process is only available to a licensee which, when they left employment with the gaming enterprise, possessed a valid license and did not subsequently lose the license through a license revocation proceeding. This process may not be used by a licensee to acquire a license as a Primary Management Official if the licensee previously held a license as a Key Employee or a Non-Gaming Employee license.

Section 11. Disclosure of Applicant and Licensee Information and Documents

11-1. The Gaming Commission may, consistent with its duties and responsibilities under the law and in an effort to preserve and enhance the integrity of tribal gaming, disclose applicant and licensee information, documents, photographs, records, and other material

1. To appropriate Federal, Tribal, State, local or foreign law enforcement, and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions; or
2. Pursuant to a written request from a duly authorized agent of any agency of the United States or the Tribe in accordance with any applicable agreements with such other governmental agencies for the exchange or release of confidential information; and
3. If ordered to do so by a court of competent jurisdiction.

Disclosure is made by the Gaming Commission under the following circumstances:

a. *National Indian Gaming Commission (NIGC).* The Gaming Commission is required to forward to the NIGC, an investigative report on each background investigation of a Primary Management Official and a Key Employee. The investigative report shall include: (1) steps taken in conducting a background investigation; (2) results obtained; (3) conclusions reached; and (4) basis for the conclusion. The Gaming Commission shall disclose to the NIGC the revocation of any gaming license and if that license is reinstated, disclose that as well.

b. *Michigan Gaming Control Board.* Under Section 4 (L) of the Tribal-State Compact the Gaming Commission is required to provide representatives of the Michigan Gaming Control Board background investigation information compiled by the Tribe on all gaming

management personnel and employees required to be licensed under the Tribe's Gaming Ordinance.

c. *Third Parties; Law Enforcement Agencies; Regulators.* The Gaming Commission may disclose applicant and licensee information to third parties, law enforcement agencies, and regulatory bodies when authorized by, and in accordance with, the terms and conditions described in Section 5-5 of Chapter 1 - General Provisions of the Gaming Commission's Regulations (R400-04:GC-01).

Section 12. Suspension and/or Revocation of License.

12-1. *Suspension of License Pending Hearing to Revoke a License.*

a. If, after issuance of a license, a Gaming Commission agent receives and verifies information that a person licensed under this Ordinance has violated or been charged with a violation of any criminal law that disqualifies the licensee from holding a license, any provision of this Ordinance, or any regulation promulgated under this Ordinance, or is otherwise not eligible for a license, an investigation shall be conducted to determine whether revocation proceedings should be initiated.

b. The person's license shall be suspended and revocation proceedings shall be initiated if:

1. The licensee has been convicted of or pled guilty or no contest to any criminal offense that disqualifies the licensee from holding a license under applicable law or the Tribal-State Compact.
2. The information came to the regulatory agency by notification from the NIGC pursuant to 25 CFR 558.5.
3. The licensee has been charged with any criminal offense related to gambling, fraud, theft, or other activities arising during the course of employment.

c. In the event a Gaming Commission agent determines, following an investigation conducted pursuant to Section 12-1 or 12-2 that any licensee's actions or conduct disqualify the licensee from holding a license, the agent shall schedule a hearing and prepare a notice directed to the licensee requiring the licensee to appear before the Gaming Commission at a specified date and time to show cause why his/her license should not be revoked. The notice shall identify the witnesses whose testimony would be submitted and summarize the facts and evidence that will be presented to demonstrate that cause exists to revoke the license. The notice shall inform the licensee that he/she has the right to present written documentation, testimony or other evidence to rebut the grounds specified in the notice or to present mitigating circumstances demonstrating that revocation of his/her license is not warranted or in the interests of the purposes of the Gaming Commission's regulatory purposes.

c. After the hearing, the Gaming Commission shall either (a) revoke; (b) reinstate the license; or (c) reinstate the license with conditions or limitations.

d. Any appeals from the Gaming Commission's determination following that hearing shall be conducted in accordance with Article XII of the Gaming Ordinance.

12-2. *Suspension of License Pending Investigation.*

a. Any license may be suspended for not more than seven (7) days pending completion of an investigation to determine whether any of the following have occurred:

1. The licensee has violated any gaming rules as defined in the Gaming Ordinance.
2. The licensee has engaged in conduct that poses a threat to the integrity of gaming activities; the health or safety of the general public or employees at the gaming enterprise; or the assets of the Tribe.

3. The licensee knowingly and substantially made a material false and misleading statement in his license application.
4. The licensee has participated in unauthorized gaming activity whether or not regulated by the Gaming Ordinance.
5. The licensee knowingly and substantially refused to comply with any lawful order of the Gaming Commission, the Tribal Court or the National Indian Gaming Commission.

b. Upon receipt of reliable information that a licensee has engaged in any conduct described in paragraph (a), a notice of suspension of a license shall be served upon the licensee. The notice of suspension shall state the grounds upon which it is issued, summarizing the information that warrants the suspension of the license. The licensee shall cease and desist his/her employment immediately upon receipt of the suspension notice.

c. An investigation into the facts and circumstances shall be conducted, including interviewing persons with personal knowledge of such circumstances and/or obtaining documentary evidence that would confirm or refute the information alleged.

d. In the event a Gaming Commission agent determines, following an investigation that any licensee's actions or conduct disqualifies the licensee from holding a license, they shall immediately schedule a revocation hearing and prepare a notice directed to the licensee requiring the licensee to appear before the Gaming Commission at a specified date and time (within seven (7) days of the date on the suspension letter) to show cause why his/her license should not be revoked. The notice shall identify the witnesses whose testimony would be submitted and summarize the facts and evidence that will be presented to demonstrate that cause exists to revoke the license. The notice shall inform the licensee that he/she has the right to present written documentation, testimony or other evidence to rebut the grounds specified in the notice or to present mitigating circumstances demonstrating that revocation of his/her license is not warranted or in the interests of the purposes of the Gaming Commission's regulatory purposes.

e. After the hearing, the Gaming Commission shall either (a) revoke; (b) reinstate the license; or (c) reinstate the license with conditions or limitations.

d. Any appeals from the Gaming Commission's determination following a hearing shall be conducted in accordance with Article XII of the Gaming Ordinance.

f. In the event it's determined, following an investigation, that the reliable information received does not disqualify the licensee from holding a license under Section 6-1 or 6-2, the Director or designee shall issue a notice to the licensee of reinstatement of the license.