Skokomish Indian Tribe

ORIGINAL

Tribal Center (360) 426-4232

N. 80 Tribal Center Road FAX (360) 877-5943 Skokomish Nation, WA 98584

SKOKOMISH TRIBAL COUNCIL
RESOLUTION NO. 2015-082

A RESOLUTION TO APPROVE A MODIFICATION TO THE SKOKOMISH GAMING CODE AND TO AUTHORIZE SUBMISSION OF SUCH MODIFICATION TO THE NATIONAL INDIAN GAMING COMMISSION FOR REVIEW AND APPROVAL.

WHEREAS, the Skokomish Indian Tribe is a federally recognized Indian tribe organized under its Constitution and by-laws first adopted on April 2, 1938, and approved by the Secretary of the Interior May 3, 1938, amended January 15, 1980, as approved by the Secretary of the Interior March 17, 1980; and

WHEREAS, the Skokomish Tribal Council is the governing body of the Skokomish Indian Tribe, pursuant to Article IV, Section 1 of the Constitution of the Skokomish Indian Tribe; and

WHEREAS, the Skokomish Tribal Council, pursuant to the Constitution of the Skokomish Indian Tribe, has the authority under Article V, Sections 1(d), (e), (m), (q) to charter and regulate corporations, cooperatives, associations, special districts, educational and charitable institutions, political subdivisions, and other entities; to license and to regulate the conduct of business activities within the Tribe's jurisdiction; on behalf of the Tribe to consult, negotiate, and contract with agencies and officers of Federal, state, local, and tribal governments and with private persons and organizations; to provide services for the health, education, and welfare of all persons within the tribe's jurisdiction; and to take all actions which are necessary and proper for the exercise of the powers listed in Article V and any powers hereafter vested in the Tribal Council; and

WHEREAS, the Bureau of Indian Affairs on August 4, 2014 approved the Federal Charter of Incorporation for the Skokomish Indian Tribal Enterprise, Incorporated (hereinafter the, "Charter"), subject to ratification by the Skokomish Tribal Council; and

WHEREAS, the sitting members of the Skokomish Tribal Council in compliance with the Constitution and by-laws first adopted on April 2, 1938, and approved by the Secretary of the Interior May 3, 1938, amended January 15, 1980, as approved by the Secretary of the Interior March 17, 1980 and pursuant to Article IV, Section 1 and Article V, Section 1(d) ratified the Charter on August 6, 2014 by and through Resolution No. 2014-104; and

WHEREAS, the Skokomish Indian Tribal Enterprise, Incorporated is a legal entity wholly owned by the Skokomish Indian Tribe pursuant to Article 4 of the Charter; and

WHEREAS, the Corporate Board for the Skokomish Indian Tribal Enterprise, Incorporated is comprised exclusively of the sitting members of the Skokomish Tribal Council pursuant to Article 10(A) of the Charter; and

WHEREAS, the Skokomish Indian Tribe on October 18, 1995 enacted the Skokomish Gaming Code (Resolution No. 95-103), and subsequent modifications thereto, in order to facilitate the operations and regulation of gaming on the Skokomish Reservation; and

WHEREAS, the Skokomish Gaming Ordinance and its modifications were previously submitted to the National Indian Gaming Commission for review, comment and approval; and

WHEREAS, the Skokomish Tribal Council transferred ownership and operations of the Lucky Dog Casino to the Skokomish Indian Tribal Enterprise, Incorporated; and

WHEREAS, to facilitate this transfer the Skokomish Tribal Council recommends modifying the Skokomish Gaming Ordinance as is shown in the attached red-lined copy of the Skokomish Tribal Gaming Code and as contained in the following sections thereof:

> Section 4.02.065 (b)(i) at page 33; Section 4.02.065(j) at page 36; Section 4.02.066 (b), (c), (d), (e) at page 37 (*which results in renumbering the rest of criteria list currently in place under this section*); Section 4.02.66 (i), at page 38; Section 4.02.071(b) and (i) at page 40 and page 41; and Section 4.02.110 at page 60 and page 61.

WHEREAS, the Skokomish Legal Department has vetted these modifications thoroughly with the National Indian Gaming Commission ("NIGC") over the last six months, resulting in three re-drafts and has received approval to submit for final review and acceptance by the NIGC; and

NOW, THEREFORE, BE IT RESOLVED that the Skokomish Tribal Council hereby approves and adopts the modification by amendment as set forth in the attached Skokomish Gaming Code, subject to its submission to the NIGC for approval pursuant to 25 U.S.C. § 2712, with the effect of the modification not commencing until approval is granted by the NIGC.

CERTIFICATION

I, Chairperson of the Skokomish Tribal Council, do hereby certify that the foregoing Resolution No. 2015-082, was adopted at a regular meeting held on June 10, 2015 at which time a quorum was present with a vote of 6 FOR, 0 AGAINST, 0 ABSTAINING.

ATTEST:

Chairperson
Skokomish Tribal Council

Secretary
Skokomish Tribal Council

FACSIMILE TRANSMITTAL SHEET

TO: Earle D. Lees

FROM: Esther Dittler, Staff Attorney

COMPANY:

DATE: 9/8/15

FAX NUMBER: (360) 877-5943

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RE: Skokomish Indian Tribe Gaming Code Amendment

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

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September 8, 2015

Earle D. Lees, Esq.
Skokomish Indian Tribe
N. 80 Tribal Center Road
Skokomish Nation, WA 98584
Fax: (360) 877-5943

Re: Skokomish Indian Tribe Gaming Code Amendment

Dear Mr. Lees:

This letter responds to your request on behalf of the Skokomish Indian Tribe for the National Indian Gaming Commission to review and approve the Tribe's amendment to its Gaming Code. The amendment was adopted by the Skokomish Tribal Council in Resolution No. 2015-082 on June 10, 2015. The Gaming Code was amended to reflect the Skokomish Tribal Council's decision to transfer ownership and operations of the Lucky Dog Casino to the Skokomish Indian Tribal Enterprise, Inc. Thank you for bringing the amendment to my attention.

The amendment is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations. If you have any questions or require anything further, please contact Staff Attorney Esther Dittler at (202) 420-9229.

Sincerely,

Jonodev O. Chaudhuri
Chairman

NEW MAILING ADDRESS: NIGC/DEPARTMENT OF THE INTERIOR 1849 C Street NW, Mail Stop # 1621 Washington, DC 20240 Tel: 202.632.7003 Fax: 202.632.7066
REGIONAL OFFICES Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa OK; Oklahoma City, OK
WWW.NIGC.GOV

SKOKOMISH GAMING CODE

A law to authorize, license and regulate Gaming within the jurisdiction of the Skokomish Indian Tribe of Washington.

Adopted by Resolution No. 95-103 (October 18, 1995)
Amended by Resolution No. 96-12 (February 28, 1996)
Amended by Resolution No. 00-51 (May 18, 2000)
Amended by Resolution No. 01-63 (May 16, 2001)
Amended by Resolution No. 01-64 (May 16, 2001)
Amended by Resolution No. 01-132 (October 18, 2001)
Amended by Resolution No. 02-153 (December 11, 2002)
Amended by Resolution No. 04-96 (July 28, 2004)
Amended by Resolution No. 05-20 (February 16, 2005)
Amended by Resolution No. 06-63 (June 7, 2006)
Revised and Restated by Resolution No. 07-144 (October 31, 2007)
Amended by Resolution No. 07-153 (November 7, 2007)
Revised and Restated by Resolution No. 08-004 (January 14, 2008)
Amended by Resolution No. 09-136 (September 2, 2009)
Amended by Resolution No. 2011-115 (October 5, 2011)
Amended by Resolution No. 2012-040 (April 5, 2012)
Amended by Resolution No. 2015-082 (September 8, 2015)

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FINDINGS, PURPOSES AND POLICY

4.02.001 Findings

The Skokomish Tribal Council on behalf of the Skokomish Tribe finds that:

(a) Tribal regulation and control of Gaming Activity within the jurisdiction of the Skokomish Indian Tribe is essential for the protection of public health and welfare, and the interests of the Tribe and the residents of and visitors to the tribal community.

(b) The Tribe has the legal authority to license and regulate all Gaming Activity, not specifically prohibited by federal law, within the jurisdiction of the Tribe.

(c) Properly licensed and regulated Gaming Activities conform to announced federal policy promoting Indian self-government and Indian tribal economic self-sufficiency.

(d) It is essential that the Tribe, through its Tribal Council, regulate Gaming in a manner commensurate with applicable federal and tribal law and policy.

(e) The present needs of the Tribe include increased employment, job and skills training, housing, quality health care, improved nutrition, educational opportunities, social services, law and order, public safety and judiciary, and community and economic development; needs that are not adequately addressed by present tribal, federal and state programs.

(f) Tribal operation and licensing of Gaming Activities on the Reservation are appropriate means of generating revenue to address the needs of the Tribe.

(g) The Tribe is vigorously pursuing its goal of self-sufficiency and self-determination through the development of tribal businesses and enterprises. Because the Skokomish Reservation lacks income-generating natural resources and because the Tribe's tax base is almost non-existent, the Tribe must rely on tribal business development to raise the funds necessary to expand its social, health, and education programs, increase employment and improve its on-reservation economy. This effort has recently become increasingly important as a result of cutbacks in federal and state funding and the increased costs of self-government. It is therefore essential that the Tribe develop new and expanded sources of revenue to support its ever-increasing governmental needs and to provide much needed employment and training for tribal members.

(h) As a result, the following new and expanded Gaming law is in the best interest of the Skokomish Indian Tribe.

4.02.002 Purposes

The purposes of this Code are to:

(a) Regulate, control, and license the operation of all Gaming within the jurisdiction of the Tribe.

(b) Make clear and explicit that a tribal license to operate a Gaming Activity is a revocable privilege, not a right or property interest.

(c) Ensure that the operation of tribally regulated Gaming will continue as a means of generating tribal revenue.

(d) Ensure that tribally regulated Gaming is conducted fairly and honestly by both Gaming Operators and players and that it remain free from corrupt, incompetent, unconscionable and dishonest persons and practices.

(e) Promote and strengthen tribal economic development and self-determination and enhance employment opportunities for its members.

(f) Generate revenue to strengthen and improve tribal self-government and the provision of tribal governmental services.

(g) Ensure that all Gaming revenue is used for the benefit of the Tribe and the Reservation community.

(h) Ensure that tribal Gaming laws are strictly and fairly enforced against all persons involved in Gaming Activities within the jurisdiction of the Tribe.

(i) Ensure that the Tribe provides a fair and impartial forum for the resolution of Gaming disputes.

4.02.003 Tribal Policy of Self-Government

The Tribe is firmly committed to the principle of tribal self-government. Consistent with federal policy, tribal government provides a wide range of public services on the Reservation, including general governmental services, maintenance of peace and good order, establishment of educational systems and programs, and promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

4.02.004 Tribal Gaming Policy

The establishment, promotion, and operation of Gaming is necessary and desirable, provided that such Gaming is regulated and controlled by the Tribe pursuant to tribal and federal law and any tribal-state Gaming Compact entered into pursuant to the Indian Gaming Regulatory Act, and that all proceeds of such Gaming are used for the benefit of the Tribe as required by the Indian Gaming Regulatory Act and tribal law. When operated in accordance with the provisions of this Code, such Gaming will be conducive to the general welfare of all residents of the Reservation.

4.02.005 Definitions

Under this Code, except where otherwise specifically provided or where the context otherwise requires, the following terms and expressions shall have the following meanings:

(a) “Adoption” means the date listed on the rulemaking order of Adoption.

(b) "Adjusted Gross Proceeds" means gross proceeds less all cash prizes or the aggregate price of merchandise prizes, except in the case of the games of draw poker and stud poker. Regarding games of draw poker and stud poker, "Adjusted Gross Proceeds" means the time buy-ins or tournament fees collected by the Gaming Operator.

(c) “Amendment” means an action that changes the language of an existing rule.

(d) “Charitable Gaming Ticket” means any game piece used in the play of a paper pull-tab game, or jar ticket game, or raffle.

(e) "Cheating" means operating or playing in any game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for oneself or someone in privity with one an advantage over and above the chance of the game.

(f) "Code" means this Code, the Skokomish Gaming Code, as now or hereafter amended.

(g) "Compact" means the Class III Gaming Compact between the Tribe and the State of Washington, entered into May 25, 1995 as authorized by the Indian Gaming Regulatory Act (IGRA), and its amendments.

(h) "Compensation" means all wages, salaries, bonuses, and all other forms of remuneration for services rendered.

(i) “Continuance” means an extension of a hearing date or a rule’s Adoption date.

(j) “Council" or "Tribal Council" means the governing body of the Skokomish Indian Tribe.

(k) “Days” means calendar days.

(l) “Director” means the Director of the Tribal Gaming Agency.

(m) "Educational, charitable, patriotic, veteran's, fraternal, religious, civic, or public-spirited uses" are:

(i) Uses benefiting an indefinite number of people by bringing them under the influence of educational or cultural programs.

(ii) Uses otherwise lessening the burden of tribal government.

(iii) Uses benefiting one or more persons suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense that is uncompensated by insurance.

(iv) Uses for community service projects that promote the common good, enhance the social and economic welfare of the community, and benefit an indefinite number of people.

(n) “Effective date” means the date a rule goes into operation.

(o) "Electronic Games of Chance" means electronic games featuring coin drop and payout as well as printed tabulations, whereby the software of the device predetermined the presence or lack of a wining combination and payout. Electronic Games of Chance are microprocessor controlled electronic devices which allow a player to play games of chance, which may be affected by an element of skill, activated by the insertion of a coin or currency, or by the use of a credit, and awards game credits, cash, tokens, or replays, or a written statement of the player's accumulated credits, which written statements are redeemable for cash.

(p) "Eligible organization" means any nonprofit organization operated for educational, charitable, patriotic, veterans, fraternal, religious, civic, or public-spirited uses, or for the relief of poverty, distress, or other condition on the Skokomish Reservation.

(q) “Emergency rule” means a rule passed in an expedited manner in accordance with this Code.

(r) "Equipment for games of chance." See "Gaming Apparatus."

(s) “Filing” means the process of submitting documents to the Skokomish Tribal Gaming Commission.

(t) “Final rule” means the final version of a Rule crafted after a Public hearing and consideration of all submitted comments.

(u) "Game" or "game of chance" means any activity which falls within the broad definition of Gaming or Gaming Activity.

(v) "Gaming Employee" means any natural person employed in the operation or management of each Gaming Activity or Operation, whether employed by or contracted to the Tribe or by any person or enterprise providing on or off-site services to the Tribe within or without the Gaming Facility regarding any Gaming Activity or Operation, including, but not limited to, Gaming Operation managers and assistant managers; accounting personnel; cashier supervisors; dealers or croupiers; box men; floormen; pit bosses; shift bosses; cage personnel; collection personnel; Gaming consultants, management companies and their principals; and any other natural person whose employment duties require or authorize access to restricted areas of each Gaming Activity or Operation not otherwise open to the public.

(w) "Gaming" or "Gaming Activity" means any activity, operation or game in which valuable consideration is wagered upon the outcome determined in whole or in part by chance, skill, speed, strength, or endurance or any combination of strength or endurance, and in which something of value is awarded to a person or persons so wagering, and any activity in furtherance thereof, including owning, financing, managing, participating in, conducting, or assisting in any way in any such activity at the site at which it is being conducted, directly or indirectly, whether at the site in person or off the Reservation.

(x) "Gaming Apparatus" or "Equipment" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any Gaming Activity, whether or not specifically designed for the purpose, but excluding tables and chairs normally used in the occupancy of any Gaming Facility.

(y) "Gaming Facility" means any location or structure, stationary or movable, where Gaming is permitted, promoted, performed, conducted, or operated. Gaming Facility does not include the site of a fair, carnival, exposition, or similar occasion.

(z) "Gaming Operator" means a person who has obtained a Gaming License under this Code or who is otherwise permitted by this Code to perform, promote, conduct, or operate any Gaming Activity on Indian Lands.

(aa) "Gross proceeds" means any money collected or received from any Gaming Activity.

(bb) “Housekeeping rule” means a rule that corrects typographical, grammatical, gender, or spelling errors, or changes the format of a rule.

(cc) "Indian Gaming Regulatory Act" or "IGRA" means Public Law 100-497, 102 Stat. 2426, 25 U.S.C. §§2701, et. seq. (1988), as amended.

(dd) "Immediate Family" means, with respect to the person under consideration, a spouse, father, mother, son, daughter, brother, or sister.

(ee) "Indian Lands" means lands as defined by 25 U.S.C. §2703(4) “Skokomish Tribal Lands” has the same meaning as Indian Lands under this Code.

(ff) "IRS" means the United States Internal Revenue Service.

(gg) "Key employee" means a person who performs one or more of the following functions:

(i) Bingo caller;

(ii) Counting room supervisor;

(iii) Chief of security;

(iv) Custodian of Gaming supplies or cash;

(v) Floor manager;

(vi) Pit boss;

(vii) Dealer;

(viii) Croupier;

(ix) Approver of credit;

(x) Custodian of Gaming Apparatus or Equipment including persons with access to cash and accounting records within such devices;

If not otherwise included, any other person whose total cash compensation derived from Gaming subject to this Code is in excess of $50,000 per year; or, If not otherwise included, the four most highly compensated persons in the Gaming Operation.

(hh) “Law” or “Statute” means a statement by a legislative body or court that must be obeyed and followed, specifically the laws of the Tribe and, only to the extent they are binding and applicable, the laws of the State of Washington and the United States.

(ii) "License" means any official, legal, and revocable permission granted by the Commission pursuant to this Code to an applicant to conduct any Gaming Activity on Indian Lands.

(jj) “Licensee” means the holder of, or applicant for, a License.

(kk) "Lotto" means a form of Gaming in which all or a part of the proceeds derived from the sale of tickets or chances are pooled and such proceeds are allotted by chance to one or more chance takers or ticket purchasers. The amount of cash prizes or winnings is determined by the Gaming Operator conducting the "lottery" and a progressive pool is permitted.

(ll) “NIGC” means the National Indian Gaming Commission.

(mm) "Net revenues" means Gross Gaming Revenue of the tribal Gaming Operation less amounts paid out as, or paid for prizes and total Gaming related operating expenses, excluding management fees.

(nn) “Notice of Proposed Rulemaking” means a published notice that informs the public of the specific purpose of the proposed rule, the language of the proposed rule, and notice of the public hearing and comment period.

(oo) "Participate" in any Gaming Activity means to operate, direct, finance, or in any way assist in the establishment or operation of any class of Gaming or any site at which such Gaming is being conducted, directly or indirectly, whether at the site in person or off the Reservation.

(pp) "Person" means any individual, partnership, joint venture, corporation, joint stock company, company, firm, association, trust, estate, club, business trust, municipal corporation, society, receiver, assignee, trustee in bankruptcy, political entity, and any owner, director, officer, or employee of any such entity, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, the government of the Tribe, any governmental entity of the Tribe, or any of the above listed forms of business entities that are wholly owned or operated by the Tribe; provided, however, that the term does not include the federal government and any agency thereof.

(qq) “Petition” means the process that an interested party follows when requesting the Adoption, Amendment, or abrogation of a Rule.

(rr) "Player" means a person participating in any game, but does not include a Gaming Operator.

(ss) "Primary Management Official" means

(i) The person having management responsibility for a management contract approved by the National Indian Gaming Commission; or

(ii) Any person who has authority:

(1) To hire and fire Gaming Employees; or

(2) To set up working policy for a Gaming Operation; or

(iii) The chief financial officer or other person who has financial management responsibility for a Gaming Activity.

(tt) "Principal" means with respect to any management contractor:

(i) each of its officers and directors;

(ii) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager;

(iii) each of its owners or partners, if it is an unincorporated business;

(iv) each of its shareholders who owns more than ten percent of the shares of the corporation, if a corporation; and

(v) each person other than a banking institution who has provided financing for the enterprise constituting more than ten percent of the total financing of the enterprise.

(uu) "Progressive Gaming" means any game in which a cash prize not being won by any player during any game is retained and further monetarily enhanced by the Gaming Operator or eligible organization and offered as a prize to players in the next game.

(vv) “Public Hearing and Comment Period” means the time period during which the public may comment on the Proposed Rule, and participate in the Rulemaking process.

(ww) “Publish” means posting the notice or other document at the offices of the Tribal Gaming Commission, and providing a copy of the notice or other document to the Office of the Tribal Attorney. An item shall not be considered published until it has been posted and received by the Office of the Tribal Attorney.

(xx) “Rule” means an agency order, directive or regulation that: (1) imposes a penalty on those who violate the Rule; or (2) establishes or revokes requirements or standards relating to a matter under the Skokomish Tribal Gaming Commission’s jurisdiction.

(yy) “Rulemaking” means the process used to develop, adopt, amend, or repeal a rule.

(zz) “Rulemaking Order of Adoption” means the notice that indicates the Skokomish Tribal Gaming Commission has Adopted a Rule, and provides the Rule’s language.

(aaa) “Skokomish Tribal Lands” *see* Indian Lands.

(bbb) “Supplemental notice” means a notice that informs interested parties that significant changes are being made to a Proposed Rule. It reopens the Rulemaking proceedings for additional Public comment on the substantive changes.

(ccc) "State" means the State of Washington.

(ddd) "Commission" means the Skokomish Tribal Gaming Commission described in this Code.

(eee) "Tribe" and "Tribal" refers to the Skokomish Indian Tribe of Washington, a federally recognized Indian tribe acting through the duly elected Tribal Council pursuant to the Tribal Constitution and Bylaws, unless the context clearly indicates a general meaning.

(fff) “Vendor” means any Person or enterprise that sells goods or services under this Code, and the employees and agents of that Person or enterprise.

(ggg) "Wager" means the bet made or consideration or value given by a player in any game.

(hhh) “WSGC” means the Washington State Gambling Commission

GENERAL PROVISIONS

4.02.006 Authority and Sovereign Powers and Responsibilities

This Code is enacted pursuant to the inherent sovereign powers of the Tribe and the powers expressly delegated to the Tribal Council by Article V of the Tribal Constitution.

4.02.007 Application of Federal Policy

In 1970, President Nixon announced the policy of the United States government to promote self-determination for Indian tribes. At the heart of this policy is a commitment by the federal government to foster and encourage tribal self-government, economic development, and self-sufficiency. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act, Public Law 93-638, 88 Stat. 2203, 25 U.S.C. §§450-450n. In 1983 President Reagan reaffirmed that commitment in his Indian policy statement, encouraged tribes to reduce their dependence on federal funds by generating more of their own revenues, and pledged to assist tribes in that endeavor.

In 1988 the federal commitment to promote tribal economic development, tribal self-sufficiency, and strong tribal government was expressly legislated in the Indian Gaming Regulatory Act ("IGRA"), Public Law 100-497, 102 Stat. 2426, 25 U.S.C. §§ 2701, et seq. (1988), which recognized the inherent sovereign right of tribes to operate and regulate on Indian Lands Gaming which is not specifically prohibited by federal law and is conducted within a state which does not, as a matter of criminal law and public policy, prohibit such Gaming, and provided a federal statutory basis for operation and regulation of Indian Gaming.

4.02.008 Skokomish Tribal Policy of Self-Government

The Tribe is firmly committed to the principle of tribal self-government. Consistent with federal policy, tribal government provides a wide range of public services on the Reservation, including general governmental services, the maintenance of peace and good order, the establishment of educational systems and programs, and the promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

4.02.009 Title, Repeal of Prior Laws, and Effect of Repeal

This Code may be cited as the Skokomish Gaming Code. The Code shall be appropriately inserted in the Skokomish Tribal Code.

All ordinances of the Tribe and all titles, chapters, and sections of the Tribal Code that pertain to Gaming and are in effect as of the effective date of this Code are hereby repealed, and all other tribal laws or parts thereof inconsistent with the provisions of this Code are hereby repealed.

Repeal of this Code or any portion thereof shall not have the effect of reviving any prior tribal law theretofore repealed or suspended.

4.02.010 Classes of Gaming

There are three classes of Gaming on Indian Lands under this Code:

(a) "Class I Gaming" means social Gaming 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.

(b) "Class II Gaming" means:

(i) The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith), which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of the card covers such numbers or designations when objects similarly numbered or designated are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played at the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo; and

(ii) All card games, including those pot and wager limits, operated by the Tribe prior to May 1, 1988; and

(iii) All non-banked card games explicitly authorized or not explicitly prohibited by the laws of the State and which are played at any location in the State, if played in conformity with State laws and regulations regarding hours or periods of operation of such card games or limitations on wagers or pot size in such card games.

(c) "Class III Gaming" means all forms of Gaming that are not Class I or Class II Gaming.

4.02.011 Construction

In construing the provisions of this Code, unless the context otherwise requires, the following rules shall apply:

(a) This Code shall be liberally construed to effect its purpose and to promote substantial justice.

(b) Words in the present tense include the future and past tenses.

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

(d) Words of the masculine gender or neuter include masculine and feminine genders and the neuter.

4.02.012 Severability

In the event that any section or provision of this Code is held invalid, it is the intent of the Tribal Council that the remaining sections or provisions of this Code shall continue in full force and effect.

TRIBAL GAMING COMMISSION

4.02.013 Establishment

The Tribe hereby charters, creates and establishes the Skokomish Tribal Gaming Commission as a governmental subdivision of the Tribe.

4.02.014 Purpose

The purpose of the Tribal Gaming Commission is regulatory in nature. The Commission will conduct oversight to ensure compliance with applicable tribal, federal and state law and regulation. The Commission will serve as the licensing authority for all Gaming facilities and operations, individuals employed in Gaming and persons doing business with Gaming facilities and operations within the jurisdiction of the Tribe. The Commission will monitor compliance with Internal Controls for all Gaming operations and have enforcement authority for all licensing and compliance matters under the Commission's jurisdiction within this Code.

4.02.015 Location and Place of Business

The Commission shall be a resident of and maintain its headquarters, principal place of business, and offices on the Skokomish Reservation. The Commission may, however, establish other places of business in such other locations as the Commission may from time to time determine to be in the best interest of the Tribe.

4.02.016 Duration

The Commission shall have perpetual existence and succession in its own name, unless dissolved by the Tribe pursuant to Tribal law.

4.02.017 Attributes

As a governmental subdivision of the Tribe, the Commission has been delegated the right to exercise one or more of the substantial governmental functions of the Tribe, including regulation of tribal Gaming pursuant to the IGRA and tribal law. It is the purpose and intent of the Tribe in creating the Commission that the operations of the Commission be conducted on behalf of the Tribe for the sole benefit and interests of the Tribe, its members, and the residents of the Reservation. In carrying out its purposes under this Code, the Commission shall function as an arm of the Tribe. Notwithstanding any authority delegated to the Commission under this Code, the Tribe reserves to itself the right to bring suit against any person or entity in its own right, on behalf of the Tribe or on behalf of the Commission, whenever the Tribe deems it necessary to protect the sovereignty, rights, and interests of the Tribe or the Commission.

4.02.018 Recognition as a Political Subdivision of the Tribe

The Tribe, on behalf of the Commission, shall take all necessary steps to acquire recognition of the Commission as a political subdivision of the Tribe, recognized by all branches of the United States Government as having been delegated the right to exercise one or more substantial governmental functions of the Tribe.

4.02.019 Sovereign Immunity of the Commission

The Commission is hereby clothed with all the privileges and immunities of the Tribe, except as specifically limited by this Title or other tribal law, including sovereign immunity from suit in any tribal, federal, or state court. Except as provided in Section 4.02.021, nothing in this Code nor any action of the Tribe or the Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Commission, or to be a consent of the Tribe or the Commission to the jurisdiction of the United States or of any state or any other tribe with regard to the business or affairs of the Tribe or the Commission to any cause of action, case, or controversy, or to the levy of any judgment, lien or attachment upon any property of the Tribe or the Commission, or to be a consent of the Tribe or the Commission to suit in respect to any Indian land, or to be a consent of the Tribe or the Commission to the alienation, attachment, or encumbrance of any such land.

4.02.020 Sovereign Immunity of the Tribe

All inherent sovereign rights of the Tribe as a federally recognized Indian tribe with respect to the existence and activities of the Commission are hereby expressly reserved, including sovereign immunity from suit in any tribal, federal or state court. Except as provided in Section 4.02.021, nothing in this Code nor any action of the Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribe, or to be a consent of the Tribe to the jurisdiction of the United States or of any state or of any other tribe with regard to the business or affairs of the Commission or the Tribe, or to be a consent of the Tribe to any cause of action, case, or controversy, or to the levy of any judgment, lien, or attachment upon any property of the Tribe, or to be a consent to suit in respect to any Indian land, or to be a consent to the alienation, attachment, or encumbrance of any such land.

4.02.021 Waiver of Sovereign Immunity of the Commission

Sovereign immunity of the Commission may be waived only by express resolutions of both the Commission and the Tribal Council after consultation with the Tribe's attorneys. All waivers of sovereign immunity must be preserved by resolution of the Commission and the Tribal Council of continuing force and effect. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Commission. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property, or funds, if any, of the Commission subject thereto, court having jurisdiction pursuant thereto, and law applicable thereto. Neither the power to sue and be sued provided in nor any express waiver of sovereign immunity by resolution of the Commission shall be deemed a consent to the levy of any judgment, lien, or attachment upon property of the Commission other than property specifically pledged or assigned, or a consent to suit in respect of any land within the exterior boundaries of the Reservation or a consent to the alienation, attachment, or encumbrance of any such land.

4.02.022 Credit of the Tribe or Commission

Nothing in this Code or any activity of the Commission shall implicate or any way involves the credit of the Tribe or the Commission.

4.02.023 Assets of the Commission

The Commission shall have only those assets specifically assigned to it by the Council or acquired in its name by the Tribe or by the Commission on its own behalf. No activity of the Commission or any indebtedness incurred by it shall implicate or in any way involve or affect any assets of tribal members or the Tribe not assigned in writing to the Commission.

4.02.024 Membership

(a) Number of Commissioners

The Commission shall be comprised of five Commissioners, who shall be appointed by the Tribal Council.

(b) Qualification of Commissioners

The majority of the Commissioners must be members of the Skokomish Indian Tribe. Commissioners must be over the age of 18.

(c) Background Check

Prior to the time that any Commission member takes office on the Commission, the Tribe shall perform or arrange to have performed a background check on each prospective member, consistent with the policies of the Skokomish Tribal Government. No person shall serve as a Commissioner if:

(i) His prior activities, criminal record, if any, or reputation, habits or associations:

(1) Pose a threat to the public interest; or

(2) Threaten the effective regulation and control of Gaming; or

(3) Enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of Gaming; or

(ii) He has been convicted of or entered a plea of *nolo contendere* to a felony or any Gaming offense in any jurisdiction or to a misdemeanor involving dishonesty or moral turpitude; or

(iv) He or any member of his immediate family has a financial interest in any Gaming activity or Facility; or

(v) A member of his immediate family is employed as a Primary Management Official or Key Employee of a Gaming Facility located on Skokomish Tribal Lands.

(d) Appointment of Commission

The Tribal Council shall appoint members to the Commission during the first regular Tribal Council meeting in November. The Council's appointment of any Commission member shall be by resolution

4.02.025 Commissioner Prohibitions

(a) No member of the Tribal Council may serve on the Commission.

(b) Commissioners are prohibited from Gaming at any Gaming Facility under the jurisdiction of the Tribe.

(c) Commissioners are prohibited from accepting complimentary items from the Gaming Operation.

4.02.026 Commissioner Required to Display Badge

Upon being appointed to the Commission and successful performance of a background check, a Commissioner shall be issued a badge which must be displayed on the Commissioner's person at all times when on Commission business or in the "back of the house" at the Gaming Facility. The Commissioner Badge shall display the Commissioner's name, term of Gaming Commission membership and clear indication that badge holder is a Commissioner.

4.02.027 Term of Office

(a) Each Commissioner shall serve a four year term, provided the first rotation shall have one appointed Commissioner with a two year term, two appointed Commissioners with three year terms and two appointed Commissioners with four year terms.

(b) The term of office of the Commission shall begin during the first official Commission meeting after the first regular Tribal Council meeting in November.

(c) No member of the Commission shall serve more than five terms

4.02.028 Meetings

(a) Regular Meetings. The Commission shall hold at least one regular monthly meeting.

(b) Special Meetings. Special meetings may be called at the request of the Tribal Council, the Chairman of the Commission or 3 or more members of the Commission.

(c) Compensation of Commissioners. An honorarium may be paid for attendance at each meeting.

(d) Quorum. A quorum for all meetings shall consist of two members and the Chairman or Acting Chairman.

(e) Voting. All questions arising in connection with the action of the Commission shall be decided by majority vote. The Chairman of the Commission shall only be entitled to vote to break a tie.

4.02.029 Organization

The Commission shall develop its own operating procedures and shall elect from within itself a Chairman to direct meetings, a reporter to be responsible for keeping Commission minutes and transmitting to the Tribal Council a copy of those minutes, handling correspondence and reporting Commission decisions, and such other officers as the Commission deems advisable.

4.02.030 Removal of Members or Vacancies

(a) Removal. A Commissioner may be removed by the Council for serious inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, misconduct in office, or for any conduct which threatens the honesty or integrity of the Commission or otherwise violates the letter or intent of this Code. Except as provided below, no Commissioner may be removed without notice and an opportunity for a hearing before the Council, and then only after the Commissioner has been given written notice of the specific charges at least ten days prior to such hearing. At any such hearing, the Commissioner shall have the opportunity to be heard in person or by counsel and to present witnesses on his behalf. If the Council determines that immediate removal of a Commissioner is necessary to protect the interests of the Tribe, the Council may immediately remove the Commissioner temporarily, and the question of permanent removal shall be determined thereafter pursuant to Commission hearing procedures. A written record of all removal proceedings together with the charges and findings thereon shall be kept by the Tribal Secretary. The decision of the Council upon the removal of a Commissioner shall be final.

(b) Vacancies. If any Commissioner shall die, resign, be removed, or for any reason be unable to serve as a Commissioner, the Council shall declare his position vacant and shall appoint another person to fill the position. The terms of office of each person appointed to replace an initial Commissioner shall be for the balance of any unexpired term for such position, provided, however, that any prospective appointee must meet the qualifications established by this Code.

4.02.031 Ethics

The Tribe recognizes that the duties of the Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that Commissioners shall be held to extremely high ethical standards. Prior to taking their positions on the Commission, Commissioners shall agree to be bound by the following principles:

(a) Commissioners shall not hold financial interests that conflict with the conscientious performance of their duties as regulators.

(b) 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.

(c) Commissioners shall not solicit or accept any gift or other item of monetary value, including complimentary items or services from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the Commissioner's organization, or whose interests may be substantially affected by the performance or nonperformance of the Commissioners' duties.

(d) Commissioners shall make no unauthorized commitments or promises of any kind purporting to bind the Tribe.

(e) Commissioners shall not use their positions for private gain.

(f) Commissioners shall act impartially, in accordance with all relevant and applicable Tribal, Federal and State laws, and shall not give preferential treatment to any private organization or individual, including any persons related to Commissioners.

(g) 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.

(h) Commissioners shall not engage in outside employment or activities which conflict with their official duties and responsibilities.

(i) Commissioners shall disclose waste, fraud, abuse and corruption to appropriate authorities.

(j) Commissioners shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.

(k) Commissioners shall disclose any real or apparent financial or personal conflicts. If there is a real conflict or the appearance of one, the member shall not take part in any decision related to the conflict.

4.02.032 Powers of the Commission

In furtherance, but not in limitation, of the Commission's purposes and responsibilities, and subject to any restrictions contained in this Code or other applicable law, the Commission shall have and is authorized to exercise by majority vote and through an issued resolution the following powers in addition to all powers already conferred by this Code:

(a) To regulate and inspect all Gaming activities, regulate and protect all Gaming assets within the jurisdiction of the Tribe.

(b) To promote the full and proper enforcement of this Code and other applicable law regarding Gaming Activities within the jurisdiction of the Tribe.

(c) To enact and enforce such rules and regulations regarding its activities and governing Commission internal affairs as the Commission may deem necessary and proper to effectuate the powers granted by this Code and the powers granted

and duties imposed by applicable law.

(d) To publish and distribute copies of this Code and Commission Rules and any Council, Commission, or Tribal Court decisions, including resolutions, regarding Gaming matters.

(e) To prepare and submit for Council approval proposals, including budget and monetary proposals, which could enable the Tribe to better carry forth the policies and intent of this Code.

(f) To work with the staff of any tribal department, program, project, or operation and to cooperate with the Tribal Council or any Council Committee in regard to Gaming issues.

(g) To make or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property of any Gaming Activity or Facility operating, or suspected of operating, within the jurisdiction of the Tribe. In undertaking such examination or investigation, the Commission may request the assistance of Commission staff, federal and local law enforcement officials, legal counsel, and other third parties.

(h) To make or cause to be made by its agents or employees, quarterly examination of the books, records, papers, vouchers, accounts, documents, and financial statements, including all expenses and revenues of any Gaming Activity or Facility operating within the jurisdiction of the Tribe, for the purpose of monitoring budget compliance. The Commission shall then report its quarterly findings, in writing, only to the Council. In undertaking such examination, the Commission may request the assistance of Commission staff and other third parties.

(i) To maintain and keep current a record of new developments in the area of Indian Gaming.

(j) To request the assistance of the Tribal Court or Tribal Appellate Court in conducting Gaming hearings, defining terms used in this Code or other tribal laws, or in any other matter in which the Commission deems such assistance to be necessary or proper.

(k) To consider any Gaming regulatory matter brought before it by any person, organization or business, and all regulatory matters referred to it by the Tribal Council.

(l) To obtain and publish a summary of federal revenue laws relating to Gaming and to insure compliance with the same.

(m) To arrange for training of Commission members, tribal employees and others in areas relating to the regulation of Gaming.

(n) Upon prior explicit written approval of the Council, to employ such advisors as it may deem necessary. Advisors may include, but shall not be limited to, law enforcement specialists and Gaming professionals, the Tribe's general or special counsel, and the Tribe's accountants.

(o) To promulgate rules and regulations to implement and further the provisions of this Code.

(p) To grant, revoke, suspend, restrict, expand, and approve or disapprove any application for any license under this Code..

(q) To consult with and make recommendations to the Tribal Council regarding changes in tribal Gaming laws and policies.

(r) To examine under oath, either orally or in writing, in hearings or otherwise, any person or agent, officer or employee of any person, or any other witness, with respect to any matters related to this Code, including enforcement of tribal Gaming laws, regulations, and policies, and to compel by subpoena the attendance of witnesses and the production of any books, records, and papers with respect thereto.

(s) When necessary or appropriate, to request the assistance and utilize the services of the courts, law enforcement and government officials and agencies, and private parties in exercising its powers and carrying out its responsibilities.

(t) To delegate to an individual member or members of the Commission or Commission staff, such of its functions as may be necessary to administer this Code efficiently; provided that the Commission may not re-delegate its power to exercise any substantial governmental function of the Tribe or its power to promulgate rules and regulations; and provided further that the Commission may not delegate to anyone the power to permanently revoke a tribal Gaming license.

(u) To permanently close, after notice and hearing, any game or games which are operating in violation of tribal law.

(v) To sue or be sued in courts of competent jurisdiction within the United States, subject to the provisions of this Code and other tribal laws relating to sovereign immunity; provided that no suit shall be brought by the Commission without the prior explicit written approval of the Tribal Council.

(w) To use the seal of the Tribe with the approval of the Tribal Council.

(x) To sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its personal property and assets. Real property is expressly excluded from this authority.

(y) With the prior permission of the Tribal Council, to borrow money and to make, accept, endorse, execute and issue bonds, debentures, promissory notes, guarantees, and other obligations of the Commission for moneys borrowed, or in payment for property acquired or for any of the purposes of the Commission and to secure payment of any obligations by secured interest, mortgage, pledge, deed, indenture, agreement, or other instrument of trust or by other lien upon, assignment of, or agreement in regard to all or any part of the property, rights, or privileges of the Commission.

(z) To arbitrate, compromise, negotiate, or settle any dispute to which it is a party relating to the Commission's authorized activities.

(aa) To enter into, make, perform, and carry out any agreement, partnership, joint venture contract, or other undertaking with any federal, state, or local governmental agency, tribe, person, partnership, corporation, or other association or entity for any lawful purpose pertaining to the business of the Commission or which is necessary or incidental to the accomplishment of the purposes of the Commission.

(bb) To exercise the tribal power to tax authorized by the Skokomish Tribal Constitution in accordance with a Tribal Council resolution delegating such power to the Commission and in accordance with this Code and other applicable law.

(cc) To purchase insurance from any stock or mutual company for any property, or against any risk or hazard.

(dd) To engage in any and all activities which directly or indirectly carry out the purposes of the Tribe as set forth in this Code.

(ee) With prior approval of the Tribal Council, to make application and accept grants and other awards from private and governmental sources in carrying out or furthering the purposes of the Commission or the Tribe.

(ff) To exercise all authority delegated to it or conferred upon it by law and to take all action which shall be reasonably necessary and proper for carrying into execution the foregoing powers and all of the powers vested in this Code as permitted by the purposes and powers herein stated and which are deemed to be in the best interests of the Tribe, exercising prudent management and good business judgment, all in compliance with applicable law.

(gg) To establish and maintain such bank accounts as may be necessary or convenient.

(hh) To require by regulation the filing of any records, forms, and reports and all other information desired by the Council for implementation of this Code relating to any Gaming Activity or operation or any investigation as required by tribal law and the IGRA.

(ii) To provide for an internal system of recordkeeping with adequate safeguards for preserving confidentiality as deemed necessary by the Commission. All applications, background investigations and Commission decisions shall be retained in Commission files for a period of at least 10 years.

(jj) To adopt a schedule of fees to be charged for licenses issued pursuant to this Code.

(kk) To adopt a schedule of fees and charges for services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files, and records.

(ll) To conduct background investigations of all persons who propose to participate in any Gaming Activity.

(mm) To compel obedience of its lawful orders by proceedings of mandamus or injunction or other proper proceedings in the name of the Tribe in Tribal Court or in any other court having jurisdiction of the parties and of the subject matter; provided that no suit shall be brought by the Commission without the prior explicit written approval of the Tribal Council after consultation with the Tribal attorneys.

(nn) To discipline any licensee, or other person participating in any Gaming Activity, by ordering immediate compliance with this Code or Commission regulations, and/or issuing disciplinary action as authorized by this Code, whenever the Commission is notified of a violation by any such person of this Code or any other applicable law.

(oo) To issue an order of temporary closure of any Gaming Activity in the event the Commission determines that immediate closure is necessary to protect assets or interests of the Tribe, pursuant to Commission regulations, or whenever the Commission shall receive information from the NIGC that a Primary Management Official or Key Employee of a Facility does not meet the standards for being licensed under the IGRA. Immediately upon temporary closure, a hearing will be scheduled to determine the necessity of continued closure.

(pp) To hire and advise a Tribal Gaming Agency Director, who shall have authority as delegated by the Commission and as delegated in this Code.

4.02.033 Tribal Gaming Agency Director

The Tribal Gaming Agency Director ('Director') shall be hired by the Tribal Manager in consultation with the Commission. The Director shall report to the Commission on all regulatory matters, under the proper jurisdiction of the Commission. The Director shall report to the Tribal Council on all administrative matters including, but not limited to Commission personnel and budget matters. Director shall be licensed as a Class II & III Gaming Licensee. The TGA Director shall be responsible for:

(a) Carrying out the daily duties of the Commission including, but not limited to, licensing, compliance and enforcement functions of the Commission as given in this Code; and

(b) Hiring, firing and managing necessary staff to carry out such daily duties; and

(c) Developing and implementing policies and procedures for such staff; and

(d) Preparing and implementing the Annual Budget for the Commission; and

(e) Acting as Commission staff, including coordination of regular Commission meetings and recording of minutes; and

(f) Other such duties as may be delegated by the Commission.

4.02.034 Annual Budget

The Director shall prepare an annual operating budget for all Commission activities to be approved by the Commission, and then presented to the Council for final approval according to the Budget Code of the Tribe.

4.02.035 Commission Regulations

(a) Commission Regulations necessary to carry out the orderly performance of its duties and powers shall include, but shall not be limited to:

(i) Internal operational procedures of the Commission and its staff;

(ii) Interpretation and application of this Code as may be necessary to carry out the Commission's duties and exercise its powers;

(iii) A regulatory system for all Gaming Activity, including accounting, contracting, management, and supervision;

(iv) The findings of any reports or other information required by or necessary to implement this Code; and

(v) The conduct of inspections, investigations, hearings, enforcement actions, and other powers of the Commission authorized by this Code.

(b) No regulation of the Commission shall be of any force or effect unless it is adopted by the Commission by written resolution and subsequently approved by a resolution of the Tribal Council and both resolutions filed for record in the Office of the Tribal Attorney.

(c) The Tribal Court and any other court of competent jurisdiction shall take judicial notice of all Commission Regulations adopted pursuant to this Code.

4.02.036 Right of Entrance; Inspection

The Commission and duly authorized officers and employees of the Commission, during regular business hours, may enter upon any premises of any Gaming Operator or Gaming Facility for the purpose of making inspections and examining the accounts, books, papers, and documents of any such Gaming Operator or Gaming Facility. Such Gaming Operator shall facilitate such inspection or examinations by giving every reasonable aid to the Commission and to any properly authorized officer or employee. The results of such inspection shall be duly reported by the Commission and a copy of such report given to the Gaming Operator.

4.02.037 Investigations

The Commission, upon complaint or upon its own initiative or whenever it may deem it necessary in the performance of its duties or the exercise of its powers, may investigate and examine the operation and premises of any person who is subject to the provisions of this Code. In conducting such investigation, the Commission may proceed either with or without a hearing as it may deem best, but it shall make no order without affording any affected party notice and an opportunity for a hearing pursuant to Commission regulations.

~~**4.02.038 Bank Account for Gaming Facility**~~

~~The Tribal Council shall ensure that the Tribe opens a separate bank account for each tribally owned or Gaming Activity, and all money of such Facility shall be deposited in that account. The Tribal Council shall determine who shall have check writing authority from such account.~~

4.02.039 Quarterly Report of Gaming Manager Reports

The Commission shall file a quarterly report with the Council summarizing regulatory reports received from each manager of any tribally owned or managed Gaming Activity and make such comments as it deems necessary to keep the Council fully informed as to the regulatory status of its various Gaming Activities.

ADJUDICATIVE HEARINGS AND PROCEDURES

4.02.040 Hearings

(a) The Commission shall afford a Licensee the opportunity for an adjudicative proceeding before suspending a Licensee except in cases where the circumstances call for immediate action to protect the public safety, general welfare, or the integrity of the Gaming Operation, and observing the hearing requirements would be contrary to the public interest, in which case the Licensee shall be entitled to a prompt post-suspension hearing.

(b) No hearing will be conducted with respect to any adjudicative proceeding unless an application for an adjudicative proceeding and request for hearing is timely filed by the Licensee with the Commission in compliance with this Code. The application must be made in writing on a form to be obtained from the Tribal Gaming Agency, or a facsimile thereof, and must be received within fifteen (15) days of the party's receipt of a notice of administrative charges and opportunity for an adjudicative proceeding. An application for an adjudicative proceeding and request for hearing shall accompany all notices of administrative charges.

(c) If an application for an adjudicative proceeding is not timely filed, then the party affected shall have waived the right to a hearing on the allegations set forth in the notice of administrative charges. The party shall be deemed to be in default and the Commission may take action against the party not to exceed the maximum penalty as stated in the notice of administrative charges and opportunity for an adjudicative proceeding, which action shall be final.

4.02.041 Appearance Before the Commission—Who May Appear

No person may appear in a representative capacity before the Skokomish Gaming Commission other than the following:

(a) Persons duly admitted to the bar of the Skokomish Tribal Court.

(b) Attorneys at law duly qualified and entitled to practice before the highest court of record of any state.

(c) A bona fide officer, authorized manager, partner, or full-time employee of any individual firm, association, partnership, or corporation who appears for such individual firm, association partnership or corporation.

(d) A person representing him or herself.

(e) Interpreters for persons with a limited understanding of the English language or hearing-impaired persons.

(f) Persons as may be permitted by the Commission upon a showing by a party that necessity or hardship would make it unduly burdensome for the party to have a representative as set forth under subsections (a), (b), and (c) above.

4.02.042 Notice of Hearing—Requirements

All parties that have filed a timely application for adjudicated proceeding shall be served with a notice of hearing at least seven (7) days before the date set for the hearing unless all parties consent to a shorter period. The notice shall state the time, place, and purpose of the hearing.

4.02.043 Service of Process

Service of Process to effectuate notice shall be required for all hearings under this Code**.**

(a) By Whom Served. The Director shall cause to be served all orders, notices, and other documents issued by the Director or the Commission, together with any other documents, which the Director is required by law to serve. Every other document shall be served by the party filing it.

(b) Upon Whom Served. All papers served by either the Director or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance after the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact.

(c) Method of Service. Service of all orders, notices, and other documents shall be made personally or by first-class or certified mail. Facsimile service by the Director or the Commission is prohibited.

(d) When Service is Complete. Service of notices and other documents shall be regarded as complete as follows:

(i) By personal service, upon delivery to the person, attorney representing the party, designated agent of the party, any person aged 18 or older residing at the residence of the party or corporate officer.

(ii) By mail, upon deposit in the United States mail properly stamped and addressed; service is complete on the third day after mailing, excluding the date of mailing.

(e) Filing with the Director or the Commission
Documents required to be filed with the Director or Commission shall be deemed filed upon actual receipt of the documents by the Director or Commission, regardless of method of delivery. Documents may be transmitted for filing by hand-delivery, U.S. mail, or courier. The Director will not accept documents transmitted electronically or by facsimile. The Director shall stamp all documents with the date and time of receipt. Delivery of documents to any office of the Commission other than the Director's office when said office is not occupied by a Commission employee who can personally accept the documents shall not constitute a lawful filing of papers for any matter under the jurisdiction of the Commission.

4.02.044 Informal Proceedings—Discovery Limitations

In all proceedings before the Commission, discovery requests to the Director shall be limited to requests for production of written reports and supporting documents relevant to the charges. Interrogatories and depositions shall not be allowed.

4.02.045 Official Notice

(a) Matters of Law. The Director and the Commission, upon request made before or during a hearing, or upon its own motion will officially notice:

(i) Federal Law. The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register.

(ii) Tribal Law. The Constitution of the Skokomish Tribe; the Compact; the Skokomish Tribal Code; all duly enacted ordinances, regulations and resolutions of the Tribal Council; and resolutions of the General Council.

(iii) State Law. The Constitution of the State of Washington; acts, resolutions, records, journals, and committee reports of the legislature; decisions of the courts and administrative agencies of the State of Washington; executive orders and proclamations by the governor; and all rules, orders and notices filed with the Code reviser.

(iv) Commission Organization. The Commission's organization administration, officers, personnel, and official publications.

(b) Material Facts. In the absence of controverting evidence, the Director and Commission, upon request made before or during a hearing, or upon its own motion, may officially notice:

(i) Commission Proceedings. The pendency and disposition of any proceeding then pending before or concluded by the Agency or Commission; and the issues and position of the parties in any other proceeding.

(ii) Business Customs. General customs and practices followed in the transaction of business;

(iii) Notorious Facts. Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal, state, or tribal officer, commission or agency;

(iv) Request or Suggestion. Any party may request, or the Commission or the Director may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request to suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties at any time before a final decision;

(v) Statement. Where an initial or final decision of the Commission or Director rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of materials facts, the Commission or Director may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence;

(vi) Controversion. Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision;

(vii) Evaluation of Evidence. Nothing herein shall be construed to preclude the Commission or Director from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

4.02.046 Initial or Final Order

Every decision and order, whether initial or final, shall:

(a) Be correctly captioned as to the name of the Commission and name of proceeding;

(b) Designate all parties and counsel to the proceeding;

(c) Include a concise statement of the nature and the background of the proceeding;

(d) Be accompanied by appropriate numbered findings of fact and conclusions of law and a statement from the presiding officer of the credibility of the witnesses, and that the decision is based, all or in part, upon such findings;

(e) Include the reason or reasons for the particular order or remedy afforded. Findings shall be accompanied by a concise and explicit statement of the underlying evidence of record to support the findings;

(f) Reference specific authority or rules and provisions considered or relied upon.

4.02.047 Judicial Review

The Commission's decision may be appealed to the Tribal Court. The Court's review should be based on and limited to a review of the Commission's record of decision. The Court may vacate a decision made by the Commission only if it is arbitrary and capricious or contrary to applicable law.

4.02.048 Computation of Time

For the purposes of this section, in computing any period of time prescribed or allowed by Commission Regulation, an order of the Director or Commission, or by an applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a holiday. This section shall not apply to periods of License suspension.

RULEMAKING

4.02.049 Notice of Rulemaking

In Adopting Rules under this Code, the Commission shall, before adopting any rule, except an Emergency Rule or a Housekeeping Rule, do each of the following:

(a) Publish a Notice of Proposed Rulemaking at least twenty-five (25) calendar days before the expiration of the public hearing and comment period for the proposed rulemaking action. In addition to publication, a copy of the notice shall be sent via first-class mail or hand delivered on or before the date of publication to any existing Licensee or pending applicant for a License whose rights or duties will be substantially affected by the Proposed rule.

(b) Conduct, on the date and at the time and place designated in the notice, a public hearing at which any person affected by the Proposed Rule, including organizations, may appear and be heard in person, by attorney, or both, and may present the person's or organization's position or contentions orally or in writing. The hearing date should be the last day of the public hearing and comment period.

4.02.050 Public Hearing

The Public Hearing for rulemaking except those given in Section 4.02.049(b) above:

(a) Shall be held on Skokomish Tribal Lands. The Commission shall make effort to allow all interested parties to make a full presentation of their oral comments, but the Commission may, at its discretion, limit the time available to each commenter to whatever extent is necessary to conclude the meeting by the end of the business day. The Commission may, if necessary and at its discretion, extend a hearing for an additional day.

(b) May be held as a part of a regular or special meeting of the Commission.

(c) Shall be recorded or detailed minutes shall be taken.

4.02.051 Review and Consideration of All Submitted Comments

(a) Interested parties may submit written comments during the Public hearing and comment period. The comments must be received by the Commission before the comment period ends. Oral comments may be made in lieu of, or in addition to, written comments. The oral comments may be made only at the scheduled hearing.

(b) If substantial changes to the proposed rule are made after the hearing and review of the submitted comments, a Supplemental Notice will be issued. An additional comment period shall be open for at least twenty-five (25) days. An additional hearing may be held at the discretion of the Commission.

(c) If substantial changes to the proposed rule are not made, or they have been made and the additional comment period has passed and no additional substantial changes are made, then the Commission shall vote on the Final Rule. If the Final Rule passes the Commission, the Commission shall submit the final rule to the Tribal Council for the Council's consideration and vote.

(d) If the Tribal Council passes the Final Rule, then the Commission shall publish the Rulemaking Order of Adoption. The Order of Adoption must contain an Effective Date, and the Effective Date must be at least ten (10) days after the Adoption date.

4.02.052 Housekeeping Rulemaking

The Commission may hold a Public Hearing for a proposed Housekeeping rule at its discretion. If the Commission chooses to hold a Public Hearing, the hearing is subject to the requirements contained herein.

4.02.053 Emergency Rulemaking Criteria

Emergency Rulemaking is appropriate under the following circumstances:

(a) The circumstances call for immediate action to protect the public safety, general

welfare, or the integrity of the Gaming Operation, and observing the notice and hearing requirements of regular rulemaking would be contrary to the public interest; or

(b) Binding law or regulation requires immediate Adoption of a Rule to protect the public or the Gaming Operation.

4.02.054 Emergency Rulemaking Procedure

(a) Emergency Rulemaking is exempt from the Notice Requirement given in Section 4.02.049 to address the emergency. The Commission will vote on a proposed Emergency Rule as soon as possible, without a comment period.

(b) Upon adoption of an Emergency Rule by the Commission, the Emergency Rule shall be submitted to the Tribal Council for consideration and vote.

(c) Upon Adoption of the Emergency Rule by the Tribal Council, the Commission shall publish the Rulemaking Order of Adoption. The Order of Adoption must contain an Effective Date, and the Effective Date will be the day of Adoption. The Order of Adoption shall contain a notice that interested parties may petition for the Amendment or abrogation of the Emergency Rule.

4.02.055 Petition for Rulemaking

An interested party may at any time petition for the issuance, Amendment, or abrogation of a Rule. The petition must be signed and filed with the Commission. The Commission shall consider the petition and may, at its discretion, begin a rulemaking.

4.02.056 Rulemaking-Commission Discharge of Duties

The Commission shall diligently discharge the duties imposed by this section, but a minor failure of publication or a failure to mail any notice or copy of a Proposed rule does not necessarily invalidate any Rule.

4.02.057 Computation of Time

For the purposes of this section, in computing any period of time prescribed or allowed by Commission regulation, an order of the Director or Commission, or by an applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a holiday. This section shall not apply to periods of license suspension.

LICENSES

4.02.058 Applicability

The Commission will perform background investigations and issue Licenses to Key Employees and Primary Management Officials according to requirements at least as stringent as those in 25 CFR Parts 556 and 558. Any application for License pursuant to this Code and participation in any Gaming Activity within the jurisdiction of the Tribe shall be deemed to be a consent to the jurisdiction of the Tribe and the Tribal Court in all matters arising from the conduct of such Gaming and all matters arising under any of the provisions of this Code or other Tribal Laws.

4.02.059 Gaming Prohibited

All Gaming within the reservation is hereby prohibited unless in compliance with this Code and other applicable laws of the Skokomish Tribe. No person shall engage in Gaming Activity except in compliance with this Code.

4.02.060 License Required

No person shall operate a Class II or Class III Gaming Facility, conduct Class II or Class III Gaming, or conduct business with a Class II or Class III Facility Operator within the jurisdiction of the Tribe unless such Gaming is licensed by the Tribe. A separate tribal Gaming License shall be obtained for each game as authorized by this Code.

4.02.061 Types of Licenses

The Commission shall issue each of the following types of Gaming licenses:

(a) Class II & Class III Gaming-This type of License is required by any Primary Management Official, Key Employee, Class II Gaming Employee, or Class III Gaming Employee.

(b) Non-Gaming Employee..

(c) Facility and Facility Operator-This type of License is required for each Class II or Class III Gaming Facility operated by the Skokomish Indian Tribe.

(d) Gaming Vendor-This type of License is required of all Vendors of goods and services directly related to Class II & III Gaming and Non-exempt Gaming Financiers. Non-exempt Gaming financiers must meet all Tribal licensing and State Certification and suitability requirements. Gaming Vendor licensing requirements may be more fully set forth in the Commission regulations. The Tribe shall not enter into, or continue to make payments pursuant to, any contract or agreement that would require licensing if the Gaming Vendor has been denied a License or is deemed unsuitable, or the license or suitability determination has expired without renewal.

(e) Non-Gaming Vendor-This type of License is required of all Vendors of goods and services not related to Gaming and which:

(i) Supply more than $25,000 in goods and services annually; and

(ii) Supply only food, beverage, gift shop, advertising, promotional, entertainment or marketing goods and services.

4.02.062 No License Required for Class I Gaming

A tribal License shall not be required for any Class I Gaming Activity or Operation provided, however, that each Class I Gaming Activity or Operation must have written permission of the Commission, and such permission must be on file with the Tribal Secretary before any such Class I Gaming is conducted.

4.02.063 Application Procedures

For any proposed activity requiring a License as described in this Code, the applicant shall file with the Commission an application for the appropriate License. Before issuing a License pursuant to this Code, the Commission shall:

(a) Review the proposed Gaming Activity to ensure that all criteria required by this Code shall be met.

(b) Perform the necessary background checks on management contractors, Primary Management Officials, and Key Employees required by this Code.

(c) Review and approve the accounting procedures to be used in such Gaming Activity.

(d) Take any additional steps necessary to ensure the integrity of such Gaming Activity.

(e) Review all aspects of the proposed Gaming Operation to ensure that it will be in compliance with the provisions of the Compact.

<u>Class II & Class III Gaming Licenses</u>

4.02.064 Current and Valid Gaming License Required

Every Primary Management Official and every Key Employee of any Class II or Class III Gaming Activity subject to this Code shall possess a current, valid Class II & III Gaming License.

4.02.065 Application for Class II & III Gaming License

(a) A Person seeking a Tribal Gaming License must be at least 19 years of age. All applicants shall submit an application to the Commission on such form and in such manner as the Commission may require.

(b) Such application shall include the following information:

(i) The applicant's name, including all other names used (oral or written), current home and work addresses and telephone numbers, social security number, place of birth, date of birth, citizenship, gender, all languages

(spoken or written) and driver's license number, as well as the address of his personal residences over the past five years.

(ii) The name, address, and telephone number of the Gaming Facility and of the Gaming Operator for whom the applicant intends to work and the specific location in which the applicant will be employed.

(iii) The name and job description of the applicant's position.

(iv) The names and addresses of each of the applicant's relatives employed at the Gaming Facility or by the Commission.

(v) A statement as to whether or not the applicant has ever been charged with a crime, and if so, the charge, the name and address of the court involved, and the applicant's explanation of the outcome of the case, including the date of final disposition.

(vi) The names, current addresses, and telephone numbers of three references who are not related to the applicant and who were acquainted with the applicant when the applicant was residing at each of the addresses listed in subsection (b)(1) of this section.

(vii) A list of the applicant's previous jobs over the preceding five years, including the name, address and telephone number of applicant's employer, and the position held.

(viii) The names and addresses and a brief description of all businesses in which the applicant currently holds, or has within the last five years held, an ownership interest.

(ix) A description of any previous employment relationship with an Indian tribe, including the employee position held, name of the tribe involved and the name and address of a person who can attest to the accuracy of the information provided.

(x) A description of any current or past non-employee business arrangement which the applicant has had with an Indian tribe, including the name of the tribe involved and the name and address of a person who can attest to the accuracy of the information provided.

(xi) A statement as to whether the applicant has had any past employment with, or ownership interest in, any Gaming business. If so, the applicant shall provide a written statement describing the applicant's position, the dates during which that position was held, a description of the applicant's ownership interest or job responsibilities, the name, address, and phone number of the business, and the name of a person who can attest to the accuracy of the information provided.

(xii) A list of all Gaming-related licenses the individual has ever applied for, whether or not those licenses were granted, and the name, address, and phone number of the regulatory agency involved.

(xiii) A list of all professional or business licenses the applicant has applied for, whether or not those licenses were granted, and the name, address, and phone number of the regulatory agency involved.

(xiv) A statement of all languages written or spoken.

(xv) A sworn statement that neither the applicant nor any member of the applicant's immediate family has a past or current financial interest, other than a salary interest, in any Gaming-related enterprise anywhere. If the applicant has any relative who has such a relationship, the applicant shall fully disclose that relative's name and the nature of the relationship.

(xvi) Written permission giving the Commission or its designee the right to investigate the applicant's background, including his criminal record, civil and criminal judgments, and credit history.

(xvii) A complete disclosure of any pending or anticipated civil or criminal action against the applicant, including the name and address of the police department and court involved.

(xviii) A disclosure of any civil or criminal judgments rendered against the applicant, including the case number, a description of the judgment, and the name and address of the court involved.

(xix) Any other information which might bring into question the applicant's fitness to serve as a Primary Management Official, Key Employee or Gaming Employee of a Gaming Operation.

(c) Each application shall be accompanied by a sworn statement that if the License is issued, the applicant will submit to the jurisdiction of the Tribe and the Tribal Court.

(d) Each application shall be accompanied by a photograph of the applicant taken within the last year.

(e) Each application shall be accompanied by a sworn statement that the applicant will abide by this Code and all other applicable Laws.

(f) Each application shall be accompanied by a written statement that the applicant has read, understands and approves of the following Privacy Act notice:

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 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 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.

(g) Each application shall include the following notice to applicants:

'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).'

Primary Management Officials and Key Employees employed at the time of the adoption of this Code, shall sign a statement that contains the above notice regarding false statements.

(h) Each application for a Class II & III Gaming License shall be accompanied by a non-refundable application fee. The amount of this fee shall be determined by the Skokomish Tribal Gaming Commission to recover the costs of processing Gaming License applications.

(i) The disclosure of an applicant's social security number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing the application.

(j) In conducting a background investigation, the Commission shall keep confidential the identity of each person interviewed in the course of the investigation.

4.02.066 Review Procedure for Class II & III Gaming License Application

Before issuing a Class II & III Gaming License, the Commission shall:

(a) Perform or arrange to have performed the necessary background investigation of the applicant required by this Code. Such investigation shall include contacting each reference provided in the application and taking all appropriate steps to verify the accuracy of information contained in the application, and arranging for the Tribal Law Enforcement Agency to take the applicant's fingerprints and forward them directly to the National Indian Gaming Commission to be forwarded to the Federal Bureau of Investigation, National Criminal Information Center, for a criminal records search. There shall be a written report of the findings and conclusions of the investigation. The Commission shall then review the findings and conclusions and either grant or deny the License. The applicant shall be notified in writing of the Commission's decision. If the Commission votes to deny

the License, it shall include in such notice the specific reasons for its decision and shall notify the NIGC of the decision.

(b) For Primary Management Officials and Key Employees, forward to the National Indian Gaming Commission a copy of the application, a written investigative report that includes steps taken in conducting said background investigation, the results of the background checks performed, the Commission's findings and decision, the basis for those conclusions, and the date on which applicant began or will begin work as a Primary Management Official or Key Employee, no later than sixty (60) days after the applicant begins work.

(i) The Commission shall, within sixty (60) days after the applicant begins work, submit notice of results of the applicant's background investigation containing the applicant's name, date of birth, social security number, date on which applicant began or will begin work; along with a summary of information presented in the investigation report listing any licenses that have previously been denied, or revoked, even if subsequently reinstated, and every known criminal charge brought against the applicant within the last 10 years of the date of application, every felony of which the applicant has been convicted of, or any ongoing prosecution, along with a copy of the eligibility determination.

(ii) After providing notice of results of the written investigative report to National Indian Gaming Commission, the Commission may license a Primary Management Official or Key Employee. Notice of issuance of such license will be sent to National Indian Gaming Commission within thirty (30) days of said issuance.

(c) Upon receipt of a complete notice of results for Primary Management Official or Key Employee, Chair of National Indian Gaming Commission has thirty (30) days to request additional information from the Commission concerning the applicant or licensee and to object. If there is no objection National Indian Gaming Commission shall notify the Commission within thirty (30) days. The Tribal Gaming Commission shall take the National Indian Gaming Commission's objections into account when reconsidering a license application.

(d) If the Commission has issued a license to a Primary Management Officer or Key Employee before receiving the National Indian Gaming Commissions statement of objections, notice and a hearing will be provided to the licensee.

(e) The Commission shall not employ a Primary Management Official or Key Employee who does not have a license after ninety (90) days.

(f) All applications, background checks, and Commission decisions shall be retained in the Commission files for as long the Licensee is employed at the Facility or for a period of 10 years, whichever is greater.

(fg Following the termination of a Primary Management Official or Key Employee, the Commission shall retain the applications, eligibility determination, and Background Investigations reports for inspection by the NIGC for at least three years from the date of termination.

(h All Class III Gaming Licenses shall be certified by the Washington State Gambling Commission as required by the Class III Gaming Tribal-State Compact.

(i) The Commission shall forward to the National Indian Gaming Commission a copy of its eligibility determination and notice of results for all applicants denied licensing, for inclusion in the Indian Gaming Individuals Record System.

4.02.067 Standards of Denial for a Class II & III Gaming License

The Commission shall not License for a Class II or Class III Gaming License, any Person who:

(a) Is under the age of 19; provided, however, that if liquor is sold on the premises that age limitation is raised to 21.

(b) Has been convicted of or entered a plea of no contest to a gambling offense, theft, embezzlement, fraud or misrepresentation; unless seven (7) years have passed since the offense, and the person is a member of a federally recognized Indian tribe who has been determined by the Tribe to be a person who is not likely again to engage in any offensive or criminal course of conduct; or

(c) Has been convicted of or entered a plea of guilty or no contest to any other offense related to violence or drugs; this provision shall not apply if that person has had their conviction expunged or has been pardoned by the Governor of the State where the conviction occurred or, if a member of a federally recognized Indian tribe, has been determined by the Tribe to be a person who is not likely again to engage in any offensive or criminal course of conduct and the public good does not require that the applicant be denied a License as a Key Employee or Primary Management Official; or

(d) If the Commission determines that the Person has participated in organized crime or unlawful gambling or is a Person whose prior activities, criminal record, reputation, habits, and/or associations pose a threat to the public interest or to the effective regulation and control of Gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming or to the carrying on of the business and financial arrangements incidental to the conduct of Gaming.

(e) If the applicant is found to have knowingly supplied false or misleading information or has knowingly omitted material information on his License application.

(f) Provided further that the Commission may, by regulations, add additional limitations and conditions for denial of said License.

4.02.068 Scope of Class II & Class III Gaming License

A Class II & III Gaming License shall be effective only for the person to whom it is issued and only with respect to the Gaming Facility specified in the application. Any such License may be transferred to a new Gaming Facility only upon prior approval of the Commission, upon written request of the Licensee identifying the proposed new Gaming Facility, its location, and the

proposed Gaming Operator thereof.

4.02.069 Requirement to Produce License Upon Request

Any person receiving a Class II & III Gaming License must carry that license upon his person during all working hours and must produce that License upon the request of any law enforcement official with jurisdiction over the Gaming Activity or any agent of the Tribe, the Commission, the WSGC, or the NIGC.

4.02.070 Permanent License Revocation of Class II & III Gaming License

(a) Grounds for Permanent Revocation

The Commission may permanently revoke a Gaming License, after notice and an opportunity for a hearing, for any of the following reasons:

(i) The Licensee has withheld pertinent information on his application;

(ii) The Licensee has made false statements on the application;

(iii) The Licensee has participated in Gaming Activity which was not authorized by any tribal Gaming License;

(iv) The Licensee has attempted to bribe a Tribal Council member, Commissioner, or other Person in an attempt to avoid or circumvent this Code or any other applicable law;

(v) The Licensee has offered something of value or accepted a loan, financing, or other thing of value to a Commission member, a subordinate employee or any person participating in any Gaming Activity;

(vi) The Licensee has knowingly promoted, played, or participated in any Gaming Activity operated in violation of this Code or any other applicable law;

(vii) The Licensee has been knowingly involved in the falsification of books or records which relate to a transaction connected with the operation of Gaming Activity;

(viii) The Licensee has violated any provision of this Code or the rules and regulations of the Commission;

(ix) The Licensee has been convicted of, or has entered a plea of *no contest* to, any crime involving Gaming, fraud, theft, embezzlement, or other activity which, if perpetrated at his Gaming Operator's place of employment, would injure or pose a threat to the public interest, or the integrity of the Gaming Activity, or the effective regulation of Gaming or enhance the dangers of unfair, unsuitable, or illegal Gaming practices;

(x) The Licensee has been convicted of, or entered a plea of *no contest* to, a crime involving the sale of illegal narcotics or controlled substances;

(xi) The Licensee has failed to comply with any lawful order, inquiry or directive of the Commission, the Tribal Council, or any administrative or judicial body of competent jurisdiction, arising from any Gaming Activity whether or not subject to this Code; or

(xii) The Licensee is determined to have present or prior activities, including criminal record, or reputation, habits or associations which pose a threat to the public interest or to the effective regulation of Gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming.

4.02.071 Temporary Suspension of Class II & III Gaming License

(a) Grounds for Temporary Suspension

The Commission may temporarily suspend a Class II & III Gaming License for not more than thirty days for any of the following reasons:

(i) The Licensee has been charged with a violation of any Gaming Law;

(ii) The Licensee's continued employment as a Primary Management Official or Key Employee of a Gaming Activity poses a threat to the general public;

(iii) The Licensee has made a material false statement in his or her License application;

(iv) The Licensee has participated in Gaming Activity unauthorized by his or her License;

(v) The Licensee has refused to comply with any lawful order of the Commission, the Tribal Council, the Tribal Court, the WSGC or the NIGC arising from or relating to Gaming.

(b) Immediate Temporary Suspension

The Commission shall immediately temporarily suspend a Class II & III Gaming License upon receipt of notification from the NIGC pursuant to 25 C.F.R. § 558.5 that reliable information exists that such Gaming employee is not eligible for employment. Upon receipt of such notification, the Commission shall notify the Licensee of the suspension and proposed revocation and the time and place for hearing under this Code. A right to a hearing under this part shall vest only upon receipt of a license granted under an ordinance approved by the Chair of the National Indian Gaming Commission.

(i) After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the National Indian Gaming Commission of its decision within forty-five (45) days of receiving notification.

4.02.072 Tribal Non-Gambling Related Offenses

(a) Notwithstanding anything herein to the contrary, in the absence of other violations, it shall not be automatic grounds for revocation, suspension or denial of a Class II & III Gaming License for an Indian from a federally recognized Indian tribe to have been charged and convicted of the following non-Gaming related offenses, the occasion of which occurred prior to U.S. Supreme Court rulings on the subject:

(i) fishing or hunting offenses;

(ii) cigarette, fireworks or alcohol sales offenses; or

(iii) cases involving the exercise of trust or treaty rights

(b) In the absence of other violations, activities or factors which would warrant denial, revocation or suspension, these Indian individuals shall not be barred from licensing solely as a result of such activities.

Non-Gaming Employee Licenses

4.02.073 Current and Valid License Required

Every Non-Gaming Employee employed at a Tribal Gaming Facility under the jurisdiction of the Tribe shall possess a current, valid Non-Gaming Employee license.

4.02.074 Application for Non-Gaming Employee License

(a) A person seeking a Non-Gaming Employee License must be at least 18 years of age. All applicants shall submit an application to the Commission on such form and in such manner as the Commission may require.

(b) Such application shall include the following information:

(i) The applicant's name, including all other names used, current home and work addresses and telephone numbers, social security number, place of birth, date of birth, citizenship, and driver's license number, as well as the address of his personal residences over the past five years.

(ii) The name, address, and telephone number of the Gaming Facility and of the Gaming Operator for whom the applicant intends to work and the specific location in which the applicant will be employed.

(iii) The name and job description of the applicant's position.

(iv) The names and addresses of each of the applicant's relatives employed at the Gaming Facility or by the Commission

(v) A statement as to whether or not the applicant has ever been charged with a crime, and if so, the charge, the name and address of the court involved, and the applicant's explanation of the outcome of the case, including the date of final disposition.

(vi) The names, current addresses, and telephone numbers of three references who are not related to the applicant and who were acquainted with the applicant when the applicant was residing at each of the addresses listed in subsection (b)(1) of this section.

(vii) A list of the applicant's previous jobs over the preceding five years, including the name, address and telephone number of applicant's employer, and the position held.

(viii) The names and addresses and a brief description of all businesses in which the applicant currently holds, or has within the last five years held, an ownership interest.

(ix) A description of any previous employment relationship with an Indian tribe, including the employee position held, name of the tribe involved and the name and address of a person who can attest to the accuracy of the information provided.

(x) A description of any current or past non-employee business arrangement which the applicant has had with an Indian tribe, including the name of the tribe involved and the name and address of a person who can attest to the accuracy of the information provided.

(xi) A statement as to whether the applicant has had any past employment with, or ownership interest in, any Gaming business. If so, the applicant shall provide a written statement describing the applicant's position, the dates during which that position was held, a description of the applicant's ownership interest or job responsibilities, the name, address, and phone number of the business, and the name of a person who can attest to the accuracy of the information provided.

(xii) A list of all professional or business licenses the applicant has applied for, whether or not those licenses were granted, and the name, address, and phone number of the regulatory agency involved.

(xiii) A statement of all languages written or spoken.

(xiv) Written permission giving the Commission or its designee the right to investigate the applicant's background, including his criminal record, civil and criminal judgments, and credit history.

(xv) A complete disclosure of any pending or anticipated civil or criminal action against the applicant, including the name and address of the police department and court involved.

(xvi) A disclosure of any civil or criminal judgments rendered against the applicant, including the case number, a description of the judgment, and the name and address of the court involved.

(c) Each application shall be accompanied by a sworn statement that if the License is issued, the applicant will submit to the jurisdiction of the Tribe and the Tribal Court.

(d) Each application shall be accompanied by a photograph of the applicant taken within the last year.

(e) Each application shall be accompanied by a sworn statement that the applicant will abide by this Code and all other applicable Laws.

(g) Each application for a Non-Gaming Employee License shall be accompanied by a non-refundable application fee. The amount of this fee shall be determined by the Skokomish Tribal Gaming Commission to recover the costs of processing License applications.

(h) The disclosure of an applicant's social security number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing the application.

4.02.075 Review Procedure for Non-Gaming Employee License

Before issuing a Non-Gaming Employee License, the Commission shall:

(a) Perform or arrange to have performed the necessary background investigation of the applicant required by this Code. Such investigation shall include contacting each reference provided in the application and taking all appropriate steps to verify the accuracy of information contained in the application. The Commission shall then review the findings and conclusions and either grant or deny the License. The applicant shall be notified in writing of the Commission's decision. If the Commission votes to deny the License, it shall include in such notice the specific reasons for its decision.

(b) All applications, background checks, and Commission decisions shall be retained in the Commission files for a period of at least 10 years.

(c) The Commission may License a Non-Gaming Employee if, in its good faith determination, the potential Licensee presents a limited risk to the Gaming Operation. This provision applies to Non-Gaming applicants who may have prior criminal convictions or other behaviors that may show threat to the general public or Gaming Operation. If the Commission Licenses an applicant under this provision, the Commission must provide a written determination showing cause for granting a Non-Gaming Employee License.

4.02.076 Scope of Non-Gaming Employee License

A Non-Gaming Employee License shall be effective only for the person to whom it is issued and only with respect to the Gaming Facility specified in the application. Any such License may be transferred to a new Gaming Facility only upon prior approval of the Commission, upon written request of the Licensee identifying the proposed new Gaming Facility, its location, and the proposed Gaming Operator thereof.

4.02.077 Requirement to Produce License Upon Request

Any person receiving a Non-Gaming Employee License must carry that License upon his or her person during all working hours and must produce that License upon the request of any law enforcement official with jurisdiction over the Gaming Activity or any agent of the Tribe, the Commission, WSGC or NIGC.

4.02.078 Permanent License Revocation of Non-Gaming Employee License

(a) Grounds for Permanent Revocation

The Commission may permanently revoke a Non-Gaming Employee License, after notice and an opportunity for a hearing, for any of the following reasons:

(i) The Licensee has withheld pertinent information on his application;

(ii) The Licensee has made false statements on the application;

(iii) The Licensee has participated in Gaming Activity which was not authorized by any tribal Gaming license;

(iv) The Licensee has attempted to bribe a Tribal Council member, Commissioner, or other person in an attempt to avoid or circumvent this Code or any other applicable law;

(v) The Licensee has offered something of value or accepted a loan, financing, or other thing of value to a Commission member, or a subordinate employee;

(vi) The Licensee has knowingly promoted, played, or participated in any Gaming Activity operated in violation of this Code or any other applicable law;

(vii) The Licensee has been knowingly involved in the falsification of books or records which relate to a transaction connected with the operation of Gaming Activity;

(viii) The Licensee has violated any provision of this Code or the rules and regulations of the Commission;

(ix) The Licensee has been convicted of, or has entered a plea of *no contest* to, any crime involving Gaming, fraud, theft, embezzlement, or other activity which, if perpetrated at his Gaming Operator's place of employment, would injure or pose a threat to the public interest;

(x) The Licensee has been convicted of, or entered a plea of *no contest* to, a crime involving the sale of illegal narcotics or controlled substances within the last three (3) years;

(xi) The Licensee has failed to comply with any lawful order, inquiry or directive of the Commission, the Tribal Council, or any administrative or judicial body of competent jurisdiction, arising from any Gaming Activity

whether or not subject to this Code; or

(xii) The Licensee is determined to have present or prior activities, including criminal record, or reputation, habits or associations which pose a threat to the public interest.

4.02.079 Temporary Suspension of Non-Gaming Employee License

The Commission may temporarily suspend a Non-Gaming Employee License for not more than thirty days for any of the following reasons:

(a) The Licensee has been charged with a violation of any Gaming Law;

(b) The Licensee's continued employment poses a threat to the general public;

(c) The Licensee has made a material false statement in his license application;

(d) The Licensee has participated in Gaming Activity unauthorized by his License;

(e) The Licensee has refused to comply with any lawful order of the Commission, the Tribal Council, the Tribal Court, the WSGC or the WSGC arising from or relating to Gaming.

4.02.080 Tribal Non-Gambling Related Offenses

(a) Notwithstanding anything herein to the contrary, in the absence of other violations, it shall not be automatic grounds for revocation, suspension or denial of a License for an Indian from a federally recognized Indian tribe to have been charged and convicted of the following non-Gaming related offenses, the occasion of which occurred prior to U.S. Supreme Court rulings on the subject:

(i) fishing or hunting offenses;

(ii) cigarette, fireworks or alcohol sales offenses; or

(iii) cases involving the exercise of trust or treaty rights

(b) In the absence of other violations, activities or factors which would warrant denial, revocation or suspension, these Indian individuals shall not be barred from licensing solely as a result of such activities.

Facility and Operator Licenses

4.02.081 Criteria Which a Gaming Facility Must Meet

The Commission shall issue a Facility and Operator License to any tribally owned or tribally operated Class II or Class III proposed Gaming Facility only if all of the following criteria are met:

(a) The proposed Gaming Facility is to be located on "Indian Lands" as defined under this Code and 25 U.S.C. § 2703(4), and shall be in compliance with 25 U.S.C. § 2719.

(b) The proposed Gaming Facility will have Gaming Activities as defined by this Code, IGRA and the Compact.

(c) The proposed Gaming Facility is authorized by a Tribal Council resolution.

(d) The Tribe will have the sole proprietary interest and the exclusive responsibility for the conduct of the proposed Gaming Activities within the Facility.

(e) The resolution authorizing the proposed Gaming Activity provides that:

(i) The revenues of the proposed Gaming Activity shall be audited annually and copies of those audits will be provided to the Commission and the National Indian Gaming Commission.

(ii) The proposed Gaming Activity shall comply with all IRS reporting and filing requirements.

(iii) All of the net proceeds of the proposed Gaming Activity shall be used for the purposes stated in this Code.

(iv) All contracts for supplies, services, or concessions for an amount in excess of $25,000 annually (except contracts for legal and consulting services) shall be subject to an annual independent audit.

(v) The construction or maintenance of the Gaming Facility and the operation of the proposed Gaming Activity shall be comply with all applicable Tribal, State and Federal laws and ordinances.

(vi) The general manager, all Primary Management Officials, and all Key Employees have passed the background investigations and obtained the Licenses required by this Code. Each application must state in writing that all future Primary Management Officials and Key Employees will be required to pass background investigations and obtain Class II & III Gaming Licenses before they are hired.

(vii) The Commission shall have the authority to regulate the proposed Gaming Activity.

(viii) The proposed Gaming Activity shall pay to the National Indian Gaming Commission such fees as federal law may require to be paid.

(ix) If the Gaming Activity is Class III Gaming, such Gaming Activity meets all other criteria established by the Compact and its Amendments.

(f) Renewal of a Facility and Operator License must occur annually, consistent with the fiscal year schedule of the Tribe.

(g) The Tribe shall construct, maintain and operate all Gaming Facilities in a manner that adequately protects the environment and the public health and safety.

4.02.082 License Application Fees

No application fee shall be required for a tribally owned or tribally operated Class II or Class III Gaming Activity.

4.02.083 License Tax

No annual license tax shall be required for a tribally owned or tribally operated Class II or Class III Gaming Operation.

4.02.084 Form of Gaming License

Every License issued by the Commission shall include the name and address of the authorized Licensee and the signature of an authorized officer of the Commission.

4.02.085 Scope of Gaming License

A License issued by the Commission shall be effective only for the Gaming Activity and location specified in the application. Such License may be transferred only upon prior approval of the Commission upon written request that details the proposed new Gaming Activity, its location, and proposed Gaming Operator.

4.02.086 Posting of Licenses

Each Gaming Operator shall post its License in a conspicuous location at the Gaming Operator's Gaming Facility. If a Gaming Operator has more than one Gaming Facility, the Gaming Operator must obtain and post a separate License for each Gaming Facility. A Gaming Operator licensed to sell raffle tickets outside a Gaming Facility shall carry a copy of the Gaming License under which such Person is employed.

4.02.087 Annual Reports

Each Gaming Operator must file an annual report with the Commission and the Tribal Council consistent with the Tribe's Budget Code. The report shall be submitted to the Commission on the annual report form provided by the Commission and shall include the following information:

(a) The name, address, and telephone number of the Gaming Operator;

(b) The names, addresses, and titles of its current general manager and all sub-managers;

(c) A description of each Gaming Activity that it is operated and the total gross proceeds of each;

(d) A written copy of any changes the Gaming Operator proposes to initiate in its rules;

(e) A statement of the specific dates and times during which the Gaming Activity will be operated during the next license period;

(f) The name and address of the person who will be the general manager and the names and addresses of all persons who will be the Primary Management Officials during the next license period;

(g) A statement of any changes in the general manager or in the Primary Management Officials or Key Employees who will operate the Gaming Activity over the next license period;

(h) The names and addresses of any employees who the Commission may determine to be Key Employees during review of the application;

(i) Written proof that the Gaming Operator has paid to the National Indian Gaming Commission such fees as federal and tribal law may require it to pay, and will continue to do so;

(j) A sworn statement that the Gaming Operator has complied with the Internal Revenue Code and regulations, including written notice of customer winnings, and a statement that the Gaming Operator shall continue to obey all tribal and federal laws and shall hold the Commission and the Tribe harmless for failure to do so;

(k) The description of any location at which the Gaming Activity has been conducted and any new location which is expected to be established during the next license period;

(l) The number of full-time equivalent persons, on an annualized basis, employed by the operation during the past 12 months, together with a projection of the number of full-time equivalent persons who are expected to be employed during the next license period;

(m) The total gross proceeds of the Gaming Operator attributable directly or indirectly to tribally licensed Gaming Activity over the preceding 12 months;

(n) A sworn statement that the Gaming Operator will continue to comply with all tribal and federal laws applicable to the Gaming Operation;

(o) A sworn statement that the Gaming Operator and all of its Key Employees and Primary Management Officials continue to consent to Tribal Court jurisdiction and service of process in all matters arising from the conduct of tribally licensed Gaming Activity;

(p) The name, address, and signature of the agent who will accept service of process on behalf of the Gaming Operator, who must reside on the Reservation; and

(o) If the Gaming Operator is a corporation, a copy of any amendment to its Articles of Incorporation, properly certified by the incorporating government, unless a current copy has already been filed with the Commission.

4.02.088 Procedure to Remedy Gaming License Violation

If the Commission finds that a tribally owned or operated Gaming Activity is being operated in violation of this Code or otherwise presents a threat to the Tribe or to the public, the Commission

shall immediately take all necessary steps to bring such activity into compliance, including, but not limited to, closing down such activity temporarily or permanently pursuant to enforcement procedures and Regulations duly promulgated by the Commission under this Code. An Adjudicative Hearing is required prior to any closure of a Gaming Activity, including temporary and permanent. Nothing contained in this Code shall be construed as limiting, restraining or effecting a waiver of the Tribe or the Tribal Council's right and authority to take appropriate action to remedy any Gaming violation pursuant to tribal and federal law.

Vendor Licenses

4.02.089 Current and Valid Gaming or Non-Gaming Vendor License Required

Each Gaming Vendor and Non-Gaming Vendor, as defined by this Code must possess a current, valid Vendor License. A Vendor License encompasses both Gaming and Non-Gaming Vendors. The License shall indicate whether the Vendor is Gaming or Non-Gaming. If an unlicensed Vendor sells to, or otherwise transacts business with, facilities or enterprises covered by this Code, the TGA Director shall impose a fine recover any loss of revenue or damages sustained.

4.02.090 Application for Vendor License

(a) All applicants for a Vendor License shall submit an application to the Commission on such form and in such manner as the Commission may require.

(b) The application shall include the following information:

(i) The Vendor’s name, and the names and contact information for certain Vendor Key Employees as determined by the Commission;

(ii) Current contact information, including addresses and telephone numbers;

(iii) Any business license number or numbers held by the applicant, and other business identification information as determined by the Commission;

(iv) The nature of the business the applicant intends to conduct with the Tribe, an agency of the Tribe, and/or any tribal enterprise; and

(v) All other information the Commission deems necessary.

(c) Each application shall be accompanied by a sworn statement that if the License is issued, the applicant will submit to the jurisdiction of the Tribe and the Tribal Court.

(d) Each application shall be accompanied by a sworn statement that the applicant and its employees and agents will abide by this Code and all other applicable laws.

(e) Each application shall be accompanied by a non-refundable application fee. The amount of this fee shall be determined by the Skokomish Tribal Gaming Commission to recover the costs of processing License applications.

(f) Each application shall be accompanied by two copies of any contract executed between the Vendor and Gaming Facility.

4.02.091 Review Procedure for Vendor License Application

Before issuing a Vendor License, the Commission shall review the application materials, and investigate issues of concern, if any. The Commission shall then either grant or deny the License. The applicant shall be notified in writing of the Commission's decision. If the Commission votes to deny the License, it shall include in such notice the specific reasons for its decision.

4.02.092 Standards of Denial of a Vendor License

The Commission shall not License any Vendor that:

(a) Has Key Employees who have been convicted of, or entered a plea of no contest to, a gambling offense, theft, embezzlement, fraud or misrepresentation within the immediately preceding seven years;

(b) The Commission has determined has Key Employees who have participated in organized crime or unlawful gambling, or whose prior activities, criminal record, reputation, habits, and/or associations pose a threat to the public interest or to the effective regulation and control of Gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming or to the carrying on of the business and financial arrangements incidental to the conduct of Gaming; or

(c) Is found to have knowingly supplied false or misleading information or has knowingly omitted material information on the License application.

The Commission may, by regulation, add additional limitations and conditions for denial of an application for a Vendor License.

4.02.093 Revocation or Suspension of a Vendor License and Other Penalties

(a) Types of Licensing Action and When Each May Be Taken

Only the following licensing actions may be taken:

(i) The Commission may revoke a License in the circumstances provided in subsection (b). A fine may be imposed under subsection (3) in conjunction with a License revocation.

(ii) The Commission may suspend a Vendor License for up to 30 days in the circumstances provided in subsection (b). A fine may be imposed under subsection (3) in conjunction with a License suspension.

(iii) The Commission may fine a Vendor for a Violation of any of the circumstances listed in subsection (b). No fine shall exceed $1,000.

Under no circumstances may a Facility be closed, or a Gaming Activity or Gaming

Operation be shutdown or ordered to stop, for the purpose of a Licensing action.

(b) Grounds for Licensing Action

The TGA Director may initiate a licensing action based upon any action of the Licensee that tends to indicate that the Licensee's behavior is a threat to the integrity of Gaming under the jurisdiction of the Skokomish Indian Tribe.

Provisions Of General Applicability To All Licensees

4.02.094 Provisions of General Applicability to All Gaming Operators

(a) Each Class II or Class III Gaming Activity within the jurisdiction of the Tribe shall be conducted only by a Gaming Operator who possesses a current and valid License.

(b) Each License shall be applicable only to one Gaming Facility and the Gaming Operator named on such License.

(c) No License shall be sold, lent, assigned or otherwise transferred.

(d) Each Primary Management Official and Key Employee of a licensed Gaming Activity shall possess a current and valid Tribal Class II & III Gaming License.

(e) A License shall be issued only to a Person who qualifies under this Code.

(f) Each Gaming Operator shall have a copy of this Code and regulations readily available for inspection by any person at each authorized Gaming Facility.

(g) Each Gaming Facility shall post, in a prominent place in each room where Gaming is conducted, a sign stating the following:

This Facility is regulated by the Skokomish Indian Tribe, The Washington State Gambling Commission and the National Indian Gaming Commission.

(h) Each Facility that houses one or more card games shall post, in a prominent place in each card room, the Rules of each card game played. These Rules shall notify the public of the following:

(i) The maximum rake-off percentage, time buy-in and other fees charged;

(ii) The number of raises allowed;

(iii) The monetary limit of each raise

(iv) The amount of ante; and

(v) Other rules as may be necessary.

(i) No Class III Gaming Equipment or Supplies shall be operated, purchased, leased or otherwise acquired by the Tribe unless that Class III Equipment or Supplies meet the technical equipment standards as required by the Compact.

(j) All accounting records of each tribally licensed Gaming Facility shall be kept on a double entry system of accounting, maintaining detailed, supporting, subsidiary records. The Operator and the Tribe shall maintain the following records for not less than three (3) years:

(i) Revenues, expenses, assets, liabilities and equity for each location at which Class II and Class III Gaming is conducted;

(ii) Daily cash transactions for each Class II and Class III game at each location at which Gaming is conducted, including but not limited to transactions relating to each Gaming table bank, game drop box, and Gaming room bank;

(iii) All markers, IOU's, returned checks, hold checks or other similar credit instruments;

(iv) Individual and statistical game records (except card games) to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;

(v) Contracts, correspondence and other transaction documents relating to all Vendors and contractors;

(vi) Records of all tribal Gaming enforcement activities;

(vii) All Gaming related audits prepared by or on behalf of the Tribe or one of its subdivisions; and

(viii) Personnel information on all Class II and Class III Gaming Employees or agents including rotation sheets, hours worked, employee profiles and background checks.

(k) No person under the age of 21 shall be employed as a Key Employee or Primary Management Official of any Class III game, if the Facility serves alcoholic beverages.

(l) No person under the age of 21 years shall be permitted to conduct, assist in, or play any Gaming Activity conducted at any location having an alcoholic beverage license of any type or class.

(m) Each Gaming Operator shall post in a conspicuous location near where each Gaming Activity is being played or shall otherwise provide the public with an explanation of the rules of play of every game in operation.

(n) A Gaming Operator is prohibited from renting or lending Gaming Equipment to any person without the prior written approval of the Commission.

(o) A Gaming Operator is prohibited from exchanging pull-tabs, punch-boards, sports pools, and shoes (including automatic/electronic shuffling devices) without the approval of the Commission. All other Gaming Equipment may be exchanged without prior approval. Any request for approval shall be made to the Commission at least 5 days prior to the exchange.

(p) Each Gaming Operator who anticipates the printing, manufacture, or construction of any equipment for Gaming Activity shall first notify the Commission of his intention and shall have the finished product approved by the Commission before it is placed in service.

(q) Gaming chips and other tokens of value, including coupons issued for promotional purposes, may be sold and redeemed only by the Gaming Operator and only for full value.

(r) Every Gaming Operation shall maintain and keep for not less than 10 years permanent books of accounts and records, including inventory records of Gaming Supplies, sufficient to establish the gross and net income, deductions, expenses, receipts, and disbursements of the Operation.

(s) A Gaming Operator who conducts a Gaming Activity at a site in which the Operator does not have a legal ownership interest shall file with the Commission, prior to conducting any Gaming Activity at such site, a written agreement, attested to by both the Gaming Operator and the owner of such site, setting forth the terms under which the Operator is permitted the use of such site.

(i) Such agreement shall contain all of the following information:

(1) The name of the legal owner of the site. If the Gaming Operator is to be a sub-lessee, then the name of the lessee must also be included.

(2) The name and License number of the Gaming Operator.

(3) The term of such use of the site.

(4) The monetary consideration to be paid for such use of the site, if any.

(5) A precise description of the location or premises.

(6) A prohibition of advertising of the Gaming Activity by the owner.

(7) The following provision:

The (grantor/lessor) hereby agrees that neither (he), (his) spouse, nor any employee or agent of the (grantor/lessor) shall participate in the selling, distributing, conducting,

assisting, or participating in Gaming Activity at the site herein (granted/leased) without the prior written approval of the Commission.

(ii) Any rent or lease provision of such agreement shall include a fixed monthly rental dollar amount, unless otherwise approved in writing by the Commission.

(iii) A graduated lease rate for use of the site is prohibited unless approved in writing by the Commission.

(iv) Other remuneration in lieu of money for use of the site is prohibited unless approved in writing by the Commission.

(v) A percentage lease rate for use of the site is prohibited unless approved in writing by the Commission.

(vi) No game of chance shall be operated in conjunction with the conduct of the grantor's business operation unless approved in writing by the Commission.

(vii) Any renegotiated agreement shall be submitted to the Commission for approval prior to its effective date.

(t) There shall be no sale of liquor at any Gaming Facility or site without the prior approval of the Tribal Council.

(u) Consideration for the chance to play in any Gaming Activity shall only be cash or, if allowed by the Gaming Operator, personal check and shall be presented at the time the game is played. No other form of consideration shall be allowed unless the Commission gives prior written approval.

(v) Evidence of any win or loss incurred by a player must, upon request, be provided to such player in such form as will be acceptable to the IRS. All Class III Gaming must comply with the applicable provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. §§ 5312-5314.

(w) Each Gaming Operator shall pay all fees and file all reports required by law within the time prescribed.

(x) Each Gaming Operator shall respond immediately to and obey all inquiries, subpoenas, or orders of the Commission, the Tribal Council, the Tribal Court, the WSGC, or the NIGC.

(y) Each Gaming Operator shall prominently display at each Gaming Facility a current, valid License.

(z) Each Gaming Operator shall at all times maintain an orderly, clean, and neat Gaming Facility, inside and out.

(aa) Each Gaming Operator shall provide adequate security to protect the public before,

during, and after any Gaming Activity.

(bb) Each Licensed Gaming Activity shall be subject to patrol by the tribal police force for the purpose of enforcing tribal law, and each Gaming Operator shall cooperate at all times with the tribal police force.

(cc) Each Gaming Operator shall make its premises and books and records available for inspection during normal business hours by the Commission and members of the Tribal Council or their designee.

(ee) No Gaming Operator may discriminate on the basis of sex, race, color, or creed in the conduct of any licensed Gaming Activity, except where permissible under Tribal or federal law.

(ff) Each Gaming Operator shall keep accurate books and records of all moneys received and paid out and provide the Commission or its designee with copies of or access to the same upon request.

(gg) All net revenues of any Gaming Activity shall be used only in a manner prescribed by this Code.

(hh) Every Gaming Operator shall comply with all applicable tribal and federal revenue reporting laws.

(ii) Each Gaming Operator shall immediately suspend any employee who, during the course of employment, is charged with a crime of theft, embezzlement, fraud or other Gaming crime, or any offense related to the sale, possession, manufacture, or transport of illegal drugs. The Gaming Operator shall also immediately notify the Commission in writing of the name of the person and the pending charge and advise the Commission of the outcome of the case. If the employee is convicted or pleads *no contest* to the charge, the employee's employment shall be terminated.

4.02.095 Licensing Period

A License issued pursuant to this Code shall be effective for a period of one year from the date of issuance and shall state on its face the date that the License became effective and the date that it expires.

4.02.096 Renewals

A holder of a License issued pursuant to this Code shall apply to the Commission for a renewal before his original License has expired, updating all information contained in the original application.

4.02.097 License Application Fees

No application fee shall be required for a tribally owned or tribally operated Class II or Class III Gaming Activity.

4.02.098 License Tax

No annual License tax shall be required for a tribally owned or tribally operated Class II or Class III Gaming Operation.

4.02.099 Form of Gaming License.

Every Gaming License issued by the Commission shall include the name and address of the authorized Licensee and the signature of an authorized officer of the Commission.

ENFORCEMENT

4.02.100 Jurisdiction

Except as provided in this Code or in the executed Class III Gaming Tribal-State Compact and its Amendments under IGRA, Tribal Law Enforcement and the Tribal Court shall have jurisdiction over all violations of this Code.

4.02.101 Prohibited Acts

In addition to other civil and criminal offenses provided for in this Code or under other applicable law, the following acts are prohibited and subject any violator to the civil or criminal penalties specified herein:

(a) Knowingly making a false statement in an application for employment with any Gaming Operator or with the Commission.

(b) Knowingly making a false statement in connection with any contract to participate in any Gaming Activity.

(c) Attempting to bribe any person participating in any Gaming Activity.

(d) Offering or accepting a loan, financing, or other thing of value between a Commission member or employee and any Person participating in any Gaming Activity.

(e) Failing to keep sufficient books and records to substantiate receipts, disbursements, and expenses incurred or paid from any Gaming Activity authorized pursuant to this Code.

(f) Falsifying any books or records which relate to any transaction connected with any Gaming Activity pursuant to this Code.

(g) Conducting or Participating in any Gaming Activity which in any manner results in Cheating or misrepresentation or which allows any other disreputable tactics that detract from the fair nature and equal chance of participation between Gaming players, or which otherwise creates an advantage over and above the chance of such Gaming Activity and which affects its outcome.

(h) To conduct a Gaming Activity with or to allow Participation in a Gaming Activity

by an intoxicated or disorderly player.

(i) To allow or Participate in the sale of liquor at Gaming sites when such sale is prohibited by tribal law.

(j) To accept consideration other than money, personal checks, or other approved consideration for the chance to play or participate in any Gaming Activity.

(k) To solicit, directly or indirectly, or to use inside information on the nature or status of any Gaming Activity for the benefit of any Person.

(l) To tamper with Gaming Equipment or conspire to tamper or manipulate the outcome or the payoff of a Gaming Equipment, or otherwise interfere with the proper functioning of the machine.

(m) To alter or counterfeit a License.

(n) To aid, abet, or conspire with another person knowingly or knowingly to cause any person to violate any provision of this Code or any rules and regulations adopted hereunder.

(o) To operate, use, or make available to the public any illegal Gaming Apparatus, material, or Equipment.

(p) To sell or hold out for sale or transport into or out of the jurisdiction of the Tribe any illegal Gaming Apparatus, material, or Equipment.

(q) To assist or allow a person who is under age to participate in any Gaming Activity.

(r) To possess any illegal narcotics or controlled substances on any Licensed Gaming Facility.

(s) To steal or attempt to steal funds or other items of value from any Gaming Facility or from the Commission.

(t) To conspire with or induce any person to violate any of the provisions of this Code or any tribal or federal law.

(u) For an Operator or any of his employees or agents to engage in any act, practice, or course of operation which could result in a fraud or deceit upon any Person.

(v) To use bogus or counterfeit chips or charitable Gaming tickets, or to substitute or use any game, cards, charitable Gaming tickets, or Gaming Equipment that have been marked or tampered with.

(w) To employ or have on the Reservation any device to facilitate Cheating in any game of chance, except that which may be utilized for training purposes by the Commission only.

(x) To knowingly use any fraudulent scheme or technique, or to solicit, provide, or receive inside information about any Gaming Activity with the intent of benefiting

any person.

(y) To take, solicit, or encourage any action which undermines the integrity of any game of chance.

4.02.102 Table of Penalties

The following table of penalties is provided as guidance to the selection of the appropriate disciplinary action to be taken for select offenses. The table is not all-inclusive and does not consider the extenuating circumstances which may apply to any one particular case. The table is a list of actions most addressed; it is not a complete listing, but is rather a guide designed to convey the types of misconduct potentially worthy of licensing action. Licensing action may be initiated when the Licensee:

(a) Withheld pertinent information or made a false statement on his or her application:
1st occurrence: Fine
Subsequent occurrences: Suspension or revocation

(b) Participated in Gaming Activity that was not authorized by any Tribal Gaming License:
1st occurrence: Fine
Subsequent occurrences: Suspension

(c) Attempted to bribe a Tribal Council member, Commissioner, or other person in an attempt to avoid or circumvent this Code or any other applicable law:
1st occurrence: Suspension or revocation
Subsequent occurrences: Revocation

(d) Accepted a loan, financing, or other thing of value from a Commissioner member or any person participating in any Gaming Activity:
1st occurrence: Fine
Subsequent occurrences: Suspension or Revocation

(e) Knowingly promoted, played, or participated in any Gaming Activity operated in violation of this Code or any other applicable law:
1st occurrence: Fine or Suspension
Subsequent occurrences: Suspension or Revocation

(f) Has been knowingly involved in the falsification of books or records which relate to a transaction connected with the operation of Gaming Activity:
1st occurrence: Suspension or Revocation
Subsequent occurrences: Revocation

(g) Has violated any provision of this Code or the rules and regulations of the Commission:
1st occurrence: Fine
Subsequent occurrences: Suspension or Revocation

(h) Has been convicted of, or has entered a plea of *nolo contendere* to, any crime involving gaming, fraud, theft, embezzlement, or other activity which, if perpetrated at a Gaming Operator's place of employment, would: injure or pose a

threat to the integrity of the gaming activity, the safety of the Gaming patrons, or the effective regulation of Gaming; or enhance the dangers of unfair, unsuitable, or illegal gaming practices:

1st occurrence: Suspension or Revocation
Subsequent occurrences: Revocation

(i) Has failed to comply with any lawful order, inquiry or directive of the Director, Commission, the Tribal Council, or any administrative or judicial body of competent jurisdiction, arising from any Gaming Activity whether or not subject to this Code:

1st occurrence: Fine or Suspension
Subsequent occurrences: Suspension or Revocation

(j) Is determined to have present or prior activities, or reputation, habits or associations, which: pose a threat to the integrity of the Gaming Activity, the safety of the Gaming patrons, or the effective regulation of Gaming; or create or enhance the dangers of unsuitable, unfair, or illegal practices and activities in the conduct of gaming:

1st occurrence: Fine or Suspension
Subsequent occurrences: Suspension or Revocation

(k) Has been charged with a violation of any gaming law:

1st occurrence: Suspension or Revocation
Subsequent occurrences: Revocation

(l) Has made it such that the continued operation under its license poses a threat to the safety of the Gaming patrons and/or the integrity of the Gaming Activity:

1st occurrence: Fine, Suspension, or Revocation
Subsequent occurrences: Suspension or Revocation

(m) Participated in Gaming Activity not authorized by its License:

1st occurrence: Fine or Suspension
Subsequent occurrences: Fine, Suspension, or Revocation

(n) Refused to comply with any lawful order of the Commission, the Tribal Council, the Tribal Court, or the NIGC:

1st occurrence: Fine or Suspension
Subsequent occurrences: Fine, Suspension, or Revocation

4.02.103 Criminal Violation

Any Person who violates or fails to comply with any provision of this Code, or who fails to comply with any order or decision of the Commission, shall be guilty of a crime and shall be required to pay a maximum fine of $5,000 or 1 year imprisonment, or both. Each day during which such violation or failure to comply continues shall constitute a separate violation of this Code.

4.02.104 Civil Violation

Any Person who violates or fails to comply with any provision of this Code, or who fails or neglects to comply with any order of the Commission, shall be liable for a civil fine not to exceed $5,000 for each violation thereof. Each day during which such violation or failure to comply continues

shall constitute a separate violation of this Code. The amount of any such civil fine may be recovered in a civil action in the Tribal Court.

4.02.105 Cumulative Fines

All civil fines accruing under this Code shall be cumulative, and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, judgment, penalty, forfeiture, or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution.

4.02.106 Purpose of Civil Penalties

The civil fines imposed under this Code are intended to be remedial and not punitive, and are designed to compensate the Tribe for the damage done to the peace, security, economy, and general welfare of the Tribe and the Reservation, and to compensate the Tribe for costs incurred by the Tribe in enforcing this Code. The civil fines under this Code are also intended to coerce persons into complying with this Code and Commission regulations and not to punish such persons for violation of such laws and regulations.

4.02.107 Civil Action for Penalties

In enforcing the civil infraction provisions of this Code, the Commission shall proceed, in the name of the Tribe, by civil complaint pursuant to the provisions of this Code. The Commission in such action shall have the burden of showing, by the preponderance of the evidence, that such Person violated the applicable provision of this Code.

4.08.108 Seizure and Forfeiture of Property

All property utilized in violation of this Code shall be subject to seizure and forfeiture by order of the Tribal Court pursuant to S.T.C. 3.01.065.

4.08.109 Reporting of Offenders

Upon final order of the Tribal Court in any action for criminal or civil violation under this Section, the Clerk of the Tribal Court shall notify the Commission in writing of the final court disposition.

OPERATION OF TRIBALLY OWNED OR TRIBALLY OPERATED GAMES

4.02.110 Management

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation, including any Gaming Facility, authorized by this ordinance.

4.02.111 Use of Net Revenues of Tribally Owned or Tribally Operated Gaming Activities

(a) All Net Revenues of a tribally owned or tribally operated Gaming Activity shall be held in the name of the Tribe. Such Net Revenues may only be expended by the Tribal Council by resolution and only for the following purposes:

(i) To fund tribal government operations or programs.

(ii) To provide for the general welfare of the Tribe and its members.

(iii) To promote tribal economic development.

(iv) To donate to charitable organizations.

(v) To help to fund operations of local government agencies.

4.02.112 Maintenance of Records

The Commission shall insure that all accounting records of each Gaming Facility are kept on a double entry system of accounting, maintaining detailed, supporting, subsidiary records. The Tribal Commission shall also insure that both the Operator and the Tribal Commission maintain the following records for not less than three (3) years:

(a) Revenues, expenses, assets, liabilities and equity for each location at which Class II and Class III Gaming is conducted;

(b) Daily cash transactions for each Class II and Class III game at each location at which Gaming is conducted, including but not limited to transactions relating to each Gaming table bank, game drop box, and Gaming room bank;

(c) All markers, IOU's, returned checks, hold checks or other similar credit instruments;

(d) Individual and statistical game records (except card games) to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;

(e) Contracts, correspondence and other transaction documents relating to all Vendors and contractors;

(f) Records of all tribal Gaming enforcement activities;

(g) All Gaming related audits prepared by or on behalf of the Tribe or one of its subdivisions.

(h) Personnel information on all Class II and Class III Gaming employees or agents including rotation sheets, hours worked, employee profiles and background checks.

4.02.113 Audit Requirements

(a) The Commission and the General Manager of each Gaming Facility shall obtain an annual independent audit of all Gaming Activity. A copy of such audit shall be provided to the Commission, the Tribal Council, and the NIGC.

(b) Each contract for Supplies, services (other than legal and accounting services) or concessions for a contract amount in excess of $25,000 annually shall be subject to an independent audit. A copy of such audit will be provided to the Commission, the Tribal Council, and the NIGC.

4.02.114 Management Contracts

No Management Contract entered into by the Tribe and another entity shall be valid unless approved by NIGC pursuant to 25 U.S.C. 2711(2005).

4.02.115 Additional Requirements for Operation of Tribally Owned or Tribally Operated Games

(a) Any cash winning of an amount under $500 shall be paid in cash or check and shall be paid on the date it is won. Each patron's winnings of an amount over $500 may be paid by check and shall be paid within 72 hours after it is won.

(b) Each Gaming Facility shall carry sufficient liability insurance to protect the public in the event of an accident. The Commission shall determine the amount of liability insurance required for each Facility.

(c) Each Gaming Activity shall post the rules of play of each game in a conspicuous place where Gaming is conducted and shall make written copies of such rules available to any member of the general public upon request.

AUTHORIZED GAMES AND INTERNAL CONTROL STANDARDS

4.02.116 Authorized Games

Consistent with applicable law, the Tribe authorizes all games of chance authorized under the Class III Gaming Tribal-State Compact and its Amendments, pursuant to IGRA. The Tribe also authorizes all forms of Class II gaming.

4.02.117 Internal Control Standards

(a) The Minimum Internal Control Standards (MICS) as stated in 25 CFR Part 542 are adopted as the Tribal Internal Control Standards for regulation of Class II Gaming pursuant to Tribal Council/Commission Joint Resolution No. 03-116. Should the NIGC amend 25 CFR Part 542, those Amendments shall be deemed automatically adopted and incorporated into the Commission Regulations.

(b) The Compact and its Amendments provide Internal Controls for Class III Gaming. Where an Internal Control deriving from the Compact provides a level of control that equals or exceeds the level of control provided by the MICS, the Compact Internal Control shall prevail.

PATRON DISPUTE RESOLUTION

4.02.118 Patron Dispute Resolution

Should a Gaming patron bring a dispute to the Gaming Facility Management, the following procedures shall apply:

(a) The patron shall submit a written complaint to the Gaming Facility General Manager, or in his/her absence the Director of Operations, within four (4) days of the incident giving rise to the complaint. The General Manager shall have three (3) days to prepare and deliver a written response to the customer. The General Manager shall seek to resolve the dispute in good faith and consistent with the Gaming Facility operating policies.

(b) In the event the patron is dissatisfied with the Gaming Facility General Manager's response, the patron may request a review of the complaint by the Tribal Gaming Commission. The patron must make the request within seven (7) days of receiving the Gaming Facility General Manager's response.

(c) The TGA Director shall review the complaint for Facility compliance with regulatory requirements and provide a written recommendation to the Tribal Gaming Commission. The written recommendation shall include a copy of the patron's complaint and all relevant documentation to support the recommendation.

(d) The Commission may set a hearing on the matter or may make a decision based solely on the TGA Director's recommendation and documentation provided by the parties. The Commission, upon consideration of the matter, shall issue a written decision to be mailed, certified with return receipt requested, to the patron, Gaming Facility General Manager and Tribal Attorney.

(e) Should the Commission determine a hearing is required, it shall provide written notification of the date, time and place of the hearing to the patron and the Gaming Facility General Manager at least seven (7) days prior to the hearing.

(f) At the hearing, the patron shall have an opportunity to submit written evidence and present oral testimony in support of his or her complaint. The Gaming Facility General Manager shall have the opportunity to respond to the customer's complaint with evidence or testimony.

(g) The decision of the Commission shall be final and not subject to judicial review

The liability of the Gaming Facility in any dispute under this section shall be limited to the amount of the alleged winnings. No complainant shall be entitled to any other award, including but not limited to special or punitive damages, or damages for mental distress.