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Vernon Hill, Chairman  
Eastern Shoshone Business Council  
P.O. Box 538  
Fort Washakie, WY 82514

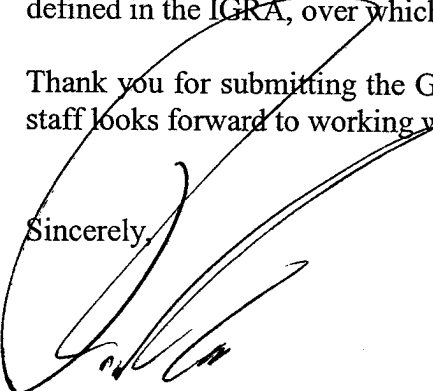
Re: Eastern Shoshone Tribe of the Wind River Reservation Tribal Gaming Code

Dear Chairman Hill:

This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve the Eastern Shoshone Tribe of the Wind River Reservation (Tribe) Gaming Code. The Code was received in this office on December 11, 2003. The Tribe adopted the Code by Resolution No. 2003-8708 on November 21, 2003. This letter constitutes approval of your submission under the Indian Gaming Regulatory Act (IGRA). It is important to note that the Gaming Code is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction.

Thank you for submitting the Gaming Code for review and approval. The NIGC staff looks forward to working with you and the Tribe on future gaming issues.

Sincerely,



Philip N. Hogen  
Chairman



Eastern Shoshone Business Council  
P.O. Box 538  
Fort Washakie, WY 82514  
(307) 332-3532/4932  
Fax: (307) 332-3055

**RESOLUTION  
of the  
SHOSHONE TRIBE  
WIND RIVER INDIAN RESERVATION**

DEC 11 2003

**RESOLUTION NO. 2003-8708**

**A RESOLUTION APPROVING THE EASTERN SHOSHONE TRIBE'S GAMING CODE.**

WHEREAS, the Shoshone Business Council ("SBC") of the Eastern Shoshone Tribe ("Tribe") is the governing body duly authorized by the General Council to conduct business on behalf of the Tribe; and

WHEREAS, the Shoshone General Council established and adopted a Gaming Code for the Eastern Shoshone Tribe; and

WHEREAS, the Shoshone General Council, the supreme governing body of the Tribe, composed of enrolled members, 18 years and older, approved the Eastern Shoshone Tribe's Gaming Code in a General Council meeting on September 17, 2003 by the vote of two hundred forty-two (242) for and five (5) against; and

BE IT FINALLY RESOLVED, that the Chairman or Co-Chairman of the Shoshone Business Council are directed and authorized to execute any documents necessary to implement this resolution.

**CERTIFICATION**

I, THE UNDERSIGNED, of the Shoshone Business Council hereby certify that in a meeting of the Shoshone Business Council, which is composed of six (6) members, of whom four (4) members of the Shoshone Business Council, constituting a quorum, were present at a meeting duly and specially called, noticed, convened, and held this 21st day of November, 2003; that the foregoing resolution was adopted by the affirmative vote of four (4) members of the Shoshone Business Council, and that the said resolution has not been rescinded or amended in any way.

Done at Fort Washakie, Wyoming this 21st day of November, 2003

  
Vernon Hill, Chairman  
Shoshone Business Council

Attest:

  
Barbara K. Mireau, Executive Secretary  
Shoshone Business Council

# EASTERN SHOSHONE TRIBE GAMING CODE

## CHAPTER 1 GENERAL PROVISIONS

### Section 1.01 Authority

The Business Council of the Eastern Shoshone Tribe is authorized under tribal law to promulgate tribal codes. This Gaming Code is enacted pursuant to the Tribe's inherent sovereign powers, tribal law, and the Indian Gaming Regulatory Act.

### Section 1.02 Purpose

(a) The Business Council of the Eastern Shoshone Tribe of the Wind River Reservation hereby enacts this Gaming Code to:

- (1) Authorize, license, and regulate gaming activities within the jurisdiction of the Eastern Shoshone Tribe;
- (2) Promote tribal economic development;
- (3) Enhance employment opportunities for tribal members;
- (4) Strengthen the economy of the Wind River Indian Reservation;
- (5) Generate revenue for use in improving the health, education, and general welfare of Reservation residents; and
- (6) Establish a foundation for the educational and recreational needs of children.

### Section 1.03 Ownership of Gaming

(a) Sole Proprietary Interest. The Tribe shall have the sole proprietary interest and responsibility for the conduct of any gaming activity on Indian lands, except as specified in paragraph (b) of this section.<sup>1</sup>

(b) Individually Owned Gaming. The Tribe hereby authorizes individually owned gaming in accordance with 25 U.S.C. §2710(b)(4) and any regulations promulgated thereunder.<sup>2</sup>

### Section 1.04 Authorized Gaming

(a) Class I Gaming. Class I gaming, as defined in the Indian Gaming Regulatory Act and any regulations promulgated thereunder, is hereby authorized.

(b) Class II Gaming. Class II gaming, as defined in the Indian Gaming Regulatory Act and any regulations promulgated thereunder, is hereby authorized.

(c) Class III Gaming. Class III gaming, as defined in the Indian Gaming Regulatory Act and any regulations promulgated thereunder, is hereby authorized, provided that any Class III Gaming shall be operated pursuant to an approved Tribal-State compact as required by the Indian Gaming Regulatory Act.

### **Section 1.05 Use of Gaming Revenue**

(a) Use of Net Revenues. Net revenues from any form of gaming authorized by this Gaming Code shall be used only for the following purposes:

- (1) To fund tribal government operations or programs;
- (2) To provide for the general welfare of the Tribe and its members;
- (3) To promote tribal economic development;
- (4) To donate to charitable organizations; or
- (5) To help fund operations of local government agencies.<sup>3</sup>

(b) Per Capita Payments. If the Tribe elects to make per capita payments to its members, it shall authorize 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).

### **Section 1.06 Audit**

(a) Independent Audit. An independent audit of all gaming operations shall be conducted on an annual basis. The results of such audit shall be submitted to the National Indian Gaming Commission.<sup>4</sup>

(b) Purchases in Excess of \$25,000. All gaming related contracts that result in purchases of supplies, services, or concessions in excess of \$25,000 in any year (except contracts for professional legal or accounting services) shall be specifically included within the independent audit.<sup>5</sup>

### **Section 1.07 Protection of the Environment and Public Health and Safety**

All gaming facilities shall be constructed, maintained, and operated in a manner that adequately protects the environment and the public health and safety.<sup>6</sup>

## **CHAPTER 2 DEFINITIONS**

For purposes of this Gaming Code, the following terms shall have the following meanings.

(a) "Business Council" means the Business Council of the Eastern Shoshone Tribe of the Wind River Reservation.

(b) "Class I gaming" means Class I gaming as defined in 25 U.S.C. §2703(6), and any regulations promulgated thereunder.

(c) "Class II gaming" means Class II gaming as defined in 25 U.S.C. §2703(7), and any regulations promulgated thereunder.

(d) "Class III gaming" means Class III gaming as defined in 25 U.S.C. §2703(8), and any regulations promulgated thereunder.

(e) "Gaming Agency" means the Gaming Agency of the Eastern Shoshone Tribe of the Wind River Reservation established by this Gaming Code.

(f) "Gaming Code" means this Gaming Code of the Eastern Shoshone Tribe of the Wind River Reservation, including any amendments.

(g) "IGRA" means the Indian Gaming Regulatory Act, 25 U.S.C. §2701 *et seq.*

(h) "Indian lands" means:

- (1) All lands within the exterior boundary of the Wind River Reservation;
- (2) Any lands title to which is held in trust by the United States for the benefit of the Tribe or any individual, and over which the Tribe exercises governmental power; or
- (3) Any lands title to which is held by the Tribe or any individual subject to restriction by the United States against alienation, and over which the Tribe exercises governmental power.<sup>7</sup>

(i) "Key Employee" means:

- (1) A person who performs one or more of the following functions:
  - (i) Bingo caller;
  - (ii) Counting room supervisor;
  - (iii) Chief of security;

- (iv) Custodian of gaming supplies or cash;
- (v) Floor manager;
- (vi) Pit boss;
- (vii) Dealer;
- (viii) Croupier;
- (ix) Approver of credit; or
- (x) Custodian of gambling devices including persons with access to cash and accounting records within such devices.

- (2) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year.
- (3) If not otherwise included, the four most highly compensated persons in the gaming operation.<sup>8</sup>
- (4) The Gaming Agency may designate any other employee or classes of employees as a Key Employee for licensing or any other purposes.

(j) "Net revenues" means net revenues as defined in 25 U.S.C. §2703(9), and any regulations promulgated thereunder.

(k) "NIGC" means the National Indian Gaming Commission.

(l) "Primary Management Official" means:

- (1) The person having management responsibility for a management contract;
- (2) Any person who has authority to hire and fire employees or to set up working policy for the gaming operation; or
- (3) The chief financial officer or other person who has financial management responsibility.<sup>9</sup>

(m) "Tribe" means the Eastern Shoshone Tribe of the Wind River Reservation.

**CHAPTER 3  
EASTERN SHOSHONE GAMING AGENCY**

**Article 1  
Organization**

**Section 3.01 Establishment of the Eastern Shoshone Gaming Agency**

The Eastern Shoshone Gaming Agency is hereby established for the purpose of regulating all gaming on Indian lands.

**Section 3.02 Composition**

The Eastern Shoshone Gaming Agency shall consist of three (3) Commissioners (“Commissioners”) appointed by a majority of the Business Council, one of whom shall be designated to serve as the Chair. Commissioners of the Gaming Agency must be enrolled members of the Tribe, and shall be selected based upon their educational background, relevant experience, and integrity. Members of the Business Council may not simultaneously serve as Commissioners of the Gaming Agency.

**Section 3.03 Terms of Office**

The Commissioners of the Gaming Agency shall serve staggered three-year (3) terms of office. The initial Commissioners shall be appointed to terms as follows: the Chair shall serve an initial term of three (3) years; one Commissioner shall serve an initial term of two (2) years; and one Commissioner shall serve an initial term of one (1) year. Thereafter, all appointments to the Gaming Agency shall be three (3) years in length, or until successors are duly appointed and installed.

**Section 3.04 Removal**

Commissioners of the Gaming Agency may only be removed from office before the expiration of their term for neglect of duty, misconduct, malfeasance, or any acts that would render them unsuitable for the position. Such removal must be by a vote of four (4) or more Members of the Business Council.

### **Section 3.05 Vacancies**

If for any reason a vacancy should occur on the Gaming Agency prior to the expiration of a Commissioner's term, the Business Council shall appoint a qualified replacement for the balance of the Commissioner's seat that became vacant.

## **Article 2 Standards of Conduct**

### **Section 3.06 Suitability Standards**

All Commissioners of the Gaming Agency must satisfy the suitability standards set forth within this Gaming Code for primary management officials and key employees. Background investigations shall be performed under the direction of, and a determination of suitability may be made by, the Business Council, prior to appointing any person as Commissioner. The suitability of each Commissioner shall be reviewed in accordance with the licensing standards for Key Employees and shall be reviewed every two years. The Business Council may delegate the investigation and determination of suitability to any outside legal counsel or accounting firm.

### **Section 3.07 Financial Interests**

Commissioners shall not hold financial interests that conflict with their ability to perform the duties and responsibilities of their position. No person having a direct or indirect financial interest in or relationship to a person or entity holding a valid management contract with the Tribe shall be eligible to serve as a Commissioner of the Gaming Agency.

### **Section 3.08 Use of Tribal Assets**

No Commissioner of the Gaming Agency shall use or receive any pay or thing of value from the Tribe, other than their salary or reimbursement for reasonable expenses, for any work within the scope of their duties. No Commissioner of the Gaming Agency shall receive or convert to their own use, even temporarily, any property or money belonging to the Tribe for other than official purposes. No Commissioner of the Gaming Agency shall use tribal purchasing authority for personal acquisitions, even where reimbursement is made.



### **Section 3.09 Gaming**

No Commissioner of the Gaming Agency shall be permitted to participate in any gaming activity within any tribal gaming operation, except for any such participation engaged in solely for educational or instructional purposes.

### **Section 3.10 Gifts**

(a) Use of Position for Private Gain. Commissioners of the Gaming Agency shall not use their position for private gain.

(b) Solicitation or Acceptance of Gifts. No Commissioner of the Gaming Agency shall solicit or accept, directly or indirectly, any gift or other item of monetary value from any person or entity that is:

- (1) Seeking official action or inaction from the Gaming Agency;
- (2) Conducting activities regulated by the Gaming Agency; or
- (3) Whose interests may be substantially affected by the performance or nonperformance of the Commissioners' duties.
- (4) "Gift" shall not include modest food items (such as coffee or donuts), greeting cards, presentational plaques or certificates, anything for which the Commissioner paid market value, or gifts given by friends or relatives when the reason for the gift is based upon a previous, personal relationship.

(c) Complementary Services or Items. Commissioners of the Gaming Agency are prohibited from accepting complimentary services or items from any tribal gaming operation.

### **Section 3.11 Sanctions**

Any person who violates this section shall either be removed from their position or otherwise disciplined in a manner as determined by the Business Council.

**Article 3**  
**Duties and Responsibilities**

**Section 3.12 Powers and Duties**

The Gaming Agency shall have the authority and responsibility to:

- (a) Administer, monitor, and enforce all provisions of this Gaming Code;
- (b) Inspect, examine, and monitor all gaming activities on Indian lands to ensure compliance with all applicable tribal, state, and/or federal laws and regulations;
- (c) Have immediate and unrestricted access to review, inspect, examine, photocopy, and audit all records of any gaming operation;
- (d) Investigate any suspicion of wrongdoing associated with any gaming activities on Indian lands;
- (e) Conduct or cause to be conducted any background investigation required by this Gaming Code;
- (f) Determine the eligibility of persons to serve as a Primary Management Official, Key Employee, or other employee of any tribal gaming operation;
- (g) Determine the suitability of a management contractor based on the character of persons having a direct or indirect financial interest in a management contract;
- (h) Issue and renew gaming licenses as provided in this Gaming Code;
- (i) Revoke, suspend, condition, or deny an application or gaming license as provided in this Gaming Code;
- (j) Assess and collect any fees, penalties, or interest as provided for in this Gaming Code;
- (k) Maintain a correct and full accounting of all fees, penalties, and interest received, as well as all expenses incurred, under the authority of this Gaming Code;
- (l) Develop an operational budget for the Gaming Agency and submit the same to the Business Council for approval;
- (m) Comply with any and all applicable reporting requirements;

- (n) Conduct hearings as provided in this Gaming Code;
- (o) Promulgate appropriate regulations, including those necessary to comply with the Minimum Internal Control Standards of the NIGC; and
- (p) Perform such other duties as the Gaming Agency deems appropriate to fully perform its duties and responsibilities under this Gaming Code, and to ensure the proper regulation of all gaming on Indian lands.

## **Article 4 Gaming Agency Operation**

### **Section 3.13 Quorum and voting**

Two Commissioners of the Gaming Agency shall constitute a quorum. The Chair shall preside over all meetings and may vote. Gaming Agency action should be by consensus, but if consensus cannot be reached, majority and minority views may be offered in writing and shall be retained within the records of the Gaming Agency.

### **Section 3.14 Vice-Chair**

The Commissioners of the Gaming Agency shall, by majority vote, select one of its Commissioners to serve as Vice Chair. If for any reason the Chair is unavailable, the Vice Chair shall serve as Chair. If the Vice-Chair is also unavailable the third Commissioner of the Agency may serve as Chair.

### **Section 3.15 Recusal**

No Commissioner of the Gaming Agency shall participate in any decision directly involving his or her spouse, child, parent, or sibling, by blood or adoption. A Commissioner of the Gaming Agency may voluntarily recuse themselves and decline to participate in any action or decision of the Gaming Agency when the Commissioner, in their own discretion, believes they could not act fairly or without bias, or that there would be an appearance that they could not so act.

### **Section 3.16 Meetings**

- (a) Regular Meetings. The Gaming Agency shall meet at least once a month.

(b) Special Meetings. Special meetings shall be convened by the Gaming Agency Chair as necessary to carry out the official duties of the Gaming Agency. Special meetings may also be convened by a majority of the Commissioners of the Gaming Agency. The Chair shall give notice of each special meeting to each Commissioner either in writing or by telephone. Notice shall be received at least 24 hours in advance of such meeting and shall include the date, time, and place of the proposed meeting.

(c) Emergency Meetings. An emergency meeting may be called by the Chair with less than 24 hours notice; provided, however, that the Chair shall use their best efforts to assure that all Commissioners are notified of such meetings, with as much prior notice as possible under the circumstances.

(d) Meetings Open to the Public. All meetings of the Gaming Agency shall be open to the public; provided, however, that the Gaming Agency may, in its discretion, close any portion of any meeting to the public when discussing any information that the Gaming Agency deems confidential.

### **Section 3.17 Issuance of Regulations**

The Gaming Agency shall have the authority to promulgate and issue such regulations as it deems appropriate in order to implement and enforce the provisions of this Ordinance, including, but not limited to rules of procedure governing the conduct of Agency business and meetings, and rules governing the promulgation and issuance of all regulations, which at a minimum shall require the posting of all proposed regulations, notifying the Business Council of all proposed regulations, and providing a reasonable opportunity for the Business Council to provide comment.

### **Section 3.18 Compensation**

Commissioners of the Gaming Agency shall be compensated at a rate to be established annually by the Business Council. Commissioners shall be reimbursed for actual expenses incurred in the course of conducting official Gaming Agency business, including necessary and reasonable travel expenses, in accordance with all applicable rules and regulations.

### **Section 3.19 Reports to the Business Council**

The Gaming Agency shall submit quarterly reports to the Business Council, including, at a minimum, a summary of all licensing and enforcement actions taken by the Gaming Agency.

### **Section 3.20 Personnel**

(a) Gaming Agency Staff. The Gaming Agency may hire an Executive Director and any other staff as deemed necessary to fulfill its duties and responsibilities within this Gaming Code.

(b) Executive Director. The Executive Director shall be a salaried employee whose salary shall not be dependent upon a percentage of gaming revenues. The Chair of the Gaming Agency may serve as the Executive Director.

(c) Duties and Responsibilities. The Executive Director shall have the following duties and responsibilities:

- (1) Coordinate and oversee the daily operations of the Gaming Agency;
- (2) Supervise all staff of the Gaming Agency;
- (3) Develop, implement, and monitor a process for conducting background investigations and issuing gaming licenses;
- (4) Make recommendations to the Commissioners of the Gaming Agency regarding the issuance or denial of any license, the imposition of any penalty, the investigation of any complaint or suspicious activity, or any other action within the jurisdiction of the Gaming Agency; and
- (5) Perform any and all duties and responsibilities delegated by the Gaming Agency.

## CHAPTER 4 GAMING LICENSES

### Section 4.01 Licensing Authority

The Gaming Agency is hereby authorized to issue all licenses for the conduct of gaming authorized by this Gaming Code.

### Section 4.02 Requirement of Gaming Licenses

(a) Persons. A tribal gaming license is required of the following individuals:

- (1) Primary management officials;
- (2) Key employees;
- (3) All other employees of any gaming operation; and
- (4) All Commissioners and employees of the Gaming Agency.<sup>10</sup>

(b) Gaming Operation. The Gaming Agency shall issue a separate license to each place, facility, or location on Indian lands where gaming is conducted under this Gaming Code.<sup>11</sup>

(c) Display of Licenses. All licenses issued under this Gaming Code to individuals must be worn by the licensee in a conspicuous place at all times while working in the gaming operation. All licenses issued under this Gaming Code to a gaming operation shall be posted in a conspicuous place in the operation for which it is issued.

(d) Licensing Standards. Licenses issued hereunder to primary management officials and key employees shall be issued according to requirements at least as stringent as those set forth at 25 C.F.R. §§556 and 558, and any amendments thereto.

### Section 4.03 Licensing Fee

The Gaming Agency shall develop a fee structure for license applications, background investigations, and the issuance and renewal of gaming licenses. The Business Council shall approve such fee structure.

## **CHAPTER 5 BACKGROUND INVESTIGATIONS**

### **Section 5.01 Requirement of Background Investigations**

(a) The Gaming Agency shall conduct, or cause to be conducted, a background investigation of each primary management official and key employee.<sup>12</sup>

(b) The Gaming Agency shall ensure that any person involved with the conduct of gaming activities on Indian lands is:

- (1) A person of good character, honesty, and integrity; and
- (2) A person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interest of the Wind River Reservation or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental to the conduct of gaming.

### **Section 5.02 Information Required for Background Investigations**

(a) License Application Form. Each person subject to a background investigation shall complete a license application form requesting the following information:

- (1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (2) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
- (3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (a)(2) of this section;
- (4) Current business and residence telephone numbers;
- (5) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

- (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (7) The name and address 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;
- (8) 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;
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (10) 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 paragraph (a)(8) or (a)(9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- (11) 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;
- (12) A current photograph;
- (13) Any other information the Tribe deems relevant; and
- (14) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. §522.2(h).<sup>13</sup>

(b) Privacy Notice. The following notice shall be placed on the license application form for a primary management official or a key employee before such form is completed by the 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 the Eastern Shoshone Gaming Agency and 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 necessary 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 investigation 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.<sup>14</sup>

(c) Notice Regarding False Statements. The following notice shall be placed on the license application form for a primary management official or a key employee before such form is completed by the applicant:

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, section 1001)<sup>15</sup>

(d) Fingerprints. The Police Department of the Bureau of Indian Affairs, Wind River Agency, is hereby designated to take fingerprints on behalf of the Gaming Agency.<sup>16</sup>

(e) Hiring of a Primary Management Official or a Key Employee. A primary management official or a key employee may be hired upon completion of the license application form and before a background investigation is completed. When a primary management official or a key employee begins work at a gaming operation, the Gaming Agency shall forward the individual's completed license application form to the NIGC and shall conduct a background investigation to determine the individual's eligibility for continued employment.<sup>17</sup> A gaming operation shall not employ a primary management official or a key employee who does not have a license after ninety (90) days.<sup>18</sup>

### **Section 5.03 Performance of Background Investigations**

(a) Eligibility Determination. The Gaming Agency shall conduct an investigation reviewing a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning their eligibility for employment as a primary management official or a key employee in a gaming operation. If the Gaming Agency, in applying standards contained in this Gaming Code, 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, that person shall not be employed as a primary management official or a key employee.<sup>19</sup>

(b) Documentation. The Gaming Agency shall document the results of the background investigation, including all potential problem areas and any disqualifying information.

(c) Confidentiality. In conducting a background investigation, the Gaming Agency and/or its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.<sup>20</sup> The Gaming Agency shall ensure that all records and information obtained as a result of a background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process.

(d) Investigative Report.

(1) Compilation. Upon completion of a background investigation and an eligibility determination, an investigative report shall be compiled. The investigative report shall include the following:

- (i) Steps taken in conducting the background investigation;
- (ii) Results obtained;
- (iii) Conclusions reached;
- (iv) The bases for those conclusions; and
- (v) A copy of the eligibility determination.<sup>21</sup>

(2) Forward to the NIGC. The Gaming Agency shall forward a copy of the investigative report to the NIGC within sixty (60) days after the employee begins work.<sup>22</sup>

#### **Section 5.04 Granting a Gaming License**

(a) Investigative Report Review. The NIGC shall have thirty (30) days after receipt of an investigative report in which to review the report. Within this thirty (30) day period, the NIGC may request additional information from the Gaming Agency concerning the investigative report. Such a request shall suspend the thirty (30) day period until the NIGC receives the additional information.<sup>23</sup>

(1) No Objection by the NIGC. If within this thirty (30) day period, the NIGC notifies the Gaming Agency that it has no objection to the issuance of a gaming license, the Gaming Agency may issue a license to the applicant.<sup>24</sup>

(2) Objection by the NIGC. If within this thirty (30) day period, the NIGC provides the Gaming Agency with a statement itemizing objections to the issuance of a license, the Gaming Agency shall reconsider the application, taking into account the objections raised by the NIGC. The Gaming Agency shall make the final decision whether to issue a license to the applicant.<sup>25</sup>

(b) Failure to Issue a License. If the Gaming Agency does not license an applicant:

- (1) The Gaming Agency shall notify the NIGC; and
- (2) The Gaming Agency may forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.<sup>26</sup>

(c) Record Retention. The Gaming Agency shall retain applications for employment, documentation of background investigations, and investigative reports for inspection by the NIGC for no less than three (3) years from the date of termination of employment.<sup>27</sup>

#### **Section 5.05 License Suspension and Revocation**

(a) Gaming License is a Privilege. No applicant has an absolute right to a gaming license. A gaming license is a revocable privilege and no holder acquires any vested rights therein or thereunder.

(b) NIGC Receipt of Information. If, after the issuance of a gaming license, the NIGC receives reliable information that a primary management official or a key employee does not satisfy the eligibility determination for employment in a gaming operation, the NIGC shall notify the Gaming Agency.<sup>28</sup>

- (1) Temporary License Suspension. Upon receipt of such notification, the Gaming Agency shall suspend such license and shall notify the licensee in writing of the suspension and the proposed revocation.<sup>29</sup>
- (2) Notification of Licensee. The Gaming Agency shall notify the licensee of a time and a place for a hearing on the proposed revocation of the license.<sup>30</sup>
- (3) Revocation Hearing. After a revocation hearing, the Gaming Agency shall decide to revoke or to reinstate the license. The Gaming Agency shall notify the NIGC of its decision.<sup>31</sup>

## CHAPTER 6 HEARINGS AND APPEALS

### Section 6.01 Patron Disputes

(a) Management. Patron complaints should be brought to the attention of the manager of the gaming operation or their designee. If the manager or their designee cannot resolve the dispute, the situation should be brought to the attention of the Executive Director of the Gaming Agency or their designee.

(b) Executive Director. Where the patron claims to be adversely affected by an act or omission of a gaming operation that is alleged to be in violation of this Gaming Code, the IGRA, or any other applicable law or regulation, the complaint shall be brought to the attention of the Executive Director of the Gaming Agency or their designee.

(c) Gaming Agency. Any patron not satisfied with the actions of either management or the Executive Director may request a hearing before the Gaming Agency. Such request must be in writing, and must be submitted within fifteen (15) days following the date of the incident of which the patron complains. The request must also state in detail all relevant facts and circumstances. The Gaming Agency shall hold a hearing within forty-five (45) days of receiving the written request. The Gaming Agency shall render a decision in a timely fashion and any such decision will be final when issued.

### Section 6.02 Gaming Agency Hearings

Any person aggrieved by a decision made or action taken by the Gaming Agency may petition the Gaming Agency for a hearing and reconsideration. Such request must be in writing, and must be submitted within thirty (30) days following notice of the decision or action of the Gaming Agency. The Gaming Agency shall hold a hearing within sixty (60) days of receiving the written request, and shall reconsider its decision or action in light of the evidence and argument presented at the hearing.

### Section 6.03 Tribal Court Appeal

Any final decision of the Gaming Agency may be appealed to the Tribal Court in an action naming the Gaming Agency as the sole defendant. Such action shall specifically set forth the reasons for appeal, and must be filed with the Tribal Court no later than thirty (30) days after the final decision of the Gaming Agency.

#### **Section 6.04 Sovereign Immunity**

The Gaming Agency is an instrumentality of the Eastern Shoshone Tribe of the Wind River Reservation, a federally-recognized Indian Tribe. Accordingly, the Gaming Agency shares the same sovereign immunity as that of the Tribe.

**CHAPTER 7  
MISCELLANEOUS PROVISIONS**

**Section 7.01 Severability**

The provisions of this Gaming Code are severable and if any provision of this Gaming Code, or any portion of any provision of this Gaming Code, is held invalid by a court of competent jurisdiction, the invalidity shall not effect any other provision of this Gaming Code. The remainder of this Gaming Code shall remain valid and in full effect.

**Section 7.02 Amendment**

All provisions of this Gaming Code are subject to amendment by the Business Council of the Eastern Shoshone Tribe of the Wind River Reservation. Any such amendment to this Gaming Code shall be submitted to the NIGC for approval within fifteen (15) days after adoption.<sup>32</sup>

**Section 7.03 Repeal**

To the extent that they are inconsistent with this Gaming Code, any and all prior gaming ordinances, laws, and/or regulations of the Tribe are hereby repealed.

**Section 7.04 Agent for Service of Process**

The Tribe hereby designates the Chair of the Eastern Shoshone Gaming Agency as agent for service of any official determination, order, or notice of violation. Until such time as a Chair is appointed, the Chairman of the Business Council shall serve as agent for such service.<sup>33</sup>

**Section 7.05 Effective Date**

This Gaming Code shall be effective on the date of enactment.

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<sup>1</sup> 25 U.S.C. §2710(b)(2)(A) and 25 C.F.R. §522.4(b)(1).

<sup>2</sup> 25 U.S.C. §2710(b)(4) and 25 C.F.R. §§552.10 and 552.11.

<sup>3</sup> 25 U.S.C. §2710(b)(2)(B) and 25 C.F.R. §522.4(b)(2).

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4 25 U.S.C. §2710(b)(2)(C); 25 C.F.R. §§522.4(b)(3) and 571.13.  
5 25 U.S.C. §2710(b)(2)(D) and 25 C.F.R. §522.4(b)(4).  
6 25 U.S.C. §2710(b)(2)(E) and 25 C.F.R. §522.4(b)(7).  
7 25 U.S.C. §2703(4) and 25 C.F.R. §502.12.  
8 25 C.F.R. §502.14.  
9 25 C.F.R. §502.19.  
10 25 C.F.R. §§558.1(b) and 556.4.  
11 25 U.S.C. §2710(b) and 25 C.F.R. §522.4(b)(6).  
12 25 C.F.R. §556.4.  
13 25 C.F.R. §556.4(a).  
14 25 C.F.R. §556.2(a).  
15 25 C.F.R. §556.3(a).  
16 25 C.F.R. §522.2(h).  
17 25 C.F.R. §558.3(a).  
18 25 C.F.R. §558.3(b).  
19 25 C.F.R. §§556.4(b) and 558.2.  
20 25 C.F.R. §556.4(b).  
21 25 C.F.R. §556.5(b) and (c).  
22 25 C.F.R. §558.3(b).  
23 25 C.F.R. §558.3(c).  
24 25 C.F.R. §558.4(a).  
25 25 C.F.R. §558.4(b).  
26 25 C.F.R. §556.5(d).  
27 25 C.F.R. §558.1(c).  
28 25 C.F.R. §558.5(a).  
29 25 C.F.R. §558.5(b).  
30 25 C.F.R. §558.5(c).  
31 25 C.F.R. §558.5(d).  
32 25 C.F.R. §522.3(a).  
33 25 C.F.R. §519.1.

**EASTERN SHOSHONE TRIBE OF THE WIND RIVER RESERVATION**

**EASTERN SHOSHONE GAMING AGENCY  
PROCEDURES REGARDING THE  
CONDUCT OF CRIMINAL HISTORY CHECKS**

As required by Chapter Five of the Eastern Shoshone Gaming Code, the Eastern Shoshone Gaming Agency will conduct background investigations to ensure that any person involved with the gaming activities of the Eastern Shoshone Tribe is a person of good character, honesty, and integrity, and that their prior activities pose no threat to the effective regulation of tribal gaming activities. Such background investigations shall include a criminal history check evaluating the criminal history records maintained by both local and state governments, as well as those maintained by the Federal Bureau of Investigation (FBI).