

NISQUALLY LAW AND ORDER CODE  
TITLE 17  
GAMING

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17.01 GENERAL PROVISIONS

17.01.01 Purpose

The Nisqually Indian Tribe has established a casino gaming operation for the purpose of promoting tribal economic development, self-sufficiency, and support for the programs and people of the Nisqually Tribe. To help achieve these goals, the Tribe has entered into a Compact with the State of Washington for the operation and regulation of Class III gaming. The purposes of this Title are as follows:

- (a) To support the continued operation of Class II and Class III gaming at the Tribe's gaming operation.
- (b) To meet the regulatory requirements for Class III gaming that are included in the Compact between the Nisqually Tribe and the State of Washington.
- (c) To avoid unnecessary use of tribal resources through duplicity of actions between the gaming operation and the tribal gaming agency.

17.01.02 Gaming Authorized

- (a) Class I gaming shall be allowed within the jurisdictional territory of the Nisqually Tribe and shall not be regulated. Class I games include social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, Tribal ceremonies or celebrations.
- (b) Class II gaming as defined in Section 17.01.09(a) and Class III gaming defined in Section 17.01.09(b) are authorized at wholly-owned tribal enterprises. No entity other than the Nisqually Tribe or a tribally owned corporation may conduct Class II or Class III gaming on lands under the jurisdiction of the Nisqually Tribe.
- (c) Class III gaming shall be conducted in accordance with the terms of a gaming compact between the Tribe and the State of Washington or as otherwise allowed by federal law.
- (d) The tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation on lands under the jurisdiction of the Tribe.

17.01.03 Environment and Public Health and Safety

(a) Gaming Facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and public health and safety.

(b) The Nisqually Tribal Council shall adopt standards that assure the adequate protection of the environment and public health and safety.

17.01.04 Internal Controls

The Tribal Gaming Operation, under the direction of MCEC, shall develop internal controls as required by the Tribal State Gaming Compact and shall submit such controls and any amendments to the Tribal Gaming Agency and the Tribal Gaming Commission for review and to the State Gaming Agency for approval as required by the Tribal-State Gaming Compact.

17.01.05 Sovereign Immunity

Nothing in this Title shall be construed as a waiver of the Nisqually Tribe's sovereign immunity from suit. The Tribe's sovereign immunity is expressly preserved.

17.01.06 Effective Date

This Title shall become effective upon its approval by the Chairman of the National Indian Gaming Commission.

17.01.07 Repealer

Upon approval by the Chairman of the National Indian Gaming Commission, this Title shall supersede and replace all prior laws, regulations and policies related to the regulation of gaming under the jurisdiction of the Nisqually Indian Tribe, including, but not limited to, all prior provisions of Title 17 and all regulations of the Nisqually Gaming Commission that were adopted by either the Nisqually Tribal Council or the Commission prior to the enactment of this Title except that the following regulations adopted by the Tribal Gaming Commission shall remain in effect until repealed by the Tribal Gaming Commission:

- (a) Regulation #08-97 (Hearing Procedures);
- (b) Regulation #09-98 (Identification Badges).

17.01.08 Illegal Gambling or Related Activity

RCW 9.46.075; 9.46.140; 9.46.155; 9.46.160; 9.46.170; 9.46.180; 9.46.185; 9.46.190; 9.46.196; 9.46.198; 9.46.220; 9.46.221; 9.46.222; 9.46.240; or 67.16.060; as now or hereinafter amended, to the extent such amendments concern the same subject matter as the old statutory provision, are hereby incorporated into this Title as tribal law regarding any gaming affected by those sections.

17.01.09 Definitions

- (a) "Class II Gaming" shall mean all forms of gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703 (7) (A) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission.
- (b) "Class III Gaming" shall mean all forms of gaming defined by 25 USC 2703(8), and by the regulations of the National Indian Gaming Commission and authorized as Class III games under the Nisqually Indian Tribe – State of Washington Gaming Compact. Pull tabs and punchboards are deemed to be Class II games when operated in conjunction with Bingo.
- (c) "Closely Associated Independent Contractor" shall mean any contractor that shares common ownership, officers or directors with any management principal or person related thereto.
- (d) "Compact" shall mean the Nisqually Indian Tribe – State of Washington Gaming Compact and all amendments and appendices thereto.
- (e) "Commission or "Gaming Commission" shall mean the Nisqually Gaming Commission, as established herein.
- (f) "Gambling" shall mean staking or risking something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome.
- (g) "Gaming Contractor" shall mean any person or entity that supplies Class III or Class II gaming devices or other Class III or Class II gaming equipment, personnel or services including gaming management or consulting services to any Class III gaming activity or enterprise.
- (h) "Gaming Employee" shall mean any individual employed in the operation or management of gaming in connection with the Tribe's gaming operation or facility, whether employed by or contracted to the Tribe or by or to any person or enterprise providing gaming operation and management services to the Tribe, including, but not limited to, gaming operation managers and assistant managers; accounting personnel; surveillance and security personnel; cashiers; dealers or croupiers; box men; floormen; pit bosses; shift bosses; cage personnel; collection personnel; gaming consultants; pari-mutuel clerks; management companies and their principals; and any person whose employment duties require or authorize access to areas of the gaming facility related to gaming which are not otherwise opened to the public, or to areas designated by the Tribal and State Gaming Agencies.

- (i) "Gaming Enterprise" or "Gaming Operation" shall mean any enterprise operated by the Tribe on Nisqually Tribal Lands for the conduct of any form of Class III or Class II gaming.
- (j) "Gaming Facility" means a building in which Class II or Class III gaming activities are conducted.
- (k) "Gaming Services" means the providing of any goods or services to the Tribe, whether on or off site, directly in connection with the operation of Class III or Class II gaming in a gaming facility, including equipment, maintenance or security services for the gaming operation. Gaming services shall not include professional legal and accounting services.
- (l) "Illegal Gambling or Related Activity" shall mean any violation of RCW 9.46.075; 9.46.140; 9.46.155; 9.46.160; 9.46.170; 9.46.180; 9.46.185; 9.46.190; 9.46.196; 9.46.198; 9.46.220; 9.46.221; 9.46.222; 9.46.240; or 67.16.060; as now or hereinafter amended, to the extent such amendments concern the same subject matter as the old statutory provision.
- (m) "Key Employee" shall mean a person who performs one or more of the following functions: bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, pit boss, dealer, croupier, approver of credit, or custodian of gaming devices including those persons with access to cash and accounting records within such devices. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year, and the four (4) most highly compensated persons in the Gaming Enterprise are included in the definition of key employees.
- (n) "MCEC Board" shall mean the Medicine Creek Enterprises Corporation's Board of Directors.
- (o) "Person" shall mean any natural person or entity, including but not limited to corporations, partnerships and trusts.
- (p) "Person related to" shall refer to persons who are related as a spouse, grandparent, parent, child, step-child, grandchild, or sibling.
- (q) "Primary Management Official" shall mean the person who has management responsibility for a management contract; any person who has authority to hire and fire employees or to set up working policy for the Gaming Enterprise; or the chief financial officer or other person who has financial management responsibility.
- (r) "Promotional Contest of Chance" shall mean a game of chance in which a prize is offered, the element of chance is involved in the selection of winners, but no valuable consideration is required to participate.



- (s) "Reservation" or "Tribal Lands" shall mean all lands under the jurisdiction and control of the Nisqually Tribe.
- (t) "State" shall mean the State of Washington.
- (u) "Tribal Council" shall mean the elected governing body of the Tribe, as set forth in the Tribe's Constitution and By-laws.
- (v) "Tribal Court" shall mean any court established by the Tribe to hear disputes or, if there is none, the Tribal Council.
- (w) "Tribal Gaming Agency" shall mean the single Tribal agency primarily responsible for onsite regulation, control and security of all gaming conducted on Tribal lands and all gaming authorized by the Compact.
- (x) "Tribal Member" shall mean any duly enrolled member of the Tribe.

17.01.10 Agent for Service under 25 CFR 519.1

The agent for service of any official determination, order or notice of violation under 25 CFR519.1 is the Nisqually Tribal Council Secretary.

17.02 USE OF GAMING REVENUE

17.02.01 Use of Gaming Revenue

Net revenues from tribal gaming shall be used only for the following purposes:

- (a) to fund tribal government operations and programs;
- (b) to provide for the general welfare of the Tribe and its members;
- (c) to promote tribal economic development;
- (d) to donate to charitable organizations; or
- (e) to help fund operations of local government agencies.

17.02.02 Per Capita Payments

(a) "Per Capita Payment" means the distribution of money or other thing of value to all members of the Tribe, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity. It is not necessary to have a provision allowing net gaming revenues to be used for payment of revenue-sharing provisions in Tribal-State compacts;

these fall under promotion of tribal economic development because the Tribe must gain an economic benefit in return for the payments.

(b) If the Tribe elects to make per capita payments to tribal members from revenues derived from its gaming operations, it shall ensure that the following requirements of 25 C.F.R. Part 290 are met:

(i) The Tribal Council shall authorize and issue such payments only in accordance with a revenue allocation plan submitted to and approved by the Secretary of the Interior under 25 U.S.C. §2710(b)(3).

(ii) The Tribal Council shall ensure that the interests of minors and other legally incompetent persons who are entitled to receive any per capita payments under a per capita payment plan are protected and preserved, and that the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person, under a plan approved by the Tribal Council and the Secretary of the Interior. The Tribal Council must also establish criteria and a process for withdrawal of funds by the parent or legal guardian.

(iii) The Nisqually Tribal Court shall be the forum for resolution of disputes concerning the allocation of net gaming revenues and the distribution of per capita payments.

(iv) The Tribal Council shall ensure that the Tribal revenue allocation plan reserves an adequate portion of net gaming revenues from the tribal gaming activity to do one or more of the following purposes: fund Tribal government operations or programs; provide for the general welfare of the Tribe or its members; promote tribal economic development; donate to charitable organizations; or to help fund operations of local government.

(v) The Tribal Council shall ensure that distributions of per capita payments are made according to specific eligibility requirements.

(vi) The Tribal Council shall ensure that Tribal members are notified of the tax liability for per capita payments and how taxes will be withheld.

## 17.03 TRIBAL GAMING COMMISSION

### 17.03.01 Establishment

(a) There is hereby established a Nisqually Tribal Gaming Commission which has been created to provide oversight to the Tribal Gaming Agency, to act in an advisory capacity to the Tribal Council and to interact with the State Gaming Agency on matters specified in this Code.



(b) The Tribal Gaming Commission is a subordinate agency of the Nisqually Indian Tribe. The Commission shall comply with all Tribal administrative policies, including, but not limited to, personnel, Indian preference in hiring, procurement, travel, budgeting, IT, and vehicle use policies. Except for the appointment of Commissioners, the Gaming Commission shall utilize the Tribe's Personnel Department for recruitment and hiring of Gaming Commission staff.

(c) It is the intent of the Tribal Council that the Gaming Commission shall be bound by all the provisions of Title 2 (Committees and Commissions) that are not inconsistent with the provisions of this Title 17.

#### 17.03.02 Membership

(a) Selection. The Gaming Commission shall consist of five (5) voting Tribal members who are appointed by the Tribal Council. Commissioners must meet standards equal to the requirements for license under this Title and the Compact.

(b) Ineligible Persons. The following persons shall be ineligible for appointment as Gaming Commissioners:

(i) Any person employed in or in conjunction with the management, supervision, or conduct of any gaming activity on the Reservation, or until at least two (2) years have passed since that employment;

(ii) Any person related to any gaming supplier or gaming contractor, including any principal thereof or persons related to any associated independent contractor;

(iii) Any member of the Tribal Council, during his/her term thereof;

(iv) Any person who cannot obtain or maintain a valid license issued by the Nisqually Tribal Gaming Commission.

(c) Terms of Office. Commissioners shall serve a term of three (3) years. The terms of the Commissioners shall be staggered.

(d) Compensation. Commission members shall receive stipends and travel reimbursement in accordance with Tribal policies. The Tribal Council shall determine and authorize the amount of the stipend and shall consider the time requirements and the duties and responsibilities of the Commissioners in making such determination.

#### 17.03.03 Removal

(a) Without Cause. The Tribal Council may replace a Commissioner without cause when that Commissioner's term of office expires or upon resignation of the Commissioner.

(b) With Cause. The Tribal Council may replace a Commissioner before the Commissioner's term expires for any of the following reasons:

(i) Upon recommendation by a majority vote of the Gaming Commissioners;

- (ii) When the Tribal Council determines that the Commissioner has committed misconduct, neglect of office, abuse of office, or for other good cause;
- (iii) When a Commissioner becomes ineligible to be a Commissioner under the requirements of Section 17.02.02(b) above;
- (iv) When the Tribal Council determines that the Commissioner is no longer able to fulfill the duties of a Commissioner because of health, family obligations, or other reasons.

(c) Hearing. A Commissioner, whose removal is at issue, shall have the right to be heard and may present evidence concerning his/her removal to the Tribal Council. The hearing before the Tribal Council shall be held in executive session if requested by the Commissioner or if the Tribal Council determines an executive session is necessary under its own rules.

#### 17.03.04 Officers

There shall be a Chairperson, Vice-Chairperson, Secretary and Treasurer of the Nisqually Tribal Gaming Commission elected from its membership who shall be appointed for a term of one (1) year by simple majority vote of the Nisqually Tribal Gaming Commission. The duties of the officers shall be as follows:

- (a) The Chairperson shall generally preside over meetings, sign documents on behalf of the Commission when authorized by the Commission to do so, and carry out other responsibilities as assigned by the Commission or the Tribal Council.
- (b) The Vice-Chair shall preside over meetings of the Commission in the absence of the Chair, and carry out other responsibilities as assigned by the Commission or the Tribal Council.
- (c) The Secretary shall keep a record of all matters transacted at meetings, shall maintain all other records and documents of the Commission and shall carry out other responsibilities as assigned by the Commission or the Tribal Council.
- (d) The Treasurer shall keep a full and accurate record of all financial transactions related to the operating function of the Commission and shall monitor the Commission's budget. The Treasurer shall also participate in the audit review process described in Section 17.03.09 and carry out other responsibilities as assigned by the Commission or the Tribal Council.

#### 17.03.05 Meetings

(a) Regular. Regular meetings of the Commission shall be held on a schedule adopted by the Commission, but shall be held at least four (4) times per year. Meetings shall be held at times most convenient to the greatest number of Commission members. Change in regularly established meeting days and times will be communicated to all members of the Commission by the Secretary.

(b) Special. Special meetings of the Commission may be called at the request of any member and only by the poll of the Secretary. Special meetings would be called when there is specific action affecting the financial and/or regulatory stability of the Gaming facilities. Reasonable notice of each special meeting shall be given to each Commission member.

(c) Location. All meetings of the Commission shall be held at locations which are accessible to the public and to physically handicapped persons to the maximum extent feasible. The Commission shall endeavor to hold meetings on tribal premises whenever possible.

(d) Notice of Meetings. A written schedule of the regular meetings shall be provided to each member of the Commission and to the Tribal Council. Any change in the date of a previously scheduled regular meeting shall be communicated to each Commission member and to the Tribal Council a reasonable time in advance of the rescheduled meeting time. The Chair shall send 24 hour notice of special meetings to all Commissioners unless the Commissioners concur on the need to meet earlier.

(e) Attendance. Unexcused absence by any Commission member from three (3) or more meetings per calendar year shall be good cause for removal from the Commission.

(f) Quorum. A quorum shall consist of three (3) members of the Commission. No business shall be transacted unless a quorum is present.

(g) Meetings Open to Tribal Members. All meetings of the Commission shall be open to members of the Tribe.

(h) Executive Sessions. The Gaming Commission may hold an executive session during a regular or special meeting, however an executive session may be held only for the following reasons:

- (i) To discuss the details of an on-going criminal investigation involving a casino patron or an employee of the Casino or the Gaming Agency;
- (ii) To evaluate complaints or charges brought against an employee of the Casino or the Gaming Agency;
- (iii) To discuss with legal counsel representing the Commission or the Tribe matters relating to enforcement actions, or to discuss with legal counsel representing the Commission or the Tribe litigation or potential litigation to which the Tribe, the Casino, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the Tribe.

This subsection (h)(iii) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (h)(iii), "potential litigation" means matters protected by RPC 1.6 concerning:

- A. Litigation that has been specifically threatened to which the Tribe, the Casino, or an officer or member acting in an official capacity is, or is likely to become, a party;
- B. Litigation that the Commission reasonably believes may be commenced by or against the Tribe, the Casino, or an officer or member acting in an official capacity; or
- C. Litigation or legal risks of a proposed action or current practice that the Commission has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the Tribe;

Before convening in executive session, the presiding officer of the governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

- (i) Conduct of Meetings. Meetings of the Commission shall be conducted according to Robert's Rules of Order.
- (j) Commission Decisions. The Commission shall attempt to reach consensus on all decisions, but in those cases where agreement cannot be reached, official actions of the Commission shall be determined by vote.
- (k) Proxy Voting. There will be no voting by proxy on any Commission matters.

#### 17.03.06 Records

- (a) Minutes. The Secretary shall maintain a permanent volume of the minutes of Commission meetings and shall provide copies of the meeting minutes to each Commission member. The minutes must be submitted to the Tribal Council within 20 days for their review as well as making them accessible for viewing by the Tribal members.
- (b) Commission Actions. The Secretary shall keep a permanent compilation of Commission actions and reports and documents concerning Commission relations and accounts with all institutions, advisory committees and consultants with whom the Commission has business or official relationships.

#### 17.03.07 Budget

The Gaming Commission shall create a proposed budget of necessary expenditures annually and shall submit such budget to the Tribal Council and the Budget Committee for approval through the tribal budget process. The Gaming Commission budget shall be separated from the Gaming Agency budget.

17.03.08 Powers and Duties

- (a) Oversight of Tribal Gaming Agency. The Commission shall provide oversight to the Tribal Gaming Agency and oversee the activities and duties assigned to the Director and the Tribal Gaming Agency in this ordinance to ensure compliance with this Ordinance and the Tribal State Gaming Compact.
- (b) Meetings with State Gaming Agency. The Commission shall meet with the State Gaming Agency not less than quarterly, or as agreed by the Commission and State Agency, to review past practices and examine methods to improve the regulatory program created by the Compact.
- (c) Supervisory Staff Requirements. In the event the State Gaming Agency determines that the gaming operation's minimum requirements for supervisory staff at table gaming pits is inadequate, the Commission shall confer with the State in good faith in an effort to reach an agreement on supervisory staff requirements as required by the Compact.
- (d) Meetings with Gaming Operation. The Commission shall meet not less than once a month with the General Manager of the gaming operation, the MCEC Board or its designated member(s) and the Director of the Gaming Agency. The purpose of the meeting shall be to discuss ongoing and future issues and areas of concern. The intent of this meeting requirement is to resolve ongoing or future issues through ongoing dialogue between the respective parties.
- (e) Barred Patrons
- (i) The Commission shall establish a list of persons barred from the gaming facilities by the Tribal Gaming Agency. This list shall be sent quarterly to the Nisqually Tribal Council and shall be sent to the State Gaming Agency as required by the Compact or as otherwise agreed to between the State Gaming Agency and the Tribe.
  - (ii) The Commission shall hear appeals from barred patrons as described in section 17.05.04.
- (f) Cashier's Cage. The Commission shall review any report from the Agency regarding Cashier's Cage security. If the Cashier's cage is not in compliance with the security standards set forth in Compact and/or any MOU between the Tribe and the State Gaming Agency, the Commission shall require the gaming operation to modify its cashier's cage to remedy the deficiency.
- (g) Investigation. The Commission, through the Tribal Gaming Agency, shall investigate any reported violation of the Compact provisions and shall work with and assist the Tribal gaming operation to correct the violation and to bring the Tribal gaming operation into compliance with the applicable provisions of the Compact or Nisqually Tribal law.
- (h) Hearings on Appeals. The Commission shall hold appeal hearings for denial, suspension or revocation of a license pursuant to section 17.06.20 and may establish internal procedures for such hearings.



(i) Reporting to State Gaming Agency. The Commission through the Tribal Gaming Agency, shall forward all reports of violation(s) of the provisions of the Compact by the Tribal gaming operation, a gaming employee, or any person on the premises to the State Gaming Agency as required by the Compact. The Tribal Gaming Commission shall forward copies of all completed incident and investigation reports and final dispositions to the State Gaming Agency as required by the Compact or as otherwise agreed to between the State Gaming Agency and the Tribe. Upon written request, a copy of all of the above mention reports shall be provided to the casino's General Manager, or designee, and to the Tribal Council.

(j) Sanctions. The Commission may establish a list of fines and sanctions that may be imposed against any gaming employee or any other person directly or indirectly involved in, or benefiting from, the gaming operation who violates this code or the terms of the Compact, provided; that such list must be approved by the Nisqually Tribal Council prior to imposition of any such fine or sanction.

(k) Reports to Tribal Council. The Commission shall keep the Tribal Council informed of the activities of the Gaming Agency and provide the Tribal Council with reports of any violations of this Title or the Compact as well as an update of the required meetings between operations, TGA and the Commission. The Commission shall also keep up to date on the status of laws and policies related to tribal gaming regulation and advise the Tribal Council on relevant updates or changes.

(l) Modifications to Title or Regulations. The commission may recommend to the Tribal Council modifications to this Title or propose regulations that the commission will follow in connection with carrying out its responsibilities. These regulations shall be published in form and approved by the Tribal Council. In order to preserve the independence of the Commission, the Council shall not disprove any proposed regulations unless such proposals are determined to be beyond the scope of the Commission's authority as set forth in this ordinance. Regulations shall be signed by the Tribal Chairman or designee prior to submission to the State Gaming Agency.

(m) Recommendations for Compact Amendments. The Commission may recommend that the Tribal Council negotiate changes to the Tribal-State Gaming Compact or to the Appendices thereto, but may not unilaterally negotiate such changes. The Commission may also recommend that the Tribal Council adopt MOU's with the state gaming agency. No compact or appendix amendment shall be valid without the signature of the Tribal Chairman or his or her designee.

#### 17.03.09 Audit

(a) The Tribal Council or its designee shall select independent certified accountants to perform an annual audit of the gaming operation at the gaming operation's expense. The audit shall include the following:

- (i) An audit of the annual financial statement, books and records of the gaming Operation;



- (ii) An audit of all gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal or accounting services;
- (iii) A review of the accounting methods and procedures used by the gaming operation;
- (iv) A review of the methods and procedures used by the gaming operation to count and handle cash, chips, tokens, negotiable instruments and credit instruments; and,
- (v) A review of the gaming facilities internal control procedures and the gaming operation's compliance therewith.

(b) The independent auditor's report shall contain information regarding any material weakness in accounting and internal controls, and the opinion of the independent auditor as to whether the operation has followed the system of accounting and internal control on file with the Tribal Gaming Agency.

(c) The independent auditor shall give a final report to the Tribal Council, the MCEC Board and the Tribal Gaming Commission to discuss any findings or irregularities in the audits and to make recommendations regarding any necessary corrective action.

(d) The Gaming Commission shall submit the resulting audit reports to the National Indian Gaming Commission and to the State Gaming Agency as required by the Compact or as otherwise agreed to between the State Gaming Agency and the Tribe.

(e) The Gaming Commission shall rely on the independent audits of the gaming operation, the independent auditor's required reports regarding material weakness in accounting and internal controls, and the opinion of the independent auditor as to whether the operation has followed the system of accounting and internal control on file with the Tribal Gaming Agency. The Gaming Commission shall not conduct its own additional audits without the permission of the Tribal Council.

#### 17.03.10 Customer Disputes over Game Winnings

(a) It is the intent of the Tribal Council that all customer disputes regarding game winnings be resolved fairly, justly, equitable and expediently. In order to implement this directive, the gaming operation and the Gaming Commission shall abide by the following dispute resolution process:

- (i) The manager shall attempt to resolve the dispute with the parties.
- (ii) If the dispute is unresolved, the manager shall inform the customer of the right to request an investigation by the Gaming Commission.
- (iii) The Gaming Commission, through the Executive Director, shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.
- (iv) The Executive Director shall provide written notice to the manager of the Executive Director's determination. The customer will also be advised by

certified mail of the Executive Director's decision resolving the dispute within thirty (30) days after the date that the Gaming Commission first receives notification from the manager or a request to conduct an investigation from the customer.

- (v) The decision of the Executive Director is effective on the date it is received by the aggrieved party, as reflected on the return receipt.
- (vi) Within thirty (30) working days after the date of receipt of the written decision of the Executive Director, the aggrieved party may file a petition with the Gaming Commission requesting a review of the decision. The Gaming Commission may set a hearing on the matter, or may make a decision based solely upon the Executive Director's decision and other documentation provided to it by the customer and the manager. The Gaming Commission shall then issue a written decision and mail to the parties by registered mail or certified mail, return receipt requested.

(b) The liability of the Gaming Operation in any dispute over game winnings shall be limited to an amount of the alleged winnings, and a customer shall not be entitled to an award of special or punitive damages, attorney's fees, or damages for mental distress.

(c) The decision of the Gaming Commission shall not be subject to judicial review.

#### 17.03.11 Fiduciary Duty of Commissioners

Commission members serve as fiduciaries for the Nisqually Tribe, and as such must follow the strict fiduciary standards normally applicable to Tribal officials, including the Tribe's Code of Conduct. Commission members owe the Tribe the duty of undivided loyalty and cannot be influenced by individual interest or interests of a third party. Commission members shall act fairly, justly, honestly, with sound judgment and prudence, but shall not be responsible for mere mistakes or errors of judgment.

### 17.04 TRIBAL GAMING AGENCY

#### 17.04.01 Purpose

The Tribal Gaming Agency has been created to maintain the integrity of the Tribe's Class III gaming operation, to ensure compliance with the Tribal-State Compact and to reduce the dangers of unfair or illegal practices in the conduct of Class III gaming. The Nisqually Tribal Gaming Agency shall be the primary regulator of gaming as defined in the Tribal-State Gaming Compact.

#### 17.04.02 General Requirements

Tribal Gaming Agency personnel shall be independent of the Tribal gaming operation, and shall be supervised and accountable only through the Gaming Agency's chain of command. No employee of the gaming operation may be an employee of the Tribal Gaming Agency. All

Gaming Agency employees shall meet standards equal to the requirements for license under this Title and the Compact.

17.04.03 Chain of Command

The Executive Director shall be selected by the Nisqually Tribal Council. For the purposes of ensuring compliance with the Tribe's administrative policies, the Executive Director shall be supervised by the Tribe's Chief Executive Officer. The Executive Director shall have direct supervision of the Agency's staff.

17.04.04 Administrative Policies

The Gaming Agency is a subordinate agency of the Nisqually Indian Tribe and shall comply with the Tribe's organizational structure. The Gaming Agency shall comply with all tribal administrative policies, including, but not limited to, personnel, Indian preference in hiring, procurement, travel, budgeting, IT, and vehicle use policies. Gaming Agency budgets shall be separate from the Gaming Commission budget and shall be approved through the tribal budget process. The agency shall utilize the Tribe's Personnel Department for recruitment and hiring of Agency staff.

17.04.05 Duties of Executive Director

- (a) The Executive Director shall be responsible for the day-to-day operations of the Agency and shall supervise all Agency staff;
- (b) The Executive Director shall be responsible for ensuring that the agency complies with all tribal administrative policies.
- (c) The Executive Director shall ensure the Gaming Commission is informed of all information and activities of Agency staff.
- (d) The Executive Director shall be responsible for the budget of the Agency, as well as the submission of its budget for review and approval through the tribal budget process.
- (e) The Executive Director shall be responsible for the efficient operation of the Agency and shall supervise all Agency staff.
- (f) The Executive Director shall ensure that the Agency fulfills its responsibilities in a manner that provides the least possible disruption to the gaming operation and its goal of providing quality service to customers.
- (g) The Executive Director shall meet with the State Gaming Agency as requested.

- (h) The Executive Director shall forward all customer complaints regarding game winnings that the Agency receives to the Casino General Manager to handle according to the procedures established in section 17.03.10.

17.04.06 Duties and Responsibilities of Agency

- (a) The Agency shall take and process applications for gaming licenses, conduct the necessary background investigations, and forward completed application packets to the Gaming Agency Executive Director with a recommendation for approval or disapproval.
- (b) The Agency shall require all Casino employees to wear in plain view identification cards issued by the Agency.
- (c) Cashier's Cage/Gaming Station Security. To protect the gaming operation and the Tribe from theft, the Gaming Agency shall perform the duties assigned to the Agency regarding gaming station and cashier's cage security and the procedure for counting and recording the contents of drop boxes as outlined in the Compact.
- (d) Employee and Customer Safety. To ensure that the physical safety of the casino employees and the public are adequately protected and that the gaming operation is complying with the standards for public health and safety required in the Compact, the Gaming Agency shall:
  - (i) Review the policies and procedures of the Casino with respect to health and safety and meet at least quarterly with the Casino's Human Resources Department to ensure that the Casino's policies and procedures meet the standards for public health and safety required by the compact.
  - (ii) Review the records of all health and safety inspections performed at the Casino and determine whether any violations of the applicable health and safety requirements have been corrected.
  - (iii) Keep a log and follow-up on any possible safety hazard reported to or observed by any Gaming Agent in the course of his or her regular duties.
  - (iv) Report any safety concerns to the Casino General Manager and the Tribal Gaming Commission.
- (e) Surveillance/Illegal Gambling Activity. The Gaming Agency has the authority to investigate any illegal gambling or unlawful activity at the gaming facility and has the duty to protect the gaming operation from theft. To protect the establishment and the patrons from illegal gambling or related activity, gaming agents shall:
  - (i) Monitor the surveillance cameras at all times during casino hours.
  - (ii) Keep a surveillance log recording all surveillance activities in the monitoring room and recording all unusual occurrences for which a gaming agent is assigned to investigate.
  - (iii) If a gaming agent suspects that illegal gaming activity or theft is occurring on a gaming table or anywhere at the facility, the agent shall notify the Director of the Gaming Agency, as soon as practicable.

(iv) If the illegal gaming activity is being conducted by a person who is likely to flee, the agent may temporarily detain the individual and shall then immediately notify law enforcement.

(v) The Executive Director and the Agency shall work together with law enforcement to investigate any suspected illegal activity at the Casino. The investigation shall be conducted in as discreet a manner as possible to minimize the disruption of the casino operation and to avoid unnecessary alarm to casino patrons.

(vi) To the extent such information will not jeopardize the investigation, the Executive Director shall advise the General Manager on the status of the investigation, as soon as practicable.

(f) Inspection/Monitoring

(i) A Tribal Gaming Agent shall be present in the facility during all hours of the gaming operation and shall have immediate access to any and all areas of the gaming operation for the purpose of ensuring compliance with the provisions of the Compact and this Ordinance.

(ii) Inspectors shall record in a permanent and detailed manner any and all unusual occurrences within the gaming facility. Each incident, without regard to materiality, shall be assigned a sequential number and, at a minimum, the following information shall be recorded as required by the Compact or as otherwise agreed to between the State Gaming Agency and the Tribe:

- A. the assigned number;
- B. the date;
- C. the time;
- D. the nature of the incident;
- E. the person involved in the incident; and
- F. the security department or Tribal Gaming Agency employee assigned.

(iii) Any violation(s) of the provisions of the Compact, or of tribal law by the Tribal gaming operation, a gaming employee, or any person on the premises whether or not associated with the Tribal gaming operation shall be reported immediately to the Tribal Gaming Agency.

(iv) Monitoring shall be conducted in a manner that produces the least possible disruption to the gaming operation and the service to casino patrons and adequate staffing of agents will be maintained to support the Tribal gaming operation in maintaining compliance for the purpose of providing quality service to patrons.

(g) Appendix X and X-2. The Gaming Agency shall fulfill the requirements of the compact for resolving player's disputes regarding participation in a game set as described in section 3.6.2 of Appendix X and X-2 of the Compact and shall fulfill all other duties assigned to the Tribal Gaming Agency under those Appendices.



(h) Audits. The Gaming Agency shall provide assistance to the independent external auditor as requested and shall assist in ensuring a timely response to all audit findings. The Gaming Agency shall rely on the independent audits of the gaming operation, the independent auditor's required reports regarding material weakness in accounting and internal controls, and the opinion of the independent auditor as to whether the operation has followed the system of accounting and internal control on file with the Tribal Gaming Agency. It is the intent of this section that the Agency work with both the gaming operation and the external auditor to ensure ongoing compliance. It is not the intent that the Agency duplicate audit functions that have already been performed.

(i) Internal Reviews. The Gaming Agency shall develop an effective internal review procedure designed to determine that gaming policies, procedures and controls are adequate to ensure the integrity of the gaming operation. The procedure shall establish a means to verify compliance with the Casino's internal controls and to identify opportunities to improve said compliance. The Gaming Agency shall share the findings of its internal reviews on an ongoing basis with the gaming operation and shall work with gaming operation management to correct any deficiencies.

(j) Barred Patrons. The Gaming Agency has the authority to bar patrons from the gaming facility in accordance with the procedures established in section 17.05.

(k) Promotional Games. The Gaming Agency shall review the Casino's promotional games and activities to determine whether the activity constitutes gambling or is a promotional game of chance.

(l) Game Rules. The Tribal Gaming Agency shall notify the State Gaming Agency of the rules of each Class III game operated by the Tribe and of any change in such rules.

(m) Other Duties. The Gaming Agency shall fulfill any other duties assigned to the Agency under the Tribal-State Gaming Compact or under any Casino internal controls that have been submitted and approved by the State Gaming Agency.

## 17.05 BARRING PROCEDURES

### 17.05.01 Grounds for Barring of a Patron by the Tribal Gaming Agency

(a) The Tribal Gaming Agency may bar a patron from the casino if the Agency determines that the patron poses a threat to the safety or security of the gaming operation, the facility, employees and/or other patrons. In determining whether a person poses a threat to safety and security at the Casino, the Gaming Agency may consider the patron's observed behavior, recent criminal history or association with gangs or other criminal organizations.



(b) The Gaming Agency may not bar a person solely, because the person was convicted of a crime in the distant past, unless the Agency has other evidence to suggest that the person poses a threat to safety and security at the Casino.

#### 17.05.02 Intoxicated Patrons

It shall be the responsibility of the Casino management and staff to refuse to serve or to remove or bar patrons from the Casino because of overconsumption of alcohol. Overconsumption of alcohol is not, by itself, grounds for barring by the Tribal Gaming Agency.

#### 17.05.03 Length of Barring

(a) The Tribal Gaming Agency may bar a patron from the Casino for any length of time necessary to ensure that the patron no longer poses a threat to safety and security at the Casino.

(b) The Gaming Agency may bar Nisqually Tribal member patrons only for so long as necessary to protect safety and security at the Casino and must lift the bar at such time as it is determined that the tribal member no longer poses a threat. Nisqually Tribal members may not be permanently barred from the Casino.

#### 17.05.04 Appeal Procedure

A patron who has been barred from the Casino may appeal the barring or request a removal of the bar to the Tribal Gaming Commission. The Commission shall restore the patron's access to the Casino if it is determined that the patron is no longer a threat to the safety and security of the Casino. The Gaming Commission shall allow tribal members to return to the Casino at the earliest possible date.

### 17.06 LICENSING

#### 17.06.01 Required Licenses

(a) Key Employees. Employees in any Class II or Class III gaming enterprise including, but not limited to, those who perform one or more of the following functions are considered to be key employees, and must qualify for and receive a Class III Certification: Bingo caller; counting room supervisor; chief of security; custodian of gaming supplies or cash; floor manager; pit boss; dealer; croupier; approver of credit; or custodian of gambling devices. Including persons with access to cash and accounting records within such devices. If not otherwise included, all persons whose total cash compensation exceeds \$50,000 per year and the four (4) most highly compensated persons in the gaming operation must also qualify for and obtain a Class III Certification.

(b) Primary Management Officials. The following persons, whether employed at a Class II or a Class III gaming enterprise, are considered primary management officials and must qualify for and be licensed as Class III employees: (a) any person having management responsibility for a management contract; (b) any person who has authority to hire and fire employees or to set up working policy for the gaming operation; and (c) the chief financial officer or other person who has financial management responsibility.

(c) Class III Gaming Employees

(i) All gaming employees, as defined in section 17.01.09, that are employed in Class III gaming activities, including banking card games; lottery-type games; roulette; crap; and other table games or activities designated as Class III gaming, must qualify for and hold a Class III Certification.

(ii) If Class II and Class III games are combined in a single facility, then the Class II table gaming employees must also qualify and hold a Class III Certification. This provision shall not apply to employees engaged in activities related to bingo, pull-tabs and/or punchboards.

(d) Financiers. Any individual or entity, other than a federally regulated commercial lending institution, the Tribal government or the federal government, who extends financing either directly or indirectly to the gaming facility or operation must qualify for and receive a Class III Certification.

(e) Management Companies

(i) Any individual or business entity with which the Tribe enters into a contractual agreement for financing, development, management or operation of any Class II or Class III gaming enterprise, must qualify for and receive a Class III Certification.

(ii) No license shall be granted to a management company if any elected official of the Tribe or a member of a committee or agency of the band serves on the board of directors or holds (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of the corporation, or ten percent (10%) or more of the beneficial interest in any partnership, trust, or other entity, in any such corporation, partnership, trust or other entity, having a financial interest in, or management responsibility for, such contract. Notwithstanding the foregoing, no license shall be granted to the management company if any member of the Gaming Commission holds any interest whatsoever (directly or indirectly), in such company. Nor shall any such license be granted if any elected official of the Tribe, member of the Gaming Commission, or a member of any other committee or agency of the Tribe has a financial interest in or management responsibility for any agreement between such management company and the Tribe.

(f) Suppliers, Distributors and Manufacturers License.

(i) Any manufacturer, distributor, or supplier of gaming services, as defined in section 17.01.09, must qualify for and receive a license. Individuals or entities that supply legal and accounting services are not required to be licensed.

(ii) The Gaming Commission may, consistent with the Tribal State Compact, adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the licensing process for any supplier, distributor and manufacturer which has received a license from one of the named regulatory authorities.

(g) Gaming Facility License. The Gaming Agency will issue a license to each tribally owned facility or location where Class II or Class III gaming is to be conducted on tribal lands. Gaming facility licenses are valid for no more than one (1) year from date of issuance. Inspection of gaming facilities for the purposes of licensing includes review of security and surveillance procedures and equipment; compliance with tribal ordinances and other applicable laws and regulations, including the requirements of the Compact regarding gaming facilities; and compliance with applicable safety requirements and codes.

17.06.02 Temporary or Conditional License

Any person or entity applying for a license under these regulations may be granted a temporary or conditional license in lieu of a regular license, pending completion of a full and complete investigation and review of the application, or in order to address specific areas of concern. The expiration date and any applicable conditions to be satisfied prior to issuance of the regular license will be stated on the temporary or conditional license. The Gaming Agency will not authorize the continuation of employment of any person as a key employee or primary management official for more than ninety (90) days, unless that person or entity holds a valid license, issued by the Gaming Agency.

17.06.03 License Applications

A license applicant must submit all applicable material, including any fees required, to the office of the Nisqually Tribal Gaming Agency. License applications are subject to the following requirements:

(a) Applications must be submitted on forms approved by the Gaming Agency. An application is considered incomplete until all information requested is provided to the Gaming Agency. If the application is incomplete or if the applicant fails to promptly provide any additional materials requested, the license may be denied. If the applicant does not respond to notification of an incomplete application, the failure to submit

additional materials, or the failure to submit required fees, within thirty (30) days of the notice, the Gaming Agency may close the applicant's file.

- (b) Applications must be signed under oath by an individual attesting that the information provided in the application and any accompanying materials is true, accurate and complete.
- (c) Applications must be signed by the following:
  - (i) For a corporation (non-profit or for profit), the highest ranking officer or official of the corporation.
  - (ii) For a sole proprietorship, the principal owner.
  - (iii) For a partnership, all partners; for a limited partnership, the general partner.
  - (iv) For employee licenses, the individual seeking a license.
- (d) Applicants must provide a general release and waiver for release of information required to conduct the review and investigation.
- (e) The Gaming Agency will only consider applications that are fully completed and submitted on the approved Gaming Agency's forms. Application forms are available from the office of the Gaming Agency or will be mailed upon request.

#### 17.06.04 Fingerprint

Each applicant for a Key Employee or Primary Management Official shall be required to have fingerprints taken as part of the license application procedure. Fingerprints will then be forwarded to the NIGC for processing through the FBI and NCIC to determine the applicant's criminal history, if any.

#### 17.06.05 Waiver of Liability

- (a) The application to receive a gaming license constitutes a request for determination of the applicant's general character, integrity and ability to participate or engage in or to be associated with the gaming operation. Any written or oral statement made in the course of an investigation, proceeding or process of the Gaming Agency by any member, employee or agent of the Tribe or by any witness, testifying under oath, which is relevant to the investigation, proceeding or process, is absolutely privileged and shall not impose any liability for slander, libel or defamation, or constitute any grounds for recovery in any legal action. An applicant must accept all risk of adverse public notice, embarrassment or other action that may result from the application and investigation process, and must expressly waive any claim for damages as a result of the process.
- (b) All applicants shall expressly waive any and all liability as to the Tribe, its commissions, employees and agents for any damages resulting from disclosure or publication in any

manner of information acquired by the Gaming Agency during its licensing or other investigations, inquiries or hearings.

#### 17.06.06 Withdrawal of Application

An applicant may request to withdraw the application by submitting to the Gaming Agency a written request for withdrawal. To be effective, the written request to withdraw must be received by the Gaming Agency at least twenty-four (24) hours before the Gaming Agency approves or issues a denial of the license.

#### 17.06.07 Application Forms

- (a) The Gaming Agency shall provide application forms and instructions, as applicable, to any individual or entity seeking to be licensed.
- (b) All license applicants must acknowledge in writing the applicability of the Privacy Act of 1974 and sign a notice regarding the penalty for making false statements on the application. The following notices shall be placed on the application form.

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701 et. seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the 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 the Tribe's being unable to license you in a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure supply a SSN may result in errors in processing your application.

- (ii) A false statement on any part of your application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, § 1001).
- (c) Any gaming employee identified in subsection (b) above, which has not signed an application containing the above notices, must either: (i) sign a statement which contains the notices; or (ii) complete and sign a new application form which contains the notices.



17.06.08 Information Required From License Applicants

All License applicants, shall provide information to the Gaming Agency including, but not limited to, the following:

- (a) Full name, current address and telephone number(s) (both business and residence), date and place of birth, Social Security number(s); any other names used (oral or written), citizenship, gender, and all languages spoken or written;
- (b) The name, address, and telephone number for all businesses and organizations in which the applicant has any financial interest and the details of that financial interest;
- (c) Currently and for at least the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (d) Names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period-of residence listed in subsection (c) above;
- (e) Description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (f) Description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (g) Name and address of any licensing or regulatory agency (federal, tribal, state, local or foreign) with which the person has ever filed either: (a) an application for a license or permit related to gaming, and whether or not such license or permit was granted, or (b) an application for an occupational license or permit, whether or not such license or permit was granted;
- (h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (i) For each tribal, criminal traffic, or misdemeanor (excluding minor traffic violations) ongoing prosecution or conviction within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (j) For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to subsection (h) or (i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;



- (k) Current photographs;
- (l) Any other information the Tribe or the Gaming Agency deems relevant.

17.06.09 Eligibility Determination

The Gaming Agency shall review and verify a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of the applicant for employment in a gaming operation. If the Gaming Agency determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming, the Agency shall deny the application for a license.

17.06.10 Licensing Prior to Employment

Unless otherwise exempted by the Gaming Agency, or as provided for in this code or regulations promulgated there under, an individual or entity required to be licensed must obtain the required license, whether regular, temporary or conditional, prior to commencing their employment at or by any gaming operation.

17.06.11 License in Compliance with Applicable Laws

No gaming license shall be granted in violation of any provision of tribal laws and regulations, provisions of an applicable Tribal-State compact, IGRA and regulations promulgated there under, or other applicable law. The Gaming Agency shall deny a license to any individual or entity based on such criteria.

17.06.12 License and Investigation Reports to NIGC

- (a) Within sixty (60) days after a licensee begins work in a gaming operation as a key employee or primary management official, the Gaming Agency will complete and forward to the National Indian Gaming Commission (NIGC) the application materials, investigative reports and eligibility determination used to evaluate the applicant or licensee eligibility for a license. The investigative report provided shall include at least the following information:
  - (i) Steps taken in conducting the background investigation;
  - (ii) Results obtained;
  - (iii) Conclusions reached; and
  - (iv) The basis for those conclusions.
- (b) The Gaming Agency shall submit, with the investigative report, a copy of the eligibility determination, unless the NIGC shall have advised the Gaming Agency that the submission of the eligibility determination is not necessary. This determination shall include a statement describing how the information was submitted by the applicant verified; a statement of results following an inquiry into the applicant's prior activities,

criminal record, if any, and reputation, habits and associations; a statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Gaming Agency to make a finding concerning the eligibility for certification required for employment in a gaming operation; and a statement documenting the disposition of all potential problem areas noted and disqualifying information obtained.

- (c) If, upon investigation and for any reason, the Gaming Agency does not issue or renew a license for a key employee or management official, the Gaming Agency will notify NIGC of such denial and may forward copies of the eligibility determination and investigative report, if any, to the NIGC for inclusion in the Indian Gaming Individuals Records System.
- (d) The Gaming Agency will retain the applications of key employees and management officials, including reports of background investigations, for a period of no less than three (3) years from the date of denial of license or termination of employment, whichever is later.
- (e) For license applicants who are not key employees or primary management officials, no investigative report or eligibility determination will be forwarded to NIGC, unless specifically requested by NIGC and approved by the Gaming Commission.

#### 17.06.13 Certification for Business Entities

- (a) Any entity seeking license as a financier, a management company or a supplier, distributor or manufacturer of gaming services shall provide the following information on the application:
  - (i) Name of business, business address, business phone, federal tax ID number (or SSN if a sole proprietorship), main office address if different from business address, any other names the applicant has done business under, type of service applicant will provide;
  - (ii) Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;
  - (iii) If the applicant is a corporation, the state of incorporation, and the qualification to do business in the State of Washington, if the gaming operation is in a different state than the state of incorporation;
  - (iv) Trade name, other names ever used, names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
  - (v) General description of the business and its activities;
  - (vi) Whether the applicant will be investing in or loaning money to the gaming operation and, if so, how much;
  - (vii) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

- (viii) A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial, or management interests in non-gaming activities;
  - (ix) Names, addresses, and phone numbers of three business references with whom the company had regularly done business for the last five years;
  - (x) The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
  - (xi) If the business has ever had a license revoked for any reason, the circumstances involved;
  - (xii) A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition if any;
  - (xiii) List the business' funding sources and any liabilities of \$50,000 or more.
  - (xiv) A list of the principals of the business, their social security numbers, addresses and telephone numbers, title, and percentage of ownership in the company; and
  - (xv) Any further information the Tribal Council deems relevant.
- (b) The following notice shall be placed on the application form for a vendor and its principals:

*Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the applicant's vendor license.*

- (c) A vendor may submit a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit in writing any changes in the information since the other license application was filed and any information requested by the Tribal Council not contained in the other application.

#### 17.06.14 Business Entity Background Investigation

The Gaming Agency shall complete an investigation of the gaming vendor. This investigation shall contain, at a minimum, the following steps:

- (a) Verify of the business' incorporation status and qualification to do business in the state where the gaming operation is located;
- (b) Obtain a business credit report, if available, and conduct a Better Business Bureau check on the vendor.
- (c) Conduct a check of the business' credit history;
- (d) Call each of the references listed in the vendor application; and
- (e) Conduct an investigation of the principals of the business, including a criminal history check, a credit report, and interviews with the personal references listed.

17.06.15 License Fees

The Gaming Agency may charge a fee, subject to approval by the Tribal Council, to cover its expenses in investigating and processing license applications. Applicants may be required to pay a reasonable deposit for costs of gathering information and investigation prior to beginning processing of the application. At the discretion of the Tribal Council, members of the Tribe may be exempted from any license fees or costs.

17.06.16 NIGC Review of Licensing

- (a) The NIGC has a period of thirty (30) days after receipt of the report provided by the Gaming Agency as established above, to notify the Tribe of any objections to the issuance of a license. If the NIGC, within the thirty (30) day period, provides to the Tribe a statement itemizing objections to the issuance of a license to an applicant, the Tribal Gaming Agency will reconsider the application taking into account the objections raised. The Tribal Gaming Agency will fully consider the information provided by the NIGC and issue a formal decision after full reconsideration of the application and additional information.
- (b) If, within the thirty (30) day period, the NIGC requests additional information concerning a license applicant for whom a report is provided, that request will suspend the thirty (30) day period until the Chairman of the NIGC receives the information requested.
- (c) If, after issuance of a license, the Tribe receives reliable information from the NIGC that the licensee is not eligible for employment under the above provisions, the Gaming Agency will take the following steps:
  - (i) Suspend the license and notify the licensee immediately of the suspension and proposed revocation of the license;
  - (ii) Notify the licensee of a time and a place for a hearing on the proposed revocation of the license; and
  - (iii) Conduct the revocation hearing and make a determination whether to revoke or to reinstate the license; and
  - (iv) Notify the NIGC of the final decision regarding the revocation or re-instatement of the license.

17.06.17 Grounds for Denial, Suspension or Revocation of License

The Gaming Agency may deny, suspend or revoke a license when the applicant or licensee, or any other person or entity with an ownership or management interest in a business applicant:

- (a) Is determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods and activities in the conduct of the gaming activities;

- (b) has violated, or has failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by this Code, an approved Gaming Commission regulation, the Tribal-State compact, the IGRA and regulations promulgated there under, or any other applicable laws or regulations;
- (c) knowingly causes, aids, abets or conspires with another to cause any person to violate any of the applicable laws or regulations;
- (d) has obtained a license by fraud, misrepresentation, concealment or through inadvertence or mistake;
- (e) fails to promptly produce for inspection or audit any book, record, or document required by the Tribe's laws or regulations;
- (f) has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to the crime of forgery, larceny, extortion, conspiracy defraud, tax evasion, or similar offenses, or of any crime, whether a felony or misdemeanor, involving moral turpitude or any gambling activity; or
- (g) allows any person who has been convicted of, or forfeited bond upon, any of the offenses above to participate in the management or operate in a key position with the entity licensed by the Gaming Agency, without prior notice to and written approval from the Gaming Agency.

17.06.18 License Suspension or Revocation Process

- (a) Any license issued under these regulations may be suspended or revoked by the Gaming Agency for the reasons listed in 17.06.17, provided that the licensee may request a hearing before the Gaming Agency held not more than twelve (12) or less than eight (8) working days from the time the certification holder is given notice of the alleged breach or violation. The licensee, and any person directly affected by the license action shall have the right to be present and to offer oral or documentary evidence relevant to the breach or violation charged. Notwithstanding the foregoing, the Gaming Agency may summarily suspend or revoke any license if the continued licensing appears to constitute a threat to the public health, safety or welfare.
- (b) Upon receiving written notice of the suspension or revocation of any license issued by the Gaming Agency the licensee is required, within five (5) days, to surrender and return the license to the Gaming Agency.



17.06.19 Appeal of Denial, Suspension or Revocation of License

(a) Decisions of the Gaming Agency regarding the denial, suspension or revocation of licenses shall be final and effective when issued.

(b) An applicant or licensee whose license is denied, revoked or suspended by the Gaming Agency may, within fifteen (15) business days after the date of receipt of a written decision of the Gaming Agency, file an appeal to the Gaming Commission requesting a hearing to reverse the decision. The petition must set forth the basis of the appeal. If no appeal is filed within the time prescribed, the Gaming Agency decision shall be deemed final and not subject to further reconsideration or appeal to and review by the Gaming Commission.

(c) The Gaming Commission shall consider the evidence presented by the applicant and the Gaming Commission, prior to making a determination on the licensing decision. The appellant and the Gaming Commission may offer such information and documents as are relevant to the determination of the applicant's suitability for license and may call witnesses to testify in such a proceeding if such witnesses can provide information regarding the applicant's suitability. No determination of the Gaming Commission shall be considered valid if it would place the Tribe in violation of an applicable Tribal-State compact, the IGRA and regulations promulgated there under, or any other applicable law.

17.06.20 Hearings Closed to Public

All hearings regarding gaming license proceedings or reconsideration of an application shall be closed to the public unless the applicant or licensee requests that the hearing be open to the public in which case, the hearing can be opened to the public by a majority vote of the Gaming Commission.

17.06.21 Notification of Licensing Action

The Gaming Agency shall promptly notify, in writing, each applicant upon the grant or denial of the certification. To the extent required under federal or state laws and regulations, or other applicable law, the Gaming Agency shall promptly notify the NIGC and any other applicable federal or state agency of all certification issued.

17.06.22 Duty of Licensee to Report

(a) Any person licensed by the Gaming Agency who is arrested or charged with a felony or a misdemeanor in any court, or who is arrested or charged with any violation of the Nisqually Criminal Code, must report such arrest or charge to the Gaming Agency within seventy-two (72) hours.



(b) Any person licensed by the Gaming Agency has a duty to report any known violation of the Compact or any known or suspected crime against a person or property to the Gaming Agency.

(c) Failure of a licensee to report may result in the suspension or revocation of the gaming license.