

NATIONAL  
INDIAN  
GAMING  
COMMISSION

MAR 25 1996

Warren Seyler, Chairman  
Spokane Tribal Business Council  
Spokane Tribe of Indians  
P.O. Box 100  
Wellpinit, WA 99040

Dear Chairman Seyler:

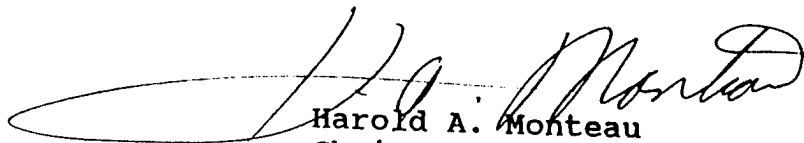
This letter responds to your request to review and approve the tribal gaming ordinance, Chapter 23, adopted on February 18, 1993, and amended by Spokane Resolution 1996-162, ratified on March 19, 1996, by the Spokane Tribe of Indians (Tribe). This letter constitutes such approval under the Indian Gaming 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 Spokane Tribe of Indians for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,



Harold A. Monteau  
Chairman

cc: Scott Crowell, Esq.



# Spokane Tribe of Indians

P.O. Box 100 • Wellpinit, WA 99040 • (509) 258-4581 • Fax 258-9243

CENTURY OF SURVIVAL  
1881 - 1981

## RESOLUTION

Spokane Resolution 1996-162

### TRIBAL GAMING CODE

**WHEREAS**, the Spokane Tribal Council is the duly constituted governing body of the Spokane Tribe by authority of the Constitution and By-laws of the Spokane Tribe; and

**WHEREAS**, under the Constitution and By-laws of the Tribe, the Spokane Tribal Council is charged with the duty of protecting the health, security and general welfare of the Spokane Tribe and all reservation residents; and

**WHEREAS**, the Tribe previously amended its gaming code, pursuant to Spokane Resolution 1993-074, adopted February 18, 1993, and pursuant to Spokane Resolution 1995-368 to adopt a comprehensive gaming code to govern the regulations of gaming activities on Spokane Tribal lands; and

**WHEREAS**, the National Indian Gaming Association has rejected the Code on the asserted grounds that Paragraph 2.17(a) of the Code does not make explicit reference to 25 CFR Part 556 and does not mirror certain definitions of terms as defined in NIGC regulations; and

**WHEREAS**, the amendment of the code to include such an explicit reference to 25 CFR Part 556 and to conform to NIGC definitions does not diminish the Tribe's ability to insure the integrity and fairness of its gaming operations, in that the Gaming Code already mandated compliance with 25 CFR Part 556 by the force and effect of the existing language of Paragraph 2.17(a) and that the changed definitions do not materially alter the subject terms; and

**NOW , THEREFORE, BE IT HEREBY RESOLVED** by the Spokane Tribal Business Council meeting in Special Session this 19th day of March, 1996, that the Tribal Council does hereby amend its existing Gaming Code by deleting ~~strike thru language~~, and by adding underlined language to certain sections as follows:

**Section 2.17 Administrative duties of the Tribal Gaming Commission.** The Tribal Gaming Commission shall perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and effect all purposes of this Code relating to the regulation of all gaming activity. In all decisions, the Commission shall act to promote and ensure integrity, security, honesty, and fairness of the operation and administration of all gaming activity. The Commission's duties shall include but not be limited to the following:

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Resolution 1996-162

Spokane Tribal Business Council

Resolution to Amend the Gaming Code to Cure Alleged Deficiencies in

1-8-96 letter of NIGC

Page 2

- (a) Correspond with the National Indian Gaming Commission and do whatever is necessary to complete compliance with the rules and regulations of that agency, including but not limited to compliance with all requirements of NIGC regulations set forth in 25 CFR Parts 556 and 558. Specifically, the Commission shall arrange for an annual outside audit of authorized gaming and will provide a copy to the National Indian Gaming Commission;
- (b) assure that all gaming activity is conducted in a manner which adequately protects the environment and the public health and safety;
- (c) Proscribe an adequate system which ensures that background investigations are conducted on all primary management officials and key employees of any Gaming establishment and that oversight of such officials and their management is conducted on an ongoing basis. The Commission shall immediately notify the National Indian Gaming Commission of the issuance of such licenses. The Commission will review all applications and background investigations to ensure that no person shall be eligible for employment in or with any part of the gaming operation if that person's prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming. The Commission shall notify the National Indian Gaming Commission of the results of such background checks before the issuance of such licenses;
- (d) Recommend the hiring such professional, clerical, technical, and administrative personnel as may be necessary to carry out the provisions of this Code;
- (e) Identify and make necessary arrangements for a law enforcement agency to take fingerprints and for conducting a criminal history check which shall, at a minimum, include a check through the Federal Bureau of Investigation National Criminal Information Center.
- (f) Review all records, documents, and anything else necessary and pertinent to enforcement of any provisions of this Code;

**Section 1.05 "Class II Gaming" means -**

- (a) ~~the game of chance commonly known as bingo or lotto~~ (whether or not electronic, computer, or other technologic aids are used ~~in connection therewith~~) when players:
  - (i) ~~which is played for prizes, including monetary prizes,~~ with cards bearing numbers or other designations;

Resolution 1996-162  
Spokane Tribal Business Council  
Resolution to Amend the Gaming Code to Cure Alleged Deficiencies in  
1-8-96 letter of NIGC  
Page 3

- (ii) ~~in which the holder of the card covers such~~ numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
  - (iii) ~~in which win the game is won by being~~ the first person to covering a ~~previously designated arrangement of numbers or designations pattern~~ on such cards;
- (b) ~~including (if played in the same location) as bingo or lotto,~~ pull tabs, ~~lotto,~~ punch boards, tip jars, instant bingo, and other games similar to bingo; ~~and~~

~~(b)~~ (c) Nonbanking card games that: are

- (i) State law explicitly authorized or does by laws of the State of Washington, or
- ~~(ii)~~ ~~are not explicitly prohibited by the laws of the Spokane Tribe of Indians and the State of Washington and are played~~ legally anywhere at any location in the state of Washington, but only if such card games are played; and
- ~~(iii)~~ players play in conformity with state these laws and regulations (if any) of the State of Washington regarding concerning hours, or periods of operation, of such card games or and limitations on wagers or and pot sizes; in such card games.

~~(c)~~ The term "class II gaming" does not include

- ~~(i)~~ ~~any banking card games, including baccarat, chemin de fer, or blackjack (21), or~~
- ~~(ii)~~ ~~electronic or electromechanical facsimiles of any games of chance or slot machines of any kind.~~

~~(d)~~ Notwithstanding any other provision of this section, the term "class II gaming" includes ~~those~~ card games played in the states of Michigan, North Dakota, South Dakota, or Washington, that were if:

- (i) An Indian tribe actually operates the same card games as played on or before May 1, 1988, as determined by the Chairman; and
- (ii) the pot and wager limits remain the same as on or before May 1, 1988, as determined by the Chairman; but only to the extent of the nature and scope of the card games that were actually operated by an Indian tribe in the State on or before such date.

(e) Individually owned class II gaming operations—

- (i) that were operating on September 1, 1986;
- (ii) that meet the requirements of 25 U.S.C. §2710(b)(4)(B);
- (iii) where the nature and scope of the game remains as it was on October 17, 1988; and
- (iv) where the ownership interest or interests are the same as on October 17, 1988.

**Section 1.16 “Key Employee” means:**

- (a) 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;
- (b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000.00 per year; or,
- (c) If not otherwise included, the four most highly compensated persons in the gaming operation, all employees who have authority over receipt or distribution of revenues from the gaming activity, and shall include but not limited to cashiers, dealers, pit bosses, floor managers, supervisors and any other individual who has the authority to sign checks or handle cash or currency.

**Section 1.18 “Net Revenues” means gross gaming revenues of an Indian gaming operation activity less—**

- (a) amounts paid out as, or paid for, prizes, ~~winnings,~~ and
- (b) total gaming-related operating expenses, ~~including reasonable salaries paid to employees, and excluding management fees, as defined by Paragraph 1.20.~~

**Section 1.19 "Management Contract"** means any contract, subcontract, or collateral agreement between ~~the Spokane~~ an Indian Tribe and a contractor or between a contractor and subcontractor if such contract or agreement provides for the management of all or part of a gaming operation, ~~excluding those parts of the operation that are not related to specific gaming activities.~~ "Management," specifically in the context of this definition means ~~policy decision making authority regarding the gaming activity.~~

**Section 1.24 "Primary Management Officials" means:**

- (a) The person having management responsibility for a management contract;
- (b) Any person who has shall include all officials of the gaming activity who exercise authority over daily operation of the gaming, including the authority
  - (i) to hire and fire employees; or
  - (ii) to supervise employees or to establish operational set up working policy for the gaming operation; or
- (c) The chief financial officer or other person who has financial management responsibility activity. Such officials shall include, but not be limited to, all owners, officers, shareholders with greater than a ten percent (10%) ownership interest, or partners of the management contractor, if any.

**BE IT FURTHER RESOLVED**, that the amended Code be resubmitted to the National Indian Gaming Commission for formal approval, provided however, that by such resubmission, the Tribe does not waive any rights or privileges to challenge the correctness of the decision of the National Indian Gaming Commission to reject the Code as enacted on February 18, 1993 or as amended on September 20, 1993.

**Certification**

The foregoing was duly enacted by the Spokane Tribal Business Council on the 19th day of March, 1996, by the vote of 4 for and 0 against under authority contained in Article VIII of the Constitution of the Spokane Indians ratified by the Spokane Tribe on November 22, 1980.

  
**Chairman**  
**Spokane Tribal Business Council**

# SPOKANE TRIBE OF INDIANS

## TRIBAL GAMING CODE

### CHAPTER I DEFINITIONS

**Section 1.01 Definitions.** Unless a different code meaning is clearly indicated, the terms used in this Code shall have the same meaning as defined in the "Indian Gaming Regulatory Act," Public Law 100 § 497, 102 Stat. 2467 (Oct. 17 1988).

**Section 1.02 "Calendar Year"** means the period beginning January 1 at 12:00:01 and ending the immediately following December 31 at 12:00 o'clock midnight.

**Section 1.03 "Chairman"** means the Chairperson of the Spokane Tribal Gaming Commission appointed by the Council as the chief administrator of Spokane gaming.

**Section 1.04 "Class I Gaming"** means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebration.

**Section 1.05 "Class II Gaming"** means -

(a) the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith) -

(i) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,

(ii) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

(iii) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and

(b) card games that are

(i) explicitly authorized by laws of the State of Washington, or

(ii) are not explicitly prohibited by the laws of Spokane Tribe of Indians and the State of Washington and are played at any location in the State of Washington, but only if such card games are played in conformity with those laws and regulations (if any) of the State of Washington regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

(c) The term "class II gaming" does not include

(i) any banking cards games, including baccarat, chemin de fer, or blackjack (21), or

(ii) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

(d) Notwithstanding any other provision of this section, the term "class II gaming" includes those card games played in the State of



Washington, that were actually operated in the State by an Indian Tribe on or before May 1, 1988, but only to the extent of the nature and scope of the card games that were actually operated by an Indian tribe in the State on or before such date.

**Section 1.06 "Class III gaming"** means all forms of gaming that are not Class I gaming or Class II gaming.

**Section 1.07 "Commission"** means the Spokane Tribal Gaming Commission.

**Section 1.08 "Commissioner"** means one of the members of the Spokane Tribal Gaming Commission.

**Section 1.09 "Council"** means the Spokane Tribal Business Council.

**Section 1.10**

[Reserved]

**Section 1.11 "Gaming or Gaming Activity"** means to deal, operate, carry on, conduct, maintain or expose for play any game played with cards, dice, equipment or any mechanical, electromechanical or electronic device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fan<sup>TM</sup>tan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck, chinese chuck-a-luck (dai shu), wheel of fortune, chem de fur, baccarat, pai gow, beat the banker, panguingui, slot machine, video poker machine, pull tabs, bingo, any banking or percentage game or any other game or device approved by the Commission, but does not include games played with cards in private homes or residences in which no person makes or charges money for operating the game, except as a player.

**Section 1.12**

[reserved]

**Section 1.13 Gaming Establishment or Gaming Premises** means any premises where gaming, other than Class I gaming" is operated or conducted, and includes all buildings, improvements, equipment, and facilities used or maintained in connection with such gaming.

**Section 1.14 "Gross Revenue"** means the total monetary value that would be due to any operator of a gaming activity for any chance taken, for any table fees for card playing, or other fees charged for participation or admittance, as evidenced by required records. The value shall be stated in U.S. currency, before any deductions or allowances for prizes, pay out of winnings, cost of operation, promotional expenses, taxes, labor expenses, equipment or materials used, or any other expenses. In the absence of records, gross revenue shall be the maximum that would be due to an operator from that particular activity if operated at maximum capacity.

**Section 1.15 "Indian Land"** means

(a) Any lands located within the exterior boundaries of the Spokane Indian Reservation; and

(b) Any lands title to which is either held in trust by the United States for the benefit of the Spokane Tribe of Indians, or held by the Spokane Tribe of Indians subject to restriction by the United States against alienation and over which the Spokane Tribe of Indians exercises governmental power; and

(c) Any lands title to which is either held in trust by the United States for the benefit of the individual Indian, or held by an individual Indians subject to restriction by the United States against alienation and over which the Spokane Tribe of Indians exercises governmental power.

**Section 1.16 "Key Employee"** means all employees who have authority over receipt or distribution of revenues from the gaming activity, and shall

include but not be limited to cashiers, dealers, pit bosses, floor managers, supervisors and any other individual who has the authority to sign checks or handle cash or currency.

**Section 1.17 "Licensee"** means any person who has been issued a valid and current license pursuant to the provisions of this Gaming Code.

**Section 1.18 "Net Revenue"** means gross revenues of a gaming activity less amounts paid out as, or paid for, prizes, winnings, and total operating expenses, including reasonable salaries paid to employees, and excluding management fees, as defined by § 1.20.

**Section 1.19 "Management Contract"** means any contract, subcontract, or collateral agreement between the Spokane Tribe and a contractor or between a contractor and subcontractor, if such contract or agreement provides for management of all or part of a gaming operation, excluding those parts of the operation that are not related to specific gaming activities. "Management," specifically in the context of this definition means policy decision-making authority regarding the gaming activity.

**Section 1.20 "Management Fee"** means any monies paid from gaming revenue to any person or entity contracted and/or licensed to operate a gaming establishment. Such term shall not include monies paid for operating expenses. Such term shall also include any monies paid to the owner of a gaming establishment licensed pursuant to § 3.03 of this Code.

**Section 1.21 "Operating Expense"** means -

(a) any expense incurred in the daily operation of a gaming activity that is specifically designated as an operating expense in a management contract;

(b) in the case of an establishment licensed by the Tribe pursuant to § 3.03, the term shall mean an expense specifically designated as an operating

expense in any regulation adopted by the Commission. Operating expense shall include all monies that are reasonably attributed to maintaining and operating the gaming activities, reasonable salaries paid to employees, and non-gaming activities that are reasonably related to promoting business in the gaming establishment.

**Section 1.22 "Patron"** means any person or group of persons who participate as players in games as defined by this Code, or who are physically present on premises wherein or whereon such games are being played.

**Section 1.23 "Person"** means any association, partnership, corporation, firm trust or other form of business association as well as a natural person.

**Section 1.24 "Primary Management Officials"** shall include all officials of the gaming activity who exercise authority over daily operation of the gaming, including the authority to hire and fire employees, to supervise employees or to establish operational policy for the gaming activity. Such officials shall include, but not be limited to, all owners, officers, shareholders with greater than a ten percent (10 %) ownership interest, or partners of the management contractor, if any.

**Section 1.25 "Regulation"** means the regulations of the Commission under this Code.

**Section 1.26 "Reservation"** when not qualified, means -

(a) all lands and water areas within the exterior boundaries of the Spokane Reservation, established pursuant to Executive Order, January 18, 1881 and any extensions thereof, and all Spokane tribal and allotted Indian lands outside the exterior boundaries of the Spokane Indian Reservation.;

(b) any other lands designated as reservation lands by the Secretary of the Department of Interior.

**Section 1.27 "Services"** means labor provided by one person to or for another, where such labor is provided in pursuit of the purpose of gaming pursuant to this code.

**Section 1.28 "Tribal Court"** means the Tribal Court of the Spokane Tribe of Indians.

**Section 1.29 "Tribal-State Compact" or "Compact"** means a written document, either negotiated and agreed to by the Spokane Tribe and an official or agency of the State of Washington, or prescribed by the Secretary pursuant to 25 U.S.C. 2710 (7) (B) (vii), governing the conduct of Class III gaming activities on Indian lands.

**Section 1.30 "Tribe"** means the Spokane Tribe of Indians.

**Section 1.31 "Working days"** means Monday through Friday except Federal or Tribal holidays.

**Section 1.32 Words and Terms:** Tense, number and gender. In constructing the provisions of this Code, save when otherwise plainly declared or clearly apparent from the context;

(a) words in the present tense shall include the future tense;

(b) words in masculine, feminine and neuter genders shall include all genders;

(c) words in the singular shall include the plural, and in the plural shall include the singular.

**CHAPTER II  
ADMINISTRATION AND ENFORCEMENT**

**Section 2.01 Unauthorized Gaming** Any Indian who commits any act of unauthorized gaming on this reservation or on any Indian land shall be guilty of a crime and shall be prosecuted in Tribal Court. However, it is hereby declared that Class II and authorized Class III gaming, conducted on this reservation or on any Indian land, that fully complies with the provisions of this Code shall not be subject to any criminal penalties.

**Section 2.02 Ownership - Revenues to Benefit Tribe** Except for those licenses issued pursuant to § 3.04, the Tribe shall have the sole proprietary interest in, and the sole responsibility for the conduct of the gaming activity. Such provision does not, however, limit the Tribe's ability to enter into a management contract wherein net revenues are divided between the Tribe and other parties to the contract. A gaming establishment shall be operated so as to produce the maximum amount of net revenues to the Tribe. Net revenues will go entirely to the Tribe and will be used solely for the following purposes:

- (a) to fund tribal government operations or programs;
- (b) to provide for the general welfare of the Tribe and its members;
- (c) to promote tribal economic development;
- (d) to donate to charitable organizations; or
- (e) to help fund operations of local government agencies. Net revenues from the gaming establishment may be used to make per capita payments to members of the Tribe upon the preparation of a plan to allocate

revenues to the above uses and approval of this plan by the Secretary of the Department of Interior.

**Section 2.03 Establishment of Commission** The Spokane Tribal Gaming Commission is hereby established. The Commission shall consist of three (3) members appointed by a majority vote of the Council. Only enrolled members of the Tribe may be appointed to the Commission. A commissioner shall be appointed by the Tribal Council and may be removed from office only for cause and by a unanimous vote of Council. Vacancies shall be filled within 30 days by the Council.

**Section 2.04**

[Reserved]

**Section 2.05 Compensation of Commissioners** Commissioners shall be compensated at a rate to be established by the Tribal Business Council. Commissioners shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses.

**Section 2.06 Selection of Chairperson** The Commission shall select a from its membership a chairperson, who shall serve a three year term, and shall have the power to convene special meetings of the Commission upon 24 hours written notice to members of the Commission. The 24 hour notice requirement may be waived by a majority of the Commission.

**Section 2.07 Meetings Open to Public** General meetings of the Commission shall be open to the general membership of the Spokane Tribe, all meetings shall be governed by Roberts Rules of Order.

**Section 2.08 Quorum - Majority Vote** A quorum shall consist of two members of the Commission. All decisions shall be made by a majority vote of the quorum present (or participating by telephone line), unless indicated otherwise in this Code. Proxy or assignments of voting shall be prohibited.

**Section 2.09 Monthly Reports** The Commission shall make monthly reports to the Council within 30 days after the close of the month for which the information is being required. The reports shall include a full and complete statement of gaming revenues paid to the Tribe, expenses and all other financial transactions of the Commission and a summary of all licensing and enforcement actions.

**Section 2.10 Powers** The Commission shall exercise all powers necessary to effectuate the purposes of this Code. The Commission may exercise any proper power and authority necessary to perform the duties assigned to it by the Code, and is not limited by enumeration of powers in this chapter. The Commission shall meet with the Chairman not less than once each month to make recommendation and set policy, to approve or reject reports of the Chairman and transact other business that may be properly brought before it. The Commission shall promulgate rules and regulations for the operation of any gaming establishment and shall hear and resolve all disputes regarding any provision of the Code. In all decisions, the Commission shall act to promote and ensure integrity, security, honesty, and fairness of the operation and administration of all gaming activities. The Commission shall have the power and authority to deny any application, to limit, condition, suspend, or restrict any license, make a finding of suitability or approval of a license, or a finding of suitability or approval of or the imposition of a fine upon any person licensed, for any cause deemed reasonable by the Commission.

**Section 2.11 Prior Notice of Actions** In adopting, amending, and repealing regulations, the Commission shall give prior notice of the proposed action to all licensees and other persons whom the Commission or Chairman has reason to believe have legitimate and bona fide interest in such proposed action. Said notice shall inform such persons as to the general nature of the proposed action and advise them as to the manner in which comments on said proposed action shall be received by the Commission. In emergencies, the Commission may summarily adopt, amend or repeal any regulation if at the time the Commission determines such action is necessary for the immediate preservation of the public peace, health, safety, morals, and good



order or general welfare, together with a statement of facts constituting the emergency; provided, the Commission shall schedule such emergency action for a regular hearing within 60 days.

**Section 2.12 Request for Commission Action** Any person who is determined by the Commission or Chairman to be a bona fide interested party may file request in a manner and form approved by the Commission requesting the adoption, amendment or repeal of a regulation. Upon receipt of the request, the Commission shall within 30 days deny the request in writing or schedule the matter for action pursuant to this chapter.

**Section 2.13 Voting on Licensing** Any Commission vote resulting in approving, disapproving, revoking, suspending, limiting or conditioning a license under this Code shall be by ballot only; provided, that in an emergency a phone vote may be polled pursuant to Commission Regulations. Should an applicant disagree with the determination of the Commission, the Commission shall hold a hearing to review its decision, within three working days from the date an applicant files his/her disagreement with the Commission. At the hearing the burden shall be upon the applicant to show cause why the Commission's determination was incorrect. Any Commissioner that may gain economically (other than gain to the Tribe and tribal membership generally) from the granting or denial of a licensing application shall abstain from voting on such application.

**Section 2.14 Commission Findings** Following such hearing, the Commission shall, within three working days, reach a determination concerning:

- (a) the accuracy of the preliminary certification of facts, and
- (b) whether the license in question should be granted, continued, suspended, revoked, conditioned, or limited, and
- (c) whether or not any other action recommended to the Commission including, but not limited to, forfeitures, should be taken.

**Section 2.15 Notification of Commission Decision** Within three working days following this determination the Commission shall inform the subject in writing of that determination.

**Section 2.16 Right to appeal.** The subject shall have a right to appeal the determination of the Commission to the Tribal Court. Such appeal must be filed with the Tribal Court in written form on or before the tenth day following receipt of the written determination of the Commission. A determination of such appeal by the Tribal Court shall be final and no further appeal may be had. In any appropriate case which has been referred to Tribal Court for final action. The Tribal Court shall review, de novo, the determination of the Commission. The Court's action may be appealed to a panel of three associate judges. Such appeals must be heard within thirty (30) days. In the event that associate judgeships are vacant, such vacancies shall be filled by visiting judges of other tribal courts.

**Section 2.17 Administrative duties of the Tribal Gaming Commission** The Tribal Gaming Commission shall perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and effect all purposes of this Code relating to the regulation of all gaming activity. In all decisions, the Commission shall act to promote and ensure integrity, security, honesty, and fairness of the operation and administration of all gaming activity. The Commission's duties shall include but not be limited to the following:

(a) Correspond with the National Indian Gaming Commission and do whatever is necessary to complete compliance with the rules and regulations of that agency, including but not limited to compliance with all requirements of NIGC regulations set forth in 25 CFR Part 558. Specifically, the Commission shall arrange for an annual outside audit of authorized gaming and will provide a copy to the National Indian Gaming Commission;

(b) assure that all gaming activity is conducted in a manner which adequately protects the environment and the public health and safety;

(c) Proscribe an adequate system which ensures that background investigations are conducted on all primary management officials and key employees of any Gaming establishment and that oversight of such officials and their management is conducted on an ongoing basis. The Commission shall immediately notify the National Indian Gaming Commission of the issuance of such licenses. The Commission will review all applications and background investigations to ensure that no person shall be eligible for employment in or with any part of the gaming operation if that person's prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming. The Commission shall notify the National Indian Gaming Commission of the results of such background checks before the issuance of such licenses;

(d) Recommend the hiring such professional, clerical, technical, and administrative personnel as may be necessary to carry out the provisions of this Code;

(e) Identify and make necessary arrangements for a law enforcement agency to take fingerprints and for conducting a criminal history check which shall, at a minimum, include a check through the Federal Bureau of Investigation National Criminal Information Center.

(f) Review all records, documents, and anything else necessary and pertinent to enforcement of any provisions of this Code;

**Section 2.21 Right of Inspection** The Commission, including its agents, inspectors, and employees have the authority:

(a) To inspect and examine all premises wherein gaming is conducted or gambling devices or equipment are manufactured, sold or distributed;

(b) To inspect all equipment and supplies in, upon or about a gaming establishment, or inspect any equipment or supplies wherever located, which may, or have been used in the gaming establishment;

(c) Summarily to seize and remove from a gaming establishment (or whatever located) and impound such equipment or supplies for the purpose of examination, inspection, evidence or forfeiture;

(d) To demand access to and inspect, examine and audit all papers, books and records of applicants and licensees respecting any income produced by any gaming business, and require verification of income and all other matters affecting the enforcement of the policy of or any of the provisions of this Code;

(e) To seize and impound any patron's winnings which the Commission may have reasons to believe may have been won or obtained in violation of this Code pending a civil forfeiture hearing on such seizure;

(f) For the purpose of administration and enforcement of this Code the Commission, including its investigative personnel may, if deemed necessary by the Tribal Business Council, have the powers of the peace officer of the Spokane Tribe of Indians for purposes of this Code only;

(g) Commissioner shall have full power and authority to issue subpoenas and compel the attendance of witnesses for hearings at any place within the Reservation, to administer oaths and to require testimony under oath. Any process or notice may be served in the manner provided for service of process and notices in civil actions. The Commission and the Chairman may pay such transportation and other expenses of witnesses as it may deem reasonable and proper.

**Section 2.22 Confidentiality of Information** The Commission and Chairman may refuse to reveal, in any court proceeding the identity of any informant,

or the information obtained from the informant, or both the identity and the information.

**Section 2.23 Powers of Delegation** The Commission may organize itself into functional divisions as it may deem necessary and from time to time alter such plan of organization as it may deem expedient. The Commission shall establish its own budget for operations, and acquire such furnishings, equipment, supplies, stationery, books, motor vehicles, and other things as it may deem necessary or desirable in carrying out its functions, and incur such other expenses, within the limit of funds available to it, as it may deem necessary. Within the limits of a Council approved budget, the Commission shall employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the Chairman and Commission may require. At the Council's discretion, said budget may be reviewed and modified by the Council at any time. Upon the end of the budget year any surplus which might exist shall be refunded to Council at their discretion. The Commission and Chairman shall each keep and maintain a file of all applications for licenses under this chapter, together with a record of all action taken with respect to such applications. The Commission and Chairman shall keep and maintain such other files and records as they may deem desirable and all such records may be open to public inspection as they may deem appropriate; provided, that the annual Commission budget shall be made available to any tribal member upon demand.

**Section 2.24 Sanctions.** Any person who engages in activities on property subject to the provisions of this Gambling Code without a license, in violation of the license or terms imposed thereon, in violation of terms of suspension, or in violation of any regulation, provision, or amendment under this Code shall be in violation of the Code, including any person who unlawfully trespasses upon any premises licensed by this Code without the consent of the licensee and/or the Commission.

**Section 2.25 Limitations Period** No fine shall be assessed nor any action taken for any violation under the preceding section unless a charge is filed in proper form with the Tribal Court within two years of the commission of the offense.

**Section 2.26 Violations of Code - Punishment** By accepting a license, the licensee is consenting to the civil jurisdiction of the Tribal Court. Any violation of this Code shall be subject to a fine of no more than five thousand dollars (\$5000.00) for each separate count or violation, or prohibited from any gaming activity, or both. Each day of violation shall constitute a separate count or violation under this Code. A violator may also be required to pay court costs, storage fees, and auction or sales fees. All property used or which may be used in activities in each and every separate violation of this Code may become the property of the Tribe; persons may be prohibited from trespassing on premises licensed under this Code, licenses may be suspended, revoked, or limited and/or establishments may be forcibly closed. All such action shall be taken at the discretion of the Commission, subject to the right of appeal to Tribal Court. Winnings found to have been received in violation of this Code are forfeited and become the property of the Tribe.

**Section 2.27 Due Process Regarding Enforcement Actions** The Commission shall promulgate regulations protecting due process rights of all individuals subject to the enforcement of this Code. Such regulations shall provide, at a minimum:

- (a) provide standards for emergency or summary suspension of license;
- (b) provide fair notice and opportunity for hearing regarding any revocation or suspension of license, and regarding any enforcement action taken pursuant to this Code;
- (c) provide right to appeal, de novo, of any Commission disciplinary or enforcement action to Tribal Court.

**Section 2.28 Special Agents.** The Commission shall authorize special agents appointed pursuant to Section 1 of Chapter IV of the Tribe's Law and Order Code or pursuant to any appropriate section and/or chapter of any subsequent Law and Order Code to perform services reasonably necessary to assure compliance with the provisions of this Code only. Said special services of enforcement and surveillance shall be under the authorization and direction of the Chairman, unless otherwise determined by the Commission. This section shall in no way be deemed to limit the normal law enforcement functions of these or other tribal law enforcement officers not so authorized.

**Section 2.29 Independence of Commission** The Chairman, Commissioners, members of the Council and their immediate families shall receive no personal compensation, gift, reimbursement or payment of any kind from any person doing or wishing to do business with the Tribe relating to gaming nor with any person wishing to obtain an unfair advantage in any authorized wager on gaming. Personal compensation, gift, reimbursement or payment of any kind shall not include business entertainment, meals, lodging or other ordinary and reasonable expenses in the negotiation and solicitation of contracts. Any property received in violation of this provision, including cash payments, shall be immediately forfeited to the Tribe and the offending persons shall be prosecuted to the fullest extent possible under tribal law for accepting a bribe. The Commission shall cooperate to the fullest extent possible with any Federal or State law enforcement agency to pursue prosecution under applicable Federal or State law.

### **CHAPTER III LICENSING OF GAMES**

**Section 3.01 - Mandatory License** - Any person seeking to conduct, operate, or manage any gaming activity pursuant to this codes shall apply for, and receive, all the required licenses from the Commission prior to engaging in such gaming activities. Engaging is such gaming activities without first

obtaining the required licenses shall be deemed a violation of this Code and shall be punishable in accordance with § 2.26.

**Section 3.02**

**Section 3.03 Licensing and Regulation of Class II Gaming Activity; Net Revenue Allocation; Audits; Contracts.**

(a) A separate license issued by the Commission shall be required for each place, facility, or location within the Tribe's jurisdiction at which any Class II Gaming Activity is conducted.

(b) The Commission may license and regulate a tribally owned Class II Gaming Activity if -

(i) such gaming activity is located on Indian lands within the Tribe's jurisdiction, and the State of Washington permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal laws); and

(ii) except as provided in Section 3.04, the Tribe will have the sole proprietary interest and responsibility for the conduct of such gaming activity, and

(iii) net revenues from such Gaming Activity are used in accordance with Section 2.02 of this Code; and

(iv) such gaming activity is subject to annual outside audits, which may be encompassed within existing independent tribal audit systems, and provided to the Council, and



(v) all contracts for supplies, services, or concessions for an aggregate amount in excess of \$25,000 annually relating to such gaming are also subject to independent audits; and

(vi) the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner which adequately protects the environment and the public health and safety; and

(vii) all primary management officials and key employees of the Class II gaming operation have successfully passed a background investigation which is approved by the Tribe and the National Indian Gaming Commission.

**Section 3.04 "Grandfathered" Licenses and Licenses that Mirror State Restrictions**

(a) Licenses that Mirror State Restrictions. The Commission may license and regulate Class II gaming activities owned by any person or entity other than the Tribe and conducted within the Tribe's jurisdiction, only if the requirements described in section (b)(i) of this Section are met and are conducted in a manner that is at least as restrictive as the regulations established by Washington State law governing similar gaming within its jurisdiction. No person or entity, other than the Tribe, shall be eligible to receive a license from the Commission to own a Class II gaming activity conducted within the Tribe's jurisdiction if such person or entity would not be eligible to receive a license from the State of Washington to conduct the same activity within its jurisdiction.

(b) "Grandfathered" Licenses

(i) The provisions of subsection (a) of this Section and the provisions of Subsections (ii) and (iii) of Section 3.02(b) shall not bar the continued operation of an individually owned Class II gaming operation that

was licensed and regulated by the Tribe and was operating on September 1, 1986, if:

(A) such gaming operation remains in full compliance with all applicable Tribal and Federal laws, and is issued an annual license renewal from the Commission, and

(B) income to the Tribe from such gaming is used only for the purposes described in Section 2.02 of this Code, and

(C) not less than 60 percent of the net revenues is income to the Tribe, and

(D) the owner of such gaming operation pays the appropriate assessment levied by the National Indian Gaming Commission.

**Section 3.05 Issuance of Tribal Gaming Licenses; Objections.** The Commission shall consult with appropriate law enforcement officials concerning any gaming licenses it may issue. If, after issuance of a gaming license by the Commission, reliable information is received that a primary management official or key employee does not meet the standard established under Section 3.04 of this Code, the Commission may suspend such license and, after notice and hearing, may revoke such license.

**Section 3.06 License and Regulation of Class III gaming activities; Tribal-State Compact Required.**

(a) The Commission may license and regulate Class III Gaming Activity if,

(1) Such gaming meets the requirements of Section 3.02, and

(2) conducted in conformance with the terms and conditions of a valid Tribal-State Compact entered into by the Tribe and the State of

Washington, or with the terms and conditions of valid procedures for the regulation of class III games in lieu of a compact;

(b) If the Indian Gaming Regulatory Act is unconstitutional, the Commission may license and regulate Class III gaming activities without regard to the IGRA and without regard to the laws of the State of Washington. In such situation, agents of the Washington State Gambling Commission are prohibited from entry onto Indians lands subject to the jurisdiction of the Spokane Indian Tribe.

**Section 3.07 Non-transferability of License.** Any license issued pursuant to the provisions of this Code is valid only for the person or entity at the place of business shown on the face thereof. It is not assignable or otherwise transferrable to any other person or entity for any other location without approval of the Chairman and Commission.

**Section 3.08 Granting of License - Majority Vote** To approve of any license issued pursuant to this Code, a quorum of the Commission must be present with a majority vote of approval by said quorum required. A license will not be issued to a person whose license has previously been revoked pursuant to this Code, or to whom the issuance of renewal of a license has been denied, except with the majority approval of the Commission members.

**Section 3.09 Application Fee** The Commission shall set a fee for applications, background investigations, and licenses. All such fees shall be made payable to the Spokane Tribal gaming Commission and delivered to the Spokane Tribe's Accounting office.

**Section 3.10 Background Investigation** No License shall be granted to any person or entity who has been determined to be a person or entity whose prior activities, criminal record, if any, and associations pose a threat to the public interest 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 thereto. The background investigation shall be at least as stringent as the regulations of the National Indian Gaming Commission published as 25 CFR § 556 in the Federal Register, volume 58, no. 13, on Friday, January 22, 1993.

**Section 3.11 Failure of Applicant to Disclose Material Information** An applicant for licensing shall make true and full disclosure of all information to the Chairman and Commission as necessary or appropriate in the public interest or as required in order to carry out the policies of this Tribe relating to licensing and control of the gaming industry. It is the duty of the applicant to disclose all information material to whether his involvement with gaming would jeopardize or compromise the Tribal interest, whether or not the applicant has been specifically requested to provide that information. It shall constitute a violation of this code to fail to disclose, to mislead or to misstate any such material information to the Chairman of the Commission, or to any licensee's employer.

**Section 3.12 Temporary Employment Licenses** The Commission may issue a temporary employment license to any person or entity applying for a license to work in a licensed gaming establishment which shall be valid pending the background investigation of the applicant. In no event shall such temporary license be valid for greater than 180 days.

**Section 3.13 Parameters of Licensee** Violation of any provision of this Code or any of the Commission's regulations by a licensee, his agent, or employee shall be deemed contrary to the public health, safety, morals, good order and general welfare of the Spokane Tribe and the inhabitants of the Spokane Reservation, and shall be deemed grounds for refusing to grant or renew a license, suspension or revocation of a license, or shall constitute grounds for the filing of charges by the Commission or Chairman. Acceptance of a gaming license or renewal thereof, or condition imposed thereon, by a licensee, constitutes an agreement on the part of the licensee to be bound by all the regulations and conditions of the Chairman or Commission and by the provisions of this Code as the same are now, or may hereafter be amended or

promulgated, and to cooperate fully with the Chairman and Commission. It is the responsibility of the licensee to keep himself informed of the contents of all such regulations, amendments, provisions, and conditions, and ignorance thereof will not excuse violations. The Commission shall use reasonable efforts to notify all licensees of changes in regulations.

**Section 3.14 Licensing of Distributors** - The Commission may authorize, require and issue such annual licenses as the Commission by regulation may provide, to any person or entity to engage in the selling, distributing, or otherwise supplying gambling equipment or paraphernalia for use in connection with licensed gaming activity.

#### **CHAPTER IV MANAGEMENT CONTRACTS**

**Section 4.01 Commission Approval Required.**

(a) Any management contract entered into by the Tribe for the operation and management of Class II and Class III gaming activity must be submitted to the Commission for approval, but, before approving such contract, the Commission shall require and obtain the following information:

(i) the name, address, and other additional pertinent background information on each person or entity (including persons comprising such entity) having direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock; and

(ii) a description of any previous experience that each person listed pursuant to subsection (i) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the

name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming; and

(iii) a complete financial statement of each person listed pursuant to subsection (i)

(b) Any person listed pursuant to subsection (a)(i) shall be required to respond to such written or oral questions that the Commission may propound in accordance with its responsibilities under this section.

(c) For purposes of this Code, any reference to the management contract described in Section 4.01(a) shall be considered to include all collateral agreements to such contract that relate to the gaming activity.

(d) After the Commission has given its approval of a management contract, the Commission shall submit such contract to the National Indian Gaming Commission for its approval. No such contract shall be valid until the National Indian Gaming Commission has approved it, provided however, that a person or entity may perform pursuant to the terms of the management contract on an interim basis pending NIGC approval.

(e) In making the determination to approve management contracts, when the Tribe is submitted competing bids or proposals involving gaming wherein the bids or proposals will provide substantially the same return to the Tribe and its membership, the Commission and the Council shall give preference to tribal members and cooperative associations of Tribal members over non-Tribal members. Further, preference will be given to non-member Indians and cooperative associations of non-member Indians over non-Indians.

**Section 4.02 Approval of Management Contracts.** The Commission shall approve any management contract entered into by the Tribe pursuant to this Chapter only if it determines that such contract is in compliance with the provisions of this Gaming Code, and provides at least:

(a) for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared, by or for the Council on a monthly basis;

(b) for access to the daily operations of the gaming to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such tribal gaming activity;

(c) for a minimum guaranteed payment to the Tribe that has preference over the retirement of development and construction costs;

(d) for an agreed ceiling for the repayment of development and construction costs;

(e) for a contract term not to exceed five years, except that, upon the request of the Tribe, the Commission may authorize a contract term that exceeds five years but does not exceed seven years if the Commission is satisfied that the capital investment required, and the income projections, for the particular gaming activity require additional time; and

(f) for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the Commission.

(g) for preference to Tribal members and non-member Indians in hiring of employees for the gaming establishment and for provisions that the management contract be subject to the TERO ordinance.

**Section 4.03 Percentage-of-Net-Revenue Fees.**

(a) A management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity may be approved by the Commission if such percentage fee is reasonable in light of surrounding

circumstances. Except as provided in this Section, such fee shall not exceed 30 percent of the net revenues;

(b) Upon request of the Council, the Commission shall approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity that exceeds 30 percent but not 40 percent of the net revenues if the Council is satisfied that the capital investment required, and income projections, for such tribal gaming activity require the additional fee, and such contract is otherwise in compliance with this Gaming Code..

**Section 4.04 Contract Disapproval.** The Commission shall not approve any contract if it determines that:

(a) Any person listed pursuant to Section 4.01(a)(i) who

(i) has been or subsequently is convicted of any felony relating to a gaming offense; or

(ii) has knowingly and willfully provided materially important false statements of information to the Commission or the tribal officials who negotiate such contracts or has refused to respond to questions propounded pursuant to Section 4.01(b); or

(iii) has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest 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 thereto;

(b) The management contractor has, or has attempted unduly to interfere or to influence for its gain or advantage any decision or process of tribal government relating to gaming activity;



(c) The management contractor has deliberately or substantially failed to comply with the terms of the management contract or the provisions of this Code or any regulations adopted pursuant to this Code or the Indian Gaming Regulatory Act.

**Section 4.05 Modifying or Voiding Contract.** The Commission, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if it subsequently determines that any of the provisions of this Chapter have been violated.

**Section 4.06 Conveying Interest in Land.** No management contract for the operation of a gaming activity regulated by this Code shall transfer or, in any other manner, convey any interest in land or other real property, unless specific applicable statutory authority exists and unless clearly specified in writing in said contract.

**Section 4.07 Fee for Investigation Cost.** The Commission may require a potential contractor to pay a fee to cover the cost of the investigation necessary to reach a determination required in Section 4.04 of this Chapter.

## CHAPTER V AUDITING AND INTERNAL CONTROL

**Section 5.01 - Minimum Procedures for Control of Internal Fiscal Affairs.** The Commission shall promulgate regulations for control of internal fiscal affairs of all gaming operations. At a minimum, those regulations shall:

(a) Prescribe minimum procedures for safeguarding the gaming operation's assets and revenues, including recording of cash and evidences of indebtedness, mandatory count procedures. Such procedures shall establish a control environment, accounting system, and control procedures that safeguard the assets of the organization, assures that operating transactions

are properly recorded, promote operational efficiency, and encourage adherence to prescribed policies;

(b) Prescribe minimum reporting requirements to the Commission;

(c) Provide for the adoption and use of internal audits, by internal auditors and Certified Public Accountants licensed to practice public accounting;

(d) Formulate a uniform code of accounts and accounting classifications to assure consistency, comparability and effective disclosure of financial information. Such code shall require that records be retained that reflect drop (amount of cash wagered by patrons), win/loss (amount of cash won/lost by the gaming operation) and the percentage of win/loss to drop, or provide similar information, for each type of game, or each gaming device;

(e) Prescribe the intervals at which such informations shall be furnished;

(f) Provide for the maintenance of documentation (ie. checklists, programs, reports, etc.) to evidence all internal work performed as it relates to the requirements of this section; and

(g) Provide that all financial statements and documentation referred to in subsection (f) be maintained for a minimum of two (2) years.

#### **Section 5.02 Commission Oversight of Internal Fiscal Affairs -**

(a) The Commission shall, by regulation, require audits of the financial statements of all gaming operations. Such audits must

(1) be made by independent Certified Public Accountant;

(2) include an opinion, qualified or unqualified or, if appropriate, disclaim an opinion on the financial statements taken as a whole in accordance with standards of the accounting profession established by rules and regulations of the American Institute of Certified Public Accountants ; and

(3) disclose whether the accounts, records and control procedures maintained by the gaming operation are as required by the regulations promulgated by the Commission; and

(4) provide for a preliminary review of the internal control structure, upon adoption of the policies and procedures by the entity, to disclose any deviation from prescribed rules and regulations and report such findings to the Commission and management;

(b) The Commission shall bear its own costs related to performance of the provisions of this section.

**Section 5.03 Commission Right to Conduct Audit** - The Commission shall be able to retain its own appointed accountants, or direct an accountant employed by the Tribe, to conduct its own audit of any gaming operation.

**Section 5.04 Prohibition Against Embezzlement** - Any delay, maneuver or action of any kind which in the opinion of the Chairman is effectuated by any licensee to unlawfully divert gaming or other proceeds properly belonging to the Tribe shall constitute grounds for taking disciplinary action against that licensee. If the Commission finds an unlawful diversion was attempted, it shall sanction the licensee. Sanctions may include fining, revoking, suspending, limiting or refusing to renew the license.

**Section 5.04 Non-Compliance** - Failure to comply with this chapter or the regulations promulgated thereunder, shall constitute a per se violation of this Code.

## CHAPTER VI AUTHORIZATION OF GAMING

**Section 6.01 Prohibition Against Gaming** No person duly authorized by the Commission shall engage, conduct or condone any Class II or Class III game unless such game is approved by this Commission and regulations for rules governing such game have been duly promulgated by this Commission.

**Section 6.02 Grace Period** The prohibition contained in Section 6.01 shall not apply to those games already being played as of the date of enactment of this Code, provided, however, that the licensee conform to the rules promulgated hereunder within five (5) days of such promulgation.

**Section 6.03 Authorization of Gaming** The Commission may authorize the playing of any game not prohibited by the laws of the State of Washington. Such regulations shall conform with standards of the rules for the play of games, as such games are played generally within the international gaming industry.

**Section 6.04 Approval of Gaming Terminals** The Commission shall have the discretion to review and approve all gaming terminals used in the gaming operation as to integrity, fairness, and honesty.

(a) The Commission may test any machine in a gaming facility at any time, or may require a prototype or sample of any model of gaming terminal used in the gaming operation to be placed in the custody of the Chairman and retained by him as a control for comparison purposes.

(b) Any evidence that gaming terminals used in the gaming operation has been tampered with or altered in any way which would affect the integrity, fairness, or honesty of the terminal shall be immediately reported to the Commission.

**Section 6.05 Posting of Rules** The Rules of each authorized game offered at any duly licensed gaming establishment shall be made available. The Gaming operation shall post the rules in a conspicuous location in clearly legible manner, that the rules are available for inspection, upon request.

## CHAPTER VII EXCLUSION OR EJECTION OF INDIVIDUALS

**Section 7.01 List of Undesirables** The Commission shall, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any duly licensed gaming operation. The list may include any person whose presence in the gaming establishment is determined by the Commission to pose a threat to the interests of the Tribe, or to licensed gaming. Race, color, creed national origin or ancestry, or sex must not be grounds for placing the name of a person on the list.

**Section 7.02 Notice and Opportunity to be Heard** The Commission shall promulgate regulations providing fair notice and opportunity to be heard to any individual whose name is being contemplated by the Tribe to be placed on the list referred to in section 7.01. Such regulations must provide the person an opportunity to show cause why his name should be deleted from the list. The individual may appeal any decision of the Commission to place his name on the list to Tribal Court.

**Section 7.03 Prohibition Against Listed Individuals** It shall be a violation of this Code for any licensee who knowingly fails to exclude or prevent any persons placed on the list referred to in section 7.01 from entering into or engaging in any game at a duly licensed gaming establishment. It shall be a violation of this Code for any person whose name appears on the list referred to in section 7.01 to enter into or engage in any game at a duly licensed gaming establishment. Nothing in this section may be interpreted to prevent the gaming operation from refusing service to anyone.

**Section 7.04 Prohibition Against Gambling by Minors** It shall be a violation of this Code for any licensee who knowingly permits gaming at a licensed gaming establishment to any individual under the age of eighteen years.

## **CHAPTER VIII CHEATING**

**Section 8.01 Unlawful Acts** It is unlawful for any person:

(a) to alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(b) to claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a gambling game with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;

(c) knowingly to entice or induce another to go to any place where a gambling game is being conducted or operated in violation of the provisions of this chapter, with the intent that the other person play or participate in that gambling game;

(d) to place or increase a bet or wager after acquiring knowledge of the outcome of the game or event which is the subject of the bet or wager, including past-posting and pressing bets;

(e) to reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets;

(f) to manipulate with intent to cheat, any component of a gaming terminal or any tangible device used in connection with the gaming activity

in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

**Section 8.02 Prohibition against Electronic Aids** Except as specifically permitted by the Commission, no person shall possess with the intent to use, or actually use, at any table game, either by himself, or in concert with others, any calculator, computer, or other electronic, electrical, or mechanical device to assist in projecting an outcome at any table game, to keep track of or analyze the cards having been dealt, to change the probabilities of any table game or the playing strategies to be utilized. Nothing in this section shall be interpreted to preclude the gaming establishment from maintaining and offering such electronic aids so long as the information provided from such aids is made available to all players.

## CHAPTER IX NATIONAL INDIAN GAMING COMMISSION and TRIBAL-STATE COMPACTS

### **Section 9.01 National Indian Gaming Commission - Regulations**

Notwithstanding any provision in this Gaming Code or any regulation promulgated thereunder, the Commission is fully empowered to comply with all regulations promulgated by the National Indian Gaming Commission, including, but not limited, to all requirements to report ordinances, contracts, license applications, background checks, and other information to the National Commission. Nothing in this section shall be interpreted as a waiver of the Tribe's right to challenge the legality of any such regulations. If IGRA is unconstitutional, this section shall be void.

### **Section 9.02 National Indian Gaming Commission -Assessment -**

Notwithstanding any provision in this gaming Code or any regulation promulgated thereunder, the Commission is fully empowered to comply

with all assessments authorized by the National Commission. Such assessments shall be paid from the Treasury of the Spokane Tribe of Indians. This provision does not affect the responsibility of those possessing grandfathered licenses as set forth in § 3.04(b) to pay assessments directly to the National Commission. Nothing in this section shall be interpreted as a waiver of the Tribe's right to challenge the legality of any such regulations. If IGRA is unconstitutional, this section shall be void.

**Section 9.03 Compact with the State of Washington** - Notwithstanding any provision in this gaming Code or any regulation promulgated thereunder, the Commission is fully empowered to comply with the provisions of any compact properly executed between the Tribe and the State of Washington. Nothing in this section shall be interpreted as a waiver of the Tribe's right to challenge the legality of any such compacts. If IGRA is unconstitutional, this section shall be void.

## CHAPTER X MISCELLANEOUS

### **Section 10.01**

[reserved]

**Section 10.02 Maintenance of Code and Regulations** - Each licensee shall obtain, maintain and keep current a copy of the Gaming Code and regulations promulgated thereunder, which shall be located at the premises used for the conduct of a licensed activity. The Code and regulations shall be produced by the licensee and shown to any person upon demand. That the licensee may not have a current copy of the Code, or each of the rules of the Commission, shall not in any way diminish the licensee's obligation to abide by the Code and regulations. The Commission shall provide, at no cost, copies of the Code and regulations, and amendments thereto, to each licensee.



**Section 10.03 Compliance with Other Laws** - the construction, maintenance and operation of any facility in which gaming activities are to take place shall be in a manner which adequately protects the environment and the public health and safety and shall comply with any otherwise applicable tribal and federal laws relating to environmental protection and public health and safety.

**Section 10.04 Amendments** - All provisions of this Gaming Code are subject to amendment by a majority of both the Commission and the Spokane Tribal Business Council. All regulations promulgated by the Commission are subject to proper revision, repeal, or amendment by the Commission and the Spokane Tribal Business Council.

**Section 10.05 Severability** - If any provision of this Code, or its application to any purpose or circumstance, is held invalid by a court of competent jurisdiction, the full remainder of the provision, or the application of the provision through another person or circumstance, shall not be affected.

## R E S O L U T I O N

Spokane Resolution 1993-074

## TRIBAL GAMING CODE

WHEREAS, the Spokane Tribal Council is the duly constituted governing body of the Spokane Tribe by authority of the Constitution and By-laws of the Spokane Tribe; and

WHEREAS, under the Constitution and By-laws of the Tribe, the Spokane Tribal Council is charged with the duty of protecting the health, security and general welfare of the Spokane Tribe and all reservation residents; and,

WHEREAS, it is in the best interest of the Spokane Tribe of Indians to adopt a comprehensive gaming code to govern the regulations of gaming activities on Spokane Tribal lands, and the attached amended code better serves that purpose than the current code; and,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Spokane Tribal Business Council meeting in Special Session this 18th day of February, 1993, that it hereby amends its existing Gaming Code, Chapter 23 of the Spokane Tribal Law and Order Code of the Spokane Reservation, as set forth in the attached amended Code with revisions by the Business Council.

## Certification

The foregoing was duly enacted by the Spokane Tribal Business Council on the 18th day of February 1993, by the vote of 3 for and 0 against under authority contained in Article VIII of the Constitution of the Spokane Indians ratified by the Spokane Tribe on November 22, 1980.

  
Chairman

Spokane Tribal Business Council

EXHIBIT "B"

## RESOLUTION

Spokane Resolution 1995-368

### TRIBAL GAMING CODE

**WHEREAS**, the Spokane Tribal Council is the duly constituted governing body of the Spokane Tribe by authority of the Constitution and By-laws of the Spokane Tribe; and

**WHEREAS**, under the Constitution and By-laws of the Tribe, the Spokane Tribal Council is charged with the duty of protecting the health, security and general welfare of the Spokane Tribe and all reservation residents; and;

**WHEREAS**, the Tribe previously amended its gaming code, pursuant to Spokane Resolution 1993-074, adopted February 18, 1993 to adopt a comprehensive gaming code to govern the regulations of gaming activities on Spokane Tribal lands; and

**WHEREAS**, the National Indian Gaming Association has rejected the code on the asserted grounds that Paragraph 2.17(a) of the Code does not make explicit reference to 25 CFR Part 558; and

**WHEREAS**, the amendment of the Code to include such an explicit reference to 25 CFR Part 558 does not diminish the Tribe's ability to insure the integrity and fairness of its gaming operations, in that the Gaming Code already mandated compliance with 25 CFR Part 558 by the force and effect of the existing language of Paragraph 2.17(a); and

**NOW ,THEREFORE, BE IT HEREBY RESOLVED** by the Spokane Tribal Business Council meeting in Special Session this 20th day of September, 1995, that the Tribal Council does hereby amend its existing Gaming Code by inserting the words, " including not limited to compliance with all requirements of NIGC regulations set forth in 25 CFR part 558" to the end of the first sentence of Section 2.17(a), such that the section shall read as follows:

Section 2.17 Administrative duties of the Tribal Gaming Commission. The Tribal Gaming Commission shall perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and effect all purposes of this Code relating to the regulation of all gaming activity. In all decisions, the Commission shall act to promote and ensure integrity, security, honesty, and fairness of the operation and administration of all gaming activity. The Commission's duties shall include but not be limited to the following:

- (A) Correspond with the National Indian Gaming Commission and do whatever is necessary to complete compliance with the rules and regulations of that agency, including but not limited to compliance with all requirements of NIGC regulations set forth in 25 CFR Part 558.

**Spokane Resolution 1995-368**  
**TRIBAL GAMING CODE**

Specifically, the Commission shall arrange for an annual outside audit of authorized gaming and will provide a copy to the National Indian Gaming Commission;


- (B) assure that all gaming activity is conducted in a manner which adequately protects the environment and the public health and safety;
- (C) Proscribe an adequate system which ensures that background investigations are conducted on all primary management officials and key employees of any Gaming establishment and that oversight of such officials and their management is conducted on an ongoing basis. The Commission shall immediately notify the National Indian Gaming Commission of the issuance of such licenses. The Commission will review all applications and background investigations to ensure that no person shall be eligible for employment in or with any part of the gaming operation if that person's prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming. The Commission shall notify the National Indian Gaming Commission of the results of such background checks before the issuance of such licenses;
- (D) Recommend the hiring such professional, clerical, technical, and administrative personnel as may be necessary to carry out the provisions of this Code;
- (E) Identify and make necessary arrangements for a law enforcement agency to take fingerprints and for conducting a criminal history check which shall, at a minimum, include a check through the Federal Bureau of Investigation National Criminal Information Center.
- (F) Review all records, documents, and anything else necessary and pertinent to enforcement of any provisions of this Code;

**FURTHER BE IT RESOLVED** that the amended Code be resubmitted to the National Indian Gaming Commission for formal approval, provided however, that by such resubmission, the Tribe does not waive any rights or privileges to challenge the correctness of the decision of the National Indian Gaming Commission to reject the Code as enacted on February 18, 1993.

**Spokane Resolution 1995-368  
TRIBAL GAMING CODE**

**Certification**

The foregoing was duly enacted by the Spokane Tribal Business Council on the 20th day of September, 1995, by the vote of 4 for and 0 against under authority contained in Article VIII of the Constitution of the Spokane Indians ratified by the Spokane Tribe on November 22, 1980.

  
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For Chairman  
Spokane Tribal Business Council

R E S O L U T I O N

Spokane Resolution 1993-180

COMPLIANCE WITH FEDERAL COURT ORDER REGARDING TRIBAL GAMING

WHEREAS, the Spokane Tribal Council is the duly constituted governing body of the Spokane Tribe by authority of the Constitution and By-laws of the Spokane Tribe; and

WHEREAS, under the Constitution and By-laws of the Tribe, the Spokane Tribal Council is charged with the duty of protecting the health, security and general welfare of the Spokane Tribe and all reservation residents; and,

WHEREAS, the Spokane Tribe, pursuant to its sovereign rights, has chosen to pursue gambling activities as a viable means to generate badly needed revenues to fund tribal programs and project and to provide meaningful employment opportunities for the membership; and,

WHEREAS, the Spokane Tribe, since the passage of the Indian Gaming Regulatory Act in 1988, has made every effort to make IGRA work in Washington State, including an attempt to negotiate a viable tribal/state compact; and,

WHEREAS, the United States District Court for the Eastern District of Washington ruled on June 3, 1993 in the case of Confederated Tribes of the Colville Reservation v. State of Washington, et al. (Case # CS-92-0426-WFN) that IGRA violates the Tenth Amendment to the United States Constitution, and ruled that in order for tribes to have recourse if they are unable to reach an agreement with the State, all provisions regarding tribal/state compacts are severed from IGRA; and

WHEREAS, the Colville decision is binding in the Eastern District of Washington and is the first and only case to decide the merits of the State's argument of the Tenth Amendment, and accordingly supersedes the decision of Judge Van Sickle in Spokane Tribe of Indians v. State of Washington, 790 F.Supp. 1057 (E.D. Wash. 1991); and

WHEREAS, the Colville decision confirms the Tribe's position that if IGRA violates the Tenth Amendment, the Tribe is entitled to operate and regulate all forms of gaming to the exclusion of any state laws or regulations; and

WHEREAS, the laws, regulations, practices and public policy of Washington State are such that Washington State regulates, as opposed to prohibits, all forms of gaming such that under the analysis set forth by the Supreme Court in Cabazon Band of Mission Indians v. California, \_\_\_\_ S.Ct. \_\_\_\_ (1987), the Spokane Tribe retains and reaffirms its exclusive right to regulate the operation

EXHIBIT "D"

of gaming activities on all lands under the Tribe's jurisdiction;  
and

**WHEREAS**, the exemption in IGRA of the Johnson Act for Class III gaming activities is operable independent of the requirement of a tribal/state compact and, therefore, survives the severability analysis set for by Judge Nielson in the Colville decision, and the State of Washington has failed to exempt properly the State from the application of the Johnson Act, and Washington State, in fact, tolerates, condones, and encourages the possession and operation of numerous varieties of Johnson Act devices throughout Washington State; and

**WHEREAS**, in the event that any appropriate authority disagrees with the Tribe's position on matters set forth in this Resolution and attempts to enforce any provisions of federal law against gaming operations on Spokane tribal lands, such action would also require equally aggressive enforcement against games played elsewhere in Washington State, including games on Indian lands, would be tantamount to racially biased selective prosecution of the Tribe and such enforcement practices are illegal under the Due Process and Equal Protection provisions of the United States Constitution; and

**WHEREAS**, the political reality of the recent developments of court decisions regarding IGRA are such that the Tribe may be irreparably and permanently injured and opportunity may be lost forever unless the Tribe acts on an immediate and emergency basis to establish gaming operations on tribal lands;

**NOW ,THEREFORE, BE IT HEREBY RESOLVED** by the Spokane Tribal Business Council meeting in Special Session this 25th day of June , 1993, that it hereby directs its Vice-Chairman, John Kieffer, to do the following on an immediate and emergency basis:

1. pursue and solicit proposals for contracts with the intent of establishing the full range of games permissible under Spokane tribal laws, as amended pursuant to the direction set forth in this Resolution,

2. solicit proposals for the construction and/or operation of a tribal owned casino-resort on the confluence site of the Spokane and Columbia Rivers and tribal owned operations elsewhere on Spokane tribal lands, including but not limited to:

a) banking card games such as blackjack, pai gow poker, baccarat,

b) table games authorized in the State of Nevada, including craps and roulette,

b) pari-mutuel wagering/simulcast activities,

c) keno and other lottery games,

d) electronic and video games of chance and slot machines, including the use of the video format to play any game authorized by Spokane tribal laws, as amended,

3. Based upon the proposals, develop a recommendation to the Spokane Gaming Commission for immediate implementation with these four objectives:

a) immediately exercising the Tribe's rights to conduct all the previously mentioned games at any location on tribal lands,

b) as quickly as reasonably possible, exercising the Tribe's right to conduct all previously mentioned games on the Tribe's preferred sites, including the site at the confluence of the Spokane and Columbia Rivers,

c) expediting the development of the Tribe's proposed destination resort, Two Rivers, by either a recommendation that assumes financing of Two Rivers, or a recommendation that supports Two Rivers without jeopardizing existing financing to Two Rivers,

d) maximizing the Tribe's long term revenue potential from gaming operations to fund tribal governmental programs, and the memberships long term meaningful employment potential.

#### **Certification**

The foregoing was duly enacted by the Spokane Tribal Business Council on the 25th day of June 1993, by the vote of 5 for and 0 against under authority contained in Article VIII of the Constitution of the Spokane Indians ratified by the Spokane Tribe on November 22, 1980.

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**Chairman**  
**Spokane Tribal Business Council**