



APR 8 2002

Honorable Darrell Hillaire  
Chairman, Lummi Indian Business Council  
2616 Kwina Road  
Bellingham, Washington 98226-9298

RE: Amendments to Lummi Gaming Ordinance

Dear Chairman Hillaire:

This letter responds to your request to the National Indian Gaming Commission (NIGC) for the review and approval of the amendments to the Lummi Indian Business Council's (Lummi Nation) tribal gaming ordinance submitted on April 3, 2002. The Nation by Resolution No. 2002-037 on March 5, 2002 adopted the amendment to the ordinance on an emergency basis. On April 1, 2002, by Resolution #2002-050, the Business Council permanently amended the Gaming Ordinance. The Chairman of the NIGC approved the original Ordinance on October 3, 1994. This letter constitutes approval of your submission under the Indian Gaming Regulatory Act (IGRA). 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, over which the Tribe exercises jurisdiction.

Under the IGRA and the regulations of the NIGC, the Chairman is directed to review amendments to 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.

Thank you for submitting the amendments to the tribal gaming ordinance of the Lummi Nation for review and approval. The NIGC staff and I look forward to 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,

A handwritten signature in black ink that reads "Montie R. Deer".

Montie R. Deer  
Chairman



# LUMMI INDIAN BUSINESS COUNCIL

2616 KWINA DRIVE • BELLINGHAM, WASHINGTON 98226 • (360) 384-1489

DEPARTMENT \_\_\_\_\_

EXT. \_\_\_\_\_

## RESOLUTION #2002-037 OF THE LUMMI INDIAN BUSINESS COUNCIL

### TITLE: EMERGENCY ADOPTION OF AMENDMENTS TO THE GAMING ORDINANCE, TITLE 23 OF THE LUMMI CODE OF LAWS

WHEREAS, the Lummi Indian Business Council is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and By-laws of the Lummi Tribe of the Lummi Reservation, Washington; and

WHEREAS, the Lummi Indian Business Council has the authority and responsibility to safeguard and promote the peace, safety, morals, and general welfare of the Lummi Reservation by regulating the conduct of trade and the use and disposition of property upon the Reservation, pursuant to Art. VI, Sec. 1(l) of the Lummi Constitution; and

WHEREAS, on August 23, 1994, pursuant to Resolution #94-136, the Lummi Indian Business Council adopted the Lummi Gaming Ordinance, codified in the Lummi Code of Laws as Title 23; and

WHEREAS, on March 7, 1995, the National Indian Gaming Commission published notice in the Federal Register of the NIGC Chairman's approval of the Lummi Nation Gaming Ordinance; and

WHEREAS, the Lummi Indian Business Council finds it to be in the best interest of the Lummi Nation to make minor amendments to the Gaming Ordinance pertaining to Blackjack dealing to conform to current practice in tribal casinos in Washington State; and

WHEREAS, the Lummi Indian Business Council finds that these proposed amendments should be adopted on an emergency basis and that a public hearing should be scheduled promptly in order to implement the amendments prior to the opening of the Silver Reef Casino.

NOW, THEREFORE, BE IT RESOLVED, that Chapter 23.08 of the Gaming Ordinance - Miscellaneous Rules and Regulations - is hereby amended on an emergency basis as follows (deletion of words indicated by strikethrough and addition of words by underlining):

#### Section 23.08.020 (k) Blackjack dealing.

- (1) All blackjack games shall be conducted using a handheld double deck or a dealing "shoe" capable of holding at least four shuffled decks of cards at one time. The deal shall ~~begin with the shoe containing at least four full decks of cards and~~ proceed until, in the dealer's judgment, the cards should be reshuffled or the cards withdrawn for examination and/or replaced. ~~The shoe shall then be refilled with four shuffled decks of cards and the process repeated.~~
- (2) ~~All~~ cards shall ~~may~~ be dealt to the players face up or face down.
- (3) No player shall remove ~~or pick up~~ cards from the table or "shuffle" or "cut" the cards except with the cut card provided.

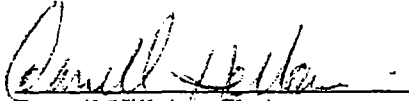
and:

BE IT FURTHER RESOLVED, that a public hearing is scheduled for the 15<sup>th</sup> day of March, 2002, at 12:30 p.m. in the Lummi Nation Council Chambers to take testimony and receive written comments concerning the proposed amendments to the Gaming Ordinance, Title 23 of the Lummi Code of Laws; and

BE IT FURTHER RESOLVED, that the Chairman or his designee shall submit the amendments to the Gaming Ordinance to the National Indian Gaming Commission for their review and approval; and

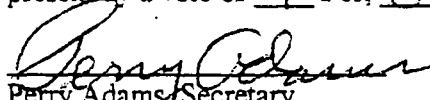
BE IT FURTHER RESOLVED, that the Chairman (or Vice Chairman in his absence) is hereby authorized and directed to execute this resolution and any documents connected therewith, and the Secretary (or the Recording Secretary in his absence) is authorized and directed to execute the following certification.

LUMMI NATION

  
Darrell Hillairé, Chairman  
Lummi Indian Business Council

#### CERTIFICATION

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution #2002-037 was adopted at a Regular Meeting of the Council held on the 5<sup>th</sup> day of March, 2002, at which time a quorum of 10 was present by a vote of 9 For, 0 Against, and 0 Abstention(s).

  
Perry Adams, Secretary  
Lummi Indian Business Council



# LUMMI INDIAN BUSINESS COUNCIL

2616 KWINA ROAD • BELLINGHAM, WASHINGTON 98226-9298 • (360) 384-1489

DEPARTMENT \_\_\_\_\_ EXT. \_\_\_\_\_

## RESOLUTION #2002-050 OF THE LUMMI INDIAN BUSINESS COUNCIL

**TITLE: ADOPTION OF AMENDMENTS TO THE GAMING ORDINANCE,  
TITLE 23 OF THE LUMMI CODE OF LAWS**

**WHEREAS**, the Lummi Indian Business Council is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and By-laws of the Lummi Tribe of the Lummi Reservation, Washington; and

**WHEREAS**, the Lummi Indian Business Council has the authority and responsibility to safeguard and promote the peace, safety, morals, and general welfare of the Lummi Reservation by regulating the conduct of trade and the use and disposition of property upon the Reservation, pursuant to Art. VI, Sec. 1(l) of the Lummi Constitution; and

**WHEREAS**, on August 23, 1994, pursuant to Resolution #94-136, the Lummi Indian Business Council adopted the Lummi Gaming Ordinance, codified in the Lummi Code of Laws as Title 23; and

**WHEREAS**, on March 7, 1995, the National Indian Gaming Commission published notice in the Federal Register of the NIGC Chairman's approval of the Lummi Nation Gaming Ordinance; and

**WHEREAS**, at the Lummi Indian Business Council meeting held on the 5<sup>th</sup> day of March, 2002, the LIBC adopted Resolution #2002-037, adopting proposed amendments to the Lummi Gaming Ordinance on an emergency basis and scheduling a public hearing to be held at 12:00 p.m. on March 15, 2002, for the purpose of receiving public comment on the proposed amendments to the Gaming Ordinance, and the Hearing Examiner's Report of said Public Hearing, dated March 27, 2002, has been received and reviewed; and

**WHEREAS**, the purpose of the proposed amendments is to make minor amendments to the Gaming Ordinance pertaining to Blackjack dealing to conform to current practice in tribal casinos in Washington State; and

**WHEREAS**, the Lummi Indian Business Council finds that these proposed amendments should be adopted, to be effective when approved by the National Indian Gaming Commission.

**NOW, THEREFORE, BE IT RESOLVED**, that Chapter 23.08 of the Gaming Ordinance - Miscellaneous Rules and Regulations - is hereby amended as follows (deletion of words indicated by strikethrough and addition of words by underlining):

**Section 23.08.020 (k) Blackjack dealing.**

- (1) All blackjack games shall be conducted using a handheld double deck or a dealing "shoe" capable of holding at least four shuffled decks of cards at one time. The deal shall ~~begin with the shoe containing at least four full decks of cards and~~ proceed until, in the dealer's judgment, the cards should be reshuffled or the cards withdrawn for examination and/or replaced. ~~The shoe shall then be refilled with four shuffled decks of cards and the process repeated.~~
- (2) ~~All~~ Cards shall may be dealt to the players face up or face down.
- (3) No player shall remove or ~~pick up~~ cards from the table or "shuffle" or "cut" the cards except with the cut card provided.


and;

**BE IT FURTHER RESOLVED**, that the Chairman or his designee shall submit the amendments to the Gaming Ordinance to the National Indian Gaming Commission for their review and approval; and

**BE IT FURTHER RESOLVED**, that the amendments herein approved shall be codified in Title 23 of the Lummi Code of Laws; and

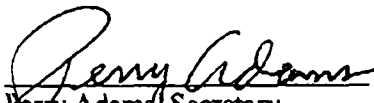
**BE IT FURTHER RESOLVED**, that the Chairman (or Vice Chairman in his absence) is hereby authorized and directed to execute this resolution and any documents connected therewith, and the Secretary (or the Recording Secretary in his absence) is authorized and directed to execute the following certification:

LUMMI NATION

  
 \_\_\_\_\_  
 Darrell Hillaire, Chairman  
 Lummi Indian Business Council

**CERTIFICATION**

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution #2002-050 was adopted at a regular Meeting of the Council held on the 1<sup>st</sup> day of April, 2002, at which time a quorum of 9 was present by a vote of 3 For, 0 Against, and 0 Abstention(s).

  
 \_\_\_\_\_  
 Perry Adams, Secretary  
 Lummi Indian Business Council

**TITLE 23**  
**LUMMI NATION CODE OF LAWS**  
**GAMING ORDINANCE**

**Enacted:** Resolution 82-97 (10/5/82)  
Resolution 94-136 (8/23/94)(Enacts new code and repeals previous)

**Amended:** Resolution 83-112 (12/3/83)  
Resolution 84-28 (4/6/84)  
Resolution 86-66 (6/3/86)  
Resolution 86-92 (8/14/86)  
Resolution 90-96 (7/19/90)  
Resolution 92-09 (2/4/92)  
Resolution 92-14 (2/4/92)  
Resolution 93-17 (2/9/93)  
Resolution 93-55 (4/15/93)  
Resolution 93-169 (10/26/93)

**TITLE 23  
LUMMI NATION CODE OF LAWS  
GAMING ORDINANCE**

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**TITLE 23  
LUMMI NATION CODE OF LAWS  
GAMING ORDINANCE**

**Chapter 23.01 Policy and Purpose**

**23.01.010 Legislative Findings and Declaration of Policy.**

The Lummi Indian Business Council (LIBC), the governing body of the Lummi Indian Tribe, hereby finds and declares that the economic, educational, social, health, and general governmental welfare of the Lummi Indian Tribe and the Lummi people are threatened due to lack of adequate sources of governmental financing.

The LIBC further finds that governmental units have traditionally relied upon revenues from various types of gambling, including but not limited to, lotteries, horse racing, card games, bingo, punch boards, and pull tabs to support necessary governmental services.

The LIBC further finds and declares that the existence of unregulated gambling activities within a given area may be an inducement to criminal activity.

In light of these findings, the LIBC declares that strict tribal control over all gambling operations and activities on the Lummi Indian Reservation is both necessary and desirable to minimize the potential adverse effects of gambling on the Lummi Reservation and its people and to maximize the production of governmental revenues for the benefit of the tribe and its people.

**Chapter 23.02 Definitions**

**23.02.010 Definitions.**

As used in this ordinance, the following terms shall have the following meaning unless the context clearly requires otherwise:

- (a) "Bingo" shall mean and refer to the activity commonly known as Bingo and all other similarly organized and played games wherein the participants pay a sum of money for the use or benefit of one or more pre-numbered cards. When the game commences, numbers are drawn by chance, one by one, and announced to the players until a participant or player announces that he has matched up on his pre-numbered purchased card enough randomly drawn numbers to complete the desired winning pattern of numbers. At this time, the participant calls out "Bingo" or such other desired word or phrase and is declared the winner of a pre-determined prize.
- (b) "Bingo Cards" shall mean and refer to the flat, usually rectangular, piece of paper or thin paste board or a computerized or electronic equivalent thereof, normally employed by players engaged in the game of Bingo. More than one set of Bingo numbers may be printed on any single piece of paper. Only cards printed or authorized by the Lummi Indian Gaming Commission shall be used in any Bingo activities authorized under this ordinance, and all printed cards shall bear the logo of the Lummi Indian Tribe.
- (c) "Blackjack" shall mean the card game commonly known as blackjack or 21 in which the participants endeavor to draw or receive cards totaling not more than 21 points based upon values assigned to the face of the cards.

- (d) "Contractor" shall mean and refer to any management contractor employed by the Lummi Indian Tribe to operate any gambling operation authorized by this ordinance.
- (e) "Gambling" shall mean engaging in an activity whereby a person stakes or risks something of value upon the outcome of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome.
- (f) "Player" shall mean a person who participates in a game other than as an employee or contractor of the house.
- (g) "Poker" shall mean any of the various round card games in which the participants play against each other and attempt to achieve the highest ranking hand according to the rules of that particular type of game.
- (h) "Private Social Game" shall mean any card game which constitutes gambling and which contains each of the following characteristics:
  - (1) All participants in the game are players;
  - (2) The players' success at winning money or any other thing of value by overcoming chance is, in the long-run, largely determined by the skill of the player;
  - (3) No organization, corporation, person, or other entity collects or obtains or charges any percentage or portion of the money or thing of value wagered or won by any of the players; provided, however, that this subsection shall not preclude a player from collecting or obtaining his or her winnings;
  - (4) No organization, corporation, entity or person collects or obtains any money or thing of value from, or charges or imposes any fee upon, any person which either enables him or her to play or results in or from his play;
  - (5) The game is played on private property and is not open to members of the general public.
- (i) "Pull tab" is a game the essential elements of which are that participants purchase a chance or chances to win one of a fixed number of predetermined and announced prizes from among a fixed, predetermined and finite pool of like chances, such that the drawing of a chance from the pool reduces by one the chances remaining to be drawn, and the winning of a particular prize removes that prize from play until the pool of chances is exhausted or the game otherwise is withdrawn from play. Prizes are won by drawing chances displaying either numbers or symbols matching the winning combinations displayed on the game "flare card". The game may be played using preprinted tickets made of single-folded or banded paper, laminated paste-board or printed tickets the faces of which are covered with a perforated paper strip or otherwise completely obscured so as to conceal from the view of players and operators the numbers or symbols printed thereon until the covering is torn or scratched off, paper tickets that are printed by a computerized or electronic dispenser that stores pre-programmed combinations on EPROM chips or cartridges, or other computerized, electronic or video technologic aids that expedite the play of the game while preserving the games essential elements.
- (j) "Punchboard" means a board or device containing a number of receptacles of uniform size in which are placed, at random, punches (slips of paper or other substance,

imprinted with numbers or symbols) and in which

- (1) a specific serial number is assigned to the punch board and printed on each punch;
  - (2) a flare or face sheet covers the receptacles and sets out the winning numbers or symbols and prizes which may be won;
  - (3) upon the payment of consideration, a player may select and remove a punch from a receptacle; and
  - (4) a prize is awarded if the number or symbol, set out on the selected punch, matches a symbol on the flare or face sheet.
- (k) "LIBC" shall mean the Lummi Indian Business Council.
- (l) "LIGC" shall mean the Lummi Indian Gaming Commission.

### **Chapter 23.03 Regulation of Gambling Activities**

#### **23.03.010 Gambling Prohibited Except as Authorized.**

Except as specifically authorized under this Ordinance, all gambling is prohibited within the exterior boundaries of the Lummi Indian Reservation and any other lands under the jurisdiction of the LIBC. Unauthorized gambling hereby is declared to be a public nuisance, and the LIBC, through the LIGC or other agents, shall have the right and power to abate the same by initiating a civil action in the Lummi Tribal Court or other court of competent jurisdiction, or by such other means as may be necessary and appropriate under the circumstances. In any civil action brought under this Section, the court shall be authorized to grant temporary, preliminary and/or injunctive relief, as deemed appropriate. All unauthorized gaming devices, equipment, records, receipts, and proceeds may be impounded at the direction of the LIBC or the court under Title 14 of the Lummi Code of Laws, and may be subject to forfeiture upon entry of final judgment in any such proceeding. The court may, in its discretion, award the LIBC civil damages against the operator(s) of any unauthorized gambling activity; said damages shall be presumed to be one thousand dollars (\$1,000) per each and every violation of this provision. For the purpose of this Section, each unauthorized game constitutes a separate violation and a cause of action for which damages can be awarded.

#### **23.03.020 Authorized Gambling Activities.**

##### **(a) Class II Gaming Authorized--Tribal Monopoly**

Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-77 ("IGRA"), 25 U.S.C. Section 2703 (7)(A) and (C), and by regulations lawfully promulgated by the National Indian Gaming Commission ("NIGC") that now or hereafter may be in effect, is hereby authorized. Except for the LIBC, acting by and through its employees and contractors, it shall be unlawful for anyone to perform, conduct, operate, maintain, or supervise any bingo game or series of bingo games, games similar to Bingo, including Pulltabs and Punchboards, non-banking card games or banked blackjack. All Class II Games conducted by the LIBC shall be conducted in accordance with the terms and conditions of this Ordinance, any regulations promulgated by the LIGC pursuant thereto, and such other laws as may from time to time be applicable.

##### **(b) Class III Gaming Authorized--Tribal Monopoly**

Class III gaming as defined in IGRA, 25 U.S.C 2703 (8), and by regulation promulgated by the NIGC that now or hereafter may be in effect, is hereby authorized, provided such gaming is also authorized by and consistent with a Tribal-State compact that has been approved by the Secretary of the Interior and is in effect, or otherwise has been authorized by the Secretary of the Interior or federal law. It shall be unlawful for anyone to perform, conduct, operate, maintain, or supervise Class III gaming activities on the Lummi Indian Reservation, except the LIBC acting by and through its employees or contractors. All such games conducted by the LIBC shall be conducted in accordance with the terms and conditions of this Ordinance, and any regulations promulgated by the LIGC, and any applicable Tribal-State compact or conditions prescribed by the Secretary of the Interior.

**23.03.030 Ownership of Gaming Facilities and/or Enterprises.**

LIBC shall have the sole proprietary interest in and responsibility for the conduct of any gaming facilities and/or enterprise(s) authorized by this Ordinance.

**Chapter 23.04 Gaming Revenues**

**23.04.010 Use of Gaming Revenue.**

- (a) Except as specifically authorized pursuant to Subsection (b) of this Section, net revenues from Class II and Class III gaming on the Lummi Indian Reservation following payment of all prizes, capital expenditures, debts, and necessary expenses of management and operations, including taxes and assessments, shall be paid to the LIBC and shall be used only for the following purposes:
- (1) To fund Tribal government operations and programs;
  - (2) Provide for the general welfare of the Tribe and its members;
  - (3) Promote Tribal economic development;
  - (4) Donate to charitable organization; or
  - (5) Help fund operations of local government agencies.
- (b) If LIBC elects to make per capita payments to Tribal members, it shall authorize such payments only in conformity with a plan submitted to and approved by the Secretary of the Interior pursuant to 25 U.S.C §2710 (b) (3).

**23.04.020 Audit.**

- (a) LIBC shall cause to be conducted at least annually an independent audit of all gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission, and to such other agencies as may be required by the terms and conditions of any Class III compact or other document authorizing Class III gaming on the Lummi Indian Reservation.
- (b) All gaming-related contracts that result in the purchase of supplies, services, or concessions in excess of twenty five thousand dollars (\$25,000.00) annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in Subsection (a) above.

**23.04.030 Protection of the Environment and Public Health and Safety.**

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The LIBC shall be responsible for assuring that the construction and maintenance of any gaming facilities, and the operation of gaming that is conducted in those facilities, is conducted in a manner which adequately protects the environment and public health and safety. If the LIBC determines that the construction or proposed operation of any such facility is a major action posing a substantial risk of significant adverse effects on the quality of the reservation environment, it may require the preparation of a detailed statement addressing the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, alternatives to the proposed action, the relationship between local short-term uses of the reservation environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. In determining whether such a statement is required, the LIBC shall consider the nature and scope of the proposed action, any and all impacts identified by the applicant, any and all mitigating actions or proposals suggested by the applicant and the general state of knowledge or information presently existing regarding the proposal and its potential impacts.

**Chapter 23.05 Gaming Commission**

**23.05.010 Lummi Indian Gaming Commission Created.**

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- (a) There is hereby created the Lummi Indian Gaming Commission, which shall consist of five (5) persons who would themselves qualify for licensing under this Ordinance. At any time that said Commission should cease to exist or function, the LIBC shall serve as the Commission, and shall promulgate and implement interim regulations to govern gaming on the Lummi Indian Reservation until such time as the commission is reestablished or resumes functioning under its own permanent regulations.
- (b) The members of the LIGC shall be appointed by the LIBC and shall not be removed from office before the expiration of their terms of office except for misconduct, neglect of duties, malfeasance in office, good cause, or other acts that would render such persons unqualified for a license hereunder. An affirmative vote of the LIBC, taken in an open meeting after a duly noticed hearing at which the member charged with misconduct shall have the right to hear and present evidence concerning his/her removal, shall be required to remove a member of the Commission. At the request of the member whose removal is at issue, the hearing may be held in executive session. LIBC also may elect to receive in executive session any evidence public disclosure of which might compromise any on-going law enforcement investigation.
- (c) LIBC shall appoint a Chairperson of LIGC, who shall be appointed for a term of three (3) years. Two members of the Commission shall be appointed for terms of three (3) years and two members shall be appointed for terms of two (2) years. Notwithstanding the foregoing, the incumbent members of the LIGC upon the adoption of this ordinance shall continue to serve according to the same terms and conditions under which they originally were appointed. The LIBC shall determine and authorize the compensation to be paid to members of the LIGC based upon the LIBC's determination of the time required to be expended upon Commission duties and the qualifications of the appointed Commissioners.
- (d) The LIGC shall be authorized and hereby is directed to promulgate, subject to review and approval by the LIBC, detailed and comprehensive regulations for the implementation and enforcement of this ordinance. Said regulations shall describe and establish the rules for each specific Class II and Class III gaming activity to be authorized to be conducted on the Lummi Indian Reservation, and no form of such

gaming may be conducted on the Lummi Indian Reservation without prior approval by the LIGC.

- (e) The LIGC, independent of LIBC, shall have full authority to monitor compliance with this ordinance and its regulations, to investigate and prosecute violations of this Ordinance and the gaming regulations, and act to prevent any violation(s) thereof.
- (f) Subject to the approval of LIBC and the appropriation of funds therefore, the LIGC shall be authorized to employ such staff as reasonably may be required to fulfill its responsibilities under this ordinance. Compensation of Commission employees shall be limited to that which is comparable to compensation paid to persons performing similar duties in other governmental gaming regulatory agencies.
- (g) Subject to the approval of LIBC, the LIGC hereby is authorized to establish and impose upon gaming facilities, permits, applicants and licensees such application, permit, and license fees as may be necessary to fully reimburse the Tribe for its actual cost of operating the LIGC, enforcing this ordinance and LIGC regulations, processing of licensing and permit applications, and otherwise fulfilling its regulatory responsibilities under the Indian Gaming Regulatory Act (IGRA).
- (h) Failure to timely pay any gaming-related fee imposed by LIBC or the LIGC, or to comply with a Commission regulation or order, or any other violation of this ordinance or the terms of any Class III gaming compact authorizing and regulating gaming on the Lummi Indian Reservation, shall be grounds for suspension or revocation of any license or permit issued pursuant to this ordinance, exclusion of any non-member of the Lummi Nation from the Lummi Indian Reservation, and imposition of such other sanctions as the LIGC may deem appropriate.
- (i) Any person or entity subject to any sanction or penalty by the LIGC shall have the right to appeal such sanction or penalty to LIBC in accordance with such rules and regulations as may be promulgated by LIBC for that purpose. The decision of the LIBC on any appeal shall be final and not otherwise reviewable.

**23.05.020 Designation of an Agent by a Tribe.**

As described in 25 C.F.R. §519.1 the principal agent shall be the Chairperson of the Lummi Indian Gaming Commission, with the LIGC Administrator being authorized to accept service in the Chairperson's absence.

**Chapter 23.06 Employment**

**23.06.010 Licenses For Key Employees, Primary Management Officials, and Standard Employees.**

The LIGC shall ensure that the policies and procedure set out in this section are implemented with respect to key employees, primary management officials, and standard employees employed at any Class II and/or Class III gaming enterprise operated on Indian Lands within the boundaries of the Lummi Indian Reservation.

**23.06.020 Definitions.**

For the purposes of this chapter the following definitions apply:

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

- (1) Bingo/Pull tab caller;
- (2) Count room employees;
- (3) Security employees;
- (4) Custodian of gaming supplies, software, or cash;
- (5) Shift Managers;
- (6) Gaming Supervisors;
- (7) Gaming Dual-Supervisors;
- (8) Dealers;
- (9) Cash Cage employees;
- (10) Approver of credit;
- (11) Accounting staff;
- (12) Food & Beverage Supervisor;
- (13) Custodian of gambling devices including persons with access to cash and accounting records within such devices and/or performing internal maintenance thereon;
- (14) Lummi Casino Board of Directors;
- (15) Any person who in the normal course of performing his/her duties has unsupervised or unrestricted access to any secure area of a gaming facility, or any other portion of a gaming facility in which the person would have unsupervised or unrestricted access to cash or original records of gaming activity;
- (16) If not otherwise included, any other person whose total cash compensation is in excess of fifty thousand dollars (\$50,000) per year;
- (17) If not otherwise included, the four most highly compensated persons in the gaming operation;
- (18) Any other Casino position(s) deemed to be a key position by LIGC.

(b) Primary Management Official means:

- (1) A person who performs one or more of the following functions:
  - (A) General Manager;
  - (B) Director of Security;
  - (C) Controller;

- (D) Human Resources Director;
  - (E) Casino Operations Manager;
  - (F) Non-Gaming Director.
- (2) If otherwise not included, the person having management responsibility for a management contract.
  - (3) If otherwise not included, any person who has authority
    - (A) to hire and fire employees;
    - (B) to set up working policy for the gaming operation.
  - (4) If otherwise not included, the chief financial officer or other person who has financial management responsibility.
  - (5) Any other position(s) deemed to be a Primary Management Official by the LIGC.
- (C) Standard Employee Means:
- (1) A person who performs one or more of the following functions:
    - (A) Maintenance;
    - (B) Housekeeping;
    - (C) Valet;
    - (D) Food & Beverage employees (excluding supervisors).
  - (2) Any other position(s) deemed to be a Standard Employee by LIGC.

**23.06.030 Application Forms.**

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

In compliance with the Privacy Act of the 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, primary management officials, and standard employees 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, a primary management official, and standard employee 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. (U.S.C. Title 18 §1001.)
- (d) The existing key employees, primary management officials, and standard employees shall be notified in writing 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.

**23.06.040 Background Investigations.**

The LIGC shall request from each key employee, primary management official, and standard employee all of the following information:

- (a) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (b) Currently and for the previous five (5) years, all business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (c) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (b) of this subsection;
- (d) Current business and residence telephone numbers;
- (e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (g) 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;

- (h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations for which a fine of less than \$200 was imposed), within ten years of the date of the application, the name and address of the court involved and the date and disposition;
- (j) For each criminal charge, (excluding traffic violations for which a fine of less than \$200 ordinarily is imposed), whether or not there is a conviction, if such criminal charge is within ten years of the date of the application and is not otherwise listed pursuant to paragraph (h) or (i) of this Subsection, the criminal charge, the name and address of the court involved and the date and disposition;
- (k) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (l) A current photograph;
- (m) Any other information the LIGC deems relevant; and
- (n) Fingerprints consistent with procedures adopted by the LIGC according to 25 C.F.R. §522.2 (h).

The LIGC shall conduct an investigation sufficient to make a determination under 23.06.060 below. In conducting a background investigation, the LIGC and/or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation, unless such person gives written consent to such disclosure.

**23.06.050 Fingerprinting.**

The LIGC is authorized to act as Lummi Law and Order officials for the purpose of administering the fingerprinting requirement in subsection 23.06.040 above. The LIGC may delegate this authority to staff as required.

**23.06.060 Eligibility Determination.**

The LIGC 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, primary management official, or standard employee for licensing in a gaming operation. If the LIGC determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the LIGC shall not license that person and the gaming operation shall not employ that person.

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

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- (a) When a key employee or primary management official begins work at a gaming operation authorized by this Ordinance, the LIGC shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in 23.06.060 of this subsection.
- (b) The LIGC shall forward the report referred to in 23.06.080 of this section to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.
- (c) The gaming operation shall not employ as a key employee, primary management official, or standard employee a person who does not have a license after ninety (90) days.

**23.06.080 Report to the National Indian Gaming Commission.**

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- (a) Pursuant to the procedures set out in subsection 23.06.070 of this section, the LIGC 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 bases for those conclusions.
- (b) The LIGC shall submit, with the report, a copy of the eligibility determination made under subsection 23.06.060 of this section.
- (c) If a license is not issued to an applicant, the LIGC
  - (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 LIGC 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.

**23.06.090 Granting a Gaming License.**

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- (a) No person shall be employed in any capacity by any gaming operation regulated by this Ordinance unless he/she first obtains and possesses in good standing a license issued

by the LIGC.

- (b) The LIGC may issue a temporary license to any person who satisfactorily completes an application for a license from the LIGC; provided that in the judgment of the LIGC issuance of the temporary license will not jeopardize public safety or the integrity of the gaming operations. A temporary license shall not be issued for a period greater than ninety (90) days. Existing employees may be granted a temporary license valid for up to ninety (90) days following adoption of this ordinance by the LIGC.
- (c) If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the LIGC that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or primary management official for whom the LIGC has provided any application and investigative report to the National Indian Gaming Commission, the LIGC may issue a license to such applicant. The LIGC may issue a license to a standard employee immediately following completion of an eligibility determination as required in subsection 23.06.060 above.
- (d) The LIGC 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 30-day period under paragraph 23.06.090 (a) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
- (e) If, within thirty (30) day period described above, the National Indian Gaming Commission provides the LIGC with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the LIGC has provided an application and investigative report to the National Indian Gaming Commission, the LIGC shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The LIGC shall make the final decision whether to issue a license to such applicant.

**23.06.100 License Suspension.**

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- (a) If, after the issuance of a gaming license, the National Indian Gaming Commission receives reliable information indicated that a key employee or a primary management official is not eligible for employment under subsection 23.06.060 of this part, the National Indian Gaming Commission shall notify the LIGC.
- (b) The LIGC 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 LIGC shall decide whether to revoke or to reinstate a gaming license, or take other action as may be deemed appropriate. The LIGC shall notify the National Indian Gaming Commission of its decision.

## Chapter 23.07 Gaming Facilities

### **23.07.010 Licensing of Gaming Places, Facilities and Locations**

A separate license shall be required for each place, facility, or location on Indian lands where Class II and/or Class III gaming is to be conducted on the Lummi Indian Reservation.

### **23.07.020 Days and Times of Operation and Wager Limits.**

Class II, Class III, and other gambling activities authorized by this ordinance may be conducted at such days and times as are determined by the LIGC in the exercise of its regulatory authority within the constraints of tribal and federal law.

## Chapter 23.08 Miscellaneous Rules and Regulations

### **23.08.010 Minors Prohibited.**

No person under the age of eighteen (18) years shall take part in any Class II or Class III gambling activities on the Lummi Reservation either as participant or employee and no person under the age of twenty one (21) years may participate as a player in any Class II or Class III gambling activities other than bingo or pull tabs, provided, however, that this prohibition shall not apply to traditional Indian gambling games as authorized in section 23.10 of this ordinance.

### **23.08.020 Miscellaneous Gaming Regulations.**

All gaming conducted under the authority of this ordinance shall be conducted in accordance with the following rules and regulations or such regulations as the LIGC may, from time to time, prescribe:

- (a) Only house chips to be used. No person shall bring into a premises licensed to allow the playing of card games, nor introduce into any card game, any playing card or cards, or any poker chips for use in wagering other than those obtained from the licensee on that business day.
- (b) Devices and mechanisms giving advantage prohibited. No device, apparatus, mechanism, or thing which may give the participant in a card game an advantage over any other participant in that game may be used by any person.
- (c) Wagers to be made with chips only. All wagers made in connection with a card game shall be made with chips furnished by the licensed premise. However, certain wagers may be made other than with chips when specifically permitted by regulations approved by the LIGC.
- (d) Change in method of wagering prohibited. Once a method of betting is chosen for a particular hand or game, that method must be used until the hand or game is completed.
- (e) Wagers by other than participants prohibited. Except for the game of paigow, only persons actually playing in the card game may wager upon the outcome of the game. Except when wagered on the game of paigow, wagers by persons other than those playing which in any way involves the outcome of the game, or of any aspect of the game, are prohibited.
- (f) Assistance and substitutes prohibited. No person shall allow a representative to sit in on a card game on his behalf for any purpose, or to render assistance to any participant

in the game in any manner which gives that participant an advantage over the other participants. No person shall act as such a representative.

- (g) Licensee to prevent cheating. All licensees or operators of games authorized under this ordinance shall not allow any player to play in such a manner as to cheat the persons with whom he is playing. The licensee or operator shall take all reasonably necessary steps to prevent cheating, and shall be responsible to insure that games played upon the premises are fairly played. Any incident in which a person is suspected of or found cheating shall be reported immediately to the applicable law enforcement agency.
- (h) Intoxicated persons shall not play or provide services.
  - (1) No person who is visibly under the influence of liquor or any controlled substance shall be allowed to play, or continue to play, in any game or to participate in providing any services for the game.
  - (2) It shall be the responsibility of the licensee or operator, and of those persons physically operating the games, to ensure that no unauthorized person is allowed to participate in any manner in the playing of or providing services to any game.
- (i) House rules to be developed and posted. Each entity operating a game under the provisions of this ordinance shall develop and post in a conspicuous manner a summary of the rules for the conducting of such game not inconsistent with the provisions of this ordinance and with the regulations of the LIGC. The LIGC shall establish the requirements for posting of house rules.
- (j) Picture License/Identification required. All persons participating in the management or operation of any game under the provisions of this ordinance while on premises shall wear an identification license which shall contain the person's name, photograph, and the licensed entity's name. The license shall be worn in plain view so as to be easily seen and read by persons participating in the event; provided however, that this section shall not apply to undercover personnel performing legitimate security or monitoring services for the entity. Such persons shall carry proper identification on their person, but shall not be required to display it except upon the lawful direction of law enforcement personnel or the management of the operating entity.
- (k) Blackjack dealing.
  - (1) All blackjack games shall be conducted using a dealing "shoe" capable of holding at least four shuffled decks of cards at one time. The deal shall begin with the shoe containing at least four full decks of cards and proceed until, in the dealer's judgment, the cards should be reshuffled or the cards withdrawn for examination and/or replaced. The shoe shall then be refilled with four shuffled decks of cards and the process repeated.
  - (2) All cards shall be dealt to the players face up.
  - (3) No player shall remove or pick up cards from the table or "shuffle" or "cut" the cards.
  - (4) Only playing cards meeting the standards of the U.S. gaming industry shall be used.

- (5) Cards may be shuffled using a device, apparatus, or mechanism. No device, apparatus, or mechanism which may give a participant in a card game any advantage over any other participant in that game may be used.
- (l) Mechanical devices prohibited. No mechanical devices proscribed by the provisions of 15 U.S.C. §1175 shall be used in any gaming activity under the authority of this ordinance, unless the use thereof would not violate federal law.
- (m) Employee compensation to be reasonable. Compensation to the employees shall not exceed that which is normally paid in the gaming industry.

## **Chapter 23.09 Customers**

### **23.09.010 Gaming Disputes.**

In the event a dispute develops between a dealer and a guest over rules of play, payoffs, or other transactions, the following procedure should be followed until the dispute is satisfactorily resolved.

- (a) The Dealer should immediately contact the floor supervisor.
- (b) The floor supervisor should listen to both sides of the dispute.
- (c) Depending upon the nature of the dispute, the floor supervisor should:
  - (1) Explain the appropriate house rule to the guest.
  - (2) Run cards back to determine facts.
  - (3) Contact surveillance to review appropriate tape for determination of facts.
- (d) The floor supervisor should then settle the dispute by ruling on the facts.
- (e) If the guest asks to see a copy of the video tape, a copy of the tape should be made and shown to the guest in the Security Office.
- (f) In all disputes when there is a margin of doubt, the ruling should be made in favor of the guest.

### **23.09.020 Cash Handling Disputes.**

When there is a dispute between a cashier and a guest over a cash transaction, the following procedure should be followed:

- (a) The Cashier should contact his immediate supervisor.
- (b) The Supervisor should listen to both sides of the dispute.
- (c) If the dispute is over an amount of money less than \$5.00 and there is any doubt as to the facts, the supervisor shall rule in favor of the guest.
- (d) In disputes of transactions larger than \$5.00, the supervisor should contact Surveillance and ask for a review of the tape for determination of the facts.
- (e) If the guest asks to see the video tape, a copy should be made and shown to the guest

in the Security Office.

**23.09.030 Disruptive Guest.**

When any employee or supervisor notices drunkenness, guests under the influence of drugs, or disruptive behavior, the incident should be immediately called to the attention of the Security Department and/or the Shift Manager. At least two employees (one a supervisory level) should observe the behavior before action is taken. Depending upon the nature of the problem, Security should:

- (a) If drunkenness or drug abuse is involved, ask the guest to leave the premises. In doing so, Security should offer to call a cab for the guest and encourage him not to drive while he is in his current condition.
- (b) In the case of abusive behavior, Security should ask the guest to immediately discontinue the disruptive behavior. If the guest refuses to do so, Security should then ask the guest to leave the Casino premises.
- (c) If a guest who has been asked to leave the Casino premises refuses to do so, Security should immediately contact the Lummi Nation Law and Order Department to request that the trespass laws be enforced.

If a guest repeats drunkenness, drug abuse, or disruptive behavior at a later visit to the Casino, or if the problem is severe, the guest should be barred from the Casino for a period of time. Guests may appeal this type of a decision to the General Manager.

**23.09.040 Criminal Behavior.**

In the event criminal behavior is observed on the Casino premises, Security should be immediately contacted. Security should then immediately contact the Lummi Nation Law and Order Department to report the activity. After contacting Lummi Law and Order, Security should continue to observe the offense. Under no circumstances should physical action or an attempt to apprehend be initiated. Upon the arrival of Lummi Nation Law and Order officers, the Security Department personnel should follow the direction of the police officers in charge.

**Chapter 23.10 Exemptions and Statutory Construction**

**23.10.010 Traditional Games Exempted.**

The provisions of this Ordinance shall not apply to bonafide Traditional Indian gambling games such as Sla-Hal, also known as bone games or stick games, provided that such games are conducted by and for Indian persons at tribal celebrations or gatherings and not as a business.

**23.10.020 Construction.**

The Ordinance shall be liberally construed to carry out the purposes and policies of the Ordinance.

**23.10.030 Severability.**

If any provision of this Ordinance or its application to any person or circumstances is held invalid the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

**23.10.040 Repeal.**

All prior gaming ordinances, as originally enacted and as amended, hereby are repealed.

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