



October 24, 2005

Via Facsimile and U.S. Mail
(503) 939-8022

Craig J. Dorsay, Esq.
2121 S.W. Broadway, Suite 100
Portland, OR 97201

RE: Approval of Class II and Class III Tribal Gaming Ordinance

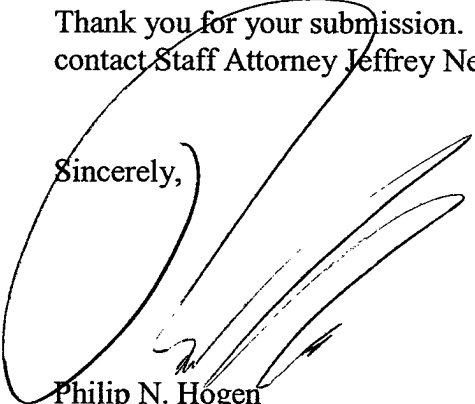
Dear Mr. Dorsay:

This is in response to your letter dated August 26, 2005, requesting review and approval of the Samish Indian Nation's Tribal Gaming Code, as adopted by Tribal Council Resolution No. 2005-08-017 (Aug. 26, 2005).

The tribal gaming code is consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) and the National Indian Gaming Commission's regulations. Therefore, the tribal gaming code is hereby approved.

Thank you for your submission. If you have any questions or require assistance, please contact Staff Attorney Jeffrey Nelson at (202) 632-7003.

Sincerely,



Philip N. Hogen
Chairman

Cc: Samish Tribal Council
Attn: Rick Landers, General Manager
P.O. Box 217 Anacortes, WA 98221
Facsimile: (360) 299-0790

Resolution 2005-03-04;
2005-08-017

Adopted March 9, 2005;
Revised and adopted
August 26, 2005

Subject: Gaming

AUG 29 2005

**SAMISH INDIAN NATION
GAMING ORDINANCE**

Samish Tribal Code § 6.200

§ 6.20 Purpose

- (a) The Samish Indian Nation, hereinafter "Tribe," empowered by the Tribe's constitution to enact ordinances, hereby adopts this Ordinance in order to set the terms for and to regulate all gaming activities on Samish tribal lands.
- (b) The Tribe shall conduct gaming operations to obtain revenues for tribal purposes, to employ tribal members, and to prevent the infiltration of criminal elements into such operations.
- (c) The Tribe shall conduct all gaming operations in accordance with the Indian Gaming Regulatory Act, all applicable federal regulations and guidelines, and consistent with the Tribe's sovereign authority over its affairs.
- (d) This Ordinance is an exercise of the policy and general welfare powers of the Samish Indian Nation, acting in the best interests of the tribal membership. All provisions of this ordinance shall be liberally construed to achieve their purposes.

§ 6.21 Gaming Authorized

Class II and Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. §2703(7)(a) and 25 U.S.C. §2703(8) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission ("NIGC") is hereby authorized.

§ 6.22 Ownership of Gaming

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

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§ 6.23 Use of Gaming Revenue

- A. Net revenues from Class II and Class III gaming shall be used only for the following purposes: to fund tribal government operations and programs; to provide for the general welfare of the Tribe and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.
- B. If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. §2710(b)(3) and 25 C.F.R. Part 290.

§ 6.24 Audit

- A. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.
- B. 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 and accounting services, shall be specifically included within the scope of the audit that is described in subsection A above.

§ 6.25 Protection of the Environment and Public Health and Safety

Class II and Class III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

§ 6.26 Background Investigations: Key Employees and Primary Management Officials

The Samish Indian Nation shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials and employed at any Class II and Class III enterprises operated on tribal lands:

A. Definitions

For purposes of this section, the following definitions apply:

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1. Key employee:
 - (a) A person who performs one or more of the following functions:
 - (1) Bingo caller;
 - (2) Counting room supervisor;
 - (3) Chief of security;
 - (4) Custodian of gaming supplies or cash;
 - (5) Floor manager;
 - (6) Pit boss;
 - (7) Dealer;
 - (8) Croupier;
 - (9) Approver of credit; or
 - (10) Custodian of gaming devices including persons with access to cash and accounting records within such devices
 - (b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year.
 - (c) If not otherwise included, the four most highly compensated persons in the gaming operation.
2. Primary Management Official:
 - (a) The person having management responsibility for a management contract;
 - (b) Any person who has authority:
 - (1) To hire and fire employees; or
 - (2) To set up working policy for the gaming operation; or
 - (c) The chief financial officer or other person who has financial management responsibility.

B. Application Forms

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1. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

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 the Samish Indian Nation 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 the Samish Indian Nation or the tribal gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Tribe being unable to hire you in a primary management official or key employee position.

2. Existing key employees and primary management officials shall be notified in writing that they shall either:
 - a. Complete a new application form that contains a Privacy Act notice; or
 - b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.
3. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

A false statement on any part of your application may be grounds

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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.)

4. The Samish Indian Nation shall notify in writing, existing key employees and primary management officials that they shall either:
 - a. Complete a new application form that contains a notice; or
 - b. Sign a statement that contains the notice regarding false statements.

C. Background Investigations

1. The Samish Indian Nation shall request from each primary management official and from each key employee, all of the following information:
 - a. Full name, other names used (oral or written), social security number(s), birth date and place, citizenship, gender, all languages (spoken or written);
 - b. Currently and for the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
 - c. The 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 under paragraph (1)(b) of this section;
 - d. Current business and resident telephone numbers;
 - e. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
 - f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

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- g. The names and addresses of any licensing or regulatory agency with which the person has 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 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 misdemeanor conviction or ongoing 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;
 - j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph (1)(h) or (1)(i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
 - k. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
 - l. A 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). The Tribe will, if it does not have a gaming commission in operation with the capacity to take and process fingerprints under this Section, contract with a state, local or other tribal law enforcement agency to take and process fingerprints under this Ordinance.
2. The Samish Indian Nation, if it does not have a gaming commission with the capacity to independently conduct background investigations, may contract with a law enforcement agency or gaming regulatory agency from another government,

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including but not limited to tribal, state or local law enforcement agencies, to conduct an investigation sufficient to make a determination under subsection D below. In conducting a background investigation, the Tribe or its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation. The Samish Tribal Council or Tribal Gaming Commission will review and approve any background investigation conducted pursuant to this Section.

3. The Tribe will contract with a state, local or tribal law enforcement agency to conduct a background investigation on each applicant sufficient to allow the Tribal Council, or Tribal Gaming Commission when one is formed, to make an eligibility determination under Section D below. The law enforcement agency selected by the Tribe will be documented with the NIGC by letter. Any background investigation shall include at a minimum the following items:
 - (a) verify the applicant's identity through items such as social security card, drivers license, birth certificate, or passport;
 - (b) contact personal and business references and verify other information submitted by applicant, focusing on any problems areas noted;
 - (c) obtain a personal credit check;
 - (d) conduct a civil history check;
 - (e) conduct a criminal history check including, if appropriate, submission of the applicant's fingerprints to the NIGC, and including a check of criminal history records information maintained by the FBI;
 - (f) inquire into any previous or existing business relationships with the gaming industry and Indian tribes by contacting those entities and tribes;
 - (g) verify applicant's history and status with any licensing agency by contacting the agency; and

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- (h) take any other appropriate steps to verify the accuracy of the information, focusing on problem areas noted. The law enforcement agency shall create an investigative report noting the steps take, information gained, potential problem areas, and any disqualifying information.

D. 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, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

1. When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection D of this section.
2. The Tribe shall forward the report referred to in subsection F of this section to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this Ordinance by the National Indian Gaming Commission.
3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after ninety (90) days.

F. Report to the National Indian Gaming Commission

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1. Pursuant to the procedures set out in subsection E of this section, the Samish Indian Nation shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:
 - a. Steps taken in conducting a background investigation;
 - b. Results obtained;
 - c. Conclusions reached; and
 - d. The basis for those conclusions.
2. The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.
3. If a license is not issued to an applicant, the Tribe:
 - a. Shall notify the National Indian Gaming Commission; and
 - b. May forward copies of its eligibility determination and
4. 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 Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

G. Granting a Gaming License

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or primary management official for whom the tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.

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2. The Tribe shall respond to a request for additional information from the Chairman of the NIGC concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph G.1. of this section until the Chairman of the NIGC receives the additional information.
3. If, within the thirty (30) day period described above, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the NIGC, the Tribe shall reconsider the application, taking into account the objections itemized by the NIGC. The Tribe shall make the final decision whether to issue a license to such applicant.

H. License Suspension

1. If, after the issuance of a gaming license, the NIGC notifies the Tribe that the NIGC has reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection D above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
2. The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
3. After revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the NIGC of its decision.

§ 6.27 License Locations

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where Class II or Class III gaming is conducted under this ordinance.

§ 6.28 Dispute Resolution

The Tribe shall establish a dispute resolution procedure for each gaming operation for resolving disputes between the gaming public and the tribe or any management contractor. It shall be the policy of the Tribe to resolve such disputes informally through

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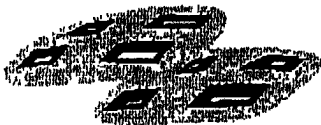
use of mediation or arbitration. In the absence of any such procedures, all disputes involving the gaming public shall be subject to the jurisdiction of the Samish Tribal Court, pursuant to the Samish Tribal Court Rules and Procedures Ordinance.

6.29 Agent for Service of Process

The Tribe shall provide NIGC from time-to-time with notice of the Tribe's official agent for service of process under 25 C.F.R. § 519.1. Such notice shall be provided by letter, sent by certified mail.

§ 6.30 Repeal

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



Samish Indian Nation

OF WASHINGTON

Motion No.: 2005-08-032
Resolution No.: 2005-08-017
Date Approved: August 26, 2005
Subject: Revised Gaming Ordinance

AUG 29 2005

- WHEREAS,** the Samish Indian Nation was Federally re-acknowledged by the Assistant Secretary of the Department of the Interior of the United States of America on April 26, 1996; and
- WHEREAS,** the Samish Tribal Council is empowered to act on behalf of the Samish Indian Nation pursuant to Article VI, Section 2 of the Samish Constitution, approved by the Samish General Council on March 2, 2004 and recognized by the United States Department of the Interior, Assistant Secretary for Indian Affairs on April 20, 2004; and
- WHEREAS,** the Tribal Council approved a Samish Gaming Ordinance on March 9, 2005, by Resolution No. 2005-03-004, and submitted that Ordinance to the National Indian Gaming Commission for its review and approval as required by the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq.; and
- WHEREAS,** representatives of the NIGC contacted the Tribe and indicated that several minor changes and typographical corrections needed to be made and resubmitted to the NIGC before the Ordinance could be reviewed and approved by the NIGC;
- THEREFORE BE IT RESOLVED** that the Samish Tribal Council does hereby approve the revised Gaming Ordinance attached to this Resolution, and directs the Tribal Attorney to resubmit this revised Ordinance to the NIGC for review and approval.

SAMISH TRIBAL COUNCIL

By: 
Kenneth C. Hansen
Tribal Chairman

The above resolution was duly adopted by the Samish Tribal Council at a regular meeting held on the 26th day of August, 2005 at which time a quorum was present by a vote of:
4 FOR, 0 AGAINST, 0 ABSTAIN.

Certified by: 
Chris De Kay
Tribal Council Secretary