

Little River Band of Ottawa Indians

2608 Government Center Drive

Manistee, MI 49660

(231) 723-8288

Resolution #18-1107-320

*Accepting for Filing the Revised Gaming Commission Regulation
#R400-04:GC-03 Chapter 3 – Non-Gaming Employee Licensing*

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribe adopted amendments to the Constitution on April 26, 2004, which, became effective upon approval by the Assistant Secretary-Indian Affairs on May 3, 2004; and

WHEREAS, the Tribe adopted amendments to the Constitution on July 11, 2016 which became effective upon approval by the Assistant Secretary-Indian Affairs on August 24, 2016; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(I) to take action, not inconsistent with the Constitution or Federal law, which is necessary and proper to carry out the sovereign powers of the Tribe; and

WHEREAS, the Tribal Council has, pursuant to Gaming Commission Ordinance #04-400-04, created a Gaming Commission and delegated to such Commission the authority to regulate all gaming activities authorized by the Tribe and to enforce all Tribal and federal laws governing the conduct of Tribally-licensed gaming activities; and

WHEREAS, the Gaming Commission, pursuant to Section 6.04 (a) of the Gaming Commission Ordinance, shall promulgate regulations consistent with the Ordinance and necessary to carry out the orderly performance of its duties and powers; and

WHEREAS, all Non-Gaming Employee Licensing reference was removed from Gaming Commission Regulation – Chapter 7 – Employee Licensing and was introduced as a stand-alone regulation in Gaming Commission Regulation #R400-04:GC-03 – Chapter 3 – Non-Gaming Employee Licensing which was approved by the Gaming Commission on March 13, 2018 and accepted by Tribal Council on April 25, 2018; and

WHEREAS, a recent review by the Gaming Commission revealed a couple minor errors and inconsistencies that needed to be corrected; and

WHEREAS, the Gaming Commission revised and approved the regulation on October 23, 2018 by Gaming Commission Resolution #GC18-1023-33; and

WHEREAS, the Gaming Commission Regulation *Chapter 3 – Non-Gaming Employee Licensing* is now being forwarded to Tribal Council for filing in accordance with Gaming Commission Ordinance #04-400-04 – Section 6.04 (b).

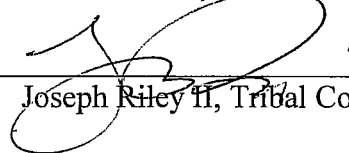
NOW THEREFORE IT IS RESOLVED THAT that Gaming Commission Regulation #R400-04:GC-3 Chapter 3 – Non-Gaming Employee Licensing is hereby accepted for filing by the Little River Band of Ottawa Indians Tribal Council.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 9 FOR, 0 AGAINST, 0 ABSTAINING, and 0 ABSENT, at a Regular Open Session of the Little River Band of Ottawa Indians Tribal Council held on November 7, 2018, at the Government Center in Manistee, Michigan, with a quorum being present for such vote.



Sandra Lewis, Tribal Council Recorder



Joseph Riley II, Tribal Council Speaker

Attest:

Distribution: Council Records
Gaming Commission

Gaming Commission Regulation
Regulation # R400-04:GC-03

Chapter 3 – Non-Gaming Employee Licensing Regulation

Section 1. Purpose; Authority

- 1-1. *Purpose.* It is the purpose of this Chapter to:
- a. To set a uniform process for the issuance and maintenance of licenses to prospective and current employees of any gaming enterprise, including how the Gaming Commission makes determinations about whether to grant or renew a license to Non-Gaming 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 and maintain 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 Commission Ordinance #04-400-04, and Commission's 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, 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 the gaming enterprise. “Applicant” also encompasses re-applicants.
- 2-3. *Gaming Commission Agents* means officials or employees of the Gaming Commission, including the Commissioners, Executive Director, Compliance personnel, Surveillance personnel, Internal Audit personnel, the Background Investigator, and Administrative staff of the Gaming Commission.
- 2-4. *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
- 2-5. *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.

- 2-6. *License for the purpose of this regulation* means any official and revocable authorization granted for a limited period of time by the Gaming Commission to gain (and maintain) employment in any gaming facility.
- 2-7. *Non-Gaming Employee* means any individual employed by the gaming enterprise in any capacity, whether by general operational terms of employment, contract, or agreement who is not required to be licensed as a Primary Management Official or Key Employee.
- 2-8. *Non-Gaming Employee License* means a license issued to a Non-Gaming Employee, including individuals hired by or contracted within an employment position with the gaming enterprise.
- 2-9. *Regulatory Agency* means the Little River Band of Ottawa Indians Gaming Commission, created by Gaming Commission Ordinance #04-400-04, or such other regulatory body created by Ordinance.
- 2-10. *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.
- 2-11. *Tribe* means the Little River Band of Ottawa Indians.
- 2-12. *Tribal Member* means an individual enrolled as a member of 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 Repeal.*

- 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 this Regulation.

Section 4. Classification of Non-Gaming 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 shall be required to obtain a Non-Gaming Employee License.

Section 5. General Rights and Duties of Applicants for a Non-Gaming Employee License

- 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 this regulation 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 this regulation. 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) calendar 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) calendar 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 this Regulation in accordance with the procedures prescribed in the Gaming Ordinance, the Gaming Commission Ordinance and Gaming Commission Regulations. This authority may be exercised by and through the Executive Director.
- 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 Commissioners 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 license issued in accordance to this Regulation, other than a temporary license, shall be effective for a period of one (1) 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 enterprise at which the employee is licensed to work, the type of license, the date that the license became effective and the date it expires. Licenses do not automatically renew and they 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 (sixty) calendar 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 the application 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 a license in accordance with this regulation must have that license on property during all working hours and must be able to produce that license upon request.

Section 6. Non-Gaming Employee 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. Voluntary relinquishment of a Non-Gaming License will not preclude the Gaming Commission from addressing license issues that occurred during the time the licensee held a license.

- 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 sixteen (16); 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 and/or requests for information 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.

Section 7. License Applications

- 7-1. *Complete Application Required.* The Gaming Commission agency shall require each potential employee to submit an application to the Gaming Commission on the form and in the manner required by the Gaming Commission. The application shall clearly identify that the application is applying for a Non-Gaming Employee License.
- 7-2. *Privacy Act Notice.* The following notice shall be placed on that 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 (NIGC) 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 NIGC 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 the tribe's inability to license you for a Primary Management Official, Key Employee, and or Non-Gaming 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 Non-Gaming Employee 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, § 1001)."

- 7-4. *Burden of Proof on 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 license shall be upon the applicant or licensee, as the case may be.

- 7-5. *Application for a Non-Gaming License.* Each applicant for a Non-Gaming Employee License 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), date of birth, 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; and
 2. ownership interests in those businesses; and
 3. business and residence addresses; and
 4. Driver's License Number(s) and/or State Identification Card.
- 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, 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, permit related to gaming, the current status of the application, and whether or not such license or permit was granted;
- h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date of disposition, if any;
- i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date of disposition, if any;
- j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to subsections (h) and (i) of this Section, the criminal charge, the name and address of the court involved, and the date and disposition, if any;
- 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. A list of any previous or existing business relationships with/in the gaming industry, including with any Tribes with gaming operations to include the name and address of the entity along with contact information;
- m. One (1) piece of valid identification that includes a photograph and one (1) other form of identification (Social Security Card, birth certificate or passport) that allows the Gaming Commission to verify the applicant's identify;
- n. A list of all professional or business licenses the applicant has applied for, whether or not those licenses were granted and current status, and the name, address and phone number of the regulatory agency involved;
- o. A sworn statement that to the best of his/her knowledge the applicant nor any member of his/her immediate family does not have 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;

- p. Written permission giving the Gaming Commission the right to investigate the applicant's background, including criminal records, civil and criminal judgments, and credit history;
 - q. 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 licensed;
 - r. Other information required by the Gaming Commission; and
 - s. 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 and/or courts 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.
- 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. 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), (i), and (j).
- 8-2. *Steps to Complete Background Investigation.* An investigation will be conducted sufficient to make a determination of eligibility under Section 6. 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 consist with at least the following:

- a. A Gaming Commission agent shall make an attempt to contact each personal and business reference provided in the application and take other appropriate steps to verify the accuracy of the other information presented.
- b. The criminal background of each applicant shall be investigated by obtaining information concerning the applicant's criminal history from law enforcement and/or courts 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 Number(s), Social Security Number, and a physical description. The Gaming Commission may, at its discretion, submit fingerprint impressions to an appropriate agency if deemed necessary to make a determination of eligibility for licensure.
- 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 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 a license is issued to an applicant, the Gaming Commission shall make a finding concerning the eligibility of that person for receiving a license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations.
- b. If the Gaming Commission determines that licensing the person poses a threat to the public interest or 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.

Section 9. Action on Applications

9-1. *Action on Applications for Non-Gaming Employee License.*

- a. Within fifteen (15) calendar days a Gaming Commission agent shall review the application, the results of background investigation and the criminal history reports to determine if the applicant qualifies for a license.
- 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 Gaming Commission may issue a temporary license to the applicant. A temporary license shall not be valid for more than thirty (30) calendar days from the date of issuance.

- c. 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.
- d. 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 Section 6. The notice to each applicant shall also inform the applicant of the applicant's right to request a hearing within fourteen (14) calendar days following receipt of the notice of the denial.
 - 1. Within twenty-one (21) calendar 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) calendar days following hearing.
- e. If a license is not issued to a Non-Gaming Employee applicant the Gaming Commission shall notify the gaming enterprise.
- f. The Gaming Commission shall retain applications and reports (if any) of background investigations for no less than five (5) years from the date of termination of employment or denial of a license.

9-2. *Denying Non-Gaming Employee Licenses.*

- a. The Gaming Commission shall not license a Non-Gaming Employee if it determines, in applying the standards in this Regulation for making a license eligibility determination, that licensing the applicant:
 - 1. Poses a threat to the public interest; or
 - 2. Poses a threat to the effective regulation of gaming; or
 - 3. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.

9-3. *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 cursory background check.

Temporary licenses shall be valid for no longer than thirty (30) calendar days from the date of issuance. Temporary licenses may be rescinded prior to the conclusion of the thirty (30) calendar day period if the applicant has been determined to be ineligible or unsuitable for licensure under applicable laws. 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 this Regulation whose license is either denied or revoked by the Gaming Commission on the basis of that individual's failure to satisfy the eligibility criteria to hold a license 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 this Regulation, 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, has 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.
- 10-2. *Re-Application for returning licensees.* Licensees that voluntarily terminate his/her employment or are involuntarily terminated by the gaming enterprise may, if subsequently offered a position with any gaming enterprise within one (1) year of termination, seek reinstatement of the license by completing a renewal 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 is not available to someone who held a Non-Gaming Employee License and is seeking a Key Employee License.

Section 11. Disclosure by Applicant

- 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 materials.
 - a. To appropriate Federal, Tribal, State, local or foreign law enforcement, and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions; or
 - b. 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; or
 - c. If ordered to do so by a court of competent jurisdiction.

- 11-2. Disclosure is made by the Gaming Commission under the following circumstances:

- a. *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. License Denials, Suspensions and/or Revocation of License

12-1. *Hearing upon Denial of License.* Any applicant who is denied a license applied for under this Regulation may request a hearing before the Gaming Commission by written request submitted within fourteen (14) calendar days following receipt of notice of the action by the Gaming Commission.

- a. Within twenty-one (21) calendar 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 regulatory agency deems relevant to the matter.
- b. The regulatory agency shall either affirm or reconsider its decision to deny the license within seven (7) calendar days following hearing.

12-2. *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 Regulation has violated or been charged with a violation of any criminal law that disqualifies the licensee from holding a license or any regulation promulgated by the Gaming Commission, 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 by serving the licensee with Notice of Suspension and proposed revocation, including notice of time and place of the hearing, 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 this Regulation.
 2. 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, 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.

- d. After the hearing, the Gaming Commission shall either (a) revoke; (b) reinstate the license; or (c) reinstate the license with conditions or limitations.
- e. Any appeals from the Gaming Commission's determination following that hearing shall be conducted in accordance with Gaming Commission Regulation – Chapter 14 - Hearings.

12-3. *Suspension of License Pending Investigation.*

- a. Any license may be suspended for not more than thirty (30) calendar 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 related to his/her 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 or the Tribal Court.
- b. Upon receipt of reliable information that a licensee has engaged in any conduct described in paragraph (a), a Notice of Suspension 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) calendar 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.
- f. Any appeals from the Gaming Commission's determination following a hearing shall be conducted in accordance with Gaming Commission Regulation – Chapter 14 - Hearings.
- g. In the event it is determined, following an investigation, that the reliable information received does not disqualify the licensee from holding a license, the Executive Director or designee shall issue a notice to the licensee identifying reinstatement of the license.