



MENOMINEE INDIAN TRIBE OF WISCONSIN
CHAIRMAN'S OFFICE
P.O. Box 910
Keshena, WI 54135-0910

May 2, 2023

Bryand Newland
Assistant Secretary – Indian Affairs
U.S. Department of the Interior
1849 C Street N.W.
Washington D.C. 20240

Tammie Poitra
Regional Director
Midwest Region Regional Office
Indian Affairs
5600 American Blvd W Ste 500
Bloomington , MN 55437

Dear Assistant Secretary Newland and Regional Director Poitra:

Pursuant to Menominee Nation Resolution No. 23-31, the Menominee Indian Tribe of Wisconsin requests the Secretary of the Interior to:

1. Approve acquisition by the United States in trust for the Menominee Indian Tribe of Wisconsin pursuant to 25 U.S.C. § 5108 of the parcel of land located in the City and County of Kenosha, Wisconsin described in Menominee Nation Resolution No. 22-31 (the "Kenosha Parcel"); and
2. Make a Secretarial Determination pursuant to 25 U.S.C. § 2719(b)(1)(A) that the Tribe may engage in gaming on the Kenosha Parcel.

On August 23, 2013 the Secretary made a determination that Menominee's operation of a gaming establishment on a parcel of land located less than 1 mile from the current Kenosha Parcel would be in the best interest of the Tribe, and would not be detrimental to the surrounding community. Unfortunately, in January of 2015 the then Governor of Wisconsin failed to concur in the Secretarial finding, and Menominee was unable to move forward with development of a gaming establishment in Kenosha, Wisconsin. The Governor cited no reason for his failure to concur.

The Secretary, in making its August 23, 2013 determination stated:

"As you will see from our analysis, despite its restoration in 1973, the Menominee Tribe has never fully recovered from the devastating effects of Federal Termination in the 1950s. The Menominee Tribe is a large community with more than 8,700 members and a high poverty rate. The Menominee people are the overwhelming majority of the residents of Menominee County, which is the poorest county in the state, with the highest rate of unemployment. Poverty often means tragedy in the day to day lives of ordinary people. This fact is borne out in Menominee by the fact that it has worst health indicators of any county in the state.

We believe that the Kenosha project would help to lift some of the tribe's members out of poverty by providing jobs, not just in Kenosha, but in Northeast Wisconsin, where gaming revenues would provide governmental jobs and services for the Menominee people."


The analysis applied by the Secretary in August of 2013 is equally valid today. Menominee County remains the poorest county in the state with the highest rate of unemployment and the worst health indicators. The revenue generated from a gaming establishment on the Kenosha Parcel would provide necessary revenue to the Tribal government, which would in turn be used to create jobs and provide necessary services in Northeast Wisconsin. Enclosed with this letter are:

- A legal description of the Kenosha Parcel attached as Exhibit A to Menominee Indian Tribe of Wisconsin Resolution 22-31. The entire parcel is located within the City and County of Kenosha, Wisconsin;
- Menominee Indian Tribe of Wisconsin Resolution 22-31;
- A Trust Acquisition Packet that shows how acquisition of the Kenosha Parcel by the United States comes within the terms of 25 C.F.R. Part 151. The Trust Acquisition packet shall be supplemented with further information as it becomes available.
- A Secretarial Determination Packet meeting the requirements of 25 C.F.R. Part 292 showing why Tribal gaming on the Kenosha Parcel is in the best interest of the Menominee Indian Tribe of Wisconsin and not detrimental to the local community. The Secretarial Determination Packet shall be supplemented with further information as it becomes available.

In light of the Department's previous determination that a Menominee Casino and entertainment complex located in Kenosha, Wisconsin is in the best interest of Menominee and not detrimental to the local community, we look forward to a swift review reaching the same conclusion.

If you have any questions or concerns, please feel free to contact me at (715) 799-5100.

Sincerely,



Gena Kakkak, Chairwoman
Menominee Tribal Legislature
Menominee Indian Tribe of Wisconsin



**MENOMINEE INDIAN TRIBE OF WISCONSIN
RESOLUTION NO. 23-31**

REQUEST TO PUT LAND INTO TRUST FOR GAMING

WHEREAS, we, the Menominee people, are indigenous to what is now known as the State of Wisconsin, our place of origin was at the mouth of the Menominee River where the five clans of the Menominee were created and include the Awāēhsaeh (Bear), Kenēw (Eagle), Mahwāēw (Wolf), Mōs (Moose), and Otāēqciah (Crane), and we continue to live on our ancestral land that was granted by the Māēc-Awāētok (Great Spirit); and

WHEREAS, the Menominee Indian Tribe of Wisconsin (the "Tribe") is a federally recognized Indian Tribe as provided by the Menominee Restoration Act, Act Dec. 22, 1973, Pub. L. No. 93-197, 87 Stat. 770, formerly codified as 25 U.S.C. §§ 903 et seq.; and

WHEREAS, the Tribe, acting through its duly elected governing body, the Menominee Tribal Legislature (the "Legislature"), has powers to make and enforce laws, negotiate with Federal, State and Local governments and otherwise exercise its powers consistent with the limitations imposed by its Constitution and Bylaws; and

WHEREAS, the Tribe can conduct gaming on "Indian lands" pursuant to the terms of the Indian Gaming Regulatory Act ("IGRA") and the Gaming Compact of 1992 (as amended) between the Tribe and the State of Wisconsin; and

WHEREAS, the Tribe holds an interest in certain lands described in Exhibit "A" attached hereto and incorporated herein ("Site"); and

WHEREAS, the Tribe intends to construct and operate gaming and gaming related facilities on the Site ("the Project"); and

WHEREAS, in order for the Site to be used for gaming, it must constitute "Indian lands" under IGRA, so title to the Site must be transferred to the United States to be held in trust on behalf of the Tribe; and

WHEREAS, to utilize the Site for gaming, the Secretary of the Interior ("Secretary") must determine that the Project (1) would be in the best interests of the Tribe and its members, and (2) would not be detrimental to the surrounding community; and

WHEREAS, additionally, the Governor of the State of Wisconsin must concur in the Secretary's determination; and

WHEREAS, the Secretary has the authority pursuant to Section 5 of the Act of June 18, 1934, as amended, 25 U.S.C. § 5108 to acquire lands for the Tribe, and provides that

such lands shall be acquired in the name of the United States in trust for the Menominee Indian Tribe of Wisconsin; and

WHEREAS, an application ("Application") meeting the requirements of 25 C.F.R. Chapter 151 and 25 C.F.R. Chapter 292 is being prepared, and a draft has been reviewed by the Tribal Legislature.

NOW, THEREFORE, BE IT RESOLVED, that the Tribe, acting through the Tribal Legislature, hereby requests the Secretary:

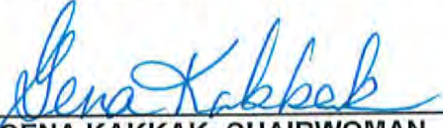
1. To determine that the Project would be in the best interest of the Tribe and its members and would not be detrimental to the surrounding community and to request that the Governor of Wisconsin concur in Secretary's determination; and
2. Pursuant to the authority granted by Section 5 of the Act of June 18, 1934, as amended, 25 U.S.C. § 5108 (made applicable to the Tribe by Section 3(a) of the Menominee Restoration Act, formerly codified as 25 U.S.C. § 903(a) (a)), to accept legal title to the Site described in Exhibit "A" in the name of the United States in trust for the benefit of the Tribe; and

BE IT FURTHER RESOLVED that the Chairperson of the Tribe is authorized to transmit the Application to the United States Department of the Interior and supplement the Application as necessary.

CERTIFICATION

We, the undersigned officers of the Menominee Tribal Legislature hereby certify that the foregoing resolution was duly adopted at a meeting held on April 20, 2023 with a quorum present, by a vote of 8 for, 0 opposed, 0 abstentions and 0 absent.

The undersigned further certify that the foregoing resolution has not been amended or rescinded in any way.



GENA KAKKAK, CHAIRWOMAN
MENOMINEE TRIBAL LEGISLATURE

DATE: April 20, 2023



SPENCER GAUTHIER, SECRETARY
MENOMINEE TRIBAL LEGISLATURE

MENOMINEE TRIBAL LEGISLATURE

RESOLUTION 23-31

EXHIBIT "A"

EXHIBIT A

PROPERTY LEGAL DESCRIPTION AND MAP

5.80-Acre Parcel (Parcel A):

1-B PT NE 1/4 SEC 1 T 1 R 21 COMM AT NE COR NE 1/4 TH W'LY 620.93 FT TH S 100 FT TO POB TH CONT S ALG E ROW 122ND AVE APPROX 708.46 FT AS DESC IN DOC#1634242 TPP PLAT 09-1024-4.02 TO N LN LOT A CSM 211 V 929 P 571 TH E ALG N LN CSM TO W ROW I-94 TH N ALG W ROW I-94 AND S LN 60TH ST 99.87 FT TH W ALG S LN 60TH ST 288.79 FT TO POB (2001 ANNEXATION 35-4-121-011-0100) (2009 LOT LINE ADJUSTMENT) (2011 PT 03-121-01-101-100) DOC #975090 5.80 AC DOC#1027160 DOC#1564651

PARCEL #: 03-121-01-101-101

10.55-Acre Parcel (Parcel B):

THAT PT OF THE FOLLOWING LYING E OF 122ND AVE ROW AS DESCRIBED IN DOC#1634242 TPP 09-1024-4.02 PT NE 1/4 SEC 1 T 1 R 21 COM AT E 1/4 COR SEC 1 TH W 275.03 FT TO W ROW I-94 TO POB TH TH N 221.63 FT TH W 1042.46 FT TH SW'LY 117.81 FT ALG CURVE TH S 43 DEG 57' 55" W 105.41 FT TH N 1197.61 FT TH E 38.71 FT TH N 254.15 FT TH E 1186 FT TH S 366.44 FT TH W 235.2 FT TH S 120 FT TH E 235.20 FT TH S 847.05 FT TO POB 10.576 AC (2007 PT 03-121-01-101-420) (2011 PT 03-121-01-101-421) DOC#1500247 DEED IN ERROR DOC#1502945 CORRECTION (2016 LOT LINE ADJ DOC #1757896 & DOC#1757697)

PARCEL #: 03-121-01-101-422

18.65-Acre Parcel (Parcel C):

THAT PT OF THE FOLLOWING LYING W OF 122ND AVE ROW AS DESCRIBED IN DOC# 1634242 AND TPP 09-1024-4.02 PT OF NE 1/4 SEC 1 T 1 R 21 BEG 434.07 FT W OF NE COR 1/4 W 832.43 FT S 624 FT W 189.75 FT S 654.75 FT E 824.94 FT N 450 FT E 362.8 FT TO W LN HY N 635.88 FT NW'LY 242.65 FT TO POB ANNEX ORD 64-00 DOC#1202936 EXC ROAD ROW DOC#1564651 (2001 ANNEXATION 35-4-121-011-0100) (2009 LOT LINE ADJUSTMENT) (2011 PT 03-121-01-101-100) DOC #975090 18.65 AC DOC#1027160 DOC#1564651 DOC #975090 DOC#1027160 DOC#1564651

PARCEL #: 03-121-01-101-102

24.19-Acre Parcel (Parcel D):

THAT PT OF FOLLOWING LYING W OF 122ND AVE ROW AS DESCRIBED IN
DOC#1634242 TPP 09-1024-4.02 PT NE 1/4 SEC 1 T 1 R 21 COM AT E 1/4 COR SEC 1 TH
W 275.03 FT TO W ROW I-94 TO POB THEN N 221.63 FT TH W 1042.46 FT TH SW'LY
117.81 FT ALG CURVE TH S 43 DEG 57' 55" W 105.41 FT TH N 1197.61 FT TH E 38.71 FT
TH N 254.15 FT TH E 1186 FT TH S 336.21 FT TH W 235.2 FT TH S 120 FT TH E 235.20 FT
TH S 876.78 FT TO POB 24.19 AC (2007 PT 03-121-01-101-420) (2011 PT 03-121-01-101-
421) DOC#1500247 DEED IN ERROR DOC#1502945 CORRECTION

PARCEL #: 03-121-01-101-423

Menominee Indian Tribe of Wisconsin

Kenosha Parcel

Trust Acquisition Packet

May 2, 2023

1. Statutory Authority for Acquisition (25 C.F.R. § 151.11(a); 25 C.F.R. § 151.10(a))

A. The name of the Tribe as it appears on the list of *Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs* published in the Federal Register, and as it appears in its federally approved Constitution is Menominee Indian Tribe of Wisconsin.

B. Acquisition of the Kenosha Parcel in trust for the Menominee Indian Tribe of Wisconsin is authorized by 25 U.S.C. § 5108 which states, in part:

The Secretary of the Interior is authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians.

C. The Menominee Indian Tribe of Wisconsin is a federally recognized Indian Tribe.¹ The Menominee Indian Tribe of Wisconsin was under federal jurisdiction when the Indian Reorganization Act (“IRA”) was enacted in 1934.

On March 12, 2014, Department of Interior Solicitor Hilary Tompkins issued formal opinion M-Opinion 37029, the “Meaning of ‘Under Federal Jurisdiction’ for the Purposes of the Indian Reorganization Act.” (“M-Opinion”). That opinion explains how Interior determines whether a tribe was under federal jurisdiction in 1934.

The M-Opinion states that for a tribe to be “under federal jurisdiction” in 1934, a showing must be made that: (1) the United States has exercised its jurisdiction at some point prior to 1934 (as demonstrated by indicia such as treaty negotiations, approval of contracts, enforcement of the Trade and Non-Intercourse Acts; educating Indian students at BIA schools; providing health or social services to a tribe; and actions of the Office of Indian Affairs); and (2) this jurisdictional status remained intact in

¹ See Menominee Restoration Act, Pub.L. 93-197, Dec. 22, 1973, 87 Stat.770; and Indian Entities Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs, 88 Fed. Reg. 2112 (January 12, 2023).

1934. The M-Opinion explains, however, that for those tribes with unambiguous evidence of being under federal jurisdiction in 1934, there is no need to examine the tribe's history prior to 1934. The M-Opinion states that tribes that voted whether to opt out of the IRA generally need not make an additional showing that they were under federal jurisdiction in 1934, because the calling of such an election for a tribe between 1934 and 1936 conclusively establishes that the United States understood that the particular tribe was under federal jurisdiction in 1934, regardless of which way the tribe voted.

An election was called for Menominee to determine whether to opt out of the IRA on June 15, 1935. (See *Ten Years of Tribal Government Under I.R.A.*, Theodore Haas, Chief Counsel, U.S. Indian Service 1947, attached as Exhibit "B").

Even though under the M-Opinion there is no need to look beyond the fact that Menominee participated in an IRA election in 1935, there are many other factors showing that Menominee was under federal supervision in 1934 and is eligible to have trust land acquired on its behalf pursuant to the IRA, including, but not limited to: 1) The United States and Menominee entered into treaties in 1831, 1832, 1848, 1854, and 1856, and the United States Supreme Court in *Menominee Tribe v. United States*, 391 U.S. 404 (1968) recognized that Menominee's rights under such treaties continue in existence; and 2) Section 3(a) of the Menominee Restoration Act which states:

"Notwithstanding the provisions of the Act of June 17, 1954 (68 Stat. 250; 25 U.S.C. 891-902), as amended, or any other law, Federal recognition is hereby extended to the Menominee Indian Tribe of Wisconsin and the provisions of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, are made applicable to it."

Therefore, it is indisputable that Menominee was under federal jurisdiction in 1934 and the Secretary is authorized to acquire land in trust for Menominee under the IRA.

D. The legal description of the Kenosha Parcel is contained in Menominee Tribal Legislature Resolution 23-31, which accompanies this Trust Acquisition Packet. The Kenosha Parcel is located in the City and County of Kenosha, Wisconsin. The Tribe will supplement this Trust Application Packet with the required evidence of title.

2. The Need of the Menominee Indian Tribe of Wisconsin for the Kenosha Parcel (25 C.F.R. § 151.11(a); 25 C.F.R. § 151.10(b))

The Tribe will supplement this Trust Application Packet with a report detailing its need for the Kenosha Parcel.

3. The Purposes for which the Land will be Used (25 C.F.R. § 151.11(a); 25 C.F.R. § 151.10(c))

The Kenosha Parcel will be used to construct and operate a gaming facility, hotel, restaurant, gift shop, and other businesses and facilities associated with the gaming facility. A description of the project to be constructed is attached as Exhibit A.

4. The Impact on the State and its Political Subdivisions Resulting from the Removal of the Land from the Tax Rolls (25 C.F.R. § 151.11(a); 25 C.F.R. § 151.10(e))

The impact on the State of Wisconsin, and its political subdivisions including the City and County of Kenosha from the removal of the Kenosha Parcel from the Tax Rolls will be positive. The Kenosha Parcel currently in fee status generates \$0 annually in tax revenue for the State and its subdivisions.² After the land is acquired in trust and removed from the tax rolls, we estimate that the Menominee Indian Tribe of Wisconsin as a result of the revenue generated by a fully operational Kenosha facility will make revenue sharing payments to the State and its political subdivisions (b) (4) annually.³

5. Jurisdictional Problems and Potential Conflicts of Land Use which may Arise (25 C.F.R. § 151.11(a); 25 C.F.R. § 151.10(f))

The Tribe is proposing entering into an Intergovernmental Agreement with the City and County of Kenosha for the purpose of avoiding any jurisdictional problems or land use conflicts. The proposed

² The parcel is currently owned by the Village of Bristol, a Wisconsin governmental entity that is not taxed.

³ The Tribe intends to enter into an Intergovernmental Agreement with the City and County of Kenosha on terms

(b) (4)

(b) (4) The Menominee Indian Tribe of Wisconsin – State of Wisconsin Gaming Compact (“Gaming Compact”) contains provisions regarding revenue sharing with the State from the Kenosha Parcel. The Gaming Compact can be found here: [DOA Menominee Tribe of Indians of Wisconsin](#)

(b) (4)

(b) (4)

The IGA, along with the Tribe's Gaming

Compact, and the status of Wisconsin as a P.L. 280 state minimize any potential conflict for the following reasons:

A. IGA

The proposed IGA minimizes the potential for conflict in the following ways:

- (1) The Tribe has adopted a number of Ordinances governing the Kenosha Parcel that are substantially similar to those of the City and County regarding land use. These ordinances constitute Chapter 590 of the Menominee Tribal Code.⁴ These ordinances address issues such as zoning, weights and measures, food preparation, 911 system, etc. As these ordinances are substantially similar to City and County ordinances governing other City property, the potential for land use conflicts are limited.
- (2) The City and County, by supporting the Tribe's application, and executing an IGA will have indicated the proposed use of the Kenosha Parcel is consistent with the local community's intended use of that land.
- (3) Payment provisions will ensure that the City and County are compensated for the cost of any necessary additional municipal services provided to the Kenosha Parcel.
- (4) The IGA will have a dispute resolution mechanism available to the parties to adequately enforce the provisions of the IGA, and therefore address any potential dispute between the parties.
- (5) The Tribe's use of the land is consistent with land use near the property.

⁴ [Tribal Government of Menominee Indian Tribe of WI Kenosha Trust Lands \(ecode360.com\)](http://Tribal Government of Menominee Indian Tribe of WI Kenosha Trust Lands (ecode360.com))

B. Gaming Compact

Section XIV(D) of the Menominee Indian Tribe's Gaming Compact with the State of Wisconsin makes the public health and safety standards for public buildings, electrical wiring, fire prevention, plumbing and sanitation set forth in Wisconsin Statutes and Administrative Code directly applicable to the Kenosha Parcel, except that the terms of the Compact shall provide exclusive remedies for non-compliance with such standards. In addition to enforcement through provisions of the Compact, these provisions may be enforced through the IGA. Thus the Tribe, State, City, and County are agreed as to the applicable public health and safety standards applicable on the Kenosha Parcel, and the Compact and IGA provide dispute resolution mechanisms to address any potential conflict regarding the interpretation or enforcement of such provisions.

C. Public Law 280

Public Law 280, 67 Stat. 588 ("PL 280") applies to the Kenosha Parcel. PL 280 is a federal grant of jurisdiction over criminal and certain civil matters arising on Indian lands to the State of Wisconsin. As the State exercises jurisdiction over all criminal offenses that occur on the Kenosha Parcel, there are unlikely that criminal jurisdictional problems will arise from the Tribe's use of the Kenosha Parcel.

6. The Bureau of Indian Affairs is Equipped to Discharge the Additional Responsibilities Resulting from the Acquisition of the Land in Trust Status. (25 C.F.R. § 151.11(a); 25 C.F.R. § 151.10(g))

There are not expected to be any additional Bureau of Indian Affairs responsibilities resulting from the acquisition of the Kenosha Parcel in trust status.

7. NEPA Information (25 C.F.R. § 151.11(a); 25 C.F.R. § 151.10(h))

The Tribe will fully comply with the National Environmental Protection Act and will provide necessary documentation in a supplemental filing.

We note that on June 29, 2012 the Bureau of Indian Affairs published a Final EIS regarding the Tribe's previous application for land in trust for gaming purposes in Kenosha, Wisconsin. Both that

project and this project involve casino hotel complexes. The parcel subject to the 2012 EIS is less than one mile away from the current Kenosha Property. Pursuant to the Indian Affairs National Environmental Policy Act (NEPA) Guidebook policy on use of existing environmental documents, the existence of the 2012 EIS may provide information that will inform the Environmental Assessment.

8. Location of the Land Relative to State Boundaries, and its Distance from the Boundaries of the Menominee Indian Tribe of Wisconsin Reservation. (25 C.F.R. § 151.11(b))

The Kenosha Parcel is approximately 160 miles from the Menominee Indian Reservation and approximately 6 miles from the Wisconsin – Illinois border.

9. Plan which Specifies the Anticipated Economic Benefits Associated with the Proposed Use. (25 C.F.R. § 151.11(c))

A. The main benefits to the Menominee Tribe associated with the Kenosha Project are:

(1) Provide revenue to the Menominee Tribal Government in order to provide necessary services to Menominee members and the Reservation community and to strengthen Tribal government;

(2) Provide revenue to the Menominee Tribe in order to promote economic development on the Reservation and in northeast Wisconsin;

(3) Provide job opportunities to Tribal members both directly at the Kenosha Facility, and as a result of the benefits stated in paragraphs (1) and (2) above;

The Tribe will supplement this Trust Application Packet with a report detailing the anticipated economic benefits associated with the proposed use of the Kenosha Parcel.

B. The main benefits to the local community and the State of Wisconsin associated with the Kenosha Project are:

(1) Increased revenue to the City and County of Kenosha from direct and indirect payments;

- (2) Increase in construction and permanent jobs;
- (3) Increased tourism from outside Wisconsin;
- (4) Creation of world class entertainment complex in southeastern Wisconsin.

The Tribe will supplement this Trust Application Packet with a report detailing the anticipated economic benefits to the local community and State of Wisconsin associated with the proposed use of the Kenosha Parcel.

Menominee Indian Tribe of Wisconsin

Kenosha Parcel

Trust Acquisition Packet

May 2, 2023

Exhibit "A"

Purposes of Kenosha Parcel

(b) (4)

(b) (4)

(b) (4)

(b) (4)

Menominee Indian Tribe of Wisconsin

Kenosha Parcel

Trust Acquisition Packet

May 2, 2023

Exhibit "B"

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TRIBAL RELATIONS
PAMPHLETS—1

Ten Years of Tribal Government Under I. R. A.

By THEODORE H. HAAS, Chief Counsel
United States Indian Service

UNITED STATES INDIAN SERVICE
1947

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DEPARTMENT OF THE INTERIOR
J. A. KRUG, Secretary

UNITED STATES INDIAN SERVICE
WILLIAM A. BROPHY, Commissioner
WILLIAM ZIMMERMAN, JR., Assistant Commissioner
JOHN H. PROVINSE, Assistant Commissioner

Haskell Institute Printing Department
January 1947—10M

Additional copies of this pamphlet may be obtained from
United States Indian Service
Merchandise Mart, Chicago 54, Illinois

TEN YEARS OF TRIBAL GOVERNMENT

Under The Indian Reorganization Act

by Theodore H. Haas, Chief Counsel

THE INDIAN REORGANIZATION ACT (48 Stat. 984), one of the most important and comprehensive Indian laws, was adopted a few days before the close of the first Congress which convened in the administration of Franklin D. Roosevelt. Although approved by the President on June 18, 1934, none of the authorized appropriations became available until May 1935. Though the Act dealt with a wide variety of subjects including land, credit, education, Indian employment and tribal organizations, this article will be confined to a discussion of the self-government feature.

KLAMATH INDIANS FIRST PROPOSED INCORPORATION IN 1927

The first suggestion for the incorporation of tribes was advanced in 1927 by the Klamath Indian tribe of Oregon. Indians of other tribes, including Vice-President Curtis, a Kaw Indian, contributed many ideas which were embodied in the bill. The Indian Reorganization Act was presaged by the enactment by Congress of the Pueblo Relief Act on May 31, 1933, prohibiting the Secretary of the Interior from spending moneys appropriated under that Act for the various Pueblos "without first obtaining the approval of the governing authorities of the Pueblo affected."

While the Indian Reorganization bill was pending in Congress, Commissioner Collier and some of his principal aides attended ten meetings in various parts of the country to discuss and consult with delegations from Indian reservations and with other Indians about the proposed legislation. These conferences constituted a new precedent. They symbolized a new relation between the Indians and the Indian Office which the Commissioner hoped would evolve. In lieu of administrative absolutism there would be developed between government officials and Indians a partnership in the determination of many policies. Instead of the superintendents or Washington officials deciding everything, there would be an area for local self-government. If the Indian councils proved capable and faithful to their trust, they would be delegated additional power by the Secretary.

Under the terms of the Indian Reorganization Act power of approval or veto over the disposition of all tribal assets was given to the Indian tribes. It also authorized them to take over control of their own resources and to con-

duct tribal enterprises as membership corporations which would be subject to diminishing federal supervision as the tribal leadership showed a desire for more control and an ability to direct their affairs. Other enumerated powers were the right to employ legal counsel (subject to the approval of the Secretary of the Interior with respect to the choice of counsel and the fixing of fees), the right to negotiate with federal, state and local governments, and the right to be advised of all appropriation estimates affecting the tribes before such estimates are submitted to the Bureau of the Budget and Congress.

When a tribe is ready to draft its constitution, a constitutional committee of representative tribal members is chosen. It is the duty of this committee to draw up a constitution which will fit the needs of the tribe. The Department offers its assistance in the preparation of such documents, but only to the extent that such assistance is required. Scrupulous care is exercised to see that the document as drafted represents the wishes of the Indians.

When the constitutional committee has completed its draft and is ready to present the constitution to the tribal members for a vote, an election is requested by the constitutional committee or by a petition signed by one-third of the adult members of the tribe. The calling of this election is mandatory upon the Secretary of the Interior when the request is made in the manner prescribed by law. Thus a tribe may vote repeatedly upon the question of adopting a constitution, in those cases where such elections have failed to carry. It is not within the Secretary's discretion to determine whether or not the election shall be called.

CONSTITUTIONS AND BY-LAWS SUBJECT TO AMENDMENT

The constitution and by-laws when ratified by majority vote of the adult members of the tribe or of the adult Indians residing on the reservation, as the case might be, and approved by the Secretary of the Interior, could be revoked by an election open to the same voters and conducted in the same manner. Amendments may be ratified by the tribe and approved by the Secretary in the same manner as the original constitution and by-laws. The Act also provided that it should not be applicable to any reservation wherein a majority of all of the Indians entitled to vote, voted against its application. The original act provided that elections had to be called on the Act within one year after its approval. However, by the Act of June 15, 1935, this period was extended another year. The amendment to the act modified this rule so as to require a majority of those voting in an election in which not less than 30 per cent of those entitled to vote actually vote. Although many provisions of this statute did not originally apply to the Territory of Alaska or the State of Oklahoma, the Act of May 1, 1936, (49 Stat. 1250) and the Act of June 26, 1936, (49 Stat. 1967) extended the main provisions of the Indian Reorganization Act, with minor modifications, to Alaska and to Oklahoma.

During the period in which votes were taken on whether the Indian Reorganization Act should apply to the reservations, which extended from 1934 to 1936, 258 elections were held. The Oklahoma and Alaska Indians were not concerned in these elections as they were automatically brought under the law. In this balloting, 181 tribes (representing 129,750 Indians) voted to accept the law and 77 tribes (86,365 Indians) rejected it. About half of the latter were members of the Navajo Tribe (45,000) which rejected the act by a close vote.

At the present time there are 195 tribes, bands, and communities, or groups thereof, which are under the Indian Reorganization Act, excluding Indians in Oklahoma and Alaska. The Act applies to 14 groups of Indians who did not hold elections to exclude themselves from the application of the act.

On October 4, 1935 the first constitution prepared in accordance with the Indian Reorganization Act was adopted by the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, by a vote of 549 to 123. It was approved by Secretary Ickes on October 28, 1935. Shortly thereafter constitutions were adopted and approved by the Rocky Boy's, Lower Brule and Fort Belknap Reservations. Ninety-three tribes, bands or Indian communities in the United States have adopted constitutions and by-laws, and seventy-three have been granted charters, permitting them to operate as business corporations.

Many constitutional provisions are substantially the same, notably those designed to enable the tribes to take advantage of the specific powers and benefits provided for in the Act. There are wide variations, however, in the provisions regarding tribal membership, the governmental organization, the safeguards available to individual members, the methods of handling tribal business and the extent of the supervision of the Secretary of the Interior.

TRIBAL GOVERNMENT TAKES MANY FORMS

While formal tribal organization has taken many forms, some governments have been adaptations of earlier tribal organizations. Some have merged the old and new forms and provided for a modern council and at the same time invested the chieftains with some power. A few organizations like the Minnesota Chippewas are confederacies.

After adopting a constitution and by-laws a tribe may, in accordance with section 17 of the Indian Reorganization Act, request the Secretary to issue a charter to the tribe. This request is made in the form of a petition signed by one-third of the adult Indians. The charter must be ratified by the tribe in a special election called by the Secretary. As in the case of the constitution, the calling of an election on the charter is mandatory when a petition is presented to the Secretary. A charter thus issued by the Secretary and ratified by the tribe may not be revoked or surrendered except by an Act of Congress.

CHARTERED TRIBES BECOME BUSINESS CORPORATIONS

Most tribes subsequently supplemented their constitutions and by-laws by adopting charters. The Indian Reorganization Act provides for the issuance to organized Indian tribes of charters containing such powers as are incident to the normal functioning of a business corporation, such as capacity to make contracts, to adopt and use its corporate seal, to sue and be sued in courts of competent jurisdiction, and other powers as set forth in the following language of section 17: "to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands, and to issue in exchange therefor interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law,".

The exercise of corporate authority by a tribe is limited in certain respects by specific prohibitions against any sale, mortgage, or a lease for more than ten years, of any land within the reservation boundaries. The grant of a charter is made to enable a tribe more effectively to utilize the powers which it already possesses as an organized body, (55 I. D. 14), in promoting the welfare of its members. It bestows legal responsibility upon the organization and it adds weight to the legal status of the government body charged by the members with the duty and authority to administer the tribe's powers.

TRIBAL POWERS LIMITED

Neither the constitution and by-laws nor a corporate charter give the Tribal Council power to control the conduct of members of the tribe except in respect to the matters set forth therein. They do not interfere with the pursuit by the members of their own private objectives except in such ways and to such an extent as the members themselves have agreed. They do not interfere with allotment rights or shares in tribal benefits. The property with which the Tribal Council may deal is only the property of the tribe as a whole, not that of the individual members. Several tribes, which have constitutions but failed to ratify charters, have recently ratified charters, and thus have become eligible for loans under the revolving credit fund.

Many tribal governments are approaching the end of the first decade of their operation. To some tribes with corporate charters the end of the first ten years has a special significance. Most of the I. R. A. charters provide that after the charters have been in effect for a specified period of years certain supervisory powers of the Secretary of the Interior may be terminated by action of the tribal council, the Secretary and the tribe. In some charters the supervisory powers of the Secretary may be terminated after a period of five years. If the Secretary disapproves the request for termination by the tribal council, the council may be freed from this supervision if two-thirds of the eligible voters of the tribe concur.

SOME DIFFICULTIES OF TRIBAL GOVERNMENT

Before the various aspects of tribal governments are discussed, some of their difficulties, past and present, will be reviewed under the following headings:

1. Federal Indian Policy.
2. Institutional opposition to tribal government within the Indian Office.
3. Lack of familiarity among the Indians with white culture.
4. Misunderstandings and misinterpretations of the Indian Reorganization Act.
5. The war.
6. Abolition of the direct governmental services to tribal government.

1. **Federal Indian Policy.** Until comparatively recently the policy of the Federal Government has been to convert the Indian to the conventional land owning white farmer. The first step consisted in an attempt to break up tribal assets into individual allotments, to terminate historical tribal governments, and to suppress Indian customs and tribal laws. As a result some tribal governments had virtually disintegrated or had lost a great deal of their original vigor and importance. Broken treaties and promises, and harsh to cruel treatment naturally caused many Indians to feel varying degrees of hostility to the white race. The suspicion was ingrained that any new policy which might be started by the government was motivated by a desire to aid the whites and hurt the Indians. Since Indians were denied their natural way of life, the government had to establish the odious ration system which sapped initiative and resourcefulness. Many of the Indians became dependent upon government aid as a consequence. A tradition of need for assistance therefore has been developed among many who have experienced long periods of dependency on rations or other government assistance as well as unemployment or partial employment.

2. **Institutional opposition to tribal government within the Indian Office.** When the Indian Reorganization Act was enacted in 1934 a large number of Indian Service officials, including superintendents and chiefs of divisions in the agencies and central office, were skeptical of its success; in fact there were some who did not believe in Indian self-government. During several previous decades some important officials of the Service were luke warm, or even unfriendly to many tribal councils. These employees, consciously or unconsciously, relegated Indian organization to the background. They absented themselves from council meetings.* Indian leaders frequently were not advised of reservation programs and other important facts. Often they were not consulted in the formulation of reservation plans. The attitude of the local administration in such cases may be likened to that of a colonial administrator who feels a keen sense of duty as a superior over an inferior people whose

*Some superintendents who were sympathetic with self-government did not attend tribal council meetings unless asked, because they did not wish to influence the council.

lives he controls. The feeling that Indians are not prepared to handle their own affairs, though prompted by high motives, may result in a display of paternalism towards the Indians which they will deeply resent. Any mistakes of tribal governments, which supported the preconceived idea that Indians were unfit, loomed large. Achievements, by the same mental process were forgotten. Fear was manifest among a few that their own power would be to a great extent jeopardized by another body having something to say about the management of the reservation. They betrayed an obvious annoyance when the council made recommendations concerning matters which they regarded as peculiarly a governmental responsibility, one within their purview, of course. While there has been great progress, there is still room for improvement.

3. Lack of familiarity among the Indians with white culture. With the exception of a comparatively few tribes and individual Indians, American Indians are among the most economically depressed groups in the country. Educated Indians and those experienced in white methods often leave the reservation. While there has been a great improvement in the amount of education which most Indians receive, it is still several years less than that of most whites in neighboring communities. This leaves a dearth of educated leadership to carry on at home. Also the inability of many of the older Indians to understand English and many of the younger Indians to understand their native Indian tongue adds additional barriers. Lack of understanding and cooperation between the new and the old generation, an inevitable consequence in a rapidly changing culture, is often used to keep Indians in a divided status. Indians in some states are disenfranchised, and even in states where they vote, nowhere, save possibly in the State of Oklahoma, are many Indians elected or appointed to important offices. All these factors indirectly reflect on local Indians. For example most Indian councilmen had little experience in local government or in political matters generally prior to the institution of self-government on the reservation. Deeply frustrated groups are often plagued by internal rivalry and factionalism. Scapegoats are often sought. The Indians' plight is blamed on a person, a Bureau or a statute. The Commissioner of Indian Affairs, the Indian Office, the Superintendent, the Council or the I. R. A. may be attacked as the cause of all woes.

4. Misunderstandings and misinterpretations of the Indian Reorganization Act. Prior to the enactment of the Indian Reorganization Act during the early discussions of it, there was some condemnation by the delegates attending regional-held meetings over the country, based on misunderstanding of the probable effect of the statute, or on reasons not connected with the proposed legislation. As was to be anticipated, some opponents of the new administration including selfish vested interests, conducted a nation-wide campaign of false propaganda to defeat the measure. Real estate interests which had been acquiring Indian lands by devious methods, and stockmen and lumber

interests which had profited by the inability of the Indians to protect their own resources, waged a campaign designed to perpetuate their privileges, often through hired Indians. Fantastic rumors were spread, such as: the bill was designed to deprive the Indians of the interests in their lands, to take away their allotments and communize them, to put the church out of business, and forbid missionaries to work among the Indians. For example, the Navajo Tribe rejected the act by a close vote because many voted in the negative, misadvised that its adoption would result in the confiscation of their sheep and goats by the government. Even before the voting was over there was started the first periodic drive by whites to scuttle the I.R.A., abolish the Indian Service, and terminate Federal guardianship over resources. This drive has recurred periodically. Another method of attack is to resort to litigation to vacate sentences of tribal courts imposed for violations of tribal ordinances.

5. **The war.** Since most Indian reservations are in rural, thinly populated regions, the difficulties of transportation within recent times have greatly added to the problem of communication so necessary to unity, between Indian leaders on and off the reservations. Various meetings, including those called by the Indian Service to exchange ideas and diffuse knowledge helpful to tribal organization, have been stopped because of travel restrictions and cuts in appropriations. Many courageous and able leaders were in the armed services or defense industries. Many have recently returned and are again playing a vital role in tribal affairs.

6. **Abolition of direct governmental services to tribal government.** The field staff of the Organization Division, all of whom were Indians, selected for their zealous espousal of Indian participation, stimulated tribal self-government. The failure of Congress to appropriate money for this work has retarded the development of tribal organizations on some reservations.

ACHIEVEMENTS OF TRIBAL GOVERNMENT

The achievements of tribal governments despite the difficulties which I have briefly enumerated have nevertheless been a long step forward. On some reservations work in tribal self-government has been laudable. Most tribal councilmen are seriously endeavoring to exercise their powers wisely and thoughtfully, because they have a stake in the final outcome. On this very principle the government predicates its whole program of self-government, namely that people who are most active in the making of their government will in the long run do most to perfect it. A resume of the accomplishments of tribal governments will prove this thesis.

1. **Self-government and the war.** Enemy propaganda has sought, according to reports, to exploit the weakest link in our political and economic system. Failure to live up entirely to the American creed of brotherhood and equality has been assailed, particularly in connection with minorities. Persons of Indian ancestry have been included. While sowing the seeds of prejudice

in various religious and racial groups, the enemy propagandists argued that the United States had broken treaties with the Indians and impoverished them by reducing the area and quality of their land. Such propaganda for many reasons has had little effect on the American Indian. Even before the outbreak of the war with Germany and Japan some Indian tribes like the Confederated Tribes of the Warm Springs Reservation of Oregon passed resolutions denouncing this propaganda.

There is no doubt that the gradual increase in self-government among the Indians during the last decade has contributed much toward overcoming historical bitterness and mistrust felt by some Indian groups against the United States. This has been evidenced by Indian leaders who frequently expressed their patriotism by speeches and deeds. Tribal councils invested over two million and a half dollars of funds in war bonds besides making sizable contributions to the Red Cross. Moneys were also set aside by some tribes to make loans to tribal members to pay transportation and tuition to trade schools in order to prepare members for defense work. A considerable amount of tribal land was permitted, leased or sold to the United States government for war purposes.

2. Management of tribal resources. One of the major functions of tribal councils is the management of tribal property. However, on allotted reservations containing little tribal land or other tribal resources, some tribal councils found it difficult to maintain interest in self-government after the novelty of elections had worn off. Some of the Lake States with meager tribal assets emphasized social and recreational activities. In other similar situations, as for example in the State of Oklahoma, the councils were mainly concerned with loans, leases, rehabilitation and relief. The chairman of the Caddo Council, by July 1940, intimated that the tribal revolving credit fund had enabled almost one-third of the tribal membership to be rehabilitated and taken off direct relief.

Tribal councils on the whole have exercised good judgment in controlling their resources. Tribal funds have been used to acquire fractionated heirship lands, to make loans for the purchase of land, livestock and equipment for individual members, and for tribal enterprises, such as livestock cooperative associations, tribal farming enterprises (including the producing of hay on tribal land), producers and consumers co-operatives, and arts and crafts organizations. Group action through corporations and cooperatives has increased the utilization of Indian resources. When the resources are owned by the tribe, the benefits of the enterprise accrue to members of the tribe as a whole. Prior to the passage of the I.R.A., only a handful of livestock associations were organized. Now they have increased in strength and number totaling about 160 cooperative livestock associations. Approximately 40 per cent of the Indian-owned beef cattle is managed by livestock associations which

have played an important role in improving breeding and management practices, range control, and feed production and cooperative sales. They have not only materially increased the income derived from the sale of cattle but they have enabled the Indians to utilize more fully the range lands, including the forestry areas suitable for grazing, aggregating approximately 80 per cent of the total Indian land resources.

In the initial stages of these enterprises supervision is usually given by Indian Service personnel to insure efficient operation and protection of the loan of the Federal Government. When the enterprise has created a sufficient surplus to insure its repayment, supervision is gradually relinquished until full responsibility is finally assumed by the Indians. Unfortunately this process is often slow.

Land management laws dealing with assignment, leasing, permitting and use of tribal lands also have been passed. Unfortunately economic plans for the use of Indian property are sometimes made by Indian Service officials with little or no participation by the Indians. Nevertheless, in my opinion there has been a slow but gradual increase in the amount of consultation by government officials with Indian leaders in the framing of policies. It is becoming recognized that a plan, no matter how idyllic, which is not favored by the people affected may be doomed to failure.

An increasing number of ordinances have been enacted by tribal councils to protect fish and wildlife, to provide a better and more equitable use of tribal land, and to conserve tribal land from overgrazing. For instance, recently the Papago Tribal Council enacted ordinances reducing excessive stock on tribal lands and eradicating horses infected with dourine. The White Mountain Apaches have appropriated money to round up wild horses.

The power to approve loans from revolving credit funds to members has been granted to the Flathead Tribe. It is reported that on the whole the tribal loan committee has been successful. In a few jurisdictions there had been abuses of the power to control certain tribal assets and distribute funds. A few tribal treasurers have misused funds and councilmen, in instances, have appropriated to their own use substantial sums by paying larger per diems or for excessive travel. Others have favored relatives and friends. But these are only the exceptional cases.

3. Social welfare and education. Some tribes having conducted very extensive home improvement and public works programs, are thus beginning to supplement the work of the government in the field of social service. The Apache Tribe of the Mescalero Reservation in New Mexico has constructed houses for each of the families. Tribal loans have been given Indians requiring special medical attention not available at local government hospitals. In addition, committees have assisted in health, education and relief. In a few places the whole relief program has been financed by the

tribe. Almost thirty councils have included a compulsory education section in their law and order code and three councils have adopted special compulsory education ordinances. Tribal funds have been used to employ truant officers.

The Makah Tribe of the Makah Indian Reservation, Washington, bought from the United States Government an abandoned construction camp no longer needed by the U.S. Engineers. Under the direction of a tribal council almost entirely composed of fullbloods, 64 new dwellings were moved to the Village of Neah Bay, the most populous village in the reservation, and about 250 members of the tribe secured vastly improved homes as a result. Twenty-four other buildings are utilized as boat houses, garages, wood shacks and other purposes. About \$60,000 of tribal funds was expended on the buildings and their removal.

4. **Law and order.** Under the revised law and order regulations promulgated by the Department soon after the passage of the Indian Reorganization Act, Indian Service officials are prohibited from controlling, obstructing or interfering with the functions of the Indian courts. Many councils have adopted their own law and order codes for their reservations which, after Secretarial approval, supersede the general regulations. Indian judges, while not always meticulous in following the proper procedure, have usually been conscientious and able in dispensing justice. Yet there is room for improvement in this field. The remuneration of Indian judges and Indian police is very low. Their training in law and procedure is often slight.

5. **Miscellaneous.** Tribal governing bodies besides those mentioned above have also enacted ordinances and resolutions dealing with a wide variety of other subjects. These include the correction of census rolls, the adoption and abandonment of membership, domestic relations including adoption, marriage, divorce and the appointment of guardians, inheritance, taxation and licensing, and tribal organizations and procedure. Variations in legislation will depend upon many facts, such as the power vested in the tribal councils by the tribal constitution, the local conditions and the calibre of the tribal officials. In distant Alaska the council of the native village of Noatak passed ordinances dealing with building permits, the making of wills and the straying of dogs.

6. **Medium for communication.** Ignorance breeds many ills. Maladministration, misunderstanding, and the dissemination of misinformation result when the channels of communication break down or are defective. The isolation of many reservations makes the transmission of developments in the Service of special importance. One of the major problems of the local agency administration is to diffuse a knowledge of its policies and of other important facts to local personnel and others principally affected.

Tribal leaders having a responsibility of conveying the news to their

people should be kept advised of matters of importance to the Indians. Tribal councils offer an excellent medium for the transmittal of this information. Furthermore, by conferences involving the council, the superintendents, and other government officials, an opportunity is afforded to become acquainted with Indian leaders and vice versa.

7. Recommendations. Community government also furnishes a means whereby administrators may know the opinions, hopes and aspirations of the Indians. Officials who are inclined to resent recommendations of Indian councils which they consider are in a field outside of the jurisdiction of the council are treading on doubtful ground. It is not uncommon for state legislatures, municipal councils and even Indian Service superintendents to pass resolutions concerning matters outside of their purview. Tribal councils who might do likewise should not be discouraged. Administrators should appreciate the insight gained thereby into Indian thinking. An ability to vocalize a complaint constitutes an emotional outlet of distinct social value.

A provision of the Indian Reorganization Act whereby the tribal councils were authorized to advise the Secretary of the Interior with regard to all appropriation estimates of Federal projects for the benefit of the tribe has apparently been disregarded in part because of the administrative difficulties involved. I believe that explaining to the councils these estimates and securing their views would be a very important educational process for both the Indian and the government personnel. An important step has already been taken. Budgets involving the use of tribal funds are discussed with the appropriate tribal council.

8. Improvement. Many effective and modern procedures have been established by councils in the conduct of business affairs and meetings. Tribal offices are now in evidence, some in the agency building and others in a separate tribal building. The number of persons who go to these tribal offices for assistance on some jurisdiction exceeds those who visit the agency.

Most of the Indians have also increased their knowledge of their constitutions and charters. There are still, however, many questions of interpretation of these documents which sometimes test the ingenuity of lawyers. Some tribal officials have been accused of violating provisions of their constitutions. Such actions may violate the Law and Order Code, in which case a remedy lies through a complaint to the tribal court. In others, recourse may be found in the impeachment or recall of the official, where the constitution provides for such remedies. Finally the electorate has, in all cases, the ability to elect new officials on the next election day.

9. Tribes not organized under the I. R. A. Four tribes which voted to come under the Indian Reorganization Act are operating under constitutions not under the Act.

Thirteen tribes which are not under the Indian Reorganization Act are

operating under constitutions. Eight of these constitutions have been approved by the Commissioner of Indian Affairs. The governing body provided for in some of these constitutions has considerable power. In other constitutions the powers are meager.

Under the present law, tribes which are not under the Indian Reorganization Act, cannot come within its provisions, and tribes which are under the Act cannot exclude themselves from its provisions.

10. Relation between Indian self-government and world peace. Democracy in many parts of the world is on the march; a march that is increasing in tempo. The economic income of oppressed people throughout the world has become a concern for all and is receiving widespread attention. World peace is linked up with the attainment of more self-government, the decline of imperialism and the elimination of general poverty. Colonial people everywhere are looking hopefully to the United States Government. It is especially important that this country demonstrate the sincerity of its ideals and its ability to effectuate them. On every front this must be exemplified by the increasing substitution of local self-government even on the smallest reservations, for bureaucratic control. The Indian Office, together with tribal councils, by increasing the standard of living of depressed Indian groups and achieving a high measure of self-determination, will be in the vanguard of the movement for greater economic and political democracy.

Table A

**Indian Tribes, Bands and Communities
Which Voted to Accept or Reject the Terms
of the Indian Reorganization Act,
the Dates When Elections Were Held,
and the Votes Cast**

ACTION BY TRIBES ON INDIAN REORGANIZATION ACT
(Those listed in black face type accepted the act)

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	VOTES NO	ELECTION DATES
ARIZONA						
Colorado River Agency:						
	Colorado River	705	365	119	8	Dec. 15, 1934
	Fort Mojave	432	265	102	8	Dec. 15
	Cocopah	32	18	4	0	Nov. 17
Fort Apache Agency:						
	Fort Apache	2,718	1,340	726	21	April 27, 1935
Papago Agency:						
	Gila Bend	228	120	18	0	Dec. 15
	Papago	5,146	3,028	1,267	166	Dec. 15
	San Xavier	525	283	158	22	Dec. 15
Pima Agency:						
	Fort McDowell	205	111	65	7	Oct. 27, 1934
	Gila River	4,659	2,308	1,188	116	Dec. 15
	Salt River	1,049	592	194	66	Dec. 15
	Ak-Chin	179	87	53	15	Dec. 15
San Carlos Agency:						
	San Carlos	2,843	1,473	504	22	Oct. 27
Hopi Agency:						
	Hopi	2,538		519	299	June 15, 1935
Truxton Canon Agency:						
	Navasupai	201	106	72	3	June 15
	Hualapai	451	256	37	22	June 15
	Comp Verde (Yavapai Apache)...	451	259	112	20	Dec. 15, 1934
	Navajo Agency (Arizona, New Mexico)	43,135	15,900	7,608	7,992	June 14-15
CALIFORNIA						
Colorado River Agency:						
	Fort Yuma (Quechan)	819	402	192	32	Nov. 17, 1934
Hoopa Valley Agency:						
	Hoopa Valley Reservation	554	240	8	174	Dec. 15
	Klamath River	925	375	38	256	Dec. 15
*Quartz Valley						
	Rancherias:	411				
	Smith River		41	1	31	June 14, 1935
	Crescent City		8	6	0	June 14
	Hohnerville		9	1	5	June 14
	Table Bluff		26	0	10	June 14
	Trinidad		4	4	0	June 14
	**Blue Lake	No Votes				June 14
Mission Agency:						
	Augustine	14	13	0	6	Dec. 18, 1934
	Cabezon	29	17	0	7	Dec. 18
	Cahuillo	107	69	3	33	Dec. 18
	Campe	135	73	7	18	Dec. 18
	Capitan Grande	160	87	37	35	Dec. 18
	(Including Borona)					
	**Cuyapaipe	No Votes				Dec. 18
	Inaja	33	22	0	15	Dec. 18
	Laguna	3	1	1	0	Dec. 18
	LaJolla	221	145	28	68	Dec. 18
	La Posta	3	3	2	0	Dec. 18
	Los Coyotes	88	52	3	37	Dec. 18, 1934
	Manzanita	67	36	3	0	Dec. 18
	Mesa Grande	218	119	9	64	Dec. 18
	Palo	205	121	7	66	Dec. 18

*Indians residing on lands purchased from I.R.A. funds. Group is organized under the I.R.A.

**Act applies since Indians did not vote against its application.

***Act applies since less than 30 percent of eligible voters participated in the election.

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	VOTES NO	ELECTION DATES
	Mission Creek	20	10	0	3	Dec. 18
	Morongo	292	173	25	79	Dec. 15
	Palm Springs	50	31	4	16	Dec. 15
	Pauma	69	37	0	23	Dec. 15
	Pechonga	216	156	14	48	Dec. 15
	Rincon	181	114	22	58	Dec. 15
	San Manuel	40	25	2	10	Dec. 15
	San Pascual	9	3	2	1	Dec. 15
	Santa Rosa	50	32	3	13	Dec. 15
	Santa Ynez	90	48	20	0	Dec. 15
	Santa Ysabel	237	122	14	47	Dec. 15
	Soboba	122	76	6	57	Dec. 15
	Sycuan	35	23	6	16	Dec. 15
	Torres Martinez	198	117	11	66	Dec. 15
Sacramento Agency:						
	Alexander Valley		14	14	0	June 11, 1935
	Alturas		13	6	5	June 8
	Auburn		36	5	16	June 14
	Berry Creek		49	0	26	June 12
	**Big Bend	No Votes				
	Big Sandy		38	1	25	June 8
	Big Valley		46	21	4	June 8
	Cache Creek		15	7	3	June 8
	Buana Vista		4	2	0	June 12
	**Cedarville	No Residents				
	Cloverdale		20	10	0	June 11
	Cold Springs		47	0	23	June 8
	**Colfax	No Residents				
	Colusa		36	25	1	June 12
	Cortina		20	12	0	June 12
	Coyote Valley		8	0	1	June 10-30
	Dry Creek		49	8	17	June 10-30
	East Lake (Robinson)		46	19	13	June 8
	Enterprise		29	7	17	June 12
	Fort Bidwell		41	27	2	June 8
	Guldeville		25	14	1	June 10
	Grindstone		27	11	0	June 14
	Hopland		56	28	3	June 10
	Jamestown		5	0	5	June 11
	Jackson		3	3	0	June 12
	Laytonville		29	7	11	June 10
	Likely		30	19	1	June 8, 1935
	Lookout		12	6	2	June 8
	**Lytton	No Residents				
	Manchester		46	30	0	June 11
	Middletown		13	10	0	June 8
	**Millerton	No Residents				
	Mooretown		43	0	34	June 12
	Montgomery Creek		7	5	2	June 10
	Nevada City		18	6	2	June 14
	Northfork		6	0	4	June 10
	Paskenta		26	17	0	June 10
	Picayune		11	3	7	June 10
	Pineville		51	29	1	June 10
	Pitt River		2	0	2	June 10
	Potter Valley		26	10	3	June 10
	Redding		12	2	4	June 11
	Redwood Valley		18	16	0	June 10
	Ramsay		11	10	0	June 12
	**Santa Rosa	Indians refused to Hold Election				

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	VOTES NO	ELECTION DATES
	**Sebastopol	No Residents				
	Scotts Valley		17	0	10	June 8
	Sheep Ranch		1	1	0	June 12
	Sherwood		35	10	12	June 10
	Shingle Springs		3	0	3	June 13
	Stewarts Point		70	51	10	June 11
	Strawberry Valley		10	0	6	June 14, 1935
	Sulphur Banks		20	11	7	
	Susanville		9	6	0	June 12
	Table Mountain		16	2	10	June 8
	**Strathmore	No Residents				
	Taylorville		4	2	0	June 12
	Tuolumne		40	37	0	June 11
	Tule River	186	94	50	2	Nov. 17, 1934
	Upper Lake		36	7	4	
	Wilton	40	14	12	0	June 15, 1935
	Round Valley (Cavale)	827	458	138	36	Nov. 17, 1934
COLORADO						
	Consolidated Ute Agency:					
	Southern Ute	389	129	85	10	June 10, 1935
	Ute Mountain	445	225	9	3	June 12
FLORIDA						
	Seminole Agency:					
	Seminole	580	295	21	0	March 30
IDAHO						
	Northern Idaho Agency:					
	Coeur d' Alene	634	203	76	78	Nov. 17, 1934
	Kallispai	88	38	29	2	Nov. 17
	Nex Parca	1,399	608	214	252	Nov. 17
	Fort Hall Agency:					
	Fort Hall	1,839	971	375	31	Oct. 27
IOWA						
	Tamah Agency:					
	Sac & Fox	419	198	63	13	June 15, 1935
KANSAS						
	Potawatomi Agency:					
	Iowa	498	245	115	3	June 15
	Kickapoo	308	151	74	16	June 15
	Sac & Fox	99	49	32	3	June 15
	Potawatomi	955	469	198	122	June 15
LOUISIANA						
	Choctaw Agency:					
	Chitimacha	128	35	25	3	May 14
MINNESOTA						
	Consolidated Chippewa Agency:					
	Fond du Lac	1,298	725	167	28	Nov. 17, 1934
	Grand Portage	377	179	75	4	Oct. 27
	Grand Portage	2,076	961	375	60	Oct. 27
	Leech Lake					
	(Cass Lake & Winnibigoshish, White Oak Point)					
	White Earth	8,059	4,169	1,122	245	Oct. 27
	Nett Lake (Boise Fort)	627	317	159	7	Oct. 27
	Red Lake Agency:					
	Red Lake	1,968	827	418	24	Nov. 17
	Pipestone School	552	271	94	2	Nov. 17
	Lower Sioux					
	Granite Falls					
	Prairie Island					
						Voted as one group

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	VOTES NO	ELECTION DATES
MICHIGAN						
Great Lakes Agency:						
	L'Anse		558	413	8	June 17, 1935
	Boy Mills		95	42	25	June 17, 1935
	Hannahville			47	3	June 17, 1935
	Ontonagon		Voted with L'Anse			
Tomah Agency:						
	Isabelle (Swan Creek-Black River-Saginaw)424	237	112		June 17
MISSISSIPPI						
Choctaw Agency:						
	Choctaw	1,792	736	218	21	March 30
MONTANA						
Blackfeet Agency:						
	Blackfeet	3,962	1,785	823	171	Oct. 27, 1934
Flathead Agency:						
	Flathead	2,964	1,218	494	166	Dec. 15
Fort Belknap Agency:						
	Fort Belknap	1,367	604	371	50	Oct. 27
Rocky Boy's Agency:						
	Rocky Boy's	676	344	179	7	Oct. 27
Tongue River Agency:						
	Tongue River	1,541	757	418	96	Oct. 27
Crow Agency:						
	Crow	2,082	982	112	689	May 18, 1935
Fort Peck Agency:						
	Fort Peck	2,663	1,027	276	578	Dec. 15, 1934
NEBRASKA						
Winnebago Agency:						
	Omaha	1,642	807	212	17	Oct. 27
	Ponca	392	192	64	4	Nov. 17
	Santee	1,277	627	260	29	Nov. 17
	Winnebago	1,187	583	133	52	Oct. 27
NEVADA						
Carson Agency:						
	* Duckwater (Shoshone)	273	89	73	2	Nov. 17
	Fort McDermitt	549	277	151	54	Dec. 15
	Pyramid Lake	64	14	10	4	May 24, 1935
	Summit Lake	205	95	53	5	June 10
	Reno-Sparks	170	75	58	1	June 10
	Dresslerville	134	45	31	10	June 11
	Lovelock	35	26	15	0	June 11
	Winnemucca	28	14	9	0	June 14
	Battle Mountain	73	40	34	0	June 14
	Elko	64	35	8	6	June 17
	Ely	158	84	42	3	Nov. 17, 1934
	Moapa River	40	22	10	2	May 17, 1935
	Las Vegas Tract	20	11	0	11	June 11
	Big Pine	171	93	1	68	June 11
	Bishop	426	247	39	74	May 17
	Fallon	74	49	4	29	May 24
	Ft. Independence	28	8	8	0	May 14
	Indian Ranch	19	1	1	12	May 11
	Red Hill	492	301	37	41	Nov. 17, 1934
	** Walker River	14	1	1	9	June 11, 1935
	West Bishop	72	51	31	3	June 15
	Yerington					
	* Yomba					

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	VOTES NO	ELECTION DATES
Western Shoshone Agency:						
	Duck Valley (Shoshone-Palute) ..	516	383	191	12	Oct. 27, 1934
	Gandy	6	4	4	0	May 5, 1935
	Goshute	155	81	21	0	May 14
	Skull Valley	41	21	9	5	Nov. 21, 1934
NEW MEXICO						
Mescalero Agency:						
	Mescalero	722	367	273	11	Dec. 15
United Pueblos Agency:						
	Acoma	1,125	597	283	0	Dec. 15
	Cochiti	305	167	121	0	Dec. 15
	Isleta	1,103	567	138	7	June 17, 1935
	Jemez	677	351	84	178	June 17
	Laguna	2,271	1,315	776	66	Oct. 27, 1934
	Nambe	128	72	52	1	Dec. 15
	Picuris	117	59	51	0	Oct. 27
	Pojoaque	9	8	7	0	April 13, 1935
	Sandia	129	69	15	0	Dec. 15
	San Ildefonso	126	62	57	4	April 13
	San Felipe	596	331	224	0	June 17, 1935
	San Juan	561	280	243	0	Dec. 15, 1934
	Santa Ana	241	148	100	0	June 17
	Santa Clara	400	200	134	34	April 13
	Santa Domingo	866	476	171	1	June 17
	Sia	189	92	82	0	June 17
	Teos	745	402	303	36	Oct. 27
	Tesuque	123	71	67	0	Dec. 15
	Zuni	2,051	1,066	505	40	Nov. 17, 1934
NEW YORK						
New York Agency:						
	Allegany		548	37	298	June 10, 1935
	Cattaraugus		864	101	475	June 14
	Cornplanter (Pennsylvania)			23	17	June 15
	Onondaga		350	17	206	June 15
	St. Regis		800	46	237	June 8
	Tonawanda		338	42	175	June 11
	Tuscarora		225	6	132	June 12
NORTH CAROLINA						
Cherokee Agency:						
	Qualla Boundary (Eastern Cherokee)	3,254	1,114	700	101	Dec. 20, 1934
NORTH DAKOTA						
Fort Berthold Agency:						
	Fort Berthold	1,569	661	477	139	Nov. 17, 1934
Fort Totten Agency:						
	Fort Totten	960	521	144	233	Nov. 17
Standing Rock Agency:						
	Standing Rock (North Dakota)	1,677				
	(South Dakota)	2,098	1,559	668	508	Oct. 27
Turtle Mountain Agency:						
	Turtle Mountain	6,034	1,181	257	550	June 15, 1935
OREGON						
Klamath Agency:						
	Klamath	1,364	666	56	408	June 15
Umatilla Agency:						
	Umatilla	1,140	681	155	299	June 15
Grand Ronde-Siletz Agency:						
	Grande Ronde	356	213	102	68	April 6
	Siletz	465	233	54	123	April 6

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	VOTES NO	ELECTION DATES
	Warm Springs Agency:					
	Warm Springs	992	394	260	74	April 6
	Burns		67	48	1	April 6
SOUTH CAROLINA						
Cherokee Agency: Catawba						
SOUTH DAKOTA						
	Cheyenne River Agency:					
	Cheyenne River	3,288	1,420	653	459	Oct. 27, 1934
	Crow Creek Agency:					
	Crow Creek	953	388	87	246	Dec. 15
	Lower Brule	603	160	71	39	Dec. 15
	Flandreau School:					
	Santee Sioux	345	193	79	5	Oct. 27
	Pine Ridge Agency:					
	Pine Ridge	8,370	4,075	1,169	1,095	Oct. 27
	Rosebud Agency:					
	Rosebud	6,362	3,126	843	424	Oct. 27
	Yankton	2,018	991	248	171	Oct. 27
	Sisseton Agency:					
	Sisseton	2,658	1,170	266	335	April 6, 1935
	Standing Rock Agency: (See North Dakota)					
UTAH						
	Uintah & Ouray Agency:					
	Cedar City	28	13	2	0	May 14, 1935
	Kalibob (in Arizona)	93	51	28	5	Nov. 17, 1934
	Kanosh	24	14	11	0	May 7, 1935
	Koshareem	30	17	14	0	May 10
	Palute	19	11	7	0	Nov. 24, 1934
	Uintah	1,251	634	335	21	Dec. 15
	Shivwits	79	40	27	2	Nov. 17
	Fort Hall Agency:					
	Washakie	137	109	37	26	April 27, 1935
WASHINGTON						
	Colville Agency:					
	Colville	3,116	1,659	421	562	April 6
	Spokane	807	376	92	163	April 6
	Taholah Agency:					
	Chehalis	132	70	22	26	April 6
	Makah	403	219	75	47	April 6
	Nisqually	63	40	19	2	Oct. 27, 1934
	Ozette	2	2	2	0	April 13, 1935
	Quinalt	1,729	764	184	176	April 13
	Hoh	4	4	3	1	April 13
	Quileute	242	96	37	15	April 13
	Shoalwater		11	3	5	April 13
	Skokomish	189	107	35	10	Oct. 27, 1934
	Squaxan Island	39	32	10	6	April 6, 1935
	Tulalip Agency:					
	Lummi	667	287	72	110	March 30
	Muckleshoot	200	97	59	7	April 13
	Port Gamble					
	Port Madison	171	110	30	0	April 6
	Puyallup	328	190	34	36	April 13
	Swinomish	273	123	122	1	Nov. 17, 1934
	Tulalip	663	215	143	68	April 6, 1935

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	VOTES NO	ELECTION DATES
	Clallam	738				
	Nooksak	235	135	53	13	March 30
	Skagit-Sulattle	205	123	74	3	April 6
	Yakima Agency: Yakima	2,942	1,392	361	773	April 20
WISCONSIN						
	Great Lakes Agency:					
	Bad River	1,211	697	296	47	Nov. 17, 1934
	Lac Courte Oreille	1,559	871	205	175	Dec. 15
	Red Cliff	506	360	122	7	Dec. 15
	*Sakaeagan					
	Potawatomi	388	51	31	3	June 15, 1935
	*St. Croix					
	Lac du Flambeau	853	492	162	57	June 15
	Menominee Agency: Menominee	2,077	1,020	596	15	Oct. 27, 1934
	Tomah Agency: Onida	3,128	1,844	688	126	Dec. 15
Stockbridge	600	226	166	1	Dec. 15	
WYOMING						
	Wind River Agency: Shoshone & Arapahoe	2,196	1,032	339	469	June 15, 1935

Table B

**Indian Tribes, Bands and Communities
under Constitutions and Charters
as Approved by the
Secretary of the Interior
in accordance with the
Indian Reorganization Act
Oklahoma Indian Welfare Act
Alaska Reorganization Act**

Revised October 10, 1946

*Office 6/19/38 - Col Sol - Vigant
 Dec 1938 - Dec 1940 - Vigant
 Dec 1940 - Dec 1941 - Vigant*

*April 23, 1938 - Amendment
 (K-H Pueblo trust funds)
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TRIBES ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

The following list shows Indian tribes, grouped by agencies, which are under Constitutions and Charters, as approved by the Secretary of the Interior in accordance with the provisions of the Indian Reorganization Act, the Oklahoma Indian Welfare Act, and the Alaska Act. The listed dates show when the Constitutions and Charters went into effect. This listing also indicates which documents have been amended and the dates of amendment. Population figures, except for Alaska, are taken from Statistical Supplement for 1940.

Agency and Reservation	Official Name of Organization	Constitution Approved	Charter Ratified	Population
Blackfeet	The Blackfeet Tribe of the Blackfeet Indian Reservation, Montana	Dec. 13, 1935 Amend. 1, Jan. 18, 1946	Aug. 15, 1936	4,494
Carson				
Duckwater	The Duckwater Tribe of Indians of the Duckwater Reservation, Nevada	Nov. 28, 1940 Amend. 1, June 6, 1944	Nov. 30, 1940	115
Fort McDermitt	The Fort McDermitt Paiute and Shoshone Tribe, Nevada	July 2, 1936	Nov. 21, 1936	280
Pyramid Lake	The Pyramid Lake Paiute Tribe, Nevada	Jan. 15, 1936	Amend. 1, June 20, 1945	558
Reno-Sparks	The Reno-Sparks Indian Colony, Nevada	Jan. 15, 1936	Nov. 21, 1936	191
Walker River	The Walker River Paiute Tribe, Nevada	Mar. 26, 1937 Amend. 1, July 12, 1945	Jan. 7, 1938 May 8, 1937	461
Washoe (Dresserville)	The Washoe Tribe, Nevada	Jan. 24, 1936	Feb. 27, 1937	162
Yerington	The Yerington Paiute Tribe, Nevada	Jan. 4, 1937	Amended June 25, 1939	84
Yomba	The Yomba Shoshone Tribe, Nevada	Dec. 20, 1939	Apr. 10, 1937 Dec. 22, 1939	96
Cherokee (N. C.)				
Catawba	The Catawba Tribe of Indians South Carolina	June 30, 1944		
Cheyenne River				
Cheyenne River	The Cheyenne River Sioux Tribe, South Dakota	Dec. 27, 1935		3,583
Choctaw	The Mississippi Band of Choctaw Indians.	May 22, 1945		2,281
Colorado River				
Colorado River	The Colorado River Indian Tribes of the Colorado River Reservation, Arizona and California	Aug. 13, 1937 Dec. 18, 1936		845 913
Fort Yuma	The Quechan Tribe, California			

Agency and Reservation	Official Name of Organization	Constitution Approved	Charter Ratified	Population
Consolidated Chippewa: White Earth Leech Lake Fond du Lac Bois Fort Grand Portage	The Minnesota Chippewa Tribe	July 24, 1936	Nov. 13, 1937	13,610
Consolidated Ute: Southern Ute	The Southern Ute Tribe of the Southern Ute Reservation, Colorado	Nov. 4, 1936 Amend. I, Oct. 15, 1942 Amend. II, Feb. 28, 1946	Nov. 1, 1938	423
Ute Mountain	The Ute Mountain Tribe of the Ute Mountain Reservation, Colorado	June 6, 1940	-	459
Crow Creek: Lower Brule	The Lower Brule Sioux Tribe, South Dakota	Nov. 27, 1935 Amended Jan. 6, 1941	July 11, 1936	619
Flandreau: Flandreau	The Flandreau Santee Sioux Tribe, South Dakota	Apr. 21, 1936 Amended Jan. 6, 1941	Oct. 31, 1936	355
Flathead: Flathead	The Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana	Oct. 28, 1935	Apr. 25, 1936	3,208
Fort Apache: Fort Apache	The White Mountain Apache Tribe, Arizona	Aug. 25, 1938	-	2,892
Fort Belknap: Fort Belknap	The Fort Belknap Indian Community, Montana	Dec 13, 1935 Amended Feb. 7, 1944	Aug. 25, 1937	1,600
Fort Berthold: Fort Berthold	The Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota	June 29, 1936	Apr. 24, 1937	1,791
Fort Hall: Fort Hall	The Shoshone-Bannock Tribes of the Fort Hall Reservation, Idaho	Apr. 30, 1936	Apr. 17, 1937	1,881
Grande Ronde: Siletz: Grande Ronde	The Confederated Tribes of the Grand Ronde Community, Oregon	May 13, 1936	Aug. 22, 1936	473

Handwritten notes:
 July 29, 1940
 King
 King

Agency and Reservation	Official Name of Organization	Constitution Approved	Charter Ratified	Population
Great Lakes: Bad River	The Bad River Band of the Lake Superior Tribe of Chippewa Indians, Wisconsin	June 20, 1936 Amended Dec. 1, 1942 Amend. II, Oct. 31, 1944	May 21, 1938	1,259
Boy Mills.	The Boy Mills Indian Community, Michigan	Amended Nov. 27, 1937	Nov. 27, 1937	190
Hannahville L'Anse Lac du Flam- beau	The Hannahville Indian Community, Michigan The Keweenaw Bay Indian Community, Michigan The Lac du Flambeau Band of the Lake Superior Chippewa Indians of Wisconsin	July 23, 1936 Dec. 17, 1936	Aug. 21, 1937 July 17, 1937	108 939
Mole Lake Potawatomi	The Sokagong Chippewa Community, Wisconsin The Forest County Potawatomi Community, Wisconsin	Aug. 15, 1936 Amendment I & III June 25, 1943 Amend. II, Oct. 23, 1944	May 8, 1937 Amended Nov. 8, 1941	882
Red Cliff	The Red Cliff Band of Lake Superior Chippewa Indians, Wisconsin	Feb. 6, 1937	Oct. 7, 1939	187
St. Croix	St. Croix Chippewa Indian Community of Wisconsin	June 1, 1936	Oct. 30, 1937	310
Hoop Valley: Quartz Valley Hopi:	The Quartz Valley Indian Community, California The Hopi Tribe, Arizona	Nov. 12, 1942	Oct. 24, 1936 Amended Nov. 12, 1938	643
Hopi	The Hopi Tribe, Arizona	June 15, 1939	Mar. 12, 1940	29
Jicarilla	The Jicarilla Apache Tribe of New Mexico	Dec. 19, 1936		3,444
Kiowa (See Oklahoma):	The Kiowa Tribe of the Mescalero Reservation, New Mexico	Aug. 4, 1937	Sept. 4, 1937	743
Mescalero:	The Apache Tribe of the Mescalero Reservation, New Mexico	Aug. 19, 1938	Oct. 17, 1939	344
Northern Idaho: Kalispel	The Kalispel Indian Community of the Kalispel Reservation, Washington	Mar. 25, 1936	Aug. 1, 1936	790
Papago: Gila Bend Papago San Xavier	The Papago Tribe, Arizona	Mar. 24, 1938	May 28, 1938	100
		Jan. 6, 1937		6,217

Agency and Reservation	Official Name of Organization	Constitution Approved	Charter Ratified	Population
Pima:				
Fort McDowell	The Fort McDowell Mohave-Apache Community, Arizona	Nov. 24, 1936	June 6, 1938	193
Gila River	The Gila River Pima-Maricopa Indian Community, Arizona	May 14, 1936	Feb. 28, 1938	4,865
Salt River	The Salt River Pima-Maricopa Community of the Salt River Reservation, Arizona	June 11, 1940		1,172
Pine Ridge:				
Pine Ridge	The Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota	Jan. 15, 1936		9,204
Pipestone School:				
Lower Sioux	The Lower Sioux Indian Community in the State of Minnesota	June 11, 1936	July 17, 1937	192
Prairie Island	The Prairie Island Indian Community in the State of Minnesota	June 20, 1936	July 23, 1937	94
Potawatomi:				
Iowa	The Iowa Tribe in Nebraska and Kansas	Feb. 26, 1937	June 19, 1937	539
Kickapoo	The Kickapoo Tribe in Kansas	Feb. 26, 1937	June 19, 1937	343
Sac and Fox	The Sac and Fox Tribe of Missouri	Mar. 2, 1937	June 19, 1937	129
		Amended Nov. 25, 1943		
Rocky Boy's:				
Rocky Boy's	The Chippewa Cree Tribe of the Rocky Boy's Reservation, Montana	Nov. 23, 1935	July 25, 1936	742
Rosebud:				
Rosebud	The Rosebud Sioux Tribe, South Dakota	Dec. 20, 1935	Mar. 16, 1937	6,909
San Carlos:				
San Carlos	The San Carlos Apache Tribe, Arizona	Jan. 17, 1936	Oct. 16, 1940	3,103
Sacramento:				
Big Valley	The Big Valley Band of Pomo Indians of the Big Valley Rancheria, California	Jan. 15, 1936	Oct. 19, 1941	92
		Amended May 13, 1940		
Colusa	The Cachil Dehe Band of Wintun Indians, California	Nov. 23, 1941	Nov. 23, 1941	72
Fort Bidwell	The Fort Bidwell Indian Community, California	Jan. 28, 1936		117
		Amended June 8, 1940 and Feb. 4, 1942		

Agency and Reservation	Official Name of Organization	Constitution Approved	Charter Ratified	Population
Sacramento (Cont'd) Manchester	The Manchester Band of Pomo Indians of the Manchester Rancharia, California	Mar. 11, 1936 Amended May 18, 1940 Dec. 16, 1936	Feb. 27, 1937	92
Round Valley Stewart's Point	The Covelo Indian Community, California The Kashia Band of Pomo Indians of the Stewart's Point Rancharia, California	Mar. 11, 1936 Amended May 19, 1940	Nov. 6, 1937	848 140
Tuolumne	The Tuolumne of Me-wuk Indians of the Tuolumne Rancharia, California	Jan. 15, 1936 Amended May 25, 1940	Nov. 12, 1937	80
Tule River	The Tule River Indian Tribe, California	Jan. 15, 1936 Amended May 24, 1940		201
Upper Lake	The Upper Lake Band of Pomo Indians of the Upper Lake Rancharia, California (Name changed by amendment Oct. 22, 1941, to The Upper Lake Pomo Indian Community)	Jan. 15, 1936 Amended May 16, 1940 and Oct. 22, 1941	Feb. 15, 1942	72
Wilton	The Me-wuk Indian Community of the Wilton Rancharia, California	Jan. 15, 1936 Amended May 21, 1940		28
Taholah: Makah Nisqually Quileute	The Makah Indian Tribe, Washington The Nisqually Indian Community, Washington The Quileute Tribe of the Quileute Reservation, Washington	May 16, 1936 Sept. 19, 1946	Feb. 27, 1937	425 60
Skokomish	The Skokomish Indian Tribe of the Skokomish Reservation, Washington	Nov. 11, 1936 May 3, 1938	Aug. 21, 1937 July 22, 1939	287 221
Tombah: Isabella Onaida	The Saginaw Chippewa Indian Tribe of Michigan The Onaida Tribe of Indians of Wisconsin	May 6, 1937 Dec. 21, 1936 Amended June 3, 1939	Aug. 28, 1937 May 1, 1937	434 3,351
Sac & Fox Stockbridge	The Sac and Fox Tribe of the Mississippi in Iowa The Stockbridge-Munsee Community, Wisconsin	Dec. 20, 1937 Oct. 30, 1937	May 21, 1938	479 460
Tongva River: Tongue River	The Northern Cheyenne Tribe, Montana	Nov. 23, 1935	Nov. 7, 1936	1,618
Truxton Canon: Camp Verde Havasupai	The Yavapai-Apache Indian Community, Arizona The Havasupai Tribe of the Havasupai Reservation, Arizona	Feb. 12, 1937 Mar. 27, 1939	Oct. 5, 1946	467 213

Original

Agency and Reservation	Official Name of Organization	Constitution Approved	Charter Ratified	Population
Hualapai (Walapai)	The Hualapai Tribe of the Hualapai Reservation, Arizona	Dec. 17, 1938	June 5, 1943.	462
Moapa	The Moapa Band of Palute Indians	Apr. 17, 1947	May 3, 1942	172
Tulalip:				
Muckleshoot	The Muckleshoot Indian Tribe, Washington	May 13, 1936	Oct. 31, 1936	228
Part Gamble	The Part Gamble Indian Community, Washington	Sept. 7, 1939	Apr. 5, 1941	192
Puyallup	The Puyallup Tribe, Washington	May 13, 1936		319
Swinomish	The Swinomish Indian Tribal Community, Washington	Jan. 27, 1936	July 25, 1936	314
Tulalip	The Tulalip Tribes, Washington	Jan. 24, 1936 Amended Mar. 8, 1941	Oct. 3, 1936	676
Uintah & Ouray:				
Kanosh	The Kanosh Band of Palute Indians	Dec. 2, 1942	Aug. 15, 1943	
Uintah & Ouray	The Ute Indian Tribe of the Uintah and Ouray Reservations, Utah	Jan. 19, 1937	Aug. 10, 1938	1,347
Shivwits	The Shivwits Band of Palute Indians of the Shivwits Reservation, Utah	Mar. 21, 1940	Aug. 30, 1941	97
United Pueblos:				
Santa Clara	The Pueblo of Santa Clara, New Mexico	Dec. 20, 1935 Amended Dec. 19, 1939		485
Warm Springs:				
Warm Springs	The Confederated Tribes of the Warm Springs Reservation, Oregon	Feb. 14, 1938 Amended Dec. 19, 1941	Apr. 23, 1938 Amended Dec. 19, 1941	778
Western Shoshone:				
Duck Valley	The Shoshone-Palute Tribes of the Duck Valley Reservation, Nevada	Apr. 20, 1936	Aug. 22, 1936	554
Elko	The Te-Moak Bands of Western Shoshone Indians of Nevada	Aug. 24, 1938	Dec. 12, 1938	80
Goshute	The Confederated Tribes of the Goshute Reservation in Utah	Nov. 25, 1940	Mar. 29, 1941	155
Winnebago:				
Omaha	The Omaha Tribe of Nebraska	Mar. 30, 1936	Aug. 22, 1936	1,713
Ponca	The Ponca Tribe of Native Americans, Nebraska	Apr. 3, 1936	Aug. 15, 1936	384
Santee	The Santee Sioux Tribe of Nebraska	Apr. 3, 1936	Aug. 22, 1936	1,197
Winnebago	The Winnebago Tribe of Nebraska	Apr. 3, 1936	Aug. 15, 1936	1,268
TOTAL				105,216

OKLAHOMA TRIBES

Agency and Tribe	Official Name of Organization	Constitution Ratified	Charter Ratified	Population
Cheyenne & Arapaho:				
Cheyenne-Arapaho	The Cheyenne-Arapaho Tribes of Oklahoma	Aug. 25, 1937 Amended Feb. 4, 1942		2,949
Five Tribes:				
Creek	The Alabama-Quassarte Tribal Town	Jan. 10, 1939	May 24, 1939	150
Creek	The Kialegee Tribal Town	June 12, 1941	Sept. 17, 1942	250
Creek	The Thlopthlacco Tribal Town	Dec. 27, 1938	Apr. 13, 1939	380
Kiowa:				
Caddo	The Caddo-Indian Tribe of Oklahoma	Jan. 17, 1938 Amend. 1, Jan. 11, 1944	Nov. 15, 1938	1,048
Pawnee:				
Pawnee	The Pawnee Indians of Oklahoma	Jan. 6, 1938	Apr. 28, 1938	1,017
Tankawa	The Tankawa Tribe of Indians of Oklahoma	Apr. 21, 1938		54
Quapaw:				
Eastern Shawnee	The Eastern Shawnee Tribe of Indians, Oklahoma	Dec. 22, 1939	Dec. 12, 1940	299
Miami	The Miami Tribe of Oklahoma	Oct. 10, 1939	June 1, 1940	299
Ottawa	The Ottawa Tribe of Oklahoma	Nov. 30, 1936	June 2, 1939	438
Pearia	The Peoria Tribe of Indians of Oklahoma	Oct. 10, 1939	June 1, 1940	393
Seneca	The Seneca-Coyuga Tribe of Oklahoma	May 15, 1937	June 26, 1937	288
Wyandotte	The Wyandotte Tribe of Oklahoma	July 24, 1937	Oct. 30, 1937	800
Shawnee:				
Iowa	The Iowa Tribe of Oklahoma	Oct. 23, 1937	Feb. 5, 1938	110
Kickapoo	The Kickapoo Tribe of Oklahoma	Sept. 18, 1937	Jan. 18, 1938	269
Potawatomi	The Citizen Band of Potawatomi Indians of Oklahoma	Dec. 12, 1938		2,920
Sac & Fox Shawnee	The Sac and Fox Tribe of Indians of Oklahoma	Dec. 7, 1937		910
	The Absentee-Shawnee Tribe of Indians of Oklahoma	Dec. 5, 1938		667
TOTAL				13,241

ALASKA NATIVE COMMUNITIES AND COOPERATIVES

Alaska Community	Official Name of Organization	Constitution Ratified	Charter Ratified	Population
Angoon	The Angoon Community Association	Nov. 15, 1939	Nov. 15, 1939	347
Atka	The Native Village of Atka	May 23, 1939	May 23, 1939	91
Barrow	The Native Village of Barrow	Mar. 21, 1940	Mar. 21, 1940	386
Chanega	The Native Village of Chanega	Feb. 3, 1940	Feb. 3, 1940	100
Chilkat	See Klukwan			
Craig	The Craig Community Association of Craig, Alaska	Oct. 8, 1938	Oct. 8, 1938	201
Deering	The Native Village of Deering	Oct. 26, 1945	Oct. 26, 1945	177
Diomed	The Native Village of Diomed	Jan. 31, 1940	Jan. 31, 1940	126
Douglas	The Douglas Indian Association	Nov. 24, 1941	Nov. 24, 1941	232
Ellim	The Native Village of Ellim	Nov. 24, 1939	Nov. 24, 1939	98
Fort Yukon	The Native Village of Fort Yukon	Jan. 2, 1940	Jan. 2, 1940	320
Gambell	The Native Village of Gambell	Dec. 31, 1939	Dec. 31, 1939	290
Haines	The Chilkoot Indian Association	Dec. 5, 1941	Dec. 5, 1941	106
Hoonah	The Hoonah Indian Association	Oct. 23, 1939	Oct. 23, 1939	590
Hydaburg	The Hydaburg Cooperative Association of Alaska	Apr. 14, 1938	Apr. 14, 1938	329
Kanatak	The Native Village of Kanatak	Mar. 1, 1940	Mar. 1, 1940	60
Karluik	The Native Village of Karluik	Apr. 23, 1939	Aug. 23, 1939	192
Kasaan	The Organized Village of Kasaan	Oct. 15, 1938	Oct. 15, 1938	83
Ketchikan	The Ketchikan Indian Corporation	Jan. 27, 1940	Jan. 27, 1940	787
King Island	The King Island Native Community	Jan. 31, 1939	Jan. 31, 1939	192
Kivalina	The Native Village of Kivalina	Feb. 7, 1940	Feb. 7, 1940	144
Klawock	The Klawock Cooperative Association of Alaska	Oct. 4, 1938	Oct. 4, 1938	277
Klukwan	The Chilkat Indian Village	Mar. 27, 1941	Mar. 27, 1941	115
Kwethluk	The Native Village of Kwethluk	Jan. 11, 1940	Jan. 11, 1940	172
Mekoryuk	The Native Village of Mekoryuk	Aug. 24, 1940	Aug. 24, 1940	133
Metlakatla	The Metlakatla Indian Community	Dec. 19, 1944	Dec. 19, 1944	700
Minto	The Native Village of Minto	Dec. 30, 1939	Dec. 30, 1939	128
Napaklak	The Native Village of Napaklak	July 29, 1946	July 29, 1946	121
Nikolski	The Native Village of Nikolski	June 12, 1939	June 12, 1939	87
Noatak	The Native Village of Noatak	Dec. 28, 1939	Dec. 28, 1939	350
Name	The Nome Eskimo Community	Nov. 23, 1939	Nov. 23, 1939	508
Noorvik	The Noorvik Native Community	Dec. 27, 1939	Dec. 27, 1939	221
Nunapitchuk	The Native Village of Nunapitchuk	Jan. 2, 1940	Jan. 2, 1940	140
Point Hope	The Native Village of Point Hope	Feb. 29, 1940	Feb. 29, 1940	247
Point Lay	The Native Village of Point Lay	Mar. 22, 1946	Mar. 22, 1946	90
Saxman	The Native Village of Saxman	Jan. 14, 1941	Jan. 14, 1941	99

Alaska Community	Official Name of Organization	Constitution Ratified	Charter Ratified	Population
Selawik	The Native Village of Selawik	Mar. 15, 1940	Mar. 15, 1940	290
Shakttoolik	The Native Village of Shakttoolik	Jan. 27, 1940	Jan. 27, 1940	122
Shishmaref	The Native Village of Shishmaref	Aug. 2, 1939	Aug. 2, 1939	235
Shiyanak	The Native Village of Shiyanak	July 24, 1946	July 24, 1946	
Siika	The Siika Community Association of Alaska	Oct. 11, 1938	Oct. 11, 1938	620
Stabbins	The Stebbins Community Association	Dec. 5, 1939	Dec. 5, 1939	104
Stevens	The Native Village of Stevens	Dec. 30, 1939	Dec. 30, 1939	92
Tanacross	The Native Village of Tanacross	Jan. 5, 1942	Jan. 5, 1942	109
Tellin	The Native Village of Tellin	Mar. 26, 1940	Mar. 26, 1940	81
Tyonek	The Native Village of Tyonek	Nov. 27, 1939	Nov. 27, 1939	101
Unalakleet	The Native Village of Unalakleet	Dec. 30, 1939	Dec. 30, 1939	307
Venetie	The Native Village of Venetie	Jan. 25, 1940	Jan. 25, 1940	86
White Mountain	The Native Village of White Mountain	July 29, 1939	July 29, 1939	189
		Nov. 25, 1939	Nov. 25, 1939	174
		TOTAL		10,899

This list is subject to change. A number of the tribes which have accepted the act have not yet adopted constitutions or charters. Any Oklahoma tribe or Alaskan village may organize at any time.

Table C

**Indian Tribes and Bands which accepted
the Indian Reorganization Act
but which operate under
Constitutions adopted prior
to the passage of the I. R. A.**

Indian Tribes and Bands which accepted the Indian Reorganization Act
but which operate under Constitutions adopted prior to the passage
of the I. R. A.

Agency and Reservation	Official Name of Organization	Constitution Adopted	Population
Cherokee	The Cherokee Tribe of North Carolina, State Charter	March 8, 1897 Amended April 1, 1931 Amended March 6, 1933	3,795
Menominee: Menominee	The Menominee Indians of the Menominee Agency, Wisconsin	Feb. 11, 1928 Amended	2,551
Red Lake: Red Lake	The Red Lake Band of Chippewa Indians, Minnesota (I. R. A. Constitution pending.)	April 13, 1918	2,484
Standing Rock: Standing Rock	The Standing Rock Sioux Tribe, North Dakota	June 25, 1914 Amended	4,324
	<i>Y... .. of B... .. of Kansas</i>	<i>Dec. 11, 1912</i>	13,154

Table D

**Indian Tribes, Bands and Communities
not under
the Indian Reorganization Act
which operate under Constitutions**

List of Indian Tribes not under the Indian Reorganization Act
which operate under Constitutions

Agency and Reservation	Official Name of Organization	Constitution Adopted	Population
Colville:			
Colville	The Confederated Tribes of the Colville Reservation, Washington	Feb. 26, 1938	3,505
Hopps Valley:			
Hoopa	The Hoopa Tribe of the Hoopa Reservation, California	Nov. 20, 1933	636
Fort Peck:			
Fort Peck	The Fort Peck Indians of the Fort Peck Indian Reservation, Montana	Indefinite	3,116
Fort Totten:			
Fort Totten	The Devils Lake Sioux Tribe, North Dakota	April 14, 1944	1,142
Grand Ronde-Siletz:			
Siletz	The Siletz Business Council, Oregon	June 30, 1933	516
Klamath:			
Klamath	The Klamaths, Modoc, and Yahooskin Band of Snake Indians, Klamath Reservation, Oregon	Dec. 23, 1929, Amended Mar. 30, 1936	1,547
Mission:			
Palm Springs	The Agua Caliente Band of Mission Indians, California	June 2, 1939	58
Navajo:			
Navajo	The Navajo Tribe of Indians of the Navajo Reservation, Arizona and New Mexico	July 26, 1938. Amended	55,458
New York:			
Seneca:	The Seneca Nation of Indians of the Allegheny Reservation, New York	1848, Revised Oct. 22, 1868 Jan. 13, 1893 Nov. 15, 1898 <i>Sept. 13, 1919</i>	2,879
<i>W. P. S. S.</i>	<i>Wagon, S. Dakota</i>		
Sisseton:			
Wahpeton	The Sisseton-Wahpeton Sioux Tribe, South Dakota	Oct. 16, 1946	3,177
Tohohahi:			
Chehalis:	The Confederated Tribes of the Chehalis Reservation, Washington	Aug. 22, 1939	27
Turtle Mountain:			
Turtle Mountain	The Turtle Mountain Band of Chippewa Indians, North Dakota	Oct. 8, 1932	7,439
Wind River:			
Wind River	The Shoshone and Arapahoe Indians of the Wind River Reservation, Wyoming.	1930	2,697
			<u>82,197</u>

THE INDIAN REORGANIZATION ACT

(Public—NO. 383—73D CONGRESS)

(S. 3645)

AN ACT

To conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no land of any Indian reservation, created or set apart by treaty or agreement with the Indians, Act of Congress, Executive order, purchase, or otherwise, shall be allotted in severalty to any Indian.

SECTION 2. The existing periods of trust placed upon any Indian lands and any restriction on alienation thereof are hereby extended and continued until otherwise directed by Congress.

SECTION 3. The Secretary of the Interior, if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public-land laws of the United States: **Provided, however,** That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: **Provided further,** That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation: **Provided further,** That the order of the Department of the Interior signed, dated, and approved by Honorable Ray Lyman Wilbur, as Secretary of the Interior, on October 28, 1932, temporarily withdrawing lands of the Papago Indian Reservation in Arizona from all forms of mineral entry or claim under the public land mining laws, is hereby revoked and rescinded, and the lands of the said Papago Indian Reservation are hereby restored to exploration and location, under the existing mining laws of the United States, in accordance with the express terms and provisions declared and set forth in the Executive orders establishing said Papago Indian Reservation: **Provided further,** That damages shall be paid to the Papago Tribe for loss of any improvements on any land located for mining in such a sum as may be determined by the Secretary of the Interior but not to exceed the cost of said improvements: **Provided further,** That a yearly rental not to exceed five cents per acre shall be paid to the Papago Tribe for loss of the use or occupancy of any land withdrawn by the requirements of mining operations, and payments derived from damages or rentals shall be deposited in the Treasury of the United States to the credit

of the Papago Tribe: **Provided further**, That in the event any person or persons, partnership, corporation, or association, desires a mineral patent, according to the mining laws of the United States, he or they shall first deposit in the Treasury of the United States to the credit of the Papago Tribe the sum of \$1.00 per acre in lieu of annual rental, as hereinbefore provided, to compensate for the loss or occupancy of the lands withdrawn by the requirements of mining operations: **Provided further**, That patentee shall also pay into the Treasury of the United States to the credit of the Papago Tribe damages for the loss of improvements not heretofore paid in such a sum as may be determined by the Secretary of the Interior, but not to exceed the cost thereof; the payment of \$1.00 per acre for surface use to be refunded to patentee in the event that patent is not acquired.

Nothing herein contained shall restrict the granting or use of permits for easements or rights-of-way; or ingress or egress over the lands for all proper and lawful purposes; and nothing contained herein, except as expressly provided, shall be construed as authority for the Secretary of the Interior, or any other person, to issue or promulgate a rule or regulation in conflict with the Executive order of February 1, 1917, creating the Papago Indian Reservation in Arizona or the Act of February 21, 1931 (46 Stat. 1202).

SECTION 4. Except as herein provided, no sale, devise, gift, exchange or other transfer of restricted Indian lands or of shares in the assets of any Indian tribe or corporation organized hereunder, shall be made or approved: **Provided, however**, That such lands or interests may, with the approval of the Secretary of the Interior, be sold, devised, or otherwise transferred to the Indian tribe in which the lands or shores are located or from which the shares were derived or to a successor corporation; and in all instances such lands or interests shall descend or be devised, in accordance with the then existing laws of the State, or Federal laws where applicable; in which said lands are located or in which the subject matter of the corporation is located, to any member of such tribe or of such corporation or any heirs of such member: **Provided further**, That the Secretary of the Interior may authorize voluntary exchanges of lands of equal value and the voluntary exchange of shares of equal value whenever such exchange, in his judgment, is expedient and beneficial for or compatible with the proper consolidation of Indian lands and for the benefit of cooperative organizations.

SECTION 5. The Secretary of the Interior is hereby authorized, in his discretion, to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights or surface rights to lands, with-in or without existing reservations, including trust or otherwise restricted allotments whether the allottee be living or deceased, for the purpose of providing land for Indians.

For the acquisition of such lands, interests in land, water rights, and

surface rights, and for expenses incident to such acquisition, there is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, a sum not to exceed \$2,000,000 in any one fiscal year: **Provided**, That no part of such funds shall be used to acquire additional land outside of the exterior boundaries of Navajo Indian Reservation for the Navajo Indians in Arizona and New Mexico, in the event that the proposed Navajo boundary extension measures now pending in Congress and embodied in the bills (S.2499 and H.R. 8927) to define the exterior boundaries of the Navajo Indian Reservation in Arizona, and for other purposes, and the bills (S. 2531 and H.R. 8982) to define the exterior boundaries of the Navajo Indian Reservation in New Mexico and for other purposes, or similar legislation, become law.

The unexpended balances of any appropriations made pursuant to this section shall remain available until expended.

Title to any lands or rights acquired pursuant to this Act shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

SECTION 6. The Secretary of the Interior is directed to make rules and regulations for the operation and management of Indian forestry units on the principle of sustained-yield management, to restrict the number of livestock grazed on Indian range units to the estimated carrying capacity of such ranges, and to promulgate such other rules and regulations as may be necessary to protect the range from deterioration, to prevent soil erosion, to assure full utilization of the range, and like purposes.

SECTION 7. The Secretary of the Interior is hereby authorized to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by this Act, or to add such lands to existing reservations: **Provided**, That lands added to existing reservations shall be designated for the exclusive use of Indians entitled by enrollment or by tribal membership to residence at such reservations.

SECTION 8. Nothing contained in this Act shall be construed to relate to Indian holdings of allotments or homesteads upon the public domain outside of the geographic boundaries of any Indian reservation now existing or established hereafter.

SECTION 9. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary, but not to exceed \$250,000 in any fiscal year, to be expended at the order of the Secretary of the Interior, in defraying the expenses of organizing Indian chartered corporations or other organizations created under this Act.

SECTION 10. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of \$10,000,-

000 to be established as a revolving fund from which the Secretary of the Interior, under such rules and regulations as he may prescribe, may make loans to Indian chartered corporations for the purpose of promoting the economic development of such tribes and of their members, and may defray the expenses of administering such loans. Repayment of amounts loaned under this authorization shall be credited to the revolving fund and shall be available for the purposes for which the fund is established. A report shall be made annually to Congress of transactions under this authorization.

SECTION 11. There is hereby authorized to be appropriated, out of any funds in the United States Treasury not otherwise appropriated, a sum not to exceed \$250,000 annually, together with any unexpended balances of previous appropriations made pursuant to this section, for loans to Indians for the payment of tuition and other expenses in recognized vocational and trade schools: *Provided*, That not more than \$50,000 of such sum shall be available for loans to Indian students in high schools and colleges. Such loans shall be reimbursable under rules established by the Commissioner of Indian Affairs.

SECTION 12. The Secretary of the Interior is directed to establish standards of health, age, character, experience, knowledge, and ability for Indians who may be appointed, without regard to civil-service laws, to the various positions maintained, now or hereafter, by the Indian Office, in the administration of functions or services affecting any Indian tribe. Such qualified Indians shall hereafter have the preference to appointment to vacancies in any such positions.

SECTION 13. The provisions of this Act shall not apply to any of the Territories, colonies, or insular possessions of the United States, except that sections 9, 10, 11, 12, and 16, shall apply to the Territory of Alaska: *Provided*, That Sections 2, 4, 7, 16, 17, and 18 of this Act shall not apply to the following-named Indian tribes, the members of such Indian tribes, together with members of other tribes affiliated with such named tribes located in the State of Oklahoma, as follows: Cheyenne, Arapaho, Apache, Comanche, Kiowa, Caddo, Delaware, Wichita, Osage, Kaw, Otoe, Tonkawa, Pawnee, Ponca, Shawnee, Ottawa, Quapaw, Seneca, Wyandotte, Iowa, Sac and Fox, Kickapoo, Pottawatomie, Cherokee, Chickasaw, Choctaw, Creek, and Seminole. Section 4 of this Act shall not apply to the Indians of the Klamath Reservation in Oregon.

SECTION 14. The Secretary of the Interior is hereby directed to continue the allowance of the articles enumerated in section 17 of the Act of March 2, 1889 (23 Stat. L. 894), or their commuted cash value under the Act of June 10, 1896 (29 Stat. L. 334), to all Sioux Indians who would be eligible, but for the provisions of this Act, to receive allotments of lands in severalty under section 19 of the Act of May 29, 1908 (25 Stat. L. 451), or

under any prior Act, and who have the prescribed status of the head of a family or single person over the age of eighteen years, and his approval shall be final and conclusive, claims therefor to be paid as formerly from the permanent appropriation made by said section 17 and carried on the books of the Treasury for this purpose. No person shall receive in his own right more than one allowance of the benefits, and application must be made and approved during the lifetime of the allottee or the right shall lapse. Such benefits shall continue to be paid upon such reservation until such time as the lands available therein for allotment at the time of the passage of this Act would have been exhausted by the award to each person receiving such benefits of an allotment of eighty acres of such land.

SECTION 15. Nothing in this Act shall be construed to impair or prejudice any claim or suit of any Indian tribe against the United States. It is hereby declared to be the intent of Congress that no expenditures for the benefit of Indians made out of appropriations authorized by this Act shall be considered as offsets in any suit brought to recover upon any claim of such Indians against the United States.

SECTION 16. Any Indian tribe or tribes, residing on the same reservation, shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, which shall become effective when ratified by a majority vote of the adult members of the tribe, or of the adult Indians residing on such reservation, as the case may be, at a special election authorized and called by the Secretary of the Interior under such rules and regulations as he may prescribe. Such constitution and bylaws when ratified as aforesaid and approved by the Secretary of the Interior shall be revocable by an election open to the same voters and conducted in the same manner as hereinabove provided. Amendments to the constitution and bylaws may be ratified and approved by the Secretary in the same manner as the original constitution and bylaws.

In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local Governments. The Secretary of the Interior shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget and the Congress.

SECTION 17. The Secretary of the Interior may, upon petition by at least one-third of the adult Indians, issue a charter of incorporation to such

tribe: **Provided**, That such charter shall not become operative until ratified at a special election by a majority vote of the adult Indians living on the reservation. Such charter may convey to the incorporated tribe the power to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange therefor interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law, but no authority shall be granted to sell, mortgage, or lease for a period exceeding ten years any of the land included in the limits of the reservation. Any charter so issued shall not be revoked or surrendered except by Act of Congress.

SECTION 18. This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application. It shall be the duty of the Secretary of the Interior, within one year after the passage and approval of this Act, to call such an election, which election shall be held by secret ballot upon thirty days' notice.

SECTION 19. The term "Indian" as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood. For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians. The term "tribe" wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation. The words "adult Indians" wherever used in this Act shall be construed to refer to Indians who have attained the age of twenty one years.
Approved, June 18, 1934.

(PUBLIC—NO. 147—74TH CONGRESS)
(H. R. 7781)
AN ACT

To define the election procedure under the Act of June 18, 1934, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in any election heretofore or hereafter held under the Act of June 18, 1934 (48 Stat. 984), on the question of excluding a reservation from the application of the said Act or on the question of adopting a constitution and bylaws or amendments thereto or on the question of ratifying a charter, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate such exclusion, adoption, or ratification, as the case may be: **Provided, however,** That in each instance the total vote cast shall not be less than 30 per centum of those entitled to vote.

SECTION 2. The time for holding elections on the question of excluding a reservation from the application of said Act of June 18, 1934, is hereby extended to June 18, 1936.

SECTION 3. If the period of trust or of restriction on any Indian land has not, before the passage of this Act, been extended to a date subsequent to December 31, 1936, and if the reservation containing such lands has voted or shall vote to exclude itself from the application of the Act of June 18, 1934, the periods of trust or the restrictions on alienation of such lands are hereby extended to December 31, 1936.

SECTION 4. All laws, general and special, and all treaty provisions affecting any Indian reservation which has voted or may vote to exclude itself from the application of the Act of June 18, 1934 (48 Stat. 984), shall be deemed to have been continuously effective as to such reservation, notwithstanding the passage of said Act of June 18, 1934. Nothing in the Act of June 18, 1934, shall be construed to abrogate or impair any rights guaranteed under any existing treaty with any Indian tribe, where such tribe voted not to exclude itself from the application of said Act.

Approved, June 15, 1935.

THE ALASKA REORGANIZATION ACT
(PUBLIC—NO. 538—74TH CONGRESS)
(H. R. 9866)
AN ACT

To extend certain provisions of the Act approved June 18, 1934, commonly known as the Wheeler-Howard Act (Public Law Numbered 383, Seventy-third Congress, 48 Stat. 984), to the Territory of Alaska, to provide for the designation of Indian reservations in Alaska, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 1, 5, 7, 8, 15, 17, and 19 of the Act entitled "An Act to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes," approved June 18, 1934 (48 Stat. 984), shall hereafter apply to the Territory of Alaska: Provided, That groups of Indians in Alaska not heretofore recognized as bands or tribes, but having a common bond of occupation, or association, or residence within a well-defined neighborhood, community, or rural district, may organize to adopt constitutions and bylaws and to receive charters of incorporation and Federal loans under sections 16, 17, and 10 of the Act of June 18, 1934 (48 Stat. 984).

Sec. 2. That the Secretary of the Interior is hereby authorized to designate as an Indian reservation any area of land which has been reserved for the use and occupancy of Indians or Eskimos by section 8 of the Act of May 17, 1884 (23 Stat. 26), or by section 14 or section 15 of the Act of March 3, 1891 (26 Stat. 1101), or which has been heretofore reserved under any executive order and placed under the jurisdiction of the Department of the Interior or any bureau thereof, together with additional public lands adjacent thereto, within the Territory of Alaska, or any other public lands which are actually occupied by Indians or Eskimos within said Territory: Provided, That the designation by the Secretary of the Interior of any such area of land as a reservation shall be effective only upon its approval by the vote, by secret ballot, of a majority of the Indian or Eskimo residents thereof who vote at a special election duly called by the Secretary of the Interior upon thirty days' notice: Provided, however, That in each instance the total vote cast shall not be less than 30 per centum of those entitled to vote: Provided further, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied.

Approved, May 1, 1936.

THE OKLAHOMA INDIAN WELFARE ACT
(PUBLIC—NO. 816—74TH CONGRESS
(S. 2047)

AN ACT

To promote the general welfare of the Indians of the State of Oklahoma, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized, in his discretion, to acquire by purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing Indian reservations, including trust or otherwise restricted lands now in Indian ownership: **Provided**, That such lands shall be agricultural and grazing lands of good character and quality in proportion to the respective needs of the particular Indian or Indians for whom such purchases are made. Title to all lands so acquired shall be taken in the name of the United States, in trust for the tribe, band, group, or individual Indian for whose benefit such land is so acquired, and while the title thereto is held by the United States said lands shall be free from any and all taxes, save that the State of Oklahoma is authorized to levy and collect a gross-production tax, not in excess of the rate applied to production from lands in private ownership, upon all oil and gas produced from said lands, which said tax the Secretary of the Interior is hereby authorized and directed to cause to be paid.

SECTION 2. Whenever any restricted Indian land or interests in land, other than sales or leases of oil, gas, or other minerals therein, are offered for sale, pursuant to the terms of this or any other Act of Congress, the Secretary of the Interior shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians of the same or any other tribe, at a fair valuation to be fixed by the appraisement satisfactory to the Indian owner or owners, or if offered for sale at auction said Secretary shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians by meeting the highest bid otherwise offered therefor.

SECTION 3. Any recognized tribe or band of Indians residing in Oklahoma shall have the right to organize for its common welfare and to adopt a constitution and bylaws, under such rules and regulations as the Secretary of the Interior may prescribe. The Secretary of the Interior may issue to any such organized group a charter of incorporation, which shall become operative when ratified by a majority vote of the adult members of the organization voting: **Provided**, however, That such election shall be void unless the total vote cast be at least 30 per centum of those entitled to vote. Such charter may convey to the incorporated group, in addition to any powers which may properly be vested in a body corporate under the laws of the State of Oklahoma,

the right to participate in the revolving credit fund and to enjoy any other rights or privileges secured to an organized Indian tribe under the Act of June 18, 1934 (48 Stat. 984): **Provided**, That the corporate funds of any such chartered group may be deposited in any national bank within the state of Oklahoma or otherwise invested, utilized, or disbursed in accordance with the terms of the corporate charter.

SECTION 4. Any ten or more Indians, as determined by the official tribal rolls or Indian descendants of such enrolled members, or Indians as defined in the Act of June 18, 1934 (48 Stat. 984), who reside within the State of Oklahoma in convenient proximity to each other may receive from the Secretary of the Interior a charter as a local cooperative association for any one or more of the following purposes: Credit administration, production, marketing, consumers' protection, or land management. The provisions of this Act, the regulations of the Secretary of the Interior, and the charters of the cooperative associations issued pursuant thereto shall govern such cooperative associations: **Provided**, That in those matters not covered by said Act, regulations, or charters, the laws of the State of Oklahoma, if applicable, shall govern. In any stock or nonstock cooperative association no one member shall have more than one vote, and membership therein shall be open to all Indians residing within the prescribed district.

SECTION 5. The charters of any cooperative association organized pursuant to this Act shall not be amended or revoked by the Secretary except after a majority vote of the membership. Such cooperative associations may sue and be sued in any court of the State of Oklahoma or of the United States having jurisdiction of the cause of action, but a certified copy of all papers filed in any action against a cooperative association in a court of Oklahoma shall be served upon the Secretary of the Interior, or upon an employee duly authorized by him to receive such service. Within thirty days after such service or within such extended time as the trial court may permit, the Secretary of the Interior may intervene in such action or may remove such action to the United States district court to be held in the district where such petition is pending by filing in such action in the State court a petition for such removal, together with the certified copy of the papers served upon the Secretary. It shall then be the duty of the State court to accept such petition and to proceed no further in such action. The said copy shall be entered in the said district court within thirty days after the filing of the petition for removal, and the said district court is hereby given jurisdiction to hear and determine said action.

SECTION 6. The Secretary is authorized to make loans to individual Indians and to associations or corporate groups organized pursuant to this Act. For the making of such loans and for expenses of the cooperative associa-

tions organized pursuant to this Act, there shall be appropriated, out of the Treasury of the United States, the sum of \$2,000,000.

SECTION 7. All funds appropriated under the several grants of authority contained in the Act of June 18, 1934 (48 Stat. 984), are hereby made available for use under the provisions of this Act, and Oklahoma Indians shall be accorded and allocated a fair and just share of any and all funds hereafter appropriated under the authorization herein set forth: **Provided,** That any royalties, bonuses, or other revenues derived from mineral deposits underlying lands purchased in Oklahoma under the authority granted by this Act, or by the Act of June 18, 1934, shall be deposited in the Treasury of the United States, and such revenues are hereby made available for expenditure by the Secretary of the Interior for the acquisition of lands and for loans to Indians in Oklahoma as authorized by this Act and by the Act of June 18, 1934 (48 Stat. 984).

SECTION 8. This Act shall not relate to or affect Osage County, Oklahoma.

SECTION 9. The Secretary of the Interior is hereby authorized to prescribe such rules and regulations as may be necessary to carry out the provisions of this Act. All Acts or parts of Acts inconsistent herewith are hereby repealed.

Approved, June 26, 1936.

Menominee Indian Tribe of Wisconsin

Kenosha Parcel

Secretarial Determination Packet

May 2, 2023

1. The full name, address, and telephone number of the tribe submitting the application (25 C.F.R. § 292.16(a))

Menominee Indian Tribe of Wisconsin
W2904 Tribal Office Loop Road
Keshena, WI 54135
(715) 799-5100

2. A description of the location of the land, including a legal description supported by a survey or other document (25 C.F.R. § 292.16(b))

See Menominee Tribal Legislature Resolution 23-31, attached as Exhibit "A"

3. Proof of identity of present ownership and title status of the land (25 C.F.R. § 292.16(c))

The land is owned by the Community Development Authority of the Village of Bristol, Wisconsin.

Kenosha Landco, LLC, a Wisconsin Limited Liability Company holds an option to purchase the Kenosha Parcel, a copy of which is attached as Exhibit "B."

The Tribe will supplement this Secretarial Decision Packet with documents showing how Kenosha Landco, LLC will transfer the land to the Tribe or the Secretary at the direction of the Tribe.

4. Distance of the land from the tribe's reservation or trust lands, if any, and tribal government headquarters (25 C.F.R. § 292.16(d))

The Kenosha Parcel is approximately 160 miles from the Menominee Indian Tribe of Wisconsin government headquarters.

5. Information required by § 292.17 to assist the Secretary in determining whether the proposed gaming establishment will be in the best interest of the tribe and its members (25 C.F.R. § 292.16(e))

The Tribe will supplement this Secretarial Determination Packet with a report containing the information required by § 292.17 showing that the gaming establishment will be in the best interest of the Tribe and its members.

6. Information required by § 292.18 to assist the Secretary in determining whether the proposed gaming establishment will not be detrimental to the surrounding community (25 CFR § 292.16(f))

The Tribe will supplement this Secretarial Determination Packet with a report containing the information required by § 292.18 showing that the gaming establishment will not be detrimental to the surrounding community.

7. The Authorizing Resolution from the Menominee Indian Tribe (25 C.F.R. § 292.16(g))

See Menominee Nation Resolution 23-31 attached as Exhibit "A."

8. The Menominee Indian Tribe's Gaming Ordinance Approved by the National Indian Gaming Commission in accordance with 25 U.S.C. 2710 (25 C.F.R. § 292.16(h))

See May 29, 2008 and April 24, 2014 National Indian Gaming Commission approvals of the Tribe's Gaming Ordinance attached as Exhibit "C." The Tribe's Gaming Ordinance can also be found in Chapter 347 of the Menominee Tribal Code at [Tribal Government of Menominee Indian Tribe of WI Gaming \(ecode360.com\)](#)

9. The Menominee Indian Tribe's Organic Documents (25 C.F.R. § 292.16(i))

See Constitution and Bylaws of the Menominee Indian Tribe of Wisconsin attached as Exhibit "D."

10. The Menominee Indian Tribe's Class III Gaming Compact with the State of Wisconsin (25 C.F.R. § 292.16(j))

The Menominee Indian Tribe of Wisconsin – State of Wisconsin Gaming Compact ("Gaming Compact") can be found at: [DOA Menominee Tribe of Indians of Wisconsin](#)

11. Proposed Management Contract 25 C.F.R. § 292.16(l)

The Tribe will supplement this Secretarial Determination Packet with a proposed management contract.

Menominee Indian Tribe of Wisconsin

Kenosha Parcel

Secretarial Determination Packet

May 2, 2023

Exhibit "A"



**MENOMINEE INDIAN TRIBE OF WISCONSIN
RESOLUTION NO. 23-31**

REQUEST TO PUT LAND INTO TRUST FOR GAMING

WHEREAS, we, the Menominee people, are indigenous to what is now known as the State of Wisconsin, our place of origin was at the mouth of the Menominee River where the five clans of the Menominee were created and include the Awāēhsaeh (Bear), Kenēw (Eagle), Mahwāēw (Wolf), Mōs (Moose), and Otāēqciāh (Crane), and we continue to live on our ancestral land that was granted by the Māēc-Awāētōk (Great Spirit); and

WHEREAS, the Menominee Indian Tribe of Wisconsin (the "Tribe") is a federally recognized Indian Tribe as provided by the Menominee Restoration Act, Act Dec. 22, 1973, Pub. L. No. 93-197, 87 Stat. 770, formerly codified as 25 U.S.C. §§ 903 et seq.; and

WHEREAS, the Tribe, acting through its duly elected governing body, the Menominee Tribal Legislature (the "Legislature"), has powers to make and enforce laws, negotiate with Federal, State and Local governments and otherwise exercise its powers consistent with the limitations imposed by its Constitution and Bylaws; and

WHEREAS, the Tribe can conduct gaming on "Indian lands" pursuant to the terms of the Indian Gaming Regulatory Act ("IGRA") and the Gaming Compact of 1992 (as amended) between the Tribe and the State of Wisconsin; and

WHEREAS, the Tribe holds an interest in certain lands described in Exhibit "A" attached hereto and incorporated herein ("Site"); and

WHEREAS, the Tribe intends to construct and operate gaming and gaming related facilities on the Site ("the Project"); and

WHEREAS, in order for the Site to be used for gaming, it must constitute "Indian lands" under IGRA, so title to the Site must be transferred to the United States to be held in trust on behalf of the Tribe; and

WHEREAS, to utilize the Site for gaming, the Secretary of the Interior ("Secretary") must determine that the Project (1) would be in the best interests of the Tribe and its members, and (2) would not be detrimental to the surrounding community; and

WHEREAS, additionally, the Governor of the State of Wisconsin must concur in the Secretary's determination; and

WHEREAS, the Secretary has the authority pursuant to Section 5 of the Act of June 18, 1934, as amended, 25 U.S.C. § 5108 to acquire lands for the Tribe, and provides that

such lands shall be acquired in the name of the United States in trust for the Menominee Indian Tribe of Wisconsin; and

WHEREAS, an application ("Application") meeting the requirements of 25 C.F.R. Chapter 151 and 25 C.F.R. Chapter 292 is being prepared, and a draft has been reviewed by the Tribal Legislature.

NOW, THEREFORE, BE IT RESOLVED, that the Tribe, acting through the Tribal Legislature, hereby requests the Secretary:


1. To determine that the Project would be in the best interest of the Tribe and its members and would not be detrimental to the surrounding community and to request that the Governor of Wisconsin concur in Secretary's determination; and
2. Pursuant to the authority granted by Section 5 of the Act of June 18, 1934, as amended, 25 U.S.C. § 5108 (made applicable to the Tribe by Section 3(a) of the Menominee Restoration Act, formerly codified as 25 U.S.C. § 903(a) (a)), to accept legal title to the Site described in Exhibit "A" in the name of the United States in trust for the benefit of the Tribe; and

BE IT FURTHER RESOLVED that the Chairperson of the Tribe is authorized to transmit the Application to the United States Department of the Interior and supplement the Application as necessary.

CERTIFICATION

We, the undersigned officers of the Menominee Tribal Legislature hereby certify that the foregoing resolution was duly adopted at a meeting held on April 20, 2023 with a quorum present, by a vote of 8 for, 0 opposed, 0 abstentions and 0 absent.

The undersigned further certify that the foregoing resolution has not been amended or rescinded in any way.



GENA KAKKAK, CHAIRWOMAN
MENOMINEE TRIBAL LEGISLATURE

DATE: April 20, 2023



SPENCER GAUTHIER, SECRETARY
MENOMINEE TRIBAL LEGISLATURE

MENOMINEE TRIBAL LEGISLATURE

RESOLUTION 23-31

EXHIBIT "A"

EXHIBIT A

PROPERTY LEGAL DESCRIPTION AND MAP

5.80-Acre Parcel (Parcel A):

1-B PT NE 1/4 SEC 1 T 1 R 21 COMM AT NE COR NE 1/4 TH W'LY 620.93 FT TH S 100 FT TO POB TH CONT S ALG E ROW 122ND AVE APPROX 708.46 FT AS DESC IN DOC#1634242 TPP PLAT 09-1024-4.02 TO N LN LOT A CSM 211 V 929 P 571 TH E ALG N LN CSM TO W ROW I-94 TH N ALG W ROW I-94 AND S LN 60TH ST 99.87 FT TH W ALG S LN 60TH ST 288.79 FT TO POB (2001 ANNEXATION 35-4-121-011-0100) (2009 LOT LINE ADJUSTMENT) (2011 PT 03-121-01-101-100) DOC #975090 5.80 AC DOC#1027160 DOC#1564651

PARCEL #: 03-121-01-101-101

10.55-Acre Parcel (Parcel B):

THAT PT OF THE FOLLOWING LYING E OF 122ND AVE ROW AS DESCRIBED IN DOC#1634242 TPP 09-1024-4.02 PT NE 1/4 SEC 1 T 1 R 21 COM AT E 1/4 COR SEC 1 TH W 275.03 FT TO W ROW I-94 TO POB TH TH N 221.63 FT TH W 1042.46 FT TH SW'LY 117.81 FT ALG CURVE TH S 43 DEG 57' 55" W 105.41 FT TH N 1197.61 FT TH E 38.71 FT TH N 254.15 FT TH E 1186 FT TH S 366.44 FT TH W 235.2 FT TH S 120 FT TH E 235.20 FT TH S 847.05 FT TO POB 10.576 AC (2007 PT 03-121-01-101-420) (2011 PT 03-121-01-101-421) DOC#1500247 DBED IN ERROR DOC#1502945 CORRECTION (2016 LOT LINE ADJ DOC #1757896 & DOC#1757697)

PARCEL #: 03-121-01-101-422

18.65-Acre Parcel (Parcel C):

THAT PT OF THE FOLLOWING LYING W OF 122ND AVE ROW AS DESCRIBED IN DOC# 1634242 AND TPP 09-1024-4.02 PT OF NE 1/4 SEC 1 T 1 R 21 BEG 434.07 FT W OF NE COR 1/4 W 832.43 FT S 624 FT W 189.75 FT S 654.75 FT E 824.94 FT N 450 FT E 362.8 FT TO W LN HY N 635.88 FT NW'LY 242.65 FT TO POB ANNEX ORD 64-00 DOC#1202936 EXC ROAD ROW DOC#1564651 (2001 ANNEXATION 35-4-121-011-0100) (2009 LOT LINE ADJUSTMENT) (2011 PT 03-121-01-101-100) DOC #975090 18.65 AC DOC#1027160 DOC#1564651 DOC #975090 DOC#1027160 DOC#1564651

PARCEL #: 03-121-01-101-102

24.19-Acre Parcel (Parcel D):

THAT PT OF FOLLOWING LYING W OF 122ND AVE ROW AS DESCRIBED IN
DOC#1634242 TPP 09-1024-4.02 PT NE 1/4 SEC 1 T 1 R 21 COM AT E 1/4 COR SEC 1 TH
W 275.03 FT TO W ROW I-94 TO POB THEN N 221.63 FT TH W 1042.46 FT TH SW'LY
117.81 FT ALG CURVE TH S 43 DEG 57' 55" W 105.41 FT TH N 1197.61 FT TH E 38.71 FT
TH N 254.15 FT TH E 1186 FT TH S 336.21 FT TH W 235.2 FT TH S 120 FT TH E 235.20 FT
TH S 876.78 FT TO POB 24.19 AC (2007 PT 03-121-01-101-420) (2011 PT 03-121-01-101-
421) DOC#1500247 DEED IN ERROR DOC#1502945 CORRECTION

PARCEL #: 03-121-01-101-423

Menominee Indian Tribe of Wisconsin

Kenosha Parcel

Secretarial Determination Packet

May 2, 2023

Exhibit "B"

OPTION AGREEMENT

THIS OPTION AGREEMENT ("Agreement") is made and entered into as of the 19th day of July, 2022 ("Effective Date"), by and between the Community Development Authority of the Village of Bristol, Wisconsin ("Seller") and Kenosha Landco, LLC, a Wisconsin limited liability company ("Purchaser").

1. Option Agreement. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller hereby grants to Purchaser, its successors and assigns, the exclusive and irrevocable option and right (the "Option") to purchase all or a portion of approximately fifty-nine and nineteen hundredths (59.19) acres of real property commonly known as 122th Avenue, Kenosha, Kenosha County, Wisconsin. The property to be acquired, shown on Exhibit A attached hereto and incorporated herein, includes (i) approximately forty-two and eighty-four hundredths (42.84) acres identified as Parcels C and D ("Parcels C and D"), (ii) approximately five and eight tenths (5.80) acres identified as Parcel A ("Parcel A"); and (iii) approximately ten and fifty-five hundredths (10.55) acres identified as Parcel B ("Parcel B") (collectively, the "Property").

2. Purchase Price. The total purchase price (the "Purchase Price") for the Property shall be (b) (4) Dollars (b) (4) subject to adjustments as described below and calculated based on the following cost per parcel:

- a. Parcels C and D: (b) (4)
(b) (4)
- b. Parcel A: (b) (4)
and No/100 Dollars (b) (4)
- c. Parcel B: (b) (4)
(b) (4)

Purchaser may purchase the Property, Parcels C and D, or Parcels C and D with Parcel A and/or Parcel B. In the event Purchaser elects to purchase only Parcels C and D or Parcels C and D with Parcel A and/or Parcel B, the Purchase Price shall be amended to reflect the sum price of the parcels Purchaser intends to purchase pursuant to the amounts listed in this Paragraph 2.

3. Option Period; Exercise of Option. Purchaser may exercise the Option at any time commencing from full execution of this Agreement and continuing for a period of twelve (12) months thereafter ("Option Period"). If Purchaser elects to exercise this Option during the Option Period, Purchaser shall notify Seller in writing as provided in Paragraph 14 below, prior to the expiration of the Option Period or any extension thereof, as provided herein ("Exercise Notice"), including which parcels Purchaser intends to purchase. If Purchaser fails to exercise the Option before the end of the Option Period (as may be extended) or fails to extend the Option Period as provided herein, this Agreement shall terminate, and the parties shall have no further obligations toward each other under this Agreement, and Seller shall receive and retain the Option Fee and the Additional Option Fee (if applicable).

4. Option Fee. Within three (3) business days following the Effective Date, Purchaser shall deposit into escrow with Chicago Title Insurance Company ("Title Company") (b) (4) ("Option Fee"). Should the Option Period, or any extension thereof, expire without Purchaser having duly exercised the Option, Seller shall retain the Option Fee (and the Additional Option Fee, if applicable) as independent consideration of this Agreement and the Option herein granted. Should Purchaser duly exercise the Option, the Option Fee (and the Additional Option Fee, if applicable) will be credited to Purchaser towards the Purchase Price at Closing (defined below).

5. Extension of Option Period. Purchaser may extend the Option Period for one (1) twelve (12) month period by delivering to Seller, prior to the expiration of the Option Period, written notice of said extension ("Extension Notice"). As part of the Extension Notice, Purchaser shall notify Seller which of the parcels of the Property Purchaser intends to acquire. Purchaser shall also deposit into escrow with the Title Company an additional (b) (4) (b) (4) ("Additional Option Fee") within three (3) business days following the date of the Extension Notice except in the event Purchaser intends to acquire Parcel A and/or Parcel B, in addition to Parcels C and D, in which case the Additional Option Fee shall be (b) (4) (b) (4). The Additional Option Fee shall be non-refundable to Purchaser, except in the case of Seller's Default, but shall be credited to the Purchase Price at Closing (defined below). Upon providing the Extension Notice, the initial Option Fee shall be released by the Title Company to Seller from escrow (but shall remain credited to Purchaser towards the Purchase Price at Closing).

6. Non-Identified Parcels. In the event Purchaser elects not to purchase either or both of Parcel A or Parcel B, upon such election by Purchaser and release of such Parcel(s) from this Agreement, Seller may immediately market for sale such Parcel(s).

7. Closing. The closing of the transaction provided for herein ("Closing") shall take place within one hundred eighty (180) days following the date of the Exercise Notice (such date being the "Closing Date"). However, if Purchaser extends the Option Period pursuant to Paragraph 5 above, the Closing shall take place within ninety (90) days of Exercise Notice. The Closing shall take place in escrow with the Title Company ("Escrow Agent") and shall proceed as follows:

a. Seller shall cause to be delivered to the Escrow Agent a warranty deed to the Property (the "Deed"), dated as of the Closing Date, duly executed and acknowledged by Seller, conveying to Purchaser marketable title in fee simple to the Property, free and clear of all liens and encumbrances except those specifically consented to by Purchaser.

b. Purchaser shall cause to be delivered to the Escrow Agent funds equal to the balance of the Purchase Price (subject to any credit adjustments pursuant to Paragraph 5), plus Purchaser's share of closing costs, as adjusted for any pro-ration of expenses as provided herein.

c. The parties shall cause to be delivered to the Escrow Agent such other instruments and documents as may be necessary and appropriate in order to complete the closing of the transaction as contemplated herein.

d. The parties may cause to be delivered to the Escrow Agent mutually acceptable escrow instructions.

e. Upon Closing, the Escrow Agent shall record the Deed from Seller to Purchaser, shall arrange for the issuance of an A.L.T.A. standard coverage owner's policy of title insurance ("Title Policy") for the Property in the amount of the Purchase Price, and shall deliver to Seller the balance of the Purchase Price, less any costs and expenses to be borne by Seller, as provided herein and set forth in a closing statement to be prepared by Escrow Agent and approved by Purchaser and Seller. The Title Policy shall show the title to the Property to be in the name of Purchaser, or its designee or assignee, free and clear of all liens and encumbrances except for such exceptions as may be specifically agreed to by Purchaser. Seller shall pay the premium for the Title Policy, and Purchaser shall pay the difference between such amount and the premium for any extended coverage policy of title insurance requested by Purchaser. The escrow and closing fee charged by Escrow Agent shall be divided equally between Purchaser and Seller. All other escrow and closing costs shall be allocated in accordance with the manner in which such costs are customarily borne by such parties, with prorations of property taxes and other items of income and expense, if any, as of the Closing Date. Each party shall bear its own attorneys' fees.

8. Access to Property. Upon execution of this Agreement and during the Option Period and any extensions hereof, Seller agrees that Purchaser, its agents and contractors may enter upon the Property and, at Purchaser's expense, perform all surveying, engineering, soil sampling, meteorological assessments and other tests and analysis of the Property as determined necessary by Purchaser. In connection with such tests Purchaser may erect equipment and temporary structures upon the Property, so long as such structures and equipment are removed from the Property and the Property restored to its condition prior to such installation in the event that Purchaser does not exercise the Option and close on the purchase of the Property. Purchaser agrees to hold Seller harmless in connection with any loss or damage to the Property resulting from the entry upon the Property by Purchaser, its agents or contractors. During the Option Period and any extension thereof, Seller shall not use or alter the Property in any manner which would adversely affect its use by Purchaser, and Seller shall not sell, lease, encumber, or otherwise transfer or dispose of the Property to any other party. Purchaser shall provide proof of liability insurance and for any work on the Property and name the Seller as an additional insured.

9. Title Examination.

a. Title Evidence. Within ten (10) business days following the Effective Date, Seller shall obtain from Title Company, and deliver to Purchaser, a preliminary title report with respect to the Property containing such exceptions as the Title Company would specify in the title policy and copies of all documents of record identified as exceptions in such preliminary title report ("Title Commitment"). Purchaser shall have the right to obtain, along with a plotting of all easements specified as exceptions in such Title Commitment, a survey ("Survey") of the Property sufficient to permit the Title Company to issue ALTA Extended Coverage (combined with the Title Commitment, "Title Evidence").

b. Purchaser's Objections. Within thirty (30) days after receipt of the last of the Title Evidence, Purchaser shall give written notice to Seller disapproving any items shown in such Title Commitment and identifying the items and/or exceptions disapproved ("Title Objection").

Notice”). If Purchaser does not timely give a Title Objection Notice, then Purchaser shall be deemed to have approved the Title Commitment. Upon Purchaser’s delivery of a Title Objection Notice, Seller may elect to remove, or otherwise modify or cure in a manner reasonably satisfactory to Purchaser, said disapproved item(s) at or prior to the Closing by delivering written notice of such election to Purchaser not later than thirty (30) days following the date Seller receives a Title Objection Notice (“Seller’s Response”). If Seller does not provide Seller’s Response to Purchaser within such thirty (30) day period following Seller’s receipt of the Title Objection Notice that Seller will not remove or otherwise modify or cure such disapproved exceptions or matters at or prior to Closing, Purchaser shall have thirty (30) days to elect to terminate this Agreement. In the event that Purchaser fails to terminate this Agreement within such period, Purchaser shall be deemed to have approved those exceptions or matters contained in the Title Objection Letter which Seller did not so agree to remove or otherwise modify or cure in a manner reasonably satisfactory to Purchaser. Notwithstanding anything contained in this Agreement to the contrary, Seller shall remove through Escrow at or prior to the Closing any and all of the following (the “Pre-Disapproved Exceptions”): mortgages, deeds of trust, mechanics’ liens, judgment liens, and any other monetary encumbrances, assessments and/or indebtedness, except for the current installment of non-delinquent real property taxes and assessments.

10. Due Diligence.

a. Examination of Documentation. Within ten (10) business days following the Effective Date, Seller shall (1) make available to Purchaser for inspection and duplication all materials in Seller’s possession or control relating to the Property, including, without limitation, any and all correspondence, reports, studies, permits, approvals or documents relating to the Property, and (2) deliver to Purchaser: (i) copies of the most recent property tax bills and assessments for the Property, (ii) a copy of any and all leases, service contracts, easements, licenses, development approvals and/or other agreements related to the Property, (iii) any and all existing surveys of the Property, (iv) any and all soils reports, reports pertaining to hazardous materials or other environmental conditions or other reports relating to the physical condition of the Real Property, and (v) any and all architectural or engineering documents relating to the Property (collectively, the “Seller Deliverables”).

b. Investigations. Purchaser may, from time to time, conduct, review and analyze any Seller Deliverables, feasibility studies, inspections, environmental audits, soils and geological studies, soil and ground water tests, engineering reports, topographic surveys, grading plans, environmental impact reports, right of way and easement agreements, zoning and master plan issues, bond feasibility and a detailed investigation of all governmental authorities having jurisdiction over the Property, and other investigations (collectively, the “Investigations”) as Purchaser deems appropriate. Upon reasonable written notice to Seller and farmer(s) on the Property, Seller shall permit Purchaser, its engineers, contractors, consultants, employees, and agents, which permission shall not be unreasonably withheld, conditioned, or delayed, to enter onto the Property and conduct, at Purchaser’s expense, any such Investigations. In conducting such Investigations, Purchaser shall not unreasonably damage the Property and/or unreasonably disrupt any ongoing business being conducted at the Property, including farming. Purchaser and all of its consultants, contractors and engineers and other persons entering the Property pursuant to the license granted to Purchaser hereunder shall maintain (or Purchaser shall maintain on behalf of such parties) reasonably adequate commercial general liability insurance policies to cover the

activities of such parties on the Property. Purchaser shall promptly repair any damage to the Property caused by the Investigations, compensate farmer(s) for any damage or lost crops, and shall restore the Property to substantially the same condition which it was in prior to the conduct of such Investigations. Purchaser shall keep the Property free and clear of any mechanic's liens or materialmen's liens arising out of any of Purchaser's activities or those of its agents and representatives. Purchaser agrees to indemnify and hold harmless Seller from any damages, liabilities, losses, costs or expenses (including, without limitation, reasonable attorneys' fees) which result from (i) any damage to persons or property caused by Purchaser's Investigations and/or (ii) any mechanic's liens or materialmen's liens arising out of any of Purchaser's activities or those of its agents and representatives which are recorded against the Property, and such indemnity obligation shall survive the termination of this Agreement.

11. Carry on in Normal Course. Seller shall, at all times during this Agreement, conduct and maintain the Property consistent with Seller's current practices and in the ordinary course of business. Seller shall use its best efforts to preserve and not commit waste on, or with respect to, the Property.

12. Possession. Seller agrees to surrender possession of the Property to Purchaser on the Closing Date, unless otherwise agreed in writing by Purchaser and Seller.

13. Assignment. Purchaser may assign this Agreement in its sole discretion, but shall provide written notice of any such assignment to Seller within ten (10) business days of any assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. None of the provisions of this Agreement are intended to be, nor shall they be construed to be, for the benefit of any third party.

14. Brokers. Purchaser warrants and represents to Seller that Purchaser has not dealt or negotiated with any broker or other person that could claim a commission, fee or other compensation by reason of having dealt with Purchaser in connection with this transaction. Seller warrants and represents to Purchaser that, other than Keith D. Puritz of Cushman & Wakefield, Seller has not dealt or negotiated with any broker or other person that could claim a commission, fee or other compensation by reason of having dealt with Seller in connection with this transaction. Seller shall be liable for all commissions, fees or other compensation payable to all real estate brokers or salespersons. Purchaser and Seller shall each indemnify, defend and hold harmless the other from and against any and all losses, costs, liens, claims, liabilities or damages, including but not limited to, reasonable attorneys' fees and disbursements, resulting from a breach of the foregoing representations of each party or any claim that may be made by any other broker or other persons claiming a commission, fee or other compensation by reason of having dealt with Purchaser or Seller, respectively, in connection with this transaction including, without limitation, any loss, liability, damages, costs and expenses incurred in enforcing this indemnity.

15. Default.

a. Seller's Default. If Seller fails to perform any of its obligations hereunder for any reason other than Purchaser's failure to perform Purchaser's obligations under this Agreement, Purchaser shall have the right to terminate this Agreement, and exercise any and all remedies or actions at law or in equity available to Purchaser or otherwise as set forth in this

Agreement, including a suit for money damages and/or to enforce specific performance of the obligations of Seller under this Agreement, provided, however, that prior to exercising any of the foregoing remedies, Purchaser shall provide Seller written notice of the alleged default and a ten (10) calendar day period within which to cure such alleged default.

b. Purchaser's Default. If Purchaser fails to perform any of Purchaser's obligations hereunder for any reason other than (i) the termination of this Agreement by Purchaser pursuant to any right to terminate expressly set forth in this Agreement, or (ii) Seller's failure to perform its obligations under this Agreement, Seller shall have the right to terminate this Agreement and either (x) retain the Option Fee and the Additional Option Fee (if applicable) as its sole remedy and liquidated damages, or (y) exercise any and all remedies or actions at law or in equity available to Seller or otherwise as set forth in this Agreement, including a suit for money damages and/or to enforce specific performance of the obligations of Purchaser under this Agreement; provided, however, prior to exercising either of the foregoing remedies, Seller shall provide Purchaser written notice of the alleged default and a ten (10) day period within which to cure such alleged default. In no event shall Seller be entitled to recover any incidental, indirect, special or consequential damages or damages for lost profits.

16. Notice.

a. Any notice herein contemplated to be given to Seller shall be sufficient if given in writing, by personal delivery, registered or certified mail, or by nationally recognized overnight delivery service, addressed to:

Community Development Authority of the Village of Bristol
19801 83rd Street
Bristol, Wisconsin 53104
Attn: Randy Kerman
Email: admin@villageofbristol.org

With a copy to:

Gimbel, Reilly, Guerin, Brown LLP
330 East Kilbourn Avenue, Suite 1170
Milwaukee, Wisconsin 53202
Attn: Joshua Gimbel
Email: jlgimbel@grgblaw.com

b. Any notice herein contemplated to be given to Purchaser shall be sufficient if given in writing, by personal delivery, registered or certified mail, or by nationally recognized overnight delivery service, addressed to:

Michael Best & Friedrich LLP
One South Pinckney Street, Suite 700
Madison, Wisconsin 53703
Attn: Michael Green
Email: msgreen@michaelbest.com

Notice by mail shall be considered "delivered", effective and complete at the time of delivery, if by personal service, when delivered to the offices of the overnight delivery service,

or upon deposit in the United States Mail. The parties hereto may change the addresses, add additional parties or make substitutions or deletions by giving notice of such changes in accordance with the terms hereof to all parties listed in this Paragraph 15, as amended from time to time. No party listed herein may be deleted from receiving notice without giving its consent in writing to all parties listed in this Paragraph 15, as amended from time to time.

17. Successors. All the terms, covenants and conditions hereof will be binding on and inure to the benefit of Purchaser and Seller and their heirs, executors, administrators, successors and assigns. This Agreement and the interest of Purchaser may be assigned in whole or in part by Purchaser without consent of Seller.

18. Exclusive Dealing. Seller, its employees, agents, and representatives, shall not take, directly or indirectly, any action to initiate, continue, assist, solicit, receive, negotiate, encourage or accept any offer or inquiry from any person regarding any sale, dividend or other disposition of any portion of the Property, or any transaction regarding Seller which would result in any sale, disposition, or transfer of any portion of the Property until termination of this Agreement.

19. Diligent Effort. During the Option Period, Purchaser shall use commercially reasonable, diligent and good faith efforts to obtain the issuance of all governmental approvals necessary for the development and operation of the Property for Purchaser's intended use, including, without limitation, all required governmental land use permits and approvals, site plans and architectural approvals, building permits, all wetlands, conservation commission, and/or any other environmental permits and approvals, all required permits and approvals for ingress/egress and roadway access, and any other discretionary governmental permit or approval necessary.

20. Miscellaneous Provisions.

a. This Agreement shall be construed in accordance with the laws of the State of Wisconsin. Any action or proceeding by either of the parties to enforce this Agreement shall be brought only in a state or federal court located in Kenosha County, State of Wisconsin. The parties hereby irrevocably submit to the exclusive jurisdiction of such courts and waive the defense of inconvenient forum to the maintenance of any such action or proceeding in such venue.

b. Headings used in this Agreement are for purposes of convenience only and shall not affect the construction of any provision of this Agreement.

c. Each of the parties represents that it has the power to enter into this Agreement.

d. The failure of either party to insist upon strict performance of any of the covenants or conditions of this Agreement in any one or more instances shall not be construed as a waiver or relinquishment for the future of any such covenants or conditions, but the same shall be and remain in full force and effect.

e. The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect any other provision of this Agreement, and this Agreement shall be

construed as if such void, voidable, unenforceable, or invalid provision had never been a part of this Agreement, provided that the Agreement as so modified preserves the basic intent of the parties.

f. It is specifically understood and agreed between the parties hereto that the relationship of the parties extends only to and is limited to the rights and obligations under this Agreement, and nothing herein shall be construed to constitute either party a joint venturer, agent, fiduciary or partner of the other, nor in any manner to limit the parties in the carrying on of their respective businesses or activities other than the activities included within the scope of this Agreement.

g. The parties agree that, should either party default in any of the covenants or agreements herein contained, the defaulting party shall pay all costs and expenses, including reasonable attorneys' fees, which may arise or accrue from enforcing or terminating this Agreement, or in pursuing any remedy provided hereunder, whether such remedy is pursued by filing suit or otherwise.

h. This Agreement constitutes the whole agreement between the parties. This Agreement supersedes any prior agreements. There are no representations, warranties, terms, obligations, covenants, or conditions other than contained herein. This Agreement may not be amended or modified by any act or conduct of the parties or by oral agreement, unless reduced to writing, signed by both Purchaser and Seller.

i. All risk of loss or damage to the Property prior to the Closing Date shall be borne by Seller, except to the extent of any damage caused by Purchaser pursuant to the activities allowed in Paragraph 8 and Paragraph 10.

j. Each of the parties shall execute such other and further documents and do such further acts as may be reasonably required to effectuate the intent of the parties and carry out the terms of this Agreement.

k. Time is of the essence in this Agreement. Wherever the time for performance of any obligation hereunder or if, pursuant to this Agreement, a party must act by a particular time, or an act is effective only if done by a particular time, and the last date for the performance of such obligation or the doing or effectiveness of such act falls on a Saturday, Sunday, national or state holiday, or day on which the Register of Deeds in Kenosha County is closed or otherwise not accepting documents for recording, the time for the performance of such obligation or the doing or effectiveness of such act shall be extended to the next business day.

l. This Agreement may be executed in multiple counterparts, each of which shall serve as an original for all purposes, but all copies shall constitute but one and the same agreement, binding on all parties hereto, whether or not each counterpart is executed by all parties hereto, so long as each party hereto has executed one or more counterparts hereof. A facsimile or scanned copy (*.pdf) signature to this Agreement shall have the same effect as an original for all purposes.

m. At the request of Purchaser, Seller agrees to execute a memorandum of recording of this Agreement, prepared by Purchaser, for the purpose of providing record notice of Purchaser's rights under this Agreement.

[Signatures on the following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SELLER:

COMMUNITY DEVELOPMENT AUTHORITY
OF THE VILLAGE OF BRISTOL, WISCONSIN

By: Jeffrey C. Thompson
Name: JEFFREY C THOMPSON
Its: CHAIRMAN CDA Bristol

PURCHASER:

KENOSHA LANDCO, LLC,
a Wisconsin limited liability company

By: [Signature]
Name: Michael S. Green
Its: Authorized Representative

EXHIBIT A

PROPERTY LEGAL DESCRIPTION AND MAP

5.80-Acre Parcel (Parcel A):

1-B PT NE 1/4 SEC 1 T 1 R 21 COMM AT NE COR NE 1/4 TH W'LY 620.93 FT TH S 100 FT TO POB TH CONT S ALG E ROW 122ND AVE APPROX 708.46 FT AS DESC IN DOC#1634242 TPP PLAT 09-1024-4.02 TO N LN LOT A CSM 211 V 929 P 571 TH E ALG N LN CSM TO W ROW I-94 TH N ALG W ROW I-94 AND S LN 60TH ST 99.87 FT TH W ALG S LN 60TH ST 288.79 FT TO POB (2001 ANNEXATION 35-4-121-011-0100) (2009 LOT LINE ADJUSTMENT) (2011 PT 03-121-01-101-100) DOC #975090 5.80 AC DOC#1027160 DOC#1564651

PARCEL #: 03-121-01-101-101

10.55-Acre Parcel (Parcel B):

THAT PT OF THE FOLLOWING LYING E OF 122ND AVE ROW AS DESCRIBED IN DOC#1634242 TPP 09-1024-4.02 PT NE 1/4 SEC 1 T 1 R 21 COM AT E 1/4 COR SEC 1 TH W 275.03 FT TO W ROW I-94 TO POB TH TH N 221.63 FT TH W 1042.46 FT TH SW'LY 117.81 FT ALG CURVE TH S 43 DEG 57' 55" W 105.41 FT TH N 1197.61 FT TH E 38.71 FT TH N 254.15 FT TH E 1186 FT TH S 366.44 FT TH W 235.2 FT TH S 120 FT TH E 235.20 FT TH S 847.05 FT TO POB 10.576 AC (2007 PT 03-121-01-101-420) (2011 PT 03-121-01-101-421) DOC#1500247 DEED IN ERROR DOC#1502945 CORRECTION (2016 LOT LINE ADJ DOC #1757896 & DOC#1757697)

PARCEL #: 03-121-01-101-422

18.65-Acre Parcel (Parcel C):

THAT PT OF THE FOLLOWING LYING W OF 122ND AVE ROW AS DESCRIBED IN DOC# 1634242 AND TPP 09-1024-4.02 PT OF NE 1/4 SEC 1 T 1 R 21 BEG 434.07 FT W OF NE COR 1/4 W 832.43 FT S 624 FT W 189.75 FT S 654.75 FT E 824.94 FT N 450 FT E 362.8 FT TO W LN HY N 635.88 FT NW'LY 242.65 FT TO POB ANNEX ORD 64-00 DOC#1202936 EXC ROAD ROW DOC#1564651 (2001 ANNEXATION 35-4-121-011-0100) (2009 LOT LINE ADJUSTMENT) (2011 PT 03-121-01-101-100) DOC #975090 18.65 AC DOC#1027160 DOC#1564651 DOC #975090 DOC#1027160 DOC#1564651

PARCEL #: 03-121-01-101-102

24.19-Acre Parcel (Parcel D):

THAT PT OF FOLLOWING LYING W OF 122ND AVE ROW AS DESCRIBED IN
DOC#1634242 TPP 09-1024-4.02 PT NE 1/4 SEC 1 T 1 R 21 COM AT E 1/4 COR SEC 1 TH
W 275.03 FT TO W ROW I-94 TO POB THEN N 221.63 FT TH W 1042.46 FT TH SW'LY
117.81 FT ALG CURVE TH S 43 DEG 57' 55" W 105.41 FT TH N 1197.61 FT TH E 38.71 FT
TH N 254.15 FT TH E 1186 FT TH S 336.21 FT TH W 235.2 FT TH S 120 FT TH E 235.20 FT
TH S 876.78 FT TO POB 24.19 AC (2007 PT 03-121-01-101-420) (2011 PT 03-121-01-101-
421) DOC#1500247 DEED IN ERROR DOC#1502945 CORRECTION

PARCEL #: 03-121-01-101-423



026808-0006/33119180

Menominee Indian Tribe of Wisconsin

Kenosha Parcel

Secretarial Determination Packet

May 2, 2023

Exhibit "C"



MAY 29 2008

VIA FACSIMILE & REGULAR MAIL

Lisa Waukau
Chairperson
Menominee Indian Tribe of Wisconsin
P.O. Box 910
Keshena, WI 54135-0910
Fax: (715) 799-3373

William F. Kussel, Jr.
Director of Legal Services
Menominee Indian Tribe of Wisconsin
P.O. Box 910
Keshena, WI 54135-0910
Fax: (715) 799-3672

RE: Menominee Tribe amended and newly enacted gaming ordinances

Dear Chairman Waukau and Mr. Kussel:

By Final Approvals, each dated January 22, 2008, the Tribe amended its current gaming ordinance, no. 93-30, and enacted a new "Authorization of Gaming" ordinance, no. 07-39. The ordinances are consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) and this agency's regulations, and are hereby approved.

Thank you for submitting the ordinance for review and approval. The NIGC staff and I look forward to working with you and Menominee Tribe on future gaming issues. If you have any questions, please contact Staff Attorney Jennifer Ward at (202) 418-9814.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip N. Hogen". The signature is fluid and cursive, with a large loop at the beginning.

Philip N. Hogen
Chairman



MENOMINEE NATION
MENOMINEE TRIBAL LEGISLATURE
AMENDMENT TO
ORDINANCE NO. 93-30
GAMING CODE

MAY 11 2008

Sponsored by the 93-30 Ad Hoc Committee

FINAL APPROVAL

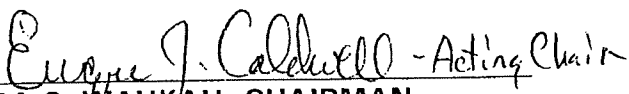
BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:


Tribal Ordinance No. 93-30 entitled: "Gaming Code" is amended in its entirety pursuant to the following attachment attached hereto and incorporated herein as if fully reproduced here.

CERTIFICATION

We, the undersigned Officers of the Menominee Tribal Legislature, do hereby certify that the foregoing amendment to the Tribal Ordinance No. 93-30, entitled "Gaming Code" was adopted at a regular meeting of the Tribal Legislature, held on January 22, 2008, with a quorum present, by a vote of 5 for, 0 opposed, 0 abstaining and 3 absent.

We further certify that this Ordinance has been posted in accordance with the Constitution and Bylaws of the Menominee Indian Tribe of Wisconsin.


LISA S. WAUKAU, CHAIRMAN
MENOMINEE INDIAN TRIBE OF WISCONSIN


EUGENE CALDWELL, SECRETARY
MENOMINEE INDIAN TRIBE OF WISCONSIN

DATE: January 22, 2008

**Amendment to
Menominee Nation Ordinance 93-30**

PURPOSE: Menominee Nation Ordinance No. 93-30, entitled the "Gaming Code", which was enacted into law on January 20, 1994 by the Menominee Tribal Legislature, established the Menominee Tribal Gaming Commission (hereinafter, the "Commission"); a regulatory body organized and empowered therein to issue Class I, II, and III gaming rules and regulations and issue gaming licenses consistent with applicable Tribal, State, and Federal laws.

CHAPTER I *DEFINITIONS*

Section 1.01 Definitions Unless a different meaning is clearly indicated, the terms used in this Ordinance shall have the same meaning as defined in the Indian Gaming Regulatory Act.

Section 1.02 "Class I Gaming" means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebration.

Section 1.03 "Class II Gaming" means:

- (1) the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith)
 - (a) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
 - (b) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are shown or electronically determined; and
 - (c) in which the game is won only by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo; and,
- (2) card games that are
 - (a) explicitly authorized by the laws of the State of Wisconsin; or
 - (b) are not explicitly prohibited by the laws of the State of Wisconsin and are played at any location in the State of Wisconsin, but only if such card games are played in conformity with those laws and regulations (if any) of the State of Wisconsin regarding hours or periods of operation of such card games or limitations on wagers or pot prizes in such card games.
- (3) The term "class II gaming" does not include
 - (a) any banking card games, including baccarat, chemin de fer, or blackjack (21); or
 - (b) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

Section 1.04 "Commission" means the Menominee Tribal Gaming Commission established pursuant to this Ordinance to perform regulatory oversight and to monitor compliance with Tribal, Federal and applicable State regulations and the Compact and also known as the "Gaming Commission" or Menominee Tribal Gaming Agency. Any reference to "Commission" in this Ordinance shall include the staff of the Menominee Tribal Gaming Commission.

Section 1.05 "Commissioner" means one of the members of the Menominee Tribal Gaming Commission also known as "Gaming Commissioner".

Section 1.06 "Legislature" means the Menominee Tribal Legislature, also known as "Tribal Legislature".

Section 1.07 "Gaming Operation" means each economic entity that is licensed by the Tribe, operates games, receives revenues, issues prizes, and pays expenses. A gaming operation may be operated by the Tribe directly or by a management contractor, or by an enterprise established and owned by the Tribe for the conduct of gaming, or its enterprise's management contractor.

Section 1.08 "Indian Land" means any lands title to which is either held in trust by the United States for the benefit of the Menominee Indian Tribe of Wisconsin, or held by the Menominee Indian Tribe of Wisconsin subject to restriction by the United States against alienation and over which the Menominee Indian Tribe of Wisconsin exercise governmental power.

Section 1.09 "Key Employee" has the same meaning as used in Ordinance 07-39 Authorization of Gaming.

Section 1.10 "Licensee" means any person who has been issued a valid and current license pursuant to the provisions of this Gaming Ordinance.

Section 1.11 "Management Contract" means any contract, agreement, subcontract or collateral agreement between an Indian tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

Section 1.12 "Management Fee" means the amount paid pursuant to a "Management Contract" as determined within such contracts.

Section 1.13 "Net revenues" means gross gaming revenues of an Indian gaming operation less:

- (1) Amounts paid out as, or paid for, prizes; and
- (2) Total gaming-related operating expenses, excluding management fees.

Section 1.14 "Primary Management Official" has the same meaning as used in Ordinance 07-39, Authorization of Gaming.

Section 1.15 "Regulation" means regulations promulgated by the Commission pursuant to this Ordinance.

Section 1.16 "Tribal Court" means the Tribal Court of the Menominee Indian Tribe of Wisconsin created pursuant to the Menominee Indian Tribe of Wisconsin Constitution and Bylaws and Menominee Nation Ordinance 79-14 physically located on the Menominee Indian Reservation, or for the purposes of regulating any gaming conducted outside the boundaries of the Menominee Indian Reservation, a tribunal created by the Menominee Tribal Legislature for the purpose of performing the role of the Tribal Court under this Ordinance.

Section 1.17 "Tribal-State Compact" or "Compact" or "Gaming Compact" means a written document, either negotiated and agreed to by the Tribe and an official or agent of the State of Wisconsin, or prescribed by the Secretary pursuant to 25 U.S.C. 2710(7)(B)(vii), governing the conduct of Class III gaming activities on Indian lands.

Section 1.18 "Tribe" means the Menominee Indian Tribe of Wisconsin, a federally recognized Indian Tribe, also may be referred to as "Menominee Nation".

Section 1.19 "Working Days" means Monday through Friday with the exception of Menominee Tribal Holidays and Administrative Leave.

Section 1.20 "Commission By-laws" means the rules governing the conduct of the Menominee Tribal Gaming Commission meetings and actions.

Section 1.21 "Citizenship" means the status of United States citizen under the laws of the United States of America.

Section 1.22 "Complimentary Items" means goods or services, including, but not limited to, food, beverages, lodging, gift certificates, match play coupons, merchandise that is provided to customers of the Menominee Nation Casino, Bingo and Hotel or other gaming operations at no cost, or reduced cost.

Section 1.23 "De Minimus" means distinct Complimentary Items that are less than \$10 in value and that in the aggregate do not exceed \$100 in value annually.

Section 1.24 "Immediate Family Member" means father, mother, sister, brother, husband, wife, child, father in law, mother in law, step father, step mother, step children.

CHAPTER II ADMINISTRATION AND ENFORCEMENT

Section 2.01 Unauthorized Gaming. Any Indian who commits any act of unauthorized gaming on this reservation or any Indian land shall be guilty of a crime and shall be prosecuted in Tribal Court. Prosecution for such a crime in Tribal Court is not meant to be exclusive; a finding of guilt or innocence shall not deprive the federal government from criminal jurisdiction. However, it is hereby declared that Class I, Class II and Class III gaming conducted on this reservation or on any Indian land, that fully complies with the provisions of this Code, shall not be subject to any criminal penalties.

Section 2.02 Ownership - Revenues to Benefit Tribe. Except for those licenses issued pursuant to §3.08, the Tribe shall have the sole proprietary interest in, and the sole responsibility for, the conduct of the gaming activity. Such provision does not, however, limit the Tribe's ability to enter into a management contract wherein net profits are divided between the Tribe and other parties to the contract. A gaming establishment shall be operated so as to produce the maximum amount of net profit to the Tribe. The Tribe's share of net revenues will go entirely to the Tribe and will be used solely for the following purposes:

- (1) to fund tribal government operations or programs;
- (2) to provide for the general welfare of the Tribe and its members;
- (3) to promote tribal economic development;
- (4) to donate to charitable organizations; or
- (5) to help fund operations of local government agencies. Net revenues from the gaming establishment may be used to make per capita payments to members of the Tribe upon the preparation of a plan to allocate revenues to the above uses and approval of this plan by the Secretary of the Interior.

Section 2.03 Establishment of Gaming Commission. The Menominee Tribal Gaming Commission shall consist of five (5) members appointed by the Menominee Tribal Legislature. The Tribal Legislature shall make appropriate appointments to the Commission for three (3) year terms (staggered). A Commissioner shall carry over in office until such time as his or her successor is seated on the Commission.

Section 2.031 Eligibility Requirements for Commissioners. In order to be eligible to serve as a Gaming Commissioner, a person shall:

- (1) Be an enrolled Menominee member;
- (2) Submit to a background investigation of the type required of a primary management official pursuant to this Ordinance and Ordinance 07-~~3~~ Authorization of Gaming;
- (3) Not have been convicted of a felony;
- (4) Not have been convicted of any gambling-related offense or any offense involving fraud or misrepresentation;
- (5) Not currently engaged in or have any prior activities concerning reputation, habits or associations that pose a threat to the public interest and effective regulation of gaming, as determined by the Tribal Legislature;
- (6) Submit to random and reasonable suspicion drug tests;

- (7) Not be a member of the Tribal Legislature or Tribal Gaming Management Board or employed by any gaming operation;
- (8) Shall not be engaged in any business that is subject to the provisions of this gaming Ordinance;
- (9) Be at least 21 years of age; and
- (10) Shall not be the immediate family member of any member of the Tribal Gaming Management Board.

Section 2.032 Commissioner Background Checks. Background investigations of Gaming Commissioners shall be conducted by the Director of the Gaming Commission with any potentially disqualifying information forwarded to the Tribal Legislature. Copies of background information shall be sealed in a confidential file and kept at the Commission office.

~~Section 2.033~~ Removal. The Tribal Legislature may remove a Gaming Commissioner by majority vote subject to failing to meet or maintain eligibility requirements as a Gaming Commissioner, or for violating Section 2.04, Restrictions on Commissioners, or 2.041, Commission Ethics.

Section 2.034 Vacancies. Vacancies on the commission shall be filled by majority vote of the Tribal Legislature.

Section 2.035 Organizational Meeting. In addition to any other meetings authorized by this Ordinance, the Tribal Gaming Commission shall meet following the annual appointment of commission members by the Tribal Legislature for the purpose of electing a chairman and a vice chairman from its membership.

Section 2.04 Restrictions on Commissioners.

- (1) Members of the Gaming Commission are prohibited from gambling in a gaming operation owned or operated by the Tribe.
- (2) Members of the Gaming Commission are prohibited from accepting Complimentary Items from gaming operations owned or operated by the Tribe, except for de minimus food, beverage or logo items.

Section 2.041 Commission Ethics. The Tribe recognizes that the duties of the Tribal Gaming Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Gaming Commission shall be held to extremely high ethical standards. Gaming Commissioners shall be bound by the following principles:

- (1) Commissioners shall not hold financial interests that conflict with the conscientious performance of their duties as regulators.
- (2) Commissioners shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest.
- (3) Commissioners shall not solicit or accept any gift or other item of monetary value, including complimentary items from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the Gaming Commission, or whose interests may be substantially affected by the performance or non performance of the Commissioners' duties.
- (4) Commissioners shall make no unauthorized commitments or promises of any kind purporting to bind the Tribe.

- (5) Commissioners shall not use their positions for private gain.
- (6) Commissioners shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons related to Commissioners.
- (7) Commissioners shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.
- (8) Commissioners shall not engage in outside employment or activities including seeking or negotiating for future employment which conflict with their official duties and responsibilities.
- (9) Commissioners shall disclose waste, fraud, abuse and corruption to appropriate authorities.
- (10) Commissioners shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.

Section 2.05 Compensation for Commissioners. Commissioners shall be compensated at a rate to be established annually by the Commission, and approved by the Tribal Legislature. Commissioners shall be reimbursed for actual expenses incurred on Commissioner business, including necessary travel expenses. In no event shall any individual commissioner be compensated based on a percentage of net profits from gaming operations of the Tribe.

Section 2.06 Meetings Open to Public. General meetings of the Commission may be open to the general membership of the Tribe. All meetings shall be governed by Roberts Rules of Order. Upon a majority vote as defined in Section 2.07, matters dealing with personnel, security or the fiscal integrity of the gaming operations shall be conducted in executive session and not be open to the public.

Section 2.07 Quorum - Majority Vote. A quorum shall consist of three (3) members of the Commission. All decisions shall be made by a majority vote of the Commissioners present, unless indicated otherwise in this code.

Section 2.08 Monthly Report. The Commission shall make or cause to be made monthly reports to the Legislature. The report shall include a full and complete statement of gaming revenues paid to the Tribe, expenses and all other financial transactions of the Commission and a summary of all licensing and enforcement actions.

Section 2.09 Powers and Duties. The purpose of the Tribal Gaming Commission is regulatory not managerial. The Tribal Gaming Commission shall have the following powers and duties:

- (1) The Commission will conduct oversight to ensure compliance with Tribal, Federal and, if applicable, State laws and regulations and the Compact.
- (2) The Commission will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process.
- (3) The Commission will monitor compliance with the internal control standards for the gaming operation in tracking revenues.

- (4) In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all records.
- (5) The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license when appropriate.
- (6) The Commission shall promulgate regulations regarding the use of Complimentary Items. Said regulations shall:
 - (a) Be in conformance with NIGC's Minimum Internals Control Standards, found at 25 C.F.R. §542.17;
 - (b) Prohibit Key Employees, Primary Management Officials, Tribal Legislators, and members of the Gaming Management Board or Gaming Commission, or any person who is an immediate family member of a person listed above, or who shares a residence with a person listed above, from receiving Complimentary Items other than de minimus complimentary items.
- (7) The Commission shall carry out all duties of the Tribe pursuant to Menominee Nation Ordinance 07-39 Authorization of Gaming, unless any of those duties are assigned to another entity by Ordinance.
- (8) Conduct or cause background investigations to be conducted on, at a minimum, primary management officials, key employees and service suppliers;
- (9) Review and approve all investigative work conducted with respect to such background investigations;
- (10) Report results of background investigations to NIGC as required by IGRA or the Compact;
- (11) Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
- (12) Make suitability determinations;
- (13) Issue gaming licenses to management officials and employees of the operation and service suppliers consistent with the suitability determinations;
- (14) Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;
- (15) Ensure compliance with the Compact and all Tribal, State and Federal laws, rules and regulations regarding Indian gaming;
- (16) Investigate any suspicious wrongdoing associated with any gaming activities (reserving to the Board and/or any management contractor their right also to investigate as appropriate);
- (17) Hold hearings on patron and/or employee complaints, in compliance with procedures established in the Compact, the Management Agreement, the gaming ordinance and other Tribal gaming regulations;
- (18) Comply with any and all reporting requirements under the IGRA, the Compact to which the tribe is a party and any other applicable law;

(19) Promulgate and issue regulations necessary to comply with the Tribe's Minimum Internal Control Standards (MICS). The Tribe acknowledges its obligation to adopt and implement Minimum Internal Control Standards (MICS) for the operation of its Tribal gaming operation no less stringent than those found in the regulations of NIGC at 25 C.F.R. Part 542. The Tribe's MICS shall be sent out in separate regulations to be reviewed and approved by the Tribal Gaming Commission;

(20) Promulgate and issue regulations on the levying of fees associated with gaming license applications;

(21) Promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming ordinance, the Compact or any other Tribal, Federal or State, if applicable, gaming regulations;

(22) Promulgate and issue licensing regulations:

(a) The Tribal Gaming Commission is responsible for conducting background investigations, suitability determinations and issuing licenses to employees and vendors; The Tribal Gaming Commission shall adopt regulations for background investigations which at a minimum meet the requirements and procedures of 25 C.F.R. Section 556 and the Compact;

(b) The Tribal Gaming Commission shall adopt regulations for eligibility determination, which at a minimum meet the requirements and procedures of 25 C.F.R. Section 558 and the Compact;

(c) The Tribal Gaming Commission shall adopt regulations for forwarding applications and reports to the NIGC, which at a minimum meet the requirements and procedures of 25 C.F.R. Section 556 and the Compact;

(d) The Tribal Gaming Commission shall adopt regulations for license applications and for the granting, suspension and revocation of gaming licenses, which at a minimum meet the requirements and procedures of 25 C.F.R. Section 558 and the Compact and which provide the due process for the resolution of any dispute concerning the granting, suspension and revocation of gaming licenses to any management contractor.

(23) Promulgate rules and regulations to prevent cheating;

(24) Employ such persons as are necessary to carry out the duties of the Gaming Commission, including but not limited to gaming inspectors;

(25) Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation;

(26) To seize and impound any patron's winnings which the Commission may have reasons to believe may have been won or obtained in violation of this Ordinance pending a civil forfeiture hearing on such seizure;

(27) The Commission shall establish its own budget for operations in accordance with their by-laws, including a budget for the Director, and acquire such furnishings, equipment, supplies, stationery, books, motor vehicles and other things as it may deem necessary or desirable in carrying out its functions and incur such other expenses within the limit of funds available to it, as it may deem necessary.

(28) The Commission shall have the authority to develop Memorandum's of Understanding with law enforcement agencies to perform services reasonably necessary to assure compliance with this Ordinance;

(29) Although not required by the Indian Gaming Regulatory Act, The Commission shall direct the Executive Director of the Tribal Gaming Commission to require all Commission staff to be licensed by the Commission pursuant to procedures in effect for such licensing in order to set an example for all licensees.

Section 2.091 Independence. The Tribe recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated gaming operation. The Commission shall act independently and autonomously from the Tribal Legislature in all matters within its purview. No prior or subsequent review by the Tribal Legislature of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Ordinance.

Section 2.10 Prior Notice of Actions. In adopting, amending, and repealing regulations, the Commission shall give prior notice of the proposed action to all licensees and other persons whom the Commission or Director has reason to believe have a legitimate and bona fide interest in such proposed action. Said notice shall inform such persons as to the general nature of the proposed action and advise them as to the manner in which comments on said proposed action shall be received by the Commission. In emergencies, the Commission may summarily adopt, amend or repeal any regulation if at the time the Commission determines such action is necessary for the immediate preservation of the public peace, health, safety, morals, and good order or general welfare, together with a statement of facts constituting the emergency; provided the Commission shall schedule such emergency action for a regular hearing within 60 days after any such emergency meeting. The Commission shall set forth or cause to be set forth procedures for purposes stated herein.

Section 2.11 Request for Commission Action. Any person who is determined by the Commission or Director to be a bona fide interested party may file a petition in a manner and form approved by the Commission requesting the adoption, amendment or repeal of a regulation. Upon receipt of the petition, the Commission shall within 30 working days deny the request in writing or schedule the matter for action pursuant to this chapter.

Section 2.12 Voting on Licensing. Any Commission vote resulting in approving, disapproving, revoking, suspending, limiting or conditioning a license under this Ordinance shall be by ballot only.

Section 2.13 Reconsideration. If an individual, within 10 working days of receiving written notice of a Commission determination, files written objections to that determination, the Commission shall hold a hearing to review its decision, at the next scheduled meeting. At the hearing, the burden shall be on the applicant to show cause why the Commission's determination was incorrect. Following such hearing, the Commission shall, within 10 working days reach a determination concerning:

- (1) The accuracy of the preliminary certification of facts;
- (2) Whether the license in question should be granted, continued, suspended, revoked, conditioned or limited; and
- (3) Whether or not any other action recommended to the Commission, including, but not limited to forfeitures should be taken.

Section 2.14 Right to Appeal. Unless otherwise contractually agreed to, the subject shall have the right to appeal the determination of the Commission to the Tribal Court, in written form on or before

the 10th day following receipt of the written determination of the Commission. A determination of such appeal by the Court shall be made by the Court without a jury. The Court shall make its determination on the record provided, unless it deems further testimony or evidence necessary. In its review the Court shall not substitute its judgment for that of the Commission as to weight of the evidence on any disputed finding of fact. Due weight shall be accorded the experience, and specialized knowledge of the Commission as well as discretionary authority conferred on the Commission by this Ordinance.

Section 2.15 Employment of Director. The Tribe shall employ a Director who shall be supervised by the Gaming Commission. The Gaming Commission shall hire the Director pursuant to the Tribe's Personnel Policies and Procedures (Ordinance 83-6).

Section 2.16 Termination of Director. Termination will be the decision of the Gaming Commission pursuant to the Tribe's Personnel Policies and Procedures (Ordinance 83-6).

Section 2.17 Duties of Director. The Director shall, subject to the approval of the Commission, perform all duties; exercise all powers; assume and discharge all responsibilities; and carry out and affect all purposes of this Ordinance relating to the regulation of all gaming activity. In all decisions, the Director shall act to promote and ensure integrity, security, honesty and fairness of the operation and administration of all gaming activity. It will be the responsibility of the Tribal Gaming Commission to develop and maintain job description(s) for the Director(s) positions in accordance with this Ordinance and subject to Ordinance 83-6, Personnel Policies and Procedures.

Section 2.18 Right of Inspection. The Commission, the Director and their agents, inspectors, and employees have the authority:

- (1) To inspect and examine all premises wherein gaming is conducted or gambling devices or equipment are manufactured, sold or distributed;
- (2) To inspect all equipment and supplies in, upon or about a gaming establishment, or inspect any equipment or supplies wherever located, which may, or have been used in the gaming establishment;
- (3) Summarily to seize and remove from a gaming establishment (or wherever located) and impound such equipment or supplies for the purpose of examination, inspection, evidence or forfeiture;
- (4) To demand access to and inspect, examine and audit all papers, books, and records of applicants and licensees respecting any income produced by any gaming business, and require verification of income and all other matters affecting the enforcement of the policy of or any of the provisions of this Code;
- (5) To seize and impound any patron's winnings which the Commission may have reasons to believe may have been won or obtained in violation of this Code pending a civil forfeiture hearing on such seizure;
- (6) For the purpose of administration and enforcement of this Code the Commission, the Director and their investigative personnel may, if deemed necessary by the Tribal Legislature, have the powers of the peace officer of the Menominee Indian Nation for purposes of this Code only;
- (7) Commissioners and the Director shall each have full power and authority to issue subpoenas and compel the attendance of witnesses for hearing at any place within the Reservation, to administer oaths and to require testimony under oath. Any process or notice may be served in the manner provided for service of process and

notices in civil actions. The Commission and the Director may pay such transportation and other expenses of witnesses as it may deem reasonable and proper.

Section 2.19 Confidentiality. The Gaming Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process. Under no circumstances shall information obtained during the course of an employee background investigation be disclosed to members of management, human resources personnel or others employed by the Tribal gaming operation. This Section does not apply to requests from or the furnishing of such information or records to any Tribal, Federal or State law enforcement, regulatory or judicial agency, or for the use of such information or records by the Commission and staff in performance of their official duties.

Section 2.20 Violations of Code - Punishment. Any violation of this Code shall be punished by a fine of no more than Five Thousand Dollars (\$5,000.00) for each separate count or violation, or one (1) year-in-jail, or both. Each day of violation shall constitute a separate count or violation under this Code. A violator may also be required to pay court costs, storage fees, and auction or sales fees. All property used or which may be used in activities in each and every separate violation of this Code may become the property of the Tribe; persons may be prohibited from trespassing on premises licensed under this Code, licenses may be suspended, revoked, or limited and/or establishments may be forcibly closed. All such action shall be taken at the discretion of the Commission, subject to the right of appeal to the Tribal Court. Winnings found to have been received in violation of this Code are forfeited and become the property of the Tribe.

Section 2.21 Due Process Regarding enforcement Actions. The Commission shall promulgate regulations protecting due process rights of all individuals subject to this Ordinance.

CHAPTER III LICENSING OF GAMES AND PERSONNEL

Section 3.01 Mandatory License. Any person seeking to conduct, operate or manage any gaming activity on Indian lands, or any person seeking employment there from, shall apply for and receive, all the required licenses and/or approvals from the Commission prior to engaging in such gaming activities.

Section 3.02 Application forms

- (1) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

"In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 et seq. The Purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by Menominee Gaming Commission members and staff, by Tribal police officers, and by 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."

- (2) Existing key employees and primary management officials shall be notified in writing that they shall either:
 - (a) Complete a new application form that contains a Privacy Act notice; or
 - (b) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.
- (3) The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant:

"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.)"
- (4) The Commission shall notify in writing existing key employees and primary management officials that they shall either:
 - (a) Complete a new application form that contains a notice regarding false statements; or
 - (b) Sign a statement that contains the notice regarding false statements.

Section 3.03 Application Information

- (1) The Commission shall request from each primary management Official and from each key employee all of the following information:
 - (a) Full name, other names used (oral or written), social security numbers(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
 - (b) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
 - (c) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (2) of this section;
 - (d) Current business and residence telephone numbers;
 - (e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
 - (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - (g) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

- (h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
 - (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
 - (j) 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 (8) or (9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
 - (k) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
 - (l) A current photograph;
 - (m) Any other information the Commission deems relevant; and
 - (n) Fingerprints consistent with procedures adopted in Section 3.04(e) below.
- (2) For all other employees, the Commission shall adopt application forms appropriate to each job category.

Section 3.031 Criminal and Background Restrictions. No person may be employed in the operation or conduct of gaming and no gaming related contractor shall employ any person in the course of performance under the contract, if that person has been convicted of, or entered a plea of guilty or not contest to, any of the following, unless the person has been pardoned.

- (1) A felony, other than a felony conviction for an offense under Paragraphs 2, 3 or 4 of this Section during the immediately preceding 10 years;
- (2) Any gambling related offense;
- (3) Fraud or misrepresentation in any connection; or
- (4) A violation of any provisions of chs. 562 or 565, Wis. Stats., a rule promulgated by the Lottery Board, Wisconsin Racing Board, Department of administration or successor agency or a Tribal ordinance regulating or prohibiting gaming.

Section 3.04 Eligibility Determination. The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations and all relevant background information 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, it shall deny the license application and a tribal gaming operation shall not employ that person in a key employee, primary management official, or other position.

Section 3.05 Reports of Background Investigations on Key Employees and Primary Management Officials to the National Indian Gaming Commission

- (1) When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Director shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Section 3.04.
- (2) The Director shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation of a primary management official or key employee with a copy of the eligibility determination made under Section 3.04.
- (3) If a license is not issued to an applicant, the Director:
 - (a) Shall notify the National Indian Gaming Commission; and,
 - (b) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.
- (4) If within a 30 day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Commission 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 for whom the Commission has provided an application and investigative report to the National Indian Gaming Commission, the Commission may issue a license to such applicant.
- (5) The Director shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30day period under paragraph (d) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
- (6) If, within the 30 day period described above, the National Indian Gaming Commission provides the Commission 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 provided an application and investigative report to the National Indian Gaming Commission, the Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Commission shall, by majority vote of the Commission, make the final decision whether to issue a license to such applicant.

Section 3.06 Licensing and Regulation of Class II and Class III Gaming Activity; Net Revenue Allocation; Audits; Contracts

- (1) A separate license issued by the Commission shall be required for each place, facility, or location on Indian lands within the Tribe's jurisdiction at which any Class II or Class III Gaming Activity is conducted.
- (2) The Commission may license and regulate a tribal-owned Class III Gaming Activity if:
 - (a) such gaming activity is located on Indian lands within the Tribe's jurisdiction, and the State of Wisconsin permits such gaming for any purpose by any person, organization, or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal laws);

- (b) except as provided in Chapter IV, the Tribe will have the sole proprietary interest and responsibility for the conduct of such gaming activity;
- (c) net revenues from such gaming activity are used in accordance with Section 2.02 of this Code;
- (d) such gaming activity is subject to annual outside audits, which may be encompassed within existing independent, tribal audit systems, and provided to the Legislature;
- (e) all contracts for supplies, services, or concessions for any aggregate amount in excess of \$25,000 annually relating to such gaming are also subject to independent audits;
- (f) the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public's health and safety; and
- (g) all primary management officials and key employees of the Class III gaming operation have successfully passed a background investigation and have obtained licenses from the Commission.

Section 3.07 License Fees. The Tribe may charge a license fee, to be set by the Tribal Gaming Commission to cover the expenses in investigating and licensing Key Employees and Primary Management Officials of the gaming operation.

Section 3.08 Temporary Employment Licenses. The Commission may issue a temporary employment license to any person or entity applying for a license to work in a licensed gaming establishment which shall be valid pending the background investigation of the applicant.

Section 3.09 Parameters of Licenses.

(1) Acceptance of a gaming license or renewal on the part of the licensee shall constitute the licensee's agreement to be bound by all of the regulations and conditions of the Director or Commission and by the provisions of this Code as the same are now, or may hereafter be amended or promulgated, and to cooperate fully with the Director and Commission. It is the responsibility of the licensee to keep informed of the contents of such regulations, amendments, provisions and conditions, and ignorance thereof will not excuse violations.

(2) The licensee shall advise the Director, within five (5) business days of being notified that he or she has been charged with any criminal offense (misdemeanor or felony), other than minor traffic violations. The licensee shall keep the Director advised of the status of the matter including any disposition of any other related written documents the Director may request.

(3) Persons subject to this Section shall be periodically reviewed (at least every two years) to determine whether they continue to meet the requirements and limitations of this Section.

(4) In view of the less stringent background investigations contemplated for employees who are neither primary management officials nor key employees, licenses for such employees may be limited to the job category for which employed or to non-primary management or key employee positions. Should such employee subsequently obtain employment as a primary management official or key employee, he or she shall apply for a license which is not so limited.

Section 3.10 Licensing of Distributors. The Commission may authorize, require and issue such annual licenses as the Commission by regulation may provide, to any person or entity to engage in the selling, distributing, or otherwise supplying of gambling equipment or paraphernalia for use in connection with licensed gaming activity.

Section 3.11 License Suspension.

- (1) If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection ~~3.05~~3.04, above, the Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
- (2) The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- (3) After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

CHAPTER IV MANAGEMENT CONTRACTS

Section 4.01 Commission Approval Required.

(1) Any management contract entered into by the tribe for the operation and management of a gaming activity must be submitted to the Commission for approval, but before approving such contract, the Commission shall require and obtain the following information:

(a) The name, address and other additional pertinent background information on each person or entity (including persons comprising such entity) having direct or indirect financial interest in, or management responsibility, for such agreement.

(b) A description of any previous experience that each person listed pursuant to subsection (a) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming;

(c) Any further or additional information as may be required under the Tribal/State Compact entered into between the Tribe and the State;

(d) Any further additional information as may be required pursuant to IGRA including all information required to be submitted to the National Indian Gaming Commission pursuant to 25 C.F.R. §533.3(d).

(2) Any person listed pursuant to subsection (1)(a) shall be required to respond to such written or oral questions that the Commission may propound in accordance with its responsibilities under this Section.

(3) For purposes of this Ordinance, any reference to the management contract described in Section 4.01(1) shall be considered to include all collateral agreements to such contract that relate to the gaming activity.

(4) After the Commission has given its approval of a management contract, the Commission shall submit such contract to the National Indian Gaming Commission for its approval. The Commission may, in its discretion allow a management contract to be submitted to the National Indian Gaming Commission pending approval by the Commission. Any management contract shall be void until the Commission and the National Indian Gaming Commission have approved it.

Section 4.02 Approval of Management Contracts. Commission action on management contracts and the rights of management contractors regarding such action are governed by Chapter 2 of this Ordinance. The Commission may approve any management contract entered into by the Tribe pursuant to this Chapter only if it determines that such contract provides at least:

(1) for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared by or for the Legislature on a monthly basis;

(2) for access to the daily operations of the gaming to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such tribal gaming activity;

- (3) for a minimum guaranteed payment to the Tribe that has preference over the retirement of development and construction costs;
- (4) for an agreed ceiling for repayment of development construction costs;
- (5) for a contract term not to exceed five years, except that, upon the request of the Tribe, the Commission may authorize a contract term that exceeds five years but does not exceed seven years if the Commission is satisfied that the capital investment required, and the income projections, for the particular gaming activity require additional time;
- (6) for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the National Indian Gaming Commission; and
- (7) for preference to Tribal members and non-member Indians in hiring of employees for the gaming establishment.

Section 4.03 Percentage of Net Revenue Fees.

- (1) A management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity may be approved by the Commission if such percentage fee is reasonable in light of surrounding circumstances. Except as provided in this Section, such fee shall not exceed 30% of the net revenues.
- (2) Upon request of the Legislature, the Commission may approve a management contract providing for a fee upon a percentage of the net revenues of a tribal gaming activity that exceeds 30% but not 40% of the net revenues if the Commission and Legislature are satisfied that the capital investment required, and income projections, for such tribal gaming activity require the additional fee.

Section 4.04 Contract Disapproval. The Commission shall not approve any contract if it determines that:

- (1) Any person listed pursuant to Section 4.01(1)(a):
 - (a) is an elected member of the Legislature;
 - (b) has been or subsequently is convicted of any felony or gaming offense;
 - (c) has knowingly and willfully provided materially important false statements of information to the Commission or the tribal officials who negotiate such contracts or has refused to respond to questions propounded pursuant to Section 4.01(b~~2~~); or
 - (d) has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;
- (2) The management contractor has, or has attempted unduly to interfere or to influence for its gain or advantage any decision or process of tribal government relating to gaming activity; or

- (3) The management contractor has deliberately or substantially failed to comply with the terms of this management contract or the provisions of this Code or any regulations adopted pursuant to this Code or the Indian Gaming Regulatory Act.

Section 4.05 Modifying or Voiding Contract. The Commission, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if it subsequently determines that any of the provisions of this Chapter have been violated. If the Tribe elects to contractually agree to resolve disputes in a manner other than the revocation of a license, such contractual agreement shall supersede any conflicting provisions of this section, so long as the agreement provides a reasonable avenue for the Tribe to insure a licensee's compliance with all other aspects of this Gaming Code.

Section 4.06 Changes in Ownership Interest. Any transfer of an ownership interest in a management contract subsequent to approval of such contract by the Commission requires Commission approval under this Chapter and is void until and unless so approved. The management contractor shall provide the information required under section 4.01 (1) and (2) as to such transfer.

Section 4.07 Conveying Interest in Land. No management contract for the operation of a gaming activity regulated by this Ordinance shall transfer or, in any other manner, convey any interest in land or other real property, unless specific applicable statutory authority exists and unless clearly specified in writing in said contract.

Section 4.08 Fee for Investigation Cost. The Commission shall require a potential contractor to pay a fee to cover the actual cost of the investigation necessary to reach a determination required by this Chapter.

CHAPTER V AUDITING AND INTERNAL CONTROL

Section 5.01 Minimum Procedures for Control of Internal Fiscal Affairs. Minimum Internal Control Standards – The Tribe acknowledges its obligation to adopt and implement Minimum Internal Control Standards (MICS) for the operation of its Tribal gaming operation no less stringent than those found in the regulations of the NIGC at 25 C.F.R. Part 542 and the Tribal – State Gaming Compact. The Tribe’s MICS shall be set out in separate regulations to be reviewed and approved by the Tribal Gaming Commission.

Section 5.02 Commission Oversight of Internal Fiscal Affairs. The Commission shall, by regulation, require audits to be conducted no less frequently than annually of the financial statements of all gaming operations. Such audits must:

- (1) be made by independent Certified Public Accountants holding a permit issued by the State of Wisconsin to practice public accounting;
- (2) include an opinion that the financial statement fairly and accurately presents the financial condition of the gaming operation in accordance with generally accepted accounting principals (GAAP) and in accordance with the standards of the accounting profession established by rules and regulations of the Wisconsin State Board of Accountancy and the American Institute of Certified Public Accountants;
- (3) disclose whether the accounts, records, and control procedures maintained by the gaming operation are as required by the regulations promulgated by the Commission; and
- (4) provide for a preliminary review of the internal control structure, upon adoption of the policies and procedures by the entity, to disclose any deviation from prescribed rules and regulations and report such findings to the Commission and management.

Section 5.03 Commission's Right to Conduct Audit. The Commission shall be able to retain its own appointed accountants, or direct an accountant employed by the Tribe to conduct its own audit of any gaming operation.

CHAPTER VI EXCLUSION OR EJECTION OF INDIVIDUALS

Section 6.01 List of Undesirables. The Commission may, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any duly licensed gaming operation. The list may include any person whose presence in the gaming establishment is determined by the Commission to pose a threat to the interests of the Tribe, the State of Wisconsin, or to licensed gaming. Race, color, creed, national origin or ancestry or sex must not be grounds for placing the name of a person on the list.

Section 6.02 Notice and Opportunity to be Heard. The Commission shall promulgate regulations providing fair notice and opportunity to be heard to any individual whose name is on the list referred to in section 6.01. Such regulations must provide the person an opportunity to show cause why his or her name should be removed from the list. The individual may appeal any decision of the Commission to Tribal Court, pursuant to Section 2.14.

Section 6.03 Prohibition Against Listed Individuals. It shall be a violation of this Ordinance for any licensee to knowingly fail to exclude or eject from the gaming establishment any persons placed on the list referred to in section 6.01. It shall be a violation of this Ordinance for any person whose name appears on the list referred to in section 6.01 to enter into or engage in any game at a duly licensed gaming establishment.

Section 6.04 Prohibition Against Certain Individuals. It shall be a violation of this Ordinance for any licensee who knowingly fails to exclude or eject the gaming establishment any individual who:

- (1) is visibly under the influence of liquor or any narcotic or such other substance; or
- (2) is under the age requirement for lawful gaming per the Tribal – State Compact.

CHAPTER VII MISCELLANEOUS

Section 7.01 Amendments. All provisions of this Gaming Ordinance are subject to amendment by the Menominee Tribal Legislature. All regulations promulgated by the Commission are subject to proper revision, repeal or amendment by the Commission.

Section 7.02 Severability. If any provision of this Ordinance is held invalid by a court of competent jurisdiction, the full remainder of the provision, and the remainder of this Ordinance shall not be affected.



MENOMINEE NATION
MENOMINEE TRIBAL LEGISLATURE
ORDINANCE NO. 07-39
AUTHORIZATION OF GAMING

Sponsored by the 93-30 Ad Hoc Committee

FINAL APPROVAL

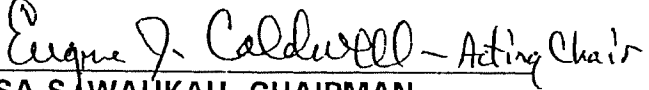
BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:

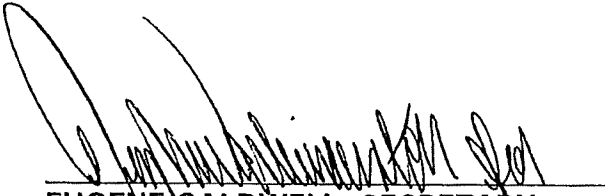
The attached Ordinance No. 07-39 entitled: "Authorization of Gaming" is hereby enacted as tribal law pursuant to the provisions of the document attached hereto and incorporated herein as fully reproduced here.

CERTIFICATION

We, the undersigned Officers of the Menominee Tribal Legislature, do hereby certify that the foregoing amendment to the Tribal Ordinance No. 07-39, entitled "Authorization of Gaming" was adopted at a regular meeting of the Tribal Legislature, held on January 22, 2008, with a quorum present, by a vote of 5 for, 0 opposed, 0 abstaining and 3 absent.

We further certify that this Ordinance has been posted in accordance with the Constitution and Bylaws of the Menominee Indian Tribe of Wisconsin.


LISA S. WAUKAU, CHAIRMAN
MENOMINEE INDIAN TRIBE OF WISCONSIN


EUGENE CALDWELL, SECRETARY
MENOMINEE INDIAN TRIBE OF WISCONSIN

DATE: January 22, 2008

MENOMINEE NATION
MENOMINEE TRIBAL LEGISLATURE
ORDINANCE NO. 07-39
AUTHORIZATION OF GAMING

FINAL APPROVAL

BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:

1. **Purpose.** The Menominee Tribal Legislature, empowered by the Tribe's Constitution to enact ordinances, hereby enacts this Ordinance in order to set the terms for Class II and Class III gaming operations on tribal lands pursuant to the requirement of the Indian Gaming Regulatory Act.
2. **Gaming Authorized.** Class II and Class III gaming are hereby authorized.
3. **Ownership of Gaming.** The Tribe shall have the sole propriety interest in any gaming operation authorized by this Ordinance, and all gaming operations shall be conducted by the Tribe acting through its designated agents, by an enterprise established and owned by the Tribe for the conduct of gaming, or by the Tribe or its enterprise's management contractor.
4. **Use of Gaming Revenue.**
 - (a) Net revenues from Class II and Class III gaming shall be used only for the following purposes:
 - (i) to fund tribal government operations and programs;
 - (ii) to provide the general welfare of the Tribe and its members;
 - (iii) to promote tribal economic development;
 - (iv) to donate to charitable organizations; or
 - (v) to help fund operations of local government agencies.
 - (b) If the Tribe 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 Interior under 25 U.S.C. § 2710(b) (3).

5. **Audit.** The 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. 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 within the scope of the audit.
6. **Protection of the Environment and Public Health and Safety.** Class II and Class III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.
7. **Licenses for Key Employees and Primary Management Officials.** The Tribe 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 Class II and Class III gaming enterprise operated on Indian lands:
 - (a) **Definitions.** For the purpose of this section, the following definitions apply:
 - (i) **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 / Casino shift 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 account records within such devices;

- (B) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
 - (C) If not otherwise included, the four most highly compensated persons in the gaming operation.
- (ii) 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 operations; or
 - (3) The chief financial officer or other person who has financial management responsibility.

(b) Application Forms.

- (i) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by 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 gamin 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.

- (ii) Existing key employees and primary management officials shall be notified in writing that they shall either:
 - (A) Complete a new application form that contains a Privacy Act notice; or
 - (B) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.
- (iii) The following notice shall be placed on the application form for a key employee or a primary official before the form is filled out by an applicant.

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.)

- (iv) The Tribe shall notify in writing existing key employees and primary management officials that they shall either:
 - (A) Complete a new application form that contains a notice regarding false statement; or
 - (B) Sign a statement that contains the notice regarding false statements.
- (c) Background Investigations.
 - (i) The Tribe shall request from each primary management official and from each key employee all of the following information:

-
- (A) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
 - (B) Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addressees, and driver's license numbers;
 - (C) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (c)(i)(C) of this section;
 - (D) Current business and residence telephone numbers;
 - (E) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
 - (F) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - (G) The name and address of any licensing or regulatory agency with which the person has filed an application of a license or permit related to gaming, whether or not such license or permit was granted;
 - (H) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
 - (I) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;

- (J) 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 (1)(h) or (1)(i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
 - (K) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
 - (L) A current photograph;
 - (M) Any other information the Tribe deems relevant; and
 - (N) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h).
- (ii) The Tribe shall conduct an investigation sufficient to make a determination under subsection (d) below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the courts of the investigation.
- (d) Eligibility Determination. The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associates to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribe 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, a tribal gaming operation shall not employ that person in a key employee or primary management official position.
- (e) Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

- (i) When a key employee or primary management official begins work at a gaming operation authorized by this Ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection (d) of this section.
 - (ii) The Tribe shall forward the report referred to in subsection (f) of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.
 - (iii) The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.
- (f) Report to the National Indian Gaming Commission.
- (i) Pursuant to the procedures set out in subsection (e) of this section, the tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:
 - (A) Steps taken in conducting a background investigation;
 - (B) Results obtained;
 - (C) Conclusions reached; and
 - (D) The basis for those conclusions.
 - (ii) The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection (d) of this section.
 - (iii) If a license is not issued to an applicant, the Tribe:
 - (A) Shall notify the National Indian Gaming Commission; and

- (B) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.
 - (iv) With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.
- (g) Granting a Gaming License.
- (i) If, within a 30 day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission 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 for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.
 - (ii) The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is subject of a report. Such a request shall suspend the 30 day period under paragraph (g)(i) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
 - (iii) If, within the 30 day period described above, the National Indian Gaming Commission 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 Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall

make the final decision whether to issue a license to such applicant.

(h) License Suspension.

- (i) If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection (d) above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
- (ii) The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- (iii) After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

- 8. **License Locations.** The Tribe shall issue a separate license to each place, facility, or location on Indian lands where Class II and Class III gaming is conducted under this Ordinance.
- 9. **Repeal.** To the extent that they are inconsistent with this Ordinance, all prior gaming ordinances are hereby repealed.

END OF DOCUMENT



April 24, 2014

By First Class Mail

Laurie Boivin, Chairwoman
Menominee Indian Tribe of Wisconsin
P.O. Box 910
Keshena, WI 54135

Re: Menominee Tribe amended Chapter 347

Dear Chairwoman Boivin:

This letter responds to the February 7, 2014 request of former Chairman Craig Corn on behalf of the Menominee Indian Tribe of Wisconsin for the National Indian Gaming Commission Chairman to review and approve gaming chapter (347) of the Tribe's code, as amended by ordinances 13-08 and 13-26.

The amendments clarify the regulatory authority of the Menominee Tribal Gaming Commission and revise the requirements for background investigations and licensing to comply with recent changes to NIGC regulations.

Thank you for bringing the amended Chapter 347 to my attention and for providing a copy of it. The amended chapter 347 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, please feel free to contact Staff Attorney Jennifer Lawson at (202) 632-7003.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonodev Chaudhuri".

Jonodev Chaudhuri
Acting Chairman

cc: John Wilhelmi, Counsel for the Menominee Tribe



**MENOMINEE NATION
THE MENOMINEE TRIBAL LEGISLATURE
TRIBAL ORDINANCE 13- 08
"AMENDMENT TO THE CODE OF MENOMINEE
INDIAN TRIBE OF WISCONSIN
CHAPTER 347"**

FINAL APPROVAL:


BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:

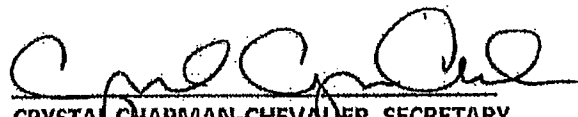
Tribal Ordinance 13-08 is hereby enacted. Tribal Ordinance 13- 08 hereby amends Chapter 347 - Article III, "Gaming", of the Code of the Menominee Indian Tribe of Wisconsin, as attached hereto and incorporated herein as if fully reproduced here.

CERTIFICATION

We, the undersigned Officers of the Menominee Tribal Legislature, do hereby certify that the foregoing amendment to Menominee Indian Tribe of Wisconsin General Code, "Chapter 347" was approved for final approval at a regular meeting of the Tribal Legislature held May 02 2013, at which a quorum was present, by a vote of 6 for, 1 opposed, 0 abstentions and 1 absent.

The undersigned also certify that the foregoing amendment to Code of the Menominee Indian Tribe of Wisconsin has been posted in accordance with the Menominee Constitution and Bylaws.


CRAIG CORN, CHAIRMAN
MENOMINEE INDIAN TRIBE OF WISCONSIN


CRYSTAL CHAPMAN-CHEVALIER, SECRETARY
MENOMINEE INDIAN TRIBE OF WISCONSIN

DATE: May 02, 2013



**MENOMINEE NATION
MENOMINEE TRIBAL LEGISLATURE**

**AMENDMENT TO CHAPTER 347
(ORDINANCE 93-30)
GAMING CODE**

1. PURPOSE. This Amendment modifies Chapter 347 to make clear that the regulatory authority of the Menominee Tribal Gaming Commission, including the authority to license employees, audit operations, and promulgate internal control standards and other rules is limited to the gaming functions of the Tribe through the Menominee Indian Gaming Authority and such authority does not extend to any non-gaming activity as defined in this amendment even if such activity is carried out by the Menominee Indian Gaming Authority, or any other person or entity authorized by the Tribe to conduct gaming. This amendment also makes certain changes to background investigations and licensing resulting from the changes to 25 C.F.R. Parts 556 and 558.

2. AMENDMENT TO SECTION 347-18.B. Section 347-18.B is amended to add the following definitions:

CLASS III GAMING - Class III Gaming means all forms of gaming that are not class I gaming or class II gaming.

GAMING ACTIVITY - Gaming Activity means any of the following acts by an employee of the Gaming Operation:

- (1) Operating, maintaining or servicing any Class I, Class II, or Class III Gaming;
- (2) Providing Security or surveillance over any Class I, Class II, or Class III Gaming;
- (3) Handling money, chips, tokens, etc. related to Class I, Class II, or Class III Gaming;
- (4) Bookkeeping and accounting related to revenues and expenses from Class I, Class II, or Class III Gaming;
- (5) Drafting of policies related to the conduct of Class I, Class II, or Class III Gaming;
- (6) Supervising or involved in the hiring or firing any employee engaged in a Gaming Activity listed (1) - (5) above.
- (7) Any activity required to be regulated pursuant to the provisions of the Indian Gaming Regulatory Act.

GAMING EMPLOYEE - Gaming Employee means any employee of the Gaming Operation whose duties include Gaming Activity and any person who meets the definition of Key Employee or Primary Management Official pursuant to Chapter 347 or the Indian Gaming Regulatory Act or regulations promulgated pursuant to the Indian Gaming Regulatory Act.

NON-GAMING ACTIVITY - Non-Gaming Activity means all activities of the Gaming Operation and its employees that does not constitute Gaming Activity.

NON-GAMING EMPLOYEE - Non-Gaming Employee means any employee of the Gaming Operation who is not a Gaming Employee.

3. AMENDMENT TO SECTION 347-20.A. Section 347-20.A is replaced in its entirety with the following:

A. Mandatory license. Any person seeking to conduct, operate or manage any gaming activity on Indian lands, or any person seeking employment therefrom, shall apply for and receive all the required licenses and/or approvals from the Commission prior to engaging in such gaming activities in accordance with this Section and Section 347-36 of this Code.

4. AMENDMENT TO SECTION 347-20.B. Section 347-20.B is replaced in its entirety with the following:

B. For all other Gaming Employees who are not Primary Management Officials or Key Employee, the Commission shall adopt application forms appropriate to each job category.

5. AMENDMENT TO SECTION 347-20.C. Section 347-20.C is replaced in its entirety with the following:

C. Criminal and background restrictions. No person may be employed as a Gaming Employee in the operation or conduct of gaming, and no gaming-related contractor shall employ any person in the course of performance under the contract, if that person has been convicted of, or entered a plea of guilty or no contest to, any of the following, unless the person has been pardoned:

(1) A felony, other than a felony conviction for an offense under Subsection C(2), (3) or (4) of this section during the immediately preceding 10 years;

(2) Any gambling-related offense;

(3) Fraud or misrepresentation in any connection; or

(4) A violation of any provisions of Ch. 562 or 565, Wis. Stats., a rule promulgated by the Lottery Board, Wisconsin Racing Board, Department of Administration or successor agency or a tribal ordinance regulating or prohibiting gaming.

6. AMENDMENT TO SECTION 347-20.D. Section 347-20.D is replaced in its entirety with the following:

D. Licensing and regulation of Class II and Class III gaming activity; net revenue allocation; audits; contracts.

(1) A separate license issued by the Commission shall be required for each place, facility, or location on Indian lands within the Tribe's jurisdiction at which any Class II or Class III gaming activity is conducted.

(2) The Commission may license and regulate a tribal-owned Class III gaming activity if:

(a) Such gaming activity is located on Indian lands within the Tribe's jurisdiction and the State of Wisconsin permits such gaming for any purpose by any person, organization, or entity (and such gaming is not otherwise specifically prohibited on Indian lands by federal laws);

(b) Except as provided in § 347-21, the Tribe will have the sole proprietary interest and responsibility for the conduct of such gaming activity;

(c) Net revenues from such gaming activity are used in accordance with § 347-19B of this code;

(d) Such gaming activity is subject to annual outside audits, which may be encompassed within existing independent, tribal audit systems and provided to the Legislature;

(e) All contracts for supplies, services, or concessions for any aggregate amount in excess of \$25,000 annually relating to such gaming are also subject to independent audits;

(f) The construction and maintenance of the gaming facility and the operation of that gaming are conducted in a manner which adequately protects the environment and the public's health and safety; and

(g) All primary management officials and key employees of the Class III gaming operation have successfully passed a background investigation and have obtained licenses from the Commission.

7. **AMENDMENT TO SECTION 347-20.H - K.** Section 347-20.H-K are renamed as follows: Section H is renamed Section E; Section I is renamed Section F; Section J is renamed Section G; Section K is renamed Section H.

8. **AMENDMENT TO SECTION 347-20.L.** Section 347-20.L is deleted in its entirety.

9. **CREATION OF SECTION 347-24.5.** Section 347-24.5 is created to read:

§347-24.5 Applicability of Article to Non-Gaming Activity _____

Notwithstanding any other provision of this Article III of Chapter 347, the Menominee Tribal Gaming Commission shall have no power or authority to regulate Non-Gaming Activity or Non-Gaming Employees, nor any responsibility for Non-Gaming Activity or Non-Gaming

Employees. Any regulation, internal control, or other rule of the Menominee Tribal Gaming Commission promulgated and in place at the time of this Amendment related to Non-Gaming Activity or Non-Gaming Employees shall be null and void and of no effect as of the implementation date of this Amendment.

10. AMENDMENT TO SECTION 347-36.B(1). Section 347-36.B(1) is replaced in its entirety with the following:

B. Application forms.

(1) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

11. AMENDMENT TO SECTION 347-36.B(3). Section 347-36.B(3) is replaced in its entirety with the following:

The following notice shall be placed on the application form for a key employee or a primary management official before the form is filled out by an applicant: A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

12. AMENDMENT TO SECTION 347-36.C(1). Section 347-36.C(1) is amended to add paragraphs (o) and (p) to read as follows:

(o) If, in the course of a background investigation, the Tribe discovers that the applicant has a notice of results on file with the NIGC from a prior investigation and the Tribe has access to the earlier investigative materials (either through the NIGC or the previous tribal investigative body), the Tribe may rely on those materials and update the investigation and investigative report under § 556.6(b)(1).

(p) In conducting a background investigation, the Tribe or its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

13. AMENDMENT TO SECTION 347-36.D. Section 347-36.D is replaced in its entirety with the following:

D. Eligibility determination. The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associates to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the authorized tribal official, in applying the standards adopted in this Ordinance, determines that the licensing 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, an authorizing tribal official shall not license that person in a key employee or primary management official position.

14. AMENDMENT TO SECTION 347-36.E. and SECTION 347.36.F. Sections 347-36.E and F are replaced in their entirety with the following:

E. Report to the National Indian Gaming Commission. All reports required to be made to the National Indian Gaming Commission shall be made through the appropriate Regional office. Should the Tribe wish to submit notices electronically, it shall contact the appropriate Regional Office for guidance on acceptable document formats and means of transmission.

(1) When the Tribe employs a primary management official or a key employee, the tribe shall maintain a complete application file containing the information listed under § 347.36.C(1) (a) through (n).

(2) Before issuing a license to a primary management official or to a key employee, the tribe shall:

(a) Create and maintain an investigative report on each background investigation. An investigative report shall include all of the following:

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

(b) Submit a notice of results of the applicant's background investigation to the National Indian Gaming Commission no later than sixty (60) days after the applicant begins work. The notice of results shall contain:

- [1] Applicant's name, date of birth, and social security number;

[2] Date on which applicant began or will begin work as key employee or primary management official;

[3] A summary of the information presented in the Investigative report, which shall at a minimum include a listing of:

[a] Licenses that have previously been denied;

[b] Gaming licenses that have been revoked, even if subsequently reinstated;

[c] Every known criminal charge brought against the applicant within the last 10 years of the date of application; and

[d] Every felony of which the applicant has been convicted or any ongoing prosecution.

[e] A copy of the eligibility determination made under § 347.36.D.

15. AMENDMENT TO SECTION 347-36.G. Section 347-36.G is amended to be renamed Section 347-36.F and is amended to add the following paragraphs:

(4) Within 30 days after the issuance of the license, a tribe shall notify the National Indian Gaming Commission of its issuance.

(5) The gaming operation shall not employ a key employee or primary management official who does not have a license after ninety (90) days.

(6) If the tribe does not license an applicant—

(a) The tribe shall notify the National Indian Gaming Commission; and

(b) Shall forward copies of its eligibility determination and notice of results, under § 347.36.E of this chapter, to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Record System.

(7) A tribe shall retain the following for inspection by the Chair or his or her designee for no less than three years from the date of termination of employment:

(a) Applications for licensing;

(b) Investigative reports; and

(c) Eligibility determinations.

16. AMENDMENT TO SECTION 347-36.H. Section 347-36.H is amended to be renamed Section 347-36.G and Paragraph (3) is replaced in its entirety with the following:

(3) After a revocation hearing, a tribe shall decide to revoke or to reinstate a gaming license. A tribe shall notify the National Indian Gaming Commission of its decision within 45 days of receiving notification from the National Indian Gaming Commission pursuant to paragraph (1) of this subsection.

17. EFFECT ON REMAINING TERMS OF CHAPTER. All other terms and conditions of Chapter 347 remain unchanged and are unaffected by this amendment.

18. EFFECTIVE DATE. This Ordinance shall become effective sixty (60) days after final approval by the Menominee Tribal Legislature.



**MENOMINEE NATION
THE MENOMINEE TRIBAL LEGISLATURE
TRIBAL ORDINANCE 13- 08
"AMENDMENT TO THE CODE OF MENOMINEE
INDIAN TRIBE OF WISCONSIN
CHAPTER 347"**

FINAL APPROVAL:

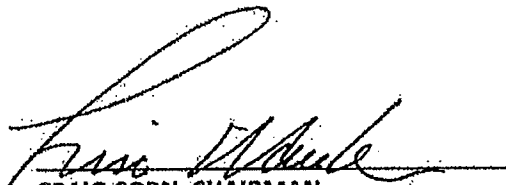
BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:


Tribal Ordinance 13-08 is hereby enacted. Tribal Ordinance 13- 08 hereby amends Chapter 347 - Article III, "Gaming", of the Code of the Menominee Indian Tribe of Wisconsin, as attached hereto and incorporated herein as if fully reproduced here.

CERTIFICATION

We, the undersigned Officers of the Menominee Tribal Legislature, do hereby certify that the foregoing amendment to Menominee Indian Tribe of Wisconsin General Code, "Chapter 347" was approved for final approval at a regular meeting of the Tribal Legislature held May 02 2013, at which a quorum was present, by a vote of 6 for, 1 opposed, 0 abstentions and 1 absent.

The undersigned also certify that the foregoing amendment to Code of the Menominee Indian Tribe of Wisconsin has been posted in accordance with the Menominee Constitution and Bylaws.


CRAIG CORN, CHAIRMAN
MENOMINEE INDIAN TRIBE OF WISCONSIN


CRYSTAL CHAPMAN-CHEVALIER, SECRETARY
MENOMINEE INDIAN TRIBE OF WISCONSIN

DATE: May 02, 2013



**MENOMINEE NATION
MENOMINEE TRIBAL LEGISLATURE**

**AMENDMENT TO CHAPTER 347
(ORDINANCE 93-30)
GAMING CODE**

1. PURPOSE. This Amendment modifies Chapter 347 to make clear that the regulatory authority of the Menominee Tribal Gaming Commission, including the authority to license employees, audit operations, and promulgate internal control standards and other rules is limited to the gaming functions of the Tribe through the Menominee Indian Gaming Authority and such authority does not extend to any non-gaming activity as defined in this amendment even if such activity is carried out by the Menominee Indian Gaming Authority, or any other person or entity authorized by the Tribe to conduct gaming. This amendment also makes certain changes to background investigations and licensing resulting from the changes to 25 C.F.R. Parts 556 and 558.

2. AMENDMENT TO SECTION 347-18.B. Section 347-18.B is amended to add the following definitions:

CLASS III GAMING - Class III Gaming means all forms of gaming that are not class I gaming or class II gaming.

GAMING ACTIVITY - Gaming Activity means any of the following acts by an employee of the Gaming Operation:

- (1) Operating, maintaining or servicing any Class I, Class II, or Class III Gaming;
- (2) Providing Security or surveillance over any Class I, Class II, or Class III Gaming;
- (3) Handling money, chips, tokens, etc. related to Class I, Class II, or Class III Gaming;
- (4) Bookkeeping and accounting related to revenues and expenses from Class I, Class II, or Class III Gaming;
- (5) Drafting of policies related to the conduct of Class I, Class II, or Class III Gaming;
- (6) Supervising or involved in the hiring or firing any employee engaged in a Gaming Activity listed (1) - (5) above.
- (7) Any activity required to be regulated pursuant to the provisions of the Indian Gaming Regulatory Act.

GAMING EMPLOYEE - Gaming Employee means any employee of the Gaming Operation whose duties include Gaming Activity and any person who meets the definition of Key Employee or Primary Management Official pursuant to Chapter 347 or the Indian Gaming Regulatory Act or regulations promulgated pursuant to the Indian Gaming Regulatory Act.

NON-GAMING ACTIVITY - Non-Gaming Activity means all activities of the Gaming Operation and its employees that does not constitute Gaming Activity.

NON-GAMING EMPLOYEE - Non-Gaming Employee means any employee of the Gaming Operation who is not a Gaming Employee.

3. AMENDMENT TO SECTION 347-20.A. Section 347-20.A is replaced in its entirety with the following:

A. Mandatory license. Any person seeking to conduct, operate or manage any gaming activity on Indian lands, or any person seeking employment therefrom, shall apply for and receive all the required licenses and/or approvals from the Commission prior to engaging in such gaming activities in accordance with this Section and Section 347-36 of this Code.

4. AMENDMENT TO SECTION 347-20.B. Section 347-20.B is replaced in its entirety with the following:

B. For all other Gaming Employees who are not Primary Management Officials or Key Employee, the Commission shall adopt application forms appropriate to each job category.

5. AMENDMENT TO SECTION 347-20.C. Section 347-20.C is replaced in its entirety with the following:

C. Criminal and background restrictions. No person may be employed as a Gaming Employee in the operation or conduct of gaming, and no gaming-related contractor shall employ any person in the course of performance under the contract, if that person has been convicted of, or entered a plea of guilty or no contest to, any of the following, unless the person has been pardoned:

(1) A felony, other than a felony conviction for an offense under Subsection C(2), (3) or (4) of this section during the immediately preceding 10 years;

(2) Any gambling-related offense;

(3) Fraud or misrepresentation in any connection; or

(4) A violation of any provisions of Ch. 562 or 565, Wis. Stats., a rule promulgated by the Lottery Board, Wisconsin Racing Board, Department of Administration or successor agency or a tribal ordinance regulating or prohibiting gaming.

6. AMENDMENT TO SECTION 347-20.D. Section 347-20.D is replaced in its entirety with the following:

D. Licensing and regulation of Class II and Class III gaming activity; net revenue allocation; audits; contracts.

(1) A separate license issued by the Commission shall be required for each place, facility, or location on Indian lands within the Tribe's jurisdiction at which any Class II or Class III gaming activity is conducted.

(2) The Commission may license and regulate a tribal-owned Class III gaming activity if:

(a) Such gaming activity is located on Indian lands within the Tribe's jurisdiction and the State of Wisconsin permits such gaming for any purpose by any person, organization, or entity (and such gaming is not otherwise specifically prohibited on Indian lands by federal laws);

(b) Except as provided in § 347-21, the Tribe will have the sole proprietary interest and responsibility for the conduct of such gaming activity;

(c) Net revenues from such gaming activity are used in accordance with § 347-19B of this code;

(d) Such gaming activity is subject to annual outside audits, which may be encompassed within existing independent, tribal audit systems and provided to the Legislature;

(e) All contracts for supplies, services, or concessions for any aggregate amount in excess of \$25,000 annually relating to such gaming are also subject to independent audits;

(f) The construction and maintenance of the gaming facility and the operation of that gaming are conducted in a manner which adequately protects the environment and the public's health and safety; and

(g) All primary management officials and key employees of the Class III gaming operation have successfully passed a background investigation and have obtained licenses from the Commission.

7. AMENDMENT TO SECTION 347-20.H - K. Section 347-20.H-K are renamed as follows: Section H is renamed Section E; Section I is renamed Section F; Section J is renamed Section G; Section K is renamed Section H.

8. AMENDMENT TO SECTION 347-20.L. Section 347-20.L is deleted in its entirety.

9. CREATION OF SECTION 347-24.5. Section 347-24.5 is created to read:

§347-24.5 Applicability of Article to Non-Gaming Activity _____

Notwithstanding any other provision of this Article III of Chapter 347, the Menominee Tribal Gaming Commission shall have no power or authority to regulate Non-Gaming Activity or Non-Gaming Employees, nor any responsibility for Non-Gaming Activity or Non-Gaming

Employees. Any regulation, internal control, or other rule of the Menominee Tribal Gaming Commission promulgated and in place at the time of this Amendment related to Non-Gaming Activity or Non-Gaming Employees shall be null and void and of no effect as of the implementation date of this Amendment.

10. AMENDMENT TO SECTION 347-36.B(1). Section 347-36.B(1) is replaced in its entirety with the following:

B. Application forms.

(1) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

11. AMENDMENT TO SECTION 347-36.B(3). Section 347-36.B(3) is replaced in its entirety with the following:

The following notice shall be placed on the application form for a key employee or a primary management official before the form is filled out by an applicant: A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

12. AMENDMENT TO SECTION 347-36.C(1). Section 347-36.C(1) is amended to add paragraphs (o) and (p) to read as follows:

(o) If, in the course of a background investigation, the Tribe discovers that the applicant has a notice of results on file with the NIGC from a prior investigation and the Tribe has access to the earlier investigative materials (either through the NIGC or the previous tribal investigative body), the Tribe may rely on those materials and update the investigation and investigative report under § 556.6(b)(1).

(p) In conducting a background investigation, the Tribe or its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

13. AMENDMENT TO SECTION 347-36.D. Section 347-36.D is replaced in its entirety with the following:

D. Eligibility determination. The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associates to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the authorized tribal official, in applying the standards adopted in this Ordinance, determines that the licensing 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, an authorizing tribal official shall not license that person in a key employee or primary management official position.

14. AMENDMENT TO SECTION 347-36.E. and SECTION 347.36.F. Sections 347-36.E and F are replaced in their entirety with the following:

E. Report to the National Indian Gaming Commission. All reports required to be made to the National Indian Gaming Commission shall be made through the appropriate Regional office. Should the Tribe wish to submit notices electronically, it shall contact the appropriate Regional Office for guidance on acceptable document formats and means of transmission.

(1) When the Tribe employs a primary management official or a key employee, the tribe shall maintain a complete application file containing the information listed under § 347.36.C(1) (a) through (n).

(2) Before issuing a license to a primary management official or to a key employee, the tribe shall:

(a) Create and maintain an investigative report on each background investigation. An investigative report shall include all of the following:

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

(b) Submit a notice of results of the applicant's background investigation to the National Indian Gaming Commission no later than sixty (60) days after the applicant begins work. The notice of results shall contain:

- [1] Applicant's name, date of birth, and social security number;

[2] Date on which applicant began or will begin work as key employee or primary management official;

[3] A summary of the information presented in the Investigative report, which shall at a minimum include a listing of:

[a] Licenses that have previously been denied;

[b] Gaming licenses that have been revoked, even if subsequently reinstated;

[c] Every known criminal charge brought against the applicant within the last 10 years of the date of application; and

[d] Every felony of which the applicant has been convicted or any ongoing prosecution.

[e] A copy of the eligibility determination made under § 347.36.D.

15. AMENDMENT TO SECTION 347-36.G. Section 347-36.G is amended to be renamed Section 347-36.F and is amended to add the following paragraphs:

(4) Within 30 days after the issuance of the license, a tribe shall notify the National Indian Gaming Commission of its issuance.

(5) The gaming operation shall not employ a key employee or primary management official who does not have a license after ninety (90) days.

(6) If the tribe does not license an applicant—

(a) The tribe shall notify the National Indian Gaming Commission; and

(b) Shall forward copies of its eligibility determination and notice of results, under § 347.36.E of this chapter, to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Record System.

(7) A tribe shall retain the following for inspection by the Chair or his or her designee for no less than three years from the date of termination of employment:

(a) Applications for licensing;

(b) Investigative reports; and

(c) Eligibility determinations.

16. AMENDMENT TO SECTION 347-36.H. Section 347-36.H is amended to be renamed Section 347-36.G and Paragraph (3) is replaced in its entirety with the following:

(3) After a revocation hearing, a tribe shall decide to revoke or to reinstate a gaming license. A tribe shall notify the National Indian Gaming Commission of its decision within 45 days of receiving notification from the National Indian Gaming Commission pursuant to paragraph (1) of this subsection.

17. EFFECT ON REMAINING TERMS OF CHAPTER. All other terms and conditions of Chapter 347 remain unchanged and are unaffected by this amendment.

18. EFFECTIVE DATE. This Ordinance shall become effective sixty (60) days after final approval by the Menominee Tribal Legislature.

CHAPTER 347 GAMING

ARTICLE III. Gaming Code

§ 347-18. Definitions.

§ 347-19. Administration and enforcement; Gaming Commission.

§ 347-20. Licensing of games and personnel.

§ 347-21. Management contracts.

§ 347-22. Auditing and internal control.

§ 347-23. Exclusion or ejection of individuals.

§ 347-24. Amendments.

[Adopted 1-20-1994 by Ord. No. 93-30; amended in its entirety 1-22-2008]

§ 347-18. Definitions.

A. Unless a different meaning is clearly indicated, the terms used in this article shall have the same meaning as defined in the Indian Gaming Regulatory Act. *Editor's Note: See 25 U.S.C. § 2701 et seq.*

B. As used in this article, the following terms shall have the meanings indicated:

CITIZENSHIP

The status of United States citizen under the laws of the United States of America.

CLASS I GAMING

Social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebration.

CLASS II GAMING

(1) The game of chance commonly known as "bingo" (whether or not electronic, computer, or other technologic aids are used in connection therewith):

(a) Which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;

(b) In which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are shown or electronically determined; and

(c) In which the game is won only by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull tabs, lotto, punch boards, lip jars, instant bingo, and other games similar to bingo; and

(2) Card games that:

(a) Are explicitly authorized by the laws of the State of Wisconsin; or

(b) Are not explicitly prohibited by the laws of the State of Wisconsin and are played at any location in the State of Wisconsin, but only if such card games are played in conformity with those laws and regulations (if any) of the State of Wisconsin regarding hours or periods of operation of such card games or limitations on wagers or pot prizes in such card games.

(3) The term "Class II gaming" does not include:

(a) Any banking card games, including baccarat, chemin de fer, or blackjack (21); or

(b) Electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

CLASS III GAMING

Class III Gaming means all forms of gaming that are not class I gaming or class II gaming.

COMMISSION

The Menominee Tribal Gaming Commission established pursuant to this article to perform regulatory oversight and to monitor compliance with tribal, federal and applicable state regulations and the Compact and also known as the "Gaming Commission" or "Menominee Tribal Gaming Agency." Any reference to "Commission" in this article shall include the staff of the Menominee Tribal Gaming Commission.

COMMISSION BYLAWS

The rules governing the conduct of the Menominee Tribal Gaming Commission meetings and actions.

COMMISSIONER

One of the members of the Menominee Tribal Gaming Commission; also known as "Gaming Commissioner."

COMPLIMENTARY ITEMS

Goods or services, including but not limited to food, beverages, lodging, gift certificates, match play coupons, and merchandise, that are provided to customers of the Menominee Nation Casino, Bingo and Hotel or other gaming operations at no cost or reduced cost.

DE MINIMUS

Distinct complimentary items that are less than \$10 in value and that in the aggregate do not exceed \$100 in value annually.

GAMING ACTIVITY

Gaming Activity means any of the following acts by an employee of the Gaming Operation:

- (1) Operating, maintaining or servicing any Class I, Class II, or Class III Gaming;
- (2) Providing Security or surveillance over any Class I, Class II, or Class III Gaming;
- (3) Handling money, chips, tokens, etc. related to Class I, Class II, or Class III Gaming;
- (4) Bookkeeping and accounting related to revenues and expenses from Class I, Class II, or Class III Gaming;
- (5) Drafting of policies related to the conduct of Class I, Class II, or Class III Gaming;
- (6) Supervising or involved in the hiring or firing any employee engaged in a Gaming Activity listed (1) - (5) above.
- (7) Any activity required to be regulated pursuant to the provisions of the Indian Gaming Regulatory Act.

GAMING EMPLOYEE

Gaming Employee means any employee of the Gaming Operation whose duties include Gaming Activity and any person who meets the definition of Key Employee or Primary Management Official pursuant to Chapter 347 or the Indian Gaming Regulatory Act or regulations promulgated pursuant to the Indian Gaming Regulatory Act.

GAMING OPERATION

Each economic entity that is licensed by the Tribe, operates games, receives revenues, issues prizes, and pays expenses. A gaming operation may be operated by the Tribe directly or by a management contractor or by an enterprise established and owned by the Tribe for the conduct of gaming or its enterprise's management contractor. Any Non-Gaming Activity conducted by the Gaming Operation shall not be subject to regulation under this Section 347 pursuant to §347-24.5 of this Article.

IMMEDIATE FAMILY MEMBER

Father, mother, sister, brother, husband, wife, child, father-in-law, mother-in-law, stepfather, stepmother, and stepchildren.

INDIAN LAND

Any lands title to which is either held in trust by the United States for the benefit of the Menominee Indian Tribe of Wisconsin or held by the Menominee Indian Tribe of Wisconsin subject to restriction by the United States against alienation and over which the Menominee Indian Tribe of Wisconsin exercises governmental power.

KEY EMPLOYEE

Has the same meaning as used in Article V, Authorization of Gaming, of this chapter.

LEGISLATURE

The Menominee Tribal Legislature, also known as "Tribal Legislature."

LICENSEE

Any person who has been issued a valid and current license pursuant to the provisions of this article.

MANAGEMENT CONTRACT

Any contract, agreement, subcontract or collateral agreement between an Indian Tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

MANAGEMENT FEE

The amount paid pursuant to a management contract as determined within such contracts.

NET REVENUES

Gross gaming revenues of an Indian gaming operation less:

- (1) Amounts paid out as, or paid for, prizes; and
- (2) Total gaming-related operating expenses, excluding management fees.

NON-GAMING ACTIVITY

Non-Gaming Activity means all activities of the Gaming Operation and its employees that does not constitute Gaming Activity.

NON-GAMING EMPLOYEE

Non-Gaming Employee means any employee of the Gaming Operation who is not a Gaming Employee.

PRIMARY MANAGEMENT OFFICIAL

Has the same meaning as used in Article V, Authorization of Gaming, of this chapter.

REGULATION

Regulations promulgated by the Commission pursuant to this article.

TRIBAL COURT

The Tribal Court of the Menominee Indian Tribe of Wisconsin created pursuant to the Menominee Indian Tribe of Wisconsin Constitution and Bylaws and the Judiciary and Law and Order Code *Editor's Note: See Ch. 120.* and physically located on the Menominee Indian Reservation or, for the purposes of regulating any gaming conducted outside the boundaries of the Menominee Indian Reservation, a tribunal created by the Menominee Tribal Legislature for the purpose of performing the role of the Tribal Court under this article.

TRIBAL-STATE COMPACT or COMPACT or GAMING COMPACT

A written document, either negotiated and agreed to by the Tribe and an official or agent of the State of Wisconsin or prescribed by the Secretary pursuant to 25 U.S.C. § 2710(d)(7)(B)(vii), governing the conduct of Class III gaming activities on Indian lands.

TRIBE

The Menominee Indian Tribe of Wisconsin, a federally recognized Indian Tribe; also may be referred to as "Menominee Nation."

WORKING DAYS

Monday through Friday with the exception of Menominee tribal holidays and administrative leave.

§ 347-19. Administration and enforcement; Gaming Commission.

A. Unauthorized gaming. Any Indian who commits any act of unauthorized gaming on this Reservation or any Indian land shall be guilty of a crime and shall be prosecuted in Tribal Court. Prosecution for such a crime in Tribal Court is not meant to be exclusive; a finding of guilt or innocence shall not deprive the federal government from criminal jurisdiction. However, it is hereby declared that Class I, Class II and

Class III gaming conducted on this Reservation or on any Indian land that fully complies with the provisions of this code shall not be subject to any criminal penalties.

B. Ownership; revenues to benefit Tribe. Except for those licenses issued pursuant to ~~§ 347-20~~, the Tribe shall have the sole proprietary interest in, and the sole responsibility for, the conduct of the gaming activity. Such provision does not, however, limit the Tribe's ability to enter into a management contract wherein net profits are divided between the Tribe and other parties to the contract. A gaming establishment shall be operated so as to produce the maximum amount of net profit to the Tribe.

(1) The Tribe's share of net revenues will go entirely to the Tribe and will be used solely for the following purposes:

(a) To fund tribal government operations or programs;

(b) To provide for the general welfare of the Tribe and its members;

(c) To promote tribal economic development;

(d) To donate to charitable organizations; or

(e) To help fund operations of local government agencies.

(2) Net revenues from the gaming establishment may be used to make per capita payments to members of the Tribe upon the preparation of a plan to allocate revenues to the above uses and approval of this plan by the Secretary of the Interior.

C. Establishment of Gaming Commission. The Menominee Tribal Gaming Commission shall consist of five members appointed by the Menominee Tribal Legislature. The Tribal Legislature shall make appropriate appointments to the Commission for three-year terms (staggered). A Commissioner shall carry over in office until such time as his or her successor is seated on the Commission.

(1) Eligibility requirements for Commissioners. In order to be eligible to serve as a Gaming Commissioner, a person shall:

(a) Be an enrolled Menominee member;

(b) Submit to a background investigation of the type required of a primary management official pursuant to this article and Article V, Authorization of Gaming, of this chapter;

(c) Not have been convicted of a felony;

(d) Not have been convicted of any gambling-related offense or any offense involving fraud or misrepresentation;

(e) Not currently be engaged in or have any prior activities concerning reputation, habits or associations that pose a threat to the public interest and effective regulation of gaming, as determined by the Tribal Legislature;

(f) Submit to random and reasonable suspicion drug tests;

(g) Not be a member of the Tribal Legislature or Tribal Gaming Management Board or employed by any gaming operation;

(h) Not be engaged in any business that is subject to the provisions of this article;

(i) Be at least 21 years of age; and

(j) Not be the immediate family member of any member of the Tribal Gaming Management Board.

(2) Commissioner background checks. Background investigations of Gaming Commissioners shall be conducted by the Director of the Gaming Commission with any potentially disqualifying information forwarded to the Tribal Legislature. Copies of background information shall be sealed in a confidential file and kept at the Commission office.

(3) Removal. The Tribal Legislature may remove a Gaming Commissioner by majority vote subject to failing to meet or maintain eligibility requirements as a Gaming Commissioner or for violating Subsection D, Restrictions on Commissioners, or Subsection D(3), Commission ethics.

(4) Vacancies. Vacancies on the Commission shall be filled by majority vote of the Tribal Legislature.

(5) Organizational meeting. In addition to any other meetings authorized by this article, the Tribal Gaming Commission shall meet following the annual appointment of Commission members by the Tribal Legislature for the purpose of electing a Chairperson and a Vice Chairperson from its membership.

D. Restrictions on Commissioners; ethics.

(1) Members of the Gaming Commission are prohibited from gambling in a gaming operation owned or operated by the Tribe.

(2) Members of the Gaming Commission are prohibited from accepting complimentary items from gaming operations owned or operated by the Tribe, except for de minimus food, beverage or logo items.

(3) Commission ethics. The Tribe recognizes that the duties of the Tribal Gaming Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Gaming Commission shall be held to extremely high ethical standards. Gaming Commissioners shall be bound by the following principles:

(a) Commissioners shall not:

[1] Hold financial interests that conflict with the conscientious performance of their duties as regulators.

[2] Engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest.

[3] Solicit or accept any gift or other item of monetary value, including complimentary items, from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the Gaming Commission or whose interests may be substantially affected by the performance or nonperformance of the Commissioners' duties.

[4] Use their positions for private gain.

[5] Engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.

(b) Commissioners shall:

[1] Make no unauthorized commitments or promises of any kind purporting to bind the Tribe.

[2] Act impartially, in accordance with all relevant tribal, federal, and state laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons related to Commissioners.

[3] Ensure that tribal property and gaming assets shall be properly segregated and safeguarded and that such property and assets shall not be used for unauthorized activities.

[4] Disclose waste, fraud, abuse and corruption to appropriate authorities.

[5] Endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.

E. Compensation for Commissioners. Commissioners shall be compensated at a rate to be established annually by the Commission and approved by the Tribal Legislature. Commissioners shall be reimbursed for actual expenses incurred on Commissioner business, including necessary travel expenses. In no event shall any individual Commissioner be compensated based on a percentage of net profits from gaming operations of the Tribe.

F. Meetings open to public. General meetings of the Commission may be open to the general membership of the Tribe. All meetings shall be governed by Robert's Rules of Order. Upon a majority vote as defined in Subsection G, matters dealing with personnel, security or the fiscal integrity of the gaming operations shall be conducted in executive session and not be open to the public.

G. Quorum; majority vote. A quorum shall consist of three members of the Commission. All decisions shall be made by a majority vote of the Commissioners present, unless indicated otherwise in this code.

H. Monthly report. The Commission shall make or cause to be made monthly reports to the Legislature. The report shall include a full and complete statement of gaming revenues paid to the Tribe, expenses and all other financial transactions of the Commission and a summary of all licensing and enforcement actions.

I. Powers and duties. The purpose of the Tribal Gaming Commission is regulatory, not managerial. The Tribal Gaming Commission shall have the following powers and duties:

(1) The Commission will conduct oversight to ensure compliance with tribal, federal and, if applicable, state laws and regulations and the Compact.

(2) The Commission will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process.

(3) The Commission will monitor compliance with the internal control standards for the gaming operation in tracking revenues.

(4) In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all records.

(5) The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license when appropriate.

(6) The Commission shall promulgate:

(a) Regulations regarding the use of complimentary items. Said regulations shall:

(1) Be in conformance with the National Indian Gaming Commission's Minimum Internal Control Standards, found at 25 CFR 542.17.

(2) Prohibit key employees, primary management officials, Tribal Legislators, and members of the Gaming Management Board or Gaming Commission, or any person who is an immediate family member of a person listed above, or who shares a residence with a person listed above, from receiving complimentary items other than de minimus complimentary items.

(b) Rules and regulations to prevent cheating.

(7) The Commission shall promulgate and issue:

(a) Regulations necessary to comply with the Tribe's Minimum Internal Control Standards (MICS). The Tribe acknowledges its obligation to adopt and implement Minimum Internal Control Standards (MICS) for the operation of its tribal gaming operation no less stringent than those found in the regulations of the National Indian Gaming Commission (NIGC) at 25 CFR 542. The Tribe's MICS shall be sent out in separate regulations to be reviewed and approved by the Tribal Gaming Commission.

(b) Regulations on the levying of fees associated with gaming license applications.

(c) Regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of this article, the Compact or any other tribal, federal or state, if applicable, gaming regulations.

(d) Licensing regulations.

[1] The Tribal Gaming Commission is responsible for conducting background investigations, making suitability determinations and issuing licenses to employees and vendors. The Tribal Gaming Commission shall adopt regulations for background investigations which at a minimum meet the requirements and procedures of 25 CFR 556 and the Compact.

[2] The Tribal Gaming Commission shall adopt regulations for eligibility determination which at a minimum meet the requirements and procedures of 25 CFR 556 and the Compact.

[3] The Tribal Gaming Commission shall adopt regulations for forwarding the Notice of Results to NIGC which at a minimum meet the requirements and procedures of 25 CFR 556 and the Compact.

[4] The Tribal Gaming Commission shall adopt regulations for license applications and for the granting, suspension and revocation of gaming licenses which at a minimum meet the requirements and procedures of 25 CFR 558 and the Compact and which provide due process for the resolution of any dispute concerning the granting, suspension and revocation of gaming licenses to any management contractor.

(8) The Commission shall:

(a) Carry out all duties of the Tribe pursuant to Article V, Authorization of Gaming, of this chapter unless any of those duties are assigned to another entity by ordinance.

(b) Conduct or cause background investigations to be conducted on, at a minimum, primary management officials, key employees and service suppliers.

(c) Review and approve all investigative work conducted with respect to such background investigations.

(d) Report results of background investigations to NIGC as required by the Indian Gaming Regulatory Act (IGRA) *Editor's Note: See 25 U.S.C. § 2701 et seq.* or the Compact.

(e) Obtain and process fingerprints or designate a law enforcement agency to obtain and process fingerprints.

(f) Make suitability determinations.

(g) Issue gaming licenses to management officials and employees of the operation and service suppliers consistent with the suitability determinations.

(h) Inspect, examine and monitor all gaming activities and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment.

(i) Ensure compliance with the Compact and all tribal, state and federal laws, rules and regulations regarding Indian gaming.

(j) Investigate any suspicious wrongdoing associated with any gaming activities (reserving to the Board and/or any management contractor its right also to investigate as appropriate).

(k) Hold hearings on patron and/or employee complaints in compliance with procedures established in the Compact, the management agreement, this article and other tribal gaming regulations.

(l) Comply with any and all reporting requirements under IGRA, the Compact to which the Tribe is a party and any other applicable law.

(m) Employ such persons as are necessary to carry out the duties of the Gaming Commission, including but not limited to gaming inspectors.

(n) Seize and impound any patron's winnings which the Commission may have reason to believe may have been won or obtained in violation of this article pending a civil forfeiture hearing on such seizure.

(o) Establish its own budget for operations in accordance with its bylaws, including a budget for the Director, and acquire such furnishings, equipment, supplies, stationery, books, motor vehicles and other things as it may deem necessary or desirable in carrying out its functions and incur such other expenses within the limit of funds available to it as it may deem necessary.

(p) Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation.

(9) The Commission shall have the authority to develop memoranda of understanding with law enforcement agencies to perform services reasonably necessary to assure compliance with this article.

(10) Although not required by the Indian Gaming Regulatory Act, *Editor's Note: See 25 U.S.C. § 2701 et seq.* the Commission shall direct the Executive Director of the Tribal Gaming Commission to require all Commission staff to be licensed by the Commission pursuant to procedures in effect for such licensing in order to set an example for all licensees.

1. Independence. The Tribe recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated gaming operation. The Commission shall act independently and autonomously from the Tribal Legislature in all matters within its purview. No prior or subsequent review by the Tribal Legislature of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this article.

K. Prior notice of actions. In adopting, amending, and repealing regulations, the Commission shall give prior notice of the proposed action to all licensees and other persons whom the Commission or Director has reason to believe have a legitimate and bona fide interest in such proposed action. Said notice shall inform such persons as to the general nature of the proposed action and advise them as to the manner in which comments on said proposed action shall be received by the Commission. In emergencies, the Commission may summarily adopt, amend or repeal any regulation if at the time the Commission determines such action is necessary for the immediate preservation of the public peace, health, safety, morals, and good order or general welfare, together with a statement of facts constituting the emergency; provided that the Commission shall schedule such emergency action for a regular hearing within 60 days after any such emergency meeting. The Commission shall set forth or cause to be set forth procedures for purposes stated herein.

L. Request for Commission action. Any person who is determined by the Commission or Director to be a bona fide interested party may file a petition in a manner and form approved by the Commission requesting the adoption, amendment or repeal of a regulation. Upon receipt of the petition, the Commission shall, within 30 working days, deny the request in writing or schedule the matter for action pursuant to this section.

M. Voting on licensing. Any Commission vote resulting in approving, disapproving, revoking, suspending, limiting or conditioning a license under this article shall be by ballot only.

N. Reconsideration. If an individual, within 10 working days of receiving written notice of a Commission determination, files written objections to that determination, the Commission shall hold a hearing to review its decision at the next scheduled meeting. At the hearing, the burden shall be on the applicant to show cause why the Commission's determination was incorrect. Following such hearing, the Commission shall, within 10 working days, reach a determination concerning:

- (1) The accuracy of the preliminary certification of facts;
- (2) Whether the license in question should be granted, continued, suspended, revoked, conditioned or limited; and
- (3) Whether or not any other action recommended to the Commission, including but not limited to forfeitures, should be taken.

O. Right to appeal. Unless otherwise contractually agreed to, the subject shall have the right to appeal the determination of the Commission to the Tribal Court, in written form, on or before the 10th day following receipt of the written determination of the Commission. A determination of such appeal by the Court shall be made by the Court without a jury. The Court shall make its determination on the record provided, unless it deems further testimony or evidence necessary. In its review the Court shall not substitute its judgment for that of the Commission as to weight of the evidence on any disputed

finding of fact. Due weight shall be accorded the experience and specialized knowledge of the Commission as well as discretionary authority conferred on the Commission by this article.

P. Employment of Director. The Tribe shall employ a Director who shall be supervised by the Gaming Commission. The Gaming Commission shall hire the Director pursuant to the Tribe's Personnel Policies and Procedures (Ordinance No. 83-6). *Editor's Note: The Personnel Policies and Procedures Manual is on file at the office of the Administrative Manager.*

Q. Termination of Director. Termination will be the decision of the Gaming Commission pursuant to the Tribe's Personnel Policies and Procedures (Ordinance 83-6).

R. Duties of Director. The Director shall, subject to the approval of the Commission, perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and effect all purposes of this article relating to the regulation of all gaming activity. In all decisions, the Director shall act to promote and ensure integrity, security, honesty and fairness of the operation and administration of all gaming activity. It will be the responsibility of the Tribal Gaming Commission to develop and maintain job description(s) for the Director(s) positions in accordance with this article and subject to Ordinance No. 83-6, Personnel Policies and Procedures.

S. Right of inspection; enforcement.

(1) The Commission, the Director and their agents, inspectors, and employees have the authority to:

(a) Inspect and examine all premises wherein gaming is conducted or gambling devices or equipment is manufactured, sold or distributed.

(b) Inspect all equipment and supplies in, upon or about a gaming establishment or inspect any equipment or supplies, wherever located, which may or have been used in the gaming establishment.

(c) Summarily seize and remove from a gaming establishment (or wherever located) and impound such equipment or supplies for the purpose of examination, inspection, evidence or forfeiture.

(d) Demand access to and inspect, examine and audit all papers, books, and records of applicants and licensees respecting any income produced by any gaming business and require verification of income and all other matters affecting the enforcement of the policy of or any of the provisions of this code.

(e) Seize and impound any patron's winnings which the Commission may have reason to believe may have been won or obtained in violation of this code pending a civil forfeiture hearing on such seizure.

(2) For the purpose of administration and enforcement of this code, the Commission, the Director and their investigative personnel may, if deemed necessary by the Tribal Legislature, have the powers of the peace officer of the Menominee Indian Nation for purposes of this code only.

(3) Commissioners and the Director shall each have full power and authority to issue subpoenas and compel the attendance of witnesses for hearing at any place within the Reservation, to administer oaths and to require testimony under oath. Any process or notice may be served in the manner provided for service of process and notices in civil actions. The Commission and the Director may pay such transportation and other expenses of witnesses as it may deem reasonable and proper.

T. Confidentiality. The Gaming Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process. Under no circumstances shall information obtained during the course of an employee background investigation be disclosed to members of management, human resources personnel or others employed by the Tribal gaming operation. This subsection does not apply to requests from or the furnishing of such information or records to any tribal, federal or state law enforcement, regulatory or judicial agency or to the use of such information or records by the Commission and staff in performance of their official duties.

U. Violations of code; punishment. Any violation of this code shall be punished by a fine of no more than \$5,000 for each separate count or violation or one year in jail, or both. Each day of violation shall constitute a separate count or violation under this code. A violator may also be required to pay court costs, storage fees, and auction or sales fees. All property used or which may be used in activities in each and every separate violation of this code may become the property of the Tribe; persons may be prohibited from trespassing on premises licensed under this code, licenses may be suspended, revoked, or limited and/or establishments may be forcibly closed. All such action shall be taken at the discretion of the Commission, subject to the right of appeal to the Tribal Court. Winnings found to have been received in violation of this code are forfeited and become the property of the Tribe.

V. Due process regarding enforcement actions. The Commission shall promulgate regulations protecting due process rights of all individuals subject to this article.

§ 347-20. Licensing of games and personnel.

A. Mandatory license. Any person seeking to conduct, operate or manage any gaming activity on Indian lands, or any person seeking employment therefrom, shall apply for and receive all the required licenses and/or approvals from the Commission prior to engaging in such gaming activities in accordance with Section 347-36 of this Code.

B. For all other Gaming Employees who are not Primary Management Officials or Key Employee, the Commission shall adopt application forms appropriate to each job category.

C. Criminal and background restrictions. No person may be employed as a Gaming Employee in the operation or conduct of gaming, and no gaming-related contractor shall employ any person in the course of performance under the contract, if that person has been convicted of, or entered a plea of guilty or no contest to, any of the following, unless the person has been pardoned:

(1) A felony, other than a felony conviction for an offense under Subsection C(2), (3) or (4) of this section during the immediately preceding 10 years;

(2) Any gambling-related offense;

(3) Fraud or misrepresentation in any connection; or

(4) A violation of any provisions of Ch. 562 or 565, Wis. Stats., a rule promulgated by the Lottery Board, Wisconsin Racing Board, Department of Administration or successor agency or a tribal ordinance regulating or prohibiting gaming.

D. Licensing and regulation of Class II and Class III gaming activity; net revenue allocation; audits; contracts.

(1) A separate license issued by the Commission shall be required for each place, facility, or location on Indian lands within the Tribe's jurisdiction at which any Class II or Class III gaming activity is conducted.

(2) The Commission may license and regulate a tribal-owned Class III gaming activity if:

(a) Such gaming activity is located on Indian lands within the Tribe's jurisdiction and the Menominee Indian Tribe of Wisconsin and State of Wisconsin Gaming Compact permits such gaming (and such gaming is not otherwise specifically prohibited on Indian lands by federal laws);

(b) Except as provided in § 347-21, the Tribe will have the sole proprietary interest and responsibility for the conduct of such gaming activity;

(c) Net revenues from such gaming activity are used in accordance with § 347-19B of this code;

(d) Such gaming activity is subject to annual outside audits, which may be encompassed within existing independent, tribal audit systems and provided to the Legislature;

(e) All contracts for supplies, services, or concessions for any aggregate amount in excess of \$25,000 annually relating to such gaming are also subject to independent audits;

(f) The construction and maintenance of the gaming facility and the operation of that gaming are conducted in a manner which adequately protects the environment and the public's health and safety; and

(g) All primary management officials and key employees of the Class III gaming operation have successfully passed a background investigation and have obtained licenses from the Commission.

E. License fees. The Tribe may charge a license fee, to be set by the Tribal Gaming Commission, to cover the expenses in investigating and licensing key employees and primary management officials of the gaming operation.

F. Temporary employment licenses. The Commission may issue a temporary employment license to any person or entity applying for a license to work in a licensed gaming establishment which shall be valid pending the background investigation of the applicant, but in no event longer than ninety (90) days.

G. Parameters of licenses.

(1) Acceptance of a gaming license or renewal on the part of the licensee shall constitute the licensee's agreement to be bound by all of the regulations and conditions of the Director or Commission and by the provisions of this code, as the same are now or may hereafter be amended or promulgated, and to cooperate fully with the Director and Commission. It is the responsibility of the licensee to keep informed of the contents of such regulations, amendments, provisions and conditions, and ignorance thereof will not excuse violations.

(2) The licensee shall advise the Director within five business days of being notified that he or she has been charged with any criminal offense (misdemeanor or felony), other than minor traffic violations. The licensee shall keep the Director advised of the status of the matter, including any disposition of any other related written documents the Director may request.

(3) Persons subject to this Subsection G shall be periodically reviewed (at least every two years) to determine whether they continue to meet the requirements and limitations of this Subsection G.

(4) In view of the less stringent background investigations contemplated for Gaming Employees who are neither primary management officials nor key employees, licenses for such employees may be limited to the job category for which employed or to non-primary management or key employee positions. Should such employee subsequently obtain employment as a primary management official or key employee, he or she shall apply for a license which is not so limited.

K. Licensing of distributors. The Commission may authorize, require and issue such annual licenses as the Commission by regulation may provide to any person or entity to engage in the selling, distributing, or otherwise supplying of gambling equipment or paraphernalia for use in connection with licensed gaming activity.

§ 347-21. Management contracts.

A. Commission approval required.

(1) Any management contract entered into by the Tribe for the operation and management of a gaming activity must be submitted to the Commission for approval, but before approving such contract the Commission shall require and obtain the following information:

(a) The name, address and other additional pertinent background information on each person or entity (including persons comprising such entity) having direct or indirect financial interest in, or management responsibility for, such agreement.

(b) A description of any previous experience that each person listed pursuant to Subsection A(1)(a) has had with other gaming contracts with Indian Tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming.

(c) Any further or additional information as may be required under the Tribal/State Compact entered into between the Tribe and the state.

(d) Any further additional information as may be required pursuant to IGRA, including all information required to be submitted to the National Indian Gaming Commission pursuant to 25 CFR 533.3(d).

(2) Any person listed pursuant to Subsection A(1)(a) shall be required to respond to such written or oral questions that the Commission may propound in accordance with its responsibilities under this Subsection A.

(3) For purposes of this article, any reference to the management contract described in Subsection A(1) shall be considered to include all collateral agreements to such contract that relate to the gaming activity.

(4) After the Commission has given its approval of a management contract, the Commission shall submit such contract to the National Indian Gaming Commission for its approval. The Commission may, in its discretion, allow a management contract to be submitted to the National Indian Gaming Commission pending approval by the Commission. Any management contract shall be void until the Commission and the National Indian Gaming Commission have approved it.

B. Approval of management contracts. Commission action on management contracts and the rights of management contractors regarding such action are governed by § 347-19 of this article. The Commission may approve any management contract entered into by the Tribe pursuant to this section only if it determines that such contract provides at least for:

(1) Adequate accounting procedures that are maintained and verifiable financial reports that are prepared by or for the Legislature on a monthly basis;

(2) Access to the daily operations of the gaming by appropriate tribal officials, who shall also have a right to verify the daily gross revenues and income made from any such tribal gaming activity;

(3) A minimum guaranteed payment to the Tribe that has preference over the retirement of development and construction costs;

(4) An agreed ceiling for repayment of development construction costs;

(5) A contract term not to exceed five years, except that, upon the request of the Tribe, the Commission may authorize a contract term that exceeds five years but does not exceed seven years if the

Commission is satisfied that the capital investment required, and the income projections, for the particular gaming activity require additional time;

(6) Grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the National Indian Gaming Commission; and

(7) Preference to tribal members and nonmember Indians in hiring of employees for the gaming establishment.

C. Percentage of net revenue fees.

(1) A management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity may be approved by the Commission if such percentage fee is reasonable in light of surrounding circumstances. Except as provided in Subsection C(2), such fee shall not exceed 30% of the net revenues.

(2) Upon request of the Legislature, the Commission may approve a management contract providing for a fee upon a percentage of the net revenues of a tribal gaming activity that exceeds 30% but not 40% of the net revenues if the Commission and Legislature are satisfied that the capital investment required and income projections for such tribal gaming activity require the additional fee.

D. Contract disapproval. The Commission shall not approve any contract if it determines that:

(1) Any person listed pursuant to Subsection A(1)(a):

(a) Is an elected member of the Legislature;

(b) Has been or subsequently is convicted of any felony or gaming offense;

(c) Has knowingly and willfully provided materially important false statements of information to the Commission or the tribal officials who negotiate such contracts or has refused to respond to questions propounded pursuant to Subsection B; or

(d) Has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

(2) The management contractor has or has attempted unduly to interfere or to influence for its gain or advantage any decision or process of tribal government relating to gaming activity; or

(3) The management contractor has deliberately or substantially failed to comply with the terms of this management contract or the provisions of this code or any regulations adopted pursuant to this code or the Indian Gaming Regulatory Act. *Editor's Note: See 25 U.S.C. § 2701 et seq.*

E. Modifying or voiding contract. The Commission, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if it subsequently determines that any of the provisions of this section have been violated. If the Tribe elects to contractually agree to resolve disputes in a manner other than the revocation of a license, such contractual agreement shall supersede any conflicting provisions of this section, so long as the agreement provides a reasonable avenue for the Tribe to ensure a licensee's compliance with all other aspects of this Gaming Code.

F. Changes in ownership interest. Any transfer of an ownership interest in a management contract subsequent to approval of such contract by the Commission requires Commission approval under this section and is void until and unless so approved. The management contractor shall provide the information required under Subsection A(1) and (2) as to such transfer.

G. Conveying interest in land. No management contract for the operation of a gaming activity regulated by this article shall transfer or in any other manner convey any interest in land or other real property, unless specific applicable statutory authority exists and unless clearly specified in writing in said contract.

H. Fee for investigation cost. The Commission shall require a potential contractor to pay a fee to cover the actual cost of the investigation necessary to reach a determination required by this section.

§ 347-22. Auditing and Internal control.

A. Minimum procedures for control of internal fiscal affairs; Minimum Internal Control Standards. The Tribe acknowledges its obligation to adopt and implement Minimum Internal Control Standards (MICS) for the operation of its tribal gaming operation no less stringent than those found in the regulations of the NIGC at 25 CFR 542 and the Tribal/State Gaming Compact. The Tribe's MICS shall be set out in separate regulations to be reviewed and approved by the Tribal Gaming Commission.

B. Commission oversight of internal fiscal affairs. The Commission shall, by regulation, require audits to be conducted no less frequently than annually of the financial statements of all gaming operations. Such audits must:

(1) Be made by independent certified public accountants holding a permit issued by the State of Wisconsin to practice public accounting;

(2) Include an opinion that the financial statement fairly and accurately presents the financial condition of the gaming operation in accordance with generally accepted accounting principals (GAAP) and in accordance with the standards of the accounting profession established by rules and regulations of the

Accounting Examining Board of the State of Wisconsin and the American Institute of Certified Public Accountants; *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

(3) Disclose whether the accounts, records, and control procedures maintained by the gaming operation are as required by the regulations promulgated by the Commission; and

(4) Provide for a preliminary review of the internal control structure, upon adoption of the policies and procedures by the entity, to disclose any deviation from prescribed rules and regulations and report such findings to the Commission and management.

C. Commission's right to conduct audit. The Commission shall be able to retain its own appointed accountants or direct an accountant employed by the Tribe to conduct its own audit of any gaming operation.

§ 347-23. Exclusion or ejection of individuals.

A. List of undesirables. The Commission may, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any duly licensed gaming operation. The list may include any person whose presence in the gaming establishment is determined by the Commission to pose a threat to the interests of the Tribe, the State of Wisconsin, or to licensed gaming. Race, color, creed, national origin or ancestry or sex must not be grounds for placing the name of a person on the list.

B. Notice and opportunity to be heard. The Commission shall promulgate regulations providing fair notice and opportunity to be heard to any individual whose name is on the list referred to in Subsection A. Such regulations must provide the person an opportunity to show cause why his or her name should be removed from the list. The individual may appeal any decision of the Commission to Tribal Court, pursuant to § 347-190.

C. Prohibition against listed individuals. It shall be a violation of this article for any licensee to knowingly fail to exclude or eject from the gaming establishment any persons placed on the list referred to in Subsection A. It shall be a violation of this article for any person whose name appears on the list referred to in Subsection A to enter into or engage in any game at a duly licensed gaming establishment.

D. Prohibition against certain individuals. It shall be a violation of this article for any licensee to knowingly fail to exclude or eject from the gaming establishment any individual who:

- (1) Is visibly under the influence of liquor or any narcotic or such other substance; or
- (2) Is under the age requirement for lawful gaming per the Tribal/State Compact.

§ 347-24. Amendments.

All provisions of this article are subject to amendment by the Menominee Tribal Legislature. All regulations promulgated by the Commission are subject to proper revision, repeal or amendment by the Commission.

§347-24.5 Applicability of Article to Non-Gaming Activity _____

Notwithstanding any other provision of Chapter 347, the Menominee Tribal Gaming Commission shall have no power or authority to regulate Non-Gaming Activity or Non-Gaming Employees, nor any responsibility for Non-Gaming Activity or Non-Gaming Employees. Any regulation, internal control, or other rule of the Menominee Tribal Gaming Commission promulgated and in place at the time of this Amendment related to Non-Gaming Activity or Non-Gaming Employees shall be null and void and of no effect as of the implementation date of this Amendment.

ARTICLE V. Authorization of Gaming

§ 347-30. Purpose.

§ 347-31. Gaming authorized.

§ 347-32. Ownership of gaming.

§ 347-33. Use of gaming revenue.

§ 347-34. Audit.

§ 347-35. Protection of the environment and public health and safety.

§ 347-36. Licenses for key employees and primary management officials.

§ 347-37. Separate license for each gaming facility.

[Adopted 1-22-2008 by Ord. No. 07-39]

§ 347-30. Purpose.

The Menominee Tribal Legislature, empowered by the Tribe's Constitution to enact ordinances, hereby enacts this article in order to set the terms for Class II and Class III gaming operations on tribal lands pursuant to the requirement of the Indian Gaming Regulatory Act. *Editor's Note: See 25 U.S.C. § 2701 et seq.*

§ 347-31. Gaming authorized.

Class II and Class III gaming are hereby authorized.

§ 347-32. Ownership of gaming.

The Tribe shall have the sole propriety interest in any gaming operation authorized by this article, and all gaming operations shall be conducted by the Tribe acting through its designated agents, by an enterprise established and owned by the Tribe for the conduct of gaming, or by the Tribe or its enterprises' management contractor.

§ 347-33. Use of gaming revenue.

A. Net revenues from Class II and Class III gaming shall be used only for the following purposes:

- (1) To fund tribal government operations and programs;
- (2) To provide the general welfare of the Tribe and its members;
- (3) To promote tribal economic development;

(4) To donate to charitable organizations; or

(5) To help fund operations of local government agencies.

B. If the Tribe 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 Interior under 25 U.S.C. § 2710(b)(3).

§ 347-34. Audit.

The 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. All gaming-related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000 annually, except contracts for professional legal and accounting services, shall be specifically within the scope of the audit.

§ 347-35. Protection of the environment and public health and safety.

Class II and Class III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

§ 347-36. Licenses for key employees and primary management officials.

The Tribe 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 Class II and Class III gaming enterprise operated on Indian lands.

A. Definitions. For the purpose of this section, the following definitions apply:

KEY EMPLOYEE

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

(a) Bingo caller;

(b) Counting room supervisor;

(c) Chief of security;

(d) Custodian of gaming supplies or cash;

(e) Floor manager/casino shift manager;

(f) Pit boss;

(g) Dealer;

(h) Croupier;

(i) Approver of credit; or

(j) Custodian of gambling devices, including persons with access to cash and account records within such devices;

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

(3) If not otherwise included, the four most highly compensated persons in the gaming operation.

PRIMARY MANAGEMENT OFFICIAL

(1) The person having management responsibility for a management contract;

(2) Any person who has authority to:

(a) Hire and fire employees; or

(b) Set up working policy for the gaming operations; or

(3) The chief financial officer or other person who has financial management responsibility.

B. Application forms.

(1) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a

gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(2) Existing key employees and primary management officials shall be notified in writing that they shall either:

(a) Complete a new application form that contains a Privacy Act notice; or

(b) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

(3) The following notice shall be placed on the application form for a key employee or a primary management official before the form is filled out by an applicant: "A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

(4) The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

(a) Complete a new application form that contains a notice regarding false statements; or

(b) Sign a statement that contains the notice regarding false statements.

C. Background investigations.

(1) The Tribe shall request from each primary management official and from each key employee all of the following information:

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

(b) Currently and for the previous five years: 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 personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under Subsection C(1)(b) of this section;

(d) Current business and residence telephone numbers;

- (e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (g) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition, if any;
- (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (j) 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 Subsection C(1)(h) or (i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- (k) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (l) A current photograph;
- (m) Any other information the Tribe deems relevant; and
- (n) Fingerprints consistent with procedures adopted by the Tribe according to 25 CFR 522.2(h).
- (o) If, in the course of a background investigation, the Tribe discovers that the applicant has a notice of results on file with the NIGC from a prior investigation and the Tribe has access to the earlier investigative materials (either through the NIGC or the previous tribal investigative body), the Tribe may rely on those materials and update the investigation and investigative report under § 556.6(b)(1).
- (p) In conducting a background investigation, the Tribe or its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

- (2) The Tribe shall conduct an investigation sufficient to make a determination under Subsection D below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the courts of the investigation.

D. Eligibility determination. The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associates to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the authorized tribal official, in applying the standards adopted in this Ordinance, determines that the licensing 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, an authorizing tribal official shall not license that person in a key employee or primary management official position.

E. Report to the National Indian Gaming Commission. All reports required to be made to the National Indian Gaming Commission shall be made through the appropriate Regional office. Should the Tribe wish to submit notices electronically, it shall contact the appropriate Regional Office for guidance on acceptable document formats and means of transmission.

(1) When the Tribe employs a primary management official or a key employee, the tribe shall maintain a complete application file containing the information listed under § 347.36.C(1) (a) through (n).

(2) Before issuing a license to a primary management official or to a key employee, the tribe shall:

(a) Create and maintain an investigative report on each background investigation. An investigative report shall include all of the following:

[1] Steps taken in conducting a background investigation;

[2] Results obtained;

[3] Conclusions reached; and

[4] The basis for those conclusions.

(b) Submit a notice of results of the applicant's background investigation to the National Indian Gaming Commission no later than sixty (60) days after the applicant begins work. The notice of results shall contain:

[1] Applicant's name, date of birth, and social security number;

[2] Date on which applicant began or will begin work as key employee or primary management official;

[3] A summary of the information presented in the investigative report, which shall at a minimum include a listing of:

[a] Licenses that have previously been denied;

- [b] Gaming licenses that have been revoked, even if subsequently reinstated;
- [c] Every known criminal charge brought against the applicant within the last 10 years of the date of application; and
- [d] Every felony of which the applicant has been convicted or any ongoing prosecution.
- [e] A copy of the eligibility determination made under §347.36.D.

F. Granting a gaming license.

- (1) If, within a thirty-day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission 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 for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.
- (2) The Tribe shall respond to a request for additional information from the Chairperson of the National Indian Gaming Commission concerning a key employee or a primary management official who is subject of a report. Such a request shall suspend the thirty-day period under Subsection ~~F(1)~~ of this section until the Chairperson of the National Indian Gaming Commission receives the additional information.
- (3) If, within the thirty-day period described above, the National Indian Gaming Commission 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 Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant.
- (4) Within 30 days after the issuance of the license, a tribe shall notify the National Indian Gaming Commission of its issuance.
- (5) The gaming operation shall not employ a key employee or primary management official who does not have a license after ninety (90) days.
- (6) If the tribe does not license an applicant—
 - (a) The tribe shall notify the National Indian Gaming Commission; and
 - (b) Shall forward copies of its eligibility determination and notice of results, under §347.36.E of this chapter, to the Commission for inclusion in the Indian Gaming Individuals Record System.

(7) A tribe shall retain the following for inspection by the Chair or his or her designee for no less than three years from the date of termination of employment:

(a) Applications for licensing;

(b) Investigative reports; and

(c) Eligibility determinations.

G. License suspension.

(1) If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under Subsection D above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

(2) The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(3) After a revocation hearing, a tribe shall decide to revoke or to reinstate a gaming license. A tribe shall notify the National Indian Gaming Commission of its decision within 45 days of receiving notification from the National Indian Gaming Commission pursuant to paragraph (1) of this subsection.

§ 347-37. Separate license for each gaming facility.

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where Class II and Class III gaming is conducted under this article.

Menominee Indian Tribe of Wisconsin

Kenosha Parcel

Secretarial Determination Packet

May 2, 2023

Exhibit "D"

CONSTITUTION & BYLAWS
OF THE
MENOMINEE INDIAN TRIBE
OF WISCONSIN



CERTIFIED
DOCUMENT
8/8/91

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CONSTITUTION AND BYLAWS OF THE
MENOMINEE INDIAN TRIBE OF WISCONSIN.

PREAMBLE

We, the members of the Menominee Indian Tribe of Wisconsin, being a sovereign nation, in order to organize for the common good, to govern ourselves under our own laws and customs, to maintain and foster our tribal culture, to protect our homeland and to conserve and develop its natural resources, and to insure our rights guaranteed by treaty with the Federal Government, do establish and adopt the following Articles and Bylaws of this Constitution and Bylaws for the government, protection, and common welfare of the Menominee Indian Tribe of Wisconsin and its members.

ARTICLE I - JURISDICTION

The governmental powers of the Menominee Indian Tribe of Wisconsin, a federally recognized sovereign Indian Tribe, shall consistent with applicable Federal law extend to all persons, and subjects, to all lands and other property including natural resources, and to all waters and air space, within the exterior boundaries of the Menominee Indian Reservation, including any land which may hereafter be added to the Reservation under any law of the United States. The governmental powers of the Menominee Indian Tribe shall, consistent with applicable Federal law, also extend outside the exterior boundaries of the Reservation to any persons, subjects, or real property which are, or may hereafter be, included within the jurisdiction of the Tribe under any law of the United States or of the Tribe.

ARTICLE II - TRIBAL MEMBERSHIP


Section 1. Requirements.

Membership in the Menominee Indian Tribe shall consist of the following persons:

- (a) Those persons of one-quarter (1/4) degree Menominee Indian blood whose names appear on the tribal roll compiled pursuant to subsection 4(c) of the Menominee Restoration Act (87 Stat. 771), and
- (b) Those persons who possess at least one-quarter (1/4) degree Menominee Indian blood, and who are descendants of persons enrolled on the tribal membership roll compiled pursuant to subsection 4(c) of the Menominee Restoration Act (87 Stat. 771), and who are enrolled on the official tribal membership roll in accordance with procedures established by the Tribal Legislature by ordinance.
- (c) A person shall be removed from the tribal membership roll only in accordance with the procedures set forth in Section 5 of this Article.

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Section 2. Ineligibility For Membership or Automatic Forfeiture of Membership.

No person shall be eligible to be a member of the Menominee Indian Tribe if that person is enrolled in another Indian Tribe. Any member of the Menominee Indian Tribe who applies to be and is accepted as a member of another Indian Tribe shall thereby automatically forfeit membership in the Menominee Indian Tribe and all rights and benefits to which tribal members are entitled by virtue of their membership.

Section 3. Enrollment Committee.

- (a) An Enrollment Committee composed of five (5) eligible tribal voters shall be elected or appointed, beginning in 1992 and every three years thereafter, at the Annual General Council meeting in accordance with Bylaw III, Section 4, of this Constitution and Bylaws. The members of the Enrollment Committee shall be subject to the supervision of the Tribal Legislature. If the Enrollment Committee is appointed, the Tribal Legislature, by majority vote, shall have the power to terminate any such appointment for good cause, and to make a new appointment. If the Enrollment Committee is elected, the members of the committee shall be subject to the terms of Article VII of this Constitution, including the provisions of Section 2, which shall govern the manner in which the Tribal Legislature may expel or suspend a member of the Enrollment Committee from office. In the event of any vacancy, the Legislature, by majority vote, shall within sixty days appoint a replacement for the remainder of the term.
- (b) The Enrollment Committee shall have the authority and duty to maintain a current and accurate official tribal membership roll in accordance with the provisions of this Article. The Enrollment Committee shall report at least four (4) times a year to the Tribal Legislature as to the current status of the roll. The Committee shall have the authority to investigate suspected errors in the roll, and where it deems appropriate in view of evidence, shall recommend changes in the roll to the Tribal Legislature.

Section 4. Appeal From Denial of Membership Application.

Any person whose application for membership in the Menominee Indian Tribe is denied shall have the right to appeal such adverse decision to the Tribal Judiciary, but only after exhausting all remedies available within the Tribal Legislature.

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Section 5. Removal From Membership Roll by Tribal Legislature.

If, upon the report and recommendations of the Enrollment Committee, the Tribal Legislature determines that any person lacks a required membership qualification, proceedings shall be instituted against such person in Tribal Court to remove such person from the tribal membership roll. Only after a final decision is rendered in favor of the Tribal Legislature shall the affected person's name be removed from the tribal membership roll.

Section 6. Voluntary Relinquishment of Membership.

Members of the Menominee Indian Tribe may relinquish membership in the Tribe in accordance with procedures established by the Tribal Legislature. However, any member of the Tribe who relinquishes membership voluntarily, or who forfeits membership by enrolling in another Indian Tribe, shall not again be eligible to enroll as a member of the Menominee Indian Tribe.

Section 7. Enforcement.

The Tribal Legislature shall enforce this Article by ordinance, provided that, the Tribal Legislature shall have no power to establish substantive requirements for membership in addition to those established in Section 1 of this Article, nor to waive any of these requirements.

ARTICLE III - POWERS OF THE TRIBAL GOVERNMENT

Section 1. Powers of the Tribal Legislature.

The Tribal Legislature, as established in Article IV of this Constitution, shall be vested with all executive and legislative powers of the Tribe including the power to make and to enforce laws, and including such powers as may in the future be restored or granted to the Tribe by any law of the United States, or other authority. The powers of the Tribal Legislature shall include those powers vested in the Tribe by Section 16 of the Indian Reorganization Act (48 Stat. 987), namely, to employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease or encumbrance of tribal lands, interest in lands, or other tribal assets without the consent of the Tribe; and to negotiate with the Federal, State and local governments. This Constitution and Bylaws and ordinances of the Tribal Legislature adopted pursuant to this Constitution shall be the supreme law of the Menominee Indian Tribe and all persons subject to its jurisdiction. However, the Tribal Legislature shall exercise its powers consistent with the limitations imposed by this Constitution and Bylaws.

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Section 2. Powers of the Tribal Judiciary.

The Tribal Judiciary, as established in Article V of this Constitution, shall be vested with all judicial powers of the Tribe including the following powers: to resolve controversies between and among persons where such controversies arise under this Constitution and Bylaws, tribal ordinances, the Constitution and laws of the United States, or the Constitution and laws of any state or Indian Tribe; and to decide cases in which a person is accused by the Tribe of committing an offense against the laws of the Tribe. The powers granted to the Tribal Judiciary by this Section shall include such judicial powers as may in the future be restored or granted to the Tribe by any law of the United States, or other authority. Decisions of the Tribal Judiciary shall be binding upon all persons within the jurisdiction of the Tribe. The Supreme Court of the Tribe shall be the final and supreme interpreter of this Constitution and Bylaws, and all tribal ordinances. However, the Tribal Judiciary shall exercise its powers consistent with the limitations imposed by this Constitution and Bylaws.

Section 3. Separation of Powers.

The Tribal Legislature and the Tribal Judiciary shall be separate and equal branches of the Tribal Government. Neither branch shall exercise the powers of the other, nor shall either branch have authority over the other branch except as may be granted by this Constitution and Bylaws.

ARTICLE IV - THE TRIBAL LEGISLATURE

Section 1. Composition, Terms of Office, and Classes.

- (a) The Tribal Legislature of the Menominee Indian Tribe of Wisconsin shall be composed of nine (9) members of the Tribe, elected at large by the eligible voters of the Tribe. Seven (7) of the offices shall be filled by tribal members who are residents on the Reservation. There shall be no residency requirement for the remaining two (2) offices.
- (b) Tribal Legislators shall serve terms of office of three (3) years. The nine (9) Tribal Legislators shall be divided into three (3) classes for the purpose of staggering terms of office. Each class shall be composed of three (3) Legislators. The terms of office of Tribal Legislators shall be staggered as follows:
 - (1) The term of office of the first class of Legislators shall expire upon assumption of office by the newly elected Legislators three (3) years following the first election of Legislators held pursuant to Section 5(c) of the Menominee Restoration Act (87 Stat. 772), and every third year thereafter.

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- (2) The term of office of the second class of Legislators shall expire upon assumption of office by the newly elected Legislators two (2) years following the first election of Legislators held pursuant to Section 5(c) of the Menominee Restoration Act (87 Stat. 772), and every third year thereafter.
- (3) The term of office of the third class of Legislators shall expire upon assumption of office by the newly elected Legislators one (1) year following the first election of Legislators held pursuant to Section 5(c) of the Menominee Restoration Act (87 Stat. 772), and every third year thereafter.

Section 2. Initial Division of Tribal Legislature Into Classes.

The Tribal Legislators elected at the first election of the Tribal Legislature, held pursuant to Section 5(c) of the Menominee Restoration Act (87 Stat. 770) shall be initially divided into the three (3) classes as follows:

The three candidates receiving the highest number of votes shall be the first class; the three candidates receiving the highest number of votes after the first class shall be the second class; and the three candidates receiving the highest number of votes after the second class shall be the third class, provided that, if more than two (2) non-resident candidates are among the nine candidates receiving the highest number of votes, only the two non-resident candidates receiving the highest number of votes of the non-resident candidates shall take office; the other seven (7) offices shall be filled with the seven (7) resident candidates receiving the highest number of votes of the resident candidates, in accordance with Section 1(a) of this Article.

Section 3. Election of Tribal Legislators.

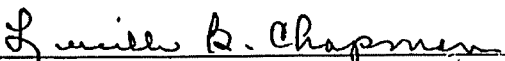
- (a) Any tribal member who satisfies the requirements of Section 4 of this Article may become a candidate for the office of Tribal Legislator by filing a nominating petition which shall comply with requirements as established by the Tribal Legislature by ordinance, and by complying with such other procedural requirements as may be established by the Tribal Legislature by ordinance.
- (b) The Tribal Legislature shall by ordinance set the date on which elections to fill offices of the Tribal Legislature shall be held.
- (c) With candidates placed in order of number of votes received from the highest to the lowest, offices shall be filled beginning with the candidate who received the highest number of votes, and proceeding down the order, provided that, no more than two (2) offices of the Tribal Legislature shall be filled by non-resident tribal members, in accordance with Section 1(a) of this Article.

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- (d) If in any election to fill an office or offices, the number of candidates running exceeds three (3) per office, the Election Commission shall hold a primary election to select those candidates who shall run for office in the main election. The number of candidates to be selected in such primary election shall be determined by multiplying the number of offices to be filled by two (2).

Section 4. Requirements for Candidates For Election To The Tribal Legislature and For Tribal Legislators.

- (a) To be eligible to be a candidate for election to the Tribal Legislature, a person must be a member of the Tribe, at least twenty-five years of age as of the date on which the election is held. No person shall be eligible to be a candidate for election to the Tribal Legislature who has been convicted of a major crime as defined in Bylaw V of this Constitution and Bylaws, unless the Tribal Judiciary, in accordance with such rules as it may establish, certifies that the person in question is rehabilitated. Such certificate of rehabilitation shall be based upon the person's record of behavior since the conviction.
- (b) In any election in which it is necessary to fill all open offices with residents on the Reservation in order that seven (7) offices will be filled by residents on the Reservation, in accordance with Section 1(a) of this Article, only persons who are residents on the Reservations shall be eligible to be candidates for election to the Tribal Legislature.
- (c) Tribal Legislators while holding office shall be members of the Menominee Indian Tribe. Any Tribal Legislator elected while a resident on the Reservation shall maintain residence on the Reservation while holding office. If any Tribal Legislator ceases to be a member of the Tribe, or if any Tribal Legislator elected while a resident on the Reservation ceases to maintain residence on the Reservation, the affected Legislator shall be expelled in accordance with Section 2 of Article VII of this Constitution. In addition, if any Tribal Legislator is convicted while holding office of a major crime as defined in Bylaw V of this Constitution and Bylaws, the office of the affected Legislator shall be deemed vacant in accordance with Section 3 of Article VII of this Constitution.

Section 5. Consecutive and Simultaneous Terms of Office.

No person shall be eligible to be elected to more than three (3) consecutive terms of office of Tribal Legislator, nor shall any person serve more than one term of office at the same time.

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Section 6. Community Committees of the Tribal Legislature.

The Tribal Legislature shall establish standing committees each of which shall be composed of three Legislators. Each such standing committee shall be assigned to a community on the Reservation as defined by the Tribal Legislature. It shall be the duty of each standing committee to maintain constant communication with the community to which it is assigned for the purpose of determining the needs and concerns of that community. It also shall be the duty of each community committee to hold quarterly community meetings and to inform the Tribal Legislature of any needs or concerns of that community.

Section 7. Administration of Tribal Government.

The Tribal Legislature shall by ordinance establish a plan for the administration for the government of the Tribe; provided that, this Section shall not be construed to include the administration of the Tribal Judiciary.

Section 8. Powers and Duties.

The powers and duties of the officers of the Tribal Legislature are set forth in the Bylaws of this Constitution.

ARTICLE V - THE TRIBAL JUDICIARY

Section 1. Structure.

- (a) The Tribal Judiciary shall be composed of one Supreme Court and of such lower courts as are designated to be established in this Article, and as may be established by ordinance by the Tribal Legislature as it deems appropriate to meet the needs of the Tribe.
- (b) The Supreme Court of the Tribe shall have jurisdiction over appeals from all final decisions of the lower courts of the Tribe. The Supreme Court shall be composed of three (3) Judges. Supreme Court Judges may, if necessary and if so instructed by the Tribal Legislature, also serve as Judges of the lower courts; however, in such a situation, the Supreme Court Judge shall be disqualified from participating in a review of any decision entered by him or her while sitting as a lower court judge.
- (c) The Tribal Legislature shall, promptly after the adoption of this Constitution and Bylaws, determine and establish the number of lower trial courts necessary to serve the judicial needs of the Tribe. Such trial courts shall have general and original jurisdiction over all cases and controversies of a civil or criminal nature. Each trial court shall be presided over by one Judge.

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- (d) If the Tribal Legislature establishes special kinds of lower courts with original jurisdiction over specified subject areas, the Tribal Legislature shall specify whether such jurisdiction is exclusive or concurrent with the jurisdiction of the trial courts established in subsection (c) of this Section.
- (e) If the Tribal Legislature establishes an intermediate level of courts to hear appeals from all final decisions of the lower courts, the Supreme Court shall hear appeals only from decisions of the intermediate courts of appeals. In addition, the Tribal Legislature may authorize the Supreme Court to exercise its discretion in all or designated kinds of cases in deciding whether to hear an appeal in any particular case.

Section 2. Appointment and Term of Office.

- (a) The Tribal Legislature shall by ordinance, establish a procedure for selection of judges.
- (b) Tribal Judges shall be appointed by six (6) or more votes of the Tribal Legislature.
- (c) Lower Court Judges shall be appointed to a term of three (3) years.
- (d) Supreme Court Judges shall be appointed to a term of four (4) years.

Section 3. Compensation.

Tribal Judges shall receive for their services a reasonable compensation, as fixed from time to time by the Tribal Legislature. The Tribal Legislature shall not diminish the compensation of a Tribal Judge during his or her term of office.

Section 4. Qualifications and Disqualifications.

- (a) To hold the office of Tribal Judge, a person shall be a member of the Tribe, a resident on the Reservation during his/her term of office, at least thirty-five (35) years of age, having a minimum education of a high school graduate or a General Education Diploma (G.E.D.), and shall demonstrate fitness and competency for the office by taking appropriate examinations, relevant to demonstrate competence for the office of Tribal Judge.
- (b) No person shall be eligible to be appointed to the office of Tribal Judge who has been convicted of a major crime as defined in Bylaw V of this Constitution and Bylaws, unless the Tribal Judiciary, in accordance with such rules as it may establish, certifies that the person in question is rehabilitated. Such certificate of rehabilitation shall be based upon the person's record of behavior since the conviction. No Tribal Judge who is convicted of a major crime as defined in Bylaw V of this Constitution and Bylaws shall continue to hold office.

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Section 5. Removal From Office By Tribal Legislature and Automatic Vacancies.

- (a) Tribal Judges may be removed from office by the Tribal Legislature by the Legislature by the affirmative vote of at least seven-ninths (7/9) of the entire Legislature, but only upon grounds of inability to carry out the duties of the office; failure to carry out the duties of the office; or lack of a requisite qualification for serving as a Tribal Judge. The Tribal Legislature shall notify the Tribal Judge in question and the Supreme Court, in writing, not less than twenty (20) days prior to the meeting at which the Judge's removal is to be considered and voted upon. The notice shall specify the charge or charges and shall state the facts in support thereof. The Tribal Judge in question shall have full opportunity at the meeting at which his or her removal is to be considered and decided upon to examine all witnesses against him or her and to have his or her own witnesses to testify in his or her behalf. The decision of the Tribal Legislature shall be final and not appealable to the Tribal Judiciary. The Supreme Court, may upon receipt of notice of the removal charges, suspend the Tribal Judge in question from office with or without compensation pending final action of the Tribal Legislature at the meeting.
- (b) The office of any Tribal Judge who is convicted of a major crime as defined in Bylaw V of this Constitution and Bylaws, who dies, or who resigns shall be deemed to be automatically vacant. Resignation from office shall be written and shall be deemed to be effective as of the date tendered unless otherwise designated in the resignation document.

Section 6. Rules of Tribal Courts.

The Supreme Court shall by order establish written rules of procedure and ethics for all Tribal Courts. Such rules may from time to time be amended as deemed necessary or appropriate by the Supreme Court. The Supreme Court shall consult with the Judges of the lower courts in establishing rules of procedure for the lower courts.

Section 7. Records and Court Clerk.

The Supreme Court shall implement the system of keeping records of proceedings of the Tribal Judiciary in accordance with Section 3(b) of Bylaw II of this Constitution and Bylaws. The Supreme Court shall appoint a court clerk which shall be responsible for keeping the records of the Judiciary and generally for administering the daily business of the Judiciary.

Section 8. Appropriations.

The Tribal Legislature shall give priority for appropriations of such funds as may be necessary to enable the Tribal Judiciary to carry out the provisions of this Article.

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Section 9. Enforcement.

In implementing this Article, the Tribal Legislature shall act by ordinance.

ARTICLE VI - TRIBAL ELECTIONS

Section 1. Voter Requirements.

Any member of the Menominee Indian Tribe who is eighteen (18) years of age or older on the date of the tribal election in question shall be eligible to vote in tribal elections.

Section 2. Voting.

Except as may be otherwise specified in this Constitution, voting in tribal elections shall be by secret ballot cast at polls established on the Reservation. Absentee voting and write-in voting shall be permitted in accordance with such procedures as shall be established by the Tribal Legislature. Proxy voting and cumulative voting shall not be permitted in tribal elections.

Section 3. Action By The Tribe: Approval - Disapproval, Consent - Rejection.

Except as may be otherwise specified in this Constitution, the vote of a majority of the eligible tribal voters voting in a tribal election shall constitute action by the Tribe, including tribal approval or disapproval, and tribal consent or rejection.

Section 4. Regular and Special Elections.

The Tribal Legislature shall provide for the holding of regular elections, including establishing dates, times and places for holding such elections. The Tribal Legislature shall also provide for the holding of special elections by establishing the procedure by which such elections may be called and held with adequate notice provided to Tribal voters.

Section 5. Tribal Election Commission.

- (a) A Tribal Election Commission composed of three (3) eligible voters of the Menominee Indian Tribe shall be appointed and supervised by the Tribal Judiciary.
- (b) The Tribal Election Commission shall be responsible for enforcing tribal election laws subject to the supervision of the Tribal Judiciary. The duties of the Tribal Election Commission shall include but not be limited to the following:
 - (1) Maintain a current list of eligible voters of the Menominee Indian Tribe.

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- (2) Conduct tribal elections; and
- (3) Certify the results of tribal elections.
- (c) The Tribal Election Commission shall perform such other duties as may be delegated to the Commission by this Constitution, by ordinance, or by the Tribal Judiciary.
- (d) The Tribal Election Commission may be authorized to issue such rules as may be necessary to carry out tribal election ordinances.

Section 6. Elections Which Result In Ties.

In any tribal election which results in a tie between two or more candidates, the tie shall be broken by some means of chance agreed upon by the candidates involved. In any tribal election which results in a tie as to the approval or disapproval of an issue, the issue shall be determined defeated.

Section 7. Disputed Elections.

Any eligible voter or group of eligible voters of the Menominee Indian Tribe may challenge the validity of the results of any tribal election on the ground that such election was conducted in violation of this Constitution and Bylaws, or of tribal ordinance or of any provision of the Indian Civil Rights Act (25 U.S.C. s.1301 1302). Such challenge shall be commenced within ten (10) days after the Tribal Election Commission certifies the results of the election by a written complaint filed in a Trial Court of the Tribe. The complaint shall (1) specifically charge the person or persons alleged to have violated the law with having committed an offense against this Constitution and Bylaws, or tribal ordinance or a provision of the Indian Civil Rights Act (25 U.S.C. s.1301 and 1302), and (2) specify the constitutional provision or provisions, or the tribal ordinance or the provision of the Indian Civil Rights Act alleged to have been violated, and (3) state the facts alleged to have been violated, and (4) state the facts alleged to support such charge or charges. Upon filing of such complaint, the Trial Court shall promptly hold an initial hearing at which evidence is received from the complainant or complainants in support of the charges in the complaint. Any person or persons charged in the complaint shall have full opportunity to respond at the hearing to the charges and evidence offered in support of the complaint. At the conclusion of the initial hearing the Court may make a final decision in the case either dismissing the complaint or granting the relief sought; or the Court may order interim relief pending further investigation and hearings in the case. If the disputed election involves the filling of a tribal office, and the Court decides that further investigation and hearings are necessary, the Court shall, at the conclusion of the initial hearing, specifically grant or deny permission to fill the office pursuant to the election results pending further investigation and hearing and a final decision on the charges.

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The Court may at the conclusion of the initial hearing and in the interests of justice, appoint an unbiased commission to investigate the charges further and to present any evidence gathered to the Court at a hearing at which both sides in the case have opportunity to be heard, to present evidence and to question the commission. At the conclusion of all hearings, the Court shall decide whether the charges have been proven. If the Court determines one or more of the charges have been proven, the Court shall provide such relief as is appropriate, which may include invalidating the tribal election in question and ordering a new election to be held.

Section 8. Duty To Enforce This Article.

- (a) The Tribal Legislature shall enforce Sections 1 through 4 of this Article by ordinance, provided that, the Tribal Legislature shall not establish substantive requirements for voting eligibility in addition to those established in Section 1 of this Article.
- (b) The Supreme Court of the Tribe shall implement Sections 5 through 7 of this Article by appropriate Court Order.

ARTICLE VII - REMOVAL OF ELECTED OFFICIALS FROM OFFICE, AUTOMATIC VACANCY, AND THE FILLING OF VACANCIES.

Section 1. Recall.

- (a) Any elected official of the Menominee Indian Tribe of Wisconsin may be recalled from office at any time after holding office for one (1) year, by the eligible voters of the Tribe in accordance with the procedure set forth in subsection (b) of this Section; provided that, recall shall not be a remedy against alleged action by a tribal official which may constitute a crime against the ordinances of the Tribe or the laws of the United States.
- (b) The procedure by which an elected official may be recalled shall be as follows:
 - (1) Petitioners' Committee. Any one hundred (100) eligible voters of the Tribe may commence recall proceedings by filing with the Tribal Election Commission an affidavit stating their names, and addresses, the names and addresses of three (3) representatives of the petitioners' committee, and the address to which all notices, regarding the petition are to be sent; and stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form; and naming the tribal official sought to be recalled; and stating in not more than one hundred (100) words the specific reasons upon which it is alleged that the named tribal official should be recalled. If more than one official is sought to be recalled, there shall be separate affidavits of charges filed for each such official. The Tribal Election Commission shall promptly thereafter serve a copy of the affidavit of the petitioner's committee upon the named official in person or by registered mail. The named official shall have fifteen (15) days after receipt of service of the affidavit of charges to file an affidavit in defense with

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the Tribal Election Commission answering the charges made against him or her in not more than one hundred (100) words.

- (2) Issuance of Petition Forms. The Tribal Election Commission shall within five (5) work days after the filing of the affidavit in defense by the named tribal official, prepare a recall petition form consisting of the affidavit of charges, the affidavit in defense, and spaces for signature and addresses. The Tribal Election Commission shall certify and issue to the petitioners' committee an appropriate number of such recall petition forms. If more than one tribal official is sought to be recalled, separate recall petition forms shall be prepared, certified and issued for each such official.
- (3) Circulation of Petitions. The recall petition may be circulated for signature for thirty (30) days following its issuance by the Tribal Election Commission. The petition must be signed by at least twenty-five percent (25%) of the total number of voters eligible to vote in the election in which the official sought to be recalled was elected. Each recall petition shall be the responsibility of one person who shall, upon filing the completed petition, attach his or her personal affidavit to the petition stating that he or she personally witnessed the signing of each signature and corresponding address contained in the petition, and that he or she believes each signature and corresponding address to be the name and address of the person who signed them, and that each person who signed the petition read or had explained to him or her the full text of the petition and the purpose of the petition. The recall petition with the requisite number of signatures shall be filed with the Tribal Election Commission. Within five (5) work days after the filing of the recall petition, the Tribal Election Commission shall certify whether the recall petition contains the requisite number of valid signatures, and is otherwise sufficient.
- (4) Certificate of Sufficiency.
 - (a) If the petition is certified insufficient because of a lack of the requisite number of signatures, the petitioners' committee shall be promptly notified, and they shall have ten (10) days after receipt of notification to supplement the petition with additional signatures on certified recall petitions issued by the Tribal Election Commission, and to file such supplemental petition with the Commission. The Tribal Election Commission shall within two (2) work days after the filing of the supplemental petition certify as to the sufficiency of the recall petition as supplemented. If the petition is again certified insufficient, the petitioners' committee shall be notified and may appeal such decision to the Tribal Judiciary in accordance with the rules of the court procedure. Pending a final decision by the Tribal Judiciary, a new recall petition against the same official shall not be commenced for the same cause.

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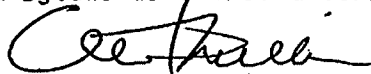
(b) If the recall petition is certified sufficient, the Tribal Election Commission shall, within ten (10) work days after it certifies the validity of the recall petition, set a date for a recall election to be held. Such recall election shall be held within thirty (30) days after the filing of the recall petition with the Commission and shall provide notice of such election date by posting notices at public places on the Reservation and in appropriate urban areas, and publishing a notice in at least one newspaper with a wide circulation among eligible tribal voters on the Reservation.

(5) Recall Election.

(a) The ballot for the recall election shall, for each official sought to be recalled, if more than one, state the grounds set forth in the recall petition for demanding such recall as well as the answer of the official sought to be recalled in his defense; and the ballot shall set forth the following question: Shall (name of the official sought to be recalled) be recalled from the office (title of office)? Following such question shall be two choices of words, "yes" or "no", on separate lines with the blank space to the right of each in which the voter shall indicate by marking a cross (x), his vote for or against recall.

(b) The affirmative vote of sixty percent (60%) of those voting at the recall election shall be sufficient to effect a recall of the official from office, provided that, at least thirty percent (30%) of the total number of eligible voters vote in the recall election. In the event the official is recalled, the office shall be deemed vacant and shall be filled in accordance with Section 4 of this Article.

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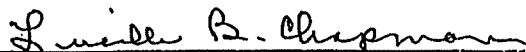


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Section 2. Expulsion and Suspension of Tribal Legislators.

- (a) The Tribal Legislature shall by affirmative vote of two-thirds (2/3) of the entire Legislature expel a member of the Legislature from office on grounds of failure to attend three (3) successive regular meetings of the Tribal Legislature in a given Legislative year, without good reason as determined by the Tribal Legislature, lack of a required qualification for holding office, occurrence of a disqualification for office, or misuse of funds.
- (b) The Legislator sought to be expelled shall be notified in person or by registered mail at least ten (10) days before the holding of any meeting at which the Legislator's expulsion from office is to be considered. The notice shall set forth the alleged grounds for expulsion with specificity. The Legislator in question shall be given full opportunity to be heard at such meeting and to confront any and all witnesses against him/her. If the Tribal Legislature votes to expel the Legislator in question, the grounds for removal shall be set forth with specificity in the minutes of the meeting, and the Legislature's decision shall be subject to prompt review by the Tribal Judiciary at the request of the expelled Legislator.
- (c) In the event the decision of the Tribal Legislature to expel the Legislator in question is upheld by the Tribal Judiciary, the office shall be deemed vacant and shall be filled in accordance with Section 4 of this Article.
- (d) A Tribal Legislator may be suspended from office pending the appeal of the Legislator's conviction of a major crime by the vote of a majority of the total number of Tribal Legislators.

Section 3. Automatic Vacancies.

- (a) The office of any elected tribal official who dies or resigns, who is convicted of a major crime, as defined in Bylaw V of this Constitution and Bylaws, shall be deemed to be automatically vacant. Resignation of office shall be written and shall be deemed to be effective as of the date tendered unless otherwise designated in the resignation document.
- (b) Any vacancy in office which occurs under this section shall be filled in accordance with Section 4 of this Article.

Section 4. The Filling of Vacancies In Office.

- (a) Any vacancy in the office of an elected tribal official shall be filled as follows:

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- (1) If the term of the office in question has more than one (1) year to run from the date of vacancy, the Tribal Legislature shall appoint within sixty (60) days an eligible Tribal member to fill such vacancy until the next tribal election; provided that, the Tribal Legislature shall exercise this right of appointment only once in any Legislative year. If any additional vacancies occur in the same year, they shall be filled by a special election.
- 2) If the term of the office in question has one (1) year to run, the Tribal Legislature shall within two (2) months appoint by a majority vote of the total number of Legislators, an eligible tribal member to fill the office; provided that, if a special election is required to fill one or more other vacancies pursuant to subsection (a)(1) of this Section. The Tribal Legislature shall submit all vacancies to election.
- (b) Any special election required to be held under this Article shall be conducted in accordance with applicable provisions of this Constitution and Bylaws and with applicable tribal ordinance. If a regular election is scheduled to be held within the time permitted to hold a special election, all issues shall be submitted to vote at the regular election.
- (c) Any tribal official who, by operation of this Article, vacates his office shall not be eligible to succeed himself in that office.
- (d) If, by reason of vacancies in office, the remaining members of the Tribal Legislature constitute less than five (5), the Election Commission shall cause all vacant offices to be filled by special election held in accordance with applicable provisions of this Constitution and Bylaws and applicable tribal ordinance.
- (e) Any tribal member appointed to office under the provisions of this section shall be deemed to be subject to all provisions of this Article, and other Articles and Bylaws of this Constitution and Bylaws, and to other tribal ordinances generally applicable to elected tribal officials, and to his or her particular office.

Section 5. Tribal Judiciary Excluded.

This Article shall not be applicable to the removal of Tribal Judges, nor to the filling of any vacancies in the office of Tribal Judge.

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ARTICLE VIII - INITIATIVE AND REFERENDUM

Section 1. General Authority.

- (a) Initiative. Eligible voters of the Tribe may propose any ordinance to the Tribal Legislature for consideration, in accordance with the procedures set forth in this Article, except ordinances concerning the budget of the tribal government, appropriations of funds, levy of taxes, salaries of tribal officials, employees or appointees, or ordinances establishing tribal businesses. If the Tribal Legislature votes not to enact the proposed ordinance, or if the Tribal Legislature votes to enact the proposed ordinance with substantive amendments, the proposed ordinance, in the original form and in the amended form if any, shall be submitted to the eligible voters of the Tribe at a tribal election for their approval or rejection in accordance with Section 5 of this Article.
- (b) Referendum.
 - (1) By action of eligible voters. Eligible voters of the Tribe may require the Tribal Legislature to consider the repeal of any ordinance, in accordance with the procedure set forth in this Article, except ordinances concerning the budget of the tribal government, appropriations of funds, levy of taxes, salaries of tribal officials and employees or appointees, emergency ordinances, or ordinances establishing tribal businesses. And, if the Tribal Legislature fails to repeal such ordinance, the ordinance shall be submitted to the eligible voters of the Tribe at a tribal election for their approval or repeal in accordance with Section 5 of this Article.
 - (2) By action of the Tribal Legislature. The Tribal Legislature, on its own motion, may submit at a tribal election any proposed ordinance or other proposed action of the Legislature to a vote of the eligible voters of the Tribe for their approval or rejection.

Section 2. Procedure.

- (a) Petitioners' Committee. Any twenty-five (25) eligible voters of the Tribe may commence initiative or referendum proceedings by filing with the Tribal Election Commission an affidavit (1) stating their names, addresses and the address to which all notices regarding the petition are to be sent, and (2) that they will constitute the petitioner's committee and be responsible for circulating the petition and filing it in proper form and (3) if an initiative petition is involved, setting forth in full the proposed ordinance to be subject to this initiative proceeding; provided that, referendum proceedings shall be commenced no later than thirty (30) days after the Tribal Legislature enacts the ordinance.

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- (b) Issuance of Petition Forms. Promptly upon filing the affidavit of the petitioners' committee, the Tribal Election Commission shall prepare and issue an appropriate number of certified petition forms to the Committee.
- (c) Petitions.
 - (1) Form and Content. Each petition form issued to the committee shall contain the full text of the ordinance in question. Every petition form issued shall be numbered and recorded. Every page of each petition form shall be attached as one instrument, shall be numbered as part of the whole, i.e., page 1 of 10 pages, and shall be certified as a page of the petition by the Tribal Election Commission. Every signature on the petition shall be followed by the address of the person who signed.
 - (2) Number of signatures. Both initiative and referendum petitions must be signed by at least fifteen percent (15%) of the total number of eligible tribal voters.
 - (3) Affidavit of Circulator. Each petition shall be circulated by one person and upon filing a completed petition, that person shall attach his or her personal affidavit to the petition stating that he or she personally witnessed the signing of each signature and corresponding address contained in the petition, and that he or she believes each signature and corresponding address to be the name and address of the person who signed them, and that each person who signed the petition read or had explained to him or her the full text of the ordinance in question, and the purpose of the petition.
- (d) Time for Filing Petitions. Initiative or referendum petitions must be circulated and filed within thirty (30) days after issuance by the Tribal Election Commission.
- (e) Certificate of Sufficiency. Within five (5) work days after a petition is filed, the Tribal Election Commission shall certify as to its sufficiency.
 - (1) If Certified Insufficient. If the petition is certified insufficient, the Tribal Election Commission shall state in the certificate with particularity the reasons it is insufficient. A copy of the certificate of insufficiency shall be promptly sent to the petitioners' committee by registered mail, or served personally upon the committee. A petition certified insufficient for lack of required number of valid signatures may be supplemented once, and for this purpose an appropriate number of petition forms shall be mailed or given personally to the petitioners' committee along with the certificate of insufficiency. Such supplemental petition shall comply with the requirements of this section. Petitioners' committee shall have fifteen (15) days after receipt of the certificate of insufficiency to file a supplemental petition with the Tribal Election Commission. Within five (5) days after the filing of the supplemental petition, the Tribal Election Commission shall certify as to the sufficiency of the petition as supplemented and promptly send a copy of

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such certificate to the petitioners' committee by registered mail, or shall serve a copy personally upon a member of the committee.

- (2) If Certified Sufficient. If an original petition or a petition as supplemented in accordance with Section 2(e)(1) of this Article is certified as sufficient by the Tribal Election Commission, a copy of the certificate of sufficiency shall promptly be sent by registered mail to or served personally upon the petitioners' committee, and the certificate of sufficiency shall promptly be presented to the Tribal Legislature.
- (f) Review of Determination of Sufficiency. The final determination of the Tribal Election Commission in accordance with the procedure in Section 2(e) (1) of this Article that an initiative or a referendum petition is insufficient shall be reviewable as follows: The petitioners' committee must file a request for review with the Tribal Chairperson within ten (10) days after receipt of the final certificate notifying them of the insufficiency of their petition. Review shall first be made by the Tribal Legislature at its next meeting following the filing of the request for review. If the Tribal Legislature affirms the finding of the Tribal Election Commission, that decision may be appealed to the Tribal Judiciary in accordance with the rules of court procedure. Pending a final decision by the Tribal Judiciary, a new petition concerning the same matter may not be commenced.
- (g) Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the final certification of sufficiency by filing with the Tribal Election Commission a request for withdrawal signed by a majority of the petitioners' committee. The petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 3. Referendum Petitions: Suspension of Effect of Ordinance In Question.

When a referendum petition is certified as sufficient by the Tribal Election Commission in accordance with the procedure set forth in Section 2 of this Article, the ordinance in question shall be suspended, if in effect, or from taking effect, if not in effect. Such suspension shall terminate if the petitioners' committee withdraws its petition or if a majority of eligible voters on submission of the ordinance in question to them for vote, vote to retain the ordinance.

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Section 4. Action on Petitions.

- (a) Action by Tribal Legislature. When an initiative or referendum petition has been determined sufficient, the Tribal Legislature shall:
 - (1) Enact the ordinance as submitted by an initiative petition; or
 - (2) Repeal the ordinance, or part thereof, referred by a referendum petition; or
 - (3) Decide to submit the proposal in a petition to the eligible voters of the Tribe; provided, however, that, the Tribal Legislature may change the detailed language of any proposed initiative ordinance and may affix the title thereto, so long as the general character of the measure will not be substantially altered.

Appropriate action by the Tribal Legislature shall be taken under this subsection within fifteen (15) days after a referendum petition is certified sufficient, and within thirty (30) days after an initiative petition is certified sufficient.

- (b) Submission to Voters. The election on an initiated or referred ordinance shall be held within thirty (30) days after the date of the final Tribal Legislature vote thereon. Copies of the initiated or referred ordinance shall be made available to eligible voters not less than ten (10) days before the election and also at the polls at the time of the election.

Section 5. Results of Election.

- (a) Initiative. If a majority of the eligible tribal voters voting on a proposed initiated ordinance vote in its favor, it shall be considered effective upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greater number of affirmative votes shall prevail.
- (b) Referendum. If a majority of the eligible tribal voters voting on a referred ordinance vote for repeal, it shall be considered repealed upon certification of the election results. If a majority of the eligible tribal voters voting on a referred ordinance vote to approve such ordinance, it shall be considered approved upon certification of the election results.
- (c) Voting Percentage Requirements. No initiative or referendum election shall be effective unless at least fifteen percent (15%) of the total number of eligible voters vote in that election.

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Section 6. Re-enactment, Amendment or Repeal.

An ordinance initiated and adopted by the tribal voters may not be amended or repealed by the Tribal Legislature for a period of six (6) months after the date of the election at which it was adopted, and an ordinance referred and repealed by the tribal voters may not be re-enacted by the Tribal Legislature for a period of six (6) months after the date of the election at which it was repealed; provided, however, that, any such ordinances may be amended or repealed at any time by compliance with the provisions of this Article.

ARTICLE IX - RIGHTS OF TRIBAL MEMBERS AND OTHER PERSONS SUBJECT TO TRIBAL JURISDICTION

Section 1. Hunting, Fishing, Trapping, Gathering.

In addition to such other rights as are guaranteed by this Constitution and Bylaws, members of the Menominee Indian Tribe of Wisconsin shall have the right to hunt, fish, trap, and gather food from plants subject only to those tribal laws which are necessary to conserve these natural resources of the Tribe; provided that, this right shall not include the right to engage in commercial uses of such tribal resources; such right is reserved to the Tribe acting through its Tribal Legislature in accordance with Section 2 of Article X of this Constitution. Non-tribal members shall have no right to hunt, fish, trap, and gather foods from plants except as may be permitted by tribal ordinance approved by the Tribe in accordance with Section 3 of Article VI of this Constitution.

Section 2. Rights of Persons Subject To Tribal Jurisdiction.

The Menominee Indian Tribe and its officers and agencies in exercising the powers of self-government over persons subject to tribal jurisdiction shall not:

- (a) establish an official government religion;
- (b) make or enforce any law (1) prohibiting the free exercise of religion or of the dictates of conscience, or (2) abridging the freedom of speech or of the press, or of peaceful assembly or association, or the right to petition for a redress of grievances;
- (c) violate a person's right to be safe against unreasonable searches and seizures of person and property;

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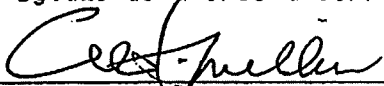
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- (d) permit searches and seizures unless a Tribal Court issues a warrant upon a sworn statement presented to the Tribal Court showing reasonable grounds to believe that an offense against the tribal law has been committed and that the person or place to be searched holds evidence of the offense or that the persons to be seized committed the offense; or that the thing to be seized is evidence of the offense, and describing specifically the person or place to be searched or the person or thing to be seized; provided that, searches and seizures may be permitted without a warrant where justified by compelling circumstances as shall be defined by ordinance.
- (e) Subject any person for the same offense to be put in jeopardy of loss of liberty more than once;
- (f) In any criminal proceeding against any person:
 - (1) compel such person to be a witness against the person's own interest including any instance where the person's testimony reasonably might lead to the institution of criminal proceedings against that person;
 - (2) deny such person the right to:
 - (a) a speedy and public trial;
 - (b) to be informed of the nature and cause of the accusation;
 - (c) to confront adverse witnesses;
 - (d) to have witnesses in such person's favor compelled to appear to testify; and
 - (e) to have, at such person's own expense, the assistance of counsel in defending against the accusation.
 - (3) deny to any person who is accused of a major offense as defined in Bylaw V of this Constitution & Bylaws, the right to a trial by jury of not less than six (6) persons, provided that, such person affirmatively requests such right and further provided that any person accused of an offense not punishable by imprisonment, shall have such right only at such person's own expense.
 - (4) require excessive bail, impose excessive fines, or inflict cruel and unusual punishments.
- (g) Deny to any person the equal protection of tribal laws, provided that, this clause shall not be interpreted to grant to non-tribal members those rights and benefits to which the tribal members are entitled by virtue of their membership in the Tribe.

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- (h) Deprive any person of liberty or property (1) without fully complying with procedural processes of tribal law, or (2) application of tribal laws which have no reasonable relation to the purpose for which they were enacted; and
- (i) Enact any law imposing punishment on one person, or enact any law which makes an action a crime which was not a crime when such action was committed, or which increases punishment for a crime committed before the effective date of the law, or which deprives a person in any accusatory proceeding of any substantial right or immunity to which the person was entitled before the effective date of the law.

ARTICLE X - LIMITED POWER OF TRIBAL LEGISLATURE TO
TRANSFER OWNERSHIP OF, OR TO ENCUMBER,
TRIBAL LAND OR INTERESTS THEREIN

Section 1. Limited Power To Transfer Tribal Land Out of Tribal Ownership.

The Tribal Legislature shall not transfer land or interests therein out of tribal ownership by any means unless, prior to any such proposed transfer taking effect, such proposed transfer is approved by a vote of two-thirds (2/3) of the total number of eligible voters of the Tribe, by the Secretary of the Interior, and by an Act of Congress; however, the Tribal Legislature may exchange tribal land for land of equal value, but any such proposed exchange, prior to becoming effective, shall be approved by a vote of the Tribe in accordance with Section 3 of Article VI of this Constitution.

Section 2. Limited Power to Encumber Tribal Land.

- (a) Except as permitted in subsection (b) of this Section, the Tribal Legislature shall not pledge, mortgage, lease, grant licenses to use land, whether revocable or irrevocable, or otherwise encumber tribal land or interests therein, unless, prior to any such proposed encumbrance taking effect, such proposed encumbrance is approved by the Secretary of the Interior, and by a vote of a majority of the eligible tribal voters voting on the question, provided that, the total vote cast is at least fifteen percent (15%) of those entitled to vote.
- (b) The Tribal Legislature may authorize the following encumbrances by a vote of a majority of the entire Tribal Legislature:
 - (1) Grants of permission to members of the Tribe and to qualified non-members, in accordance with Article XI of this Constitution, to use specified portions of tribal land for residential, agricultural, commercial, recreational, or industrial purposes.

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- (2) Leases to members of the Tribe of specified portions of tribal land for residential, agricultural, commercial, recreational, or industrial purposes.
- (3) Grants of rights-of-way over tribal land or interests therein, for the purpose of providing municipal services, such as water, sewage disposal, electricity, telephone, and roads, to and for the benefit of tribal members, or the heirs and descendants of tribal members who hold a land use assignment pursuant to Section 2 of Article XI of this Constitution, or a lease.
- (4) Leases to United States or its agencies for the purposes of meeting eligibility requirements for federal housing programs; provided that, the term of such a lease shall be for the minimal period of time.

Section 3. Limited Power To Develop Natural Resources.

The Tribal Legislature shall not develop on a commercial or industrial basis any natural resources of the Tribe without the consent of a majority of the total number of eligible voters of the Tribe, except as otherwise specified in Article XI, Section 2 (d).

Section 4. Principle of Construction.

Section 2 of this Article shall not be construed to deny to the Tribal Legislature its governmental power and authority to regulate activities of tribal land for the Tribe's general welfare, including but not limited to, zoning, the regulation of commercial ventures, fishing, hunting, and other sports activities, and regulations for the purpose of promoting health, safety, welfare, and conservation.

ARTICLE XI - USE OF TRIBAL LAND BY TRIBAL MEMBERS AND QUALIFIED NON-TRIBAL MEMBERS

Section 1. Land Use and Natural Resources Conservation Plan.

(a) Land Use and Natural Resources Conservation Plan.

The Tribal Legislature shall by ordinance establish a comprehensive land use and natural resources conservation plan, for lands and natural resources subject to tribal jurisdiction. Such plan shall include rules and procedures by which tribal members, and non-tribal members who qualify under Section 2 of this Article, may obtain permission to use a specified parcel of tribal land for residential, agricultural, commercial, recreational, or industrial purposes, however, such permission shall not include any subsurface rights except as specifically authorized by the plan. Such plan shall also include rules and procedures by which tribal members may use the natural resources of the Tribe consistent with principles of conservation.

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(b) Land Use Assignments.

Permission to use tribal land for the purposes specified in subsection (a) of this Section shall be evidenced by a land use assignment issued to persons who qualify under Section 2 of this Article, in accordance with the land use plan. Copies of such assignments shall be filed and recorded by the Appropriate Tribal Official.

(c) Land Use Assignments Not Transferable.

Permission to use tribal land shall be a right granted only to the person designated in the land use assignment. Such permission shall not be transferable by the permittee during his or her lifetime, and shall pass upon the death of the permittee in accordance with regulations and procedures established by the Tribal Legislature by ordinance.

Section 2. Use of Tribal Land By Non-Tribal Members.

(a) General Prohibition.

Except as otherwise specified in this section persons who are not members of the Menominee Indian Tribe shall not be permitted to use tribal land for any purpose.

(b) Heir or Descendent Exception.

A non-member who is an heir or descendent of a member of the Menominee Indian Tribe shall for purposes of determining inheritance of any land use assignment, have the same status as heirs or descendents who are members of the Tribe, provided that, where a non-member inherits the land use assignment, and notwithstanding any provision to the contrary in the land use assignment issued to the deceased tribal member, the term of such use assignment shall be deemed to be for twenty-five (25) years. The Tribal Legislature may renew such assignment for subsequent terms, each not to exceed twenty-five (25) years.

(c) Consent to Abide by Tribal Law.

Any non-member who inherits a land use assignment from a tribal member shall thereby be deemed to have consented to abide by all laws of the Menominee Indian Tribe which would have been applicable to such land had the land use assignment in question been inherited by a tribal member, and, further such non-member shall be deemed to have consented to the jurisdiction of the Tribe for purposes of enforcing such laws.

(d) Leases to Non-Tribal Members, Corporations or Businesses.

Leases of land located outside the geographical boundaries of the Menominee Reservation as defined by the 1854 Treaty held in trust by the United States for the Menominee Indian Tribe of Wisconsin, the Menominee Indian Tribe of Wisconsin may grant to non-tribal members, corporations, or businesses

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Secretary, Lucille B. Chapman

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for any legally permissible purpose pursuant to Tribal Law by majority vote of the Tribal Legislature acting through the Tribal Ordinance process in accordance with applicable provision under Bylaw II, Section 2, of this Constitution and Bylaws. The Tribal Legislature shall set forth the length of time of such leases, the fee, and such other provisions as the Tribal Legislature deems necessary.

ARTICLE XII - SUCCESSOR BUSINESSES TO
MENOMINEE ENTERPRISES

Section 1. Duty of the Tribal Legislature.

The Tribal Legislature shall reaffirm by resolution the "Management Plan of Menominee Enterprises, a Tribal Enterprise of the Menominee Indian Tribe of Wisconsin," (hereinafter referred to as the "Menominee Enterprises Plan") approved by Congress on March 14, 1975 pursuant to Section 6 of the Menominee Restoration Act (87 Stat. 770), in accordance with Section 14(d) of the "Menominee Enterprises Plan." The Tribal Legislature shall amend the "Menominee Enterprises Plan" so that the provisions of that document are consistent with the provisions of Section 2 of this Article. Amendments to the "Menominee Enterprises Plan" shall not be inconsistent with any provision of Section 2 of this Article.

Section 2. Successors to Menominee Enterprises.

Before the Tribal Legislature takes any action terminating the "Menominee Enterprises Plan" pursuant to Section 14(d) of that document, or before the Tribal Legislature takes any action terminating any successor to Menominee Enterprises established pursuant to this Article, the Tribal Legislature shall establish a successor tribal business (hereinafter "Successor Business") which shall assume control of the management responsibilities, and all books and records of the predecessor business. The Successor Business shall be the principle business arm of the Tribe and shall be established by means of a written charter issued by the Tribal Legislature by ordinance. The charter shall not be inconsistent with this Constitution and Bylaws and shall include, be consistent with, and be based upon the following principles:

(a) Management Policy.

The Tribal Legislature in providing for the management of the tribal forest lands by the Successor Business shall follow the policy of promoting maximum self-determination of the Menominee Indian Tribe. The Tribal Legislature in dealing with the United States in the management of tribal land and interests therein shall seek federal protection of the right of the Tribe to self-determination and shall avoid federal domination. All tribal forest lands shall be managed on a sustained yield basis according to the provisions of the Forest Management Plan: Menominee Enterprises, Inc. 1968-1982 (1973 Revision) including any revisions which may in the future be made in that document.

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(b) Scope of Authority of the Successor Business to Menominee Enterprises.

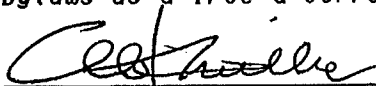
The scope of authority of the Successor Business shall be to manage and operate the property designated in this subsection (hereinafter referred to as the "subject property") in order to conduct the business operations of the Tribe which will best promote the interests of the Tribe and of the Tribal members. Accordingly, the primary duties of the Successor Business shall be to log, manage, and reforest the tribal forest land, and to manufacture, market, sell and distribute timber, forest products, and related products. The Successor Business shall be granted all powers necessary to manage and operate the subject property in order properly to perform its duties as set forth herein. The Successor Business shall also have the power to operate subsidiary businesses which come within its scope of authority in order to further the business and economic needs of the Tribe insofar as the management and operation of the subject property is concerned.

The property subject to the control of the Successor Business shall be that property formerly managed and controlled by Menominee Enterprises and any other predecessor business, including the tribal mill, the tribal forest land, the personal property of the predecessor business, and such additional property as may be acquired by the Successor Business in the future. The Successor Business shall have no interests therein, except the right to manage such property in accordance with the principles set forth in this section and in its tribal charter. Tribal land and interests therein shall not be an asset of the Successor Business for any purpose. No tribal property, real or personal, or interests therein, shall be subject to the management and control of the Successor Business unless such property shall have been expressly stated in this subsection to be subject to the management and control of the Successor Business. The Successor Business shall not be authorized to pledge, mortgage, lease, or otherwise encumber tribal land or interests therein except as may be authorized by the Tribal Legislature acting in accordance with applicable Federal Law, tribal ordinances, and this Constitution and Bylaws.

The Successor Business shall be authorized to acquire and own land or interests therein in its own name. The Successor Business shall be authorized to sell for business purposes any property owned by it in its own name and shall also be authorized to pledge, mortgage or otherwise encumber its own property as security for debts.

The Tribal Legislature shall have no authority over the operations of the Successor Business except as specifically set forth in this section. However, the Tribal Legislature shall retain all authority and power to exercise all proper governmental and sovereign functions over the property managed or owned by the Successor Business.

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(c) Sovereign Immunity.

The Menominee Indian Tribe in authorizing the establishment by charter of the Successor Business does not waive, nor authorize its Tribal Legislature to waive, or limit the right of the Tribe or the Successor Business to sovereign immunity from suit, except as specifically provided in this subsection; nor does it waive or limit, or authorize its Tribal Legislature to waive or limit any exceptions and immunities from taxation to which the Successor Business is or may in the future be entitled, and to which the Tribe, its members, and its businesses are entitled by law.

For the purpose of enabling the Successor Business to enter into business agreements either to secure debts or to provide services or products, the Successor Business shall be authorized to agree by specific written agreement with any party to sue and be sued in its capacity as a tribal business upon any contract, claim, or obligation arising out of its authorized activities. For the same purpose, the Successor Business shall be authorized to agree by specific written agreement with any party to waive any immunity from suit it might otherwise have.

(d) Distribution of Profits of the Successor Business.

The profits of the Successor Business shall be allocated in the manner set forth in this subsection.

- (1) The Successor Business shall, as soon as practicable, make a determination of the net profits of the Successor Business for each fiscal year. That profit shall be determined from revenues; cost of sales; operating expenses; general income and expenses; taxes, if any; and interest payments on the outstanding bonds administered in accordance with the bond indenture dated April 30, 1961, First Wisconsin Trust Company as trustee, and on any outstanding supplemental bond indentures.
- (2) Excess profits shall then be determined by subtracting from net profits such amounts as are deemed appropriate by the Board of Directors for expansion, for asset replacement, and for sinking fund or a reserve to retire the principal obligation on the bond indentures named in subsection (d)(1) of this section.
- (3) Excess profits shall then be divided by the Board of Directors on an equitable basis between an amount to be retained by the Successor Business (hereafter "retained share") and an amount to be paid over by the Successor Business to the Tribal Legislature, representing the Tribe (hereafter "tribal share"). In making the division between the retained share and the tribal share, the Board of Directors shall consult extensively with the Tribal Legislature and shall be guided by industry standards.

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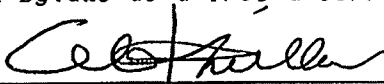
- (4) The Tribal Legislature shall then determine whether the tribal share shall be utilized for tribal operations, distributed to tribal members, or divided and used for both purposes. In making its determination as to the distribution of the tribal share, the Tribal Legislature shall use its best judgement and shall carefully consider both the need for effective tribal operations and the individual financial needs of tribal members.

(e) Authority, Duties, and Rights of the Board of Directors of the Successor Business.

In addition to such other authority granted by this section and to such other authority as may be granted by the Successor Business charter, not inconsistent with this Constitution and Bylaws, the Board of Directors of the Successor Business shall be granted the following authority and rights and shall be directed as follows:

- (1) The Board of Directors of the Successor Business shall be authorized to vote themselves a reasonable compensation for services; but any increase in compensation shall not take effect during the term of office of any Director serving at the time the increase was voted upon.
- (2) Directors shall be subject to recall on grounds of dishonesty, incompetency, nonparticipation in Board matters, or other conduct detrimental to the interests of the Tribe or the Successor Business.
- (3) The Board of Directors of the Successor Business shall be authorized to elect and remove officers of the Board and officers of the Successor Business, and to fill vacancies in such offices, in accordance with the procedure set forth in subsection 2(e) (4) of this Section.
- (4) The Board of Directors shall be authorized to appoint a tribal member to fill the vacant office until the next annual election when a tribal member shall be elected to complete the term of office in question.
- (5) The Board of Directors shall be authorized to determine the amount of excess profits of the Successor Business to be retained by the Successor Business (retained share), and the amount to be paid over to the Tribal Legislature on behalf of the Tribe (tribal share) in accordance with the formula set forth in subsection (d) of this Section.

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- (6) The Board of Directors shall be authorized to amend the following parts of the charter of the Successor Business: the part which concerns the internal rules and regulations of the Board of Directors, that part which concerns the meetings of the Board of Directors and voting at such meetings, that part which concerns the officers of the Board of Directors, and that part which concerns the location of the principle place of business of the Successor Business.
- (7) The Board of Directors, its officers, and the officers of the Successor Business, shall be indemnified from any court awarded damages that might result from the performance of the duties of office.
- (8) The Board of Directors shall meet at least four (4) times a year to transact the business of the Successor Business.

(f) Rights of the Tribal Members.

- (1) There shall be twelve (12) members of the Board of Directors. All Directors of the Board of Directors of the Successor Business shall be tribal members with at least one-fourth (1/4) degree Menominee Indian blood elected at large for three (3) year terms of office. The terms of office shall be staggered such that four (4) of the twelve (12) Directors are elected annually.
- (2) Eligible voters of the Tribe shall have the right to vote for members of the Board of Directors of the Successor Business, as well as on other matters submitted to the tribal voters for a vote at regular and special business meetings of the Successor Business. Write-in voting, and absentee voting shall be permitted, but voting by proxy, and cumulative voting shall not be permitted.
- (3) Eligible tribal voters shall have the right to recall members of the Board of Directors in accordance with the following procedure: upon receipt of a petition signed by two hundred (200) eligible voters, setting forth the alleged misconduct with specificity, the Secretary or other appropriate officer of the Successor Business shall call and give notice of a special meeting of the tribal members. Such meeting shall be held in not less than ten (10) nor more than thirty (30) days after receipt of such petition. At such meeting, eligible tribal voters shall vote on the question of whether the Director in question shall be removed from office on the basis of one or more of the grounds set forth in the petition. No Director shall be removed from office unless (a) at least thirty percent (30%) of all eligible voters participate in the recall election and (b) at least two-thirds (2/3) of the eligible voters participating in the recall election vote in favor of removal.

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Secretary, Lucille B. Chapman

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- (4) The tribal members shall have the right to have an annual business meeting of tribal members held to receive reports on business operations, to elect directors, and to transact other business.
- (5) Eligible tribal voters shall have the right to petition for special business meetings of the tribal members in accordance with the following procedure:

The Secretary of the Successor Business shall call such a meeting upon receipt of a written petition which is signed by not less than two hundred (200) eligible voters and which sets forth with specificity the business to be transacted at the special meeting. The Secretary shall notify eligible voters of the meeting by posting notice in accordance with Bylaw II, Section 4, of this Constitution and Bylaws. Such notice shall state the place, day, hour and the purpose or purposes for which the meeting is called. Such notice shall be posted not less than ten (10) nor more than fifty (50) days before the date of the meeting. If the place of meeting is not designated in the notice, the place of meeting shall be the office of the Successor Business, but any such meeting may be adjourned to reconvene at any place designated by a vote of a majority of eligible voters who are present at the meeting. No business shall be transacted at any special meeting except as designated in the notice of the meeting.

- (6) There shall be at least one hundred and twenty-five (125) eligible tribal voters present at business meetings of the tribal members before business can be conducted at such meetings.
- (7) To be included on the ballot for election to the Board of Directors, a candidate must be named in a nominating petition which is signed by at least seventy-five (75) eligible voters and filed, with the appropriate officer of the Successor Business at least thirty (30) days before the annual business meeting to elect the Board members.

(g) Involvement of the United States.

The United States Government shall not be granted any authority in regard to the operation of the Successor Business, except as specifically negotiated and agreed upon in a written trust agreement between the United States and the Menominee Indian Tribe.

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ARTICLE XIII - TRIBAL BUSINESSES

Section 1. Interrelationship Between Tribal Businesses And The Tribal Legislature.

All business ventures of the Tribe shall be conducted by tribal businesses established by written charters issued by the Tribal Legislature by ordinance. Such tribal businesses shall be established for purposes of management only and no tribal assets shall be transferred to the ownership of such business; however, such business may be authorized to acquire property in its own name. Such tribal businesses shall not be authorized to pledge, mortgage, lease, or otherwise encumber tribal lands or interests therein subject to their management. However, such tribal business may, consistent with Federal law, be authorized to pledge, mortgage, lease, and otherwise encumber land or interest therein held in its own name as security for debts, and to acquire, sell, lease, exchange, transfer, or assign personal property or interests therein. Each tribal business shall be subject to the authority and control of a Board of Directors, or such other form of management as the Tribal Legislature designates in the charter. The Tribal Legislature shall not interfere with the business decisions of the management of the business; however, the Tribal Legislature shall retain all authority and power to exercise all proper governmental and sovereign functions over the tribal business and over property managed or owned by the tribal business. Profits of such tribal businesses shall be shared with the Tribe on an equitable basis. Regular reports on the financial status of such tribal businesses shall be made to the Tribal Legislature and to the tribal members.

Section 2. Duty to Enforce.

The Tribal Legislature shall enforce this Article by a code of laws establishing, insofar as practicable, uniform rules governing the establishment and operation of tribal businesses.

Section 3. Forestry Business Exception.

This Article shall not be applicable to the forestry business of the Tribe which is covered by Article XII of this Constitution.

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**AMENDMENT
TO ARTICLE XIII OF
MENOMINEE CONSTITUTION AND BYLAWS**

ARTICLE XIII

Section 4. Other Powers and Rights of all Tribal Businesses, Including Kenosha Gaming Business.

- (a) Any tribal gaming conducted in Kenosha, Wisconsin, shall be conducted through a tribal gaming business chartered by the Tribal Legislature which shall have all the powers of a tribal business under Section 1 of this Article. The Tribal Legislature may delegate such governmental powers as it deems necessary or convenient to the tribal gaming business or any other tribal business chartered under this Article. The Tribal Legislature may lease land in Kenosha to the tribal gaming business and may lease other tribal land on or off the reservation to any other tribal business chartered under this Article.
- (b) Any charter issued under this article may authorize the tribal gaming business or other tribal business to consent in writing to be sued in any court of competent jurisdiction, and/or to consent to arbitration or mediation of disputes. The Tribe may guarantee contracts entered into by the Tribal gaming business, and may consent to be sued in any court of competent jurisdiction, and/or to arbitration or mediation, to enforce any such guarantees. Exhaustion of tribal remedies shall not be required in any such suit, arbitration, or mediation, by or against the tribal gaming business or the Tribe. This Section 4 constitutes authority to grant a limited waiver of immunity.
- (c) In any suit for monetary damages against the Tribe or the tribal gaming business authorized by this Section 4, recovery of such monetary damages shall be limited to the undistributed or future net revenues or other assets of the tribal gaming business.
- (d) In the event of any conflict between this Section 4 and any other provision of this Constitution and ByLaws, this Section shall govern; provided, however, the Tribal Legislature shall not waive or limit the right of the Menominee Indian Tribe to be immune from suit, except as authorized by this Article, Article XII, and Article XVIII of this Constitution.

CERTIFICATE OF APPROVAL

I, LARRY MORRIN, Area Director, Minneapolis Area Office, Bureau of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and further delegated to me by 10 BIAM Bulletin 13, as extended by Bulletin 9901, do hereby approve Amendment A, now designated as Amendment Number I, to the Constitution and Bylaws of the Menominee Indian Tribe of Wisconsin. This amendment is effective as of this date: PROVIDED, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.


Area Director

Date: JUN 11 1999

ARTICLE XIV - TRUST AGREEMENT BETWEEN THE MENOMINEE INDIAN TRIBE AND THE UNITED STATES

Section 1. Trust Agreement.

Upon taking office, the Tribal Legislature shall enter into negotiations with the United States for the purpose of executing the kind of trust agreement between the Tribe and United States as is contemplated in Section 4 of the "Trust and Management Agreement between the Menominee Indian Tribe of Wisconsin and the Secretary of the Interior of the United States of America" (hereinafter "Trust and Management Agreement"). Such agreement shall provide the Menominee Indian Tribe with maximum control over its own property and its own affairs and shall define accordingly the long-term, ongoing trust relationship between the Tribe and the United States.

The Tribal Legislature shall make every effort to execute such a long-term trust agreement prior to the expiration of the "Trust and Management Agreement," now in effect and scheduled to expire six (6) months after the date on which the Tribal Legislature takes office. If the long-term agreement cannot be executed prior to the expiration of the "Trust and Management Agreement," the Tribal Legislature shall reaffirm the "Trust and Management Agreement" pursuant to Section 3 of that Agreement until such date as a new long-term agreement is executed.

Section 2. Negotiating Principles.

The Tribal Legislature in negotiating a long-term trust and management agreement with the United States shall be bound by the following principles which the Menominee Indian Tribe considers fundamentally important parts of such an agreement:

- (a) The United States should expressly acknowledge that the Menominee Indian Tribe has the right to be self-determining to the maximum possible extent while still preserving the integrity of the trust responsibility of the United States to the Tribe. This includes the right to manage and control all tribal businesses, and the right to tax all assets within the Tribe's jurisdiction, including tribal assets held in trust.
- (b) The powers and responsibilities of the United States as trustee should be expressly and specifically set forth in the agreement.
- (c) The United States should expressly agree that the tribal forest land shall be managed on a sustained yield basis.

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8-8-91
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Lucille B. Chapman
Secretary, Lucille B. Chapman

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- (d) The United States should expressly acknowledge that all tribal assets transferred to the United States in trust for the Tribe shall, as of the date of this transfer, be exempt from all local, state and federal taxation; and that the Tribe, the tribal assets, the tribal members, and the tribal businesses shall be entitled to all immunities from taxation to which American Indian Tribes, their members, and their businesses are entitled by the laws of the United States.
- (e) The United States should expressly agree to provide business advice and other advice and assistance to the Tribe on request of the Tribe.
- (f) The United States should expressly acknowledge the Tribe's right to exercise all sovereign and governmental powers within the boundaries of the Menominee Indian Reservation except those which the United States Congress has expressly and specifically denied the Tribe the right to exercise.

Section 3. Approval by Tribe Required.

Any long-term agreement negotiated pursuant to Section 1 of this Article between the Menominee Indian Tribe and the United States shall be effective only if such agreement is approved by vote of a majority of tribal voters voting, so long as the total vote cast is at least fifteen percent (15%) of those entitled to vote. Amendments to such agreement shall be effective only if approved in the same manner as the agreement.

ARTICLE XV - TRIBAL GOVERNMENT CAREER AND MERIT SYSTEM OF EMPLOYMENT

Section 1. Merit Principle.

All employment and promotions of employees of the tribal government shall be made solely on the basis of merit and fitness as demonstrated by examinations or other evidence relevant to show competence for the particular employment in question. All termination of employment with the tribal government shall be made solely on the basis of incompetence, or any other reason which results in failure to perform employment duties satisfactorily. Tribal employees shall adhere to the personnel policies and procedures. This section shall apply to appointed tribal officials, but not to elected tribal officials or tribal judges.

Section 2. Duty to Enforce.

The Tribal Legislature shall enforce this Article by ordinance.

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ARTICLE XVI - FINANCIAL CONTROL

Section 1. Budget and Appropriations.

All appropriations by the Tribal Legislature of tribal funds shall be in accordance with an annual budget established by ordinance.

Section 2. Accounting System.

The Tribal Legislature shall by ordinance establish an accounting system, approved by an independent certified public accounting firm, and shall cause an audit of the tribal accounts to be conducted annually.

Section 3. Fiscal Year.

The Tribal Legislature shall by ordinance establish a fiscal year for the tribal government.

ARTICLE XVII - CONFLICT OF INTEREST

Section 1. Conflicting Personal Financial Interest Prohibited.

In carrying out the duties of tribal office, no tribal official, elected or appointed, shall make or participate in making decisions which involve balancing a substantial personal financial interest, other than interests held in common by all tribal members, against the best interests of the Tribe.

Section 2. Other Conflicts of Interest.

The Tribal Legislature may by ordinance prohibit other kinds of conflicts of interests.

ARTICLE XVIII - SOVEREIGN IMMUNITY

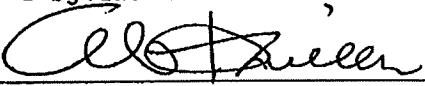
Section 1. General Prohibition.

The Tribal Legislature shall not waive or limit the right of the Menominee Indian Tribe to be immune from suit, except as authorized by this Article and by Article XII of this Constitution.

Section 2. Suits Against The Tribe In Tribal Courts By Persons Subject To Tribal Jurisdiction.

The Menominee Indian Tribe shall be subject to suit in Tribal Courts by persons subject to tribal jurisdiction for the purpose of enforcing rights and duties established by this Constitution and Bylaws, by the ordinances of the Tribe, and by the Indian Civil Rights Act, (25 U.S.C. s1301 and 1302). The Tribe does not, however, waive or limit any rights which it may have to be immune from suit in the courts of the United States or of any State.

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Section 3. Suits Against The Tribe In The Courts of The United States.

In seeking redress of grievances against the Tribe, persons subject to tribal jurisdiction shall exhaust all remedies available to them under this Constitution and Bylaws and the ordinances of the Tribe before seeking redress of grievances against the Tribe in the courts of the United States under any law of the United States granting those persons such rights.

ARTICLE XIX - AMENDMENTS TO CONSTITUTION AND BYLAWS

This Constitution and Bylaws is adopted pursuant to Section 16 of the Indian Reorganization Act (25 U.S.C. s476, 48 Stat. 987) and may be amended in accordance with the rules and regulations adopted by the Secretary of the Interior pursuant to that section. The Secretary of the Interior shall hold an election on the adoption of an amendment or amendments to this Constitution and Bylaws when requested by a vote of two-thirds (2/3) of the entire Tribal Legislature or by a petition signed by at least three hundred (300) eligible tribal voters and validated in accordance with applicable rules of the Secretary, or if none, with applicable tribal ordinance. The Secretary of the Interior shall not propose amendments to this Constitution and Bylaws.

ARTICLE XX - ADOPTION OF CONSTITUTION AND BYLAWS

This Constitution and Bylaws, when adopted by a majority vote of the eligible voters of the Menominee Indian Tribe of Wisconsin, voting in an election called for that purpose by the Secretary of the Interior, in which at least thirty percent (30%) of those entitled to vote shall cast their ballots, and submitted to the Secretary of the Interior for his approval, shall be effective from the date of approval.

The Menominee Tribal Legislature on this 8th day of August, 8th, 1991 hereby certifies this page (*pn) of the Menominee Constitution & Bylaws as a True & Correct page of the Document.

Glen T. Miller
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Lucille B. Chapman
Secretary, Lucille B. Chapman

8-8-91
Date

BYLAWS

BYLAW I - OFFICERS AND COMMITTEES OF THE TRIBAL LEGISLATURE:

DUTY TO VOTE STOCK OF MENOMINEE ENTERPRISES, INC.

Section 1. Officers of the Tribal Legislature.

- (a) Number. There shall be three officers of the Tribal Legislature. A Chairperson, a Vice-Chairperson, and a Secretary. No Legislator shall hold more than one (1) of these offices simultaneously.
- (b) Election and Terms of Office. The Chairperson, the Vice-Chairperson and the Secretary shall be elected by the Tribal Legislature in accordance with rules and procedures established by the Legislature.
- (c) Qualifications. The Chairperson shall be a resident on the Menominee Indian Reservation.
- (d) Removal. A Legislator may be removed from the office of Chairperson, Vice-Chairperson or Secretary by the Tribal Legislature on grounds of failure to perform adequately the duties of the office in question, or non-participation in business of the Legislature.
- (e) Vacancies. A vacancy in the office of Chairperson or Vice-Chairperson, or Secretary shall be filled by the Tribal Legislature for the unexpired portion of the term.
- (f) Chairperson of the Tribal Legislature. The Chairperson shall receive a reasonable compensation for services. Such compensation shall not be increased or decreased during a Chairperson's term in office. The Tribal Legislature may authorize the Chairperson to serve full time in the office.

The duties and powers of the Chairperson shall include but not be limited to the following:

- (1) Preside at all meetings of the Tribal Legislature and at any other meeting called by the Tribal Legislature at which the Chairperson may be designated to preside.
- (2) Represent the Tribal Legislature in its relations with other governments, but only where the Tribal Legislature has specifically and expressly authorized the Chairperson to do so provided that, the Tribal Legislature shall not authorize the Chairperson to take any action which under this Constitution and Bylaws must be taken by the Legislature.

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Chairman, Glen T. Miller

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Lucille B. Chapman
Secretary, Lucille B. Chapman

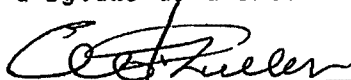
8-8-91
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- (3) Appoint members of all committees of the Tribal Legislature subject to the approval of the Legislature and in accordance with rules of procedure of the Legislature.
 - (4) Serve as an ex officio member of all committees of the Tribal Legislature.
 - (5) Call special meetings when appropriate of the Legislature and of any committee of the Legislature, in accordance with this Constitution and Bylaws, laws of the Tribe, and rules of procedure of the Legislature.
 - (6) Receive reports of all committees of the Legislature and deliver such reports or cause such reports to be delivered to the Legislature.
 - (7) Exercise supervision over all committees of the Legislature and recommend to the Legislature the establishment, consolidation, or abolition of Legislative committees.
 - (8) Be responsible for the administrative details of calling and holding meetings of the Legislature and of the tribal members.
 - (9) Perform such other duties as may be prescribed by this Constitution and Bylaws, by ordinance, or as required by the Tribal Legislature.
- (g) Vice-Chairperson of the Tribal Legislature. The Vice-Chairperson of the Tribal Legislature shall perform the duties of the Chairperson when the Chairperson is absent or unable to perform his duties, or as long as the office is vacant. In addition, the Vice-Chairperson shall perform such other duties as may be prescribed by this Constitution, by ordinance, or as required by the Tribal Legislature.
- (h) Secretary of the Tribal Legislature. The Secretary of the Tribal Legislature shall perform the duties of the Chairperson when the Chairperson and the Vice-Chairperson are absent or unable to perform such duties. The Secretary shall also perform such other duties as may be required by the Tribal Legislature.

Section 2. Committees of the Tribal Legislature.

The Tribal Legislature shall establish such committees as it deems appropriate to provide research, investigating and advisory assistance to the Legislature in the exercise of its powers, provided that, each committee shall be headed by a Tribal Legislator.

The Menominee Tribal Legislature on this 8th day of August, 8th, 1991 hereby certifies this page (*pn) of the Menominee Constitution & Bylaws as a True & Correct page of the Document.



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Section 3. Duty to Vote Stock of Menominee Enterprises, Inc.

The stock of Menominee Enterprises, Inc., which was transferred to the Tribe by the document entitled, "Transfer, Assignment and Special Endorsement of Security" made pursuant to the Menominee Transfer Plan submitted and approved by the Congress of the United States pursuant to Section 6 of the Menominee Restoration Act (87 Stat. 772) shall be voted by the Tribal Legislature. The Tribal Legislature shall also exercise all other rights in regard to such stock.

BYLAW II - PROCEDURE OF THE TRIBAL LEGISLATURE

Section 1. Meetings of the Tribal Legislature.

(a) Regular Meetings.

The Tribal Legislature shall meet in official session at least four (4) times a year at such time and place as shall be established by ordinance. The order of business for any such meeting shall be posted in accordance with Section 4 of this Bylaw; however, other business may also be transacted at such meeting if the Tribal Legislature votes to consider such other business.

(b) Special Meetings.

(1) Calling and Notice.

Special meetings of the Tribal Legislature shall be called by the Chairperson of the Legislature or upon the written request of any two (2) Legislators, provided that, at least seventy-two (72) hours written notice of such meeting shall be given to each Legislator, by personal service or by registered mail sent to the Legislator's usual place of residence, or left at the Legislator's usual place of residence with some person of suitable age and discretion residing there; however, notice may be waived by attendance at the meeting. Notice to tribal members shall be posted as provided in Section 4 of this Bylaw promptly after such meeting is called. Special meetings of the Tribal Legislature shall be called by the Chairperson upon the petition of three hundred (300) eligible tribal voters, provided that, not less than five (5) nor more than thirty (30) days notice of such meeting is given to tribal members.

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(2) Business.

No business shall be transacted at any special meeting of the Tribal Legislature unless such business has been stated in the notice of such meeting. However, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the Legislature consent in writing.

(3) Emergencies.

A special meeting of the Tribal Legislature may be called upon less than seventy-two (72) hours written notice if such meeting is necessary for the preservation or protection of the health, welfare, peace, safety, or property of the Tribe. Efforts shall be made to give maximum practical notice to each Tribal Legislator. Maximum practical notice shall be given to such meeting, and such notice shall be posted as provided in Section 4 of this Bylaw, promptly after such meeting is called. No business other than that stated in the notice shall be transacted.

(c) Open Meetings and Executive Sessions.

All meetings of the Tribal Legislature called pursuant to this Bylaw shall be open to tribal members; and tribal members shall have a reasonable opportunity to be heard under such rules and regulations as the Legislature may prescribe, provided, however, that the Legislature may meet in executive session for the following purposes:

- (1) Personnel matters.
- (2) Claims against the Tribe or the Tribal Legislature, whether in litigation or otherwise.
- (3) Legal consultation and advice.
- (4) Matters involved in litigation concerning the Tribe or the Tribal Legislature.
- (5) Deliberation and/or review of any matter heard by the Legislature in a quasi-judicial capacity.
- (6) Negotiations concerning the purchase, sale, lease or other acquisition of real or personal property, or interests therein, or concerning any contracts except those required to be the subject of competitive bidding.

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The Tribal Legislature may determine not to keep a record of all or any part of the discussion in executive session; however, the general reason for such determination shall be recorded, and a record shall be kept of any action taken in executive session. Such record may be withheld from inspection by tribal members pending final disposition of the matter concerned.

- (d) Organization and Rules of the Tribal Legislature.
The Tribal Legislature shall adopt by motion written rules governing its own organization and procedure. Such rules shall be open and available to review by tribal members in accordance with Section 3 of this Bylaw.

Section 2. Ordinances, Resolutions, and Motions.

- (a) Kinds of Action by Tribal Legislature.

The Tribal Legislature shall act only by ordinance, resolution or motion. All acts of a general and permanent nature or those affecting compelling interests of the Tribe or tribal members shall be by ordinance. All other actions shall be in the form of resolutions or in the form of motions. Action by resolution shall be the form of action in which the purpose or policy underlying the action is expressly set forth. Action by motion shall be the form of action in which only the action taken is expressly set forth without an accompanying statement of purpose of policy. Ordinances making appropriations shall be confined to the subject of appropriations; but may include more than one appropriation.

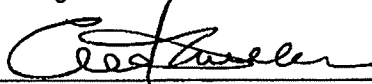
- (b) Action by Ordinance Required.

In addition to such acts of the Legislature as are required by other provisions of this Constitution to be by ordinance, the following acts shall be by ordinance: an appropriation, creating an indebtedness, authorizing the borrowing of money, levying a tax, establishing criminal or civil penalties, and any act which places any burden upon or limits the use of private property without the consent of the owner, or which limits the freedom of tribal members to exercise rights to which they are entitled by virtue of their membership in the Tribe, or which limits any right granted by this Constitution and Bylaws to any person.

- (c) Form of Ordinances.

Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN.

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(d) Procedure For Passing Ordinances.

Except for emergency ordinances and ordinances organizing into codes other related and existing ordinances, the following procedure for enactment of ordinances shall be followed:

- (1) The ordinance shall be introduced at either a regular or special meeting of the Legislature by any Legislator or Legislators, and
- (2) The ordinance shall be read in full, and copies of the ordinance shall be made available to the Tribal Legislature and to tribal members at or before the meeting at which the ordinance is introduced.
- (3) After the first reading of the ordinance, in accordance with (2) above, it shall be approved with or without amendment, rejected, or tabled by vote of the Tribal Legislature.
- (4) If the ordinance is approved on the first reading, it shall promptly be posted in full in accordance with Section 4 of this Bylaw, unless otherwise provided in this Constitution. The Legislature shall hold a tribal hearing on the ordinance not earlier than four (4) days nor later than fourteen (14) days after posting, and notice of the tribal hearing, specifying the day, hour, and place of the same, shall be included in the posting.
- (5) If the ordinance is tabled, it shall be reconsidered at subsequent meetings until it is approved with or without amendment, or rejected, by vote of the Legislature.
- (6) The ordinance shall be read in full a second time at the tribal hearing for adoption, rejection, or other action as may be taken by vote of the Tribal Legislature.
- (7) Except as otherwise provided in this Constitution and Bylaws after adoption, an ordinance shall be posted by title only, stating that complete copies of the ordinance are available at the offices of the Tribal Legislature, and if the ordinance was amended subsequent to its last previous posting, the posting shall state that it has been amended and shall contain a summary of the subject matter of all amendments.
- (8) All ordinances shall take effect five (5) calendar days after posting following final passage, except as otherwise provided in this Constitution and Bylaws, or as specified in the ordinance itself.

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(e) Voting By The Legislature.

(1) Ordinances.

Except as provided in subsection (g) of this section, and except as may otherwise be provided in this Constitution and Bylaws, every ordinance shall be adopted at a regular meeting of the Tribal Legislature by the affirmative vote of at least a majority of the entire Tribal Legislators, provided that, the quorum for such meetings shall be five (5) Legislators.

(2) Resolutions and Motions.

Every resolution and motion shall be adopted by the affirmative vote of at least a majority of the Tribal Legislators present at a regular or special meeting of the Tribal Legislature; provided that, the quorum for such meetings shall be five (5) Legislators.

(f) Review of Ordinances By Tribal Judiciary.

If in reviewing an ordinance, a Tribal court finds a part or parts of the ordinance to be invalid, the Court shall determine whether the remaining parts of the ordinance are rendered inoperable as a result of the invalidity of the part or parts in question. If the Court determines that the ordinance is not rendered inoperable, such ordinance shall, without the invalid part or parts, continue in effect.

(g) Emergency Ordinances.

Emergency ordinances for the immediate preservation of public health, welfare, peace, safety, or property may be adopted by the Tribal Legislature at any meeting at which the emergency ordinance is introduced. The facts showing such urgency and need shall be specifically stated in the ordinance itself. No ordinance making a grant of any special privilege shall ever be passed as an emergency ordinance. No action required by this Constitution and Bylaws to be taken by ordinance shall be taken by emergency ordinance. An emergency ordinance shall take effect immediately upon passage and, for information purposes, shall be posted or published in full promptly after passage. An emergency ordinance shall not be in effect longer than sixty (60) days after passage, and shall not again be passed as an emergency ordinance.

(h) Codification.

The Legislature shall, where appropriate, organize ordinances into codes and maintain such codes in current form. The Legislature shall periodically review the codes and ordinances and examine them for current need.

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(i) Technical Codes.

Standard technical codes, including amendments and revisions, promulgated by the Federal Government, or by any state, or by another Indian Tribe or by recognized trade or professional organizations may be adopted, in whole or in part, by reference in an adopting ordinance without reading or posting such codes in full. Such adopting ordinance shall also be deemed to adopt by reference, in whole or in part, any other codes incorporated in the adopted code. The enactment of ordinances adopting any such code or codes shall be as provided in subsection (f) of this section, and the posting thereof shall state that copies of the code or codes proposed to be adopted are available for inspection at the office of the Tribal Chairperson. Any penalty clause in said code or codes may be adopted only if set forth in full in the adopting ordinance.

(j) Amendment or Repeal.

No ordinance or section or subsection of an ordinance shall be amended, superseded, or repealed except by an ordinance regularly adopted, provided that, repeal may be by reference to the title of the ordinance or any part thereof.

(k) Authentication of Ordinances.

An ordinance as finally enacted shall be authenticated by the signature of the Chairperson of the Legislature or other person authorized by the Tribal Legislature. A true copy of every such authenticated ordinance shall be numbered and recorded in the official records of the Tribe. Attached to each ordinance and made a part thereof, shall be a certification by the Chairperson of the Tribe or other person authorized by the Legislature, that the same has been posted in accordance with this Constitution and Bylaws and any applicable tribal ordinance.

Section 3. Tribal Records.

(a) Tribal records shall include documents of all kinds and any other form of record keeping which result from the operation of both branches of the tribal government. Except as otherwise specifically provided by tribal ordinance, tribal records shall include, but not necessarily be limited to the following: records of meetings of the Legislature or of the General Council and any action taken therein; records of court proceedings and any court decisions or orders; all correspondence, memoranda, and any other documents or other form of records produced by tribal officials or their agents while holding tribal office and during the performance of the duties of tribal office.

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- (b) The Tribal Legislature may designate the form in which tribal records shall be kept. The Tribal Legislature shall keep records of all actions taken by the Tribal Legislature and its departments and other agencies. The Tribal Legislature, shall, if feasible, keep records of all debate and discussion underlying such actions. It shall also, if feasible, keep records of all action, debate and discussion at General council meetings. The Tribal Legislature, in consultation with the Supreme Court of the Tribal Judiciary, shall provide for the keeping of all records of proceedings, decisions, and orders of the Tribal Judiciary. The Supreme Court of the Tribal Judiciary shall be responsible for implementing the record keeping system so established.
- (c) All tribal records shall be the exclusive property of the Menominee Indian Tribe, and shall be transferred by tribal officials leaving office to the appropriate tribal officials in office.
- (d) Tribal records shall be preserved in the files of the Tribal Legislature or, where appropriate, in the files of the Tribal Judiciary. Except as provided in subsection (a) of this Section, all tribal records shall be fully accessible for review by any tribal member or his or her authorized representative, provided that, such review shall be conducted during normal office hours of the Legislature. The Tribal Legislature shall establish rules and procedures so that such review will be conducted in a reasonable manner so as to avoid undue disturbance of the daily operation of the tribal government.

Section 4. Posting Procedure.

The following shall be the procedure of the Legislature in posting any notice, ordinance, or other document as required by this Constitution and Bylaws or by tribal ordinance.

- (1) The Legislature shall designate by ordinance no fewer than four (4) public places within the reservation and an appropriate number of places in appropriate urban areas where such posting shall be done. If any posting place is to be changed, the Legislature shall make such change by ordinance.
- (2) Posting shall take place as soon as practicable.

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BYLAW III - GENERAL COUNCIL

Section 1. Establishment Of General Council; Response To Recommendations.

- (a) There is hereby established a General Council which shall be a meeting called at least once a year by the Tribal Legislature and open to all tribal members. The purpose of the General Council shall be to discuss problems and issues concerning tribal affairs; to review the policies, goals, and priorities of the Tribal Legislature; to review the functioning of tribal programs and to make recommendations for change.
- (b) The Tribal Legislature shall respond to any recommendations of the General Council in writing and shall post such response in accordance with Bylaw II, Section 4 of the Bylaws of this Constitution.

Section 2. Annual General Council Meeting.

The Tribal Legislature shall set the time, date, and place for the annual meeting of the General Council, and shall provide reasonable notice to tribal voters of such meeting by posting such notice in accordance with Bylaw II, Section 4 of the Bylaws of this Constitution. The first item of business at the annual meeting of the General Council shall be an election to determine whether the Chairperson of the Legislature shall chair such meeting or whether a tribal voter in attendance shall be elected from the floor to chair such meeting. The last item of business shall be a vote as to whether the meeting shall be adjourned or recessed; provided that, at least fifty (50) voters shall be required to recess a meeting.

Section 3. Special General Council Meeting.

- (a) The Tribal Legislature may call special General Council meetings when it deems appropriate.
- (b) Tribal members may require the Tribal Legislature to call a General Council meeting for a specified purpose or purposes by presenting to the Tribal Legislature a petition with two hundred (200) signatures of eligible tribal voters, which petition shall specify the purpose or purposes for calling the meeting. The General Council meeting called pursuant to a petition shall be convened no later than thirty (30) days following the presentation of a valid petition.

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Section 4. Election of Enrollment Committee.

The Enrollment Committee established by Article II, Section 3, of this Constitution may be elected at the annual General Council meeting; provided that, the quorum for the holding of such election shall be one hundred fifty (150) tribal voters. If a quorum is not present, the Tribal Legislature shall within two (2) months appoint the Enrollment Committee from applications submitted by tribal voters. The annual General Council meeting shall not be subject to recess insofar as the election of an Enrollment Committee is concerned. To be included on the ballot for election to the Enrollment Committee, a candidate must be named in a nominating petition which is signed by at least seventy-five (75) eligible tribal voters and filed with the Tribal Legislature at least thirty (30) days before the annual General Council meeting. Absentee voting shall be permitted at such election.

BYLAW IV - OATH OF OFFICE

Every tribal official shall, prior to assuming the duties of the office take the following oath of office:

I, _____, do hereby solemnly swear that I will support and defend the Constitution and Bylaws of the Menominee Indian Tribe of Wisconsin, that I will carry out faithfully and impartially the duties of my office to the best of my ability; and that I will promote and protect the best interests of the people of the Menominee Indian Tribe of Wisconsin.

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BYLAW V - DEFINITIONS

As used in this Constitution and Bylaws, except as otherwise specifically provided or indicated by the context:

- (a) "Major Crime" means any crime included in 18 U.S.C. s1153 and any equivalent crime defined under any state law.
- (b) "Convicted of a major crime" means conviction of a crime, as defined in paragraph (a) of this Bylaw, where no further appeal is possible.
- (c) "Tribal Official" means any person who is elected or appointed to office by the Tribal Legislature, including appointees to boards and commissions; however, this term shall not include members of the Board of Directors of Menominee Enterprises or any equivalent body of any successor business to Menominee Enterprises, or any person or persons appointed to manage a tribal business.
- (d) "Tribal Funds" means all funds of the Menominee Indian Tribe, except funds derived from appropriations of the United States or the State of Wisconsin.
- (e) "Tribal Law" means an ordinance or ordinances adopted by the Tribal Legislature.
- (f) "Tribal Employees" means all persons regularly employed by the tribal government who receive monetary compensation for their services.
- (g) "Resident on the Reservation", "residence on the Reservation", or "reside on the Reservation" means physically residing within the exterior boundaries of the Menominee Indian Reservation as established by the Treaty of the Wolf River of 1854 (10 Stat. 1064).
- (h) "Shall" in the context of provisions establishing the duties of the tribal government, means that compliance with the provision in question is mandatory, and may be compelled by order of the tribal court, after all administrative remedies have been exhausted.
- (i) "May", in the context of provisions establishing the duties of the tribal government, means that compliance with the provision in question is left to the discretion of the tribal government or its agents and may not be compelled by order of the tribal court, unless there is an abuse of discretion.

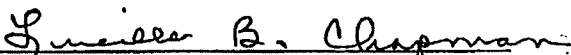
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BYLAW VI - AMENDMENTS TO BYLAWS

These Bylaws are an integral part of this Constitution; therefore, these Bylaws shall be subject to amendment in the same manner as the Constitution, in accordance with Article XIX of the Constitution.

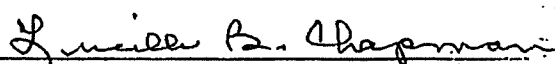
NOTES:

- 1) Pursuant to ss5(b) of the Menominee Restoration Act (P.L. 93-197; 87 Stat. 770), the Menominee Constitution and Bylaws was developed by the Menominee Restoration Committee and ratified on November 12, 1977.
- 2) Amendments to the Menominee Constitution and Bylaws (of 1977), were introduced and approved by a vote of the Menominee people May 21, 1990 through May 24, 1990.
(The four amendments are on record in the Office of the Menominee Tribal Chairperson)
- 3) A revision of the Menominee Constitution and Bylaws (of 1977), was approved by a vote of the Menominee people January 29, 1991 through January 30, 1991.
(The sixteen amendments are on record in the Office of the Menominee Tribal Chairperson)

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