



**MENOMINEE NATION
THE MENOMINEE TRIBAL LEGISLATURE
TRIBAL ORDINANCE 23- 71
AMENDMENT IN PART TO THE CODE OF MENOMINEE
INDIAN TRIBE OF WISCONSIN
CHAPTER 347 – “GAMING”**

FINAL APPROVAL:

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

Tribal Ordinance 23-71 is hereby enacted. Tribal Ordinance 23-71 hereby amends in part Chapter 347, “Gaming,” Section 347-36, of the Code of the Menominee Indian Tribe of Wisconsin, by removing:

Subsection 347-36 A (2) “If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or”

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, “Gaming” was **duly adopted** at a regular meeting of the Tribal Legislature held January 18, 2024, at which a quorum was present, by a vote of **8** for, **0** opposed, **0** abstentions and **0** absent.

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

A handwritten signature in blue ink, appearing to read "Gena Kakkak", is written over a horizontal line.

**GENA KAKKAK, CHAIRPERSON
MENOMINEE INDIAN TRIBE OF WISCONSIN**

A handwritten signature in blue ink, appearing to read "Spencer F. Gauthier", is written over a horizontal line.

**SPENCER F. GAUTHIER, SECRETARY
MENOMINEE INDIAN TRIBE OF WISCONSIN**

DATE: JANUARY 18, 2024



MEMORANDUM

To: Menominee Tribal Legislature
From: Forrest Gauthier, Assistant Tribal Attorney
And Lynelle John, Paralegal II - Legislation and Policy Emphasis
Date: December 5, 2023
Re: Chapter 347 Gaming - removal of subsection 347-36 A (2)

Attached is a clean copy and redline of the recommended changes.

November 30, 2023, this change was approved at the Governmental Affairs Committee and seeks to delete wording in Chapter 347-36 A (2) Tribal Code to coincide with language contained in CFR 502 which removed 502.14(b) therefore, request Legal to draft 1st consideration to MTL.

On November 8, 2023, the Menominee Tribal Gaming Commission passed a Motion to approve the changes to Chapter 347-36 A (2) and forward this to Governmental Affairs committee for consideration.

On September 14, 2023 National Indian Gaming Commission (NIGC) issued a final ruling on changes in the Federal Register. One area that changed was Part 502-14, where NIGC revised the following by removing this definition: "If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year".

If you have any additional questions or concerns to the above referenced ordinance, please do not hesitate to contact Forrest Gauthier at fgauthier@mitw.org or at (715) 799-5194. Or Lynelle John at lrjohn@mitw.org or at 715-799-5256.

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

§ 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)~~(2) 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 office 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: [Amended 5-2-2013 by Ord. No. 13-08]

"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 (18 U.S.C. § 1001)." [Amended 5-2-2013 by Ord. No. 13-08]
- (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 §347-36F(1). [Added 5-2-2013 by Ord. No. 13-08]
 - (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. [Added 5-2-2013 by Ord. No. 13-08]
 - (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 course 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 chapter, 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. [Amended 1-5-2012 by Ord. No. 11-32]
- 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. [Amended 1-5-2012 by Ord. No. 11-32]

- (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 § 347-36C(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 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.
 - [d] Every felony of which the applicant has been convicted or any ongoing prosecution.
 - [e] A copy of the eligibility determination made under § 347-36D.
- 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 G(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. [Added 5-2-2013 by Ord. No. 13-08]
- (5) The gaming operation shall not employ a key employee or primary management official who does not have a license after 90 days. [Added 5-2-2013 by Ord. No. 13-08]
- (6) If the Tribe does not license an applicant: [Added 5-2-2013 by Ord. No. 13-08]
 - (a) The Tribe shall notify the National Indian Gaming Commission; and
 - (b) Shall forward copies of its eligibility determination and notice of results, under § 347-36E 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: [Added 5-2-2013 by Ord. No. 13-08]
 - (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 Subsection **G(1)** of this subsection. [Amended 5-2-2013 by Ord. No. 13-08]

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

§ 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, 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 office 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: [Amended 5-2-2013 by Ord. No. 13-08]

"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 (18 U.S.C. § 1001)." [Amended 5-2-2013 by Ord. No. 13-08]
- (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 § 347-36F(1). [Added 5-2-2013 by Ord. No. 13-08]
 - (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. [Added 5-2-2013 by Ord. No. 13-08]
- (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 chapter, 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. [Amended 1-5-2012 by Ord. No. 11-32]
- 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. [Amended 1-5-2012 by Ord. No. 11-32]

- (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 § 347-36C(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 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.
 - [d] Every felony of which the applicant has been convicted or any ongoing prosecution.
 - [e] A copy of the eligibility determination made under § 347-36D.
- 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 G(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. [Added 5-2-2013 by Ord. No. 13-08]
- (5) The gaming operation shall not employ a key employee or primary management official who does not have a license after 90 days. [Added 5-2-2013 by Ord. No. 13-08]
- (6) If the Tribe does not license an applicant: [Added 5-2-2013 by Ord. No. 13-08]
 - (a) The Tribe shall notify the National Indian Gaming Commission; and
 - (b) Shall forward copies of its eligibility determination and notice of results, under § 347-36E 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: [Added 5-2-2013 by Ord. No. 13-08]
 - (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 Subsection G(1) of this subsection. [Amended 5-2-2013 by Ord. No. 13-08]