

**BY-LAWS**  
**OF**  
**ERIE COUNTY GAMING REVENUE AUTHORITY**

ARTICLE I

OFFICES AND FISCAL YEAR

**Section 1.01. *Registered Office.*** The registered office of the Erie County Gaming Revenue Authority (hereinafter referred to as "the Authority") shall be at 140 West 6<sup>th</sup> Street, Room 503, Erie, PA 16501-1081.

**Section 1.02. *Fiscal Year.*** The fiscal year of the Authority shall begin on the first day of April in each year.

**Section 1.03. *Nondiscrimination.*** The Authority endorses a nondiscriminatory policy as to its operations such that the Authority shall operate without regard to race, color, religion, national origin or handicap.

ARTICLE II

MEMBERS OF THE AUTHORITY

**Section 2.01. *Powers.*** The members shall have full power to conduct, manage, and direct the business and affairs of the Authority; and all powers of the Authority are hereby granted to and vested in the Authority.

**Section 2.02. *Qualification and Selection.*** Qualification and selection of members to the Authority shall be pursuant to the Erie County Home Rule Charter, the Erie County Administrative Code, the Articles of Incorporation of the Authority, and the Pennsylvania Economic Development

Financing Law, Act of August 23, 1967, P.L. 251, as amended, 73 P.S. §371, et seq. (hereinafter referred to as the Pennsylvania Economic Development Financing Law).

**Section 2.03. *Number and Term of Office.*** The Authority shall consist of nine (9) members, one (1) resident from each of the seven (7) Council districts, who shall be appointed by the County Executive with the advice and consent of Erie County Council, the Chairman of County Council, or his designee and the County Executive, or his designee. Provided, the Chairman of County Council, or his designee and the County Executive, or his designee, shall serve as non-voting, ex-officio members. The initial term of office of each of the first appointed members of the Authority shall be determined by County Council with one (1) member serving for one (1) year, one (1) for two (2) years, two (2) for three (3) years, one (1) for four (4) years and two (2) for five (5) years, the aforementioned terms of office to commence on January 1, 2008. Members subsequently appointed to the Authority shall serve five (5) year terms. There shall be no prohibition against the reappointment of a member at the end of his or her term.

**Section 2.04. *Organization.*** The Authority shall organize within the first ten (10) days of April of each year. The Authority, at such organization meeting, shall elect from its membership, a Chairman and a Vice-chairman. The Chairman, or in the absence of the Chairman, the Vice-chairman, shall preside and vote at all meetings of the Authority. The members of the Authority shall elect from its membership such other officers as the membership deems necessary and appropriate to the conduct of Authority business.

**Section 2.05. *Resignations.*** Any member of the Authority may resign at any time by giving written notice to both the County Executive and the Chairman of County Council. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein and,

unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective.

**Section 2.06. *Vacancies.*** The County Executive, with the advice and consent of County Council may declare vacant the office of a member if he is declared of unsound mind by an order to court, or convicted of a felony, or for any other proper cause, or if within sixty (60) days after notice of his selection, he does not accept such office either in writing or by attending a meeting of the Authority.

Any vacancy or vacancies in the Authority because of death, resignation, removal in any manner, disqualification, or any other cause, may be filled, in the vacated County Council district, by the Erie County Executive with advice and consent of Erie County Council.

**Section 2.07. *Place of Meeting.*** Meetings of the Authority may be held at such place within or without Pennsylvania as the Authority may from time to time require, or as may be designated in the notice of the meeting.

**Section 2.08. *Regular Meetings.*** Regular meetings of the Authority shall be held at such time and place as designated by resolution of the Authority. If the date fixed for any such regular meeting is a legal holiday under the laws of the State where such meeting is to be held, then the same shall be held on the next succeeding business day, not a Saturday, or at such other time as may be determined by resolution of the Authority. At such meetings, the Authority shall transact such business as may properly be brought before the meeting. Notice of regular meetings shall be given in accordance with the law and as required by these by-laws. All meetings shall be held in compliance with the State of Pennsylvania Sunshine Law, 65 P.A.C.S.A. §701 et seq. (hereinafter referred to as Pennsylvania Sunshine Law).

**Section 2.09. *Special Meetings.*** Special meetings of the Authority shall be held whenever called by the Chairman of the Authority or by three (3) or more members of the Authority. Members of the Authority shall be notified of any special meeting at least five (5) days before the day on which the meeting is held or, in the case of an emergency, by telephone or electronic mail at least twenty four (24) hours before the day on which the meeting is held. Notice of special meetings shall be given in accordance with the law and as required by these by-laws. All special meetings shall be held in compliance with the State of Pennsylvania Sunshine Law.

**Section 2.10. *Annual Meeting.*** The Authority shall meet annually within the first ten (10) days of April of each year, to elect a Chairman, Vice-chairman and such other officers as the membership deems necessary and appropriate to the conduct of Authority business. Further, the Authority shall approve an annual report, prepared and submitted pursuant to Section 6.04 of these by-laws.

**Section 2.11. *Quorum, Manner of Acting and Adjournment.*** Except as otherwise provided in Section 2.09 of this Article, a majority of voting members shall be present at each meeting in order to constitute a quorum for the transaction of business. Every member shall be entitled to one vote, with the exception of ex officio members. Except as otherwise specified in the articles or these by-laws or provided by statute, the acts of a majority of the members present at a meeting at which a quorum is present shall be the acts of the Authority. In the absence of a quorum, a majority of the members present and voting may adjourn the meeting from time to time until a quorum is present. The members shall act only as an Authority and the individual members shall have no power as such, except that any action which may be taken at a meeting of the Authority may be taken without a meeting, if a consent or consents in writing setting forth the action so taken shall be signed by all of the members in office and shall be filed with the secretary of the Authority.

**Section 2.12. *Interested Members or Officers.*** The members of the Authority and its employees shall, as a condition of their appointment or employment, comply with Article VI of the Erie County Administrative Code relating to Conflicts of Interest.

Members and Employees of the Authority shall fulfill the responsibilities of public office, render dedicated service, give fair and equal treatment in all matters, avoid conflicts of interest; and shall not engage in incompatible employment, nor have undisclosed County contracts or legislation; and shall avoid the appearance of impropriety. Any Authority member or employee, or instrumentality; who has any financial interest, direct or indirect, in any proposed or actual contract with the Authority or its agencies, authorities and instrumentalities, in any action pending before County Council or before any County agency or instrumentality, or in the sale or lease to or by the County or its agencies, authorities, and instrumentalities of any service or of any real or personal property, shall be considered to have a conflict of interest.

**Section 2.13. *Fees.*** Members shall serve without compensation for services rendered on behalf of the Authority.

### ARTICLE III

#### NOTICE-WAIVERS-MEETINGS

**Section 3.01. *Notice.*** Whenever written notice is required to be given to any person under the provisions of the articles, these by-laws, or the Economic Development Financing Law, it may be given to such person, either personally via telephone or electronic transmittal or by sending a copy thereof by first class mail, postage prepaid, to his address supplied by him to the Authority for the purpose of notice. If the notice is sent by mail, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail for transmission to such person. A notice of

meeting shall specify the place, day and hour of the meeting and any other information required by law or these by-laws, and shall comply with the Pennsylvania Sunshine Law.

When a meeting is adjourned, it shall not be necessary to give any notice of the adjourned meeting or of the business to be transacted at an adjourned meeting, other than by announcement at the meeting at which such adjournment is taken.

**Section 3.02. *Waiver of Notice.*** Whenever any written notice is required to be given under the provisions of the articles, these by-laws, the Pennsylvania Sunshine Law or the Pennsylvania Economic Development Financing Law, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Except as otherwise required by Section 6.06 of these by-laws, neither the business to be transacted at nor the purpose of a meeting need be specified in the waiver of notice of such meeting.

Attendance of a person at any meeting shall constitute a waiver of notice of such meeting, except where a person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.

#### ARTICLE IV

#### OFFICERS

**Section 4.01. *Number, Qualifications and Designation.*** The officers of the Authority shall be a Chairman, a Vice-chairman, a Secretary, a Treasurer, and such other officers as may be elected in accordance with the provisions of Section 4.03 of this Article. Any number of offices may be held by the same person. Officers shall be members of the Authority.

**Section 4.02. *Election and Term of Office.*** The officers of the Authority, except those elected by delegated authority pursuant to Section 4.03 of this Article, shall be elected annually by the

Authority, and each such officer shall hold his office until the next annual organization meeting of the Authority and until his successor shall have been elected and qualified, or until his earlier death, resignation, or removal.

**Section 4.03. *Subordinate Officers, Committees and Agents.*** The Authority may from time to time elect such other officers and appoint such committees and employees as the business of the Authority may require, including one or more assistant secretaries, and one or more assistant treasurers, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these by-laws, or as the Authority may from time to time determine. The Authority may delegate to any officer or committee the power to elect subordinate officers and to retain or appoint employees, or committees thereof, and to prescribe the Authority and duties of such subordinate officers, committees, employees.

**Section 4.04. *Resignations.*** Any officer may resign at any time by giving written notice to the Authority, or to the Chairman or the secretary of the Authority. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 4.05. *Removal.*** Any officer may be removed "for cause" in accordance with Article III, Section 51 of the Home Rule Charter, these by-laws and the law generally.

**Section 4.06. *Vacancies.*** A vacancy in any office because of death, resignation, removal, disqualification, or any other cause, shall be filled by the Authority or by the officer or committee to which the power to fill such office has been delegated pursuant to Section 4.03 of this Article, as the case may be, and if the office is one for which these by-laws prescribe a term, shall be filled for the unexpired portion of the term.

**Section 4.07. *General Powers.*** All officers of the Authority, as between themselves and the Authority, shall respectively have such authority and perform such duties in the management of the property and affairs of the Authority as may be determined by resolution or orders of the Authority, or, in the absence of controlling provisions in resolutions or orders of the Authority, as may be provided in these by-laws.

**Section 4.08. *The Chairman.*** The Chairman shall be the chief executive officer of the Authority and shall have general supervision over the activities and operations of the Authority, subject, however, to the control of the Authority. The Chairman shall sign, execute and acknowledge, in the name of the Authority, bonds, contracts or other instruments, authorized by the Authority except in cases where the signing and execution thereof shall be expressly delegated by the Authority, or by these by-laws, to some other officer of the Authority; and in general, shall perform all duties incident to the office of Chairman, and such other duties as from time to time may be assigned to him by the Authority.

**Section 4.09. *The Vice Chairman.*** The vice chairman shall perform the duties of the Chairman in his absence and such other duties as may from time to time be assigned to him by the Authority or the Chairman.

**Section 4.10. *The Secretary.*** The secretary shall attend all meetings of the Authority, record all the votes of the members and the minutes of the meetings of the Authority and of committees of the Authority in a file or files to be kept for that purpose; shall see that notices are given and records and reports properly kept and filed by the Authority as required by law; and, in general shall perform all duties incident to the office of secretary, and such other duties as may from time to time be assigned to him by the Authority or the Chairman.

**Section 4.11. *The Treasurer.*** The Treasurer shall be the financial officer of the Authority and shall act as the financial liaison between the Erie County Finance Department and the Authority. The Erie County Finance Department shall provide for the custody of funds received of the State Gaming Fund and shall keep a separate bank account for such funds, shall collect, receive and deposit or provide for the collection, receipt and deposit such funds in federally insured banks approved by the Authority, shall, from time to time, or whenever so requested by the Authority render an account of the aforementioned bank account and, at the end of the Authority's fiscal year, if uncommitted gaming funds exist, pay to the uncommitted funds to the Authority in accordance with Section 1403(c)(2)(v) of the State Gaming Act. The Treasurer shall establish a separate bank account for "uncommitted" funds, shall collect and receive or provide for the collection and receipt of "uncommitted funds" and other monies earned by or in any manner due or received by the Authority, shall deposit all funds in such banks or other places of deposit as the Authority may from time to time designate, render an account with respect to the aforementioned bank account, communicate directly with the County Finance Department and report monthly on the financial condition of the Authority.

On or before June 1st of each year, the Treasurer and Director of Finance shall submit audited financial statements to the Authority.

## ARTICLE V

### LIMITATION OF PERSONAL LIABILITY OF MEMBERS;

#### INDEMNIFICATION OF MEMBERS, OFFICERS

#### AND OTHER AUTHORIZED REPRESENTATIVES

**Section 5.01. *Limitation of Personal Liability of Members.*** A member of the Authority shall not be personally liable for monetary damages as such for any action taken, or any failure to take any action, unless:

(a) the member has breached or failed to perform the duties of his or her office as defined in Section 5.02 below; and

(b) the breach or failure to perform constitutes self dealing, willful misconduct or recklessness.

The provisions of this Section shall not apply to (a) the responsibility or liability of a member pursuant to any criminal statute; or (b) the liability of a member for the payment of taxes pursuant to local, state or federal law.

**Section 5.02. *Standard of Care and Justifiable Reliance.***

(a) A member of the Authority shall stand in a fiduciary relationship to the Authority, and shall perform his or her duties as a member, including his or her duties as a member of any committee of the Authority upon which he or she may serve, in good faith, in a manner he or she reasonably believes to be in the best interests of the Authority, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his or her duties, a member shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(i) One or more officers or employees of the Authority whom the member reasonably believes to be reliable and competent in the matters presented;

(ii) Counsel, public accountants or other persons as to matters which the member reasonably believes to be within the professional or expert competence of such person;

(iii) A committee of the Authority upon which he or she does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the member reasonably believes to merit confidence. A member shall not be considered to be acting in

good faith if he or she has knowledge concerning the matter in question that would cause his or her reliance to be unwarranted.

(b) In discharging the duties of their respective positions, the Authority, committees of the Authority and individual members may, in considering the best interest of the Authority, consider the effects of any action upon employees, upon persons with whom the Authority has business and other relations and upon communities which the offices or other establishments of or related to the Authority are located, and all other pertinent factors. The consideration of those factors shall not constitute a violation of subsection (a) of this Section.

(c) Absent breach of fiduciary duty, lack of good faith or self-dealing, actions taken as a member or any failure to take any action shall be presumed to be in the best interests of the Authority.

**Section 5.03. *Indemnification in Third Party Proceedings.*** The authority shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Authority) by reason of the fact that he or she is or was a representative of the Authority, or is or was serving at the request of the Authority as a representative of another authority, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the Authority, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person did not act

in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interests of the Authority, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

**Section 5.04. *Indemnification in Derivative Actions.*** The Authority shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Authority to procure a judgment in its favor by reason of the fact that he or she is or was a representative of the Authority, or is or was serving at the request of the Authority as a representative of another authority, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interest of the Authority and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the Authority unless and only to the extent that the Court of Common Pleas of Erie County or the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Common Pleas or such other court shall deem proper.

**Section 5.05. *Mandatory Indemnification.*** Notwithstanding any contrary provision of the articles of incorporation or these by-laws, to the extent that a representative of the Authority has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in either Section 5.03 or Section 5.04 above, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

**Section 5.06. *Determination of Entitlement to Indemnification.*** Unless ordered by a court, any indemnification under Section 5.03 or 5.04 above shall be made by the Authority only as authorized in the specific case upon determination that indemnification of the representative is proper in the circumstances because he or she has met the applicable standard of conduct set forth in such paragraph. Such determination shall be made:

(a) by the Authority by a majority vote of a quorum consisting of members who were not parties to such action, suit or proceeding; or

(b) if such a quorum is not obtainable, or, even if obtainable, a majority vote of a quorum of disinterested members so directs, by independent legal counsel in a written opinion.

**Section 5.07. *Advancing Expenses.*** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Authority in advance of the final disposition of such action, suit or proceeding as authorized by the Authority in a specific case upon receipt of an undertaking by or on behalf of the representative to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Authority as authorized in paragraphs 1 through 3 above.

**Section 5.08. *Indemnification of Former Representatives.*** Each such indemnity shall continue as to a person who has ceased to be a representative of the Authority and shall inure to the benefit of the heirs, executors and administrators of such person.

**Section 5.09. *Insurance.*** The Authority shall insure it, its employees and its members. Those named shall be insured under the Erie County Policy of Insurance.

**Section 5.10. *Reliance on Provision.*** Each person who acts as an authorized representative of the Authority shall be deemed to be doing so in reliance upon the rights of indemnification provided by this Article.

## ARTICLE VI

## MISCELLANEOUS

**Section 6.01. *Checks.*** All checks, notes, bills of exchange or other orders in writing shall be signed by the Treasurer, her designee or by such other member of the Authority as the Authority by Resolution may from time to time designate.

**Section 6.02. *Contracts.*** Except as otherwise provided in these by-laws, the Authority may authorize the Chairman of the Authority to enter into any contract or to execute or deliver any instrument on behalf of the Authority.

**Section 6.03. *Deposits.*** All funds of the Authority shall be deposited from time to time to the credit of the Authority in such banks, trust companies, or other depositories as the Authority may approve or designate.

**Section 6.04. *Annual Report of the Authority.*** The Authority shall direct the Chairman and Treasurer to present at the annual meeting of the Authority a report showing in appropriate detail the following:

(1) The status of Approved Projects of the Authority as of the end of the fiscal year immediately preceding the date of the report. The report shall include, but shall not be limited to, the current status of development milestones as well as a budget to actual analysis per project.

(2) Case Flow Statements for the Restricted Gaming Fund and the Uncommitted Fund.

(3) The revenue of the Authority, restricted to particular purposes, for the year immediately preceding the date of the report, including separate data with respect to each project fund held by or for the Authority.

(4) The expenses or disbursements of the Authority, for both general and restricted purposes, during the year immediately preceding the date of the report, including separate data with respect to each project fund held by or for the Authority.

The annual report of the Authority shall be filed with the minutes of the annual meeting of the Authority and shall be submitted to the County Executive and County Council not later than June 1<sup>st</sup> of each year.

**Section 6.05. *Amendment of By-Laws.*** These by-laws may be amended or repealed, or new by-laws may be adopted, by five (5) affirmative votes of the voting members in office at any regular or special meeting. Such proposed amendment, repeal or new by-laws, or a summary thereof, shall be set forth in any notice of such meeting, whether regular or special.

#### *CERTIFICATION*

The undersigned Secretary of the Authority certifies that these by-laws were duly amended and adopted on April 23, 2009.

Secretary