

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

**GAMING ORDINANCE #09/93
AS AMENDED**

Licensing and Regulation of Games of Chance

Adopted by Resolution #1174/93 of the Fond du Lac Reservation Business Committee, dated June 28, 1993.

Amended by Resolution #1246/93 of the Fond du Lac Reservation Business Committee dated August 24, 1993.

Amended by Resolution #1062/03 of the Fond du Lac Reservation Business Committee dated March 25, 2003.

Amended by Resolution #1071/16 of the Fond du Lac Reservation Business Committee dated February 24, 2016.

Amended by Resolution #1071/16, Amended, of the Fond du Lac Reservation Business Committee dated April 6, 2016.

Amended by Resolution #1045/20 of the Fond du Lac Reservation Business Committee dated February 11, 2020.

Amended by Resolution #1249/20 of the Fond du Lac Reservation Business Committee dated June 10, 2020.

TABLE OF CONTENTS

| | |
|---|----|
| Chapter 1: Purpose, Authority, and Findings | 1 |
| Section 101. Purpose and Authority | 1 |
| Section 102. Findings..... | 1 |
| Section 103. Repealer | 2 |
| Section 104. Applicability | 2 |
| Section 105. Effective Date..... | 2 |
| Chapter 2: Definitions | 3 |
| Section 201. “Applicant” | 3 |
| Section 202. “Band” | 3 |
| Section 203. “Class I gaming” | 3 |
| Section 204. “Class II gaming” | 3 |
| Section 205. “Class III gaming” | 3 |
| Section 206. “Compacts” | 4 |
| Section 207. “Facility License” | 4 |
| Section 208. “Gaming” | 4 |
| Section 209. “Gaming Facility”..... | 4 |
| Section 210. “Gaming Operation”..... | 4 |
| Section 211. “Indian Lands” | 4 |
| Section 212. “Indian Tribe” or “Tribe”..... | 4 |
| Section 213. “Key Employee” | 4 |
| Section 214. “Licensee” | 5 |
| Section 215. “Management Contract” | 5 |
| Section 216. “Net Revenues” | 5 |
| Section 217. “Primary Management Official”..... | 5 |
| Section 218. “Reservation” | 6 |
| Section 219. “Reservation Business Committee”..... | 6 |
| Section 220. “Social Games for Prizes of Minimal Value” | 6 |
| Section 221. “Traditional forms of Indian gaming” | 6 |
| Section 222. “Vendor” | 6 |
| Chapter 3: Gaming Authorized | 7 |
| Section 301. Class I Gaming..... | 7 |
| Section 302. Class II and Class III Gaming..... | 7 |
| Chapter 4: Ownership of Games | 8 |
| Section 401. Sole Proprietary Interest in Band..... | 8 |
| Chapter 5: Use of Gaming Net Revenue | 9 |
| Section 501. Permissible Uses of Gaming Revenue | 9 |
| Section 502. Per Capita Payments..... | 9 |
| Chapter 6: Tribal Gaming Regulatory Authority | 10 |
| Section 601. Regulatory Duties and Authority of the Reservation Business Committee | 10 |
| Section 602. Regulatory Duties | 10 |
| Section 603. Independence | 10 |

| | | |
|--|--|-----------|
| Section 604. | Regulatory Authority..... | 10 |
| Section 605. | Confidentiality of Records | 12 |
| Chapter 7: Audits | | 13 |
| Section 701. | Audit Required..... | 13 |
| Section 702. | Standards | 13 |
| Section 703. | Scope..... | 13 |
| Chapter 8: Agent for Service of Process | | 14 |
| Section 801. | Service | 14 |
| Chapter 9: Protection of the Environment and Public Health and Safety | | 15 |
| Section 901. | Protection Required | 15 |
| Section 902. | Applicable Laws and Codes | 15 |
| Chapter 10: Facility Licenses | | 16 |
| Section 1001. | Separate Licenses Required | 16 |
| Section 1002. | Issuance..... | 16 |
| Section 1003. | Application and Fee | 16 |
| Section 1004. | Hearing on Application for a Facility License | 17 |
| Section 1005. | Conditions | 17 |
| Section 1006. | Required Notification..... | 17 |
| Section 1007. | Display..... | 17 |
| Section 1008. | Assignment or Transfer | 18 |
| Section 1009. | Cancellation and Suspension | 18 |
| Section 1010. | Reports to the Band | 18 |
| Chapter 11: Licensing | | 20 |
| Section 1101. | License Required..... | 20 |
| Section 1102. | Application Required | 20 |
| Section 1103. | Fees..... | 20 |
| Section 1104. | Not a Right | 20 |
| Section 1105. | Assignment or Transfer..... | 20 |
| Section 1106. | Authority to Condition and Limit Licenses | 20 |
| Section 1107. | Term of License and Renewal | 21 |
| Chapter 12: Licenses for Key Employees and Primary Management Officials | | 22 |
| Section 1201. | Policy | 22 |
| Section 1202. | Application Forms..... | 22 |
| Section 1203. | Fingerprints | 23 |
| Section 1204. | Background Investigations..... | 23 |
| Section 1205. | Procedures for Conducting Background Investigations..... | 25 |
| Section 1206. | Investigative Reports..... | 26 |
| Section 1207. | Eligibility Determination | 26 |
| Section 1208. | Notice of Results of Background Investigation | 27 |
| Section 1209. | Granting a Gaming License | 28 |
| Section 1210. | Denying a Gaming License..... | 29 |
| Section 1211. | Suspension or Revocation of a Gaming License | 30 |
| Section 1212. | Records Retention | 31 |
| Chapter 13. Vendor Licenses | | 32 |
| Section 1301. | Licenses for Vendors..... | 32 |

| | |
|--|----|
| Chapter 14: Licensing Hearings | 34 |
| Section 1401. Hearing Request | 34 |
| Section 1402. Timing of Request | 34 |
| Section 1403. Hearing Procedures | 34 |
| Chapter 15: Class III Gaming Compact(s) | 35 |
| Section 1501. Class III Gaming Contingent on Compact with the State | 35 |
| Section 1502. Compact for Video Games of Chance | 35 |
| Section 1503. Compact for Blackjack | 35 |
| CERTIFICATION | 35 |

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

GAMING ORDINANCE #09/93

Licensing and Regulation of Games of Chance

Chapter 1: Purpose, Authority, and Findings

Section 101. Purpose and Authority

The Fond du Lac Band of Lake Superior Chippewa enacts this Ordinance to regulate all forms of Gaming on the Band's Lands. This Ordinance is enacted pursuant to the inherent sovereign authority of the Fond du Lac Reservation Business Committee, as the governing body of the Fond du Lac Band of Lake Superior Chippewa, as granted by Article VI of the Constitution of the Minnesota Chippewa Tribe, and as recognized by the United States under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, and under the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§ 2701 et seq.

Section 102. Findings

The Reservation Business Committee finds:

(a) That the operation of bingo, lotto and other games of chance by the Band is a valid means of promoting tribal economic development and the health and welfare of Band members.

(b) That under the principles established by the United States Supreme Court in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the activity is not specifically prohibited by Federal law and conducted within a state, such as Minnesota, which does not criminally prohibit the activity.

(c) That the United States Congress has enacted the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-2721(IGRA) providing for certain federal regulation of Indian gaming.

(d) That tribal regulation of gaming activity on the Reservation is vital to the protection of trust lands on the Reservation and to the protection of the interests of the Band and its members.

Section 103. Repealer

This Ordinance is enacted by adoption of Resolution No., 1045/20, which also repeals and replaces all prior Gaming Ordinances adopted by the Fond du Lac Band.

Section 104. Applicability

Unless specifically indicated otherwise, all provisions of this Ordinance shall apply to all Gaming on the Fond du Lac Reservation and on all land held in trust by the United States for the benefit of the Band.

Section 105. Effective Date

This Ordinance, and the repeal of the prior ordinance, is effective upon the approval by the National Indian Gaming Committee (NIGC) as provided in 25.U.S.C. § 2710.

Chapter 2: Definitions

Section 201. “Applicant” means any person who has filed an application for any license required by the Ordinance.

Section 202. “Band” means the Fond du Lac Band of Lake Superior Chippewa, a federally recognized Indian Tribe.

Section 203. “Class I gaming” means:

- (a) social games played solely for prizes of minimal value; or
- (b) traditional forms of Indian gaming engaged in as a part of tribal ceremonies, celebrations, or pow wows.

Section 204. “Class II gaming” means:

- (a) bingo or lotto (whether or not electronic, computer or technologic aids are used) when players:
 - 1. play for prizes with cards bearing numbers or other designations;
 - 2. cover numbers or designations when objects, similarly numbered or designated, are drawn and electronically determined; and
 - 3. win the game by being the first person to cover a previously designated arrangement of numbers or designations on such cards;
- (b) if played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo; and
- (c) non-banking card games, provided that:
 - 1. Minnesota law explicitly authorizes, or does not specifically prohibit, and are played legally anywhere in the state; and
 - 2. are played in conformity with Minnesota laws and regulations regarding hours, periods of operation, and limitations on wagers or pot sizes.

Section 205. “Class III gaming” means all forms of gaming that are not Class I or Class II gaming, including:

(a) electronic or electromechanical facsimiles of any games of chance or slot machines of any kind; and

(b) all banking card games; including baccarat, chemin de fer, and blackjack.

Section 206. “**Compacts**” means the Tribal-State Compacts concerning Class III gaming entered into between the Fond du Lac Band of Lake Superior Chippewa and the State of Minnesota pursuant to 25 U.S.C. § 2710(d).

Section 207. “**Facility License**” means the separate license issued by the Reservation Business Committee to each place, facility, or location on the Band’s Indian Lands where Class II or Class III gaming is allowed.

Section 208. “**Gaming**” means the act of paying for the opportunity to participate in a game of chance for money or other valuable consideration, where the outcome is determined predominantly by chance. Gaming shall include Class I, Class II and Class III gaming as defined in this Ordinance.

Section 209. “**Gaming Facility**” means any location, place or structure on the Band’s Indian Lands where Class II or Class III Gaming is permitted and conducted.

Section 210. “**Gaming Operation**” means an economic entity that is licensed by the Band, operates the games, receives the revenues, issues the prizes, and pays the expenses involving the conduct of Class II or Class III gaming.

Section 211. “**Indian Lands**” means:

- (a) lands within the limits of the Fond du Lac Indian Reservation; or
- (b) lands over which the Band exercises governmental power and which are either:
 - 1. held in trust by the United States for the benefit of the Band or a Band member; or
 - 2. held by the Band or a Band member subject to restriction by the United States against alienation.

Section 212. “**Indian Tribe**” or “**Tribe**” means the Fond du Lac Band of Lake Superior Chippewa, a federally recognized Indian Tribe.

Section 213. “**Key Employee**” means:

- (a) a person who performs one or more of the following functions:

1. bingo caller;
2. counting room supervisor;
3. chief of security;
4. custodian of gaming supplies or cash;
5. floor manager;
6. pit boss;
7. dealer;
8. croupier;
9. approver of credit; or
10. custodian of gambling devices including persons with access to cash and accounting records within such devices;

(b) if not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year;

(c) if not otherwise included, the four most highly compensated persons in the gaming operation; or

(d) Any other person designated by the Band as a key employee.

Section 214. “**Licensee**” means a Class II or Class III Gaming Operation, a person licensed by the Reservation Business Committee as a Key Employee, Primary Management Official, or Vendor under the provisions of this Ordinance.

Section 215. “**Management Contract**” means any contract, subcontract or collateral agreement between the Band and a contractor or between a contractor and subcontractor if such contract or agreement provides for the management of all or a part of the Band’s Gaming Operation.

Section 216. “**Net Revenues**” means gross revenues of a Gaming Operation less:

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

(b) 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.

Section 217. “**Primary Management Official**” means:

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

(b) any person who has authority:

1. to hire and fire employees; or
2. to set up working policy for the Gaming Operation;

(c) the chief financial officer or other person who has financial management responsibility; or

(d) any other person designated by the Band as a Primary Management Official.

Section 218. “Reservation” means the Fond du Lac Reservation and any trust land held by the United States for the Fond du Lac Band.

Section 219. “Reservation Business Committee” means the governing body of the Fond du Lac Band of Lake Superior Chippewa. The Reservation Business Committee shall perform regulatory oversight and monitoring of all Gaming on the Reservation to assure compliance with tribal, federal, and applicable state law.

Section 220. “Social Games for Prizes of Minimal Value” means games in which the total value of prizes awarded during the calendar year does not exceed \$2,500.

Section 221. “Traditional Forms of Indian Gaming” means:

(a) gaming activities such as “stick” or “bone” games played as part of tribal ceremonies, celebrations, or pow wows; and

(b) games, including those for which purses or prizes are awarded, that are played as part of tribal ceremonies, celebrations, or pow wows. This does not include games operated prior to a ceremony, celebration, or pow wow for the purpose of raising funds for the ceremony, celebration or pow wow.

Section 222. “Vendor” means any person or entity which provides property, goods or services to a Gaming Facility for use in a Gaming Operation.

Chapter 3: Gaming Authorized

Section 301. Class I Gaming

Class I gaming is authorized on the Band's Indian Lands. However, this ordinance does not apply to Class I gaming as defined in Section 203, except that the Band reserves the right to inspect the premises where the Class I game is held and to obtain and review financial information concerning the game in order to determine whether it meets the definition of a Class I game. In addition, Class I games may be subject to other tribal ordinances and regulations designed to protect the health, welfare, and safety of tribal members.

Section 302. Class II and Class III Gaming

Class II gaming and Class III gaming are hereby authorized on the Band's Indian Lands. No Class II or Class III gaming shall be conducted on the Band's Indian Lands except as authorized by this Ordinance and regulations adopted by the Band, and in accordance with the Indian Gaming Regulatory Act, the Regulations of the NIGC, the Compacts and any other applicable law.

Chapter 4: Ownership of Games

Section 401. Sole Proprietary Interest in Band

The Band shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance. Ownership of Class II or Class III games by any entity other than the Band is prohibited.

Chapter 5: Use of Gaming Net Revenue

Section 501. Permissible Uses of Gaming Revenue

Net revenues from Class II and Class III gaming shall be used only for the following purposes: to fund tribal government operations and programs; provide for the general welfare of the Band and its members; promote tribal economic development; donate to charitable organizations; or help fund the operation of local government agencies.

Section 502. Per Capita Payments

If the Band elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3) and 25 CFR Part 290.

Chapter 6: Tribal Gaming Regulatory Authority

Section 601. Regulatory Duties and Authority of the Reservation Business Committee

The Reservation Business Committee shall be the primary regulatory authority for all gaming on the Band's Indian lands and shall exercise its regulatory duties and authority over the Band's Gaming Operations as set forth in this Ordinance.

Section 602. Regulatory Duties

The Reservation Business Committee will conduct oversight to ensure compliance with tribal, federal and applicable state laws and regulations. The Reservation Business Committee will serve as the licensing authority for all Gaming Facilities on the Band's Indian lands, for all Key Employees and Primary Management Officials employed in the Band's Gaming Operations and for Vendors who supply goods and services to a Gaming Operation. The Reservation Business Committee will oversee background investigations as part of the licensing process. The Reservation Business Committee will also have a role in monitoring compliance with the internal control standards for the Gaming Operation and in tracking Gaming revenues. In order to carry out its regulatory duties, the Reservation Business Committee shall have unrestricted access to all areas of a Gaming Facility and to all records of a Gaming Operation. The Reservation Business Committee shall have authority to take enforcement actions, including suspension or revocation of any licensed issued pursuant to this Ordinance.

Section 603. Independence

To avoid potential conflicts of interest with respect to the operation and regulation of Gaming Operations, the members of the Reservation Business Committee, and the regulatory staff (Bank Secrecy Act, employee compliance, internal audit, legal, and surveillance) are prohibited from participating in Gaming at any Gaming Facility .

Section 604. Regulatory Authority

The Reservation Business Committee shall have the authority to:

(a) conduct or cause background investigations to be conducted on Primary Management Officials and Key Employees and any other persons or Vendors the Reservation Business Committee designates by regulation;

(b) review and approve all investigative work conducted in connection with the background investigations, and cause investigative reports to be maintained based on the background investigations;

(c) submit or cause to be submitted a Notice of Results of background investigations conducted on each Primary Management Official and Key Employee to the NIGC;

(d) obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;

(e) make licensing eligibility determinations and review licensing eligibility determinations of the Employee Compliance Department;

(f) issue licenses to Primary Management Officials, Key Employees, other employees of a Gaming Operation, and Vendors, if warranted by the eligibility determination;

(g) establish standards for the licensing of Gaming Facility;

(h) issue a facility license to each gaming facility, if warranted by the eligibility determination;

(i) inspect, examine and monitor all Gaming and every Gaming Operation, and have immediate access to review, inspect, examine, photocopy and audit all records of every Gaming Operation and Gaming Facility;

(j) ensure compliance with all applicable laws, rules and regulations regarding Indian Gaming;

(k) investigate or cause to be investigated any suspicion of wrongdoing associated with any Gaming activities;

(l) establish procedures for the handling of patron complaints and resolve any complaints consistent with those procedures;

(m) comply with any and all reporting requirements under the IGRA, the NIGC Regulations, the Compacts, and any other applicable law;

(n) promulgate and issue regulations necessary to comply with applicable Minimum Internal Control Standards (MICS);

(o) promulgate and issue regulations on the levying of fees and /or taxes associated with Gaming license applications or the Gaming Operation;

(q) 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 other tribal, federal, or if applicable, state law or regulations;

(r) establish a list of persons not allowed to enter or to participate in gaming in any Gaming Facility, and to create procedures for the enforcement of the exclusions;

(s) establish a list of persons who have voluntarily agreed to be excluded from every Gaming Facility, and to create procedures for the enforcement of the exclusions;

(t) establish by regulation or policy the conditions under which employees of a Gaming Operation may gamble at a Gaming Facility;

(u) employ such staff as necessary to assist in the exercise of its authority under this ordinance;

(v) adopt such regulations and procedures as necessary and appropriate to implement the provisions of this ordinance and govern the conduct of gaming to maintain the integrity of each Gaming Operation; and

(w) perform such other duties that the Reservation Business Committee deems appropriate for the proper regulation of each Gaming Operation.

Section 605. Confidentiality of Records

The Reservation Business Committee shall ensure that all records and information obtained as a result of all employee background investigations shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation may be disclosed to members of management, human resources personnel or others employed by a Gaming Operation sparingly and on a need-to-know basis for actions taken in their official capacities. The confidentiality requirements contained in this Section shall not apply to requests for records or information from any tribal, federal or state law enforcement or regulatory agency, or for the use of such information or records by the Reservation Business Committee and its staff in the performance of their official duties.

Chapter 7: Audits

Section 701. Audits Required

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

Section 702. Standards

Annual audits shall conform to generally accepted accounting standards.

Section 703. Scope

All gaming-related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in Section 701 above.

Chapter 8: Agent for Service of Process

Section 801. Service

Service of any official determination, order or notice of violation relating to any Gaming Operation or Gaming Facility on the Band's Indian lands shall be made on:

Chairperson of the Reservation Business Committee
1720 Big Lake Road
Cloquet, MN 55720

Chapter 9: Protection of the Environment and Public Health and Safety

Section 901. Protection Required

Each Gaming Facility shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

Section 902. Applicable Laws and Codes

The Reservation Business Committee shall identify and enforce laws, resolutions, codes, policies, standards, or procedures which are applicable to each Gaming Facility to ensure adequate protection of the environment and the health and safety of the public.

Chapter 10: Facility Licenses

Section 1001. Separate Licenses Required

A separate Facility License must be issued to each Gaming Facility. The term of the Facility License shall be for four (4) years. A Facility License may be issued only to the Band or to a corporation or entity that is wholly owned by the Band.

Section 1002. Issuance

The Reservation Business Committee is responsible for issuing a new or renewed Facility License to each Gaming Facility. The Band shall submit to the NIGC a copy of each new or renewed Facility License, along with any required documentation, within thirty (30) days of issuance. The Reservation Business Committee shall only issue or renew a Facility License if the application for the Facility License includes the required information and documentation, and otherwise satisfies any additional conditions imposed by the Band under this Ordinance.

Section 1003. Application and Fee

For each Gaming Facility, a Gaming Operation must file an application, on a form prescribed by the Reservation Business Committee, that contains the following information:

- (a) a description of the premises upon which the Gaming Facility is located; and in which the game is to be held, and proof that the Applicant is the owner of such premises, or lessee of such premises, for at least the term of the license.
- (b) agreement by the applicant to accept and abide by all applicable provisions of this Ordinance and all conditions of the Facility License.
- (c) Each application shall be accompanied by a fee of \$50.00.

Section 1004. Hearing on Application for a Facility License

An application for a Facility License shall be considered by the Reservation Business Committee in open session at which time the Gaming Operation and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application. After the hearing, the Reservation Business Committee shall determine whether to grant or deny the application. The decision of the Reservation Business Committee is final.

Section 1005. Conditions

Any Facility License issued under this Ordinance shall be subject to such reasonable conditions as the Reservation Business Committee shall establish, including, but not limited to the following:

(a) The Gaming Operation shall at all times maintain an orderly, clean, and neat Gaming Facility, both inside and outside the licensed premises.

(b) The Gaming Facility shall be open to inspection by duly authorized tribal officials, by officials of the State of Minnesota as prescribed in the Compacts, and by officials of the NIGC at all times during the regular business hours.

(c) The Gaming Facility shall comply with all health and safety standards adopted by the Reservation Business Committee as applicable to a Gaming Facility.

(d) No person who is under the age of 18 shall be permitted to participate in Gaming or to participate in the operation of Gaming. No person under the age of 18 shall be allowed on the Gaming floor.

(e) No Gaming Operation shall allow a person who manages or is employed by the Gaming Operation to participate in any Gaming conducted at the Gaming Facility, except as prescribed in the regulations and/or policies adopted by the Reservation Business Committee.

(f) Each Gaming Operation shall have the authority to adopt additional regulations and policies concerning the conduct of Gaming, provided such rules are not inconsistent with this Ordinance, and the additional regulations and policies have received the prior approval of the Reservation Business Committee.

Section 1006. Required Notification

The Reservation Business Committee shall notify the NIGC Chair within thirty (30) days if a Facility License is revoked, terminated or expires, or if a Gaming Facility closes, unless the closure is seasonal or temporary and lasts for less than 180 days. The Reservation Business Committee shall notify the NIGC Chair that issuance of an initial Facility License is under consideration at least 120 days prior to the opening of the Gaming Facility.

Section 1007. Display

Every Gaming Facility shall display in a prominent place a current and valid Facility License issued by the Reservation Business Committee for that location.

Section 1008. Assignment or Transfer

No Facility License issued under this Ordinance shall be assigned or transferred without the written approval of the Reservation Business Committee expressed by formal resolution. The Reservation Business Committee shall not assign or transfer any Facility License except upon request of the holder of the license.

Section 1009. Cancellation and Suspension

Any Facility License issued under this Ordinance may be cancelled by the Reservation Business Committee for the breach of any of the provisions of this Ordinance, for violation of federal, tribal or to the extent applicable, state law, or for noncompliance with the conditions of the Facility License. A decision to cancel a Facility License shall only be made after a hearing before the Reservation Business Committee upon 10 days' notice of the claimed breach, violation or noncompliance to the facility licensee. Notice shall be served on the manager of the Gaming Operation that received the facility license. The time and place of the hearing shall be posted in the tribal office, and if time permits in a local newspaper serving the Reservation. The Gaming Operation and its attorneys, if any, shall have the right to be present and to offer sworn oral or documentary evidence relevant to the breach charged. A Facility License may be suspended during the 10-day period by a majority vote of the Reservation Business Committee at which a quorum is present. The decision of the Reservation Business Committee shall be final.

Section 1010. Reports to the Band

(a) Each Gaming Operation shall submit to the Reservation Business Committee a copy of the Gaming Operation's annual audit and, on a quarterly basis, a financial report for the previous quarter's operations.

(b) The Reservation Business Committee may require that records required to be kept by this Section be preserved by a Gaming Operation for at least two years. The records may be inspected by employees or agents of the Reservation Business Committee at any reasonable time without notice. Failure of Gaming Operation to cooperate with employees or agents of the Reservation Business Committee or failure to preserve such records may result in the suspension of Facility License.

Chapter 11: Licensing

Section 1101. License Required

Unless otherwise exempted under this ordinance, any person employed by a Gaming Operation as a Key Employee or Primary Management Official and any Vendor providing goods or services to Gaming Operation must possess a valid license issued by the Reservation Business Committee.

Section 1102. Application Required

License applications will be considered only upon receipt of a complete written application on a form approved for use by the Reservation Business Committee.

Section 1103. Fees

The Reservation Business Committee shall establish a schedule of fees applicable to all licenses. Each application for a license shall be accompanied by payment of the applicable fee. All fees are non-refundable. An application that is not accompanied by the applicable fee shall be deemed incomplete and shall not be processed. The Reservation Business Committee may impose additional fees reasonably related to the cost of enforcement of this ordinance, including but not limited to, the cost of conducting a background investigation.

Section 1104. Not a Right

A license issued pursuant to this ordinance is a revocable privilege. A licensee shall not be deemed to have any vested right in or to a Gaming License and a license does not convey any property interest to the holder of the license.

Section 1105. Assignment or Transfer

A license is valid only for the person or entity to whom the license was issued. No license is assignable or transferable to another person or entity without the express prior approval of the Reservation Business Committee.

Section 1106. Authority to Condition and Limit Licenses

(a) Every license issued by the Reservation Business Committee shall be conditioned on the licensee's continuing eligibility under the requirements of this ordinance and any conditions imposed by the Reservation Business Committee.

(b) The Reservation Business Committee may impose conditions or limitation on any license, such as limitations on access to secure areas of a Gaming

Facility, based on the applicant's or licensee's position, responsibilities and/or regulatory concerns.

Section 1107. Term of License and Renewal

Unless provided otherwise in this ordinance, every license issued by the Reservation Business Committee shall be valid for a period of one (1) year. Prior to the expiration of the license, the licensee shall update the information provided during the initial licensing process. If the licensee continues to meet the applicable standards, the license may be renewed for a period of one (1) year. Notice of any such renewal shall be sent by the Reservation Business Committee to the NIGC.

Chapter 12: Licenses for Key Employees and Primary Management Officials

Section 1201. Policy

The Reservation Business Committee shall ensure that the policies and procedures set out in this Section are implemented with respect to key employees and primary management officials employed at any Gaming Operation.

Section 1202. Application Forms

(a) The following notice shall be placed on the application form for a Key Employee or a Primary Management Official:

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 Tribal gaming regulatory authorities and the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by the Band or the NIGC in connection with the issuance, denial or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Band being unable to hire you in a primary management official or key employee position.

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

(b) The following additional notice shall be placed on the application form for a Key Employee or Primary Management Official:

“A false statement on any part of your application may be grounds for denying a license or the suspension or

revocation of a license. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, § 1001).”

(c) Existing Key Employees and Primary Management Officials shall be notified in writing that they shall either:

1. complete a new application form that contains a Privacy Act notice; or
2. sign a statement that contains the Privacy Act notice and consent to the uses described in that notice.

Section 1203. Fingerprints

The Reservation Business Committee shall perform or cause to be performed a background investigation for each Primary Management Official and Key Employee of a Gaming Operation. Fingerprints shall be obtained from each Primary Management Official and Key Employee by the employee compliance department. Fingerprints shall be submitted to either (1) the State of Minnesota, Department of Public Safety, in accordance with the terms of the Tribal-State Compacts or (2) the NIGC. The fingerprints will be forwarded for processing through the Federal Bureau of Investigation and the National Criminal Information Center to determine the applicant’s criminal history, if any.

Section 1204. Background Investigations

(a) The Reservation Business Committee shall cause to be performed a background investigation for each Key Employee and Primary Management Official in the Band’s a Gaming Operation. Prior to determining eligibility of a person for a Key Employee or Primary Management Official license, the following information shall be obtained:

1. full name, other names used (oral or written), Social Security number, birth date, place of birth, citizenship, gender, all languages (spoken or written);
2. currently and for the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver’s license numbers;
3. the names and current addresses of at least three (3) personal references, including one (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 residence telephone numbers and all cellular/mobile phone numbers;
5. a description of any existing and previous business relationships with other Indian tribes, including 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 and disposition if any;
9. for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;
10. for each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph (a)(8) and (a)(9) of this Section, the criminal charge, the name and address of the court involved and the date and disposition;
11. the name and address of any licensing or regulatory agency with which the person has filed an application for any occupational license or permit, whether or not such license or permit was granted;
12. a current photograph (taken within the last year);
13. fingerprints obtained in accordance with procedures adopted by the Reservation Business Committee pursuant to 25 C.F.R. § 522.2(h); and
14. any other information the Reservation Business Committee deems relevant.

(b) If, in the course of the background investigation, it is discovered that the applicant has a notice of results on file with the NIGC from a prior investigation and access is available to the earlier investigation materials (either through NIGC or the previous tribal investigative body), those materials may be relied on to update the investigation and investigative report. In conducting a background investigation, the Reservation Business Committee its agent shall keep confidential the identity of each person interviewed in the course of the investigation. When a Primary Management Official or Key Employee is employed by a Gaming Operation, a complete application file, containing all of the information listed in this section, must be maintained.

Section 1205. Procedures for Conducting Background Investigations

The Reservation Business Committee or its authorized agent(s) shall conduct a background investigation on each applicant for a Primary Management Official or Key Employee position sufficient to allow an eligibility determination to be made under this ordinance. The investigation shall:

(a) verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;

(b) contact each personal and business reference provided in the license application, when possible;

(c) conduct a criminal history check by submitting the applicant's fingerprints to the State of Minnesota or the NIGC for forwarding to the FBI to perform a criminal history records check using the NCIC data base;

(d) based on the results of the criminal history check, as well as information acquired from the applicant or from other sources, obtain information from the appropriate court regarding past felony and/or misdemeanor convictions and/or ongoing prosecutions;

(e) inquire into any previous or existing business relationships with the gaming industry and other Indian tribes by contacting the entities or tribes;

(f) verify the applicant's history and current status with any licensing agency by contacting the agency; and

(g) take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted.

Section 1206. Investigative Reports

(a) An investigative report shall be created and maintained for each background investigation of a Primary Management Official or Key Employee.

(b) Investigative reports shall include all of the following information:

1. steps taken in conducting the investigation;
2. results obtained;
3. conclusions reached; and
4. the basis for the conclusions.

(c) The Reservation Business Committee and its investigator(s) shall promise to keep confidential the identity of each person interviewed in the course of the investigation, other than disclosure as required under federal, tribal, or applicable state law.

Section 1207. Eligibility Determination

(a) Eligibility determinations shall in the first instance be made by the employee compliance department, which is hereby authorized to make such determinations. The employee compliance department shall review the Applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a Key Employee or Primary Management Official for receipt of a license and employment in the Gaming Operation. The eligibility determination shall be forwarded to the Reservation Business Committee for review, and if appropriate under the standards of this ordinance, the Reservation Business Committee may issue the license as prescribed in Section 1209 of this Chapter.

(b) If the employee compliance department determines, based on the standards adopted in this ordinance, that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the danger of unsuitable, unfair, or illegal practices and methods and/or activities in the conduct of gaming, a license shall not be issued and a Gaming Operation shall not employ that person in a Key Employee or Primary Management Official position.

(c) A person aggrieved by a finding of the employee compliance department may petition the Reservation Business Committee, in a format prescribed by the Reservation Business Committee, for review of the eligibility determination made by the employee compliance department. If the Reservation Business Committee determines, based on the standards adopted in this ordinance, that licensing of the

person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the danger of unsuitable, unfair, or illegal practices and methods and/or activities in the conduct of gaming, a license shall not be issued and a Gaming Operation shall not employ that person in a Key Employee or Primary Management Official position.

(d) Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a Primary Management Official or Key Employee.

Section 1208. Notice of Results of Background Investigation

(a) Before issuing a license to a Key Employee or Primary Management Official, the Reservation Business Committee shall prepare or cause to be prepared a Notice of Results of the applicant's background investigation to submit to the NIGC.

(b) The notice of results must be submitted to the NIGC no later than sixty (60) days after the applicant begins working for a Gaming Operation and a Gaming Operation shall not employ as a Key Employee or Primary Management Official a person who does not have a license within ninety 90 days of the submission of the application.

(c) The Notice of Results 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; and
3. a summary of the information presented in the investigative report, including:
 - i. licenses that have been previously denied;
 - ii. Gaming Licenses that have been revoked, even if subsequently reinstated;
 - iii. every known criminal charge brought against the applicant within the last ten (10) years of the date of the application;
 - iv. every felony offense of which the applicant has been convicted or any ongoing prosecution; and

- v. a copy of the eligibility determination made in accordance with Section 1207 above.

Section 1209. Granting a Gaming License

(a) All Primary Management Officials and Key Employees of the Gaming Operation must have a valid Gaming License.

(b) The Reservation Business Committee is responsible for granting and issuing Gaming Licenses to Primary Management Officials and Key Employees.

(c) The Reservation Business Committee may issue a license to a Primary Management Official or Key Employee applicant only after submitting a Notice of Results to the NIGC as required by Section 1208 above.

(d) The Reservation Business Committee shall notify the NIGC of the issuance of a license to a Primary Management Official or Key Employee within thirty (30) days of issuance.

(e) The Reservation Business Committee shall respond to a request for additional information from the Chairman of the NIGC concerning a Key Employee or Primary Management Official applicant. Such a request shall suspend the 30-day period under paragraph (g) of this Section until the Chairman of the NIGC receives the additional information.

(f) No person may be employed as a Primary Management Official or Key Employee if a license is not issued within ninety (90) days of employment at a Gaming Operation.

(g) The Reservation Business Committee must reconsider a license application for a Primary Management Official or Key Employee if it receives a statement of itemized objections to the issuance of such license from the NIGC, provided the objections are received within thirty (30) days of the date the NIGC receives the Notice of Results for the applicant. The Reservation Business Committee may reconsider a license application for a Primary Management Official or Key Employee if a statement of itemized objections to the issuance of a license is received more than thirty (30) days from the NIGC's receipt of the Notice of Results for the applicant. In either case, the Reservation Business Committee must take the objections of the NIGC into consideration when reconsidering a license application. The Reservation Business Committee shall make the final decision whether to issue a license to such applicant.

(h) If the Reservation Business Committee has issued a license to a Primary Management Official or Key Employee before receiving a statement of objections from the NIGC, the Reservation Business Committee may suspend or

revoke the license after providing notice and an opportunity for a hearing as required by Chapter 14 of this Ordinance.

Section 1210. Denying a Gaming License

(a) The Reservation Business Committee shall not issue a license to a Primary Management Official or Key Employee if the Reservation Business Committee determines, after applying the standards contained in this Ordinance, and after considering any objections received from the NIGC, that licensing the person:

1. poses a threat to the public interest;
2. poses a threat to the effective regulation of Gaming;
3. creates or enhances the danger of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of Gaming;
4. has made a materially false statement in an application to the Reservation Business Committee or in any verbal or written statement submitted to the Reservation Business Committee; or
5. has been convicted of a felony within five years of the commencement of employment with the Gaming Operation; or convicted of a felony or gross misdemeanor involving fraud, misrepresentation, or gambling.
 - i. The restriction of subsection (a)(5) shall not disqualify the applicant from employment as a Primary Management Official or Key Employee whose duties or responsibilities relate to the operation of blackjack, if the Band by governmental resolution waives such a restriction after the applicant has demonstrated to the Band evidence of sufficient rehabilitation and present fitness.

(b) If the Reservation Business Committee denies a license to a Primary Management Official or Key Employee, the Reservation Business Committee shall:

1. notify the NIGC; and
2. forward a copy of the eligibility determination and Notice of Results to the NIGC for inclusion in the Indian Gaming Individuals Record System.

Section 1211. Suspension or Revocation of a Gaming License

(a) The Reservation Business Committee may suspend, revoke or condition the license of a Primary Management Official or Key Employee if it determines that the Primary Management Official or Key Employee:

1. is no longer eligible for a license under the standards contained in this Ordinance;
2. has violated a federal, state or tribal law related to Gaming, or has failed to comply with a validly issued order of the Reservation Business Committee;
3. has made a materially false or misleading statement in a license application or in any verbal or written submission to the Reservation Business Committee; or
4. has falsified any books, records or materials relating to any transaction connected with the Gaming Operation.

(b) The Reservation Business Committee shall suspend and may revoke the license of a Primary Management Official or Key Employee if the Reservation Business Committee receives a timely statement of objections or other notice from the NIGC that the Primary Management Official or Key Employee is not eligible for a license. The Reservation Business Committee shall:

1. immediately suspend the license;
2. provide written notice of the suspension and the proposed revocation to the licensee;
3. provide the licensee with written notice of his or her right to request a hearing; and
4. after consideration of the NIGC objections to the issuance of the license as well as any information received at a hearing, if timely requested, make a final written determination to revoke or reinstate the license and provide written notice of its final decision to the licensee and the NIGC within 45 days of receipt of objections to the license from the NIGC.

Section 1212. Records Retention

The Reservation Business Committee shall retain and cause to be retained for no less than three (3) years from the date a Primary Management Official or Key Employee is terminated from employment with a Gaming Operation , the following documentation:

- (a) the application for licensing;
- (b) investigative reports; and
- (c) the eligibility determination.

Chapter 13. Vendor Licenses

Section 1301. Licenses for Vendors

(a) Vendors of gaming services or supplies with a value of \$10,000 or more annually must have a vendor license issued by the Reservation Business Committee in order to transact business with a Gaming Operation. Contracts for professional legal and accounting services are excluded from this Section.

(b) In order to obtain a vendor license, an applicant must complete the required applications identified in Section 1301(c) below, and may be required to submit to background checks of itself and, if a business entity, its principals. Principals of a business include its officers, directors, managers, owners, partners, governors, non-institutional stockholders that either own 10% or more of the shares or are the ten (10) largest stockholders, and the on-site supervisor or manager as designated by the Band, if applicable.

(c) Applicants for vendor licenses must submit a business license application and, when applicable, a video gaming device manufacturer/distributor license application. Through that process, the applicant must provide the following:

1. the name of the business, its business address, business phone, federal tax ID Number (or SSN if a sole proprietorship), its main office address if different from business address, any other names used by the business, and the type of service(s) the applicant will provide;
2. a statement 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 its incorporation, and a certified copy of its articles of incorporation, partnership agreement, or other organizational documents which describe the formation and existence of the business;
4. its trade name(s), other name(s) ever used, and the names of any wholly owned subsidiaries or other businesses owned by the applicant or its principals;
5. a general description of the business and its activities;
6. a statement whether the applicant has ever had a license related to gaming revoked for any reason, and if so, a description of the circumstances involved; and

7. any further information that the Reservation Business Committee deems relevant.

(d) The following notice shall be placed on the application form for a vendor license:

“Inclusion of false or misleading information on this application may be grounds for denial or revocation of the license.”

(f) Each application shall be accompanied by a non-refundable application fee of \$50.00. The Band may charge additional license fees, to be established by the Reservation Business Committee, to cover its expenses in investigating and licensing under this Section.

(g) A background investigation may be conducted for any applicant for a gaming vendor's license. The background investigation may include:

1. verification of the applicant's business organization status and verification of its eligibility to do business in Minnesota;
2. verification of the information contained on the vendor application, including in particular if the vendor has ever had a license suspended, conditioned, or revoked for any reason; and
3. a criminal history check of the vendor and its principals; and
4. the background investigation may also include a check of the credit history for the vendor and its principals.

(h) A complete investigative report covering each of the steps taken in a background investigation of a vendor applicant and its principals may be completed and presented to the Reservation Business Committee prior to its consideration of the vendor license application.

(i) The Reservation Business Committee may adopt regulations listing gaming authorities that it recognizes and may authorize exemptions to the background investigation requirement for vendors who have received a license from one of the listed gaming authorities.

Chapter 14: Licensing Hearings

Section 1401. Hearing Request

Except as otherwise provided in this Ordinance, any person aggrieved by a licensing decision of the Reservation Business Committee may request a hearing by submitting a written request to the Reservation Business Committee.

Section 1402. Timing of Request

A hearing must be requested within five (5) days of the date of the final licensing decision or the hearing is deemed waived. A hearing request must be accompanied by a complete explanation of why the person disagrees with the decision of the Reservation Business Committee.

Section 1403. Hearing Procedures

(a) The hearing will be conducted by the Reservation Business Committee or an independent hearing officer appointed by the Reservation Business Committee for that purpose. The Reservation Business Committee or the hearing officer will notify the licensee of the date, time and location of the hearing, which shall not be more than thirty (30) days from the date the hearing request was received by the Reservation Business Committee.

(b) At the hearing, the aggrieved party may, but need not, be represented by legal counsel. The Reservation Business Committee or the hearing officer shall receive all evidence he/she deems relevant, including, but not limited to, the results of any background investigation conducted on the person.

(c) Within ten (10) days of the close of the hearing, the Reservation Business Committee or the hearing officer shall issue a written decision, which includes findings of fact, and conclusions of law. This decision is final and is not appealable.

(d) A person who requests but fails to appear at a hearing shall be in default, and the right to a hearing shall be deemed waived.

Chapter 15: Class III Gaming Compact(s)

Section 1501. Class III Gaming Contingent on Compact with the State

Operation of any Class III game on the Band's Indian Lands shall not be permitted unless the game is authorized by a Tribal-State Compact approved by the Secretary of the Interior.

Section 1502. Compact for Video Games of Chance

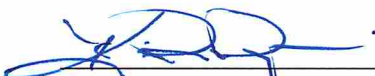
This Ordinance hereby incorporates the provisions of the Tribal-State Compact for Control of Class III Video Games of Chance on the Fond du Lac Band of Lake Superior Chippewa Reservation in Minnesota, dated November 1, 1989, and all amendments to the Compact, which permits the operation of Class III video games of chance on the Band's Indian Lands.

Section 1503. Compact for Blackjack

This Ordinance hereby incorporates the provisions of the Tribal-State Compact for Control of Class III Blackjack on the Fond du La Band of Lake Superior Chippewa Reservation in Minnesota, dated May 21, 1991, and all amendments to the Compact, which permits the operation of Class III blackjack on the Band's Indian Lands.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #09/93 was duly presented and adopted by Resolution #1174/93 by a vote of 2 for, 0 against, 0 silent, with a quorum of 3 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on June 28, 1993 in Duluth, Minnesota, and subsequently amended as follows: by Resolution #1246/93 on August 24, 1993; by Resolution #1062/03 on March 25, 2003; by Resolution #1071/16 on February 24, 2016; by Resolution #1071/16 Amended on April 6, 2016; by Resolution #1045/20 on February 11, 2020; and by Resolution #1249/20 on June 10, 2020.



Kevin R. Dupuis, Sr.
Chairman



Ferdinand Martineau, Jr.
Secretary/Treasurer



September 29, 2020

VIA EMAIL

Kevin R. Dupuis, Sr.
1720 Big Lake Road
Cloquet, MN 55720

Re: Fond du Lac Band Gaming Ordinance Amendments, Resolution #1249/20

Dear Chairman Dupuis:

This letter responds to your July 1, 2020 request on behalf of the Fond du Lac Band of Lake Superior Chippewa Reservation Business Committee for the National Indian Gaming Commission Chairman to review and approve the Band's amendments to its gaming ordinance.

The amendments, adopted by Business Committee Resolution #1249/20 on June 10, 2020, reflect revisions to the Band's gaming ordinance. The changes include reorganization of definitions, removal of the complimentary items section of the gaming ordinance, and modifying procedures for conducting background investigations, among other changes.

Thank you for bringing these amendments to our attention and for providing us with a thorough submission of the Band's gaming laws and regulations. The amended ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions or require anything further, please contact Josh Proper at (202) 632-0294.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Sequoyah Simermeyer".

E. Sequoyah Simermeyer
Chairman

cc: Sean Copeland, Tribal Attorney