



OCT - 3 2003

Honorable Brian Cladoosby  
Chairman, Swinomish Indian Senate  
P. O. Box 817  
950 Moorage Way  
LaConner, Washington 98257

RE: Amendment to Swinomish Gaming Ordinance

Dear Chairman Cladoosby:

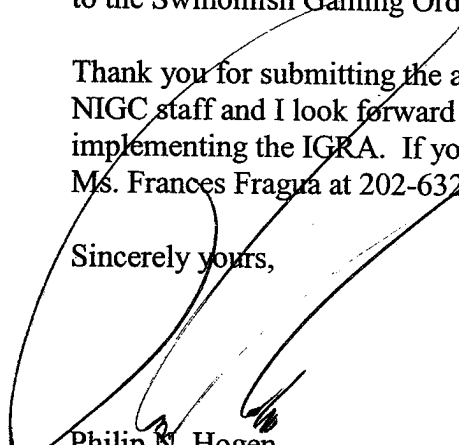
The Chairman of the National Indian Gaming Commission (NIGC) approved the Gaming Ordinance of the Swinomish Tribal Community (Community) in 1993 and amendments in 1999 and 2002. This letter responds your request that the NIGC review and approve additional amendments to the Community's Gaming Ordinance.

In a letter dated July 28, 2003, you submitted the amendments, contained in the Community's Ordinance No. 171 and certified on June 30, 2003. The substantive amendments to the Gaming Ordinance concern the structure and responsibilities of the Swinomish Gaming Commission.

This letter constitutes approval under the Indian Gaming Regulatory Act of the amendments to the Swinomish Gaming Ordinance.

Thank you for submitting the amendments to the Community's Gaming Ordinance. The NIGC staff and I look forward to continue working with you and the Community in implementing the IGRA. If you have questions or require further assistance, please contact Ms. Frances Fragua at 202-632-7003.

Sincerely yours,



Philip N. Hogen  
Chairman

SWINOMISH INDIAN TRIBAL COMMUNITY  
SWINOMISH INDIAN RESERVATION

JUL 31 2003

ORDINANCE NO. 171

ORDINANCE REGULATING GAMING AND REPEALING AND SUPERSEDING  
ORDINANCE NOS. 103, 104, 118, 130 and 151

**WHEREAS**, the Swinomish Indian Tribal Community (the "Tribe") is a federally recognized Indian Tribe organized pursuant to Section Sixteen of the Indian Reorganization Act of 1934 (25 U.S.C. § 476); and

**WHEREAS**, the Tribe is organized under a Constitution and Bylaws originally ratified by the Tribe on November 16, 1935, and approved by the Secretary of the Interior on January 27, 1936, and as most recently amended and ratified by the Tribe on September 7, 1985 and approved by the Secretary of Interior on October 22, 1985; and

**WHEREAS**, the Swinomish Indian Senate (the "Senate") is the duly elected governing body of the Swinomish Indian Tribal Community and exercises governmental authority over all lands and waters within the Swinomish Indian Reservation; and

**WHEREAS**, this Ordinance is hereby adopted pursuant to Article VI, Section 1(a), (k), (l), (m) and (s) of the Swinomish Constitution; and

**WHEREAS**, the Code Project Staff of the Office of Tribal Attorney has edited, rearranged and divided Ordinance Nos. 103, 104, 118, 130 and 151 into appropriate Titles, Chapters and Subchapters; Specifically, the Staff have performed the following tasks:

(1) Edited the ordinance(s) to the extent deemed necessary or desirable, for the purpose of modernizing and clarifying the language of such ordinance(s), but without changing the meaning of any such ordinance.

(2) Substituted for the term "this ordinance," where necessary the term "section," "part," "code," "chapter," "title," or reference to specific section or chapter numbers, as the case may require.

(3) Corrected manifest errors in reference to other ordinances and manifest spelling, clerical or typographical errors, additions, or omissions.

(4) Divided long sections into two or more sections and rearranging the order of sections to insure a logical arrangement of subject matter.

(5) Changed the wording of section captions, if any, and providing captions to new chapters and sections.

(6) Replace gender specific terms with gender neutral terms, *e.g.*, "he and she" for "he;" "fishers" for "fisherman;" "foreperson" for "foreman."

(7) Compiled and included the legislative history of all pertinent ordinances related to the subject matter of this ordinance; and

**WHEREAS**, the Code Project Staff also has suggested substantive changes to Ordinance

**Ordinance No.**

Adopted

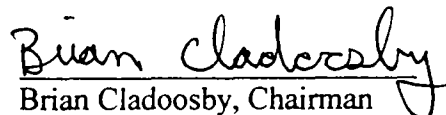
Page 1 of 2

Nos. 103, 104, 118, 130 and 151; and

**WHEREAS**, the Gaming Commission has reviewed the attached Ordinance Regulating Gaming and Repealing and Superseding Ordinance Nos. 103, 104, 118, 130 and 151 and recommends its adoption by the Senate:


**WHEREAS**, the Senate has reviewed the suggested changes in this Ordinance and desires to adopt this new Ordinance and to replace and supersede Ordinance Nos. 103, 104, 118, 130 and 151 in their entirety with this new Ordinance; **NOW THEREFORE**,

**BE IT ENACTED BY THE SWINOMISH INDIAN SENATE** that the Ordinance Regulating Gaming and Repealing and Superseding Ordinance Nos. 103, 104, 118, 130 and 151, a copy of which is attached hereto, is hereby adopted and approved pursuant to the authority of the Swinomish Constitution and By-laws.

  
Brian Cladoosby, Chairman  
Swinomish Indian Senate

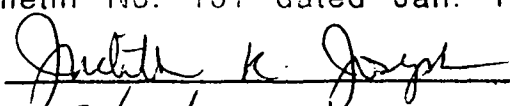
#### CERTIFICATION

As Secretary of the Swinomish Indian Senate, I hereby certify that the foregoing Ordinance was approved at a Special Meeting of the Swinomish Indian Senate held on June 30, 2003, at which time a quorum was present and the resolution was passed by a vote of 6 FOR, 0 AGAINST, and 0 ABSTENTIONS.

  
Lydia Charles, Secretary  
Swinomish Indian Senate

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Superintendent's approval pursuant to authorities to 209 DM 8, Secretary's Order No. 3177, Secretary's Order No. 3150, 10 BIAM Bulletins 13, 14, 15 and Amendments thereto, and Portland Area Office 10 BIAM Bulletin No. 10, dated Jan. 1, 2001

Signature 

Date 7/3/03

Ordinance No.  
Adopted  
Page 2 of 2

# Title 16

## Gaming

### Chapter

16-01	General Provisions
16-02	The Federal Act
16-03	Licenses for Key Employees and Primary Management Officials
16-04	Swinomish Gaming Commission
16-05	Swinomish Gaming Enterprise
16-06	Authorized and Prohibited Activities
16-07	Enforcement
16-08	Penalties for Violations
16-09	Repealer, Severability and Effective Date

# Title 16 – Gaming

## Chapter 1 – General Provisions

<b>Sec.</b>	
16-01.010	Title
16-01.020	Authority
16-01.030	Purpose and Scope
16-01.040	Policy
16-01.050	Findings
16-01.060	Rules of Construction
16-01.070	Definitions

### Legislative History

**Enacted:**

Gaming Ordinance, Ord. 103 (10/5/93), BIA (10/14/93), NIGC (11/10/93) (repealing Ord. 50).

**Amended:**

Ord. 151 (4/9/02), BIA (6/7/02), NIGC (7/17/02) (amending Ord. 103).  
Ord. 118 (5/7/96), BIA (5/23/96), NIGC (not required, 8/15/96) (amending Ord. 103).  
Ord. 104 (11/3/93), BIA (11/8/93), NIGC (11/10/93) (amending Ord. 103).

**Repealed or Superseded:**

Gaming Ordinance, Ord. 50 (3/5/85), Enacting Res. 85-3-13, BIA (3/25/85).

[Ed. Note. The Indian Gaming Regulatory Act provides that the Chairman of the National Indian Gaming Commission shall approve tribal ordinances and resolutions concerning Class II and Class III gaming. 25 USCA § 2710. The Chairman's approval of Ordinance 103 and Ordinance 104 was published in the Federal Register on December 14, 1993 as is required under 25 CFR § 522.8. 58 Fed. Reg. 65406. On August 15, 1996, the NIGC Chairman determined that the amendments in Ordinance 118 did not require NIGC approval. That decision notwithstanding, the Chairman published his approval of Ordinance 118 in the Federal Register on June 21, 1996. 61 Fed. Reg. 31963-02. The Chairman's approval of Ordinance 151 was published in the Federal Register on August 26, 2002. 67 Fed. Reg. 54823-03.]

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**16-01.010 Title.**

This Title shall be referred to as the "Gaming Code."

**16-01.020 Authority.**

This Title is hereby enacted pursuant to Article VI (Powers of the Senate), Sections 1(a), (k), (l), (m) and (s) of the Swinomish Constitution.

[History] Ord. 103 (10/5/93).

**16-01.030 Purpose and Scope.**

The purposes of this Title are found to be as follows:

- (A) To provide a new and continuous source of income and revenues to the Tribe in order to provide social, cultural, and law enforcement services to members and other residents of the Swinomish Indian Reservation.
- (B) To create a control mechanism to insure the proper regulation of Class II and Class III authorized gaming activities.
- (C) To provide members and guests an opportunity to participate in social games as provided herein.
- (D) To provide for the social welfare and protection of tribal members and all others who reside within or pass through the Swinomish Indian Reservation.
- (E) Except as specifically provided herein, the Swinomish Indian Tribal Community by enactment of this Title does not intend to authorize any form of gaming, gambling or other wagering activity within the Swinomish Indian Reservation.

[History] Ord. 103 (10/5/93).

**16-01.040 Policy.**

It is the policy of the Swinomish Indian Tribal Community to regulate and oversee the operation of authorized gaming activities to the end that the Tribe is better able to provide its members with community and social services; while at the same time, to insure that widespread gaming is not allowed within the Swinomish Indian Reservation, and safeguard the public against the influx of organized crime and undesirable persons.

[History] Ord. 103 (10/5/93).

**16-01.050 Findings.**

The Senate makes the following findings:

- (A) The Tribe is in need of developing ways and means of increasing tribal income and revenue in order to promote the public welfare, provide for public protection through Law Enforcement, and provide needed social, health and educational services to protect the general welfare of its members;
- (B) The generation of revenues through gaming activities for the promotion of tribal governmental and social programs is in the Tribe's interest as is participation in such activities and social pastimes as are hereinafter authorized;

- (C) Tribally owned and regulated Class II and Class III authorized gaming activities operated under the direction of the Tribe will not lead to a proliferation of undesired gaming, or to the influx of organized crime or other undesirable persons, but will serve the economic needs of the Tribe; and
- (D) The exercise of tribal power through this Title is necessary to protect the right of tribal self-government and to regulate its internal relations so as to protect its political and economic security.

[History] Ord. 103 (10/5/93).

**16-01.060 Rules of Construction.**

Unless otherwise specifically provided:

- (A) The masculine includes the feminine;
- (B) The singular includes the plural;
- (C) "Includes" and "including" are not limiting; and
- (D) "Or" is not exclusive.

[History] Ord. 103 (10/5/93).

**16-01.070 Definitions.**

For purposes of this Title, unless otherwise expressly provided, the following definitions shall apply:

- (A) "Act" means the Indian Gaming Regulatory Act, Pub. L. 100-497, 25 U.S.C. § 2701 et seq.
- (B) "Class II Gaming" means Class II gaming as defined in accordance with the Act, 25 U.S.C. § 2703(7)(A).
- (C) "Class III Gaming" means Class III gaming as defined in accordance with the Act, 25 U.S.C. § 2703(8).
- (D) "Commission" means the Swinomish Gaming Commission.
- (E) "Compact" means the Tribal - State Compact for Class III Gaming between the Swinomish Indian Tribal Community and the State of Washington, entered into on December 21, 1992, and approved by the Secretary of the Interior on February 11, 1993, in accordance with the Act, and any duly approved amendments to such Compact.

- (F) "Gaming" means any activity where the player stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his or her control or influence, upon an agreement or understanding that he or she or someone else will receive something of value in the event of a certain outcome, but shall not include bona fide business transactions valid under the law of contracts such as contracts for the purchase of commodities or other items at a future date or contracts for insurance, indemnity or guarantee to compensate unforeseeable loss, nor include traditional Indian games played by tribal members and their guests.
- (G) "Gaming Business Committee" or "Business Committee" means the body, established pursuant to Section 16-05.020 of this Title, with responsibility for the management of the Gaming Enterprise.
- (H) "Gaming Enterprise" means the Swinomish Gaming Enterprise established by the Tribe to conduct gaming operations of the Tribe on the Swinomish Indian Reservation.
- (I) "Gaming Facilities" means any room or rooms in which Class II or Class III gaming is conducted on the Swinomish Indian Reservation.
- (J) "National Indian Gaming Commission" means the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.
- (K) "Net Revenues" means gross revenues of a gaming activity less amounts paid out as, or paid for, prizes and total operating expenses including debt service but excluding management fees paid to a management contractor within the meaning of 25 U.S.C. § 2711 (c).
- (L) "Reservation" means the Swinomish Indian Reservation including all Indian lands as defined in 25 U.S.C. § 2703(4)(B).
- (M) "Senate" or "Tribal Senate" means the Swinomish Indian Senate, the governing body of the Swinomish Indian Tribal Community.
- (N) "State" means the State of Washington.
- (O) "State Gaming Agency" means the Washington State Gambling Commission or such other agency as the State may establish to carry out the regulatory responsibilities of the State under the Compact.
- (P) "Title" means the Swinomish Indian Tribal Community Gaming Title.
- (Q) "Tribe" means the Swinomish Indian Tribal Community, a federally recognized Indian Tribe organized pursuant to Section Sixteen of the Indian Reorganization Act of 1934 (25 U.S.C. § 476).



[History] Ord. 151 (4/9/02); Ord. 118 (5/7/96); Ord. 104 (11/3/93); Ord. 103 (10/5/93).

**Title 16 - Gaming**  
**Chapter 2 – The Federal Act (IGRA)**

**Sec.**

16-02.010	Construction to Be Consistent with the IGRA
16-02.020	Limitation on Gaming Operations
16-02.030	Application of Net Revenues
16-02.040	Annual Audit
16-02.050	Public Safety Standards
16-02.060	Background Investigations
16-02.070	Separate License

**Legislative History**

**Enacted:**

Gaming Ordinance, Ord. 103 (10/5/93), BLA (10/14/93), NIGC (11/10/93) (repealing Ord. 50).

**Amended:**

Ord. 104 (11/3/93), BLA (11/8/93), NIGC (11/10/93) (amending Ord. 103).

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**16-02.010 Construction to Be Consistent With The IGRA.**

This Title shall be construed in a manner that conforms to the Indian Gaming Regulatory Act (“Act”) in all respects, and if inconsistent with the Act in any manner, the provisions of the Act shall govern.

[History] Ord. 104 (11/3/93); Ord. 103 (10/5/93).

**16-02.020 Limitation on Gaming Operations.**

In compliance with 25 U.S.C. § 2710(b)(2)(A), the Tribe shall have sole proprietary interest and responsibility for the conduct of any gaming activity on the Swinomish Indian Reservation; provided, however, that nothing herein shall interfere with the exercise by any secured party of its rights under any collateral lease, leasehold, mortgage or other financing agreement with the Tribe to enforce its security interest in the premises on which such gaming activities may be conducted, or to enforce its rights against gross revenues of the Tribe from its gaming activities for the purpose of repayment of the debt obligations of the Tribe to such secured party in accordance with the provisions of such agreements.

[History] Ord. 104 (11/3/93); Ord. 103 (10/5/93).

**16-02.030 Application of Net Revenues.**

In compliance with 25 U.S.C. § 2710(b)(2)(B), net revenues from any gaming activity are not to be used for purposes other than:

- (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;
- (E) to help fund operations of local government agencies; or
- (F) to provide per capita payments to tribal members, but only upon approval of a plan by the Secretary of Interior in accordance with 225 U.S.C. § 2710(b)(3).

[History] Ord. 104 (11/3/93); Ord. 103 (10/5/93).

**16-02.040 Annual Audit.**

In compliance with 25 U.S.C. § 2710(b)(2)(C) and (D) and Section X.B(3) of the Compact, all gaming activities shall be subject to an audit by independent certified public accountants, not less than annually, and copies of the annual audit shall be provided to the National Indian Gaming Commission. All contracts for supplies, services, or concessions for a contract amount in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to Class II or Class III gaming shall be subject to such audits.

[History] Ord. 104 (11/3/93); Ord. 103 (10/5/93).

**16-02.050 Public Safety Standards.**

In compliance with 25 U.S.C. § 2710(b)(2)(E), the construction and maintenance of any gaming facilities, and the operation of gaming activities, shall be conducted in a manner that adequately protects the environment and the public health and safety and for that purpose shall comply with the requirements of Section XIII of the Compact and all other applicable health, safety and environmental standards enacted by the Tribe.

[History] Ord. 104 (11/3/93); Ord. 103 (10/5/93).

**16-02.060 Background Investigations.**

In compliance with 25 U.S.C. § 2710(b)(2)(F):

- (A) All Class III gaming employees, as defined in the Compact, including all primary management officials and key employees of any Class III gaming enterprise, together with such Class II gaming employees as are required by the Gaming Enterprise to secure

a tribal license and state certification, shall be subject to the state certification requirements of the Compact as set forth in Section V of the Compact, which include requirements for background investigations and ongoing review including annual renewal of such tribal licenses and state certification for all gaming employees. The Tribe shall notify the National Indian Gaming Commission of the results of the state certification process for its primary management officials and key employees. The investigation shall be conducted in accordance with the regulations and procedures established by the National Indian Gaming Commission 25 C.F.R. Parts 537, 556 and 558.

- (B) All Class II gaming employees who are not certified by the state as gaming employees pursuant to the Compact shall be required to obtain a license from the Commission established pursuant to this Title, and for that purpose the Commission shall conduct background investigations of all such employees and shall deny or revoke such licenses for any employee whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interests 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 its background investigation for the primary management officials and key employees of its Class II gaming operations who are not certified by the state as gaming employees pursuant to the Compact. The investigation shall be conducted in accordance with the regulations and procedures established by the National Indian Gaming Commission, 25 C.F.R. Parts 537, 556 and 558.

[History] Ord. 104 (11/3/93); Ord. 103 (10/5/93).

**16-02.070 Separate License.**

In compliance with 25 U.S.C. § 2710(b)(1), a separate license shall be required for each gaming place, facility or location on the Swinomish Indian Reservation.

[History] Ord. 104 (11/3/93); Ord. 103 (10/5/93).

**Title 16 - Gaming**  
**Chapter 3 – Licenses for Key Employees and Primary Management Officials**

**Sec.**

16-03.010	Definitions
16-03.020	Application Forms
16-03.030	Background Investigations
16-03.040	Eligibility Determinations
16-03.050	Procedures
16-03.060	Report to the National Indian Gaming Commission
16-03.070	Granting a Gaming License
16-03.080	License Suspension

**Legislative History**

**Enacted:**

Gaming Ordinance, Ord. 103 (10/5/93), BIA (10/14/93), NIGC (11/10/93) (repealing Ord. 50).

**Amended:**

Ord. 151 (4/9/02), BIA (6/7/02), NIGC (7/17/02) (amending Ord. 103).

Ord. 118 (5/7/96), BIA (5/23/96), NIGC (not required, 8/15/96) (amending Ord. 103).

Ord. 104 (11/3/93), BIA (11/8/93), NIGC (11/10/93) (amending Ord. 103).

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**16-03.010 Definitions.**

For the purpose of this Chapter, the following definitions apply:

(A) “Key Employee” means a person who performs one or more of the following functions:

- (1) Bingo caller;
- (2) Count room supervisor;
- (3) Security manager;
- (4) Custodian of gaming supplies or cash;
- (5) Floor manager;
- (6) Pit Supervisor;

- (7) Dealer;
  - (8) Croupier;
  - (9) Approver of credit; and
  - (10) 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 per year; or
- (C) If not otherwise included, the four (4) most highly compensated persons in the gaming operation.
- (D) "Primary Management Official" means:
- (1) The person having management responsibility for a management contract;
  - (2) Any person who has authority:
    - (a) to hire and fire employees; or
    - (b) to set up working policy for the gaming operation.
  - (3) The chief financial officer or other person who has financial management responsibility.

[History] Ord. 118 (5/7/96); Ord. 104 (11/3/93); Ord. 103 (10/5/93).

**16-03.020 Application Forms.**

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

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701 *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming

license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

- (B) Existing key employees and primary management officials shall be notified in writing that they shall either:
- (1) Complete a new application form that contains a Privacy Act notice; or
  - (2) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

- (C) The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an 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. (18 U.S.C. § 1001.)

- (D) The Tribe shall notify in writing existing key employees and primary management officials that they shall either:
- (1) Complete a new application form that contains a notice regarding false statements; or
  - (2) Sign a statement that contains the notice regarding false statements.

[History] Ord. 103 (10/5/93).

### **16-03.030 Background Investigations.**

- (A) The Tribe shall request from each primary management official and from each key employee all of the following information:
- (1) Full name, other names used (spoken or written), social security number(s), date of birth, place of birth, citizenship, gender, all languages (spoken or written);
  - (2) Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
  - (3) The names and current addresses of at least three (3) personal references,

including one (1) personal reference who was acquainted with the applicant during each period of residence listed under Section 16-03.030(A)(2):

- (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 ten (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 ten (10) years of the date of the application and is not otherwise listed pursuant to Section 16-03.030(A)(9), 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).
- (B) The Tribe shall conduct an investigation sufficient to make a determination under Section 16-03.040 below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.



[History] Ord. 103 (10/5/93).

**16-03.040 Eligibility Determination.**

The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribe determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

[History] Ord. 103 (10/5/93).

**16-03.050 Procedures.**

Procedures for forwarding applications and reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission:

- (A) When a key employee or primary management official begins work at a gaming operation authorized by this Title, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation provided for in Section 16-03.030.
- (B) The Tribe shall forward the report referred to in Section 16-03.060 to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this Title by the Chairman of the National Indian Gaming Commission.
- (C) The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after ninety (90) days.

[History] Ord. 151 (4/9/02); Ord. 103 (10/5/93).

**16-03.060 Report to the National Indian Gaming Commission.**

- (A) Pursuant to the procedures set out in Section 16-03.050, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:
  - (1) Steps taken in conducting a background investigation;
  - (2) Results obtained;
  - (3) Conclusions reached; and

- (4) The basis for those conclusions.
- (B) The Tribe shall submit, with the report, a copy of the eligibility determination made under Subsection 16-03.040 of this Section.
- (C) If a license is not issued to an applicant, the Tribe:
  - (1) Shall notify the National Indian Gaming Commission; and
  - (2) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.
- (D) With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

[History] Ord. 104 (11/3/93); Ord. 103 (10/5/93).

**16-03.070 Granting a Gaming License.**

- (A) If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.
- (B) The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the thirty (30) day period under Section 16-03.070(A) until the Chairman of the National Indian Gaming Commission receives the additional information.
- (C) If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission.

[History] Ord. 103 (10/5/93).

**16-03.080 License Suspension.**

- (A) If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under Section 16-03.040, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and proposed revocation.
- (B) The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- (C) After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

[History] Ord. 103 (10/5/93).

**Title 16 - Gaming**  
**Chapter 4 – Swinomish Gaming Commission**

**Sec.**

16-04.010	Establishment
16-04.020	Powers

**Legislative History**

**Enacted:**

Gaming Ordinance, Ord. 103 (10/5/93), BIA (10/14/93), NIGC (11/10/93) (repealing Ord. 50).

**Amended:**

Ord. 151 (4/9/02), BIA (6/7/02), NIGC (7/17/02) (amending Ord. 103).  
Ord. 130 (12/1/98), BIA (1/25/99), NIGC (3/10/99) (amending Ord. 103).  
Ord. 118 (5/7/96), BIA (5/23/96), NIGC (not required, 8/15/96) (amending Ord. 103).

**Repealed or Superseded:**

Gaming Ordinance, Ord. 50 (3/5/85), Enacting Res. 85-3-13, BIA (3/25/85).

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**16-04.010 Establishment.**

There is hereby established a Swinomish Gaming Commission, which shall be made up of at least five (5) members and one (1) or more alternates who shall be appointed by the Senate.

[History] Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-04.020 Powers.**

The Swinomish Gaming Commission:

- (A) Shall administer this Title, by exercising general control over all games and activities authorized or prohibited by this Title, as well as all powers necessary to accomplish the purposes of this Title;
- (B) Shall adopt and enforce rules and regulations in furtherance of the purposes of this Title and the performance of its administrative functions;
- (C) May investigate any aspect of the operations of the Gaming Enterprise in order to protect the public interest in the integrity of such gaming activities and to prevent improper or unlawful conduct in the course of such gaming activities, and shall investigate any report of a failure of the Gaming Enterprise to comply with the provisions of the Compact or this Title and may require the Gaming Enterprise to take

any corrective action deemed necessary by the Commission upon such terms and conditions as the Commission may determine appropriate;

- (D) May compel any person employed by or doing business with the Gaming Enterprise to appear before it and to provide such information, documents or other materials as may be in their possession to assist in any investigation;
- (E) Shall carry out each of the responsibilities and duties set forth for the tribal gaming agency in the Compact and in the Standards of Operation and Management;
- (F) Shall prepare a plan for the protection of public safety and the physical security of patrons in each of its gaming facilities, setting forth the respective responsibilities of the commission, the security department of the Gaming Enterprise, the Tribal Police Department, and any other local law enforcement agency;
- (G) Shall review and approve floor plans and surveillance systems for each gaming facility and shall confer with the State gaming agency regarding the adequacy of such plans and systems;
- (H) Shall establish and revise Standards of Operation and Management for Class III gaming activities in accordance with the Compact;
- (I) May issue licenses for key employees and primary management officials in accordance with Chapter 16-03;
- (J) May issue licenses for other Class II and Class III gaming employees, and for other employees of the Gaming Enterprise, in accordance with Commission rules and regulations, and, to the extent applicable, in accordance with the requirements of the Compact;
- (K) May suspend and revoke licenses in accordance with Chapter 16-07;
- (L) May issue and revoke vendor licenses to any persons or entities providing goods or services to the Gaming Enterprise. No person or entity required by the Act, the Compact, or the Commission's rules and regulations to have such vendor licenses shall transact business with the Gaming Enterprise without a valid vendor license issued by the Commission;
- (M) May conduct such investigations into applicants for vendor licenses as it deems necessary or appropriate;
- (N) Shall establish a list of persons barred from the gaming facilities by the Gaming Commission or the Gaming Enterprise, and may bar from the gaming facilities any person whose presence may pose a threat to public health, public safety, the integrity of gaming, or the assets of the Gaming Enterprise;

- (O) Shall approve the rules of all games of chance operated by the Tribe pursuant to Section III of the Compact and shall, in accordance with the provisions of the Compact, notify the State Gaming agency of such rules and of any change in such rules:
- (P) May impose penalties and/or fines for violations of this Title, the Compact, Commission rules and regulations, or the Standards of Operation and Management in accordance with Chapter 16-07 through Chapter 16-08 of this Title;
- (Q) May in the name of the Tribe bring any civil action or criminal complaint in the courts of the Tribe, the State or the United States to enforce the provisions of this Title or to enjoin or otherwise prevent any violation of this Title, the Act, the Compact, or Commission rules and regulations, occurring on the Swinomish Indian Reservation;
- (R) May receive any complaint from an employee of the Gaming Enterprise or any member of the public who is or claims to be adversely affected by an act or omission of the Gaming Enterprise that is asserted to violate this Title, the Compact, or the Standards of Management and Operation adopted pursuant to this Title, and may for this purpose, in its sole discretion, conduct a hearing and receive evidence with regard to such complaint if it deems an evidentiary proceeding useful in the resolution of such complaint and may upon consideration of such complaint order such remedial action as it deems appropriate to bring the Gaming Enterprise into compliance with such provisions;
- (S) May adopt an annual operating budget, which shall be subject to the approval of the Senate, and may in accordance with said budget employ such staff from time to time as it deems necessary to fulfill its responsibilities under this Title, and may retain legal counsel and other professional services including investigative services to assist the Commission with respect to any issues over which the Commission exercises jurisdiction. The expenses of the Commission in accordance with such budget shall be assessed against the Gaming Enterprise and the Gaming Enterprise shall pay such assessments to the Tribe;
- (T) Shall adopt and enforce minimum internal control standards for all Class II and Class III gaming; and
- (U) May issue and revoke the license required by Section 16-02.070 for each gaming place, facility or location on the Swinomish Indian Reservation.

[History] Ord. 151 (4/9/02); Ord. 130 (12/1/98); Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**Title 16 - Gaming**  
**Chapter 5 – Swinomish Gaming Enterprise**

<b>Sec.</b>	
16-05.010	Establishment
16-05.020	Gaming Business Committee
16-05.030	Records

**Legislative History**

**Enacted:**

Gaming Ordinance, Ord. 103 (10/5/93), BIA (10/14/93), NIGC (11/10/93) (repealing Ord. 50).

**Amended:**

Ord. 151 (4/9/02), BIA (6/7/02), NIGC (7/17/02) (amending Ord. 103).  
Ord. 118 (5/7/96), BIA (5/23/96), NIGC (not required, 8/15/96) (amending Ord. 103).

**Repealed or Superseded:**

Gaming Ordinance, Ord. 50 (3/5/85), Enacting Res. 85-3-13, BIA (3/25/85).

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**16-05.010 Establishment.**

The Swinomish Gaming Enterprise is hereby established as a subordinate economic enterprise and subdivision of the Swinomish Indian Tribal Community tribal government.

[History] Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-05.020 Gaming Business Committee.**

There is hereby established a Gaming Business Committee, which shall be made up of at least four (4) members who shall be appointed by the Senate. A majority of the members shall constitute a quorum. Action shall be taken by a majority vote of the Business Committee members present and voting. The Business Committee shall have the following powers and duties:

- (A) **Management.** To manage the Swinomish Gaming Enterprise for the benefit of the Tribe and to be responsible directly to the Senate.
- (B) **Reports.** To oversee the operation of all gaming activities regulated by the Gaming Enterprise and to make regular reports to the Senate at least once every two (2) months on the operation and financial status of each separate activity.
- (C) **Bank Accounts.** To maintain, under the supervision and subject to the authority of the

Tribal Treasurer, a separate account for each bingo operation, and at least one other separate account for revenues from all other gaming activities authorized by this Title.

- (D) **Records.** To keep written records accounting for all monies received from and expended upon the operation of all gaming activities conducted by the Gaming Enterprise. The Senate may require the Gaming Enterprise to produce these records for inspection without prior notice.
- (E) **Inspection.** To inspect during business hours all premises at which any activity authorized by this Title takes place including vehicles used in connection therewith.
- (F) **Books.** To inspect, examine, and copy all books and records related to any gaming activities conducted by the Gaming Enterprise. Such inspection may be carried out by a Business Committee member or by an agent, tribal employee, attorney, or independent certified public accountant acting on behalf of the Business Committee.

[History] Ord. 151 (4/9/02); Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-05.030 Records.**

All official records of the Swinomish Gaming Enterprise and the Gaming Business Committee shall be kept in the offices of the Gaming Enterprise and the Swinomish Indian Tribal Community.

[History] Ord. 118 (5/7/96); Ord. 103 (10/5/93).



## Title 16 - Gaming

### Chapter 6 – Authorized and Prohibited Activities

<b>Sec.</b>	
16-06.010	Tribe: Authorized Activities
16-06.020	Organizations
16-06.030	Washington State Lottery Sales
16-06.040	Prohibited Activities
16-06.050	Traditional Games

#### Legislative History

**Enacted:**

Gaming Ordinance, Ord. 103 (10/5/93), BIA (10/14/93), NIGC (11/10/93) (repealing Ord. 50).

**Amended:**

Ord. 151 (4/9/02), BIA (6/7/02), NIGC (7/17/02) (amending Ord. 103).  
Ord. 104 (11/3/93), BIA (11/8/93), NIGC (11/10/93) (amending Ord. 103).

**Repealed or Superseded:**

Gaming Ordinance, Ord. 50 (3/5/85), Enacting Res. 85-3-13, BIA (3/25/85).  
Authorization of Certain Gambling Activities, Res. 80-6-730 (6/24/80).

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**16-06.010 Tribe; Authorized Activities.**

- (A) The Swinomish Indian Tribal Community may conduct any Class II gaming activity authorized by the Commission consistent with the provisions of this Title and the Act.
- (B) The Swinomish Indian Tribal Community may conduct any Class III gaming activity authorized by the Commission consistent with the provisions of this Title, the Act and the Compact.

[History] Ord. 104 (11/3/93); Ord. 103 (10/5/93).

**16-06.020 Organizations.**

The Senate may authorize tribal departments, political subdivisions or subordinate charitable organizations of the Tribe to operate raffles. Such operation shall be consistent with this Title, and any special conditions imposed by the Senate. The Senate shall determine by resolution which tribal agencies, departments or political subdivisions qualify under this Section.

[History] Ord. 103 (10/5/93).

**16-06.030 Washington State Lottery Sales.**

The Senate may authorize entities of the Tribe to be Washington State Lottery vendors. Washington State Lottery sales on the Swinomish Indian Reservation shall be conducted in conformance with the Compact and such rules and regulations as the Swinomish Gaming Commission may prescribe.

[History] Ord. 151 (4/9/02).

**16-06.040 Prohibited Activities.**

Except as stated herein, no person is authorized by this Title to operate any gaming activity within the Swinomish Indian Reservation.

[History] Ord. 103 (10/5/93).

**16-06.050 Traditional Games.**

Traditional Indian games played by tribal members and their guests shall not constitute gaming within the meaning of this Title.

[History] Ord. 103 (10/5/93).

## Title 16 - Gaming Chapter 7 – Enforcement

**Sec.**

16-07.010	Commission Agents
16-07.020	Inspection
16-07.030	Failure to Cooperate
16-07.040	Citations and Other Enforcement Actions
16-07.050	Removal
16-07.060	Permit and License Suspension and Revocation

### Legislative History

**Enacted:**

Gaming Ordinance, Ord. 103 (10/5/93), BIA (10/14/93), NIGC (11/10/93) (repealing Ord. 50).

**Amended:**

Ord. 151 (4/9/02), BIA (6/7/02), NIGC (7/17/02) (amending Ord. 103).  
Ord. 118 (5/7/96), BIA (5/23/96), NIGC (not required, 8/15/96) (amending Ord. 103).

**Repealed or Superseded:**

Gaming Ordinance, Ord. 50 (3/5/85), Enacting Res. 85-3-13, BIA (3/25/85).

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**16-07.010 Commission Agents.**

All provisions of this Title, and any regulations that may be promulgated pursuant thereto, shall be enforced by agents commissioned by the Swinomish Gaming Commission.

[History] Ord. 103 (10/5/93).

**16-07.020 Inspection.**

Any premises within the Swinomish Indian Reservation where gaming is conducted shall be subject to inspection by the Commission and its agents.

[History] Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-07.030 Failure to Cooperate.**

Failure to cooperate with the Commission or a Commission agent who is engaged in the enforcement of this Title shall be a violation of this Title and shall be grounds for revocation of any permit or license issued hereunder.

[History] Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-07.040 Citations and Other Enforcement Actions.**

When a Commission agent has probable cause to believe that a violation of this Title, the Compact, or the rules and regulations of the Commission is taking place or has taken place, the agent shall issue the person or persons involved a civil citation and/or take other appropriate enforcement action, including but not limited to license or permit suspension pursuant to Section 16-07.060. If the person found to be in violation is not present, the citation shall be served on the operator or employee present. Civil Citations shall require that the cited person appear before the Swinomish Gaming Commission, which may, after a hearing is conducted pursuant to Commission rule, impose the civil remedies provided for in Section 16-08.050. The Commission may, in addition to or in the alternative, refer appropriate matters for criminal prosecution in Tribal Court under Chapter 16-08, or, where there has been a violation of state or federal law, refer such matters to the appropriate non-tribal law enforcement agency.

[History] Ord. 151 (4/9/02); Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-07.050 Removal.**

A Commission agent may remove from a gaming facility any person subject to citation pursuant to Section 16-07.040 or subject to license or permit suspension pursuant to Section 16-07.060 whenever the circumstances of the violation lead the agent to believe that continuation of the activity poses a threat to public safety, the integrity of gaming, or the assets of the Gaming Enterprise.

[History] Ord. 151 (4/9/02); Ord. 103 (10/5/93).

**16-07.060 Permit and License Suspension and Revocation.**

- (A) When a Commission agent has probable cause to believe that a violation of this Title, the Compact, or the rules and regulations of the Commission is taking place or has taken place, and the violation poses an immediate threat to public safety, the integrity of gaming, or the assets of the Gaming Enterprise, the Tribe or a member of the public, the agent may immediately suspend any Commission license or permit issued to the person responsible for the violation.
- (B) The Commission may, after notice to the person involved and an opportunity for a hearing, revoke, suspend, or impose conditions upon any Commission license or permit whenever necessary to enforce the provisions of the Act, the Compact, this Title, or Commission rules and regulations.

[History] Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**Title 16 - Gaming**  
**Chapter 8 – Penalties for Violations**

**Sec.**

- 16-08.010 Criminal Offenses
- 16-08.020 Separate Offenses
- 16-08.030 Permit
- 16-08.040 Tribal Court
- 16-08.050 Civil Remedies
- 16-08.060 Violations

**Legislative History**

**Enacted:**

Gaming Ordinance, Ord. 103 (10/5/93), BIA (10/14/93), NIGC (11/10/93) (repealing Ord. 50).

**Amended:**

Ord. 151 (4/9/02), BIA (6/7/02), NIGC (7/17/02) (amending Ord. 103).  
Ord. 118 (5/7/96), BIA (5/23/96), NIGC (not required, 8/15/96) (amending Ord. 103).

**Repealed or Superseded:**

Gaming Ordinance, Ord. 50 (3/5/85), Enacting Res. 85-3-13, BIA (3/25/85).

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**16-08.010 Criminal Offenses.**

Any person, operator, player, permittee or employee of the Tribe who violates any provision of this Title or any regulation adopted hereunder, and who is subject to the criminal jurisdiction of the Swinomish Tribal Court, shall be guilty of a criminal offense and shall be subject to a fine of up to five thousand dollars (\$5,000.00) or imprisonment of not to exceed twelve (12) months, or both, as well as the cost of prosecution.

[History] Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-08.020 Separate Offenses.**

Each day that a violation continues shall be considered a separate offense for the purposes of this Title.

[History] Ord. 103 (10/5/93).

**16-08.030 Permit.**

If the Swinomish Tribal Court finds that a permittee or licensee has violated any part of this

Title, the Court shall order that any then valid permits or licenses be revoked.

[History] Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-08.040 Tribal Court.**

The Swinomish Gaming Commission and the Swinomish Tribal Court shall have exclusive jurisdiction over any controversies arising under this Title. The Tribal Court shall have exclusive jurisdiction to enforce Sections 16-08.010 through 16-08.030.

[History] Ord. 151 (4/9/02); Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-08.050 Civil Remedies.**

Any person who violates any provision of this Title, including any provision of the Compact incorporated herein, or any Commission rule or regulation adopted pursuant to this Title, shall be subject to civil penalties including exclusion from employment by any tribal gaming enterprise, exclusion from attendance at any tribal gaming facility, exclusion from the Swinomish Indian Reservation, the payment of restitution, and a monetary penalty of up to \$5,000.00 for each such violation. Each day that a violation continues shall be considered a separate violation for the purposes of this section. The Gaming Commission shall have the authority to impose such penalties on any person within the civil jurisdiction of the Tribe. The Commission is hereby authorized to pursue civil remedies against violators in tribal, state, and federal court.

[History] Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-08.060 Violations.**

It shall be a violation of this Title for any person to:

- (A) Conduct or participate in any Class II or Class III gaming operation on the Swinomish Indian Reservation except as authorized by this Title.
- (B) Receive, distribute, apply, or divert any property, funds, proceeds or other assets of the Gaming Enterprise to the benefit of any individual or any other person except as authorized by this Title and approved by the Business Committee in the ordinary course of business.
- (C) Tamper with any equipment used in the conduct of tribal gaming operations with the intent to cause any person to win or lose any wager other than in accord with the publicly announced rules of such gaming operations.
- (D) Do any other act in connection with the conduct of the tribal gaming operations with the intent to affect the outcome of any wager other than in accord with the publicly announced rules of such gaming operations.

- (E) To participate as a player in any regular public bingo game, any lottery, any pari-mutuel wager, or game of chance authorized pursuant to Chapter 16-06, conducted by the Tribe, while such person is: (1) a member of the Gaming Commission; (2) a member of the Business Committee; (3) an employee of the Gaming Commission; or (4) an employee of the Gaming Enterprise unless the employee of the Gaming Enterprise's participation is authorized by the rules and regulations of the Gaming Commission.

[History] Ord. 151 (4/9/02); Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**Title 16 - Gaming**  
**Chapter 9 – Repealer, Severability and Effective Date**

**Sec.**

- 16-09.010 Repealer
- 16-09.020 Severability
- 16-09.030 Effective Date

**Legislative History**

**Enacted:**

Gaming Ordinance, Ord. 103 (10/5/93), BIA (10/14/93), NIGC (11/10/93) (repealing Ord. 50).

**Amended:**

Ord. 151 (4/9/02), BIA (6/7/02), NIGC (7/17/02) (amending Ord. 103).  
Ord. 130 (12/1/98), BIA (1/25/99), NIGC (3/10/99) (amending Ord. 103).  
Ord. 118 (5/7/96), BIA (5/23/96), NIGC (not required, 8/15/96) (amending Ord. 103).  
Ord. 104 (11/3/93), BIA (11/8/93), NIGC (11/10/93) (amending Ord. 103).

**Repealed or Superseded:**

Gaming Ordinance, Ord. 50 (3/5/85), Enacting Res. 85-3-13, BIA (3/25/85).

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**16-09.010 Repealer.**

Ordinance Nos. 103, 104, 118, 130 and 151 are hereby repealed and superseded.

**16-09.020 Severability.**

Invalidation of any clause, paragraph, or part of this Title or any application thereof shall in no way affect any other clause, paragraph or part thereof, or their application to other persons or circumstances, but such other clauses, paragraphs and parts shall remain in full force and effect.

[History] Ord. 103 (10/5/93).

**16-09.030 Effective Date.**

This Title shall be effective upon approval by the Secretary of the Department of the Interior, or the Secretary's designee, and upon approval by the Chairman of the NIGC.

[History] Ord. 151 (4/9/02); Ord. 130 (12/1/98); Ord. 118 (5/7/96); Ord. 104 (11/3/93); Ord. 103 (10/5/93).