

# POTAWATOMI LAW AND ORDER CODE

## TITLE 12 GAMING

### CHAPTER 12-1 LEGISLATIVE FINDINGS, POLICY AND PURPOSE

#### **Section 12-1-1. Sovereign Powers and Responsibilities.**

This Title is enacted pursuant to the inherent sovereign tribal powers expressly delegated to the Council in Article V, Section 1(a), (c), (f), (g), (i), (l), (m), (p), (q) and (r) of the Tribal Constitution, which authorized the Council to negotiate, consult, and contract with Federal, State and local governments, to charter, and regulate subordinate organizations, appoint subordinate committees and representatives, to promulgate and enforce ordinances providing for the maintenance of law and order and the administration of justice on the Reservation, manage and otherwise deal with tribal lands and property, to exclude by ordinance from the restricted lands of the Reservation people not legally entitled to reside therein, to regulate the conduct of trade and the use and disposition of property upon the Reservation, to engage in any business that will promote the health, peace, morals, education and welfare of the Tribe and its members, to administer tribal matters in accordance with accounting, property control and personnel procedures established by the Council, to make expenditures from available tribal funds for tribal purposes and to delegate to subordinate boards or tribal officials forgoing powers, subject to review by the Council.

(Amended by PBP TC No. 93-59 on November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993.)

#### **Section 12-1-2. Federal Policy of Tribal Self-determination.**

In 1970, President Nixon announced the policy of the United States government to promote self-determination for Indian tribes. At the heart of the federal 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.

The federal commitment was furthered in 1988 by passage of the Indian Gaming Regulatory Act (IGRA), Public Law 100-497, 102 Stat. 2426, 25 U.S.C. §§ 2701 *et seq.* (1988), through which the federal government recognized the inherent sovereign right of tribes to conduct and regulate gaming on their reservations and preempted state authority in the area of Indian gaming.

**Section 12-1-3. Potawatomi Tribal Policy of Self-Government.**

The Tribe is firmly committed to the principal 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.

**Section 12-1-4. Tribal Alcohol Rehabilitation Program.**

Among the governmental services provided by Tribal government is its alcohol rehabilitation program which is funded entirely by the federal government. Because of the deficiency of federal funding of the program, on-Reservation shelters are not available for resident tribal members with alcohol problems. Thus, although this program combats the most serious medical and social problem on the Reservation and is essential to the health and welfare of the Tribe, the program is badly in need of additional tribal funding.

**Section 12-1-5. Land Consolidation Program.**

As recognized by Congress in the Act of January 25, 1983, Public Law 94-459, Title I, the continued existence of Reservations as permanent homelands for Indian Tribes and as necessary foundations for continued self-determination requires that the Tribes consolidate and increase the trust land base in their Reservations and prevent further loss of trust land. Accordingly, the Tribe needs to establish a Land Consolidation Program but cannot do so until adequate Tribal funding is available.

**Section 12-1-6. Tribal Need for Governmental Revenue and Additional Economic Development.**

The Tribe desires to pursue its goal of self-determination vigorously through the development of manufacturing and farming enterprises. Because of the modest income level of the Tribe, cutbacks in federal funding and increasing costs of self-government, it is essential that the Tribe develop additional economic activities on the Reservation to support general governmental programs, the Alcohol Rehabilitation Program and a Land Consolidation Program, and to provide employment for Tribal members.

**Section 12-1-7. Tribal Gaming Policy.**

The establishment, promotion and operation of gaming is necessary and desirable, provided that such gaming be regulated and controlled by the Tribe pursuant to tribal and federal law and the Tribal-State Compact, and that the proceeds of such gaming be used exclusively for the purposes of the tribal government pursuant to tribal law and the IGRA. Gaming provided for hereunder is authorized by State law, and when operated in accordance with tribal and federal law and the Tribal-State Compact, such gaming will be conducive to the general welfare of all residents of the Reservation.

**Section 12-1-8. Purposes of Title.**

- (A) The purposes of this Title are:
- (1) To regulate, control and license the operation of all gaming within the Reservation and on all other Potawatomi Indian lands as defined by 25 U.S.C. § 2703(4).
  - (2) To promote and strengthen tribal economic development, independence and self-determination.
  - (3) To generate revenue to strengthen and improve tribal self-government and the provision of governmental services.
  - (4) To enhance employment opportunities for tribal members.

(B) In all of its regulatory decisions, policies and actions, the Tribal Commission shall consider and balance the purposes and benefits of the specific regulatory activity involved with the burdens and costs of complying with such regulation. The purpose of this Title and the Commission is not to maximize regulatory activity, but instead to provide for the reasonable regulation of gaming in a way that considers and balances these interests. The Commission shall request, consider and discuss with the gaming enterprise comments concerning the purposes and benefits of its regulatory activity and the burdens and costs of complying with such regulation.

(C) The Tribal Gaming Commission shall focus upon the regulation of gaming activity at the gaming enterprise. It shall not involve itself with operational matters, business decisions, ancillary facilities, non-gaming activities or non-gaming employees except as may be clearly necessary to perform a specific regulatory function over gaming activity.

(Amended by PBP TC No. 2005-023 on March 3, 2005)

**CHAPTER 12-2  
GENERAL PROVISIONS**

**Section 12-2-1. Definitions.**

In this Title, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings.

- (A) “**Ancillary facilities**” means any physical structure or area separate from, attached to or within the gaming facility where no gaming activity is conducted on a day-to-day, regular and continuing basis. Ancillary facilities include, without limitation, hotels, restaurants, VIP lounges, RV parks, event centers, gift shops, parking lots, retail outlets, environmental services or maintenance areas, gaming

facility food, beverage, amenity or other service areas or other areas where no gaming activity is conducted. “Ancillary activities” are activities that take place at an ancillary facility. Notwithstanding the foregoing, any area of the gaming facility which would otherwise be an ancillary facility shall be deemed not to be such during those periods of time that the Gaming Commission has authorized the conduct of Class III gaming in any such specifically designated areas of the gaming facility.

**(B) Applicable Law.** “Applicable law” means the Tribal Constitution, this Potawatomi Revised Law and Order Code, applicable federal law and the “Compact”.

**(C) Bingo.** “Bingo” means 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 each 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 in the same location) pull-tabs, lotto, punch boards, tip-jars, instant bingo and other games similar to bingo.

**(D) Casino.** “Casino” means facility in which several gaming activities or enterprises are operated.

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

**(F) Cheating.** “Cheating” means a person’s 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 himself or someone in privity with him an advantage over and above the chance of the game.

**(G) Code.** “Code” means the Potawatomi Revised Law and Order code approved by the General Council on July 20, 1991, comprising Titles 1 through 14, as amended hereafter.

**(H) Compact.** “Compact” means the gaming compact between the Tribe and the State to regulate Class III gaming, as authorized by the IGRA.

**(I) Compensation.** “Compensation” means any wages, salaries, bonuses, and all other forms of remuneration for services rendered.

**(J) Council or Tribal Council.** “Council” or Tribal Council” means the Tribal Council existing and functioning pursuant to the Constitution and By-laws of the Tribe.

**(K) General Council.** “General Council” means all enrolled members of the Prairie Band of Potawatomi Indians who are eighteen years of age or older meeting in a general council.

**(L) Educational, Charitable, Patriotic, Veterans, Fraternal, Religious, Civic, or Public-Spirited Uses.** “Educational, charitable, patriotic, veterans, fraternal, religious, civic, or public-spirited uses” mean:

- (1) Uses benefiting an indefinite number of people by bringing them under the influence of education or cultural programs.
- (2) Uses otherwise lessening the burden of the Prairie Band of Potawatomi tribal government.
- (3) Uses benefiting one or more people suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense which is uncompensated by insurance.
- (4) Uses for community service projects which promote the common good, enhance the social and economic welfare of the community, and benefit an indefinite number of people.

**(M) Electronic Game of Chance.** “Electronic Game of Chance” means any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator in playing a gambling game which is presented for play by the machine or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens or any thing of value, whether the payoff is made automatically from the machine or in any other manner.

**(N) Eligible Organization.** “Eligible organization” means any nonprofit organization operated for educational, charitable, patriotic, veterans, fraternal, religious, civic, or public-spirited purposes, or for the relief of poverty, distress, or other condition on the Prairie Band of Potawatomi Reservation.

**(O) Enterprise.** “Enterprise” means any tribally owned gaming operation.

**(P) Game or Gaming.** “Game” or Gaming” means any activity, operation or game of chance in which any valuable consideration may be wagered upon the outcome determined by chance, skill, speed, strength or endurance, and in which any valuable prize is awarded to the player so wagering, including but not limited to lotteries, keno, pull-tabs, pari-mutuel wagering, slot, poker, or other mechanical and electronic gaming, and the like, as well as those relying on satellites, computers or cable television, 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.

**(Q) “Gaming Employee.”** “Gaming Employee” is any natural person 18 years or older 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 outside the gaming facility regarding any gaming activity or operation, including, but not limited to, gaming operations managers and assistant managers; accounting personnel; surveillance personnel; cashier supervisors; dealers or croupiers; box men; floor men; 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 a restricted gaming area. An employee shall not be considered a gaming employee as a result of access to non-public areas of the gaming facility unless the person’s employment duties require or authorize access to a restricted gaming area.

**(R) Gaming Enterprise.** “Gaming enterprise” means any gaming activity or operation subject to the provisions of this Title.

**(S) Gaming Equipment.** “Gaming 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.

**(T) Gaming Facility.** “Gaming facility” means any location, establishment or structure, stationary or movable, wherein gaming is permitted, promoted, performed, conducted, or operated. Gaming facility does not include the site of a fair, carnival, exposition, or similar occasion.

**(U) Gross Receipts.** “Gross receipts” means any money collected or received from gaming activity or operation.

**(V) IGRA.** “IGRA” means the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2426, 25 U.S.C. §§ 2701, *et seq.* (1988), as amended.

**(W) Immediate Family.** “Immediate family” means, with respect to the person under consideration, any husband, wife, father, mother, son, daughter, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

**(X) In Privity With.** “In privity with” means any relationship involving one who acts jointly with another or as an accessory before the fact to an act committed by the other or as a co-conspirator with the other.

**(Y) IRS.** “IRS” means the United States Internal Revenue Service.

- (Z) Key Employee.** “Key employee” means:
- (1)** Any person within one or more of the following descriptions:
    - (a)** Bingo caller;
    - (b)** Counting room supervisor;
    - (c)** Chief of security;
    - (d)** Custodian of gaming supplies or cash;
    - (e)** Floor manager;
    - (f)** Pit boss;
    - (g)** Dealer;
    - (h)** Croupier’
    - (i)** Approver of credit;
    - (j)** Custodian of gambling devices including people with access to cash and accounting records within such devices; or
    - (k)** An employee in the finance and accounting offices.
  - (2)** If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or,
  - (3)** If not otherwise included, the four most highly compensated people in the gaming operation; or
  - (4)** Employee whom the Tribal Commission may be written notice classify as a key employee.

**(AA) License.** “License” means any official, legal, and revocable permission granted by the Tribal Commission to an applicant to conduct any gaming activity or operation on tribal lands.

**(AB) Licensee.** “Licensee” means a tribally owned Class II or Class III gaming enterprise or a person licensed by the Tribal Commission as a primary management official, key employee or standard gaming employee under the provisions of this Title.

**(AC) Lotto.** “Lotto” means any gaming in which the proceeds derived from the sale of tickets or chances are pooled and such proceeds or parts thereof are allotted by chance to one or more players. The amount of cash prizes or winnings are determined by the operator conducting the “lottery” and a progressive pool is permitted. Tele-lottery means that the drawing is televised for use in a cable television broadcast.

**(AD) Management Contractor.** “Management Contractor” means any individual, sole proprietorship, partnership, or corporation which manages any Class III gaming activity or operation on behalf of the Tribe pursuant to a management contract approved by the Chairman of the Indian Gaming Commission.

**(AE) Manufacturer-Distributor.** “Manufacturer-Distributor” means any person who assembles, produces, makes, prints or supplies Class III gaming equipment or supplies for sale, lease, use, or distribution to the Tribe for a Class III gaming activity.

**(AF) National Indian Gaming Commission.** “National Indian Gaming Commission” means the commission by that name established by the IGRA.

**(AG) Net Revenues.** “Net revenues” means adjusted gross gaming revenues, less amounts paid out as, or paid for, prizes, and total gaming-related operating expenses, excluding management fees.

**(AH) “Non-Gaming Employee”** means a natural person whose employment duties do not require or authorize access to restricted gaming areas and (1) who is employed in an ancillary facility or (2) who is employed in an area of gaming activity but is not actually employed in the operation or management of the gaming activity. Non-gaming employees who meet this definition include, without limitation, hotel and convention center employees, food and beverage preparers, servers, cashiers and other employees, valet employees, recreational vehicle park employees, wardrobe employees, and maintenance and janitorial employees.

**(AI) Operator.** “Operator” means a person contracted, appointed or hired by the Tribe or perform, promote, conduct, or operate any lawful, tribally licensed gaming activity or operation on tribal lands at a gaming facility. In the case of a gaming activity owned and operated solely by the Tribe, this person shall be the senior gaming management official employed to operated that game or games. In the case of a game or games operated pursuant to a management contract, that person shall be the senior management official designated by the management contract on its management contractor’s license application.

**(AJ) Participate.** “Participate” in any gaming activity means operating, directing, financing or in any way assisting in the establishment of 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.

**(AK) Person.** “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, provided that the term does not include the federal government and any agency thereof, 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.

**(AL) Player.** “Player” means any person participating in any gaming with the chance of winning money or other benefit, but does not include an operator, or any assistant of an operator.

**(AM) Primary Management Official.** “Primary Management Official” means:

- (1) Any person having management responsibility for a management contract;
- (2) Any person who has authority to:
  - (a) Hire and fire employees; or
  - (b) Set up working policy for the gaming operation; or
- (3) The chief financial officer or other person who has financial management responsibility.

**(AN) Principal.** “Principal” means with respect to any management contractor:

- (1) each of its officers and directors;
- (2) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager;
- (3) each of its owners or partners, if it is an unincorporated business;
- (4) each of its shareholders who owns more than ten percent of the shares of the corporation, if a corporation; and
- (5) 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.

**(AO) Pull-tabs, Punchboards and Tip Jars.** “Pull-tabs, punchboards and tip jars” means any gaming utilizing preprinted cards bearing symbols or numbers in random order, which are uncovered by random choice in expectation of cash prizes whenever prescribed combinations of symbols and numbers are revealed.

**(AP) Raffle.** “Raffle” means any gaming in which each player buys a ticket for a chance to win a prize with the winner determined by a random method. “Raffle” does not include a slot machine.

**(AQ) Reservation.** “Reservation” means the Potawatomi Indian Reservation including all lands, islands, waters, roads, and bridges or any interests therein, whether in trust or non-trust status and notwithstanding the issuance of any patent or right-of-way, within the boundaries of Reservation as established in Article 4 of the Treaty of July 23, 1846, 9 Stat. 853, and such other lands, islands, waters or any interest therein thereafter added to the Reservation at any time.

**(AR) “Restricted Gaming Area”** means an area of gaming activity not otherwise open to the public. Restricted gaming areas do not include public or non-public ancillary facilities, including employee or service corridors, kitchens, food or beverage service areas, restrooms, wardrobe rooms, coat rooms, employee locker rooms, janitorial rooms or other ancillary facilities from which access is restricted into restricted gaming areas.

**(AS) Secretary.** “Secretary” means the Secretary of the Interior or his duly authorized representative.

**(AT) Standard Gaming Employee.** “Standard gaming employee” means any gaming employee other than a key employee or primary management official. All references to “employee” in this Title with reference to employment in any gaming operation or facility shall refer to both key employees and standard employees unless the context clearly requires otherwise.

**(AU) State.** “State” means the State of Kansas.

**(AV) Tele-Bingo.** “Tele-bingo” means any gaming in which the game defined as “bingo” is conducted on tribal lands, but through a system combining the use of computers and cable television or telephone lines, and does not require the presence of the players at the site from where the telecast is originating. The presence of players is required however, at the site on the reservation where the tele-bingo game is being offered.

**(AW) Tribal Commission.** “Tribal Commission” means the Prairie Band of Potawatomi Gaming Commission described in Chapter 12-3.

**(AX) Tribal Court.** “Tribal Court” means the Tribal Court of the Prairie Band of Potawatomi Indians.

**(AY) Tribal Land.** “Tribal land” means:

(1) Any land within the limits of the Reservation of the Prairie Band of Potawatomi Indians of Kansas, together with any accretions thereto, which land must be located within the State of Kansas;

(2) Any land, title to which is either held in trust by the United States for the benefit of the Tribe or individual, or held by the Prairie Band of Potawatomi Indians or individual subject to a restriction by the United States against alienation and over which the Tribe exercises governmental power; and

(3) Any land within the State of Kansas which may be acquired by the Tribe in the future and which meets the requirements of Section 20 of the IGRA, 25 U.S.C. 2719.

**(AZ) Tribal Law Enforcement Agency.** “Tribal Law Enforcement Agency” means the tribal police established and maintained by the Tribe pursuant to the Tribe’s powers of self-government to carry out law enforcement within the Potawatomi tribal lands.

**(BA) Tribe.** “Tribe” means the Prairie Band of Potawatomi Indians, recognized by the federal government and operating pursuant to the Tribal Constitution and By-laws, and “tribal” means belonging or pertaining to the Tribe.

**(BB) Twenty-One or Blackjack.** “Twenty-one”, also known as “blackjack,” means the card game played by a maximum of seven players and one dealer wherein each player plays his hand against the dealer’s hand with the object of obtaining a higher total card count than the dealer by reaching 21 or as near 21 as possible without exceeding 21. The cards have the following value:

- (1) Aces count either one or 11, at any player’s option;
- (2) Kings, queens, and jacks each count ten; and
- (3) All other cards are counted at their face value.

**(BC) Wager.** “Wager” means a bet made in any game.

**(BD) Wagering Office.** “Wagering office” means any location within tribal land at which any wager is placed or accepted by an operator.

(Amended by PBP TC No. 93-59 on November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993; amended by PBP TC No. 94-14 on February 16, 1994; amended by PBP TC No. 94-41 on July 1, 1994; amended by PBP TC No. 2005-004 on January 10, 2005; amended by PBP TC No. 2005-023 on March 3, 2005)

### **Section 12-2-2. Tribal Gaming Commission Account Established.**

**(A)** There is hereby authorized and directed to be established an account in a federally insured financial institution to be known as the Tribal Gaming Commission Account.

**(B)** The Tribal Gaming Commission Account shall be an interest-bearing account and funds therein may be invested and reinvested only as approved by the Council.

**(C)** No monies shall be released or expended from the Tribal Gaming Commission Account except upon written resolution of the Council appropriating a specific amount of the monies contained therein for the use of a particular department, agency, or program of the Tribe. Such appropriated amount shall be directly transferred to the account of the receiving department, agency, or program named in the appropriation resolution.

**(D)** All income, fees, penalties, interest, charges, or other monies collected by the Tribal Commission in the administration and enforcement of this Title shall be deposited in the Tribal Gaming Commission Account.

### **Section 12-2-3. Allocation and Use of Gaming Revenue.**

**(A)** The Tribe shall receive not less than 60% of the net revenue of any Class II or III gaming on the Reservation or any other tribal land.

**(B)** Revenue from tribal gaming shall be used only for the following purposes:

- (1) To fund tribal government operations or programs;

- (2) To provide for the general welfare of the Tribe and its members;
- (3) To promote tribal economic development;
- (4) To provide donations for charitable organizations;
- (5) To help fund operations of local government agencies.

### **CHAPTER 12-3 TRIBAL GAMING COMMISSION**

#### **Section 12-3-1. Establishment.**

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

#### **Section 12-3-2. Authority of the Commission.**

The Commission is given exclusive authority to regulate all gaming activities or operations under provisions of this Title.

#### **Section 12-3-3. Location and Place of Business.**

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

#### **Section 12-3-4. Duration.**

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

#### **Section 12-3-5. Attributes.**

As a governmental subdivision of the Tribe, the Tribal Commission is hereby delegated the substantial governmental function of regulating tribal gaming pursuant to the IGRA and tribal law. It is the purpose and intent of the Council, in creating the Tribal Commission, that its operations be conducted on behalf of the Tribe for the sole benefit and interest of the Tribe. Notwithstanding any authority delegated to the Tribal Commission under this Title, 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 Tribal Commission, whenever the Tribe deems it necessary to protect the sovereignty, rights and interest of the Tribe or the Tribal Commission.

(Amended by PBP TC No. 93-59 on November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993.)

**Section 12-3-6. Recognition as a Political Subdivision of the Tribe.**

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

(Amended by PBP TC No. 93-59 on November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993.)

**Section 12-3-7. Sovereign Immunity of the Tribal Commission.**

The Tribal 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 state, federal or tribal court. Except as provided in Section 12-3-8, nothing in this title nor any action of the Tribe or the Tribal Commission shall be deemed or construed to be a waiver of sovereign immunity from suit by the Tribal Commission, or to be a consent of the Tribe or the Tribal Commission to jurisdiction over the Tribal Commission by the United States or by any state or any other tribe with regard to the business or affairs of the Tribe or the Tribal Commission, or to be a consent of the Tribe or the Tribal 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 Tribal Commission; or to be a consent of the Tribe or the Tribal Commission to suit in respect to any land within the exterior boundaries of the Reservation, or to be a consent of the Tribe or the Tribal Commission to the alienation, attachment or encumbrance of any such land.

**Section 12-3-8. Limited Waiver of Sovereign Immunity of the Tribal Commission.**

Sovereign immunity of the Tribal Commission may be waived only by express resolution of the Council after consultation with its attorneys. All waivers of sovereign immunity must be preserved with the resolutions of the Tribal Commission and the 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 Tribal 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 Tribal Commission subject thereto, court having jurisdiction pursuant thereto and law applicable thereto. Neither the power to sue and be sued provided in Subsection 12-3-20(AJ), nor any express waiver of sovereign immunity by resolution of the Council shall be deemed a consent to the levy of any judgment, lien or attachment upon property of the Tribal 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.

**Section 12-3-9. 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 Tribal Commission are hereby expressly reserved, including sovereign immunity from suit in any state, federal or tribal court. Except

as provided in Section 12-3-8, nothing in this Title nor any action of the Tribal 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 any other tribe with regard to the business or affairs of the Tribal 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 land within the exterior boundaries of the Reservation, or to be a consent to the alienation, attachment or encumbrance of any such land.

**Section 12-3-10. Credit of the Tribe.**

Except as provided in this Title and in any gaming management contract entered into by the Tribe pursuant to the IGRA, nothing in this Title nor any activity of the Tribal Commission shall implicate or in any way involve the credit of the Tribe.

**Section 12-3-11. Credit of the Tribal Commission.**

Except as provided in this Title and in any gaming management contract entered into by the Tribe pursuant to the IGRA, nothing in this Title, nor any activity of the Tribal Commission shall implicate or in any way involve the credit of the Tribal Commission.

**Section 12-3-12. Assets of the Tribal Commission.**

The Tribal Commission shall have only those assets specifically assigned to it by the Council or acquired by it on its own behalf. Except as provided in this Title and in any gaming management contract entered into by the Tribe pursuant to the IGRA, no activity of the Tribal Commission nor any indebtedness incurred by it shall implicate or in any way involve any assets of the Tribe not specifically assigned to the Tribal Commission, nor any assets of the Tribal Commission other than property specifically pledged or assigned by the Tribal Commission therefor.

**Section 12-3-13. Membership; Qualifications of Commissioners.**

**(A) Number of Commissioners.** The Tribal Commission shall consist of five members at large of the Tribe, all of whom shall be elected by the General Council. Members of the Commission shall select a Chairperson, Vice Chairperson, Secretary and Treasurer.

**(B) Qualifications of Commissioners; Background Investigation.** Prior to the time that any Tribal Commission member takes office on the Tribal Commission, the Tribe shall perform or arrange to have performed a comprehensive background investigation on each prospective member. No person shall serve as a Commissioner if:

- (1)** He is currently a member of the Council; or
- (2)** His prior activities, criminal record, if any, or reputation, habits or associations:

- (a) Pose a threat to the public interest; or
- (b) Threaten the effective regulation and control of gaming; or
- (c) Create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; or
- (3) 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
- (4) He has a present interest in the conduct of any gaming enterprise; or

(C) **Date of Appointment.** Each member of the Tribal Commission shall take office no later than one week after the swearing in of a new Commission following a tribal election.

(D) **Manner of Appointment.** Each Tribal Commissioner shall be appointed by written resolution.

(Amended by PBP TC No. 93-59 on November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993.)

#### **Section 12-3-14. Term of Office.**

The terms of office of Commissioners shall be staggered, provided that no term exceed four years. Two terms shall be two years each, two terms shall be three years each and one term shall be four years in duration. The highest vote getter shall serve the four year term, and so forth, until all terms are assigned by number of votes. Thereafter, Tribal Commission members elected in regular elections, shall serve four year terms, or until their successors are elected and installed in office.

(Amended by PBP TC No. 93-59 on November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993; amended by PBP TC No. 94-14 on February 16, 1994.)

#### **Section 12-3-15. Ex-Officio Members.**

At the direction of the Council, any other member of the Council, any tribal employee or any other person may be designated to participate, without vote, in Tribal Commission meetings.

#### **Section 12-3-16. Meetings.**

(A) **Regular Meetings.** The Tribal Commission shall hold at least one regular monthly meeting which shall take place on the first Tuesday of each month, or as otherwise determined by the Tribal Commission.

(B) **Special Meetings.** Special meetings may be called at the request of the Council, the Chairperson of the Tribal Commission or two or more members of the Tribal Commission.

(C) **Compensation of Commissioners.** Commissioners shall be salaried.

(D) **Quorum.** A quorum shall comprise three members.

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

(Amended by PBP TC No. 94-14 on February 16, 1994; amended by PBP TC No. 93-59 on November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993; amended by PBP TC No. 94-14 on February 16, 1994.)

### **Section 12-3-17. Organization**

The Tribal Commission shall develop its own operating procedures.

(Amended by PBP TC No. 94-14 on February 16, 1994.)

### **Section 12-3-18. Removal of Members; Vacancies.**

(A) **Removal.** The following are causes for removal from the Commission:

- (1) Malfeasance in the handling of gaming regulations and controls.
- (2) Neglect of duty.
- (3) Unexcused absence from three consecutive scheduled Commission meetings.
- (4) Conviction of a gaming related offense.
- (5) Noncompliance with this Title.
- (6) Acceptance of a bribe.
- (7) Conviction of a felony. Any member of the Gaming Commission who, during the term for which he or she is elected, is convicted of any felony shall automatically forfeit his or her office effective on the date of the initial court conviction.

(B) **Procedure for Removal.** Any Commission members who, during the term for which he is elected, is charged with any of the offenses listed in this Section may be removed from office for cause by a majority vote of the eligible tribal members attending any General Council meeting duly called for the removal of a Commissioner, provided that a quorum is present.

(C) **Calling a Removal Meeting.** Action to initiate removal of a Commission members shall be taken by the Council in the form of a resolution, stating the charges against the accused, the date of the duly called General Council meeting for the removal procedure, and the rights of the accused. A separate notice, stating only "Removal of Gaming Commissioner" shall constitute notice of the General Council removal meeting to the tribal membership and shall be posted at least thirty days prior to the General Council removal meeting.

**(D) Notification to the Accused.** A copy of the call for a removal resolution shall be provided to the accused by certified mail at least 30 days prior to any General Council removal meeting.

**(E) Petition for General Council Removal Meeting.**

**(1)** A request for a General Council removal meeting to consider removal of a Commissioner shall be by petition which shall contain at least 300 signatures of eligible tribal members.

**(2)** A clear statement of the purpose of the petition and the cause for removal shall be provided on each sheet of the petition.

**(3)** Any person circulating the petition shall be an enrolled tribal member.

**(4)** After validation of sufficient signatures on the petition by the Election Board, the Tribal Secretary shall certify the petition to the Council which shall act upon the petition as provided in Subsection 12-3-18(C).

**(F) Rights of the Accused.**

**(1) Answering Charges.** Before the vote of the tribal membership at a duly called General Council removal meeting, the accused shall be afforded the opportunity to hear and answer all charges of cause for removal included in the petition.

**(2) Documentation of Charges.** All charges of cause for removal must be documented at the General Council removal meeting. In the absence thereof, the accused shall be allowed to continue his term of office as a Commissioner.

**(3) Evidence.** The accused shall be permitted to have any witness testify on his behalf and may present affidavits, statements and pertinent documents as he deems necessary to refute the charges of cause for removal.

**(4) Confrontation of Accusers.** The accused shall be afforded the opportunity to confront and question witnesses who speak against him at the General Council removal meeting.

**(5) Failure of the Accused to Appear.** Failure of the accused to appear at the duly called General Council removal meeting shall be deemed a waiver of his right to a hearing unless an excuse satisfactory to the General Council for such failure is furnished to the Council not less than five days prior to the meeting. In the event no petitioners appear at such meeting, the removal action shall be considered null and void. The vote of the General Council upon the matter shall be conclusive.

**(G) Gaming Commissioner Removal by the Commission.**

(1) The Gaming Commission shall have the power to propose by resolution the removal of any of its members by the affirmative vote of the majority of a quorum at a meeting called for that purpose if such member is found to be guilty of any of the following: Moral turpitude, nonfeasance or malfeasance in office, gross neglect of duty, misconduct reflecting on the dignity and integrity of the tribal government, embezzlement of tribal property or assets or any other cause listed in this Section in Subsection (A). The member charged with any of these offenses shall be given a written statement detailing the charges at least ten days before the meeting at which the Commission is to consider the charges. He or she shall be given an opportunity to appear and answer the charges. In no case shall the individual who is subject to the charges preside at the meeting at which the decision is made on the charges. The removal of only one Gaming Commission member may be considered at any meeting.

(2) If the Gaming Commission votes to remove a member, its resolution proposing removal shall be delivered to the Chair and all other members of the Tribal Council. The Tribal Council shall by resolution within 10 days of the date of receipt of the Commission resolution concur or non-concur in the proposed removal. If the Tribal Council concurs in the removal or it fails to respond by resolution within 10 days, the Commission member shall be considered removed from office. If the Tribal Council by resolution votes for non-concurrence within 10 days, the Commission member shall not be removed at that time.

**(H) Vacancies.** If any Commissioner shall be removed from the Commission at the General Council removal meeting, the General Council shall by majority vote at the same meeting appoint another person to fill such position. If any Commissioner shall die, resign, or for any reason other than removal by the General Council be unable to serve as a Commissioner, the Council shall declare his position vacant and shall appoint another person to fill such position. The term of office of each person appointed to fill a vacancy by the General Council or the Tribal Council shall be for the balance of any unexpired term for such position, provided that any such appointee must meet the qualifications established by this Title. Any member of the Gaming Commission removed from office pursuant to this Section shall not be eligible to be elected or appointed to serve on the Commission until after the end of the term in which he or she was serving at the time of the removal.

(Amended by PBP TC No. 93-59 on November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993; amended by PBP TC No. 94-14 on February 16, 1994, amended by PBP TC No. 2005-023 on March 3, 2005)

**Section 12-3-19. Conflict of Interest.**

No person shall serve as a Commissioner if he or any member of his immediate family has an ownership, partnership or other financial interest, other than a regular salary

interest, in any gaming enterprise, or if he has any other personal or legal relationship which places him in a conflict of interest.

**Section 12-3-20. Powers of the Tribal Commission.**

In furtherance, but not in limitation, of the Tribal Commission's purposes and responsibilities, and subject to any restrictions contained in this Title or any other applicable law, the Tribal Commission is hereby authorized to exercise the following powers in addition to all powers already conferred by this Code:

- (A) To enact and enforce such rules and regulations regarding its activities and governing its internal affairs as it may deem necessary and proper to effectuate the powers granted and duties imposed by this Title and any other applicable law.
- (B) To publish and maintain copies of this Title and Tribal Commission rules and regulations and any Tribal Council, Tribal Commission or Tribal Court decisions regarding gaming matters.
- (C) To prepare and submit to the Tribal Council for its approval proposals, including budget and monetary proposals, to enable the Tribe to carry forth the policies and intent of this Title.
- (D) To work with the Council, the staff of any tribal department, program, project, or operation in regard to gaming issues.
- (E) To maintain and keep current a record of new developments in the area of Indian gaming.
- (F) To obtain and publish a summary of federal revenue laws relating to gaming and to insure compliance therewith.
- (G) To consider any gaming matter brought before it by any person, organization or business, and any matter referred to it by the Council.
- (H) Upon prior explicit written approval of the Council, to employ such advisors as it may deem necessary; advisors may include, but are not limited to, law enforcement specialists and gaming professionals, the Tribe's general or special counsel and the Tribe's accountants.
- (I) To establish and maintain such bank accounts as may be necessary or convenient.
- (J) To require by regulation the filing of any records, forms, reports and all other information desired by the Commission for implementation of this Title relating to any gaming activity or operation, or any investigation as required by tribal law and the IGRA.

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

**(L)** To adopt a schedule of fees to be charged for gaming licenses pursuant to the IGRA.

**(M)** 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.

**(N)** To delegate to an individual member of the Tribal Commission, or to an individual member of the Council, or, with the approval of the Council, to the Tribal Commission or tribal staff, such of its functions as may be necessary to administer this Title efficiently; provided that the Tribal 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 it may not delegate to anyone except the Council or Tribal Court the power to revoke a tribal gaming license permanently.

**(O)** To request the assistance of the Tribal Court or Tribal Appellate Court in conducting gaming hearings, or in any other matter for which the Tribal Commission deems such assistance to be necessary or proper.

**(P)** To establish and use a Tribal Gaming Seal.

**(Q)** By written notification to the National Indian Gaming Commission, to designate an agent for service of any official determination, order or notice of violation from such Commission.

**(R)** To supervise, inspect and regulate all gaming activities within the jurisdiction of the Tribe.

**(S)** To promote the full and proper enforcement of this Title and any other applicable law regarding gaming activities within the jurisdiction of the Tribe.

**(T)** To promulgate rules and regulations to implement and further the provisions of this Title, provided that all Class III gaming regulations shall be adopted pursuant to applicable law.

**(U)** To conduct background investigations of all people who propose to participate in any gaming activity or operation and to provide copies of investigative reports to the State Gaming Agency and the National Indian Gaming Commission.

**(V)** To consult with and make recommendations to the Council regarding changes in tribal gaming laws and policies.

**(W)** To make determinations of eligibility of applicants for Class B licenses and to provide copies thereof to the State Gaming Agency and the National Indian Gaming Commission.

**(X)** To make recommendations to the Council regarding the hiring of all supervisory gaming employees.

**(Y)** To approve or disapprove any application for a tribal gaming license.

**(Z)** 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, and books, records, papers, vouchers, accounts, documents and financial statements of any gaming or enterprise operating, or suspected to be operating, within the jurisdiction of the Tribe. In undertaking such investigations, the Tribal Commission may request the assistance of tribal gaming staff, federal and local law enforcement officials, legal counsel and other third parties.

**(AA)** To maintain a surveillance log recording all surveillance activities in the monitoring room of each gaming facility and to maintain a security log recording all unusual occurrences in any gaming facility as required by the Tribal-State Compact.

**(AB)** To establish a list of people barred from any gaming facility because of their criminal history or association with career offenders or career offender organizations as required by the Compact.

**(AC)** To conduct hearings and 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 Title and to compel by subpoena the attendance of witnesses and the production of any books, records and papers with respect thereto.

**(AD)** To compel obedience to its lawful orders by proceedings of mandamus or injunction or other proper proceedings, in the name of the Tribe in the Tribal Court or any other court having jurisdiction of the parties or of the subject matter.

**(AE)** To discipline any licensee or other person participating in any gaming activity or operation by ordering immediate compliance with this Title or Tribal Commission regulations and to issue an order of temporary suspension of any license issued under this Title, whenever the Tribal Commission is notified of a violation by any such person of this Title or any other applicable law.

**(AF)** To issued an order of temporary closure of any gaming activity or operation in the event the Council determines that immediate closure is necessary to protect assets

or activities of the Tribe, pursuant to Council regulations, or whenever the Council shall receive information from the Indian Gaming Commission that a primary management official or key employee of such licensee does not meet the standards for being licensed provided in the IGRA.

**(AG)** To close permanently, after notice and a hearing, any gaming activity or operation which is operated in violation of this Title or any other applicable law, or any gaming activity which has been ordered permanently closed by the National Indian Gaming Commission.

**(AH)** Whenever 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.

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

**(AJ)** Upon prior explicit written approval of the Council, to sue or be sued in courts of competent jurisdiction within the United States and Canada, subject to the provisions of this Code and other tribal laws relating to sovereign immunity.

**(AK)** To enter into an agreement with tribal police or other law enforcement agencies whereunder those agencies will report to the Commission any activities of any person who is in violation of the provisions of this Title or any other applicable law regarding any gaming activity.

**(AL)** To purchase, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve and use property and assets of every description, real and personal, tangible or intangible, including money, securities, or any interests therein, rights and services of any kind and description or any interest therein; provided that the Tribal Commission shall have authority to purchase any interest in real property, whether located on or off the Reservation, only with the express, prior written consent of the Council and title to such real property and property which is to become a fixture or permanent improvement or part of the real property shall be taken in the name of the Tribe or in the name of the United States in trust for the Tribe, and title to all trust and restricted real property shall remain in trust or restricted status.

**(AM)** To sell, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its personal property and assets.

**(AN)** To deal in inventions, copyrights, and trademarks; to acquire by application, assignment, purchase, exchange, lease, hire or otherwise and to hold, own, use, license, lease and sell, either alone or in conjunction with others, the absolute or any partial or qualified interest in and to inventions, letters patent and applications therefor, licenses, formulas, privileges, processes, copyrights and applications

therefor, trademarks and applications therefor, and trade names, provide that title to all such interests shall be taken in the name of the Tribe.

**(AO)** With the prior, explicit, written approval of the Council, to borrow money and to make, accept, endorse, execute and issue bonds, debentures, promissory notes, guarantees and other obligations of the Tribal Commission for moneys borrowed, or in payment for property acquired or for any of the purposes of the Tribal 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 part of the person or real property, rights or privileges of the Tribal Commission.

**(AP)** 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 Tribal Commission or which is necessary or incidental to the accomplishment of the purposes of the Tribal Commission.

**(AQ)** To invest and reinvest its funds in such mortgages, bonds, notes, debentures, share of preferred and common stock, and any other securities of any kind whatsoever, and property, real, personal or mixed, tangible or intangible, as the Tribal Commission shall deem advisable and as may be permitted under this Title or any other applicable law, provided, that the Tribal Commission shall have authority to invest or reinvest in real property, whether located on or off the Reservation, subject to the restrictions set forth in Subsection 12-3-20(AL).

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

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

**(AT)** To develop a cooperative working relationship with federal, state agencies and officials.

**(AU)** To provide to the National Indian Gaming Commission and to the State the results of background investigations upon proposed management entities, all owners, directors, primary management officials and key employees thereof, and all people proposed for employment as tribal employees, other than standard employees, in any Class III Gaming activity or operation before any such entity or person is employed either by the Tribe or any licensee.

**(AV)** To arrange for training of Tribal Commission members, tribal employees and others in areas relating to the regulation or operation of gaming.

**(AW)** To become self-regulating whenever the Tribe becomes eligible for a certificate of self-regulation under the IGRA.

(Amended by PBP TC No. 93-59 on November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993; amended by PBP TC No. 94-14 on February 16, 1994; amended by PBP TC No. 2000-62, March 22, 2000.)

**Section 12-3-21. Annual Budget.**

The Tribal Commission shall prepare an annual operating budget for all Tribal Commission activities and present it to the Tribal Council by August 15<sup>th</sup> of each year for approval. The Commission shall cause professionally audited annual financial statements to be prepared for all of its financial activity, including statements of all revenues, expenses and balance sheets. Copies of these financial statements shall be delivered to all members of the Tribal Council immediately after they have been prepared. Upon request of the Tribal Council or its Treasurer at any time, the Commission shall also deliver to the Tribal Council Chairperson and Treasurer information, records or documents that concern the Commission's finances, budgets, accounting or operations. All funds of the Commission that have been transferred to it and remain unexpended for operating or capital expense at the end of a calendar year shall be transferred to the tribal government general fund account on August 15<sup>th</sup> of each year at the direction of the tribal Treasurer.

(Amended by PBP TC No. 2000-62, March 22, 2000; amended by PBP TC No. 2004-094, June 17, 2004.)

**Section 12-3-22. Tribal Commission Regulations.**

**(A)** Tribal Commission regulations necessary to carry out the orderly performance of its duties and powers shall include, but shall not be limited to the following:

- (1)** Internal operational procedures of the Tribal Commission and its staff;
- (2)** Interpretation and application of this Title as may be necessary to carry out the Tribal Commission's duties and exercise its powers;
- (3)** A regulatory system for all gaming activity, including accounting, contracting, management and supervision;
- (4)** Reports or other information required by or necessary to implement this Title; and
- (5)** The conduct of inspections, investigations, hearings, enforcement actions and other powers of the Tribal Commission authorized by this Title.

**(B)** No regulation of the Tribal (Gaming) Commission shall be of any force or effect unless it is adopted by the Tribal (Gaming) Commission by written resolution and subsequently approved by a resolution of the Tribal Council and both filed for record in the Office of the Tribal Secretary and in the Office of the Clerk of the Tribal Court; and

(Amended by PBP TC No. 99-42, January 3, 2000)

(C) All Class II and Class III gaming regulations shall be adopted pursuant to the IGRA.

(D) The Tribal Court and any other court of competent jurisdiction shall take judicial notice of all Tribal Commission regulations adopted pursuant to this Title.

**Section 12-3-23. Right of Entrance; Monthly Inspection.**

The Tribal Commission and duly authorized officers and employees of the Tribal Commission, during regular business hours, may enter upon any premises of any operator or gaming facility for the purpose of making inspections and examining the accounts, books, papers, and documents, of any such operator or gaming facility. Such operator shall facilitate such inspection or examinations by giving every reasonable aid to the Tribal Commission and to any properly authorized officer or employee.

A Commissioner or a member of the Tribal Commission's staff shall visit each tribally owned or tribally operated gaming facility at least once every two weeks during normal business hours for the purpose of monitoring its operation. Such visits shall be unannounced.

**Section 12-3-24. Investigations.**

(A) The Tribal 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 Title. In conducting such investigation, the Tribal 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 Tribal Commission regulations.

During any investigation prior to the issuance of formal written notice concerning an apparent violation, no employee or agent of the Tribal Commission shall orally discuss with or suggest to a gaming enterprise or licensee the suspension or revocation of the license or other possible adverse action by the Tribal Commission.

(B) **Investigation of Non-Gaming Employees.** The Tribal Commission may investigate suspected misconduct of non-gaming employees. If the Commission determines that the conduct of such employee poses a threat to the effective regulation of gaming or creates or enhances the dangers of unfair or illegal practices, methods and activities in the conduct of gaming, the Commission shall notify all interested parties of such concerns and, after a hearing, may order the modification or termination of the person's employment.

(C) **Investigation of Non-Gaming Vendors.** The Tribal Commission may investigate suspected misconduct of non-gaming vendors. If the Commission determines that the conduct of any vendor poses a threat to the effective regulation of

gaming or creates or enhances the dangers of unfair or illegal practices, methods and activities in the conduct of gaming, the Commission shall notify all interested parties of such concerns and, after a hearing, may order the modification or termination of the vendor's conduct.

(Amended by PBP TC 2005-004, January 10, 2005; amended by PBP TC No. 2005-023, March 3, 2005)

**Section 12-3-25. Hearings; Examiner.**

Pursuant to regulations, the Tribal Commission may hold any hearing it deems to be reasonably required in administration of its powers and duties under this Title. Whenever it shall appear to the satisfaction of the Tribal Commission that all of the interested parties involved in any proposed hearing have agreed concerning the matter at hand, the Tribal Commission may issue its order without a hearing.

The Tribal Commission may designate one of its members to act as examiner for the purpose of holding any such hearing or the Tribal Commission may appoint another person to act as examiner under Section 12-3-26. The Tribal Commission shall provide reasonable notice and the right to present oral or written testimony to all people interested therein as determined by the Tribal Commission.

An employee or agent of the Tribal Commission who prior to hearing is directly involved in the investigation of factual issues in a case may not, in that or a factually related case, participate or advise in the decision or recommended decision except as witness or counsel in public proceedings or in determining applications for initial licenses.

(Amended by PBP TC No. 2005-023, March 3, 2005)

**Section 12-3-26. Appointment of Examiner; Power of Examiner.**

The Tribal Commission may appoint any person qualified in the law or possessing knowledge or expertise in the subject matter of the hearing to act as examiner for the purpose of holding any hearing which the Tribal Commission is authorized to hold. Any such appointment shall constitute a delegation to such examiner of all powers of a Commissioner under this Title with respect to any such hearing.

**Section 12-3-27. Bank Account of Gaming Facility.**

The Tribal Commission shall ensure that sufficient separate bank accounts are established for each gaming facility, and that all proceeds of each such facility shall be deposited therein.

**Section 12-3-28. Quarterly Summary Report of Tribal Enterprise Managers' Reports.**

The Tribal Commission shall file a summary report to the Council quarterly summarizing reports received from each manager of any tribal gaming enterprise, and making such comments as it deems necessary to keep the Council fully informed as to the status of all its gaming enterprises.

(Section 12-3-29 was deleted by PBP GC on October 23, 1993. Accordingly the following Section has been renumbered.)

**Section 12-3-29. Designation of Agent to Accept Service.**

On behalf of the Tribe, the Tribal Commission, shall, by written notification to the National Indian Gaming Commission, designate an agent for service of any official determination, order or notice of violation from such Commission.

**CHAPTER 12-4  
CLASSES OF GAMING; AUTHORIZED GAMES**

**Section 12-4-1. Classes of Gaming.**

Gaming activities shall be classified as follows:

(A) **Class I.** "Class" I means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as part of, or in connection with, trial ceremonies or celebrations, which require permission only of the tribal community in which they are conducted. Class I includes raffles for charitable purposes and with prizes of minimal value.

(B) **Class II.** "Class II" means bingo of every kind if played at the same location, whether or not electronic, computer, or other technologic aids are used in connection therewith, pull-tabs, lotto, punch boards, tip jars, instant bingo and other games similar to bingo; also card games, and only those banking card games which were played on the Reservation under tribal authority on May 1, 1988, and any Class II games as defined by 25 CFR 502.3.

(C) **Class III.** "Class III" means all forms of gaming that are not Class I, or Class II gaming as defined in the IGRA, 25 CFR 502.4 and "Gaming" includes participating in any activity in furtherance thereof such as owning, financing, managing, conducting, or assisting in any way in any such activity, directly or indirectly, whether at the site in person or off the Reservation.

(This section is changed in the Resolution 94-52.)

**Section 12-4-2. Authorized Games.**

Consistent with all applicable law, the Tribe authorizes the licensing of the following games of chance:

(A) Bingo

(B) Any other non-banking card game explicitly authorized by Kansas law or which is not explicitly prohibited by Kansas State law that is played at any location in the State, but only if such card game is played in conformity with Kansas State laws and regulations regarding hours or periods of operation and limitations on wagers or pot sizes.

(C) The following additional games are authorized subject to the terms and conditions of the Compact:

- (1) Blackjack.
- (2) Poker.
- (3) All other banking and non-banking card games.
- (4) Craps.
- (5) All other banking and non-banking dice games.
- (6) Roulette.
- (7) Baccarat.
- (8) Chemin de Fer.
- (9) Wheel of Fortune.
- (10) Keno.
- (11) Electronic games of chance.
- (12) Games of chance relying on satellite, computer or cable television.
- (13) All other Class II games of chance authorized by the State of Kansas in a compact with any other Indian Tribe.

**CHAPTER 12-5  
REGULATION OF GAMING**

**Section 12-5-1. Applicability; Gaming Regulated.**

This Title shall apply to any person engaged in gaming within the jurisdiction of the Tribe. No person shall operate Class II or Class III gaming or participate in any Class II or Class III gaming activity within the jurisdiction of the Tribe without a tribal license therefor. Any application for a license pursuant to this Title, and participation in any gaming 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 participation in such gaming, and all matters arising under any of the provisions of this Title or any other applicable law.

**Section 12-5-2. Tribal Ownership of Class II and Class III Gaming.**

The Council reserves to the Tribe the sole proprietary interest in all Class II and Class III gaming activities and operations authorized under this Title.

**CHAPTER 12-6  
GAMING LICENSES**

**Section 12-6-1. Types of Licenses.** Gaming licenses issued by the Tribal Commission shall comprise the following types:

- (A) **Series A-Class II.** A Series A-Class II gaming license shall be required for every Class II gaming enterprise.
- (B) **Series A-Class III.** A Series A-Class III gaming license shall be required for every Class III gaming enterprise.
- (C) **Series B.** A Series B gaming license shall be required for every key employee or primary management official.
- (D) **Series C.** A Series C gaming license shall be required for every standard gaming employee.
- (E) **Series D.** A Series D gaming license shall be required for every Manufacturer-Distributor.

**Section 12-6-2. No License Requirement for Class I Gaming.**

A gaming 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 Tribal Commission, and such permission must be on file with the Tribal Secretary before any such Class I gaming is conducted.

**Section 12-6-3. Application for Series A Gaming License.**

For any proposed Series A gaming enterprise, the Council shall file with the Tribal Commission an application for a Series A-Class II or Series A-Class III gaming license, whichever is applicable, which shall contain the name of the proposed enterprise and all pertinent information required by Tribal Commission regulations.

(Amended by PBP TC No. 93-59 on November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993.)

**Section 12-6-4. Review Procedure for Series A Gaming License Application.**

Before issuing a Series A gaming license the Tribal Commission shall:

- (A) Review the proposed gaming activity to ensure that all criteria required by this Title shall be met.
- (B) Review and approve the accounting procedures to be used in such gaming activity.
- (C) Take any additional steps necessary to ensure the integrity of such gaming activity.
- (D) In the case of Class III gaming, review all aspects of the proposed gaming operation to insure that it will comply with the provisions of the Compact.

**Section 12-6-5. Criteria for Series A Gaming License.**

The Tribal Commission shall issue a Series A gaming license only if all the following criteria are met:

- (A) The proposed gaming activity or operation is to be located on land which was held in trust for the Tribe prior to October 17, 1988, on trust land located within or contiguous to the boundaries of the Reservation on October 17, 1988, on land taken into trust after October 17, 1988, as a settlement of a claim or on lands of the Tribe defined as Indian lands in Section 2703(4) of the Indian gaming Regulatory Act, 25 U.S.C. §2701 et seq.
- (B) The proposed gaming activity to be played is Class II or Class III gaming as defined by this Title and the IGRA and, if Class III gaming, is authorized by the Compact.
- (C) The proposed gaming activity is authorized by a Council resolution.
- (D) The Tribe will have the sole proprietary interest and the Tribe will have the exclusive responsibility for the conduct of the proposed gaming activity, or if it does not, the management contract for such gaming is consistent with this Title, any other applicable law and is approved by the National Indian Gaming Commission.
- (E) The resolution authorizing the proposed gaming activity provides that:
  - (1) All revenues of the proposed gaming activity shall be audited annually and copies of such audits shall be provided to the Tribal Commission and the National Indian Gaming Commission.
  - (2) The proposed gaming activity shall comply with all IRS reporting and filing requirements

(3) Any contract 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.

(4) The construction of maintenance of the gaming facility and the operation of the proposed gaming activity shall be conducted in a manner which shall adequately protect the environment and the public health and safety.

(5) The application designates in writing one person who shall serve as its General Manager.

(6) The General Manager, all primary management officials, all key employees, all standard employees and all people owning an interest in, or in any way serving as representatives of any Management Contractor involved with the particular gaming activity has passed the background investigations, if applicable, and have obtained the tribal gaming licenses required by this Title. The application states in writing that all future primary management officials, key employees and standard employees will be required to meet such requirements pursuant to this Title.

(7) The Tribal Commission shall have the authority to regulate the proposed gaming activity.

(8) The proposed gaming activity shall pay to the National Indian Gaming Commission such fees as federal law may require.

(Amended by PBP TC No. 2005-004, January 10, 2005)

#### **Section 12-6-6. Application for Series B Gaming License.**

(A) Any person seeking a Series B gaming license shall file with the Tribal Commission an application therefor which shall contain the following information:

(1) The applicant's name, including all other names used, current home and work addresses and telephone numbers, place of birth, date of birth citizenship, physical description and picture, driver's license number, as well as personal residence address for the previous five years.

(2) The name, address and telephone number of the operator with which the applicant will be employed and the specific location of the facility at which he will be employed or with respect to which he will conduct gaming activity.

(3) The name and job description of the position the applicant is applying for.

(4) The names and addresses of the applicant's living parents, grandparents, spouse, children, brothers, and sisters.

(5) Criminal history of the applicant (other than misdemeanor traffic offenses) including:

(a) Any arrest of the applicant, including date, place, details,

(b) Whether the applicant was taken into custody and details,

(c) Whether the applicant was held for questioning and details,

- (d) Whether the applicant has been charged by any law enforcement authority and details,
- (e) Disposition of any charges.
- (6) A complete disclosure of any civil or criminal judgment or administrative proceeding order rendered against the applicant, including the case number, a description of the judgment or administrative proceeding order and the name and address of the court or administrative agency involved.
- (7) A complete disclosure of any pending or anticipated civil or criminal action or administrative proceeding against the applicant, including the name and address of the law enforcement agency involved and the court or administrative agency involved.
- (8) Any history of mental illness and addiction to or dependence upon alcohol or a controlled substance by applicant.
- (9) Whether the applicant has applied to any licensing or regulatory agency for a professional or occupational license, the name and address of any such agency, whether such license was issued or denied, the type of license, the license number, the details surrounding any suspension, revocation, or other disciplinary action based on the license, and if the license is not current, the reason it is not current; and whether the applicant has ever applied for such a license and been denied the license.
- (10) Whether the applicant has held a gambling-related license issued by any state or Indian tribe, the jurisdiction in which the license was issued, the type of license, the license number, the details surrounding any suspension, revocation, or other disciplinary action based on the license; and if the license is not current, the reason it is not current; and whether the applicant has ever applied for such a license and been denied the license.
- (11) 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 any address listed in Subsection 12-6-6(A)(1).
- (12) A list of the applicant's previous jobs over the previous five years, including the name, address and telephone number of his employer, and the position held.
- (13) The names and addresses and a brief description of any businesses by which the applicant currently is, or has, within the previous five years, been employed. If any such business is a gaming business, the applicant shall fully disclose the nature of such employment, describing the position held, the dates during which such position was held, a description of the applicant's job responsibilities, the name, address and phone number of the business, and the name, address and phone number of a person who can attest to the accuracy of the information provided.
- (14) 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, a financial interest, other than a salary interest. If any such business is a gaming business, the applicant shall fully disclose the nature of such financial interest, the name, address, and telephone number of all other investors holding an

interest of 10% or more in the gaming operation, either directly or indirectly applying the attribution rules of I.R.C. 318, the name, address and phone number of the business, and the name, address and phone number of a person who can attest to the accuracy of the information provided.

**(15)** A Statement as to whether any member of the applicant's immediate family has a current financial interest, other than a salary interest, in any gaming-related enterprise anywhere. If so, the applicant shall fully disclose the nature of the relationship.

**(16)** A description of any current or previous employment relationship with an Indian Tribe, including the name of the Tribe involved, position held, and the name, address and phone number of a person who can attest to the accuracy of the information provided.

**(17)** A description of any current or previous non-employee business arrangement with an Indian Tribe, including the name of the Tribe involved and the name, address and phone number of a person who can attest to the accuracy of the information provided.

**(18)** A statement of all languages written or spoken.

**(19)** Written permission giving the Tribal Commission the right to obtain an investigation by the State of Kansas or by a commercial company of the applicant's background, including his criminal record, civil and criminal judgments and credit history.

**(20)** Any other information which might bring into question the applicant's fitness to serve as a primary management official or key employee of a licensed gaming operation.

**(B)** Each application shall be accompanied by the applicant's commitment to provide any additional information as may be required by the Tribe or the State.

**(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 current side and front view photographs of the applicant taken within the previous year.

**(E)** Each application shall be accompanied by two sets of fingerprints on forms from the Federal Bureau of Investigation or the Kansas State Patrol.

**(F)** Each application shall be accompanied by a sworn statement that the applicant will abide by this Code and any other applicable law.

**(G)** 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 employed in a gaming operation. The information will be used 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 hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

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

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

(Amended by PBP TC No. 93-59, November 10, 1993, pursuant to PBP GC Resol., October 23, 1993.)

#### **Section 12-6-7. Review Procedure for Series B Gaming License Application.**

Before issuing a Series B license the Tribal Commission shall:

**(A)** Perform or arrange to have performed the necessary background investigation on the applicant required by the IGRA and obtain an investigative report thereof.

**(B)** Forward a copy of the application to the State Gaming Agency or to a commercial company, whichever is appropriate, for performance of the background investigation.

**(C)** Determine the eligibility of the applicant and notify the applicant of the Commission's decision in writing. If the Commission votes to deny the license, it shall include within this notification the specific reasons for its decision.

**(D)** Forward to the National Indian Gaming Regulatory Commission copies of the application, an investigative report of the background investigation performed upon the applicant, the Commission's eligibility determination regarding the applicant and the Tribal Commission's findings and decision.

**Section 12-6-8. Employment of Key Employee or Primary Management Official Prior to Issuance of Class C Gaming License.**

A key employee or primary management official may be hired immediately upon filing of an application for a Class B gaming license. In such case, the investigative report of the background investigation of the applicant and a determination of his eligibility for a Class B gaming license shall be forwarded to the national Indian Gaming Commission within 60 days after such applicant begins work and such applicant shall be terminated if he has not obtained a Class B gaming license within 90 days of his employment.

**Section 12-6-9. Application for Series C Gaming License.**

Any person seeking a Series C gaming license shall file with the Tribal Commission an application therefore which shall be identical to the application for a Series B gaming license.

**Section 12-6-10. Review Procedure for Series C Gaming License Application.**

Before issuing a Class B license the Tribal Commission shall:

- (A) Review the application and determine whether it is necessary to perform or arrange to have performed a background investigation on the applicant and obtain an investigative report thereof.
- (B) Forward a copy of the application to the State Gaming Agency or to a commercial company, whichever is appropriate, if it determines it to be necessary to obtain a background investigation.
- (C) Determine the eligibility of the applicant and notify the applicant of the Commission's decision in writing. If the Commission votes to deny the license, it shall include within this notification the specific reasons for its decision.

**Section 12-6-11. Employment of Standard Gaming Employee Prior to Issuance of Class C Gaming License.**

A standard gaming employee may be hired immediately upon filing of an application for a Class C gaming license, subject to termination after the Commission reviews the application or obtains a background investigation of such applicant and determines the applicant to be ineligible for such license.

**Section 12-6-12. Application for Series D Gaming License.**

- (A) Any manufacturer-distributor seeking a Series D gaming license shall file with the Tribal Commission an application therefore which shall contain the following information:

- (1) The applicant's formal business name, including all other names used, business address and telephone number.
  - (2) If the applicant is incorporated, the state of incorporation and a current list of officers, directors and ten percent or greater shareholders; in such case a copy of the articles of incorporation shall be filed with the application.
  - (3) Criminal history of the applicant or any director, officer, ten percent or greater shareholder, or partner (other than misdemeanor traffic offenses), including:
    - (a) Any arrest, including date, place, details,
    - (b) Whether taken into custody and details,
    - (c) Whether held for questioning and details,
    - (d) Whether charged by any law enforcement authority and details,
    - (e) Disposition of any charges.
  - (4) A complete disclosure of any civil or criminal judgment or administrative proceeding order rendered against the applicant, including the case number, a description of the judgment or administrative proceeding order and the name and address of the court or administrative agency involved.
  - (5) A complete disclosure of any pending or anticipated civil or criminal action or administrative proceeding against the applicant, including the name and address of the law enforcement agency involved and the court or administrative agency involved.
  - (6) Whether the applicant has held a gaming-related license issued by any state or Indian tribe, the jurisdiction in which the license was issued, the type of license, the license number, the details surrounding any suspension, revocation, or other disciplinary action based on the license; and if the license is not current, the reason it is not current; and whether the applicant has ever applied for such a license and been denied the license.
  - (7) A description of any current or part 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.
  - (8) Written permission giving the Tribal Commission or its designee the right to investigate the applicant's background and that of any director, officer, ten percent or greater shareholder, or partner, including criminal record, civil and criminal judgments and credit history.
  - (9) Any other information which might bring into question the applicant's fitness to serve as a manufacturer-distributor for a licensed gaming operation.
- (B) Each application shall be accompanied by the applicant's commitment to provide any additional information as may be required by the Tribe or the State.
- (C) Each application shall be accompanied by a written release of liability and grant of authority to disclose information to the Kansas Bureau of Investigation and the Federal Bureau of Investigation.

(D) 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.

(E) Each application shall be accompanied by current side and front view photographs of the applicant taken within the last year.

(F) Each application shall be accompanied by two sets of fingerprints on forms from the Federal Bureau of Investigation or the Kansas State Patrol.

(G) Each application shall be accompanied by a sworn statement that the applicant will abide by this Code and any other applicable law.

(H) Each application shall be accompanied by a written statement that the applicant understands that solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 *et seq.*, and that the information obtained will be disclosed to the National Indian Gaming Commission members and staff, and 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 gaming activities, the issuance or revocation of a gaming license, or investigations of activities associated with a tribe or a gaming operation.

(I) Each application shall be accompanied by a statement as to whether the applicant has been denied a license by any state.

(Amended by PBP TC No. 93-59 on November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993.)

**Section 12-6-13. Review Procedure for Series D Gaming License Application.**

Before issuing a Series D license the Tribal Commission shall:

(A) Perform or arrange to have performed the necessary background investigation on the applicant required by the IGRA and obtain an investigative report thereof.

(B) Forward a copy of the application to the State Gaming Agency or to a commercial company, whichever is appropriate, for performance of the background investigation.

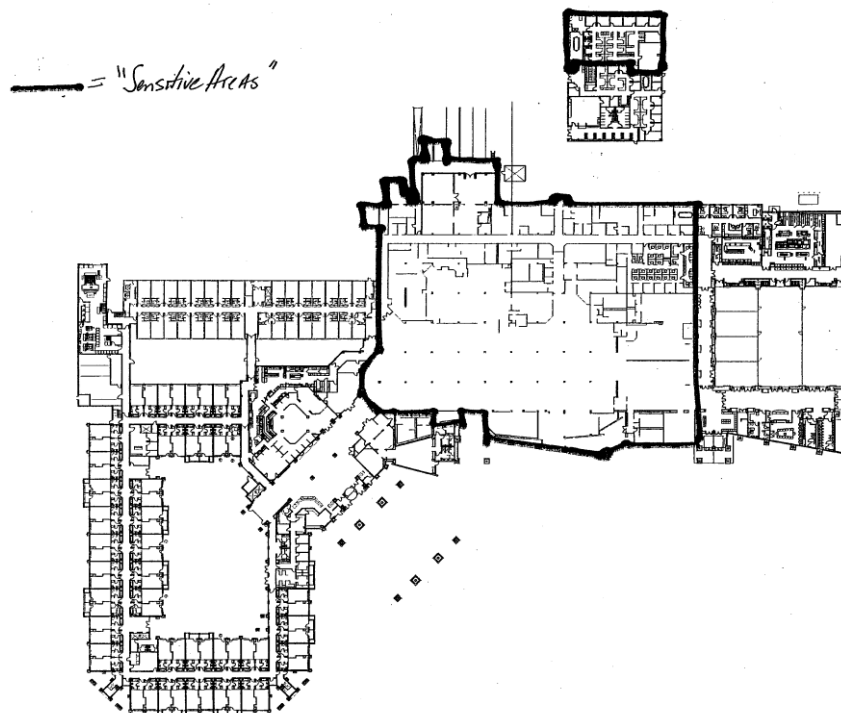
(C) Determine the eligibility of the applicant and notify the applicant of the Commission's decision in writing. If the Commission votes to deny the license, it shall include within this notification the specific reasons for its decision.

(D) Forward to the National Indian Gaming Regulatory Commission copies of the application, an investigative report of the background investigation performed upon

the applicant, the Commission's eligibility determination regarding the applicant and the Tribal Commission's findings and decision.

**Section 12-6-14. Vendor Licensing at the Casino Event Center and Hotel Expansion Project.**

(A) This section shall apply only to the \$55,000,000 Expansion Project approved by the General Council in July 2002. Any firm whose employees perform construction or installation work in "sensitive areas" shall obtain a license by the Tribal Gaming Commission in the same manner as a Series D Gaming License. "Sensitive areas" for the purpose of this policy are those areas that are within the hand-drawn bold black lines of the following map:



(B) With regard to all other licensing requirements, this Expansion Project shall apply the existing requirements for vendor licensing as set forth in Title 12, which are that only gaming vendors that are defined as "Manufacturers/Distributors" pursuant to Title 12 are required to apply for a Series D Gaming License with the Tribal Gaming Commission.

(Amended by PBP TC No. 2003-068, April 17, 2003)

**Section 12-6-15. Gaming Licenses and Investigations of non-gaming employees.**

A gaming license shall not be required for non-gaming employees. However, prior to the time that a non-gaming employee is employed by a Management Contractor or by the Nation at a gaming facility, the Commission shall be notified of such impending employment and shall, within three business days of such notification, conduct a background investigation of such person and inform the Contractor or the Nation of any regulatory concerns over the person's employment. The incompleteness of a Commission investigation after three days shall not delay the person's employment.

(Amended by PBP TC 2005-004, January 10, 2005)

**Section 12-6-16. Non-Gaming Vendors do not require Series D Gaming License.**

Only vendors that meet the definition of "Manufacturer-Distributor" as defined in this Code are subject to Series D Gaming licensure.

(Amended by PBP TC 2005-004, January 10, 2005)

**CHAPTER 12-7  
PROVISIONS OF GENERAL APPLICABILITY TO ALL LICENSEES**

**Section 12-7-1. Gaming License Application Fee.**

- (A) **Series A License.** No application fee shall be required for a Series A gaming license.
- (B) **Series B License.** The application fee for a Series B License shall be set by the Tribal Commission.
- (C) **Series C License.** The application fee for a Series C license shall be set by the Tribal Commission.
- (D) **Series D Licenses.** The application fee for a Series D License shall be set by the Tribal Commission.

**Section 12-7-2. Gaming License Tax.**

No annual license tax shall be required for a Class I, Class II or Class III gaming operation.

**Section 12-7-3. Form and Display of Gaming License.**

Every license issued by the Tribal Commission shall contain the following data:

- (A) The name and address of the authorized licensee.

- (B) The signature of an officer of the Tribal Commission.

Such license shall be posted in a conspicuous place at the facility at which the gaming activity authorized thereby is conducted, if applicable.

**Section 12-7-4. Terms of Gaming License.**

- (A) **Series A.** A Series A gaming license shall be valid for a period of five years from the date of issuance.
- (B) **Series B.** A Series B gaming license shall be valid for a period of two years from the date of issuance.
- (C) **Series C.** A Series C gaming license shall be valid for a period of two years from the date of issuance.
- (D) **Series D.** A Series D gaming license shall be valid for a period of two years from the date of issuance.

**Section 12-7-5. Gaming License Renewal.**

Each tribal gaming license may be renewed.

- (A) **Renewal Fees.** No renewal fee shall be required for a Series A gaming license. Renewal fees for Series B, C and D gaming licenses shall be set by the Tribal Commission.
- (B) **Renewal Application.** In order to obtain a renewal of a gaming license, the operator of a gaming enterprise, for a Series A gaming license, or the licensee, for a Series B, C or D license, shall submit to the Tribal Commission a written renewal application on the form provided by the Tribal Commission no later than sixty (60) days before the license expires. Such form shall require the updating of all information contained in the original application.
- (C) **Report Requirement.** No renewal application shall be approved until the annual report, required by Subsection 12-7-8, has been properly filed.
- (D) **Approval.** All renewal applications shall be approved in 30 days or less unless the Commission has reasonable grounds to believe that the enterprise or licensee, whichever is applicable, has been or will be operated in violation of this Title or any other applicable law.

**Section 12-7-6. Scope of Gaming License.**

(A) **Series A.** A Series A gaming license shall be effective only for the facility specified in the application. Any such license may be transferred only upon prior approval of the Tribal Commission upon written request which details the proposed new facility, its location and proposed operator thereof.

(B) **Series B.** A Series B gaming license shall be effective only for the person to whom it is issued and only with respect to the facility specified in the application. Any such license may be transferred to a new facility only upon prior approval of the Tribal Commission upon written request which details the proposed new facility, its location and proposed operator thereof.

(C) **Series C.** A Series C gaming license shall be effective only for the person to whom it is issued and only with respect to the facility specified in the application. Any such license may be transferred to a new facility only upon prior approval of the Tribal Commission upon written request which details the proposed new facility, its location and proposed operator thereof.

(D) **Series D.** A Series D gaming license shall be effective only for the Manufacturer-Distributor to which it is issued or the legal successor thereof.

**Section 12-7-7. Posting of Gaming Licensee.**

Each gaming enterprise shall post its tribal gaming license in a conspicuous location at its facility. If a gaming enterprise has more than one facility, it must obtain and post a separate license for each such facility. Any person licensed to sell raffle tickets outside a gaming facility shall carry a copy of the gaming license under which he is employed.

**Section 12-7-8. Annual Report of Series A Licensee.**

The operator of any facility which possesses a Series A gaming license must file an annual report with the Tribal Commission and the Council before the 15<sup>th</sup> day of the last month of the term of such license. The report shall be submitted on the annual report form provided by the Tribal Commission and shall include, at a minimum, the following information:

(A) The name, address and telephone number of the operator;

(B) The names, addresses and titles of its current General Manager and all of its submanagers;

(C) A description of the gaming activity that has been operated and the total gross sales for the previous year;

(D) A written copy of any changes it proposes to initiate in its rules;

- (E) A statement of the specific dates and times during which the game will be operated for the next license period;
- (F) The name and address of the person who will serve as General Manager for the next license period;
- (G) A statement of any changes in the primary management officials of key employees who will operate the gaming activity for the next license period;
- (H) Written proof that the gaming enterprise has paid the National Indian Gaming Commission such fees as federal and tribal law may require;
- (I) Proof that the gaming enterprise has complied with IRS Regulations, including written notice of customer winnings;
- (J) The address of any facility at which gaming activity has been conducted and the address of any new facility which will be established during the next license period;
- (K) The number of full-time equivalent people, on an annualized basis, employed by the gaming enterprise during the previous 12 months, together with a projection of the number of full-time equivalent people who are expected to be employed during the next license period;
- (L) The total gross revenue of the gaming enterprise over the previous year;
- (M) If the game is managed by a management contractor, the name, address and signature of the agent who resides on the Reservation and who will accept service of process on behalf of the management contractor; and
- (N) If, in the case of a management contractor, such management contractor is a corporation, a copy of any amendment to its articles of incorporation, properly certified by the incorporating government, unless a current copy is already on file with the Tribal Commission.

**Section 12-7-9. Procedure to Remedy Gaming License Violation.**

If the Tribal Commission finds that any gaming activity of any licensee is in violation of this Code or any other applicable law, or otherwise presents a threat to the public, the Tribal Commission shall immediately take such steps as it deems necessary to bring such activity into compliance.

**Section 12-7-10. Requirement of Producing Series B or C Gaming License Upon Request.**

Any person who obtains a Series B or C gaming license must carry such license upon his person during all working hours at any gaming facility under the jurisdiction of the Tribe and must produce such license upon the request of any law enforcement official or agent of the Tribe, the State or the National Indian Gaming Commission.

**Section 12-7-11. Temporary Suspension of Series B or C Gaming License.**

**(A) Grounds for Temporary Suspension of Class B or C Gaming License.**

Any Series B or C gaming license may be temporarily and immediately suspended by the Tribal Commission, or the Tribal Court for not more than 30 days if any of the following have occurred:

- (1) The licensee has been charged with a violation of this Title or any other applicable law.
- (2) The licensee's continued employment as a primary management official, key employee or standard gaming employee of a gaming enterprise poses a threat to the general public.
- (3) The licensee has made a material false statement in his license application.
- (4) The licensee has participated in gaming activity unauthorized by his tribal gaming license.
- (5) The licensee has refused to comply with any order of the Tribal Commission, the Council, the Tribal Court or the National Indian Gaming Commission.
- (6) The National Indian Gaming Commission has ordered a temporary or permanent closure of the tribal gaming operation for which the license was issued.

**(B) Procedure For Temporary Suspension of Series B or C Gaming License.**

In the event the Tribal Commission determines that any licensee meets any of the criteria stated in Subsections 12-7-11(A)(1) through 12-7-11(A)(6) or that his non-compliance with this Title is a direct and immediate threat to the peace, safety, morals or health or welfare of the community, the Tribal Commission shall issue an order of temporary suspension of such licensee's Series B or C gaming license and shall serve such notice upon the licensee immediately. The order shall state the grounds upon which it is issued and the licensee's right to a hearing. The licensee shall cease and desist operating in his position pursuant to his license immediately upon receipt of the order, but may file a notice of appeal with the Tribal Commission pursuant to the provisions of Subsection 12-7-12(B) which shall govern such appeal in all respects.

(Amended by PBP TC No. 93-59 on November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993.)

**Section 12-7-12. Denial or Revocation of Series B or C Gaming License.**

**(A) Grounds for Denial or Revocation.** The Tribal Commission may deny any Series B or C gaming license without a hearing, if notice and an opportunity for a hearing is provided for after the denial or it may revoke any Series B or C gaming license after notice and an opportunity for a hearing, for any of the following reasons:

- (1) The licensee has withheld pertinent information on the gaming license application;
- (2) The licensee has made false statements on the gaming license application;
- (3) The licensee has participated in gaming activity which was not authorized by the gaming license;
- (4) The licensee has attempted to bribe a Council member, Tribal Commission members or any other person in an attempt to avoid or circumvent this Title or any other applicable law;
- (5) The licensee has offered something of value or accepted a loan, financing or other thing of value from a Tribal Commission member, a subordinate employee or any person participating in any gaming activity;
- (6) The licensee has knowingly promoted, played or participated in any gaming activity operated in violation of this Title or any other applicable law;
- (7) 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;
- (8) The licensee has violated any provision of this Title or any other applicable law;
- (9) The license 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 any facility on the Reservation, 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 practices in the conduct of gaming;
- (10) The licensee has refused to comply with any order, inquiry or directive of the Tribal Commission, the Council, the federal government, the State or any court of competent jurisdiction;
- (11) The licensee has been convicted of, or entered a plea of *nolo contendere* to, a crime involving the sale of illegal narcotics or controlled substances; or
- (12) The license has been determined to have present or prior activities, criminal record, if any, or reputation, habits and 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 in the conduct of gaming.

**(B) Procedure for Revocation of Series B or C Gaming License.** Whenever it is brought to the attention of the Tribal Commission that any person has failed to

comply with any condition of his tribal gaming license or has failed to obtain a license, the Tribal Commission may either undertake an investigation of the gaming enterprise, or serve upon such person or any agent of such person an order to show cause why such person's license should not be revoked or why such person should not be enjoined from conducting gaming activities within the jurisdiction of the Tribe. Such notice shall state the reason for the order, the time and place for the show cause hearing before the Tribal Commission, and that the person shall have an opportunity to present testimony and cross examine opposing witnesses, and to present any other evidence as to why a revocation order or injunction should not be issued. The hearing shall be set for not less than 30 days nor more than 45 days from the date of the notice or receipt by the Tribal Commission of any appeal filed pursuant to Subsection 12-7-11(B). The hearing shall be governed in all respects in accordance with tribal law and Tribal Commission regulations.

(Amended by PBP TC No. 94-14, February 16, 1994; amended by PBP TC No. 2005-023, March 3, 2005)

### **Section 12-7-13. Temporary Suspension of Series D Gaming License.**

**(A) Grounds for Temporary Suspension of Series D Gaming License.** Any Series D gaming license may be temporarily and immediately suspended by the Tribal Commission, or the Tribal Court for not more than 30 days if any of the following have occurred:

- (1) The licensee has been charged with a violation of this Title or any other applicable law.
- (2) The licensee has made a material false statement in his license application.
- (3) The licensee has participated in gaming activity unauthorized by his tribal gaming license.
- (4) The licensee has refused to comply with any order of the Tribal Commission, the Council, the Tribal Court or the National Indian Gaming Commission.

**(B) Procedure For Temporary Suspension of Series D Gaming License.** In the event the Tribal Commission determines that any licensee meets any of the criteria stated in Subsections 12-7-13(A)(1) through 12-7-13(A)(4) or that his non-compliance with this Title is a direct and immediate threat to the peace, safety, morals or health or welfare of the community, the Tribal Commission shall issue an order of temporary suspension of such licensee's Series D gaming license and shall serve such notice upon the licensee immediately. The order shall state the grounds upon which it is issued and the licensee's right to a hearing. The licensee shall cease and desist operating in his position pursuant to his license immediately upon receipt of the order, but may file a notice of appeal with the Tribal Commission pursuant to the provisions of Subsection 12-7-14(B) which shall govern such appeal in all respects.

(Amended by PBP TC No. 94-14, February 16, 1994.)

**Section 12-7-14. Denial or Revocation of Series D Gaming License.**

**(A) Grounds for Denial or Revocation of Series D Gaming License.** The Tribal Commission may deny any Series D gaming license without a hearing if notice and an opportunity for a hearing is provided for after the denial or it may revoke any Series D gaming license after notice and an opportunity for a hearing, for any of the following reasons:

- (1) The licensee has withheld pertinent information on the gaming license application;
- (2) The licensee has made false statements on the gaming license application;
- (3) The licensee has participated in gaming activity which was not authorized by the gaming license;
- (4) The licensee has attempted to bribe a Council member, Tribal Commission member or any other person in an attempt to avoid or circumvent this Title or any other applicable law;
- (5) The licensee has offered something of value or accepted a loan, financing or other thing of value from a Tribal Commission member, a subordinate employee or any person participating in any gaming activity;
- (6) The licensee has knowingly promoted, played or participated in any gaming activity operated in violation of this Title or any other applicable law;
- (7) 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;
- (8) The licensee has violated any provision of this Title or any other applicable law;
- (9) The licensee or any director, officer, ten percent or greater shareholder or partner thereof 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 any facility on the Reservation, 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 practices in the conduct of gaming;
- (10) The licensee has refused to comply with any order, inquiry or directive of the Tribal Commission, the Council, the federal government, the State or any court of competent jurisdiction.
- (11) The licensee or any director, officer, ten percent or greater shareholder or partner thereof has been convicted of, or entered a plea of *nolo contendere* to, a crime involving the sale of illegal narcotics or controlled substances; or
- (12) The licensee or any director, officer, ten percent or greater shareholder or partner thereof has been determined to have present or prior activities, criminal record, if any, or reputation, habits and 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 in the conduct of gaming.

**(B) Procedure for Revocation of Series D Gaming License.** Whenever it is brought to the attention of the Tribal Commission that any licensee has failed to comply with any condition of his tribal gaming license or has failed to obtain a license, the Tribal Commission may either undertake an investigation of such licensee. or serve upon such licensee or any agent of such licensee an order to show cause why such licensee's license should not be revoked or why such licensee should not be enjoined from conducting gaming activities within the jurisdiction of the Tribe. Such notice shall state the reason for the order, the time and place for the show cause hearing before the Tribal Commission, and that the licensee shall have an opportunity to present testimony and cross examine opposing witnesses, and to present any other evidence as to why a revocation order or injunction should not be issued. The hearing shall be set for not less than 30 days nor more than 45 days from the date of the notice or receipt by the Tribal Commission of any appeal filed pursuant to Subsection 12-7-13(B). The hearing shall be governed in all respects in accordance with tribal law and Tribal Commission regulations.

(Amended by PBP TC No. 94-14, February 16, 1994.)

**Section 12-7-15. Gaming Licenses are Site-Specific.**

Each gaming license shall be applicable only to the gaming facility specified on such license.

**Section 12-7-16. Gaming Licenses are Not Transferable.**

No gaming license shall be sold, loaned, assigned or otherwise transferred.

**Section 12-7-17. Gaming Licenses are Personal.**

A gaming license shall be issue only to the person who qualifies for it under this Title, or to the Tribe or a tribal subdivision.

**Section 12-7-18. Title 12 and Regulations Available for Inspection.**

Each gaming enterprise shall keep a copy of this Title and all applicable regulations of the Tribal Commission readily available for inspection by any person at each authorized gaming facility.

**Section 12-7-19. Gaming Age Limitations.**

No person under 18 years of age shall be permitted to be a player in any Class II gaming facility, excluding charity bingo nights. No person under 21 years of age shall be permitted to be present in any gaming area of any Class III gaming facility, nor be permitted to place any Class III wager, directly or indirectly, provided that any person under 21 years of age shall have the right of ingress and egress through gaming areas as is necessary to use a nongaming area of any such facility such as a restaurant, meeting room, restroom, gift shop

or any other such area, the use of which is ancillary to another nongaming use, and provided, further, that any person over 18 years of age may, upon approval in accordance with licensing provisions, be employed in the gaming facility in a capacity not involving the service of alcoholic beverages.

(Amended by PBP TC No. 93-59, November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993; amended by PBP TC No. 94-14, February 16, 1994.)

**Section 12-7-20. Gaming Rules Available for Inspection**

Each gaming enterprise shall post in its facility in a conspicuous location near any gaming activity being played, or shall otherwise provide the public with, an explanation of the rules of play of every specific game operated in such facility.

**Section 12-7-21. Renting or Lending Gaming Equipment.**

Each gaming enterprise is prohibited from renting or lending gaming equipment to any person without prior written approval of the Tribal Commission.

**Section 12-7-22. Exchange of Pull-Tabs, Punchboards, Etc.**

Each gaming enterprise is prohibited from exchanging pull-tabs, punch-boards, sports pools, and twenty-one boxes with any other person except with prior approval of the Tribal Commission. All other gaming equipment may be exchanged without prior approval. Any request for approval shall be made to the Tribal Commission at least five days prior to the propose date of such exchange.

**Section 12-7-23. Permission Required for Making Gaming Equipment.**

Any gaming enterprise which anticipates the printing, manufacture, or construction of any equipment for gaming activity shall first notify the Tribal Commission of its intention and shall have the finished product approved by the Tribal Commission before it is placed in service.

**Section 12-7-24. Full Value Required for Gaming Chips and Tokens.**

Gaming chips and other tokens of value shall only be sold and redeemed by the gaming enterprise that issued them, and only for full value.

**Section 12-7-25. Five-Year Retention of Gaming Records.**

Each gaming enterprise shall maintain and keep in hard copy or in an electronic media storage format for not less than 5 years all permanent books of accounts and records,

including inventory records of gaming supplies, sufficient to establish to gross and net income, deductions, expenses, receipts and disbursements of the enterprise.

(Amended by PBP TC No. 2004-087 on May 20, 2004)

**Section 12-7-26. Facility Agreement Requirement.**

Each gaming enterprise being conducted in a facility not owned by the Tribe shall file with the Tribal Commission, prior to conducting any such gaming activity, a written agreement, attested to by both the general manager of the enterprise and the owner of such facility, setting forth the terms under which the enterprise is permitted the use of such facility.

- (A) The name of the legal owner of the facility. If the operator is a sub-lessee, the name of the lessee must also be included.
- (B) The name of the gaming enterprise and its General Manager.
- (C) The term of such use of the facility.
- (D) The monetary consideration to be paid for such use of the facility.
- (E) A precise description of the premises granted to or leased by the operator within the facility.
- (F) A prohibition of any advertising of the gaming activity by the grantor.
- (G) 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 facility herein (granted/leased) without the prior written approval of the Tribal Commission.

- (H) At a minimum, such agreement shall contain the following information:
- (I) The rental provision of such agreement must establish a fixed monthly rental dollar amount unless otherwise approved in writing by the Tribal Commission.
- (J) A graduated lease rate for use of the site is prohibited unless approved in writing by the Tribal Commission.
- (K) Other remuneration, in lieu of money, for use of the site is prohibited unless approved in writing by the Tribal Commission.
- (L) A percentage lease rate for use of the site is prohibited unless approved in writing by the Tribal Commission.

(M) No gaming activity shall be operated in conjunction with the conduct of any other business operation unless approved in writing by the Tribal Commission.

(N) Any renegotiated agreement shall be furnished to the Tribal Commission prior to its effective date.

**Section 12-7-27. Liquor Approval Requirement.**

There shall be no sale of liquor at any gaming facility without prior approval of the Council.

**Section 12-7-28. Cash Required for Gaming.**

Consideration for the chance to play in any gaming activity shall be only cash or, where allowed, a personal check, and shall be presented at the time such gaming is done. No other form of consideration shall be allowed unless the Tribal Commission gives prior written approval.

**Section 12-7-29. Form of Win or Loss Documentation.**

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.

**Section 12-7-30. Fee and Report Filing Requirement.**

Each gaming enterprise shall pay all required fees and file all required reports on time.

**Section 12-7-31. Response to Law Enforcement Agencies.**

Each gaming enterprise shall respond immediately to and obey all inquiries, subpoenas or orders of the Tribal Commission, the Council, the Tribal Court, or the National Indian Gaming Commission.

**Section 12-7-32. Facility Maintenance.**

Each gaming enterprise shall, at all times, maintain an orderly, clean, and neat gaming facility, both inside and out.

**Section 12-7-33. Security Requirement.**

Each gaming enterprise shall provide adequate security to protect the public before, during and after any gaming activity.

**Section 12-7-34. Cooperation with Tribal Law Enforcement Agency.**

Each gaming facility shall be subject to patrol by the tribal police for the purpose of enforcing tribal law, and each licensee shall cooperate at all times with the tribal police.

**Section 12-7-35. Inspection of Books and Records.**

(A) **Class II Gaming Operations.** Each Class II gaming enterprise shall keep accurate books and records and make its premises and books and records available for inspection during regular business hours by the Tribal Commission pursuant to Section 12-3-23, and by the National Indian Gaming Commission.

(B) **Class III Gaming Operations.** Each Class III gaming enterprise shall keep accurate books and records and make its premises and books and records available for inspection during regular business hours by the Tribal Commission pursuant to Section 12-3-23, and by the State.

**Section 12-7-36. Determination of Class II Gaming Holidays.**

The Tribal Commission reserves the right to determine that no Class II gaming shall be conducted on a given day or during a given event or holiday.

**Section 12-7-37. Anti-Discrimination Requirement.**

No gaming operation may discriminate on the basis of sex, race, color, or creed in the conduct of any gaming activity.

**Section 12-7-38. Compliance with Applicable Revenue Reporting Laws.**

Every gaming operation shall comply with any applicable tribal, state and federal revenue reporting laws.

**Section 12-7-39. Violation of Tribal Law.**

It shall be a violation of the tribal law and order code to violate any provision of this Title, any regulation of the Tribal Commission, or any order of the Tribal Court.

**Section 12-7-40. Drug Suspensions.**

Each gaming operation shall immediately suspend any employee who is charged with an offense described in subsection 12-9-4(V) or any offense related to the sale, possession, manufacture and or transport of illegal drugs. The General Manager of any such operation shall also immediately notify the Tribal Commission in writing of the name of the person and

the pending charge and advise the Tribal Commission of the outcome of the case. An employee who is convicted or who pleads *nolo contendere* to any such charge, shall be terminated.

(Amended by PBP TC No. 93-59, November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993.)

## **CHAPTER 12-8 OPERATION OF GAMES**

### **Section 12-8-1. General Manager.**

Each tribally licensed gaming operation shall designate one person who shall serve as the General Manager to be responsible for managing and overseeing the day-to-day operations of the gaming operation. The designee shall obtain a Series B gaming license before commencing work.

### **Section 12-8-2. General Manager's Monthly Report.**

The General Manager shall present a written monthly report to the Tribal Commission which details the number of patrons served, the amount of income generated, the numbers of employees working at the facility, a detailed description of any patron complaints and other problems experience at the facility, a list of all bills which are 30 days or more past due, and a written statement of any changes in key employees or primary management officials.

### **Section 12-8-3. Form of Payment of Winnings.**

Any patron's winnings in an amount under \$500.00 shall be paid in cash on the date on which it is won. Any patron's winnings in an amount over \$500.00 or more shall be paid in cash, or check, or both, in accordance with the patron's request, and within two hours of the patron's request to cash out.

(Amended by PBP TC No. 97-54, October 31, 1997)

### **Section 12-8-4. Advice of Patron Complaint Process.**

The General Manager shall propose and the Tribal Commission shall approve a patron complaint process. Each General Manager shall post at least one sign in each gaming room informing patrons that they may file complaints directly with the Tribal Commission, and advising them of the Tribal Commission's address and phone number.

### **Section 12-8-5. Liability Insurance.**

Each licensed gaming facility shall carry sufficient liability insurance to protect the public in the event of an accident. The Tribal Commission shall determine the amount of liability insurance required for each gaming facility.

**Section 12-8-6. Posting of Rules of Play.**

Each General Manager shall post the rules of play of each game in a conspicuous place in the facility, and shall make written copies available to the general public upon request.

**Section 12-8-7. Responsibility for Compliance with Applicable Law.**

The General Manager shall be personally responsible for seeing that gaming activity is managed in accordance with tribal and federal law and that such gaming activity complies with all IRS reporting requirements.

**Section 12-8-8. Audits.**

(A) **Annual Audit.** An audit by an independent Certified Public Accountant of the Tribal Commission's choice, shall be performed annually for each licensed gaming activity or operation and on each contract for supplies, services or concessions in excess of \$25,000 annually, except contracts for professional legal or accounting services, relating to any such gaming activity or operation. Any such audit shall be conducted in accordance with generally accepted accounting principles.

(B) **Additional Audits.** Additional audits as may be deemed necessary by the Tribal Commission shall be performed from time to time.

(C) **Audits Furnished to the Indian Gaming Commission.** The annual audit of each licensed gaming activity or operation and each audit for supplies, services or concessions of each such operation shall be furnished to the National Indian Gaming Commission within 120 days after the end of each fiscal year pursuant to the IGRA and regulations of the National Indian Gaming Commission thereunder.

(D) **Audits Furnished to the State.** The annual audit of each licensed Class III gaming activity or operation and each audit for supplies, services or concessions of each such operation may be made available to the State pursuant to the Compact.

(Amended by PBP TC No. 93-59, November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993.)

**Section 12-8-9. Management Contracts-Generally.**

(A) Any management contract entered into between the Tribe and a management contractor shall be valid only upon approval by the National Indian Gaming Commission. Any person or entity desiring a management contract with the Tribe shall agree to pay for any costs incurred for background investigations for each entity, key employee, primary management official, director, officer and ten percent or greater shareholder or partner of the proposed management contractor, and each person proposed to possess an ownership interest in such management contract.

**(B)** Each management contract shall be approved by the Council with the advice and comment of the Tribal Commission. Before the Council considers any management contract, each key employee, primary management official, director, officer and ten percent or greater shareholder, or partner of the proposed management contractor and each person proposed to possess an ownership interest in such management contract, shall apply for a Series B gaming license, and each person proposed to be a standard gaming employee shall apply for a Series C gaming license. The Commission shall complete the application review process and submit its written findings to the Council. Before giving final consideration to any such proposed management contract, the Council shall direct the Tribal Commission to take the steps and provide the Council with all information obtained thereby:

**(1)** Obtain a complete financial statement of the applicant, and if the applicant is a corporation, a complete financial statement of each director, officer, ten percent or greater shareholder, or partner.

**(2)** Contact each of the tribal governments and licensing agencies referred to in any application referred to the Subsection 12-8-9(B) to determine the performance history of the proposed management contractor or any such applicant for a Series B gaming license.

**(3)** Arrange to have the proposed management contractor investigated to learn his personal attributes and to determine whether the management contractor or any of the people referred to in Subsection 12-8-9(B) have prior criminal records or any pending criminal charges

**(4)** Obtain an independent verification of each financial statements obtained pursuant to Subsection 12-8-9(B)(1).

**(5)** Undertake any additional steps needed to determine the character and reputation of each such proposed management contractor.

**(C)** If the Council, after reviewing the above described information, desires to enter into a management contract with the proposed management contractor, such management contract shall be placed in writing and submitted to the Tribe's legal counsel for review before the Council approves it.

**(D)** After the Council is satisfied with the information it receives and enters into a management contract, it shall submit the proposed management contract, together with all of the above described information to the Chairman of the National Indian Gaming Commission for approval.

**(E)** Each management contractor or tribal operator of any tribal gaming enterprise, shall, by written notification to the National Indian Gaming Commission, designate an agent for service of any official determination, order or notice of violation from such

(Amended by PBP TC No. 93-59, November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993; amended by PBP TC No. 94-14, February 16, 1994.)

**Section 12-8-10. Management Contracts-Required Provisions.**

Any management contract approved by the Council must contain at a minimum the following with respect to the gaming enterprise to which the contract is applicable:

**(A) Governmental Authority.** A provision that all gaming covered by the contract shall be conducted in accordance with this Title.

**(B) Assignment of Responsibilities.** Provisions enumerating the responsibilities of the management contractor and the Tribe for each of the following identifiable functions:

- (1) Maintaining and improving the gaming facility;
- (2) Providing operating capital;
- (3) Establishing operating days and hours;
- (4) Hiring, firing, training and promoting employees;
- (5) Maintaining the gaming operation's financial statements and reports;
- (6) Preparing the operation's financial statements and reports;
- (7) Hiring and scheduling the auditors;
- (8) Hiring and supervising security personnel;
- (9) Providing fire protection services;
- (10) Settling advertising budget and placing advertising;
- (11) Paying bills and expenses;
- (12) Establishing and administering employment practices;
- (13) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage;
- (14) Complying with all applicable provisions of the Internal Revenue Code.

**(C) Accounting.** Provisions for establishment and maintenance of satisfactory accounting systems and procedures which shall, at a minimum:

- (1) Include an adequate system of internal accounting controls;
- (2) Permit the preparation of financial statements in accordance with generally accepted accounting principles;
- (3) Be susceptible to audit and require a monthly financial accounting of the gaming enterprise's income and expenses by an independent auditor chosen by the Tribe and approved by the management contractor;
- (4) Allow the gaming operation, the Tribe and the National Indian Gaming Commission to calculate the annual fee due the Commission under Section 18 of the IGRA, 25 U.S.C. § 2717;
- (5) Permit the calculation and payment of the management contractor's fee; and
- (6) Provide for the allocation of operating expenses or overhead expenses among the Tribe, the tribal gaming operation, the contractor, and any other user of shared facilities and services;

**(D) Reporting.** Provisions which shall require the management contractor to provide the Council on a monthly basis with verifiable financial reports or all information necessary to prepare such reports;

**(E) Access.** Provisions which shall require the management contractor to provide immediate access to the gaming operation, including its books and records, by appropriate tribal officials, who shall have;

- (1) Absolute access to the daily operation of the gaming enterprise and to its books, and the absolute right to verify the daily gross revenues of the gaming enterprise at any time; and
- (2) Access to any other gaming-related information the Tribe deems appropriate;

**(F) Guaranteed Payment to Tribe.** Provisions which shall require a minimum guaranteed monthly payment in a sum certain to the Tribe that has preference over the retirement of development and construction costs;

**(G) Development and Construction Costs.** Provisions which shall establish an agreed upon maximum dollar amount for the recoupment of development and construction costs;

**(H) Term Limits.** Provisions which shall limit any such contract to a term not to exceed five (5) years unless, upon the request of the Tribe for a longer term, the Chairman of the National Indian Gaming Commission is satisfied that the capital investment required and the income projections for the particular gaming operation require the additional time, and authorizes a contract term that does not exceed seven (7) years;

**(I) Compensation.** Provisions which shall detail the method of compensating and reimbursing the management contractor and provide that if a management contract provides for a percentage fee, such fee shall be either;

- (1) Not more than thirty (30) percent of the net revenues of the gaming operation if the Chairman of the National Indian Gaming Commission determines that such percentage is reasonable in light of the circumstances; or
- (2) Not more than forty (40) percent of the net revenues if the Chairman of the National Indian Gaming Commission is satisfied that the capital investment required and income projections for the gaming operation require that additional fee;

**(J) Termination Provisions.** Provisions which shall establish the grounds and mechanisms for modifying or terminating the contract;

**(K) Dispute Resolution.** Provisions which shall contain a mechanism to resolve disputes between:

- (1) The management contractor and customers, consistent with the procedures in this Title;
- (2) The management contractor and the Tribe; and
- (3) The management contractor and the gaming operation employees;

**(L) Assignments and Subcontracting.** Provisions which shall indicated whether and to what extent contract assignments and subcontracting are permissible; and

**(M) Ownership Interest.** Provisions which shall indicate whether and to what extent changes in the ownership interest in the management contract require advance approval by the Tribe.

(Deleted Section 12-8-11 by PBP GC on October 23, 1993.)

## **CHAPTER 12-9 ENFORCEMENT**

### **Section 12-9-1. Criminal Enforcement.**

**(A) Indians.** In enforcing this Title, the Tribe shall exercise concurrent criminal jurisdiction with the State over Indians in accordance with 18 U.S.C. § 3243, subject to the provisions of the Compact.

**(B) Non-Indian.** In enforcing the terms and provisions of this Title, the State shall exercise exclusive criminal jurisdiction over non-Indians in accordance with 18 U.S.C. § 3243.

### **Section 12-9-2. Civil Enforcement.**

In enforcing this Title with respect to all transactions or activities which relate to gaming on the Reservation, the Tribe shall exercise civil jurisdiction over Indians and non-Indians.

### **Section 12-9-3. Cross-Deputization Agreement.**

To the extent permitted by law, the Tribe and the State agree to enter into such cross-deputization agreements as may be necessary and proper to facilitate cooperation between tribal and state law enforcement personnel.

### **Section 12-9-4. Prohibited Acts.**

With respect to the jurisdiction of the Tribe exercises in this Title, in addition to other civil and criminal offenses provided for herein, the following acts are prohibited and subject

any violator to either civil or criminal penalties, whichever is applicable, or both, as specified herein:

- (A) Participating in any Class II or Class III gaming activity which is not authorized by this Title and licensed by the Tribal Commission.
- (B) Knowingly making a false statement in an application for any gaming license or employment with any operator or with the Tribal Commission.
- (C) Knowingly making a false statement in connection with any contract to participate in any gaming activity.
- (D) Attempting to bribe any person participating in any gaming activity.
- (E) Offering or accepting a loan, financing or other thing of value between a Tribal Commission member or employee thereof and any person participating in any gaming activity.
- (F) Failing to keep sufficient books and records to substantiate receipts, disbursements and expenses incurred or paid from any gaming activity.
- (G) Falsifying any books or records which relate to any transaction connected with any gaming activity.
- (H) Conducting or participating in any gaming activity which in any manner results in cheating or misrepresentation, and which allows any other disreputable tactics which 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.
- (I) Conducting gaming activity with or allowing participation in gaming activity by or with an intoxicated or disorderly player.
- (J) Allowing or participating in the sale of liquor at gaming sites in violation of this Title.
- (K) Accepting consideration other than money, personal checks or other approved consideration for the chance to play or participate in any gaming activity.
- (L) Using bogus or counterfeit chips or charitable gaming tickets, or substituting or using any cards, charitable gaming tickets or gaming equipment that has been marked or tampered with.
- (M) Tampering with a gaming device, to manipulate the outcome or the payoff of the gaming device.
- (N) Altering or counterfeiting a gaming license.

(O) Knowingly aiding, abetting, or conspiring with another person, or knowingly causing any person to violate any provision of this Title or any rule or regulation adopted thereunder.

(P) Operating, using or making available to the public any illegal gaming device, apparatus, material, or equipment.

(Q) Selling, holding out for sale or transport into or out of the jurisdiction of the Tribe any illegal gaming device, apparatus, material, or equipment.

(R) Assisting or allowing any person who is under age to participate in a game of chance.

(S) Possessing any illegal narcotics or controlled substances on any licensed gaming site.

(T) Stealing or attempting to steal funds or other items of value from any gaming facility or from the Tribal Commission.

(U) Conspiring with or inducing any person to violate any of the provisions of this Title or any tribal or federal law.

(W) Knowingly employing any person who has been convicted of or entered a plea of *nolo contendere* to a crime of theft, embezzlement, fraud, a gaming crime or any other crime which, if perpetrated on the operator's premises would threaten the fairness or integrity of the game or create a threat to the public.

**Section 12-9-5. Criminal Violation.**

Any Indian who violates any provision of the Title or any order or decision of the Tribal Commission, shall be guilty of a crime and may be required to pay a fine not to exceed \$5,000 or be incarcerated for not to exceed two years. Each day during which any such violation continues shall constitute a separate violation of this Title.

**Section 12-9-6. Civil Violation.**

Any non-tribal member, who violates any provision of this Title or any order or decision of the Tribal Commission, shall be liable for a civil fine not to exceed \$5,000 for each such violation. Each day during which any such violation continues shall constitute a separate violation of this Title. The amount of any such civil fine may be recovered in a civil action in the Tribal Court.

**Section 12-9-7. Cumulative Remedies.**

All remedies provided for in this Title shall be cumulative and the imposition of one such remedy shall not bar or affect imposition of any other, nor bar the power of the Tribal Court to punish for contempt or impose any criminal remedy upon any offender.

**Section 12-9-8. Purpose of Civil Penalties.**

Civil fines imposed pursuant to this Title 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 Title. Civil fines imposed pursuant to this Title are also intended to coerce all people into complying with this Title and any other applicable law and not to punish such people for violation thereof.

**Section 12-9-9. Civil Action of Penalties.**

In enforcing the civil penalty provisions of this Title, the Tribal Commission shall proceed, in the name of the Tribe, against a person for violation of any such provision by civil complaint pursuant to the provisions of this Title. The Tribal 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 Title or any other applicable law.

**Section 12-9-10. Seizure of Property.**

All property utilized in violation of this Title shall be subject to seizure by order of the Tribal Court.

**Section 12-9-11. Reporting of Offenders.**

The Clerk of the Tribal Court shall, upon final conviction of any person under this Title, report the name of such person to the Tribal Commission and, in the case of conviction of an Indian with regard to Class III gaming, to the State.

**Section 12-9-12. Appeal of Final Tribal Commission Decisions to Tribal Court.**

The Tribal Commission's final decisions concerning the enforcement and application of this Title may be appealed to the Tribal Court. Such decisions shall be considered by the Tribal Court utilizing the arbitrary and capricious standard of review.

(Title 12: enacted by PBP TC No. 92-70, December 12, 1992; PBP TC No. 93-2, January 6, 1993 and PBP GC No. 93-1, January 23, 1993; amended by PBP TC No. 93-59, November 10, 1993, pursuant to PBP GC Resolution on October 23, 1993; amended by PBP TC 94-14, February 16, 1994; amended by PBP TC No. 94-41, July 1, 1994; amended by PBP TC No. 97-54, October 31, 1997; amended by PBP TC No. 99-42, January 3, 2000; amended by PBP TC No. 2000-62, March 22, 2000; amended by PBP TC No. 2003-068, April 17, 2003; amended by PBP TC 2004-068, April 17, 2004; amended by PBP TC 2004-087, May 20, 2004; amended by PBP TC 2004-094, June 17, 2004; amended by PBP TC 2004-127, July 30, 2004; amended by PBP TC 2005-004, January 10, 2005; amended by PBP TC No. 2005-023, March 3, 2005)