GAMING ORDINANCE
of the
Hoopa Valley Tribe
Title 31

ORDINANCE NO: 2-92

DATE APPROVED: March 5, 1998, as amended February 1, 2001, June 6, 2002, and April 18, 2019.

SUBJECT: Gaming Ordinance

31.1 Purpose. The Hoopa Valley Tribal Council, the elected governing body of the Hoopa Valley Tribe (hereinafter "Tribe"), empowered by the Hoopa Valley Tribal Constitution and Bylaws, adopted June 20, 1972, approved by the Commissioner of Indian Affairs on August 18, 1972, and confirmed and ratified by the U.S. Congress in October, 1988, in Public Law 100-580, The Hoopa-Yurok Settlement Act, to enact ordinances, hereby enacts this Ordinance in order in order to regulate all forms of Gaming on the Tribe's Reservation.

31.2 Short Title. This Code shall be known and may be cited as the Hoopa Valley Tribal Gaming Code or Title 31.

31.3 Gaming Authorized.

31.3.1 Class II Gaming Authorized. Class II Gaming is hereby authorized to be conducted on lands within the Tribe's Reservation; provided, however, that such Class II Gaming shall be conducted only in accordance with the provisions of this Code, the Rules, and IGRA.

31.3.2 Class III Gaming Authorized. Class III Gaming is hereby authorized on lands within the Tribe's Reservation; provided, however, that Class III Gaming shall be conducted only in accordance with the provisions of this Code, the Rules, the Compact, and IGRA.

31.4 Public Policy. All Gaming which is conducted within the Tribe's Reservation and which is otherwise authorized by law shall be regulated and licensed pursuant to the provisions of this Code.

31.4.1 The Tribal Council hereby finds, and declares it to be the public policy of the Tribe, that:

(A) Regulation of licensed Gaming is important in order that licensed Gaming is conducted honestly and that Gaming is free from criminal and corruptive elements.

(B) Public confidence and trust can only be maintained by strict regulation of all Persons, locations, practices, associations and activities related to the operation of licensed Gaming Establishments and the manufacture or distribution of Gaming Devices.

(C) All Management Entities or Controlling Shareholders, Primary Management Officials, Key Employees, Gaming Establishments and Gaming Device Suppliers must therefore be licensed and controlled to protect the public health, safety, morals, good order and general welfare of the Tribe.

31.4.2 Prohibition Regarding Minors. No licensee shall permit persons under the age of 18 years to be present in any room in which Class III gaming activities are being conducted unless the person is en-route to a non-gaming area of the Gaming Establishment.

31.5 Ownership of Gaming. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance. The Tribe shall receive, at a minimum, not less than sixty (60) percent of the Net Revenues from any Gaming Operation. The Commission shall ensure that (i) such Gaming as it authorizes and licenses pursuant to this Code is conducted on lands within the Tribe's Reservation, and (ii) such gaming is not otherwise specifically prohibited by Federal law.

31.6 Definitions

Unless a different meaning is set forth below, the terms used in this Code shall have the same meaning as defined in the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2467 (Oct. 17, 1988), 25 U.S.C. 2701, et seq. ("IGRA").

31.6.1 "Applicant" means any person, partnership, corporation, joint venture or other entity applying for, or requesting renewal of, any License described in or required by this Code.

31.6.2 "Application" means a request for the issuance or renewal of a License described in or required by this Code.

31.6.3 "Tribe" shall mean and "Tribal" shall refer to the Hoopa Valley Tribe.

31.6.4 "Council" or "Tribal Council" means the Tribal Council of the Hoopa Valley Tribe.

31.6.5 "Chairman" means the Chairman of the National Indian Gaming Commission.

31.6.6 "Class II Gaming" means Class II gaming as defined at 25 U.S.C. 2703(7)(A) and (B).

31.6.7 "Class III Gaming" means Class III gaming as defined in 25 U.S.C. 2703(8).

31.6.8 "Code" or "Ordinance" means this Tribal Gaming Code of the Hoopa Valley Tribe, as amended from time to time, and any Rules promulgated hereunder.

31.6.9 "Compact" means the Tribal-State Compact between the Hoopa Valley Tribe and the State of California executed by the Governor of California and the Chairman of the Tribe and pursuant to the IGRA, including all renewals, amendments, appendices, exhibits and other attachments thereto.

31.6.10 "Commission" means the Hoopa Valley Tribal Gaming Commission.

31.6.11 "Commissioner" means an individual member of the Hoopa Valley Tribal Gaming Commission.

31.6.12 "Fiscal Year" means the period beginning at 12:01 am on October 1 of each year and ending at midnight September 30 of the following year.

31.6.13 "Gaming" means any Class II Gaming or Class III Gaming activity, either individually or collectively, whether authorized or unauthorized.

31.6.14 "Gaming Device" means a slot machines, including an electronic, electromechanical, electrical or video device that, for consideration, permits: individuals play with or against that device or the participation in any electronic, electromechanical, electrical or video system to which that device is connected; the playing of games thereon or therewith, including, but not limited to, the playing of facsimiles of games of chance or skill; the possible delivery of, or entitlement by the player to, a prize or something of value as a result of the application of an element of chance; and a method for viewing the outcome, prize won, and other information regarding the playing of games thereon or therewith.

31.6.15 "Gaming Device Supplier" means any Person who manufactures, sells, leases, distributes, supplies or makes modifications to, any Gaming Device of the Tribe and all Persons holding any direct or indirect financial interest in such Gaming Device Supplier.

31.6.16 "Gaming Establishment" means any premises where Gaming is operated or conducted on the Tribe's Reservation, and includes all buildings, improvements, appurtenances, equipment, and facilities used or maintained in connection with such gaming.

31.6.17 "Gaming Operation" means any business enterprise owned by the Tribe, the revenues of which are primarily derived from Gaming or from any Gaming Establishment.

31.6.18 "Gaming Resource Supplier" means any person or entity who, directly or indirectly, manufactures, distributes, supplies, vends, leases, or otherwise purveys Gaming Resources to the Gaming Operation.

31.6.19 "Gross Revenue" means the total value due to any operator of any Gaming for any chance taken or game played, for any table fees for card playing, on account of fees charged for participation in any Gaming or for admittance to any Gaming Establishment (or any combination of the foregoing) less the total of all cash paid out as losses to patrons. Gross Revenue shall be stated in U.S. currency and shall be calculated before any deductions or allowances for prizes, pay out of winnings, costs of operation, taxes, labor expenses, equipment, materials used, or any other expenses. In the absence of adequate records, Gross Revenue shall be the maximum amount that would be due to a Gaming operator if the particular Gaming conducted by said operator was conducted at maximum capacity. Gross Revenue shall not include:

(a) Counterfeit money or tokens;

(b) Coins of other countries which are received in slot machines or Gaming Devices; or

(c) Cash taken in fraudulent acts perpetrated against a Licensee for which the Licensee is not reimbursed.

31.6.20 "Key Employee" means:

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

(1) operations manager,
(2) bingo caller,
(3) counting room supervisor,
(4) chief of security,
(5) custodian of gaming supplies or cash,
(6) floor manager,
(7) pit boss,
(8) dealer,
(9) croupier,
(10) approver of credit,
(11) custodian of gambling terminals or other devices operated by the management of any Gaming Operation, including persons with access to cash and accounting records for such devices, or
(12) surveillance personnel;

(b) if not otherwise included, any other person whose total cash compensation from employment in any Gaming Operation exceeds $50,000 per year;

(c) if not otherwise included, the four most highly compensated persons in any Gaming Operation; or

(d) any other employee of any Gaming Operation that the Commission designates by its Rules as a Key Employee.

31.6.21 "License" means any authorization granted by the Commission, pursuant to this Code, to any Person which is required for such Person to perform certain acts or engage in certain activities. All Licenses shall be held at the will of the Commission and the issuance of a License shall not create a property or liberty interest in such License for the benefit of the Licensee.

31.6.22 "Licensee" means any Person who has been issued a valid and current License pursuant to the provisions of this Code.

31.6.23 "Management Contract" means any contract, agreement, or other document, including all collateral agreements, establishing a relationship between the Tribal government and any Person, pursuant to which such Person has managerial responsibilities in or for any Gaming Operation.

31.6.24 "Management Entity" or "Controlling Shareholder" means:

(a) any Person having a direct or indirect financial interest in any Management Contract, including those Persons who, either alone or in combination with a spouse, parent, child or sibling, own five (5) percent or more of any Management Entity's outstanding capital stock;

(b) when a trust is a party to a Management Contract, any beneficiary or trustee of such trust;

(c) when a partnership is a party to a Management Contract, any partner, general or limited, in such partnership;

(d) when a corporation is a party to a Management Contract, any Person who is an officer or director of such corporation, or who holds five (5) percent or more of the issued and outstanding capital stock of such corporation either alone or in combination with a spouse, parent, child or sibling; or

(e) with respect to any non-natural Person with an interest in a trust, partnership or corporation that has an interest in a Management Contract, all beneficiaries, trustees, partners, or directors of, and stockholders of, such non-natural Person holding at least five (5) percent of the outstanding stock either alone or in combination with a spouse, parent, child or sibling.

31.6.25 "Management Fee" means any monies paid from Gaming revenue to any Person pursuant to an NIGC approved contract to operate a Gaming Establishment. Such term shall not include monies paid for the operating expenses of such Gaming Establishment.

31.6.26 "Net Revenue" means Gross Revenue of any Gaming Operation minus amounts paid for, or paid out as prizes, winnings, and related operating expenses, excluding Management Fees.

31.6.27 "NIGC" means the National Indian Gaming Commission.

31.6.28 "Operating Expense" means any expense incurred in the operation of Gaming that is specifically designated as an Operating Expense in any Management Contract or which by operation of Generally Accepted Accounting Principles, consistently applied, is so treated.

31.6.29 "Patron" means any Person who participates in Gaming, or who is physically present on premises wherein or whereon Gaming is conducted.

31.6.30 "Person" means any association, partnership, corporation, firm, trust or other form of business association or entity, as well as a natural person.

31.6.31 "Primary Management Officials" means:

(a) the Person(s) having management responsibility over all or any part of any Gaming Operation;

(b) any Person who has authority;

  (i) to hire and fire employees of a Gaming Operation,

  (ii) to establish working policy for a Gaming Operation;

(c) the chief financial officer or other Person who has financial management responsibility for any Gaming Operation;

31.6.32 "Reservation" means any Indian lands, as defined by IGRA, over which the Tribe exercises jurisdiction.

31.6.33 "Rules" means any Rules governing the conduct of games or the control of internal fiscal affairs of Gaming Operations as may be promulgated by the Commission established pursuant to this Code.

31.6.34 "Secretary" means the Secretary of the United States Department of the Interior.

31.6.35 "State" means the State of California.

31.7 Use of Gaming Revenue. Net Revenues from any form of Gaming authorized under this Code shall be used only for the following purposes: to fund Tribal government operations and programs; to provide for the general welfare of the Tribe and its members; to promote Tribal economic development; to make donations to charitable organizations; or to help fund operations of local government agencies.

31.7.1 Per Capita Payments. If the Tribe elects to make per capita payments directly from revenues derived from gaming to Tribal members, it shall authorize such payments only pursuant to a plan submitted to and approved by the Secretary pursuant to 25 U.S.C. §2710(b)(3).

31.8 Unauthorized Gaming. Any person who commits any act of unauthorized Gaming on the Reservation or any other Tribal land shall be guilty of a crime and shall be prosecuted in Tribal Court or any other court of competent jurisdiction. It is hereby declared that authorized Class II Gaming or Class III Gaming conducted on the Reservation, or on any other Tribal land that fully complies with the provisions of this Code, the Rules, the Compact and IGRA shall not be subject to any criminal penalties.

31.9 Conduct of Games. All Gaming shall be conducted by persons duly licensed by the Commission. No person licensed by the Commission shall engage in, conduct, or condone any Gaming that is not conducted in accordance with this Code and such Rules governing the conduct of games as may be promulgated by the Commission under this Code.

31.10 Applicability of Code. Unless specifically indicated otherwise, all provisions of this Code shall apply to both Class II Gaming and Class III Gaming including, but not limited to, all licensing and background investigation procedures.

31.11 Establishment of Commission. The Hoopa Valley Tribal Council hereby establishes the Hoopa Valley Tribal Gaming Commission composed of five (5) members appointed by a majority vote of the Council as follows: A Commissioner shall serve for two (2) years. In order to establish an annually staggered Commission appointment schedule, the first Commission shall be appointed by the Council as follows: two (2) Commissioners shall serve a two (2) year term; three (3) Commissioners shall serve a three (3) year term, for their initial terms only. Thereafter, all successive terms of appointment for a Commissioner shall run for two (2) years. Vacancies on the Commission shall be filled within thirty (30) days by a majority vote of the Council. The Commission shall select annually, from its membership, a Commission Chairperson and Vice Chairperson.

a) Licensing of Commissioners. Applicants for the position of Commissioner must meet the requirements of Section 13.11.1 and must first obtain a License from the Council prior to assuming office.

b) Failure to Meet License Requirements or License Violations. If the Tribal

Chairman or the Council has reason to believe that a Licensed Commissioner fails at any time to meet the License requirements under this Code or that the Commissioner has violated this Code, the Rules, the Compact, or the IGRA or any other applicable law, the Tribal Chairman or the Council shall direct an investigation to be conducted and may notice the Commissioner for a hearing before the Council. All investigations and hearings under this Section shall be conducted as provided in this Code and a Commissioner shall have all of the rights and obligations given to a Licensee or Applicant therein, except that all hearings shall be conducted by and before the Council.

c) Appeals of Council Decision. A Commissioner may not appeal a decision of the Council.

d) Restrictions on Commissioners. No person shall serve on the Commission if that:

(i) person's other employment or responsibilities conflict or could potentially conflict with the duties and responsibilities of a member of the Commission;

(ii) person is an employee of the Gaming Operation or the person's other employment or responsibilities create an impression or appearance of impropriety in the fulfillment of the duties and responsibilities of a member of the Commission; or

(iii) person is a Judge in any Tribal Court.

31.11.1 All members of the Hoopa Valley Tribal Gaming Commission shall be subject to the background investigation requirements discussed in section 31.28.

31.11.2 The Hoopa Valley Tribal Gaming Commission shall select from among its members a Chairperson to communicate with and provide direction to primary management officials of Tribal Gaming. The Hoopa Valley Tribal Gaming Commission shall select from among its members a Vice Chairperson.

31.11.2.1 Chairperson. The Chairperson shall preside over all meetings of the Gaming Commission, perform all duties of the Chairperson, and exercise any authority delegated to the Chairperson. The Chairperson is responsible for communicating with and providing direction to gaming management officials. The Chairperson shall vote only when necessary to break a tie.

31.11.2.2 Vice Chairperson. The Vice Chairperson shall assist the Chairperson when called upon to do so. In the absence of the Chairperson, the Vice Chairperson shall preside and when presiding shall have all the rights,

privileges, duties, and responsibilities of the Chairperson.

31.11.3 Quorum. A quorum of the Commission shall consist of three (3) Commissioners; one of which must be the Chairperson or Vice Chairperson. All decisions shall require approval from the majority of the Commission, unless particular power is delegated to the Chairperson pursuant to this Code or the Rules.

31.11.4 The authority of the Hoopa Valley Tribal Gaming Commission shall supervene any other board, commission, or committee other than the Tribal Council.

31.11.5 The Hoopa Valley Tribal Gaming Commission shall be charged with, but not be limited to, the following responsibilities:

(A) to perform background investigations, including but not limited to civil, criminal, credit, social security number, FBI, and prior employment;

(B) promulgate Rules pursuant to this Code, for the operation of games, the control of internal fiscal affairs of Gaming Operations, and the conduct of all business before the Commission;

(C) grant, conditionally grant, or deny any application for License;

(D) enforce all relevant laws and rules with respect to the gaming operation and to conduct investigations and hearings with respect thereto;

(E) limit, cancel, revoke, terminate, condition, modify, suspend, or restrict any License;

(F) make findings of suitability or unsuitability;

(G) require the Licensee or Applicant to make restitution for the actual or consequential damages of any violation of this Code or the Rules;

(H) conduct, or cause to be conducted, background investigations on all Applicants and Licensees;

(H) hold administrative licensing hearings under this Code;

(I) bring or respond to actions pursuant to this Code or the Rules before the Tribal Court.

(J) to establish written policies to perform the above duties consistent with the Tribal Gaming Ordinance, Tribal Law, Federal law, and State Law (if applicable);

(K) to establish written policies regarding the daily operation of gaming operations within the exterior boundaries of the Hoopa Valley Indian Reservation, including but not limited to surveillance, bank deposits, check cashing, jackpot payouts, internal auditing, security, and customer relations;

(L) to establish written policies for determining the eligibility of applicants to obtain a gaming license;

(M) to establish simple and fair rules for hearings before the Hoopa Valley Tribal Gaming Commission; and

(N) to establish any other written procedures and/or regulations necessary to safeguard the integrity of gaming and to ensure the safety of all patrons of Tribal Gaming within the exterior boundaries of the Hoopa Valley Indian Reservation.

31.11.6 Any non-employee, non-contractor with Tribe, or community member may be appointed to the Hoopa Valley Tribal Gaming Commission. Employees of the Tribe may serve during their employment. Nothing herein shall prevent the re-appointment of an eligible and qualified person to the Hoopa Valley Tribal Gaming Commission.

31.11.7 All members of the Hoopa Valley Tribal Gaming Commission serve at the will of the Hoopa Valley Tribal Council and may be removed with or without cause, upon a majority vote of the Hoopa Valley Tribal Council at a regular meeting thereof.

31.11.8 All positions on the Commission shall be compensated on a per meeting basis at a rate equal to that of Tribal Employment Rights Commission.

31.11.9 Commission Meetings.

(a) Regular Meetings. The Commission shall meet at least twice per month at the Commission's main office or at any other designated meeting place.

(b) Special Meetings. Special meetings shall be convened by the Commission Chairperson as necessary to carry out the official duties of the Commission. Notice of each special meeting shall be given by the Commission Chairperson by telephone or mail to each Commissioner. Notice shall be received at least 24 hours in advance of such meeting and shall include the date, time, and place of the proposed meeting.

(c) Emergency Meetings. An emergency meeting may be called by the Chairperson of the Commission with less than 24 hours notice; provided,

however, that the Chairperson of the Commission shall use best efforts to assure that all Commissioners are notified of such meeting, with as much prior notice as possible under the circumstances.

(d) Meetings Open to the Public. All meetings of the Commission shall be open to the public; provided, however, that the Commission may, in its discretion, close any portion of any meeting to the public when discussing any information which the Commission deems confidential pursuant to the provisions of this Code.

31.11.10 Vacancies on the Commission shall be filled within thirty (30) days by a majority vote of the Council. Vacancies should be filled sooner, if possible, because the Gaming Commission ensures that the Tribe is fulfilling its obligations under the Compact.

31.11.11 No Financial Interest in Gaming. No Commissioner shall have any direct or indirect financial interest in any Gaming Operation. For purposes of this section, "indirect financial interest" shall not include ownership of any mutual fund(s) which holds stock in a publicly traded company, but shall include direct ownership of such stock. No Commissioner may accept gratuities or any other thing of value from any Licensee or Applicant. Commissioners may not gamble in any Gaming Establishment.

31.11.12 Commission Offices. The Commission shall maintain an office in a location established by the Council. Such office shall serve as the Commission's main business office and shall be the site at which Commission records and documents are maintained and stored on a permanent basis. No individual except a Commissioner, or other authorized employee or agent of the Commission may possess a key to or may enter any Commission office without the permission of the Commission. No person may access such records except a Commissioner, a person duly authorized by the Commission, a Commissioner, or an attorney for the Commission.

31.11.13 Commission Record-Keeping. The Commission shall maintain complete records regarding the following:

(a) Applications, financial statements, fingerprints, contracts, Licenses, suspension and cancellation notices, and correspondences of all Applicants, including Management Entities or Controlling Shareholders, Key Employees, Primary Management Officials, Gaming Establishments and Gaming Device Suppliers;

(b) Commission Licenses;

(c) Meeting minutes from all Commission meetings;

(d) Compact compliance;

(e) Reports relating to customer disputes, complaints, or other issues that affect the integrity of the Gaming Operation;

(f) Commission budget and expenditures;

(g) Council communications and correspondences;

(h) Gaming Device list pursuant to Section 31.24 of this Code; and

(i) Any other records or documents the Commission deems necessary or appropriate.

31.11.14 Confidentiality. The Commission shall preserve as confidential all information provided by Applicants and Licensees, provided that the Commission may, in its discretion, advise the NIGC, or the authorized representatives of any federally recognized Indian tribe regarding the denial, revocation, or withdrawal of any Application or License, or of any disciplinary action taken regarding any License or Licensee.

31.11.15 Reports. The Commission shall make quarterly reports to the Council within thirty (30) days after the end of each quarter. Such Reports shall contain the following information:

(a) number and types of Licenses issued during the previous year;

(b) information regarding License denials, suspensions, or revocations;

(c) report of any events of non-compliance, breach, or violations of this Code, the Rules, the Compact, IGRA, License or any other law or regulation; provided, however, that these reports are not the subject of or relating to a pending investigation of the Commission or hearing before the Commission;

(d) a report of Commission expenditures for the prior 30-day period;

(e) a summary of any Commission travel and training;

(f) the number of and purpose for any special Commission meeting(s); and

(g) all other information which the Commission deems relevant in order to keep the Council informed and current on all Gaming regulatory matters.

Nothing in this Section shall authorize or permit the Commission to provide the Council with any information pertaining to a pending investigation of the Commission, or hearing before

the Commission. The Commission may find that any willful or negligent breach of this provision presents due cause for removal of the person from office or employment.

31.11.16 Tribal Court. The Tribal Court shall have the authority to impose civil penalties of up to $500.00 (five hundred dollars) for each violation. Claims of such disclosure may be presented by the Commission or the Licensee or Applicant affected, provided that any such claim shall be presented to the Tribal Court within 60 days of the act complained of, or within 60 days the disclosure becomes known, whichever is later.

31.11.17 Budget. The Commission shall establish a budget for its operations, including, but not limited to, acquisition of such furnishings, equipment, supplies, stationery, books, and other items as it deems necessary or desirable to carry out its functions, and incur such other expenses, within the limit of funds available to it, as it deems necessary. Such Commission budget shall be subject to approval by the Council and, once approved by the Council, shall be funded from the Tribe's general revenues. Within the limits of its Council approved budget, the Commission shall employ and fix the salaries of, or contract for the services of, such professional, technical and operational personnel and consultants as the execution of the Commission's duties may require. The Commission budget may, at the Council's discretion, be reviewed and modified by the Council every four (4) months. Any surplus remaining in the Commission's budget at the end of any budget year shall be refunded to the Council.

31.11.18 Promulgation of Gaming Rules. The Commission may promulgate Rules governing the conduct of all games authorized by the Compact or IGRA, including Rules governing all equipment, (e.g. lottery terminals, computers computer programs, chips, cards, pull tabs, pull tab dispensers), used in such games. The Rules of each authorized game offered shall be posted in a conspicuous location in every licensed Gaming Establishment.

31.12 Audit

(A) The Chief Fiscal Officer for the Hoopa Valley Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.

(B) All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of $5,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection (A), above.

31.13 Protection of the Environment and Public Health and Safety. All Gaming Establishments shall be constructed, maintained, and operated in a manner that adequately protects the environment and the public health and safety.

31.14 Gaming License Required. The Tribe, through the Hoopa Valley Tribal Gaming Commission, shall ensure that the policies and procedures set out in this section are implemented

with respect to all employees and primary management officials employed at any gaming enterprise operated on Indian lands. The Commission is hereby authorized to issue all Licenses for the conduct of all Gaming authorized under this Code or any other License related to Gaming which the Commission may by Rule require.

31.14.1 Gaming Establishments. Each place, facility, or location where Gaming is conducted must obtain a separate License from the Commission.

31.14.2 Gaming Resource Supplier. Any Gaming Resource Supplier who, directly or indirectly, provides, has provided, or is deemed likely to provide at least $25,000 in Gaming Resources in any 12-month period shall be licensed by the Commission prior to the sale, lease, or distribution of any such Gaming Resources to or in connection with the Gaming Operation. These licenses shall be reviewed at least every two years for continuing compliance.

31.14.3 Financial Sources. Any person extending financing, directly or indirectly, to the Tribe's Gaming Operation shall be licensed by the Commission prior to extending that financing. These licenses shall be reviewed at least every two years for continuing compliance. However, the Commission, at its discretion, may exclude from the licensing requirements of this Section, financing provided by a federally regulated or state-regulated bank, savings and loan, or other federally or state-regulated lending institution; or any agency of the federal, state or local government; or any investor who, alone or in conjunction with others, holds less than 10% of any outstanding indebtedness evidenced by bonds issued by the Tribe.

31.15 Standard for License. Licenses issued hereunder shall be issued according to requirements at least as stringent as those set forth at 25 C.F.R parts 556 and 558, and any amendments thereto, and also according to requirements at least as stringent as those set forth in the Compact.

31.16 Application for License.

31.16.1 No License shall be issued under this Code 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:

(A) satisfactory proof that the Applicant is of good character and reputation, and is financially responsible;

(B) if applicable, a complete description of the premises at which Gaming will be conducted;

(C) agreement by the Applicant to abide by all conditions of the License, this Code, the Rules, the Compact, and IGRA;

(D) a separately sworn statement that the Applicant has never been convicted of, or entered a plea of guilty or no contest to, any of the following criminal offenses:

(1) any felony, other than a felony conviction for an offense under (2), (3), or (4), within the preceding ten (10) years; provided, however, that this record limitation to the preceding ten (10) years shall not apply to any Applicant which is a Management Entity or Controlling Shareholder,

(2) any gaming-related offense,

(3) fraud or misrepresentation in any context, or

(4) a violation of any provision of this Code, the Rules, or any other Code or rules of the Tribe or any state agency regulating or prohibiting gaming; and

(E) the Applicant's fulfillment of all applicable requirements of IGRA, all provisions of this Code, and the Compact.

31.16.2 No License shall be issued to any Applicant who is determined by the Commission to be a Person whose prior activities, criminal record, 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.

31.16.3 The issuance of Licenses shall also be subject to the provisions of Section 31.28 of this Code regarding background investigations.

31.16.4 The following notices shall be placed on the application form for a Key Employee, Management Entity, Primary Management Official, or Gaming Device Supplier before an Applicant completes such form:

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

relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming License, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a Primary Management Official or Key Employee position.

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

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

31.17 Required Application Forms.

31.17.1 Each individual applying for a License, whether as a Primary Management Official or Key Employee, and any person who is subject to a background investigation in connection with an entity application for a License, shall be required to complete the following forms:

(A) Application for Gaming License by Individual, if applicable;

(B) Personal History Record, with attached Personal Financial Questionnaire, including Statement of Assets and Statement of Liabilities;

(C) Two Complete Fingerprint Cards;

(D) Request to Release Information - Individual; and

(E) Release of All Claims - Individual.

31.17.2 Each individual in subsection (a) of this Section applying for a License renewal shall supplement the Personal History Record and shall also be required to complete the following forms:

(A) Application for Gaming License by Individual, if applicable;

(B) Request to Release Information - Individual; and

(C) Release of All claims -Individual.

31.17.3 Each entity, including a Management Entity and Gaming Device Supplier, applying for a License must complete the following forms:

(A) Application for Gaming License by Entity;

(B) Request to Release Information - Entity; and

(C) Release of All Claims - Entity.

31.17.4 The Commission may request any additional forms or information from an Applicant as it deems necessary or appropriate.

31.17.5 Pursuant to the Compact, upon request of the State of California, the Commission shall forward the Applicant's Personal History Record and all background information compiled by the Commission to the State.

31.18 Fingerprint Cards Required. All Applicants for a License are required to submit fingerprint cards. The Hoopa Tribal Police Department is hereby identified as the law enforcement agency with law enforcement authority to take fingerprints. Pursuant to 25 C.F.R. § 522.2(h), the Commission shall forward an Applicant's fingerprint card to the Federal Bureau of Investigation National Criminal Information Center. The Commission may submit an Applicant's fingerprint card to any additional Tribal, local, or state criminal history check system or center as the Commission deems necessary or appropriate. Reports obtained from such fingerprint processing shall be incorporated into the Applicant's personnel file.

31.19 Withdrawal of Application. An Application may not be withdrawn without the permission of the Commission. An Applicant may request to withdraw an Application by submitting to the Commission a written request for withdrawal. The Commission shall retain the right, in its sole discretion, to grant or deny a request for withdrawal.

31.20 Continuing Duty to Provide Information. Applicants and Licensees shall have a continuing duty to provide any materials, assistance, or other information required by the Commission, and to fully cooperate in any investigation conducted by or on behalf of the Commission. If any information provided on the Application changes or becomes inaccurate in any way, the Applicant or Licensee shall promptly notify the Commission of such changes or inaccuracies.

31.21 Term of License; License Fees; Parameters of License.

(a) Licenses, except Provisional Licenses, shall be for a term of one year, and shall expire on the anniversary of the effective date of such License(s).

(b) In order for the Tribe to recover the costs of complying with federal, Tribal, and state regulatory processes applicable to Class II Gaming and Class III

Gaming, the costs for maintaining the Commission shall, to the maximum extent practical, be supported by fees paid by Applicants and Licensees. Application and License fees shall be required:

(1) in accordance with a fee schedule to be established by the Commission, annually from each party, other than the Tribe, to a Management Contract;

(2) in accordance with a fee schedule to be established by the Commission from any Person(s) required to obtain a License;

(3) in addition to the License fees imposed pursuant to subsection (b)(1) and (2) of this Section, the Commission may impose such fees on Applicants and Licensees as are reasonably related to costs of enforcement, including investigations and proceedings before the Commission, and which will in the aggregate be sufficient to enable the Tribe and the Commission to recover its reasonable costs of enforcing this Code. Such costs may be estimated by the Commission and imposed prior to a final Commission action regarding a particular Licensee or Applicant. If the sum collected exceeds the actual costs of the matter, the excess shall be returned to the Applicant or Licensee.

(c) Violations of any provision of this Code or the Rules, or relevant License provision(s), by a Licensee shall be deemed contrary to the public health, safety, morals, good order, and general welfare of the Tribe and the inhabitants of the Reservation, and shall be deemed grounds for refusing to grant or renew a License, suspension, or revocation of a License. Acceptance of a License, or renewal thereof by a Licensee, constitutes an agreement on the part of the Licensee to be bound by the provisions of this Code and the Rules as they are now, or as they may hereafter be amended or restated, and to cooperate fully with the Commission. It is the responsibility of the Licensee to remain informed of the contents of this Code, the Rules and all other applicable regulations, amendments, provisions, and conditions.

31.22 Conditions of License. All Licensees shall comply with such reasonable conditions as may be fixed by the Commission, including but not limited to the following conditions:

(a) Facility Licensees:

(1) the Licensee shall at all times maintain an orderly, clean, and neat Gaming Establishment, both inside and outside the premises of the Gaming Establishment;

(2) the Gaming Establishment shall be subject to patrol by the Tribe's security and law enforcement personnel and, when authorized, local and state law enforcement, and the Licensee shall cooperate at all times with such security and law enforcement officials;

(3) the Gaming Establishment shall be open to inspection by authorized Tribal officials at all times during business hours;

(4) there shall be no discrimination in any Gaming Operations by reason of race, color, sex, or creed; provided, however, that nothing herein shall prevent the Licensee from granting preferences to Indians as permitted by law; and

(b) Persons, Management Entities, and Gaming Device Suppliers licensed by the Commission shall comply with such conditions of the License as the Commission, in its reasonable discretion, may require.

31.23 Facility License. The Commission may issue an annual Facility License to a Gaming Establishment, if the Gaming Establishment:

(a) is a sound physical structure with adequate and safe plumbing, electrical, heating, cooling, and ventilation systems in place and operational;

(b) has been inspected and approved for safety by a building and fire inspector designated by the Commission;

(c) is adequate in all respects to accommodate the Gaming intended to be carried out within the structure;

(d) is equipped with security and surveillance equipment meeting or exceeding provisions set forth in the Tribal-State Compact and the Code;

(e) meets all requirements of applicable federal, Tribal and state law; and

(f) has paid all applicable License fees and costs.

31.24 Certification of Gaming Devices. All Gaming Devices purchased, leased, or otherwise acquired by the Tribe must meet the technical equipment standards of the Compact, if any. The Commission shall maintain a complete list of all Gaming Devices (whether or not such devices are in use) located at any Gaming Establishment.

31.25 Provisional License. The Commission may issue Provisional Licenses pending the satisfactory completion of all background investigations and other requirements of this Code, IGRA, or the Compact, and, if applicable, pending expiration of the thirty (30) day NIGC review

period provided for at 25 C.F.R part 558. If such background investigations are not satisfactorily completed, a Provisional License shall have no further force or effect. In no event shall a Provisional License be valid for greater than ninety (90) days.

31.26 Provisional Employment Pending Issuance of License and During Temporary License Period. As provided in Section 31.25, Primary Management Officials and Key Employees may be employed in Gaming Operations prior to the issuance of a License hereunder and during the period that a License shall be effective on a provisional basis, but such employment shall be provisional only and subject to the requirements of this Section. Employment may begin prior to issuance of a License only if the Commission, or such other Tribal agency or official as may be authorized by the Council, has made a preliminary finding of eligibility for employment in Gaming Operations, which shall require a preliminary determination that the Primary Management Official or Key Employee in question is not a person whose prior activities, criminal record 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. Provisional employment shall be terminated upon the occurrence of any of the following:

(a) denial of a relevant License by the Commission;

(b) unsatisfactory completion of a background investigation or NIGC review resulting in nullification of a provisional License, as described in Section 5.10; or

(c) to the extent required under 25 C.F.R part 558 and, at the end of thirty (30) days after the starting date of provisional employment, if at the end of such period no License has been issued hereunder or if a License issued hereunder remains effective only on a provisional basis, as provided in Section 31.25; provided, however, that provisional employees terminated for the reason described in this subsection shall be qualified for reemployment upon the satisfactory completion of background investigations and NIGC reviews.

31.27 Assignment or Transfer. No License issued under this Code may be assigned or transferred unless the proposed assignee or transferee would independently be qualified to hold the License proposed to be assigned or transferred and the Commission approves of such assignment or transfer.

31.28 Required Background Investigations. The Commission, or its designated agent under the supervision and direction of the Commission, shall conduct background investigations on all Persons specified in Section 31.14 of this Code.

31.28.1 Standards for Background Investigations. All background investigations shall be conducted to ensure that Gaming Operations shall not employ or contract with persons whose prior activities, or reputation, habits and associations pose a threat to the public interest or to the

effective regulation of Gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of such Gaming. Such investigations shall be conducted according to requirements at least as stringent as those set forth at 25 C.F.R. parts 556 and 558, the Compact, and this Chapter 5. Background investigations shall be conducted in a manner which takes all reasonable steps to ensure the confidentiality of the information generated by the investigation as well as that submitted by the Applicants. Any willful or careless breach of this requirement may result in penalties as provided by Section 31.11.16 of this Code. Both the Commission and the Tribal Court shall have jurisdiction to hear and decide upon any such claims, but the jurisdiction of the Tribal Court shall be limited to those matters which have first been decided by the Commission, or which involve charges against a Commissioner, which cases shall not be within the jurisdiction of the Commission.

31.28.2 Information Required for Background Investigations.

31.28.2.1 Each Person subject to a background investigation under Section 31.14 of this Code shall be required to provide, subject to the Privacy Act of 1974, at a minimum, and in such form as designated in Section 31.16.4, or as may be prescribed by the Commission, all of the following information:

(a) full name, other names used, social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

(b) currently and for the previous 10 years, all business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;

(c) the names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the Applicant during each period of residence listed under subsection (d) of this Section;

(d) the address(es) for each residence during the last ten (10) years;

(e) current business and residence telephone numbers;

(f) a description of any existing and previous business relationships with any Native American Indian tribe, including but not limited to a description of the amount and type of ownership interest in those businesses;

(g) a description of any existing and previous business relationships with gaming, including but not limited to a

description of the amount and type of ownership interest in those businesses;

(h) 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 any gaming or gambling, whether or not such license or permit was granted;

(i) for each felony for which there is an ongoing prosecution or conviction, the charge, the name and address of the court involved, and the date and disposition, if any;

(j) 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;

(k) 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 paragraph 31.28.2.1(i) or (j) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

(l) The name and address of a 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;

(m) a photograph;

(n) any other information the Commission deems relevant; and

(o) fingerprints consistent with the provisions of Section 31.18.

31.28.2.2 Background investigations conducted by the Commission must be sufficient to make the determination described in Section 31.15. In conducting a background investigation, the Commission or its agents, shall make every reasonable effort to maintain the confidentiality of the identity of each Person interviewed in the course of the investigation. Willful or careless violations of this requirement are subject to penalties as provided by this Code.

31.28.3 Issuance of License. The Commission may, subject to the requirements of Section 31.15, issue a License only after it has determined that the following minimum requirements have been met:

(a) the Applicant has fully completed all required Application forms and has provided the Commission with all other information that the Commission has requested;

(b) the Applicant meets all of the licensing requirements of this Code;

(c) the Applicant meets all of the licensing requirements and criteria contained in the Compact;

(d) the Commission has reviewed the Applicant's criminal history record and deems the Applicant's criminal history to be satisfactory to hold a License; and

(e) all applicable License fees and costs have been paid.

The Commission shall not issue a license to any Applicant who is determined by the Commission to be a Person whose prior activities, criminal record, 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.

31.28.4 Denial of a License Application. The Commission, may deny an Applicant a License only after it has determined that the minimum requirements contained in Section 31.28.3 have not been met by the Applicant or the Applicant's Application, or if the Commission determines that the Applicant is a Person whose prior activities, criminal record, 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.

31.28.5 Cancellation or Suspension. Licensees and Applicants shall be legally responsible for any violation of this Code, any relevant License provisions, the Rules, the Compact or IGRA. Any License issued hereunder may be canceled, limited, revoked, suspended, terminated or modified by the Commission for the breach of any of the provisions of the License, this Code, or Rules. In addition:

(a) unless otherwise stated in this Code or the Rules, a Licensee's spokesperson has the right to be present and to participate in the hearing

concerning the cancellation, limitation, revocation, suspension, termination or modification of a License;

(b) a License may be summarily suspended, without a prior hearing; and

(c) all decisions of the Commission regarding the cancellation, limitation, revocation, suspension, termination or modification of Licenses shall be final, unless appealed as provided in Section 31.24 of this Code. No Gaming shall be conducted by the Licensee after cancellation, even during the pendency of an appeal.

31.28.6 Eligibility Determination and Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

(a) The Commission shall review an Applicant's prior activities, criminal record, reputation, habits and associations to make a finding concerning the eligibility of a Key Employee or Primary Management Official for employment in a Gaming Operation. If the Commission determines that employment of the Person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming, the Gaming Operation shall not employ that Person.

(b) When a Key Employee or Primary Management Official commences work at a Gaming Operation, the Gaming Commission shall within a reasonable period of time forward to the NIGC a completed application for employment for such Key Employee or Primary Management Official, and shall conduct all necessary background investigations. The Commission shall make the eligibility determination referred to in subsection (a) of this Section.

(c) A report shall be submitted to the NIGC within sixty (60) days after a Key Employee or Primary Management Official commences work at a Gaming Operation or within sixty (60) days of the approval of this Code by the Chairman. Such report shall, at a minimum, include all of the following:

(1) steps taken in conducting the background investigation;

(2) results obtained;

(3) conclusions reached by the Commission;

(4) the Commission's basis for those conclusions; and

(5) a copy of the eligibility determination made pursuant to Section 31.28.6(s).

(d) No Gaming Operation shall continue to employ as a Key Employee or Primary Management Official any Person who does not have a License within ninety (90) days of commencing work at a Gaming Operation.

(e) If a License is not issued to an Applicant, the Commission:

(1) shall notify the NIGC; and

(2) may forward copies of its eligibility determination and any relevant report regarding a background investigation of the Applicant to the NIGC for inclusion in the Indian Gaming Individuals Records System.

(a) With respect to Key Employees and Primary Management Officials, applications for employment and reports of background investigations shall be retained by the Gaming Commission for inspection by the Chairman or his designee for no less than three (3) years from the date of termination of employment of each Key Employee or Primary Management Official.

31.28.9 Granting a Gaming License.

(a) If, within a thirty (30) day period after the NIGC receives all required Applications and reports, the NIGC notifies the Tribe that it has no objection to the issuance of a License pursuant to a License Application filed by a Key Employee or a Primary Management Official, the Commission may issue a License to such Applicant.

(b) The Commission shall respond in a timely manner to requests for additional information from the Chairman concerning Key Employees or Primary Management Officials who are the subject of any report filed with the NIGC by the Commission. Any such request by the Chairman shall suspend the thirty (30) day period referred to in this Section until the Chairman receives the additional information requested.

(c) If, within a thirty (30) day period after the NIGC receives all required applications and reports, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a License to a Key Employee or to a Primary Management Official for whom the Commission has submitted an application and all required reports to the NIGC, the Commission shall

reconsider the application, taking into account the itemized by the objections of the NIGC. The Commission shall make the final decision whether to issue a License to such Applicant.

31.28.10 License Revocation and Suspension Following Receipt of Information from NIGC.

(a) If, after the issuance of a License, the Tribe receives information from the NIGC indicating that a Management Entity or Controlling Shareholder, Key Employee, or Primary Management Official is not eligible for employment, the Commission shall suspend such License, shall notify the Licensee in writing of such suspension and the potential revocation of the Licensee's License, and shall conduct a hearing in accordance with the Rules regarding the proposed License revocation.

(b) After a hearing, the Commission shall revoke or reinstate a License suspended pursuant to subsection (a) of this Section. The Commission shall notify the NIGC of its decision. A decision of the Commission to revoke a License after the hearing called for by subsection (a) of this Section shall be final and there shall be no appeal. A Management Entity whose License has been revoked or suspended pursuant to this Section may not operate a Gaming Operation.

31.28.11 Nothing herein shall create a property interest in the issuance or retention of a license provided for this Code.

31.28.12 Failure of an employee or primary management official to obtain or maintain a gaming license shall be grounds for immediate termination. Nothing herein shall grant or otherwise create any property interest in employment or continued employment at any gaming facility on Indian lands.

31.29 Scope of Rules of Procedure. All License hearings, enforcement hearings, and exclusion hearings conducted pursuant to this Code shall be governed by this Chapter.

31.29.1 Hearings.

(a) The Commission shall afford an Applicant an opportunity for a hearing prior to any final action by the Commission on an Application, other than an unconditional grant of a License.

(b) The Commission shall afford a Licensee the opportunity for a hearing prior to taking final action resulting in the revocation of the License or the imposition of any penalties which the Commission is authorized to impose pursuant to these Rules and the Code.

(c) Nothing in this Section shall limit the Commission's authority to summarily suspend or revoke a License without a hearing pursuant to Section 31.28.5(b) of this Code.

31.29.2 Notice of Hearing.

(a) The Commission shall post notice of any hearing in a prominent, noticeable place in the Tribe's Executive Office at least seven (7) days prior to the hearing. The day the notice is posted shall be considered a full day's notice under this Section. The notice shall state the date, time and place of the hearing.

(b) The Commission shall also provide written notice to the Applicant or Licensee of the hearing at least seven (7) days prior to the date set for the hearing. The day the Applicant or Licensee receives the notice shall be considered a full day's notice under this Section. The notice shall be sent by registered or certified mail, or may be personally served upon the Applicant or Licensee. The notice shall state the date, time and place of the hearing. The notice shall also contain an indication of the action(s) being considered by the Commission, including, but not limited to:

(1) whether the Commission is holding the hearing for the purpose of obtaining further information from the Applicant;

(2) whether the Commission will be considering the grant or denial of the License Application;

(3) whether the Commission will be examining any alleged violations of the Code, the Compact, the IGRA, the conditions of any License issued by the Commission, any order by the Commission, or any other applicable laws, regulations or agreements; or

(4) whether any other sanctions or penalties will be considered.

The notice shall also contain a short, plain statement of the reasons the Commission determines the hearing is necessary.

31.29.3 Ex Parte Communications.

(a) No ex parte communication relative to the action(s) being considered by the Commission, or a threat or offer of reward shall be made, before a

decision is rendered, to any member of the Commission by or on behalf of the Applicant or Licensee, or any legal representative or counsel of the Applicant or Licensee.

(b) Nothing in this Section shall prohibit the Applicant, Licensee or its authorized agent from communicating with the Commission's legal counsel, its investigators or other authorized agents.

(c) Any member of the Commission who receives an ex parte communication shall immediately report such communication to the Commission's legal counsel.

(d) For purposes of this Section only, the action(s) being considered by the Commission shall be those matters identified in the written notice as provided in Section 31.29.2(b) of this Code, as well as any other matters that are actually considered by the Commission during a hearing. All matters identified in the written notice shall be subject to the prohibition against ex parte communications. All matters not identified in the written notice that are considered by the Commission during a hearing become subject to the prohibition against ex parte communications as soon as they are discussed during the hearing.

(e) The Commission shall have the power to impose any sanction pursuant to this Chapter upon its determination that an Applicant or Licensee has made an ex parte communication in violation of this Section.

31.29.4 Appearance through Spokesperson.

(a) Parties to all hearings governed by this Chapter may appear personally or through a spokesperson admitted to the Hoopa Valley Tribal Court Bar. Each party is responsible for the cost and expense of their respective spokesperson and in no event shall the Tribe bear responsibility for the fees or costs of a Licensee's or Applicant's spokesperson.

(b) When a party has appeared through a spokesperson, service of all notices, motions, orders, decisions and other papers shall thereafter be made upon the spokesperson, unless the party requests otherwise in writing.

(c) When a party is represented by a spokesperson, the spokesperson shall sign all motions, notices, requests, and other papers on behalf of the party, including a request for subpoena.

31.29.5 Discovery Procedures for Enforcement Hearings.

(a) No later than five work days prior to the hearing, each party shall submit in writing to the Commission and to the other party, a list of witnesses each intends to call on its behalf. Each witness shall be identified by name, if known, position, and business address. If no business address is available, a home address for the witness shall be provided. Any witness not identified in accordance with this Section may be prohibited from testifying at a hearing in the Commission's discretion.

(b) No later than five work days prior to the hearing, each party shall submit in writing to the Commission and the other party, a list of relevant documents and each document it intends to introduced during the hearing.

(c) Any party to the hearing may call and examine witnesses. The Commission shall exercise its discretion to limit the testimony of witnesses where that testimony is argumentative or repetitive.

(d) The Commission shall have the authority to eject from the hearings any person who is disruptive, disorderly, or who shows a lack of proper respect for the Commission or the nature of the proceedings.

(e) Any member of the Commission may ask questions of witnesses, and may request or allow additional evidence at any time.

(f) Any party to the hearing may conduct cross-examinations reasonably required for a full and true disclosure of the facts.

(g) All hearings held under this Code shall be held in executive session.

(h) The Commission shall have the initial burden of proof and shall present its case first.

31.29.6 Evidence

(a) In hearings governed by this Code, the Commission shall not be bound by technical rules relating to evidence and witnesses. The Commission shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant or unduly repetitious testimony. The Commission shall give effect to the rules of privilege unless such privilege is waived. Basic principles of relevancy, materiality and probative force shall govern the proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

(b) All evidence, including records and documents in the possession of the Commission or which the Commission desires to avail itself, shall be duly offered and made a part of the record in the case. Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.

(c) The Commission may take official notice of any generally recognized fact or any established technical or scientific fact; but parties shall be notified either before or during the hearing or by full reference in preliminary reports or otherwise, of the facts so noticed, and they shall be afforded an opportunity to contest the validity of the official notice.

(d) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy to the original.

(e) The record in a hearing governed by these Rules shall include:

(1) All Applications, intermediate rulings and exhibits and appendices thereto.

(2) Evidence received or considered, stipulations and admissions.

(3) A statement of matters officially noticed.

(4) Questions and offers of proof, objections, and rulings thereon.

(5) Any decision, opinion, findings or report by the Commission.

(6) The transcript prepared by a duly certified court reporter.

31.29.7 Determination(s) by the Commission.

(a) The Commission shall make all determinations of issues before it by a majority vote of at least a quorum of the Commission.

(b) All determinations made by the Commission involving the grant, denial, cancellation or revocation of a License, a finding of a violation of this Code, the Rules, the Compact, IGRA, the conditions of any License issued

by the Commission, any order by the Commission, or any other applicable laws, regulations or agreements, and the imposition of any sanctions or penalties shall be made in writing.

(c) A copy of the determination made pursuant to Section 31.29.7(b) of this Code shall be served upon the Applicant or Licensee by registered or certified mail, or may be served personally.

31.30 Right of Appeal; Appeals Procedures. A Person directly affected by any finding of the Commission pursuant to Section 31.29 of this Code, or any licensing decision of the Commission under this Code, shall have the right to appeal such finding to the Tribal Court. Any such appeal must be filed with the Tribal Court in writing on or before the tenth (10th) day following receipt by such affected Person of the written finding of the Commission.

31.31 Minimum Procedures for Control of Internal Fiscal Affairs. The Commission shall promulgate Rules governing the control of internal fiscal affairs of all Gaming Operations. At a minimum, such Rules shall require the consistent application of Generally Accepted Accounting Principles, and shall:

(a) prescribe minimum procedures for the safeguarding of a Gaming Operation's assets and revenues, including recording of cash and evidence of indebtedness, and mandatory count procedures. Such Rules shall establish a controlled environment, accounting system, and control procedures that safeguard the assets of the Gaming Operation, assure that operating transactions are properly recorded, promote operational efficiency, and encourage adherence to prescribed policies;

(b) prescribe minimum reporting requirements to the Commission;

(c) provide for the adoption and use of internal audits conducted in accordance with generally accepted accounting principles by internal auditors licensed or certified to practice public accounting in the State of California;

(d) formulate a uniform code of accounts and accounting classifications to assure the consistency, comparability and effective disclosure of financial information. Such a code shall require that records be retained that reflect statistical drop (amount of cash wagered by Patrons), statistical win (amount of cash won by the Gaming Operation), and the percentage of statistical win to statistical drop, or provide similar information for each type of game in each Gaming Operation;

(e) prescribe the intervals at which such information shall be furnished;

(f) provide for the maintenance of documentation, (i.e., checklists, programs, reports, etc.), to evidence all internal work performed as it relates to the requirements of this Section; and

(g) provide that all financial statements and documentation referred to in this Section be maintained for a minimum of five (5) years.

31.31.1 Oversight of Internal Fiscal Affairs. The Commission shall require independent audits of the financial statements of all Gaming Operations. Such independent audits must apply and require the consistent application of Generally Accepted Accounting Principles, and shall:

(a) be conducted by independent accountants, knowledgeable in casino audits and operations and licensed or certified to practice public accounting in the State of California;

(b) include an opinion, qualified or unqualified, or if appropriate, disclaim an opinion on the financial statements taken as a whole in accordance with standards of the accounting profession established by rules and regulations of the California State Council of Accountancy and the American Institute of Certified Public Accountants;

(c) disclose whether the accounts, records and control procedures maintained by the Gaming Operation conform with this Code and the Rules; and

(d) provide a review of the internal financial controls of the audited Gaming Operation to disclose any deviation from the requirements of this Code and the Rules and report such findings to the Commission and the management of the audited Gaming Operations; and

(e) provide such other information as the Commission deems necessary or appropriate.

31.31.2 Non-Compliance. Failure to comply with any of the requirements of this Chapter, or the Rules promulgated hereunder may be found to constitute a violation of this Code.

31.32 Prohibition Against Certain Individuals. It shall be a violation of this Code for any Licensee to knowingly fail to exclude or eject from a Gaming Establishment any individual who:

(a) is visibly under the influence of liquor, a drug or other intoxicating substance;

(b) is under the age of eighteen years;

(c) is displaying disorderly conduct;

(d) is a known felon;

(e) is known to have a reputation for cheating or manipulation of games; or

(f) has been personally excluded, or is a member of any group or type of persons which has been excluded, for cause from Gaming Establishments by a resolution of the Commission.

31.32.1 Right to Exclude or Remove. If the Commission deems it in the best interest of the Tribe, the Commission may exclude or remove any persons from the premises of any Gaming Operation. Any person so excluded shall be entitled to a hearing as provided for by Section 31.28 and shall have the rights provided to an "applicant" therein. The Manager of any Gaming Operation shall also have the authority to exclude or remove any person from the Gaming Establishment, and all such actions shall be reported to the Commission within 24 hours; the Commission may then ratify, reverse or condition the decision of the Manager.

31.33 Prohibited Acts. In addition to other civil and criminal acts that may be regulated or prohibited by this Code, the Compact, other Tribal law or applicable federal law, the following shall constitute prohibited activities and unauthorized Gaming under this Code and shall subject any perpetrator to Commission action, including, but not limited to, the imposition of civil penalties, referral to appropriate law enforcement authorities for criminal proceedings, and License suspension or revocation:

(a) altering or misrepresenting the outcome of Gaming or other event on which wagers have been made after the outcome of such Gaming or event has been determined but before such outcome is revealed to the players;

(b) placing or increasing a bet or wager after acquiring knowledge of the outcome of the Gaming or event which is the subject of the bet or wager, including past-posting and pressing bets;

(c) aiding anyone in acquiring such knowledge referred to in subsection (b) of this Section for the purposes of increasing or decreasing any bet or wager, or for the purpose of determining the course of play;

(d) claiming, collecting or taking, or attempting to claim, collect or take, money or anything of value in or from a game with intent to defraud or claiming, collecting or taking an amount greater than the amount actually won in such game;

(e) knowingly to entice or induce another to go to any place where Gaming is conducted or operated in violation of the provisions of this Code, with the intent that the other person play or participate in such Gaming;

(f) reducing the amount wagered or canceling a wager after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets;

(g) manipulating, with intent to cheat or defraud, any component or part of a game in a manner contrary to the designed and normal operational purpose for such component or part, with knowledge that such manipulation will affect the outcome of the game, or with knowledge of any event that affects the outcome of the game;

(h) defrauding the Tribe, any Licensee or any participant in any Gaming;

(i) participating in any Gaming not authorized by this Code;

(j) knowingly providing false information or making any false statement with respect to an application for employment or for any License, certification or determination provided for in this Code;

(k) knowingly providing false or misleading information or making any false or misleading statement to the Tribe or the Commission in connection with any contract for services or property related to Gaming;

(l) knowingly making any false or misleading statement in response to any official inquiry by the Commission or its agents;

(m) offering or attempting to offer any thing of value, to a Licensee in an attempt to induce the Licensee to act or refrain from acting in a manner contrary to the official duties of the Licensee under this Code, the Rules, or IGRA;

(n) acceptance by a Licensee of any thing of value with the expectation that receipt of such thing of value is intended, or may be perceived as intended, to induce the Licensee to act or refrain from acting, in a manner contrary to the official duties of the Licensee under this Code, the Rules, or IGRA;

(o) falsifying, destroying, erasing or altering any books, computer data, records, or other information relating to a Gaming Operation;

(p) taking any action which interferes with or prevents the Commission or the Council from fulfilling its duties and responsibilities under this Code, the Rules, or IGRA; and

(q) entering into any contract, or making payment on any contract for the delivery of goods or services to a Gaming Operation, when such contract fails to provide for

or result in the delivery of goods or services of fair value for the payment made or contemplated.

31.33.1 Prohibition Against Electronic Aids. Except as specifically permitted by the Gaming Commission, no person shall possess, with the intent to use in connection with Gaming, either individually, or in concert with others, any calculator, computer, or other electronic or mechanical device to assist in projecting the outcome or odds of such Gaming, to keep track of or analyze cards, or to change probabilities of any game or the playing strategies regularly utilized in such Gaming.

31.34 National Indian Gaming Commission-Regulation. Notwithstanding any provision in this Code or the Rules, the Commission is hereby fully empowered to comply with all regulations promulgated by the NIGC, including, but not limited to, reporting requirements relating to Codes, contracts, license applications, background checks, and other information.

31.35 National Indian Gaming Commission-Assessment. Notwithstanding any provision in this Code or the Rules, the Commission is hereby fully empowered to comply with all assessments authorized by the NIGC. Such assessments shall be payable solely from funds of the Tribe derived from Gaming Operation revenues.

31.36 Compact with the State of California. Notwithstanding any provision in this Code or the Rules, the Commission is hereby fully empowered to comply with the provisions of the Compact, including, but not limited to, any licensing, approval, or monitoring requirements contained in the Compact.

31.37 Security and Surveillance. Each Gaming Establishment must provide for reasonable security within the Gaming Establishment at all times. All security personnel in a Gaming Establishment must be licensed by the Commission.

31.38 Compliance with Other Laws. The construction, maintenance and operation of any Gaming Operation shall be in a manner which protects the environment, public health and safety, and shall comply with all applicable Tribal and federal laws relating to environmental protection and public health and safety including, but not limited to, 25 C.F.R. § 522.4(b)(7).

31.38.1 All Gaming Establishments constructed after March 7, 2000, and all expansions or modifications to a Gaming Establishment after said date shall meet the building and safety codes of the Tribe and shall also comply with the federal Americans with Disabilities Act, P.L. 101-336, as amended, 42 U.S.C. § 12101 et seq.

31.39 Amendments. All provisions of this Code are subject to amendment by the Council in accordance with the Legislative Procedures Act currently in effect, or as hereafter amended. All Rules promulgated by the Commission are subject to proper revision, repeal, or amendment by the Commission. All amendments to this Code shall be effective upon the date of passage by the Council.

31.40 Severability. If any provision any of this Code, or any portion of any provision to this Code, is found to be invalid by any court of competent jurisdiction, the full remainder of such provision(s) shall not be affected.

31.41 Words and Terms. Tense, number, and gender. In interpreting the provisions of this Code, save when otherwise plainly declared or clearly apparent from the context:

(a) words in the present tense shall include the future tense;

(b) words in masculine, feminine, and neuter genders shall include all genders; and

(c) words in the singular shall include the plural, and words in the plural shall include the singular.

31.42 Repeal. To the extent that they are inconsistent with this Code, all prior gaming laws, rules, Codes, or regulations of the Tribe are hereby repealed.

31.43 Unclaimed Winnings.

(a) Any winnings, whether property or cash, which are due and payable to a participant in any Gaming Activity, and which remain unclaimed at the end of a Gaming session, shall be held in safekeeping for the benefit of such participant if his or her identity is known. Such winnings shall be held for twelve months or such longer period as the Commission deems reasonable in consideration of all relevant facts and circumstances. The Commission shall make such efforts as are reasonable under the circumstances to locate such participant. At the end of the safekeeping period, such winnings shall revert to the ownership of the Tribe and shall be transferred to the account or place designated by the Council.

(b) In the event the identity of a participant entitled to unclaimed winnings is unknown, the Commission shall use its best efforts to learn the identity of such individual and shall follow the procedure set forth in Section 31.44 if the Commission is able to identify such individual with reasonable certainty; provided, however, if after six months from the time the winnings were payable, the Commission has been unable to identify the individual entitled thereto, such winnings shall revert to the ownership of the Tribe.

31.44 Patron Disputes. Any Person who has any dispute, disagreement or other grievance with the Gaming Operation that involves currency, tokens, coins, or any other thing of value, may seek resolution of such dispute from the following persons and in the following order: (a) a member of the staff relevant of the Gaming Operation, (b) the supervisor in the area of the relevant Gaming Operation in which the dispute arose, (c) the manager of the relevant Gaming Operation, and (d) the Commission.

31.45 Patron Rights Regarding Disputes. When a Person brings a dispute for resolution pursuant to Section 31.46, the complainant has the right to explain his or her side of the dispute, and to present witnesses in connection with any factual allegations. At each level, if the dispute remains unresolved, the complainant shall be informed of the right to take the dispute to the next higher level as set forth in Section 31.46. Resolution of any dispute by the personnel of a Gaming Operation shall always involve two or more staff members. All disputes, whether resolved or not, shall be reported in detail by the staff persons involved to their supervisor, or, in the case of the general manager of the Gaming Operation, to the Commission.

31.46 Gaming Commission Action on Patron Disputes. All disputes which are submitted to the Gaming Commission shall be decided by the Commission based on information provided by the complainant, including any witnesses for, or documents provided by or for, the complainant, and upon any information submitted on behalf of the Gaming Operation. The decision of the Commission shall be in writing, shall be issued within fourteen (14) days of submission of the matter to the Commission, and shall be provided to the general manager of the Gaming Operation and to the complainant.

31.47 Agent for Service of Process. The Council Chairman shall be designated agent for service of process for the Hoopa Valley Tribe. The Council Chairman shall promptly report any such service to the Commission and the Office of Tribal Attorney, and shall promptly provide the Commission with a copy of any complaints or other documents served.

31.48 Consent to Jurisdiction. Any person who applies for a License under this Code, applies for employment in any Gaming Establishment, enters into any contract or agreement related to Gaming, or participates in any Gaming on the Reservation, shall be deemed to consent to the civil jurisdiction of the Tribe, the Commission and the Tribal Court. Nothing in this Section shall limit the jurisdiction of the Tribe, the Commission or the Tribal Court under any circumstances not explicitly contemplated in this Code.

31.49 Sovereign Immunity. Except as provided herein, nothing in this Code shall be construed as a waiver of the sovereign immunity of the Hoopa Valley Tribe or any of its officers or entities.

31.50 Submission to Federal Agencies. Pursuant to the provisions of Article IX of the Tribal Constitution and the Indian Gaming Regulatory Act, this Ordinance shall be submitted to the Bureau of Indian Affairs and the National Indian Gaming Commission for review and approval.

[CERTIFICATION ON NEXT PAGE]

CERTIFICATION

I, the undersigned, as Chairman of the Hoopa Valley Tribal Council, do hereby certify that the Hoopa Valley Tribal Council is composed of eight members, of which six (6) were present, constituting a quorum at a Regular Meeting thereof; duly and regularly called, noticed, convened, and held this 18th day of April 2019; and that this Ordinance was duly adopted by a vote of five (5) in favor, zero (0) opposed, and zero (0) abstaining, and that said Ordinance has not been rescinded or amended in any way.

DATED THIS EIGHTEENTH DAY OF APRIL 2019.

Oscar Billings

Oscar Billings, Vice-Chairman
Hoopa Valley Tribal Council

Attest: Amber Turner

Amber Turner, Executive Secretary
Hoopa Valley Tribal Council