

# TRIBAL GAMING COMMISSION AND TRIBAL GAMING AGENCY ORDINANCE

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### TRIBAL GAMING COMMISSION AND TRIBAL GAMING AGENCY

#### 4.02A.010 Tribal Gaming Commission

- (a) Commission Membership. The Tribal Gaming Commission (“Commission”) shall consist of five members (“Commissioners”). The Commission shall elect a chair and vice-chair from among its members.
- (b) Commission Independence. The Skokomish Indian Tribe (“Tribe”) recognizes the importance of an independent Commission in maintaining a well-regulated gaming operation. The Commission shall be independent of, and act independently and autonomously from, the Skokomish Tribal Council in all matters within its purview. No prior, or subsequent, review by the Skokomish Tribal Council of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in Chapter 4.02 STC or this Ordinance.
- (c) Ineligibility to Serve as a Commissioner. The following persons are not eligible to serve as Commissioners:
- (1) General Council President;
  - (2) Members of the Skokomish Tribal Council;
  - (3) Members of the Corporate Board for the Skokomish Indian Tribal Enterprise, Incorporated;
  - (4) Employees of the gaming operation;
  - (5) Gaming contractors and vendors (including any principal of a management, or other contracting company);

- (6) Gaming financiers;
  - (7) Persons sharing a residence with any of the above-named persons or entities;
  - (8) Persons ineligible to be key employees or primary management officials or gaming employees; and
  - (9) Persons under the age of eighteen years.
- (d) Background Investigations – Pre-Appointment. The Skokomish Tribal Council shall:
- (1) Require a criminal history check with appropriate law enforcement agencies for each Commissioner candidate;
  - (2) Review the candidate’s criminal history check results; and
  - (3) Make an appropriate eligibility determination before appointing an individual to the position of Commissioner.
- (e) Commissioner – Appointment and Terms of Office. Commissioner positions shall be filled through appointment by the Skokomish Tribal Council. The terms of office for Commissioners shall be five years. One Commissioner shall be appointed each year by the Skokomish Tribal Council so that Commissioner terms will be staggered, *provided*, that in the event of a Commissioner vacancy the Council may appoint a replacement Commissioner to serve the remaining term of that Commissioner.
- (f) Commissioner – Removal from Office. Commissioners may only be removed from office by the Skokomish Tribal Council, prior to the expiration of their respective terms, for neglect of duty, misconduct, malfeasance or other acts that would render a Commissioner unqualified for the position.
- (g) Commissioner – Restrictions. Commissioners shall avoid potential and actual conflicts of interest. To avoid potential conflicts of interest, Commissioners are prohibited, at a minimum, from:
- (1) Gambling in any facility under the jurisdiction of the Tribe;
  - (2) Accepting complimentary items from the gaming operation, excepting food and beverages valued under one hundred dollars (\$100.00) per day;
  - (3) Holding financial interests that conflict with the performance of their duties; and
  - (4) Using their positions for private gain.
- (h) Commissioner – Compensation and Expenses.
- (1) Commissioners shall be compensated at a level determined by the Skokomish Tribal Council. In order to ensure the Commission is not improperly influenced, a

Commissioner's compensation shall not be based on a percentage of gaming revenue. To ensure the independence of the Commissioners, the compensation of an individual Commissioner may not be reduced during that Commissioner's five-year term.

(2) Subject to preauthorization by the Skokomish Tribal Council, Commissioners shall be reimbursed for expenses incurred in connection with the performance of their duties.

(i) Meeting – Quorum – Voting.

(1) The Commission shall meet at least monthly. Upon the request of the Chair or three members of the Commission a meeting shall be promptly held.

(2) A majority of the Commission shall constitute a quorum. The Commission may act in its official capacity, even if there are vacancies on the Commission.

(3) All actions of the Commission shall require the concurrence of a majority of the Commissioners attending a meeting where there is a quorum. The Chair of the Commission may vote on any issue.

(j) Notice Requirements – Regulations. Before adopting, amending and repealing regulations, the Commission shall give notice of any such proposed action to the Skokomish Tribal Council, the gaming operation(s) and all other persons whom the Commission has reason to believe have a legitimate interest in the proposed action. The notice shall invite comments and describe the general nature of the proposed action and the manner in which comments on the proposed action shall be received by the Commission. The publication of any notice on the Skokomish Indian Tribe's official website and/or in The Sounder is deemed sufficient and proper notice. This notice requirement may be waived by the Commission, if the Commission determines that good cause exists.

(k) Records. The Commission shall keep a written or audio record of all its meetings and hearings.

(l) Commission – Powers and Duties – Primary Management Officials, Key Employees, Gaming Employees, and Non-Gaming Employees. The Commission has the following powers and duties to:

(1) Conduct background investigations, or cause such investigations to be conducted, for primary management officials, key employees, and gaming employees;

(2) Review and approve all investigative work conducted in connection with the background investigations of primary management officials, key employees, and gaming employees;

(3) Create and maintain investigative reports based on the background

investigations of primary management officials, key employees, and gaming employees;

- (4) Designate a law enforcement agency to obtain and process fingerprints and conduct a criminal history check that shall include a check of criminal history records information maintained by the Federal Bureau of Investigation;
- (5) Make licensing eligibility determinations for primary management officials, key employees, and gaming employees;
- (6) Submit a notice of results to the National Indian Gaming Commission (“NIGC”) of the background investigations done for each primary management official, key employees, and gaming employees;
- (7) Issue gaming licenses to primary management officials, key employees, and gaming employees of the operation, if warranted by the eligibility determination;
- (8) Promulgate and issue regulations and establish guidelines or standards regarding the licensing of non-gaming employees; and
- (9) Conduct background investigations, make eligibility determinations, and license non-gaming employees.

(m) Commission – Powers and Duties – Gaming Facilities, Vendors of Gaming Services or Supplies, and Financiers. The Commission has the following powers and duties to:

- (1) Promulgate and issue regulations and establish guidelines or standards for licensing gaming facilities, vendors of gaming services or supplies, and financiers extending financing to a gaming facility or gaming operation;
- (2) Issue licenses to gaming facilities, vendors of gaming services or supplies, and financiers extending financing to a gaming facility or gaming operation;
- (3) Create a list of regulatory authorities that conduct background investigations of and license vendors and financiers who are recognized as trustworthy; and
- (4) Promulgate and issue regulations exempting vendors and financiers from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority.

(n) Commission – Powers and Duties – Other Persons and Entities Engaged in Gaming Activities. The Commission has the following powers and duties to:

- (1) Promulgate and issue regulations and establish guidelines or standards for licensing of other persons and entities engaged in gaming related activities;
- (2) Issue licenses to other persons and entities engaged in gaming related activities.

- (o) Commission – Powers and Duties – Licensing Fees and Taxes. The Commission has the power and duty to promulgate and issue regulations on the levying of fees and/or taxes associated with license applications.
- (p) Commission – Powers and Duties – Internal Controls. The Commission has the following powers and duties to:
- (1) Recommend, approve, and adopt internal control standards;
  - (2) Promulgate and issue regulations necessary to enforce compliance with applicable internal control standards; and
  - (3) Comply with any additional requirements imposed by the Skokomish Indian Tribe – State of Washington Gaming Compact and Appendices with respect to internal control standards for Class III Gaming.
- (q) Commission – Powers and Duties – Investigations; Compliance; Reporting. The Commission has the following powers and duties to:
- (1) Ensure compliance with the Tribal-State Compact, all Tribal, federal and applicable state laws, rules and regulations regarding Indian gaming;
  - (2) Investigate any suspicion of wrongdoing associated with any gaming activities;
  - (3) Have unrestricted access to all areas of each gaming facility and the gaming operation;
  - (4) Inspect, examine and monitor all of the gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming facilities and operations;
  - (5) Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, federal or state statutes, ordinances, regulations, codes or resolutions; and
  - (6) Comply with any and all reporting requirements under Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. §§ 2701 *et seq.*, the NIGC’s regulations and any Tribal-State Compact to which the Tribe is a party, and any other applicable law.
- (r) Commission – Powers and Duties – Patron Dispute Resolution. The Commission has the following powers and duties to:
- (1) Hold hearings and render decisions on patron complaints in accordance with the procedures established in Chapter 4.02 STC; and
  - (2) Promulgate and issue regulations setting additional rules governing the conduct

of any hearing and the form of any decision, subject to any limitations imposed by Chapter 4.02 STC.

- (s) Commission – Powers and Duties – Licensing Enforcement. The Commission has the following powers and duties to:
- (1) Promulgate, issue, and enforce regulations on the levying of fines and/or the suspension or revocation of licenses for violations of: Chapters 4.02, 4.02A, and 4.02B STC; any Commission regulations and applicable federal or state gaming regulations; any laws or provisions made applicable by the Skokomish Indian Tribe – State of Washington Gaming Compact and Appendices; and any decisions or orders of the Commission or Courts of the Skokomish Indian Tribe;
  - (2) Promulgate and issue regulations establishing procedures for and conduct adjudicative proceedings to enforce applicable provisions of: Chapters 4.02, 4.02A, and 4.02B STC; any Commission regulations and applicable federal or state gaming regulations; any laws or provisions made applicable by the Skokomish Indian Tribe – State of Washington Gaming Compact and Appendices; and any decisions or orders of the Commission or Courts of the Skokomish Indian Tribe.
- (t) Commission – Powers and Duties –Exclusions; Problem Gambling. The Commission has the following powers and duties to:
- (1) Establish a list of persons not allowed to game in the gaming facilities in order to maintain the integrity of the gaming operation;
  - (2) Establish a list of persons who have voluntarily agreed to be excluded from the gaming facilities, and promulgate and issue regulations for enforcing the exclusions; and
  - (3) Promulgate, issue, and enforce regulations addressing problem gambling.
- (u) Commission – Powers and Duties – General. The Commission has the following powers and duties to:
- (1) Perform such other duties the Commission deems appropriate for the proper regulation of the gaming operation and gaming activities occurring within the jurisdiction of the Skokomish Indian Tribe;
  - (2) Promulgate and issue such regulations and guidelines or standards as deemed appropriate to implement the provisions of Chapters 4.02, 4.02A, and 4.02B STC, so long as the regulations and guidelines or standards are in furtherance of, and not in conflict with, any provisions of the aforementioned Chapters; and
  - (3) Enforce Chapters 4.02, 4.02A and 4.02B STC and any regulations and guidelines or standards promulgated and issued thereunder.

(v) Commission – Powers and Duties – Supervision; Delegation. The Commission has the following powers and duties to:

- (1) Oversee the Tribal Gaming Agency and its Director; and
- (2) Delegate powers and assign duties to the Tribal Gaming Agency and its Director and staff.

(w) Confidentiality.

- (1) The Commission shall ensure that all records and information obtained as a result of a background investigation, including but not limited to, the identity of each person interviewed in the course of an investigation, shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing and/or employment processes.
- (2) Information obtained during the course of a background investigation shall be disclosed to members of management, human resource personnel and/or others employed by the Tribal gaming operation on a need-to-know basis, for actions taken in their official capacities.
- (3) The confidentiality requirements above do not apply to requests for such records or information from any Tribal, federal or state law enforcement or regulatory agency, or for the use of such records or information by the Commission and Tribal Gaming Agency in the performance of their official duties.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

#### **4.02A.020 Tribal Gaming Agency**

Under the supervision of the Commission, the Tribal Gaming Agency and its Director and staff are charged with:

- (a) The day-to-day implementation of Chapter 4.02 STC and this Ordinance and any other applicable laws, regulations and guidelines; and
- (b) Faithfully exercising any delegated powers and fulfilling any assigned duties.
  - (1) The Director of the Tribal Gaming Agency shall:
    - (A) Hold a class II and III gaming license;
    - (B) Be hired by the Chief Executive Officer of the Tribe in consultation with the Commission;
    - (C) Report to the Commission;

- (D) Hire and manage staff of the Tribal Gaming Agency;
  - (E) Prepare, submit and implement the annual budget for the Commission and Tribal Gaming Agency.
- (2) Tribal Gaming Agency staff and the Director shall avoid potential and actual conflicts of interest. To avoid potential conflicts of interest, Tribal Gaming Agency staff and the Director are prohibited, at a minimum, from:
- (A) Gambling in any facility under the jurisdiction of the Tribe;
  - (B) Accepting complimentary items from the gaming operation, excepting food and beverages valued under one hundred dollars (\$100.00) per day;
  - (C) Holding financial interests that conflict with the performance of their duties; and
  - (D) Using their positions for private gain.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

### **LAW ENFORCEMENT DESIGNATIONS**

#### **4.02A.030 Law Enforcement**

The Tribal Gaming Commission and Tribal Gaming Agency are designated as law enforcement agencies for such purposes as set forth in Chapters 4.02, 4.02A and 4.02B STC.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

### **ENACTMENT**

#### **4.02A.040 Repeal**

To the extent that they are inconsistent with this Ordinance, all prior Tribal gaming ordinances are hereby repealed.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

#### **4.02A.050 Effective Date**

This Ordinance shall take effect immediately upon approval by the National Indian Gaming Commission Chair of the Revised Skokomish Gaming Ordinance, Chapter 4.02 STC.

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)

#### **4.02A.060 Future Amendment**

This Ordinance may be amended in the future by the Skokomish Tribal Council, consistent with Chapter 4.02A STC

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the powers set forth in the Constitution of the Skokomish Indian Tribe, without approval by the National Indian Gaming Commission.

**Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)**

LEGISLATIVE HISTORY

Enacted by Resolution No. 2020-117 (Effective January 7, 2021) (Recodification – Tribal Courts Project)