

**HO-CHUNK NATION CODE (HCC)**  
**TITLE 5 – BUSINESS AND FINANCE CODE SECTION 1**  
**AMENDED & RESTATED GAMING ORDINANCE**

**ENACTED BY LEGISLATURE: October 12, 2022**

**APPROVED BY NIGC: January 9, 2023**

**CITE AS 5 HCC § 1**

*This Ordinance supersedes the Amended and Restated Gaming Ordinance of the Ho-Chunk Nation enacted by Legislative Resolution 01-28-08.*

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**Section 1. Authority.**

- A. Article V, Section 2(a) of the Constitution gives the Ho-Chunk Nation Legislature (“Legislature) the power to make laws, including codes, ordinances, resolutions, and statutes.
  
- B. Article V, Section 2(b) of the Constitution gives the Legislature to establish executive departments and to delegate Legislative powers to the Executive branch to be administered by such Departments, in accordance with the law; any Department established by the Legislature shall be administered by the Executive; the Legislature reserves the power to review any action taken by such delegated power.
  
- C. Article V, Section 2(f) of the Constitution gives the Legislature the power to set the salaries, terms and conditions of employment for all government personnel.
  
- D. Article V, Section 2(h) of the Constitution gives the Legislature the power to enact all laws prohibiting and regulating conduct and imposing penalties upon all persons within the jurisdiction of the Nation.
  
- E. Article V, Section 2(i) of the Constitution gives the Legislature the power to negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals.

- F. Article V, Section 2(q) of the Constitution gives the Legislature the power to issue charters of incorporation, to charter corporations and other organizations for economic or other purposes, and to regulate their activities.
- G. The Legislature establishes the Commission as the independent Tribal Gaming Regulatory Authority (TGRA) charged with oversight and enforcement of gaming regulatory matters under the Nation's laws.
- H. The Legislature assigns the Commission the power to make licensing determinations on gaming license applications. The Commission shall approve, deny, suspend, revoke, or place conditions or limitations upon an application following proper inquiry and investigation.
- I. The Legislature delegates authority and responsibility to the Gaming Commission to interpret this Ordinance and its rules.
- J. The Indian Gaming Regulatory Act (“IGRA”) 25 U.S.C. §§ 2701-2721 provides the statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal government.
- K. The regulations set forth in this Ordinance will govern all gaming activity conducted under the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2701-2721, on the Nation's lands. To the extent the Nation's Employee Relations Act (6 HCC § 5) or other employment manuals, policies and procedures, or any amendments thereto are inconsistent, with this Ordinance, this Ordinance shall supersede. Licensure actions are regulatory matters and not subject to ERA provisions or manuals.

## Section 2. Purpose.

- A. The Legislature of the Ho-Chunk Nation (“Nation”), empowered by the Ho-Chunk Nation Constitution to enact ordinances, hereby enacts this ordinance to promote Ho-Chunk Nation economic development, self-sufficiency and sovereignty; to shield the operation of gaming from organized crime and other corrupting influences; and to ensure that gaming is conducted fairly and honestly by both the operator and players.

*See 25 U.S.C. § 2702(1)-(3)*
- B. Provide appropriate regulations and rules which will be enforced with respect to gaming under the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2701-2721, throughout the jurisdiction of the Nation. The Legislature shall ensure the close control of all phases in the conduct of gaming and the operations on the Nation's lands.

- C. Establish the Gaming Commission as the official Tribal Gaming Regulatory Authority (TGRA) charged with oversight and enforcement of gaming matters under the Nation's law and to ensure that licensed employees activities are in conformance with the IGRA, any Tribal/State Compact, and any other gaming regulatory matters under the Nation's laws.
- D. Pursuant to this Ordinance the Legislature reserves the right to authorize individuals or the Commission to negotiate, cooperate, and communicate with Tribal, State, or Federal officials regarding the conduct of gaming.

### Section 3. Applicability.

Unless specifically indicated otherwise, all provisions of this ordinance shall apply to Class II and Class III gaming conducted under the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2701-2721, the Ho-Chunk Nation lands.

### Section 4. Definitions.

- A. **Administrative Rules.** Internal procedures drafted, adopted, and implemented by the Commission.
- B. **Applicant.** Any person or entity having an application on file with the Commission in connection with any gaming operation.
- C. **Application.** All forms and information required by the Commission for all gaming license determinations.
- D. **Assets.** Economic resources, anything tangible or intangible, common asset categories include cash and cash equivalents; accounts receivable; inventory; pre-paid expenses; and property and equipment, that can be owned or controlled to produce value and that is held to have positive economic value is considered an asset.
- E. **Cash equivalent.** Includes, but is not limited to, Chips, Ticket In/Ticket Out, Vouchers, Gift Certificates, Rewards Points, Coupons, Credits, Checks, Deposits, or Player Deposits.
- F. **Charitable gaming.** Any authorized gaming conducted by a Ho-Chunk Nation organization on the Nation's lands for the benefit of the general welfare programs or for the benefit of Tribal Members.
- G. **Class I Gaming.**
  - 1. Social games played solely for prizes of minimal value; or
  - 2. Traditional forms of Indian gaming when played by individuals in connection with Ho-Chunk Nation ceremonies or celebrations.

*See 25 U.S.C. § 2703(6)*

*See 25 C.F.R. § 502.2*

**H. Class II Gaming.**

1. Bingo or lotto (whether or not electronic, computer or other technologic aids are used) when players:
  - a. Play for prizes with cards bearing numbers or other designations;
  - b. Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
  - c. Win the game by being the first person to cover a designated pattern on such cards;
2. Pull-tabs, punch boards, tip jars, instant bingo and other games similar to bingo, if played in the same location as bingo or lotto;
3. Non-banking card games that:
  - a. State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the State; and
  - b. Players play in conformity with State laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.
4. Individually owned Class II gaming operations:
  - a. That were operating on September 1, 1986;
  - b. That meet the requirements of 25 U.S.C. § 2710(b)(4)(B);
  - c. Where the nature and scope of the game remains as it was on October 17, 1988; and
  - d. Where the ownership interest or interests are the same as on October 17, 1988.

*See 25 U.S.C. § 2703(7)*

*See 25 C.F.R. § 502.3*

**I. Class III Gaming.** All forms of gaming that are not Class I or Class II gaming, including, but not limited to:

1. Any house banking game, including but not limited to –
  - a. Card games such as baccarat, Chemins de fer, blackjack (21), and pai gow (if played as house-banking games); and
  - b. Casino games such as roulette, craps, and keno;
2. Any slot machines, as defined in 15 U.S.C. § 1711(a)(1), and electronic or electromechanical facsimiles of any game of chance;
3. Any sports betting and pari-mutuel wagering, including but not limited to, wagering on horse racing, dog racing or jai alai; or
4. Lotteries

*See 25 U.S.C. § 2703(8)*

*See 25 C.F.R. § 502.4*

- J. **Commission.** The Ho-Chunk Nation Gaming Commission established to perform regulatory oversight and to monitor compliance with Ho-Chunk Nation, Federal, and applicable State regulations.
- K. **Commissioner.** A Ho-Chunk Nation Gaming Commissioner.
- L. **Defraud.** To practice fraud; to cheat or trick; to deprive a person of property or any interest, estate, or right by fraud, deceit or artifice.
- M. **Directly related to or Relative of.** Any person's spouse or spousal relationship partner, child, sibling, parent, grandparent, or grandchild. For the purpose of this Ordinance, this meaning will include relatives by adoption, step-relatives, in-laws, aunts, uncles, and cohabitants.
- N. **Eligibility.** A standard whereby the Commission looks to an applicant's, licensee's, or vendor's prior activities, criminal record, if any, or reputation, habits and or associations to determine whether or not these prior actions pose a threat to the public interest or to the effective regulation and control of gaming conducted under this Ordinance, or create or enhance the dangers of unsuitable, unfair, or illegal practices, and methods, and activities in the conduct of such gaming.
- O. **Facility License.** A separate license issued by the Ho-Chunk Nation Commission to each place, facility or location on Ho-Chunk Nation lands where the Nation elects to allow Class II or Class III gaming;
- See 25. C.F.R. § 502.23*
- P. **Gaming Employee.** Any person who (a) conducts, operates, maintains, repairs, accounts for, or assists in and Gaming Activities, or is in any way responsible for supervising such Gaming Activities or persons who conduct, operate, maintain, repair, account for, assist, or supervise any such Gaming Activities, (b) is in a category under federal or tribal gaming law requiring licensing, (c) is an employee of the Nation with access to confidential casino or employee/vendor background information, or (d) is a person whose employment duties require or authorize access to areas of the Gaming Facility, or Casino network, in which any activities related to Gaming Activities are conducted but that are not open to the public.
- Q. **Gaming Facility.** Any building in which Gaming Activities or any Gaming Operations occur, or in which business records, receipts, or funds of the Gaming Operation are maintained (excluding offsite facilities primarily dedicated to storage of those records and financial institutions), and all rooms, buildings, and areas, including food and beverage,

hotels, parking lots, and walkways, the principal purpose of which is to serve the Gaming Activities rather than providing them with an incidental benefit.

R. **Gaming Goods or Services.** Means the providing of Gaming or Gaming-related goods or services to the Ho-Chunk Nation in connection with the operation of Class II and/or Class III gaming in a Gaming Facility or on the Internet Gaming System, including any items or supplies used for or in conjunction with games and Gaming and security for such games and shall include the games themselves including gaming machines, gaming tables, cards, chips, dice, etc.; machines that count, or otherwise are used to process currency, chips, gaming tickets, gift cards and other items of monetary value on the gaming floor or in backroom operations including currency and ticket counters, ticket redemption units, ticket and currency kiosks, and bill breakers; software and computer hardware that control such games and/or that monitors or accounts for money and tickets for one or more games or that tracks players; security equipment such as surveillance cameras, recording equipment, key security systems, etc.; and the parts and supplies for such games, machines, items and systems. This also includes, future technological advancement of gaming devices or aids, software, hardware that the law explicitly authorizes.

S. **Indian Lands.**

1. Land within the limits of an Indian reservation; or
2. Land over which the Ho-Chunk Nation exercises governmental power and that is either:
  - a. Held in trust by the United States for the benefit of the Ho-Chunk Nation or individual; or
  - b. Held by the Ho-Chunk Nation or individual subject to restriction by the United States against alienation.

*See 25 U.S.C. § 2703(4)*

*See 25 C.F.R. § 502.12*

T. **Key Employee.**

1. A person who performs one or more of the following functions:
  - a. Persons employed to supervise or perform Class II and Class III authorized gaming activities;
  - b. Persons employed to supervise or perform count room activities;
  - c. Persons employed to supervise or perform security, surveillance, or compliance activities;
  - d. Custodian of gaming supplies, cash, or cash equivalent;
  - e. Approver of credit;
  - f. Custodian of gambling devices, including persons with access to cash and accounting records within such devices;

- g. Persons employed to supervise or perform marketing or promotional activities;
  - h. Persons employed to perform information technology activities to include those who work within the gaming facility, Department of Administration, and Division of Information Technology;
  - i. Bingo Caller;
  - j. Floor manager;
  - k. Dealer; or
  - l. Croupier;
2. The Executive Director of the Department of Business or designee, Ho-Chunk Nation Treasurer or designee, Executive Managers or General Managers, and other employees who have the chief responsibility for the management of gaming operations, including persons employed to work primarily in a location outside the gaming facilities who have responsibility for the following:
    - a. Operation of gaming within a facility;
    - b. Maintains or examines gaming data, analysis, or audits;
    - c. Persons who have access to, or responsibility for, gaming revenue and expenses; or
    - d. Persons who maintain or have responsibility for the conduct of gaming employee or gaming vendor background investigations.
  3. Any person who has immediate financial management responsibility for any gaming operation. A political appointee cannot occupy a gaming license position absent a gaming license.
  4. If not otherwise included, any other person whose total cash compensation, or potential total cash compensation meets the wage threshold as set forth in *25 C.F.R. § 502.14 (b)*. Currently, the threshold is in excess of \$50,000 per year.
  5. If not otherwise included, the most highly compensated persons in the gaming operation.
  6. If not otherwise included, any other person identified in, or subject to, the Nation's Class II or Class III gaming operation tribal internal control standards.
  7. Any employee that works at the Gaming Facility or any Nation employee that has access to live Casino information, Casino employee/vendor background information, or oversees any Gaming Facility departments.
  8. Any other person who the Legislature may classify by resolution as a Key employee.

*See 25 C.F.R. § 502.14*

U. **Legislature.** Means the Ho-Chunk Nation Legislature, the governing body of the Nation whose members were duly elected and sworn in pursuant to the Constitution and laws of the Nation.



- V. **License.** A privilege granted for a limited time to a person or entity to perform certain actions; a License will not convey any property or liberty interest to the Licensee. For the purpose of this Ordinance, the gaming license is the physical badge worn by gaming licensees.
- W. **License Classification.** A gaming license shall indicate the license classification; such as Provisional, Non-Gaming, Vendor, Vendor Employee, Class II, Class III, or Class II & III.
- X. **Licensee.** A Ho-Chunk Nation owned Class II and/or Class III gaming operation or a person licensed by the Commission as a Primary Management Official, Key employee, or other gaming employee under the provisions of this ordinance.
- Y. **Management Contract.** Any contract, subcontract or collateral agreement between the Ho-Chunk Nation and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.  
*See 25 C.F.R. § 502.15*
- Z. **Malfeasance.** Means the commission of an act that is positively unlawful. The doing of an act which a person ought not to do at all. The unjust performance of some act which the party had the right to commit. Any wrongful conduct, which affects, interrupts, or interferes with the performance of official duty. An act for which there is no authority.
- AA. **Minimum Internal Control Standards (MICS).** Internal Control Standards established by the National Indian Commission.
- BB. **Misfeasance.** Means the improper performance of some act, which a person may lawfully do.
- CC. **Nation.** Means the Ho-Chunk Nation, any of its subdivisions, of the enterprises, agencies or instrumentality, subdivisions of such enterprises, agencies, or instrumentalities, corporations chartered under federal, state, or tribal law which was not wholly owned by any of the foregoing, and authorized officials, agents, and representatives of any of the foregoing.
- DD. **Nation's Lands.** Solely for purposes of this statute means:
1. All lands held in trust by the United States for the benefit of the Nation; and
  2. All lands held in fee by the Nation.
- EE. **NIGC.** The National Indian Gaming Commission established pursuant to the IGRA, 25 U.S.C. § 2704.

- FF. **Net Revenues.** Gross gaming revenues of a Ho-Chunk Nation gaming operation less:
1. Amounts paid out as, or paid for, prizes; and
  2. Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.  
*See 25 U.S.C. § 2703(9)*  
*See 25 C.F.R. § 502.16*
- GG. **OIGRC.** The Office of Indian Gaming and Regulatory Compliance, a division of the State of Wisconsin Department of Administration, and its successors,
- HH. **Owner or Controlling Person.**
1. Any natural person having a direct financial interest in any management contract;
  2. When a trust is a party to a management contract, any beneficiary or trustee;
  3. When a partnership is a party to a management contract, any partner;
  4. When a corporation is a party to a management contract, any person who is an officer or director or who holds at least five percent (5%) of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child, or sibling; or
  5. With respect to any entity with an interest in a trust, partnership or corporation that has an interest in a management contract, all beneficiaries, trustees, partners, directors or five percent (5%) shareholders of such entities.
- II. **Person.** Any individual and any partnership (general and limited), association, corporation, or other legal entity.
- JJ. **Primary Management Official** means any person designated in any management contract as having management responsibility of all or any part of any gaming operation:
1. Any person who has the authority:
    - a. To hire and fire employees of a gaming operation; or
    - b. To set up working policy for a gaming operation; or
  2. The chief financial officer, casino controller or other person who has immediate financial management responsibility for any gaming operation.
- KK. **Provisional License** means an initial gaming license issued pending the satisfactory completion of all background investigations required under this Ordinance, the IGRA, the Compact, or any agreement to which the Nation is a party; and pending review by the NIGC as provided for in regulations promulgated by the NIGC in the Code of Federal Regulations, 25 C.F. R. 558.
- LL. **Quorum.** Unless the Legislature passes a Resolution lowering the number of Gaming Commissioners necessary to constitute a quorum, any three (3) Commissioners physically present at a duly called meeting will constitute a quorum.

- MM. **Respondeat Superior.** The doctrine that an employer or supervisor of an employee is responsible for the actions of the employee while the employee works within the scope of employment. The definition of respondeat superior is further limited for purposes of imposing sanctions on supervisors.
- NN. **Theft.** The fraudulent appropriation to one's self of the property of another, with an intention to commit theft without the consent of the owner.
- OO. **Trial Court or Court.** The Ho-Chunk Nation Trial Court.
- PP. **Tribal Internal Control Standards (TICS).** Internal Control Standards established by the Commission shall be at least as stringent as the applicable MICS as set forth by the NIGC (also referred to as regulations).
- QQ. **Tribal-State Compact.** An agreement between the Nation and State about Class III gaming under 25 U.S.C. § 2710(d).
- RR. **Tribe.** The Ho-Chunk Nation ("Nation")
- SS. **Vendors.** Any person or legal entity including, but not limited to: a merchant; retail dealer; supplier; importer; wholesale distributor who transfers property; gaming goods, goods, other services by sale or lease to a gaming facility, or other transacted services whether gaming or non-gaming related.

## Section 5. Gaming Authorized.

- A. Class II and Class III gaming are authorized to be conducted on the Ho-Chunk Nation lands, if such gaming is conducted in accordance with this ordinance, the Indian Gaming Regulatory Act, the NIGC's regulations, The Ho-Chunk Nation and The State of Wisconsin Gaming Compact of 1992 including Amendments, and any other applicable laws or regulations.
- B. The Nation shall adopt within its Gaming Code provisions prohibiting gaming by persons employed by the Nation at any site of employment or in the case of management contractors, at any site on the Nation's Lands where gaming is conducted.
- See Tribal-State Compact § XI.A.*
- C. The Compact is hereby incorporated within and enacted as an integral part of this Ordinance with respect to all forms of Class III gaming as if set forth in full herein; provided, however, that nothing in the adoption of the Compact herein will be deemed to affect the operation by the Nation of any Class I or Class II gaming, whether conducted within or without the gaming

facilities, or to confer upon any state any jurisdiction over such Class I or II gaming conducted by the Nation on the Nation's lands.

1. Class III on the Nation's lands shall continue to be the jurisdiction of the Nation but shall be subject to the provisions of any Compact which is in effect and applicable provisions of the IGRA. And any conflict between this Ordinance and the Compact or IGRA, the relevant Compact provision(s) or IGRA procedure(s) shall govern.

D. The Commission must adopt regulations prior to offering new gaming platforms.

### Section 6. Ownership of Gaming.

A. The Ho-Chunk Nation shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance, except as expressly provided in this Ordinance.

*See 25 U.S.C. § 2710(b)(2)(A)*

*See 25 C.F.R. §§ 522.4(b)(1), 522.6(c)*

B. For purposes of this section, the term Nation includes any political and business subdivisions of the Nation, and social or charitable organizations of the Nation.

C. No person or entity, other than the Ho-Chunk Nation, shall conduct gaming without providing proper notice and obtaining a license, if required, from the Ho-Chunk Nation Commission.<sup>1</sup>

D. Privately owned gaming operations are prohibited within the jurisdiction of the Nation.

E. No person under the age of eighteen (18) will be permitted to participate in any non-charitable Class II gaming as a player or contractor, provided, that all persons may participate in charitable Class II gaming approved by the Commission, and any person may be employed by any Class II gaming operation if at least sixteen (16) years of age.

### Section 7. Use of Net Gaming Revenues.

A. Net revenues the Ho-Chunk Nation gaming shall be used only for the following purposes:

1. To fund Ho-Chunk Nation government operations or programs;
2. To provide for the general welfare of the Ho-Chunk Nation and its members;
3. To promote Ho-Chunk Nation economic development;
4. To donate to charitable organizations; or
5. To help fund operations of government agencies.

*See 25 U.S.C. § 2710(b)(2)(B)*

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<sup>1</sup> Commission will develop provisions to provide formal notice for charitable gaming.

*See 25 C.F.R. §§ 522.4(b), 522.6(b)*

- B. Per capita payments will only be made pursuant to the Nation's *Per Capita Distribution Ordinance* (2 HCC § 12) as approved by the Secretary of the Interior as required under the IGRA.

### Section 8. Per Capita Allocations.

- A. Net revenues from any class II and/or class III gaming activities conducted or licensed by the Ho-Chunk Nation may be used to make per capita allocations to Ho-Chunk Nation members if:
1. The Ho-Chunk Nation has prepared a Tribal Revenue Allocation Plan to allocate revenues to one or more of the five uses authorized by Section 8(A) of this ordinance;
  2. The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in sections 8(A)(1) and 8(A)(3) of this ordinance;
  3. The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita allocations are protected and preserved; and
  4. The per capita allocations are subject to Federal taxation and the Ho-Chunk Nation notifies its members of such tax liability when allocations are made wherein the General Welfare Exclusion Act may be applicable.

*See 25 U.S.C. § 2710(b)(3)*

*See 25 C.F.R. §§ 522.4(b)(2)(ii), 522.6(b)*

### Section 9. Gaming Commission.

- A. A Commissioner is appointed by the Legislature.
- B. The Commissioners will each serve for a term of six (6) years commencing on July 1<sup>st</sup> of the year of appointment in accordance with Section 9.C. Prior to the dates specified for each seat in Section 9.C., the Commissioners' terms shall be for four (4) years, with the exception of Seat 5, which shall be for three (3) years.
1. At least ninety (90) calendar days prior to the expiration of a Commissioner's term in office, the Legislature will post the seat as open.
  2. Vacancy.
    - a. Upon a vacancy on the Commission through death, resignation, incapacity, or removal from office, the Legislature will post the seat as open within five (5) business days.
    - b. If a vacancy is less than one year, the appointed Commissioner will fulfill the current vacancy and continue with a full six (6) year term.
    - c. All other vacancies will fulfill the current term.
- C. Staggered terms. The Commissioners' terms shall be staggered.
1. Seat 1 and 2 shall expire every six (6) years beginning June 30, 2022.

2. Seat 3 shall expire every six (6) years beginning June 30, 2024.
3. Seat 4 and 5 shall expire every six (6) years beginning June 30, 2026.

D. In order to qualify for appointment to the Commission, an applicant must:

1. Be an enrolled member of the Nation.
2. Be at least 25 years of age or older.
3. Have at least a high school diploma, or equivalent.
4. Possess working experience in the gaming industry. Have a minimum of five (5) years of experience in any combination of the following:
  - a. Post-secondary education in one or more of the following areas;
    - i. Finance;
    - ii. Gaming law or Indian law;
    - iii. Law enforcement;
    - iv. Business administration or business management;
    - v. Information Technology (IT/MIS)
  - b. Gaming experience in one or more of the following areas:
    - i. Gaming regulation;
    - ii. Gaming operations;
    - iii. Auditing;
    - iv. Background investigations;
    - v. Surveillance
5. Submit to and successfully comply with criminal and civil background investigations and meet with Nation's eligibility standards which will be at least as stringent as the standards established for key employees and primary management officials.
6. Have no prior criminal record of conviction of, or entry of a plea of guilty or no contest to, any of the following in any jurisdiction, unless pardoned:
  - a. A felony;
  - b. Any gaming-related offense;
  - c. Crimes of dishonesty; offenses which involve the taking or appropriation of property without the consent of the owner in the knowledge that the accused has no right to the property in question.
7. Submit to and successfully comply with the Ho-Chunk Nation Drug, Alcohol and Controlled Substance Policy (Employment Relations Act, 6 HCC § 5, Ch. VII).
8. Willingness and ability to perform duties in accordance with the job description of a Gaming Commissioner.
9. Possess the physical capabilities requiring extensive travel, working varied hours, including evening and weekends; and perform a minimum of forty (40) hours a week.
10. Possess a valid driver's license, dependable transportation and proper insurance.
11. As defined in this Ordinance and at the time of appointment, cannot be directly related to any member of the Legislature or the President.

12. Not be a primary management official, or owner or controlling person with respect to any management contract, or relative thereto.
  13. Not be employed by any of the Nation's gaming operations during his or her term of office.
- E. The Legislature shall require a background check with appropriate law enforcement agencies for each Commissioner candidate; shall review the candidate's background check results; and shall make an appropriate eligibility determination before appointing an individual to the position of Commissioner.
- F. The Legislature recognizes the importance of an independent Commission in maintaining a well-regulated gaming operation. The Commission shall be independent of, and act independently and autonomously from, the Legislature and Executive Branches in all matters within its purview. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Nation requires that, at a minimum:
1. No seated member of the Legislature may serve on the Commission;
  2. Appointed members of the Commission are prohibited from gambling in any of the Nation's gaming facilities.
- G. A vacancy on the Commission through death, resignation, incapacity, or removal from office will be filled by a majority vote of the Legislature at a duly convened meeting.
- H. Removal.
1. The independence of the Commission is essential to a well-regulated Gaming Operation. For that reason, Commissioners may only be removed from office by the Legislature prior to the expiration of their respective terms for neglect of duty, misconduct, malfeasance, misfeasance, or other acts that would render a Commissioner unqualified for his/her position. Removal will be initiated upon a petition being presented to the Legislature by any member of the Legislature or the President.
  2. The Legislature shall determine whether to consider a petition for removal.
  3. If the Legislature has determined to consider a petition for removal, the Commissioner subject to removal hereunder shall be given notice in writing of the specific grounds for a pending removal and an opportunity at a hearing before the Legislature, which hearing shall be held not less than thirty (30) days after the Commissioner's receipt of the Notice of Removal hereunder, to appear and present evidence rebutting the grounds for his or her removal. Notice required hereunder may be made by personal service or by certified mail with return receipt requested.
  4. While a removal proceeding is underway pursuant to this section, the Legislature may, in its discretion, investigate and order immediate suspension pending a final

determination concerning removal of a Commissioner who is subject to such proceeding.

5. Any allegations of neglect of duty, misconduct, malfeasance, misfeasance, or other acts that would render a Commissioner unqualified for his/her position must be substantiated by a preponderance of the evidence. A final determination of the Legislature removing a Commissioner shall be subject to review by the Nation's courts solely with respect to errors of law, and all findings of fact made by the Legislature may be overturned only if clearly erroneous.

#### **Section 10. Gaming Commission Authorized Roles and Responsibilities.**

- A. The Legislature hereby establishes a Commission to regulate the Nation's gaming operations. The Commission shall consist of five (5) members, including a Chair, Vice-Chair, Secretary, and Treasurer.
- B. The Commission possesses all the rights, privileges, and immunities of the Nation, including but not limited to the sovereign immunity of the Nation from suit absent express consent from the Legislature. The individual members of the Commission are appointed officials of the Nation's government and shall be immune from suit when acting in their official capacity to the fullest extent permitted by law.
- C. The Commission will conduct oversight and ensure compliance with Ho-Chunk Nation, Federal and, if applicable, State laws and regulations.
- D. The Commission may recommend gaming-related policies and guidelines to the Legislature and other appropriate regulatory authorities, including any amendments to the Ordinance. No prior or subsequent review by the Legislature of any actions of the Commission shall be required or permitted, except as may be otherwise explicitly provided in this Ordinance. Notwithstanding the foregoing, the Commission shall be subject to all Nation laws.
- E. A decision may be reached by the Commission by a majority of the Members of the Commission. The Commission may act in its official capacity, even if there are vacancies on the Commission.
- F. The Commission will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process.
- G. The Commission will have regulatory oversight of the gaming operation's internal controls and in tracking gaming revenues.



- H. The Commission shall have the authority to take enforcement actions, including suspension or revocation of a gaming license in accordance with this Ordinance.
- I. The Commission shall have the authority to refer actions of the Executive to the Legislature for the right of review pursuant to Article 5 Section 2(b) of the Ho-Chunk Nation Constitution.
- J. The Commission may enjoin or otherwise prevent any violation of this Ordinance, any Order of the Commission, any license condition or other laws relating to gaming on the Nation's lands and/or seek to impose penalties or fines for such violation(s) in accordance with Section 37. To enforce violations the Commission shall be able to apply the doctrine of respondeat superior. Any person may be found responsible and liable for violations due to the action or inaction of the person or person's employees, agents, or officers. The Commission will only use the doctrine of respondeat superior to seek to impose sanctions on a supervisor if it can be shown that:
  - 1. After the Commission has informed the supervisor in writing of the violation, the supervisor has failed within a reasonable time to instruct his or her employees, agents, or officers of appropriate action to remedy the violation in the future; or
  - 2. The violation committed by the supervisor's employees, agents, or officers is so egregious that the supervisor should have known about the violation and taken corrective action.
- K. In order to carry out its regulatory duties in accordance with this Ordinance, the Commission shall have immediate, unrestricted, and unfettered access to all areas of the Gaming Operations and all areas where Ancillary Activities are conducted, including, but not limited to, accounting, information technology, storage, and administrative support areas, as well as unfettered access to all meetings of the Gaming Operation, and records of the Gaming Operation wherever conducted or maintained, which it may exercise directly or through such agents or employees as determined by the Commission.
- L. The Commission or authorized agent of the Commission will have full access to all areas related to the licensed gaming facility for any and all inspections, any and all audits, necessary observations, and preliminary and formal investigations at any time, without notice to management, the Department of Business, and the Office of the President in order to carry out the duties of the TGRA.
- M. The Commission has the authority to temporarily impound gaming equipment for investigation, review, or analysis and execute a shutdown of specified gaming equipment failing to conform to the standards required under laws and regulations applicable to the Gaming Operation.

- N. The Commission will conduct background investigations, or cause such investigations to be conducted, for primary management officials, key employees, and vendors of the gaming operations.
- O. The Commission will review and approve all investigative work conducted in connection with the background investigations of primary management officials, key employees, and vendors of the gaming operations.
- P. Confidentiality of Information. The Commission may refuse to reveal, in any court proceeding the identity of any informant, or the information obtained from the informant, or both the identity and the information.
- Q. The Commission will create and maintain investigative reports based on the background investigations of primary management officials, key employees, and vendors of the gaming operations.
- R. The Commission will obtain and process fingerprints upon hiring and every other review period and conduct a criminal history check that shall include a check of criminal history records information maintained by the Federal Bureau of Investigation.
- S. The Commission will make licensing eligibility determinations.
- T. The Commission will submit a notice of results to the NIGC of the background investigations done for each primary management official and key employee applicant.
- U. The Commission will issue gaming licenses to primary management officials and key employees of the operation, if warranted by the eligibility determination.
- V. The Commission shall ensure that all records and information obtained as a result of an employee background investigation, including but not limited to, the identity of each person interviewed in the course of an investigation, shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing process.
- W. The Commission will establish standards for licensing Ho-Chunk Nation gaming facilities which shall be included in the Administrative Rules.
- X. The Commission will issue gaming licenses to Ho-Chunk Nation gaming facilities.

- Y. The Commission will inspect, examine, and monitor all of the Nation's gaming activities, and have unlimited immediate access to review, inspect, examine, photocopy, and audit all records of the gaming facilities and operations at any time, absent notice to management, the Department of Business, and the Office of the President.
- Z. The Commission will investigate any suspicion of wrongdoing associated with any gaming activities which may result in an external forensic audit.
- AA. The Commission will ensure patron complaints are reviewed, investigated, and resolved in accordance with procedures established in this ordinance and the Ho-Chunk Nation gaming regulations.
- BB. The Commission will have the right to exclude a person from any gaming facility in accordance with this Ordinance at any time for any reason.
- CC. The Commission will have the right to reinstate a previously excluded person after a thorough investigation.
- DD. The Commission will comply with any and all reporting requirements under IGRA, the NIGC's regulations and any Ho-Chunk Nation-State compact to which the Ho-Chunk Nation is a party, and any other applicable law.
- EE. The Commission will promulgate and issue regulations necessary to comply with applicable internal control standards.
- FF. The Commission may promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications.
- GG. The Commission may promulgate and issue regulations on the levying of fines and/or the suspension or revocation of gaming licenses for violations of this Ordinance or any Ho-Chunk Nation, Federal, or applicable State gaming regulations.
- HH. The Commission may consider issuing licenses to gaming vendors possessing valid licenses from other tribal or state jurisdictions until such time that the Nation completes its own background investigation. In the event that other jurisdictions suspend, revoke, or refuse to renew a license or certificate to a gaming vendor, the Commission will consider the determination of that jurisdiction and may suspend, revoke, or refuse to renew any license issued by the Commission.

- II. The Commission will perform such other duties the Commission deems appropriate for the proper regulations of the Ho-Chunk Nation gaming operation.
- JJ. The Commission may promulgate such regulations and guidelines as deemed appropriate to implement the provisions of this ordinance, so long as they are in furtherance of, and not in conflict with, any provisions of this ordinance. Such regulations and guidelines promulgated by the Commission shall be approved by the Legislature.
- KK. Approval of Gaming Facility floor plans, closed-circuit television system, and cashier's cage, minimum staffing and supervisory requirements, and technical standards for gaming device operations.
- LL. The Commission may refer any apparent violations of the Nation's laws of general applicability, such as, but not limited to, the Employment Relations Act (6 HCC § 5) the Appropriations and Budget Process Act (2 HCC § 4), Finance Manual/Ordinance [Title changed by Resolution 08.24.21A] (5 HCC § 5), or law impacting on the Nation's Contracting Authority in the operation of the Nation's gaming facilities to the Attorney General for consideration and action as he/she may determine appropriate.
- MM. The Commission shall keep a written record of all its meetings where official action is taken.
- NN. The Commission will use the Nation's Department of Justice Attorneys as its legal counsel, or such other counsel to whom the Nation's Department of Justice may appoint special counsel for such matters.
  - 1. All communications by the Commission and the assigned Attorney shall be confidential, privileged, and protected communication.
  - 2. Only the Attorney General or designee may release such information pursuant to the Discovery Act.
- OO. When the Nation's Department of Justice is conflicted from representing the Commission, the Commission shall have the ability to request an Attorney, who is admitted to practice law within the Nation's court system to discuss all enforcement actions and to represent the Commission in Trial Court.
- PP. The Commission will have such other powers as are delegated to it from time to time by the Legislature.
- QQ. The Commission has discretion as to what documents may or may not be shared with requisite Gaming Commissioners related to guidance and implementation.

RR. Administrative Rules will be developed and adopted by the Commission and shall govern all gaming license determinations and hearings. Such Administrative Rules shall be approved by the Legislature.

## Section 11. Scope of Authority.

### A. Legislature.

1. Article V, Section 2(a) of the Constitution gives the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.
2. Article V, Section 2(h) of the Constitution gives the Legislature the power to enact all laws prohibiting and regulating conduct and imposing penalties upon all persons within the jurisdiction of the Nation.
3. Article V, Section 2(i) of the Constitution gives the Legislature the power to negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals.
4. Any regulations for Class II and Class III gaming on the Nation's lands developed or amended by the Gaming Commission must be approved by the Legislature.
5. The Legislature, or its authorized designee, will initiate an annual external audit, and will engage a qualified certified public accounting firm to conduct financial and compliance audits for each of the Nation's gaming operations. The Legislature will refer the results of the external audit to the Commission for compliance.
6. Administrative Authority for the Commission. The Vice President or authorized designee will have the authority to render the daily administrative functions, such as, signature authority for time sheets, out-of-state travel, leave applications, and shall oversee basic personnel matters of the Commission.
7. In the event there is a conflict of legal representation, the Legislature may retain outside counsel for the Commission. The Commission shall have RFP oversight for matters regarding the selection of a qualified legal counsel that has experience in Indian gaming regulatory matters.

### B. Executive Branch.

1. Gaming management is responsible for training key employees on the Minimum Internal Control Standards (MICS), Tribal Internal Control Standards (TICS), and System Internal Control Standards (SICS).
2. Gaming management is responsible for developing the SICS that complement the TICS.
3. Gaming management is responsible for managing and protecting all assets of the operations and ensuring compliance with all gaming regulations.
4. All Gaming Facilities shall, at no cost to the Commission, provide reasonable, secure, and lockable office space for Commission staff member(s) commensurate with the size of the operation.

5. The Executive Branch and/or its designated agents will ensure that all purchases and contracts, by or on behalf of any of the Nation's gaming operations will be subject to the Nation's Material Management Policies and Procedures Manual (5 HCC § 9) and other policies and subsequent amendments thereto, provided that any contract or purchase also comply with applicable law or Compact terms and conditions.
  - a. The Commission shall be able to access the contract database at any time, for any reason, to access any gaming contracts and any gaming-related contracts.
  - b. The DOJ shall authorize access to the Commission and any of their authorized designees.
  - c. Contract database access to any non-gaming contract that pertains to a gaming facility and property shall be available to the Commission at all times.
6. No later than fifteen (15) days after the end of each month, the Executive Managers of each of the gaming operations shall prepare and submit to the Commission and to the Legislature, through the Department of Business, a comprehensive report for the month completed of the gaming operations for which such Executive Manager has overall responsibility. Monthly reports will be made on a standardized formatted template by the Department of Business. The Executive Manager will retain a copy of the report for the permanent records of the Nation. The report will include, but not be limited to:
  - a. An itemized statement of the gross receipts;
  - b. An itemized statement of expenditures, including amounts paid for salaries and benefits, prizes, supplies and equipment, and other expenses;
  - c. Any capital expenses or any expenses related thereto;
  - d. Any associated liabilities.
7. Non-gaming licensed personnel shall not have access to sensitive areas of the gaming operation, including the Surveillance server and monitor rooms without prior approval from the Commission.
8. Non-licensed personnel shall not have access to sensitive areas of the gaming operation, including but not limited to, server rooms, cage, count, vault, tables games pit, bingo bank, bingo inventory room, nor pari-mutuel bank areas without prior approval from the Commission.
9. Non-licensed personnel shall not have access to sensitive gaming and propriety information, including but not limited to gaming financial information, gaming regulatory matters, gaming compact negotiations, written and electronic communications of the Commission including but not limited to email, virtual meetings, phone calls, and gaming RFP's of the Nation.
10. The Treasurer of the Ho-Chunk Nation shall:
  - a. Participate in the Nation's annual process for the development and approval of budgets of such gaming operations, except as limited under any management contract or other gaming-related contracts, in order to assist the Legislature to evaluate proposed budgets and approve final budgets.

- b. Prescribe standard accounting practices and procedures to be observed by the chief financial officers of the Nation's gaming operations.
  - c. The Treasurer will reconcile the Nation's quarterly fee assessment reports made to the NIGC with the annual audit of the gaming operations and shall make such reconciliation available to the NIGC upon request. Prior to the Treasurer reconciling the Nation's quarterly fee assessment reports, the Department of Business will provide all necessary information to the Treasurer to prepare these reports.
- C. This Ordinance will govern all gaming activity conducted on the Nation's lands. To the extent the Nation's Employee Relations Act (6 HCC § 5) or other employment manuals, policies and procedures or any amendments thereto are inconsistent with this Ordinance, this Ordinance shall control.
- D. The Commission recognizes the separation and authoritative functions by and between the Nation and Personnel Employment Laws as they differ from regulatory and licensing functions, and in doing so, shall follow regulatory functions designated in this Ordinance.
- E. The President, Treasurer, and the Executive Director of Business shall perform such activities as are delegated by the Ordinance. In order to provide the highest level of protection of the Nation's gaming operations and to safeguard the assets of the Nation, no employee or appointees of the Nation, including management contractors, shall directly supervise or manage gaming entities absent a valid gaming license.

## Section 12. External Audits.

- A. The Ho-Chunk Nation shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC.  
*See 25 U.S.C. § 2710(b)(2)(C)*  
*See 25 C.F.R. § 522.4(b)(3)*
- B. Annual audits shall conform to generally accepted auditing standards.  
*See 25 C.F.R. § 571.12(b)*
- C. All gaming-related contracts that result in the purchase of supplies, services or concessions for more than \$25,000 in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under Section 12(A) of this ordinance. The amount may exceed, but not be less than, \$25,000.  
*See 25 U.S.C. § 2710(b)(2)(D)*  
*See 25 C.F.R. § 522.4(b)(4), 522.6(b)*

- D. Copies of the annual audit of each licensed gaming operation, and each audit for supplies, services or concessions of each gaming operation, shall be furnished to the NIGC within 120 days after the end of each fiscal year of the gaming operation.

*See 25 C.F.R. § 571.13*

- E. Financial Audit. At the close of each fiscal year (commencing with the current tribal fiscal year) the Nation shall engage an independent certified public accountant to audit the books and records of all gaming operations conducted under this Compact. The audit shall be completed within 90 days after the close of the fiscal year.

*See Tribal-State Compact § XII A.*

- F. Security Audit. Commencing with the current tribal fiscal year and at least once every two years thereafter, the Nation shall engage a qualified independent auditor to conduct a security audit. The audit shall be completed within 120 days, and the Nation shall forward copies of any audit reports and management letters to the State Auditor and the Lottery Board.

*See Tribal-State Compact § XII B.*

- G. External audit firms shall be put through the bidding process every three (3) years to protect the Nation's assets and avoid complacency in upholding standards.

- H. The Legislature shall refer the results of the external audit to the Commission for compliance.
1. The external audit shall be proprietary to the Nation unless released by the Legislature.
  2. The State and NIGC, whenever possible, shall provide notice to the Nation prior to the release of any information including redacted documents.

### **Section 13. Environment and Public Health and Safety.**

- A. Each gaming facility shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public.

*See 25 U.S.C. § 2710(b)(2)(E)*

*See 25 C.F.R. §§522.4(b)(7), 522.6(b), and 559.4*

- B. The Ho-Chunk Nation shall submit to the NIGC Chair, with each facility license, an attestation letter certifying that by issuing the facility license, the Nation has determined that the construction and maintenance of the gaming facility, and the operation of gaming, is conducted in a manner which adequately protects the environment, public health, and safety.

*See 25 C.F.R. § 559.4*

- C. The Ho-Chunk Nation shall identify and enforce laws, resolutions, codes, policies, standards, or procedures, which are applicable to each gaming place, facility, or location, to ensure adequate protection of the environment and the health and safety of the public.

*See 25 C.F.R. § 559.4*



- D. The Ho-Chunk Nation Department of Labor shall engage a certified inspector to conduct inspections of all facilities for Class II and III gaming on a periodic basis, but not less than annually, which shall be a gaming operation expense. The gaming operation shall promptly repair or correct any and all instances of non-compliance.
- E. An inspection report shall be prepared by the certified inspector in connection with each inspection and copies of the reports shall be forwarded to the Commission.
1. Inspection reports for Class III facilities shall be forwarded to OIGRC.
  2. Inspection reports for Class II and Class III facilities shall be forwarded to the NIGC.
  3. The Commission shall verify that an inspection of each Gaming Operation is conducted annually by qualified inspectors.
  4. The Commission may compel the inspection of any Gaming Operation at such times as it deems necessary. Upon completion, a copy of the inspection reports shall be provided to the Commission.
- F. The policies and procedures developed and/or adopted by the Department of Business for each operation shall establish adequate standards with regard to:
1. Construction;
  2. Fire prevention, suppression, and alarm systems;
  3. Emergency preparedness for natural and man-made disasters;
  4. Communicable Diseases;
  5. Food & water quality and safety;
  6. Environmental and safety hazards relating to construction & maintenance;
  7. Handling and disposal of hazardous and waste materials;
  8. Sanitation; and
  9. Security of all real property, guests, employees and vendors.
- G. The Ho-Chunk Nation Department of Labor shall ensure biennial training of the following emergency plans with gaming facility staff:
1. Fire Evacuation
  2. Medical Emergencies
  3. Loss of Power
  4. Natural Disasters
  5. Inclement Weather
  6. Active Shooter
  7. Law Enforcement Response
- H. After the biennial training, the Department of Labor shall report all information to the Commission.

- I. Prior to construction on any gaming property, the Commission shall be provided notice and a reasonable opportunity to review and respond to any planned and proposed changes to ensure compliance with applicable laws and regulations. The Commission may bring any enforcement action necessary to enforce compliance with applicable environment, public health and safety laws, regulations, as well as the policies and procedures issued pursuant to this Section.
  
- J. The Commission shall have the exclusive authority to take immediate notice of inspection reports indicating conditions that pose a clear and imminent threat:
  - 1. To the environment, which, if uncorrected, could result in actual harm to life or destruction of property; or
  - 2. To human health and well-being, which, if uncorrected, could result in serious illness or death.
  - 3. Upon recommendation of the inspection report, the Commission may order the immediate closure of all or part of any Gaming Facility, or such lesser remedy in the event of the presence of a condition creating actual and imminent jeopardy to public health and safety, which order may extend only so long as may be required to abate such condition in the judgement of the Commission.
  
- K. Prior to the closure or the re-opening on any gaming facility, the Commission shall be provided notice and a reasonable opportunity to review and respond to any planned and proposed closure or the re-opening to ensure compliance with applicable laws and regulations. The Commission may bring any enforcement action necessary to enforce compliance with applicable environment, public health and safety laws, regulations, as well as the policies and procedures issued pursuant to this Section if notice and review are withheld.
  
- L. The licensed facility shall take immediate action when conditions pose a clear and imminent threat:
  - 1. To the environmental health of the facility, that could actually harm human health and wellbeing, which could result in serious illness and/or death of employees and/or guests; or
  - 2. To the environment and/or physical destruction of the Gaming Facility and/or Nation's property.
  
- M. No gaming facility may be closed or re-opened absent the Commission for reporting purposes as the official TGRA of the Nation.
  
- N. The licensed premises will be subject to patrol by the Nation's security force and local law

enforcement, and the licensee will cooperate at all times with such security and law enforcement officials.

#### Section 14. Records Retention.

A. The Ho-Chunk Nation Commission shall retain, for no less than seven (7) years from the date a primary management official or key employee is terminated from employment with the Ho-Chunk Nation, the following documentation:

1. Application for licensing;
2. Investigative Reports; and
3. Eligibility Determinations.

*See 25 C.F.R. § 558.3(e)*

B. In addition to records specifically required under other provisions of this Ordinance, the Nation shall also maintain, and the NIGC shall have the right to inspect and copy, the following records related to Class II gaming for at least seven (7) years after the record is created:

1. All accounting records, which shall be kept on a double entry system of accounting, including detailed, supporting and subsidiary records.
2. Revenues, expenses, assets, liabilities and equity by game at each location where any component of Class II gaming, including ticket sales, is conducted.
3. Daily cash transactions for each game at each location at which any component of Class II gaming is conducted, including but not limited to transactions relating to each gaming table bank, game drop box and gaming room bank.
4. For electronic games of chance, analytic reports which, by each machine, compare actual hold percentages to theoretical hold percentages.
5. Contracts, correspondence and other transaction documents relating to all vendors and contractors.
6. Records of all Tribal enforcement activities relating to gaming operated under this Compact.
7. All audits prepared by or on behalf of the Nation.
8. Records of background investigations and determinations.
  - a. Personnel information on all Class II gaming employees or agents, including complete sets of each employee's fingerprints, employee photographs, and employee profiles and background investigations.
  - b. Employee work schedules shall be maintained for a period of at least 2 years.

C. In addition to records specifically required under other provisions of this Compact, the Nation shall also maintain, and the State shall have the right to inspect and copy, the following records related to Class III gaming for at least seven (7) years after the record is created:

*See Tribal-State 1992 Compact § X.A.*

1. All accounting records, which shall be kept on a double entry system of accounting, including detailed, supporting and subsidiary records.
2. Revenues, expenses, assets, liabilities and equity by game at each location where any component of Class III gaming, including ticket sales, is conducted.
3. Daily cash transactions for each game at each location at which any component of Class III gaming is conducted, including but not limited to transactions relating to each gaming table bank, game drop box and gaming room bank.
4. For electronic games of chance, analytic reports which, by each machine, compare actual hold percentages to theoretical hold percentages.
5. Contracts, correspondence and other transaction documents relating to all vendors and contractors.
6. Records of all Tribal enforcement activities relating to gaming operated under this Compact.
7. All audits prepared by or on behalf of the Nation.
8. Records of background investigations and determinations under Section IX. of the Compact.

*See Tribal-State 1992 Compact § X.A.*

- a. Personnel information on all Class III gaming employees or agents, including complete sets of each employee's fingerprints, employee photographs, and employee profiles and background investigations.
- b. Employee work schedules shall be maintained for a period of at least 2 years.

*See Tribal-State Compact § X.A.8.*

## **Section 15. Conflict of Interest.**

### **A. Ethical Conduct**

1. The Ho-Chunk Nation Code of Ethics shall apply and control.
2. The Commission reserves the right to request financial documents from applicants and licensed individuals.

### **B. Conflicts of Interest Prohibited.**

1. No member of the Legislature, Commission, Treasurer of the Nation, or the President of the Nation will:
  - a. Be employed by any gaming operations, be a primary management official or owner or controlling person with respect to any management contract.
  - b. Participate in the approval, denial, or review of any application for a gaming license by, or participate in the revocation or suspension of any license granted hereunder to, any immediate relative of such member of the Legislature, the President, or the Commission.

- c. Engage in any business, transaction or professional activity or incur any obligation of any nature which conflicts with the proper discharge of his or her official duties in administering this Ordinance.
    - d. Participate as a player of any games at any of the Nation's gaming facilities. The preceding prohibition shall not apply to Legislators or the President playing:
      - i. Paper Bingo; or
      - ii. Charitable Games.
  2. No Attorney of the Department of Justice, Surveillance Department staff, Compliance Department/Division staff, and Gaming Commission staff will participate as a player on any games at any of the Nation's gaming facilities.
  3. Employees may participate in games at Ho-Chunk Gaming facilities other than their place of employment, with the exception of the following:
    - a. Executive Managers
    - b. Chief Financial Officers
    - c. Management Contractors
  4. Any employee that has multiple worksites, whether it be temporary or permanent, shall not participate as a player at their respective worksites.
  5. No employee of the Nation in any of its gaming operations will own, be employed by or have any direct or indirect pecuniary interest in any management contract or other gaming-related contract of the Nation. However, nothing in this paragraph will prevent the Nation from employing a person with a direct or indirect financial interest in a gaming-related contract which has been submitted to the Bureau of Indian Affairs ("BIA") or other federal regulatory body for review and approval during the period of such review, provided that any such employment will terminate upon approval of the contract by the BIA or other federal regulatory body.
  6. An employee, upon separation from employment with any of the Nation's gaming facilities, shall not participate as a player in any gaming activity at the gaming facility from which the person was separated from employment for a period of fifteen (15) days from the date of separation.
  7. An out-going Gaming Commissioner, Legislator, President, Surveillance Department employee, and Department of Justice Attorney will not participate as a player in any gaming activity at any gaming facility for a period of fifteen (15) days from the date of their separation from employment.
  8. An employee who was terminated or suspended for harassment in any form, violence in the workplace, or threatening violence may be excluded from the Nation's gaming facilities.
  9. An employee who was terminated or suspended for harassment in any form, violence in the workplace, or threatening violence may be excluded from the Nation's lands on a case by case basis.

10. If the Commission is notified of questionable behaviors that may jeopardize the safety and well-being of employees or facility, then an investigation shall be commenced and the individual may be banned immediately until the investigation is complete. Confidentiality shall be maintained and there shall not be retaliation.

### C. Violations

In addition to any other civil and/or criminal acts that may be regulated or prohibited by this Ordinance, other Laws of the Ho-Chunk Nation, or applicable Federal or State law, the following prohibited activities shall constitute civil violations under this Ordinance. Any person or entity may be subject to the enforcement authority of the Commission as provided in this Ordinance.

1. No person shall violate any provision of this Ordinance, or any rule, order or regulation that the Commission may promulgate or issue, including any internal control procedure.
2. No licensee shall use his or her position to present himself or herself as an official representative of the Nation, or communicate with any news media including podcasts on behalf of the Ho-Chunk Nation, unless authorized or directed in writing by the Ho-Chunk Nation's President or the Legislature.
3. No licensee shall make any unauthorized commitments or promises of any kind purporting to bind the Nation or any of its agencies or subordinate entities;
4. No licensee shall use his or her position as an employee of the Nation to negotiate, threaten, intimidate, or harass other employees of the Nation.
5. No licensee or licensed entity shall advertise against the Ho-Chunk Nation, President, Legislature, or Commission with any news stations, newspapers, or social media with negative political propaganda organizations or entities.
6. No licensee shall be required, as a condition of employment or continuation of employment on tribal lands, to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization or political faction.
7. No licensee shall engage in any business, transaction or professional activity or incur any obligation of any nature which conflicts with the proper discharge of his or her official duties.
8. No licensee shall induce persons to refuse to work with persons not members of labor organization or political faction.
9. No person shall engage in cheating in any gaming activity, or knowingly cause, aid, abet, or conspire with another person to steal, cheat, or violate any provision of this Ordinance or any regulation adopted under this Ordinance.
10. It shall be a violation for any licensee to fail or cease to meet the suitability standard established by this Ordinance.

11. It shall be a violation of this Ordinance for any person or entity to engage in fraudulent conduct, which includes:
  - a. Defrauding the Nation, the Gaming Facility, any Ancillary activity, any Gaming licensee, or any participant in any gaming activity or promotion; which may include, but is not limited to manipulating financial records, signing off on documents with someone else's signature without their authorization, wearing someone else's badge, punching in/out for someone else, utilizing someone else's login, or using a false ID;
  - b. Providing false, misleading, or materially inaccurate information in relation to any official inquiry of the Commission;
  - c. Providing false, misleading, or materially inaccurate information in relation to an employee or vendor license application or non-gaming vendor registration;
  - d. Falsifying, destroying, wrongfully altering, or failing to produce any financial books, data, records, or other information, whether paper or electronic, relating to the Gaming Facility and/or its Ancillary Activities required to be produced under applicable laws or regulations;
  - e. Claiming, collecting, taking, or attempting to claim, collect or take cash, cash equivalents or anything of value in or from a Gaming Facility to which one is not entitled; or claiming, collecting, or taking an amount greater than the amount actually won in a game or promotion;
  - f. Offering or attempting to offer anything of value, to a licensee in an act that is an attempt to induce, or may be perceived as an attempt to induce, the licensee to act in a manner contrary to their official duties;
  - g. Acceptance by licensee of anything of value with the expectation that the receipt of value is intended, or may be perceived as intended, to induce the licensee to act in a manner contrary to their official duties; or
  - h. Entering into any contract or making payment on any contract for the delivery of goods or services to the Gaming Facility, when such contract results in the acquisition of goods or services for less than fair value.
12. No person shall have, in his or her possession, any alcoholic beverages on any premises, except for such beverages as are purchased from the Nation or its authorized agents for on-premises consumption in accordance with licensing and other requirements of the Compact and laws of the Nation.
13. No person will have in his or her possession or locker any substance prohibited by Federal, State, or Nation laws while on any Ho-Chunk Nation premises.
14. No person shall engage in conduct which is violent, abusive, indecent, profane, boisterous, unreasonably loud, unlawfully detain, bully, libel, slander, or otherwise disorderly under circumstances in which the conduct tends to cause or provide a disturbance on any Ho-Chunk Nation Lands.

15. No person shall intentionally cause damage to any of the Nation's physical property. Anyone found damaging the Nation's physical property will be charged to the fullest extent of the law.
16. No licensee shall fail to respond to or comply with any lawful order, directive, inquiry, or demand of the Commission.
17. No licensee shall impede, hinder, delay, interfere, misdirect, misinform, harass, or otherwise obstruct a Commissioner, employee of the Commission, an agent of the Commission, or the Commission itself in the carrying out of their duties.

## Section 16. Patron Dispute Resolution

- A. Patron rights regarding disputes. The following procedures provide for impartial resolution of a patron's dispute.
  1. Any person who has a dispute concerning the conduct of a game(s) must fill out a patron dispute form in order to raise such dispute with the following person(s) and in the following order:
    - a. A staff member of the gaming facility.
    - b. The supervisor in the area in which the dispute arose.
    - c. The Executive Manager of the gaming facility.
    - d. The Gaming Commission.
  2. At each level, the complainant has the right to explain his/her/their side of the dispute, and to present witnesses in connection with any factual allegation.
  3. At each level, if the dispute remains unresolved, the complainant will be given a copy of the impartial dispute resolution procedures and informed of the right to take the dispute to the next higher level.
  4. Resolution of any dispute by staff of the gaming facility will always involve two or more staff members.
  5. All disputes, whether resolved or not, will be the subject of a detailed report by all staff involved to their supervisor. A copy of the detailed report(s) will be forwarded to the Executive Manager and to the Commission.
- B. Commission action on patron disputes: All unresolved disputes which are submitted to the Commission will be decided by the Commission based on information provided by the complainant, any witnesses for or documents provided by the complainant, and by the Executive Manager of the gaming facility or any other person who has relevant information to provide. The decision of the Commission will be in writing and issued within fourteen (14) days of the completed investigation of the dispute. Copies will be provided to the Executive Manager of the gaming facility and the complainant.

*See 25 C.F.R. § 522.2(f)*



## Section 17. Facility Licenses.

- A. The Commission shall exercise the authority to promulgate and issue regulations governing facilities licensing.
- B. The Ho-Chunk Nation Commission shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Ho-Chunk Nation Commission. This notice must be submitted at least 120 days before the opening of any new place, facility, or location on Indian lands where (Class II and/or Class III) gaming will occur.

*See 25 C.F.R. § 559.2(a)*

- C. Except to the extent authorized by an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, Gaming Activities shall only be conducted in tribally owned, operated, and licensed Gaming Facilities pursuant to the provisions of this Ordinance, the Compact, and other applicable law. Such activities shall be conducted in accordance with the terms and conditions of the license issued to the Gaming Facility by the Commission prior to the conduct of any Gaming Activities therein.
- D. Prior to the issuance of a Facility License, the Commission must determine that surveillance systems are in place to adequately provide for the safety and security of employees and guests and for the protection of Nation's assets.
- E. Prior to the issuance of a Facility License, the Commission must determine that security systems are in place to adequately provide for the safety and security of employees and guests and for the protection of Nation's assets.
- F. The Ho-Chunk Nation shall issue a separate license to each place, facility, or location on Ho-Chunk lands where Class II and/or Class III gaming is conducted under this ordinance, prior to opening and every two years thereafter.

*See 25 U.S.C. § 2710(b)(1)*

*See 25 C.F.R. §§ 522.4(b)(6), 522.6(b), and 559*

- G. The Commission shall require that a facility license application be completed by the appropriate management official of the gaming facility for each gaming place, facility, or location.
- H. The Commission shall identify the environmental, health, and public safety standards with which the place, facility, or location must comply, and specify the form, conditions and content of a facility license application. The application shall include a legal description of the lands upon which the facility is located, and a certification that the site constitutes "Indian lands," as defined in IGRA, the NIGC's regulations, the NIGC Office of General Counsel

and DOI Solicitor Offices' Indian lands legal opinions, judicial decisions and any other applicable law.

- I. The Commission shall only issue a facility license if the application includes the required information and documentation, and sufficiently satisfies any additional conditions deemed necessary by the Nation.
  
- J. The Department of Labor must have all codes, regulations written and approved by the proper Authorities and all inspection reports submitted to the Commission prior to the approval of a Facility License. This includes, but is not limited to:
  - 1. Building Codes
  - 2. Fire Codes
  - 3. Water Quality
  - 4. Air Quality
  - 5. HVAC
  - 6. Hazardous Materials/Waste
  - 7. Food Handling
  - 8. Alcohol Service Standards
  - 9. All department SOPs listed in the Tribal Internal Control Standards (TICS) of the Nation.
  
- K. The Ho-Chunk Nation Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within 30 days of issuance, along with any other required documentation.

*See 25 C.F.R. § 559.3*
  
- L. The Ho-Chunk Nation shall notify the NIGC Chair within 30 days if a facility license is terminated or expires, or if a gaming place, facility, or location closes or reopens.

*See 25 C.F.R. § 559.5*
  
- M. The licensing requirements under this Ordinance are in addition to any state certificates required under the Compact.

#### **Section 18. License Application Forms.**

- A. The following notice shall be placed on the Ho-Chunk Nation's license application form for a key employee or a primary management official before it is filled out by an applicant:
  - 1. 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 Ho-Chunk Nation

gaming regulatory authorities and by 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 Ho-Chunk Nation or the NIGC to appropriate Federal, Ho-Chunk Nation, 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 the Ho-Chunk Nation or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with the Ho-Chunk Nation or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Ho-Chunk Nation being unable to license you for a primary management official or key employee position.

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

*See 25 C.F.R. § 556.2(a)*

3. The Commission will keep your SSN private and not reveal your SSN on any documents that are public or are part of a public record, unless ordered by a Court or federal agency.

- B. The FBI's Privacy Act Statement and Non-criminal Justice Applicant's Privacy Rights shall be furnished to each key employee or primary management official.

*See Privacy Act of 1974*

*See Title 5, U.S.C. Sec 552a;*

*See Title 28 CFR, 50.12; and 28 CFR 16.34*

- C. The following additional notice shall be placed on the application form for a key employee or primary management official before it 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).

*See 25 C.F.R. § 556.3(a)*

- D. Waiver or Claim for Damages. The following additional notice shall be placed on the application form for a key employee or primary management official before it is filled out by an applicant:

1. An applicant accepts any risks of adverse reaction, financial loss, or public notice which may result from any action in respect to an application by filing an application.
2. An applicant expressly waives any claim for damages as a result of any action taken with respect to that application.

- E. No license will be issued to, or held by, a person who has been determined by the Commission or Legislature to have knowingly and willfully provided materially important false information to the Commission, or has refused to respond to questions offered pursuant to the licensing and background requirements established by or required by this Ordinance, the Compact, or the NIGC, 25 C.F.R. parts 556 and 558.

#### Section 19. License Term and Fees.

- A. The Ho-Chunk Nation shall charge a non-refundable application and update fee to be set by the Ho-Chunk Nation Commission. This fee will cover all administrative expenses.
- B. A gaming license will be effective upon the date it is granted or approved by three (3) Commissioners. The license shall be active until separation of employment occurs or revoked by the Commission. The license shall be inactive while a license is suspended.
- C. The Nation will conduct a review of all gaming licenses every two (2) years from the date the license was issued to ensure the Licensee continues to meet the standards to hold a license.

*See Tribal-State Gaming Compact IX. D.*

- D. A license will become inactive upon separation of employment with the Nation.
  - 1. If separation of employment with the Nation is within six (6) months, the returning employee is required to submit an informational update. The Commission shall review the informational update and determine if the returning employee is still eligible to hold a license.
  - 2. If separation of employment with the Nation is beyond six (6) months, the returning employee is required to apply as a New Hire.
- E. Any license issued pursuant to the provisions of this Ordinance is valid only for the person, vendor, or Gaming Operation. The license is not assignable or otherwise transferable pursuant to the requirements of this Ordinance.

#### Section 20. Background Investigation.

- A. The Ho-Chunk Nation Commission shall request from each primary management official and key employee all of the following information:
  - 1. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, and all languages (spoken and/or written);
  - 2. Currently, and for the previous five (5) years; business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;

3. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (A)(2) of this section;
  4. Current business and residential telephone numbers, and all cell phone numbers;
  5. A description of any existing and previous business relationships with other Indian Tribes, including any ownership interests in those businesses;
  6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
  7. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
  8. 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, a copy of each Order/Judgement, if any;
  9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date of disposition, if any;
  10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application, and is not otherwise listed pursuant to paragraphs (A)(8) and (A)(9) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;
  11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
  12. Financial information as requested on the application;
  13. A current photograph which shall be maintained on file;
  14. Any other information the Ho-Chunk Nation Commission deems relevant, including but not limited to, social media accounts, group affiliations, etc.;
  15. Fingerprints obtained in accordance with procedures adopted by the Ho-Chunk Nation.
- B. When a primary management official or key employee is employed by the Ho-Chunk Nation, a complete application file, containing all of the information listed in Section 20 of this Ordinance, shall be maintained.
- See 25 U.S.C. § 2710(b)(2)(F);  
See 25 C.F.R. §§ 522.4(b)(5), 556.6(a)*
- C. The Ho-Chunk Nation shall perform a background investigation for each primary management official and key employee in its gaming operation. The investigation must be

sufficient to allow the Ho-Chunk Nation Commission to make an eligibility determination under Section 20 of this ordinance.

*See 25 U.S.C. § 2710(b)(2)(F)*  
*See 25 C.F.R. §§ 522.4(b)(5), 556.4*

- D. The Ho-Chunk Nation Commission, or its agent, shall employ or engage an investigator to conduct a background investigation of each applicant for a primary management official or key employee position. The investigator shall:
1. Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;
  2. Interview each personal and business reference provided in the license application possible;
  3. Conduct a personal credit check;
  4. Conduct a civil history check;
  5. Conduct a criminal history records check;
  6. Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony and/or misdemeanor convictions or ongoing prosecutions within the past 10 years;
  7. Inquire into any previous or existing business relationships with the gaming industry, including with any Tribes with gaming operations, by contacting the entities or Tribes;
  8. Verify the applicant's history and current status with any licensing agency by contacting the agency; and
  9. Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

*See 25 U.S.C. § 2710(b)(2)(F);*  
*See 25 C.F.R. §§ 522.4(b)(5), 556.5*

- E. The Ho-Chunk Nation Commission is responsible for conducting the background investigations of primary management officials and key employees. The background investigation shall include a check of criminal history records information maintained by the Federal Bureau of Investigations.

*See 25 U.S.C. § 2710(b)(2)(F)*  
*See 25 C.F.R. §§ 522.2(h), 522.6(a)*

- F. The Commission shall request fingerprints from each primary management official and key employee. The law enforcement agency designated to take fingerprints is the State of Wisconsin Department of Justice Criminal Investigation Bureau (CIB).

*See 25 U.S.C. § 2710(b)(2)(F);*  
*See 25 C.F.R. §§ 522.2(h), 522.6(a), 556.4(a)(14)*

G. The Commission, and its investigators, shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.

*See 25 C.F.R. §§ 522.4(b)(5), 556.4(c)*

H. Records of the background investigations will be retained for at least seven (7) years after the record is created.

*See Tribal-State Gaming Compact IX. C.*

### **Section 21. Background Licensing Investigative Reports.**

A. The Commission shall create and maintain an investigative report for each background investigation of a primary management official or key employee.

*See 25 U.S.C. § 2710(b)(2)(F);*

*See 25 C.F.R. §§ 522.4(b)(5), 556.6(b)(1)*

B. Investigative reports shall include all of the following information:

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

*See 25 U.S.C. § 2710(b)(2)(F);*

*See 25 C.F.R. §§ 522.4(b)(5), 556.6(b)(1)*

### **Section 22. Notice of Results (NOR).**

A. Before a license is issued to a primary management official or key employee, the Ho-Chunk Nation 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.

*See 25 U.S.C. § 2710(b)(2)(F);*

*See 25 C.F.R. §§ 522.4(b)(5), 556.5(a)*

B. If the Ho-Chunk Nation Commission, in applying the standards adopted in this ordinance, 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, he or she shall not license that person in a key employee or primary management official position.

*See 25 U.S.C. § 2710(b)(2)(F);*

*See 25 C.F.R. § 556.5(b)*

- C. Eligibility determinations shall be included with the NOR that must be submitted to the NIGC before the licensing of a primary management official or key employee.

*See 25 U.S.C. § 2710(b)(2)(F);*

*See 25 C.F.R. § 556.6(b)(2)*

- D. Before issuing a license to a primary management official or key employee, the Commission shall prepare a NOR of the applicant's background investigation to submit to the NIGC.

- E. The NOR must be submitted to the NIGC no later than 60 days after the applicant begins working for the Ho-Chunk Nation.

*See 25 U.S.C. § 2710(b)(2)(F);*

*See 25 C.F.R. § 556.6(b)(2)*

- F. The NOR shall include the following information:

1. The applicant's name, date of birth, and social security number;
2. The date on which the applicant began, or will begin, working as a primary management official or key employee;
3. A summary of the information presented in the investigative report, including:
  - a. Licenses that have previously been denied;
  - b. Gaming licenses that have been revoked, even if subsequently reinstated;
  - c. Every known criminal charge brought against the applicant within the last 10 years of the date of the application; and
  - d. Every felony offense of which the applicant has been convicted or ongoing prosecution.
4. A copy of the eligibility determination made in accordance with Section 21.

*See 25 C.F.R. § 556.6(b)(2)(i)-(iv)*

### **Section 23. NIGC Employee Ineligibility Notice.**

- A. If, after a license is issued to a primary management official or a key employee, the Ho-Chunk Nation receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Commission shall do the following immediately:

1. Immediately suspend the license;
2. Provide the licensee with written notice of the suspension and proposed revocation; and
3. Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.

*See 25 C.F.R. § 558.4(a)-(c)*



- B. A right to a hearing under this Section shall vest only upon receipt of a license granted under an ordinance approved by the Chair of the NIGC.

*See 25 C.F.R. § 558.4(d)*

- C. Following a revocation hearing, the Ho-Chunk Nation shall decide whether to revoke or reinstate the license at issue.

*See 25 C.F.R. § 558.4(e)*

- D. The Ho-Chunk Nation shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

*See 25 C.F.R. § 558.4(e)*

#### Section 24. Licensing Criteria and Suitability, Biennial Review, and Legislative Waiver.

##### A. Licensing Criteria and Suitability

1. Upon receipt of a new hire applicant and receipt of the fingerprint results, the Gaming Commission will audit the application for all criminal charges and/or convictions for the following:

- a. Felony
- b. Gaming-related offenses
- c. Fraud, misrepresentation, theft or deception in any form or connection (including Issuance of Worthless Checks)
- d. Licensing Conditions

- i. Limited Term Conditions. Any applicant who was previously employed and licensed by the Ho-Chunk Nation and who had a limited term condition placed on their license which is now satisfied, the applicant shall be issued a license if all other prescreening criteria have been met. If past conditions were not met, the Commission will review and make its determination on a case by case basis.

- ii. Any licensee who receives a license issued pursuant to this Ordinance will not purposely disregard any reasonable conditions as maybe established by the Commission including, but not limited to, the following conditions:

- 1) Individual or Entity, Persons and entities licensed by the Commission will not purposefully disregard such conditions of the license as the Commission, in its reasonable discretion may require. Persons and entities licensed by the Commission will not be considered to have purposefully disregarded a condition of the license unless the Commission can show:

- a) The action was done to defraud, deceive, or take advantage of the Nation for the benefit of the person and/or entity;

- b) The person was informed in writing by the Commission or his or her supervisor that the action was a violation of the conditions of his or her license; or
  - c) The entity was informed in writing by the Commission or an Official of the Nation that the action was a violation of conditions of the entity's license.
- e. No license will be issued to, or held by, a person who has been determined by the Commission or Legislature to have knowingly and willfully provided materially important false information to the Commission, or has refused to respond to questions offered pursuant to the licensing and background requirements established by or required by this Ordinance, the Compact, or the NIGC, 25 C.F.R. parts 556 and 558.
- f. The Gaming Commission's final decision may be appealed to the Tribal Court, with the exception of a Legislative Waiver which cannot be appealed to the Tribal Court.
  - i. An appeal to Tribal Court must be preceded by a Gaming Commission hearing.

**B. Biennial Review Applications**

1. Upon receipt of a biennial review application, the Gaming Commission will audit the application for all criminal charges and/or convictions for the following:
  - a. Felony
  - b. Gaming-related offenses
  - c. Fraud, misrepresentation, theft or deception in any form or connection (including Issuance of Worthless Checks)
  - d. Licensing Conditions
  - e. Any other applicable violation found in Section 27.
2. The Commission will use these same guidelines when deciding on the licensee's biennial review application.
  - a. Felony. Felony charges, convictions, or ongoing prosecution, the licensee must disclose the name and location for the court involved, the date of arrest and the disposition, if any.
  - b. Gaming Related Offenses. For each charge, conviction, or ongoing prosecution, the licensee must disclose the name and location for the court involved, the date of arrest, and the disposition, if any.
  - c. Fraud, Misrepresentation, Theft or Deception in any form. For each charge, conviction, or ongoing prosecution occurring, the licensee must disclose the name and location for the court involved, the date of arrest, and the disposition, if any.
    - i. Fraud, Misrepresentation, Theft, or Deception. The application shall result in a licensing action.

- ii. Issuance of Worthless Checks (IOWC). The application shall result in a licensing action.
  - d. Licensing Conditions. If past conditions were not met, the Commission will review and make its determination on a case by case basis.
  - e. Non-Disclosure. If it is found that the licensee has failed to disclose a charge, or case that relates to Sections 20 and 21.
  - f. Continuous Discloser if a licensee discloses a charge, conviction, or ongoing prosecution that relates to Sections 20 and 21 at any time, the agent will first enter the disclosed information into the licensing software and then will immediately notify the Commission about the disclosure. The Commission will review the disclosure to determine if any action against the licensee gaming license need to be taken.
- C. Legislative Waiver. If an applicant has a felony conviction, they may be eligible for a waiver from the Legislature.
  - 1. In order to apply for a Legislative waiver, the applicant must meet the applicable following requirements:
    - a. Felony conviction is less than ten (10) years old.
    - b. Completion of the applicant's court ordered sentence or one (1) year post conviction, whichever comes first.
    - c. Evidence a written letter of support from the casino facility where the applicant would work. The letter must, at least, indicate that the casino or supplier will employ the applicant upon the issuance of a waiver, in the form of an Intent to Hire letter provided by the Department of Personnel.
    - d. Complete the attached required application in its entirety and submit it to the Commission for processing to the Legislature for Waiver consideration.
  - 2. Upon satisfaction of the above steps, the Commission will determine whether the applicant has provided the required documents that will be forwarded to the Legislature for their consideration.
  - 3. Once confirmed and supplied all the documents, the Commission will deliver the waiver applications to the Legislature for their consideration.
  - 4. Once received, the Legislature will have up to thirty (30) days to schedule a time to review the application in which they may need to contact the applicant if they have any questions.
  - 5. The Legislature will schedule the waiver hearing on a duly convened Legislative Session day and time for to appear before them. Virtual appearances may be considered due to health and safety protection measures.
  - 6. The Legislature has the sole discretion to approve or deny a resolution for a waiver at the duly convened Legislative Session, taking into consideration whether the applicant has:

- a. Been convicted of, or entered a plea of guilty or no contest to theft, fraud, or deception within the preceding ten (10) years.
  - b. Any felony conviction within the ten (10) years prior to the application.
  - c. Any conviction for fraud or misrepresentation in any form or connection.
  - d. A violation of any provision of Chs 562 or 565, Wis. Stats., a rule promulgated by the Wisconsin Division of Gaming, this Ordinance or any other Tribal law regulation or prohibiting gaming.
7. The decision of the Legislature will be final and cannot be appealed.
  8. The Legislature may in its discretion, waive by legislative resolution any requirements set forth in Section 24, subparagraph C. for any person when the person has demonstrated on the record evidence of sufficient rehabilitation and present fitness to hold a license.
    - a. A person may request a waiver from the Legislature at any time, except in the case of owners or controlling persons or persons designated in any management contract as having management responsibility of all or any part of any gaming operations.
  9. The person, with or without legal representation, will have the right to be in attendance and to participate on his or her behalf.
  10. Decisions of the Legislature to grant or to deny a waiver under this subparagraph cannot be appealed to the Trial Court.
  11. A granted waiver is only applicable for the specific conviction(s) as stated in the Legislative resolution.
  12. A denied waiver shall be upheld for a minimum of two (2) years from the date of the Legislative resolution.
  13. A copy of the waiver resolution (granted or denied) shall be submitted to the Commission and served upon the applicant by the Legislature.

## Section 25. Granting Gaming Licenses.

- A. All primary management officials and key employees of the gaming operation must have a gaming license issued by the Ho-Chunk Nation Commission.

*See 25 U.S.C. § 2710(b)(2)(F)*

*See 25 C.F.R. § 558.3(c)*

- B. The Ho-Chunk Nation Commission is responsible for granting and issuing gaming licenses to primary management officials and key employees.

*See 25 U.S.C. § 2710(b)(2)(F)*

*See 25 C.F.R. § 558.1*

- C. Preliminary employment may begin prior to issuance of a license. A provisional gaming license will be issued pending the satisfactory completion of all background investigations. Preliminary employment must be terminated upon the occurrence of any of the following:
1. Denial of a license by the Commission; or
  2. Unsatisfactory completion of background investigations; or
  3. NIGC review resulting in nullification of provisional license.

- D. The Ho-Chunk Nation Commission may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to NIGC, as required by Section 22.

*See 25 C.F.R. § 558.3(a)*

- E. The Ho-Chunk Nation Commission shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days of issuance.

*See 25 U.S.C. § 2710(b)(2)(F)*

*See 25 C.F.R. § 558.3(b)*

- F. The Ho-Chunk Nation shall not employ an individual in a primary management official or key employee position who does not have a license after 90 days of beginning work at a gaming operation.

*See 25 C.F.R. § 558.3(c)*

- G. The Ho-Chunk Nation Commission must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within 30 days of the NIGC receiving a notice of results of the applicant's background investigation.

*See 25 C.F.R. § 558.2(c)*

- H. The Ho-Chunk Nation Commission shall take the NIGC's objections into account when reconsidering a license application.

*See 25 C.F.R. § 558.2(c)*

- I. The Ho-Chunk Nation Commission will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.

*See 25 C.F.R. § 558.2(c)*

- J. If the Ho-Chunk Nation Commission has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee, as required by Section 25.

*See 25 C.F.R. § 558.2(d)*

- K. No license will be issued except upon a sworn application filed with the Commission, in such form as may be prescribed by the Commission, containing a full and complete showing, at a minimum, of the following:
1. Satisfactory proof that the applicant is of good character and reputation, and is financially responsible.
  2. Satisfactory compliance with the requirements of IGRA, the Compact, the Ordinance, and regulations.
  3. By signing the sworn application, the applicant has agreed to accept and abide by all requirements of the license as provided in this Ordinance.

#### Section 26. Continuous Disclosure.

- A. Every licensee has the burden to provide continuous disclosure of facts and information relating to his or her suitability to hold a gaming license, included, but not limited to:
1. Any felony charge;
  2. Any charge for any gaming-related offense;
  3. Any charge for fraud or misrepresentation or theft in any form or connection; or
  4. A violation of any provision of Chs 562 or 565, Wis. Stats., a rule promulgated by the Wisconsin Division of Gaming, this Ordinance or any other Tribal law regulation or prohibiting gaming.
  5. Deferred prosecutions must be disclosed to the Commission.
  6. Continuous disclosure of pertinent information as to suitability must be provided to the Commission on a continuing basis. Licensees shall submit such information as to suitability within fifteen (15) business days from receiving a citation or charge. By disclosing this information, the Commission realizes that such information is not a judgment of conviction, and as such, this disclosure will not immediately jeopardize the applicant's eligibility to hold a license.
  7. If the action results in a conviction, and/or there was a failure to disclose, the Commission may impose penalties up to and including suspension or revocation of a gaming license.
  8. A felony conviction, plea of guilty, or plea of no contest, must immediately be disclosed to the Commission, the Commission shall revoke the gaming license.
  9. Any other pertinent violation of this Gaming Ordinance.

#### Section 27. Denying Gaming Licenses.

- A. No license will be issued except upon a sworn application filed with the Commission, in such form as may be prescribed by the Commission, containing a full and complete showing, at a minimum, of the following:
1. Satisfactory proof that the applicant is of good character and reputation, and is financially responsible.

2. Satisfactory compliance with the requirements of IGRA, the Compact, the Ordinance, and regulations.
  3. By signing the sworn application, the applicant has agreed to accept and abide by all requirements of the license as provided in this Ordinance.
- B. No person will be employed in the operations or conduct of gaming, nor will the Nation permit a gaming-related contractor to employ any person in the course of performance under the contract, if that person: has been convicted of, or entered a plea of guilty or no contest to, any of the following offenses, unless the person has been pardoned:
1. Any felony conviction within the ten (10) years prior to the application.
  2. Any conviction for any gaming-related offense.
  3. Any conviction for fraud, misrepresentation, theft, or deception in any form or connection within the ten (10) years prior to the application.
  4. A violation of any provision of Chs 562 or 565, Wis. Stats., a rule promulgated by the Wisconsin Division of Gaming, this Ordinance or any other Tribal law regulation or prohibiting gaming.
- C. No person will be employed in the operation or conduct of gaming, and the Nation will not permit a gaming-related contractor to employ any person in the course of performance under the contract, if that person has been determined by the Legislature or the Commission to be a person whose prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto;.
1. The alleged violation of the laws of general application of the federal, state, or Nation not principally enacted to regulate gaming, such as the Nation's Employee Relations Act (6 HCC § 5) and the Nation's Appropriations and Budget Process Act (2 HCC § 4) will not be the basis of non-suitability unless such conduct is part of a pattern of consistent disregard for the laws of the Federal, State, or Nation.
  2. For purposes of the preceding sentence a person shows a pattern of consistent disregard for the laws of the federal, state, or Nation when the person knows or should know of his or her obligation and chooses to consistently ignore such obligation.
- D. The Ho-Chunk Nation Commission shall not license a primary management official or key employee if that person:
1. Poses a threat to the public interest;
  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.

*See 25 U.S.C. § 2710(b)(2)(F)*

*See 25 C.F.R. § 556.5(b)*

- E. When the Ho-Chunk Nation Commission does not issue a license to an applicant for a primary management official or key employee position, or revokes a previously issued license after reconsideration, it shall:
1. Notify the NIGC; and
  2. Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

*See 25 C.F.R. § 558.3(d)*

- F. An applicant found ineligible for a gaming license may request a hearing to the Gaming Commission. The hearing will allow the applicant an opportunity to prove their suitability to obtain a gaming license. The Gaming Commission will then make their final determination.

- G. An applicant may be denied for the following reasons, but not limited to:

1. Violates any provision of this Ordinance, or any applicable Tribal, State, or Federal regulations.
2. Makes any false or misleading statements or omissions in any and all documentation filed with the Commission or in connection with any matter provided for hereunder.
3. Has refused to sufficiently and thoroughly respond to questions offered pursuant to the licensing background requirements.
4. Gives false testimony in any matter provided for hereunder before the Commission or the Court.
5. Fails to provide satisfactory proof that the applicant is of good character and reputation, and is financially responsible.
6. Fails to adhere to license conditions imposed by the Commission or Legislature.
7. Fails to adhere to written decisions of the Commission, Legislature, or Court rendered pursuant to this Ordinance.
8. Has been convicted of, or entered a plea of guilty or no contest to theft, fraud, or deception within the preceding ten (10) years.
9. Any felony conviction within the ten (10) years prior to the application.
10. Any conviction for any gaming-related offense.
11. Any conviction for fraud, misrepresentation, theft, or deception in any form or connection within ten (10) years.
12. A violation of any provision of Chs 562 or 565, Wis. Stats., a rule promulgated by the Wisconsin Division of Gaming, this Ordinance or any other Tribal law regulation or prohibiting gaming.



## Section 28. Licenses for Vendors.

- A. All vendors, whether classified as gaming or non-gaming (via a Classification Determination Request (CDR)) will be subject to licensing by the Commission as a condition precedent to conducting business with the Ho-Chunk Nation gaming operations. The following are excluded from the provisions of this Section:
1. Persons or entities who provide professional legal and accounting services.
  2. Persons or entities who provide entertainment at a gaming facility or operation, with the exception of 3<sup>rd</sup> party booking agents/agencies.
  3. All state and federally chartered financial institutions.
  4. Utility providers.
  5. Tribal, Local, State, and Federal government agencies.
  6. Non-profit organizers who can provide proof of tax-exempt status.
  7. Public or private accredited institutions of education.
  8. Any other persons or entities as determined by the Legislature.
- B. In order to obtain a gaming vendor license, the business must complete a vendor application and submit to background checks of itself, its principals, and any employee who will be working at the Gaming Facility. Principals of a business include those officers, directors, managers, owners, partners, and non-institutional stockholders that either own 10% or more of the business' stock or are the 10 largest stockholders, as well as the on-site supervisor or managers designated in an agreement with the Ho-Chunk Nation, if applicable.
- C. Vendors will be afforded a Gaming Commission hearing if requested by either party.

## Section 29. Vendor License Fees.

- A. Non-Gaming Vendors
1. Any classified non-gaming vendor, supplier, or general contractor conducting business with the Nation's gaming facilities in an amount equal to or exceeding \$100,000.00 in any year will register with the Commission and pay a biennial administrative fee of \$500.00.
  2. Non-gaming vendors conducting business with the Nation's gaming facilities in amounts between \$10,000.00 and \$100,000.00 in any year will register with the Commission and pay a biennial administrative fee of \$200.00.
  3. Any classified non-gaming vendor conducting business with the Nation's gaming facilities in an amount below \$10,000.00 in any year will register with the Commission and pay a biennial administrative fee of \$50.00.
- B. Gaming Vendors

1. Classified gaming vendors who have not previously conducted business with the Nation's gaming facilities will be assessed a fee of \$500.00 or two (2%), whichever is greater, according to the gross dollar amount of the initial proposal of business with the Nation's gaming facilities. At the end of the Nation's fiscal year, the amount of the fee will be adjusted based on the actual gross dollar amount of business conducted by the classified gaming vendor.
- C. The Commission will not take any final action to approve any vendor license application, unless all license and investigative fees and costs have been paid in full.

### Section 30. Contents of the Vendor License Application.

- A. Applications for gaming vendor licenses must include the following:
1. Name of business, business address, business telephone number(s), federal tax identification number (or social security number, if a sole proprietorship), main office address (if different from business address), any other names used by the applicant in business, and type of service(s) applicant will provide;
  2. Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship or other entity;
  3. If the applicant is a corporation, the state of incorporation and the qualification to do business in the State of Wisconsin, if the gaming operation is in a different state than the state of the incorporation.
  4. Trade name, other names ever used and names of any wholly own subsidiaries or other business owned by the vendor or its principals;
  5. General description of the business and its activities;
  6. Whether the applicant will be investing in, or loaning money to, the gaming operation, and if so, how much;
  7. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
  8. A list of Indian Tribes with which the vendor has an existing or previous business relationship, including ownership, financial or management interests in any non-gaming activity;
  9. Names, addresses and telephone numbers of three (3) business references with whom the company has regularly done business for the last five (5) years;
  10. The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
  11. If the business has ever had a license revoked for any reason, the circumstances involved;
  12. A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;

13. A list of the businesses funding sources and any liabilities of \$50,000 or more;
  14. A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles, and percentage of ownership in the company; and
  15. Any further information the Ho-Chunk Nation deems relevant.
- B. The following notice shall be placed on the application form for a vendor and its principals: Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Ho-Chunk Nation's vendor license.
- C. A vendor may submit to the Ho-Chunk Nation Commission a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit, in writing, any changes in the information since the other license application was filed, and any information required by the Ho-Chunk Nation not contained in the other application.

### **Section 31. Vendor Background Investigations.**

- A. The Ho-Chunk Nation Commission shall employ or otherwise engage an investigator to complete an investigation of a gaming vendor. This investigation shall include, at a minimum, the following steps:
1. Verification of the vendor's business' incorporation status and qualifications to do business in the State where the gaming operation is located;
  2. Obtaining a business credit report, if available, and conducting a Better Business Bureau check on the vendor;
  3. Conducting a check of the vendor's business' credit history;
  4. Calling and questioning each of the references listed in the vendor application; and
  5. Conducting an investigation of the principals of the vendor's business, including facilitating a criminal history check, obtaining criminal history check results, obtaining a credit report, and interviewing the personal references listed.

### **Section 32. Vendor Background Investigation Reports.**

The investigator shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals, and present it to the Ho-Chunk Nation Commission.

### **Section 33. Determination by Other Jurisdictions.**

The Commission may consider issuing licenses to gaming vendors possessing valid licenses from other tribal or state jurisdictions until such time that the Nation completes its own background investigation. In the event that other jurisdictions suspend, revoke, or refuse to renew a license or certificate to a gaming vendor, the Commission will consider the determination of that jurisdiction and may suspend, revoke, or refuse to renew any license issued by the Commission.

## Section 34. Exclusion Provisions.

- A. Right to exclude a person from premises at any time. Any person may be excluded from the premises at the discretion of an appointed designee of an Executive Manager, the Executive Manager, and the supervisor(s) of an Executive Manager.
- B. Minimum-Age.
1. Class II Gaming Facilities. No person under the age of eighteen (18) years will be permitted on any of the Class II gaming floors at any time, except those agents, employees, or contractors of the Nation who are actively engaged in employment duties or are performing authorized services for or on behalf of the Nation. A Class II gaming operation may not employ any person under the age of sixteen (16) years.
  2. Class III Gaming Facilities. No person under the age of twenty-one (21) years will be permitted on any of the Class III gaming floors at any time, except those agents, employees, or contractors of the Nation who are actively engaged in employment duties or are performing authorized services for or on behalf of the Nation. A Class III gaming operation may not employ any person under the age of eighteen (18) years.
  3. Underage persons are ineligible for prizes or winnings, the prize or winnings will not be paid and the estimated amount wagered during the course of the game will be returned to the underage person.

*See Gaming Compact Section V.(A)*
  4. Any underage person (minor) may pass to and from any of the Nation's Class II and III gaming facility hotels, retail shops, and eating establishments on the premises when accompanied by a supervising adult.
- C. Permissible-Alcoholic Beverages. No person will have in his or her possession any alcoholic beverages on any premises, except for such beverages as are purchased from the Nation or its authorized agents for on-premises consumption in accordance with licensing and other requirements of the Compact and laws of the Nation such as the Alcohol Beverage Control Ordinance (5 HCC §4), with possession and consumption of such beverages to be confined to such areas as are specifically defined by the Legislature.
- D. Prohibited Substances. No person will have in his or her possession any substance prohibited by Federal, State, or Tribal laws while on any Ho-Chunk Nation premises.
- E. Persons Under the Influence of Alcohol or Prohibited Substances. No person who is visibly impaired due to alcohol or prohibited substance will be permitted to participate in any gaming activity.

- F. **Firearms or Other Weapons.** No person, including the Nation's Security Department personnel, will possess or be permitted to possess any firearm or other weapons within gaming facilities. This provision will not apply to law enforcement officers who are acting in an official capacity and have jurisdiction; or to an armored car representative contracted by the Nation for the transfer of funds to or from financial institutions, or upon notice or special conditions set by the Commission for specific purposes or events.
  - 1. On a case-by-case basis per petition by gaming management, firearms or other weapons may be authorized by the Legislature to be on the Nation's premises for a specific time period.
  
- G. **Disorderly Conduct.** No person will engage in conduct which is violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly under circumstances in which the conduct tends to cause or provide a disturbance on any Ho-Chunk Nation Lands.
  
- H. **Nation's Property.** No person may intentionally cause damage to or alter any of the Nation's physical property without authorization from the Nation, nor may any person intentionally steal or defraud the Nation of property.
  
- I. **Enforcement.** Any person who violates any provision of this Section will be asked to leave the premises. Authorized law enforcement officers or security personnel will be called to escort persons who refuse to leave the premises. In addition, any person who violates any provisions in this Section, as with any provision of this Ordinance, will be subject to penalties and/or restitution of damages and may be prosecuted.

### **Section 35. Commission Hearings.**

- A. **Gaming License Hearing-Licensing Eligibility or Suitability**
  - 1. The Commission may conduct such hearings as deemed necessary to ensure compliance with the provisions of this Ordinance and accountability for all monies received and spent. Failure to comply with the provisions of this Ordinance or any rule or regulation promulgated by the Commission shall constitute grounds for denying, restricting, suspending, or revoking a gaming license or permit and/or levying sanctions or fines against gaming vendors and/or gaming facilities as determined by the Commission.
  
- B. **Administrative Review Hearing-Violation of a Law and/or Regulation**
  - 1. The Commission may conduct such hearings as deemed necessary to ensure compliance with the provisions of this Ordinance. The Commission shall afford a Licensee the opportunity for a hearing prior to taking final action resulting in the imposition of any penalties which the Commission is authorized to impose pursuant to this Ordinance. In the case of a proposed penalty of \$250 or less which does not involve

any suspension or revocation of a license, the Commission shall notify the Licensee of the proposed penalty and the basis thereof and allow the Licensee the option of paying the penalty without a hearing by completing a voluntary wage assignment form or making payment. If in the event the Licensee will contest the basis for imposing the penalty, the Licensee shall request a hearing that will be scheduled at a later date.

- C. Nothing in this section shall limit the Commission's authority to suspend a License immediately without a hearing pursuant to this Ordinance.
- D. The burden of proving fitness and eligibility for a License shall be on the Applicant or Licensee.
- E. Where a person or entity is charged with violation of this Ordinance, a decision of the Commission pursuant to this Ordinance, a License condition, the Compact, the IGRA or any other applicable laws, regulations or agreements concerning the regulation of gaming, including, but not limited to, any agreement relating to gaming with the Ho-Chunk Nation. The party alleging the violation shall carry an initial burden of establishing a prima facie case violation. If the Commission finds that prima facie case has been established, the burden to rebut the charge shall shift to the person or entity.
- F. Notice must be provided within three (3) business days to the Commission if an Applicant or Licensee is unable to appear for a hearing.
- G. Ex parte communication, threat, or offer of reward relative to any matter(s) being considered by the Commission will be prohibited between an applicant, its legal counsel, representative, agent or employee, with any member of the Commission, Legislature, or the Nation's President before a decision is rendered by the Commission. Any ex parte communications within the above parties must be reported to the Commission whereby potential conflicts of interests will be acted upon.
- H. The Gaming Commission hearings are not required to follow Ho-Chunk Nation Court Rules of Civil Procedure.

### Section 36. Compliance with Federal Law.

The Ho-Chunk Nation shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*

### Section 37. Enforcement, Penalties, and Investigations.

- A. Enforcement. Any person will be subject to penalties as provided in Section 37, subparagraph B. below, if such person:

1. Violates any provision of this Ordinance, or any applicable tribal, state and federal regulations;
2. Makes any false or misleading statements or omissions in any and all documentation filed with the Commission or in connection with any matter provided for hereunder;
3. Gives false testimony in any matter provided for hereunder before the Commission, the Legislature, or the Court; or
4. Fails to observe license conditions imposed by the Commission or Legislature, or decisions of the Legislature, or Court rendered pursuant to this Ordinance.

B. Fine and Penalties. The Commission through an enforcement action as provided in Section 35 will be empowered to impose any of the following penalties:

1. Fines:
  - a. The Commission will develop standardized criteria to determine general categories of license violations and a recommended fine to be imposed.
  - b. The standardized criteria shall be made available to all licensees.
  - c. Fine and penalty schedule will be approved by the Commission.
2. Suspension, revocation, or other condition to an existing gaming license.
3. Exclusion from all Nation gaming facilities.
4. Exclusion from the Nation's lands in conjunction with the Department of Justice on a case by case basis.
5. Licensees may appeal the above to the Ho-Chunk Nation Trial Court.
6. Nothing in this Section will prevent the Commission from attempting to obtain voluntary compliance through warning, conference, or any other appropriate means.

C. Investigations.

1. The Commission or designee has the power to conduct investigations as provided in this Section.
2. The Commission or designee may retain outside counsel and other agents to assist it in conducting its investigation.
3. The Commission or designee may investigate without limitation the background and suitability of any applicant, licensee, or vendor to ensure that the person's or entity's prior activities, criminal record, if any, or reputation, habits and associations do not pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the danger of unsuitable, unfair or illegal practices and methods, or activities in the conduct of gaming.
4. The Commission or designee may investigate, without limitation, any suspected violation of the Ordinance, the Compact, IGRA, the conditions of any license issued by the Commission, an order by the Commission, the Legislature, or the Trial Court or any other applicable laws, regulations or agreements, including, but not limited to any agreement with the Ho-Chunk Nation.

5. No applicant or licensee will neglect or refuse to produce records or evidence requested by the Commission or designee. Such requests are required to (be) submitted to the Commission or designee within five (5) business days after the receipt of such request. The Commission will consider an extension of time if requested.
  - a. No applicant or licensee will interfere with any proper and lawful efforts by the Commission or designee to obtain such information.
  - b. Every applicant, licensee, and all licensed manufacturers, distributors and vendors will make their business premises, books and records available for inspection by the Commission or designee for purposes of conducting its investigation.
  - c. Failure of any person or entity to comply with this Section may result in the denial or revocation of a license, or the imposition of other penalties and sanctions.

#### **Section 38. Repeal.**

To the extent that they are inconsistent with this ordinance, all prior Ho-Chunk Nation Gaming Ordinances are hereby repealed.

#### **Section 39. Effective Date.**

- A. This Ordinance, and any Amendments to it, supersedes prior Gaming Ordinances, resolutions, and motions pertaining thereto and will take effect on:
  1. The passage of a resolution by the Legislature to amend the Ordinance; and
  2. The approval of the Amendments to the Gaming Ordinance by the Chairman of the NIGC as provided for by 25 U.S.C. § 2710. The date of passage of the Resolution by the Legislature and approval of the Amendments by the Chairman of the NIGC will be notated within the Legislative History of the Ordinance.

#### **Section 40. Sovereign Immunity.**

Nothing contained in this Ordinance shall be construed to be a waiver of the sovereign immunity of the Nation or the officers, employees, agents, or business or political subdivisions thereof (the “Nation”), nor to be a consent to any suit beyond the limits specifically authorized by the laws of the Nation. All such authorizations shall be strictly construed.

#### **Section 41. Severability.**

The provisions of this Ordinance are severable; if any part or provision hereof shall be held void by a court of competent jurisdiction or federal agency, the decision of the court or agency so holding will not affect or impair any of the remaining provisions of this Ordinance. Citation of potential court action in this Section will not be deemed a waiver of the Nation’s sovereign immunity from suit.



## Legislative History

10/7/89	WWBC adopts amended and restated Gaming Ordinance of the Ho-Chunk Nation.
6/26/92	WWBC Resolution No. 6/26/92E to amend and supersede the Gaming Ordinance adopted on October 7, 1989.
11/11/92	WWBC Resolution No. 11-11-92 G, to amend and supersede the Gaming Ordinances adopted on October 7, 1989 and June 26, 1992.
4/26/93	WWBC Resolution No. 4/26/93A, (Attachment hereto as "Appendix A").
4/9/94	WWBC Resolution No. 4/9/94-C, to amend and supersede the Gaming Ordinance adopted on November 11, 1992, and subsequent amendments thereto.
6/8/94	WWBC Resolution No. 6/8/94B to amend Sections 1104 and 1105.
6/14/95	Legislature Res. No. 6/14/95C to amend Sections 1102 (a) (i) and (ii).
10/24/95	Legislature Res. No. 10/24/95A to amend by adding Section 1301(a).
2/20/96	Legislature Res. No. 2/20/96B.
9/6/96	Legislature Res. No. 9/6/96A to amend Sections 901(a) and (d).
12/17/96	Amendments by Res. No. 2/20/96B and 9/6/96A are approved by NIGC.
4/14/98	Legislature Res. No. 4/14/98I to amend Section 1203(a) (iv)(c) by addition of (i).
5/11/99	Legislature Res. No. 5/11/99L, Amendments A – I, to amend and supersede the Gaming Ordinance adopted on September 6, 1996 and subsequent amendments thereto.
3/7/00	Legislature Res. No. 3/7/00B to amend Section 213(a), classification of key employee positions.
6/22/00	Legislature Res. No. 6/22/00B to amend Sections 210, 213(b), 803, 1201(a), (b) and (c).
6/22/00	Legislature Res. No. 6/22/00D to amend Sections 801(a) and (b), Section 803, and Section 1201.
5/20/02	Legislature Res. No. 5/20/02F to amend Sections 230 and 1301(a).
8/3/05	Legislature Res. No. 8/3/05B to amend Section 802.
8/30/05	Legislative Off-Site.
10/4/05	Legislature approves the Ordinance for 45-Day Public Review and Comment.
11/28/05	Public Review and Comment period ends.
1/11/06	Final Draft of Ordinance sent to Gaming Commission for final review.
7/5/06	Legislature approves 45-Day Public Review and Comment Period.
8/18/06	Public Review and Comment period ends.
1/22/07	Legislative Off-Site.
5/8/07	Legislature approves the Ordinance for 45-Day Review and Comment.
7/19/07	Development Committee made a Motion to hold a Legislative Off-site on August 15, 2007 to review the Ordinance. The only comments received during the 45-Day Review and Comment period were from the Gaming Commission.
8/15/07	Pursuant to the Legislative Organization Act (2 HCC §11), the Legislature conducts an Off-Site.
9/6/07	Pursuant to the Legislative Organization Act (2 HCC §11), the Legislature conducts an Off-Site.
10/05/07	Meeting held between Gaming Commission and Legislature to discuss changes to Off-Site.
10/15/07	Meeting held with Legislative Staff and Gaming Commission to go over technical changes to Gaming Ordinance recommended by the Gaming Commission.
10/18/07	Development Committee refers proposed changes to the full Legislature.
12/18/07	Legislature passes Resolution 12-18-07 A Amending and Restating Gaming Ordinance and submitting proposed Amendments to the NIGC for its approval.
1/28/08	Legislature passes Resolution 1-28-08 D amending Gaming Ordinance to address concerns of NIGC with respect to proposed definition of Nation's Lands and requirements of information to be submitted as part of reports to NIGC.
02/07/08	National Indian Gaming Commission Chairman, Philip N. Hogan, sends letter stating NIGC approves Amendments to Amended and Restated Gaming Ordinance.
3/13/08	Clerical errors in version of gaming ordinance corrected changes to Ordinance include: (a) changing definition of Management Contract to be consistent with 25 CFR §502.15 by adding the words "a contractor and" between the words "between" and "a" within the previous definition. (b) changing page 33 from "If Section 16, subparagraph a (2)(b)" to "If Section 16, subparagraph a(3)(b)" Change accomplishes original intent of Legislature and refers paragraph to an existing subparagraph. (c) changing the list of numbers from having two (12)s on page 40.
12-03-13	Legislative Resolution 12-03-13D adopted establishing Gaming Ordinance Workgroup.

- 08-09-16 Legislative Resolution 08-09-16M adopted to place proposed amendments to the Gaming Ordinance out for 45-day public comment.
- 10-18-16 Legislative Resolution 10-18-16M adopted to place proposed amendments to the Gaming Ordinance out for 45-day public comment.
- 03-09-21 Legislative Resolution 03-09-21M adopted to place proposed amendments to the Gaming Ordinance out for 45-day public comment.
- 04-05-22 Legislative Resolution 04-05-22F adopted to adopt amendments to the Gaming Ordinance.
- 04-21-22 Legislative Resolution 04-21-22C defeated to override Presidential veto of 04-21-22C.
- 04-21-22 Legislative Resolution 04-21-22E adopted to place proposed amendments to the Gaming Ordinance out for 25-day public comment.
- 07-06-22 Legislative Resolution 07-06-22G defeated to adopt amendments to the Gaming Ordinance.
- 07-12-22 Legislative Resolution 07-12-22B adopted to adopt amendments to the Gaming Ordinance.
- 10-12-22 Legislative Resolution 10-12-22A adopted quick passage amendments to the Gaming Ordinance pursuant to NIGC recommendations.
- 01-09-23 National Indian Gaming Commission Chairman, E. Sequoyah Simermeyer, sends letter stating NIGC approves Amendments to Amended and Restated Gaming Ordinance.