

NATIONAL  
INDIAN  
GAMING  
COMMISSION

MAR - 2 1994

W. Ron Allen, Executive Director  
Jamestown S'Klallam Tribe  
305 Old Blyn Highway  
Sequim, Washington 98382

Dear Mr. Allen:

This letter responds to your request to review and approve the tribal gaming ordinance adopted by the Jamestown S'Klallam Tribe (the Tribe) on November 16, 1993. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Jamestown S'Klallam Tribe for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

Anthony J. Hope

Anthony J. Hope  
Chairman



# JAMESTOWN S'KLALLAM TRIBE

305 Old Blyn Highway, Sequim, WA 98382

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## JAMESTOWN S'KLALLAM TRIBE GAMING CONTROL ORDINANCE NO. 4-93

THE JAMESTOWN S'KLALLAM TRIBE, a federally recognized Indian tribe ("Tribe") hereby enacts the following Ordinance, which shall be known as "GAMING CONTROL ORDINANCE #4 (1993)" ("Ordinance"):

### SECTION 1. TITLE.

This Ordinance shall be known as the "Jamestown S'Klallam Gaming Control Ordinance of 1993".

### SECTION 2. FINDINGS AND PURPOSE.

This ordinance is adopted by the Tribal Council, pursuant to its authority granted by Article VII, Section 1(i), (t), and (v) of the Jamestown S'Klallam Tribal Constitution, for the purpose of establishing the terms for gaming on Tribal Lands for Tribal governmental and charitable purposes, and to develop and operate such gaming consistent with the findings herein and in conformity with the federal Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq. ("IGRA")) and regulations promulgated thereunder.

The Tribal Council finds that:

- a. Gaming on its reservation is a valuable means of promoting Tribal economic development, self-sufficiency, employment, job training and strong Tribal government through the generation of stable Tribal revenues;
- b. Revenues from gaming activities are needed for economic development, to promote Tribal self-sufficiency and a strong Tribal government, and to fund and ensure essential social programs and services;
- c. The Tribe desires to conduct certain forms of amusement games and gaming to provide needed revenues to the Tribe, and to regulate and control such gaming in a manner that will protect the environment, the reservation, the health, security and general welfare of the Tribe, the players, and the community; and
- d. The Tribe desires to own all gaming on Tribal Lands, and to manage and regulate such gaming in a manner that will adequately address such special interests and needs of the Tribe.

**APPROVED**

**SECTION 3. DEFINITIONS.**

Unless specified otherwise, terms used herein shall have the same meaning as in IGRA, including but not limited to references to "Class I," "Class II," and "Class III" gaming, except for references to "Commissioners" and "Commission", which shall mean Commissioners of the Jamestown S'Klallam Gaming Commission established herein.

a. "Closely associated independent contractor" shall mean any contractor that shares common ownership, officers or directors with any management principal or person related thereto.

b. "Gaming" shall mean an activity in which a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event, not under his or her 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, but shall not include bona fide business transactions.

c. "Gaming Activities" shall mean any Class I, Class II, or Class III gaming conducted by or under the jurisdiction of the Tribe.

d. "Gaming Contractor" shall mean any person or entity that supplies gaming devices or other gaming equipment, personnel, or services (including gaming management or consulting services) to any gaming activity or enterprise.

e. "Gaming Enterprise" shall mean any gaming business, event, enterprise or activity conducted by or under the jurisdiction of the Tribe.

f. "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 most highly compensated persons in the gaming enterprise are included in the definition of key employees. At the discretion of the Gaming Commission, other positions or persons may be included under and subject to the requirements for key employees.

g. "Person" shall mean any natural person or entity, including but not limited to corporations, partnerships and trusts.

h. "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. At the discretion of the Gaming Commission, other positions or persons may be included under and subject to the requirements for primary management officials.

- i. "Related to" shall refer to persons who are related as a father, mother, sister or brother.
- j. "Reservation" shall mean the Jamestown S'Klallam Reservation.
- k. "State" shall mean the State of Washington.
- l. "Tribal Council" shall mean the governing body of the Tribe, as set forth in the Tribal Constitution and Bylaws.
- m. "Tribal Court" shall mean the Jamestown S'Klallam Tribal Court.
- n. "Tribal Lands" shall mean all lands under the jurisdiction and control of the Tribe; including all land within the limits of the reservation, and any land title to which is either held in trust by the United States for the benefit of the Tribe or individual Tribal member or held by the Tribe or individual Tribal member, subject to restriction by the United States against alienation and over which the Tribe exercises governmental power. Such definition is intended to be co-extensive with and as broad as the definition in IGRA; provided however, that nothing herein is intended to grant the federal or state government any authority beyond what they possess under existing federal laws.
- o. "Tribal Member" shall mean any duly enrolled or adopted member of the Tribe.

#### **SECTION 4. OWNERSHIP OF GAMING.**

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this gaming Ordinance, except to the extent the Tribe may contract with and license a person or entity to own, operate or manage the enterprise pursuant to the provisions of IGRA or as otherwise permitted by law.

#### **SECTION 5. GAMING COMMISSION.**

a. Establishment of Gaming Commission. There is established by the Tribe hereby the Jamestown S'Klallam Gaming Commission ("Gaming Commission"). The Gaming Commission shall be composed of three (3) members of the Tribe, all of whom shall be appointed by Tribal Council.

b. Disqualifications for Office. The following persons may not serve as Commissioners:

- (1) Employees of any gaming enterprise on Tribal Lands;
- (2) Persons related to any gaming contractor (including any principal thereof or closely associated independent contractor).

(3) Persons who would not be eligible to be officers of the Tribe pursuant to the Tribe's Constitution and Bylaws.

c. Terms of Office. The Commissioners shall serve for three (3) year terms, except that immediately after enactment of this Ordinance, for the initial term, one Commissioner shall serve for one (1) year, one shall serve for two (2) years, and one shall serve for three (3) years. Nothing in this Ordinance shall preclude any Commissioner for serving for more than one term.

d. Removal from Office. Commissioners may only be removed from office before the expiration of their terms by the Tribal Council for neglect of duty, malfeasance or other good cause shown.

e. Quorum. Two (2) members of the Gaming Commission shall constitute a quorum.

f. Officers and Duties. The Gaming Commission officers shall be appointed by the Tribal Council. The Chairman shall preside over meetings of the Gaming Commission and the Vice-Chairman shall preside in the absence of the Chairman. The Secretary shall record in writing the minutes of all Gaming Commission meetings and all official actions taken by the Gaming Commission. The Treasurer shall account and provide reports on all receipts and disbursements of the Gaming Commission.

g. Voting. All actions of the Gaming Commission shall be taken by majority vote. The Commission Chairman may vote on any issue:

h. Meetings. Meetings shall be held at least once per month, in the first week of the month at the Tribe's primary meeting facility. Additional meetings shall be held as called by the Chair or by at least two (2) other Commissioners. Notice of meetings shall be given in writing to each Commissioner, served by first class mail or personal delivery at least five (5) business days prior to such meeting. Meetings may be called at any time, by any means, with unanimous consent of the Commissioners.

i. Compensation for Serving; Reimbursement of Expenses. Commissioners shall be compensated for serving on the Gaming Commission at rates to be set by the Tribal Council. Subject to approval by and in accordance with procedures to be adopted by the Tribal Council, Commissioners shall be reimbursed for expenses incurred in connection with the performance of their Commission duties and shall receive a stipend for days spent in performance of Commission duties.

j. Powers and Duties. The Gaming Commission shall have the power and duty to:

(1) Inspect, examine and monitor gaming activities, including the power to demand access to and inspect, examine, photocopy and audit all papers, books and records respecting such gaming activities;

- (2) Investigate any suspicion of wrongdoing in connection with any gaming activity;
- (3) Conduct or cause to be conducted such investigations as may be necessary to determine in connection with any gaming activity, compliance with law or this Ordinance or any contracts, agreements, goods, services, events, incidents, or other matters related to gaming activities;
- (4) Conduct background investigations regarding any person in any way connected with any gaming activity;
- (5) Hold such hearings, sit and act at such times and places, summon persons to attend and testify at such hearings, take such testimony, and receive such evidence as the Gaming Commission deems relevant in fulfilling its duties;
- (6) Administer oaths or affirmations to witnesses appearing before the Gaming Commission.
- (7) Implement and administer a system for investigating, licensing and monitoring employees and others connected with gaming activities, as described below, including the issuance of licenses to gaming facilities, individuals and entities as required under this Ordinance and IGRA;
- (8) Issue such rules and regulations as it deems appropriate in order to implement the provisions of this Ordinance;
- (9) Carry out such other duties with respect to gaming activities as the Tribal Council shall direct; and
- (10) Hire such staff and support services as deemed necessary subject to a budget approved by the Tribal Council.

k. Annual Reports. On or before April 30th of each year, the Gaming Commission shall provide to the Tribal Council an Annual Report summarizing its activities during the prior twelve month period ending on December 31st, and accounting for all receipts and disbursements.

## **SECTION 6. UNAUTHORIZED GAMING PROHIBITED.**

All gaming activities on Tribal Lands (whether Class I, II or III) are prohibited except as expressly authorized under this Ordinance. The following gaming activities are authorized under this Ordinance:

a. Class I Gaming. Class I gaming activities are hereby permitted to the extent consistent with Tribal custom and practice. The Tribal Council may prohibit and prevent any conduct which is claimed to be Class I gaming if the Tribal Council finds that such conduct is not in accordance with Tribal customs or practices or violates IGRA or

any other law.

b. Class II and Class III Gaming. Class II and Class III gaming on the Tribal Lands is hereby authorized, provided the Tribe has the sole proprietary interest in and responsibility for the conduct of any gaming enterprise, or to the extent the Tribe may contract with and license a person or entity to own, operate or manage the enterprise pursuant to the provisions of IGRA or as otherwise permitted by law. Nothing herein shall prohibit the Tribe from engaging the services of non-tribal persons as employees thereof, or engaging any person or entity to provide consulting or other technical assistance to Tribe. All Class III gaming shall be conducted in accordance with any Tribal-State compact between the Tribe and the State of Washington, or any alternative thereto as provided by IGRA, and as referenced below.

## **SECTION 7. GAMING REVENUES.**

a. Tribal Property. Except as provided for under the terms of an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, all revenues generated from any class II or Class III gaming activity are the property of the Tribe. Any profits or net revenues from gaming activities shall be deposited into the Tribe's general treasury or such other Tribal account as Tribe shall determine. No Tribal member shall be deemed to have any interest therein, provided that the Tribal Council may adopt rules for distributing gaming proceeds to members on a per capita basis provided such plan meets the requirements of IGRA, 25 U.S.C. § 2710(b)(3). Once becoming part of the Tribe's treasury, revenues generated from gaming activities shall lose any identity as gaming revenues except to the extent necessary to comply with applicable law.

b. Use. Net revenues from gaming activities are not to be used for purposes other than:

- (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 donate to charitable organizations; or
- (5) To help fund operations of local government agencies.

## **SECTION 8. OPERATION OF GAMING ENTERPRISES.**

a. Gaming Permitted as Licensed. Except to the extent authorized by an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, gaming activities shall only be conducted in Tribally owned, operated and licensed facilities pursuant to this Ordinance. Such activities shall be conducted in accordance with the terms and conditions of any license issued by the Tribe for such purposes as to each

facility before any gaming activities may occur therein. Such licenses shall specify the hours of operation, type and scope of gaming activities allowed therein, permitted uses of the facility for other activities, rules of conduct for employees and patrons, regulation of alcoholic beverages, food handling and entertainment, and such other matters as the Gaming Commission or the Tribal Council may deem necessary to the conduct of gaming activities therein.

b. Gaming Facility. Any construction or maintenance of any gaming facility, and the operation of gaming therein, shall be conducted in a manner which adequately protects the environment and the public health and safety.

## SECTION 9. AUDITS.

a. Annual Audits. The Tribe shall require to be conducted an annual outside auditing of each gaming activity by a recognized independent accounting firm. The results thereof shall be reported to the Tribal Council and, to the extent required by law, the Bureau of Indian Affairs and the National Indian Gaming Commission ("NIGC").

b. Contracts - Audit Requirements. All contracts for providing supplies, services, equipment or concessions to any gaming enterprise for a contract amount in excess of \$25,000 annually (except contracts for professional legal or accounting services) shall be subject to independent audits as established in Section 8a., and such contracts shall so specify.

## SECTION 10. LICENSES.

a. Licensing Requirements. It is the declared policy of the Tribe that all gaming activities be licensed and controlled so as to protect the morals, good order and welfare of Tribal members and other persons on Tribal Lands and to preserve the honesty, fairness and integrity of such gaming activities. Accordingly, no person shall engage in any Class II or Class III gaming activities on Tribal Lands without an appropriate and valid independent Class II or Class III license issued by the Gaming Commission. Any gaming license which is issued, or finding of suitability or approval by the Gaming Commission, shall be deemed a privilege subject to suspension or revocation. No license shall be issued that would place the Tribe in violation of any Tribal-State Compact to which the Tribe is a party, or of any applicable law. At the discretion of the Gaming Commission, and subject to requirements of this Ordinance, license requirements may be modified or waived as to any member of the Tribe.

b. Burden on Applicant. The burden of proving an applicant's qualification to receive any license hereunder is at all times on the applicant. Applicants must accept any risk of adverse public notice, embarrassment or other action which may result from the application process and expressly waive any claim for damages as a result thereof.

c. Applicant Claim of Privilege. An applicant may claim any privilege afforded by law in connection with a gaming license application or investigation, but a claim of



privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension or revocation.

d. Types of Licenses. Three classes of licenses shall be issued to persons associated with gaming activities:

(1) Class A Licenses. Before permitting any person to become permanently associated with any gaming activity as an investor, management entity, primary management official, key employee, closely associated independent contractor, or other individual or entity with influence over the management or operation of the gaming, or a Class II or III gaming employee, supplier, manufacturer or distributor, such person shall obtain a Class A license. The Gaming Commission shall conduct or cause to be conducted a background investigation to determine if such person has:

(a) Any criminal record or any reputation, prior activities, habits or associations which might pose a threat to the public interest or to the effective regulation of gaming;

(b) Anything else in their background which might create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.

(2) Class B Licenses. Persons who are not among those identified in subsection (1) but are to be employed at a gaming facility on Tribal Lands in some other capacity, such as in non-gaming related activities, shall be required to obtain a Class B license from the Gaming Commission. Such persons must establish that they have not been convicted of a crime, or engaged in any activity which the Gaming Commission, in its sole discretion, deems would render such person a danger to the safety or integrity of the gaming activity or the safety or property of the Tribe, a Tribal member, a gaming employee or patron, or a member of the public.

(3) Class C Licenses. Minors (persons under 18 years of age) employed at a gaming facility at Tribal Lands may be issued a Class C license, which will entitle them to work in any position for which a Class B license is required for adults and not otherwise prohibited by this Ordinance or other applicable law. Prior to issuance of a Class C license, such minors shall be deemed by the Gaming Commission to pose no threat to the safety or integrity of the gaming activity or the safety or property of the Tribe, a Tribal member, a gaming employee or patron, or a member of the public. Such licenses shall be valid for no more than six (6) months at a time and shall be revoked upon the minor's reaching the age of eighteen (18), at which time either a Class A or B license, as applicable, will be required. Minors shall not be employed as dealers or otherwise to operate or supervise the operations of games, or to serve liquor.

e. Background Investigations.

(1) The Tribe shall request from each primary management official and each key employee all of the information specified in subsections (a) through (n) below.

Further, each other applicant for a Class A license, except as provided otherwise by the Gaming Commission, shall also submit the information specified in (a) through (n) below. The Tribe reserves the right, at any time, to request additional information either prior to, during, or subsequent to any background investigation.

(a) Full name, other names used (oral or written), social security number(s), date of birth, place of birth, citizenship, gender, all languages (spoken or written);

(b) Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses and drivers license number(s);

(c) 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 as listed above under section (b) of this section 9(e);

(d) Current business and residence telephone numbers;

(e) Description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(f) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(g) Name and address of any licensing or regulatory agency with which the person has ever filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(h) For each felony for which there is an on-going prosecution or a conviction: the charge, the name and address of the court involved, and the date and disposition, if any, of the case;

(i) For each misdemeanor conviction or on-going misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application: the name and address of the court involved, and the date and disposition, if any, of the case;

(j) For each criminal charge (excluding minor traffic charges), whether or not there is or was a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed above pursuant to sections (h) or (i) of this section 9(e): the criminal charge, the name and address of the court involved and the date and disposition, if any, of the case;

(k) Name and address of any licensing or regulatory agency (Federal, Tribal, State, local or foreign) with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

- (l) Current photograph;
- (m) Any other information the Tribe deems relevant; and
- (n) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h).

(2) The Tribe shall conduct or cause to be conducted an investigation, through the Gaming Commission, sufficient to make a determination of eligibility as required under this Ordinance. In conducting the background investigation, the Tribe or its agent(s) shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

f. Eligibility Determination. The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribe 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 and methods and activities in the conduct of gaming, the Tribal gaming enterprise shall not employ that person in a key employee or primary management official position; and further, shall not employ the person in any other position for which a Class A license is required, except as specifically provided by the Gaming Commission.

g. Forwarding Licensing Applications and Reports to NIGC.

(1) On or before the date any key employee or primary management official is employed by a gaming enterprise authorized under this Ordinance, the Tribe shall forward to the NIGC the person's completed application for employment containing the information required above under Section 9e. of this Ordinance.

(2) Prior to issuing a license to a primary management official or key employee, the Tribe shall forward to the NIGC, together with a copy of the eligibility determination made under Section 9f. above, an investigative report on each background investigation. The investigative report on each background investigation shall be forwarded to the NIGC within sixty (60) days after the employee begins work, or within sixty (60) days of the approval of this Ordinance by the Chair of the NIGC. The gaming enterprise shall not employ or continue to employ any person as a key employee or primary management official who does not have a license within ninety (90) days of beginning work.

The investigative report shall include the following information:

- (a) Steps taken in conducting a background investigation;
- (b) Results obtained;

- (c) Conclusions reached; and
- (d) The bases for those conclusions.

(3) The Tribe shall provide to the NIGC or other agency, any other reports and information required by IGRA and regulations promulgated thereunder. Further, with respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chair of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

(4) If a license is not issued to an applicant, the Tribe shall notify the NIGC and may forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

h. Granting a Gaming License.

(1) If, within a thirty (30) day period after the NIGC receives a report as required under subsection g. above, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to the license application filed for a key employee or primary management official for whom the Tribe has provided an application and investigative report, the Tribe may issue the license.

(2) The Tribe shall provide any additional information requested by the Chair of the NIGC concerning a key employee or primary management official who is the subject of a report as required under subsection g. above. A NIGC request for additional information shall suspend the thirty (30) day period under subsection h.(1) above until the Chair of the NIGC receives the additional information.

(3) If, within the thirty (30) day period established under subsection h.(1) above, the NIGC provides a statement itemizing objections to issuance of a license to a key employee or primary management official, the Tribe shall reconsider the application, taking into account such objections. The Tribe retains the right to make the final determination whether to issue the license to such applicant.

i. Temporary Licenses. Pending completion of an investigation for a license, temporary licenses may be issued by the Gaming Commission if, in its sole discretion, it deems it appropriate to do so. Such licenses shall permit the licensee to engage in such activities and pursuant to such terms and conditions as specified by the Gaming Commission, in its sole discretion. Such temporary licenses shall expire ninety (90) days from date of issuance, upon issuance of a permanent license, or until an earlier specified expiration date, whichever occurs first.

j. License Renewal. Class A, and Class B licenses unless otherwise exempted by the Gaming Commission, shall be subject to renewal every year and may be revoked or suspended upon the occurrence of any act which, if known during the

application process, would have tended to disqualify such person for such a license.

k. License Investigations. The Gaming Commission may employ all reasonable means, including the engagement of outside services and investigators and the holding of hearings, to acquire the information necessary to determine whether or not a license should issue. Applicants shall also agree to release all information necessary in order for the Gaming Commission to achieve its goals under this section and to furnish such information to the Bureau of Indian Affairs, the NIGC or such other agency as may be required by law.

l. License Fees. All persons applying for a license shall agree to pay all applicable license fees and costs when due, including a reasonable deposit for costs for the gathering of information and investigation in connection with the license application. Applicants may be required to pay all fees and costs incurred in obtaining information 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. An estimate of such costs shall be provided to applicants upon reasonable request.

m. Standards. All persons engaged by or associated with any gaming activity on Tribal Lands shall conduct themselves with honesty, integrity, and with such decorum and manners as may be necessary to reflect positively on the Tribe, its members and the gaming activity involved. Any failure to abide by such standards, or any violation of any rule, ordinance, custom or tradition of the Tribe, the Tribal Lands, or the gaming activity, or the terms or conditions of the license, may be grounds for immediate suspension or revocation of any license issued hereunder.

n. Appeals. All decisions of the Gaming Commission regarding the issuance of licenses shall be considered final and effective when issued. Provided, within fifteen (15) days of receipt of the written decision regarding issuance of the license, an applicant may file a petition for reconsideration with the Gaming Commission. Any member of the Tribe who is denied a license by the Gaming Commission may, within thirty (30) days of receiving written notice of such denial, appeal the denial to the Tribal Court, which shall have the power to reverse the decision of the Gaming Commission and order that such license be issued, provided that no such license shall be issued for more than one (1) year, subject to the renewal procedures set forth herein, and provided further that no order of the Tribal Court that a license be issued shall be valid if such issuance would place the Tribe in violation of any Tribal-State Compact to which the Tribe is a party, or of any applicable law.

o. License Suspension.

(1) If, after issuance of a gaming license, the Tribe receives reliable information from the NIGC or other reliable sources indicating that a key employee or a primary management official is not eligible for employment under the eligibility criteria established in section 9 above, the Tribe shall suspend the license and shall notify the licensee in writing of the license suspension and proposed revocation.

(2) The Tribe shall notify the licensee of a time and place for a hearing

on the proposed revocation of a license.

(3) After the revocation hearing, the Tribe shall determine whether to revoke or to reinstate the gaming license. For actions taken in response to information provided by the NIGC, the Tribe shall notify the NIGC of its decision.

p. Facilities Licenses. Before gaming activities can be conducted therein, the Gaming Commission shall inspect and license each such facility in accordance with this Ordinance and any requirements of IGRA. Facilities in which gaming activities were taking place on the date this Ordinance was adopted shall be deemed to have qualified for and be operating under such a license upon adoption of this Ordinance.

## **SECTION 11. APPLICATION FORMS.**

a. Each application form for a key employee or a primary management official, as well as for all other Class A license applicants, unless otherwise specifically exempted by the Gaming Commission, shall contain the notices set forth in subsections (1) and (2) below:

(1) 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 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.

(2) Notice Regarding False Statements.

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, § 1001)

b. Any existing key employee or primary management official, or other Class A licensee unless otherwise specifically exempted by the Gaming Commission, shall be

notified that they shall either:

- (1) Complete a new application form that contains the Privacy Act notice and the notice regarding false statements; or
- (2) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice, and sign a statement that contains the notice regarding false statements.

**SECTION 12. DISPUTE RESOLUTION PROCEDURES**

a. Disputes between the manager and the Jamestown S'Klallam Tribal Gaming Operation or the Tribe shall be resolved according to the procedures in the management agreement, Article 16.

b. Disputes between Olympia and the gaming operation employees

(1) Olympia shall promulgate an employee manual which shall detail the procedures for the resolution of disputes between it and its gaming operation employees.

(2) The procedures required herein shall be subject to the approval of the Tribal Gaming Commission.

(3) No gaming operation employee shall be disciplined by Olympia in any way as a penalty for that employee having properly cooperated with the Tribal Gaming Commission.

c. Disputes between the Tribal gaming manager and the customers.

(1) It is intent of the parties that all customers disputes be resolved fairly, justly, equitably and expediently.

(2) The manager shall adopt customer dispute resolution procedures which shall implement the above described intent and which shall be submitted in advance of adoption for approval by the Tribal Commission.

(3) The customer dispute resolution procedures shall, at a minimum, provide:

(a) Whenever the manager refuses payment of alleged winnings to a customer, and the manager and the customer are able to resolve the dispute to the satisfaction of the customer and the dispute involves:

(i) At least \$500.00, the manager shall immediately notify the Tribal Commission; or

(ii) Less than \$500.00, the manager shall inform the

customer of his right to request that the Tribal Commission conduct an investigation. The Tribal Commission, through an inspector, shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.

(b) The Tribal Commission inspector shall mail written notice by certified mail, return receipt requested, to the manager and the customer of his decision resolving the dispute within thirty (30) days after the date that the Tribal Commission first receives notification from the manager or a request to conduct an investigation from the customer.

(i) The decision of the inspector is effective on the date it is received by the aggrieved party as reflected on the return receipt.

(ii) Within thirty (30) days after the date of receipt of the written decision of the Inspector, the aggrieved party may file a petition with the Tribal Commission requesting a review of the decision. The Tribal Commission may set a hearing on the matter, or may make a decision based solely upon the inspector's decision and other documentation provided to it by the customer and the manager. The Tribal Commission shall then issue a written decision and mail to the parties by registered mail or certified mail, return receipt requested.

(c) The liability of the manager in any dispute under the Section shall be limited to the amount of the alleged winnings and a customer shall not be entitled to an award of special or punitive damages, or damages for mental distress.

(d) The decision of the Tribal Commission shall not be subject to judicial review.

### **SECTION 13. CLASS III GAMING: TRIBAL-STATE COMPACTS.**

In addition to the provisions set forth above, no Class III gaming shall be engaged in on Tribal Lands unless a Tribal-State compact or alternative as provided by IGRA has first been obtained in accordance with the IGRA. All negotiations for such compacts shall be conducted through the Tribal Council, with the advice and suggestion of the Gaming Commission, and shall be finalized in accordance with Tribal law. To the extent any provision of a Tribal-State compact is inconsistent with the provisions of this Ordinance, such Compact provision shall prevail and shall be deemed incorporated by reference herein.

### **SECTION 14. MANAGEMENT OF TRIBAL GAMING.**

Nothing herein shall prevent the Tribe from entering into management contracts or other agreements with any person or entity for the management or operation of any game otherwise authorized under this ordinance, so long as such agreement is in compliance with applicable law.



a. Any management contract entered into by the Tribal Council for the management of Class II or Class III gaming activities must be submitted to the NIGC for approval and include, at minimum, the information required under Section 9 of this Ordinance.

b. Any references to management contracts under this Section shall be considered to include all collateral agreements to such contract or agreement that relate to the gaming activity.

c. No management contract shall be effective unless it is entered into pursuant to express written authority granted under a valid Tribal Council Resolution. The Tribal Council shall specifically approve any management contract prior to its submission to the NIGC or another governmental entity for approval.

#### **SECTION 15. INTEREST IN MANAGEMENT CONTRACTS BY TRIBAL OFFICIALS.**

a. Restrictions. No elected official of the Tribe, including the Gaming Commission or any other committee or agency of the Tribe, shall have a financial interest in or management responsibility for, any management contract or other such agreement entered into pursuant to IGRA, nor shall such elected official serve on the board of directors or hold (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of any corporation, or 10% or more of the beneficial interest in any partnership, trust, or other entity, or in the case of any entity having thirty-five (35) or less owners, shareholders, partners or beneficiaries, any interest in any such corporation, partnership, trust or other entity, having a financial interest in, or management responsibility for, such contract, or any interest in any entity.

#### **SECTION 16. REGULATION OF SPECIFIC GAMES.**

a. Gaming Commission Rules. The rules of each Class I game recognized hereunder, and of any Class II or Class III games permitted hereunder, shall be promulgated by the Gaming Commission and shall govern the conduct thereof.

#### **SECTION 17. TRIBAL GAMING BOARD OR CORPORATION.**

Nothing in this Ordinance shall be interpreted to prevent the Tribe (through the Tribal Council), in its sole discretion, from delegating authority to one or more subordinate Tribal boards and corporations, so long as the Tribal gaming enterprises to which licenses are issued are solely and exclusively owned by the Tribe. Any Tribal board or corporation established by the Tribe to conduct business on behalf of the Tribe retains the sovereign immunity of the Tribe, unless specifically and expressly waived by the Tribe in writing.

#### **SECTION 18. CONSTRUCTION AND SEVERABILITY.**

a. This Ordinance is exempted from the rule of strict construction, and shall

be liberally construed to give full effect to the objectives and purposes for which it was enacted.

b. If any Section of this Ordinance, or its application to any person or entity or circumstance, is held invalid, the remainder of the Ordinance, or the application of the provision to other persons or entities or circumstances, shall not be affected and shall remain in full force and effect.

#### **SECTION 19. TRIBAL SOVEREIGN IMMUNITY AND JURISDICTION PRESERVED.**

Nothing in this Ordinance shall be construed as a waiver of the sovereign immunity of the Tribe, the Tribal Council, or of any board, committee, or corporation acting under the authority of the Tribe or the Tribal Council. Nothing in this Ordinance shall be construed as a grant of jurisdiction to the United States or to a State or local government.

#### **SECTION 20. AMENDMENTS.**

The Tribal Council shall have the authority to amend this Ordinance as it deems necessary after its effective date without further approval.

#### **SECTION 21. REPEAL.**

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

#### **CERTIFICATION**

I, W. Ron Allen, Chairman of the Jamestown S'Klallam Tribal Council, do hereby certify that the foregoing resolution was adopted at a meeting of the Jamestown S'Klallam Tribal Council held on the 16th day of November 1993, at the Jamestown S'Klallam Tribal Office in Blyn, Washington, and where a quorum was present and approving the resolution by a vote of 5 FOR and 0 AGAINST with 0 ABSTAINING.



W. Ron Allen, Tribal Chairman/Executive Director