



October 16, 2006

Via Electronic and U.S. Mail

Scott Crowell, Esq.  
Crowell Law Offices  
1670 Tenth Street West  
Kirkland, WA 98033

**RE: Approval of Shoshone-Bannock Tribal Gaming Ordinance**

Dear Mr. Crowell:

This is in response to your request to review and approve the Shoshone-Bannock Tribes' Amended and Restated "Tribal Gaming Code," as adopted by Resolution No. 06-0764A (July 17, 2006) of the Fort Hall Business Council. The submission includes the Shoshone-Bannock Gaming Commission Licensing Rules and Procedures (revised 05/12/1999), and the Shoshone-Bannock Gaming Commission's Patron Dispute Procedures.

The tribal gaming ordinance, gaming regulations, and patron dispute procedures are consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) and the National Indian Gaming Commission's regulations. Therefore, the tribal gaming ordinance, regulations and procedures are hereby approved.

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

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Philip N. Hogen".

Philip N. Hogen  
Chairman


**ORDINANCE**

**BE. IT ENACTED BY THE BUSINESS COUNCIL OF THE SHOSHONE-BANNOCK TRIBES**, that the "Tribal Gaming Code", as set forth herein, is hereby approved, effective this date.

AUG 28 2006

Authority for the foregoing ordinance is found in the Indian Reorganization Act of June 18, 1934 (48 Stat., 984) as amended and under Article VI, Section 1 (r) of the Constitution and Bylaws of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation of Idaho.

Dated this 17<sup>th</sup> day of July 2006.




Alonzo A. Coby, Chairman  
Fort Hall Business Council

**SEAL**

**CERTIFICATION**

I **HEREBY CERTIFY**, that the foregoing ordinance was passed while a quorum of the Business Council was present by a vote 5 of in favor, 1 opposed (MS), and 1 not voting (AC) on the date this bears.



Aldene J. Pevo, Tribal Secretary  
Fort Hall Business Council

**GAMN-06-0764A**

cc: Louise E. Dixey, Tribal Gaming Management  
Scott Crowell, Tribal Gaming Attorney

# SHOSHONE-BANNOCK TRIBES

## TRIBAL GAMING CODE

AUG 28 2006

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**SUBCHAPTER 010**  
**GENERAL INFORMATION**

**Section 1. Purpose**

The Fort Hall Business Council, empowered by the Constitution and By-laws of the Shoshone-Bannock Tribes' (hereinafter "Tribe") to enact ordinances, hereby enacts this ordinance in order to set the terms for Class I, Class II and Class III gaming operations on tribal lands within the Fort Hall Indian Reservation

**Section 2. Background and Intent (Reserved)**

**Section 3. Definitions**

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

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

**3.03** .

**"Class I Gaming"** means:

- (a) Social games played solely for prizes of minimal value; or
- (b) Traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations

**3.04 "Class II Gaming" means –**

(a) Bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players:

- (1) Play for prizes with cards bearing numbers or other designations;
- (2) Cover numbers or designations when object, similarly numbered or designated, are drawn or electronically determined; and
- (3) Win the game by being the first person to cover a designated pattern on such cards;

(b) If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;

(c) Nonbanking card games that:

(1) State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and

(2) Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes;

(d) Card games played in the states of Michigan, North Dakota, South Dakota, or Washington if:

(1) An Indian tribe actually operates the same card games as played on or before May 1, 1988, as determined by the NIGC Chairman; and

(2) The pot and wager limits remain the same as on or before May 1, 1988, as determined by the NIGC Chairman;

(e) Individually owned class II gaming operations --

(1) That were operating on September 1, 1986;

(2) That meet the requirements of 25 U.S.C. 2710(b)(4)(B);

(3) Where the nature and scope of the game remains as it was on October 17, 1988; and

(4) Where the ownership interest or interests are the same as on October 17, 1988.

**3.05 “Class III Gaming”** means all forms of gaming that are not Class I gaming or Class II gaming

, including but not limited to:

(a) Any house banking game, including but not limited to --

(1) Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);

(2) Casino games such as roulette, craps, and keno;

(b) Any slot machines as defined in 15 U.S.C. 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance;

(c) Any sports betting and pari-mutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or

(d) Lotteries.

- 3.06 “Tribal Gaming Commission” or “TGC”** means the Shoshone-Bannock Tribal Gaming Commission.
- 3.07 “TGC Commissioner”** means one of the members of the Shoshone-Bannock Gaming Commission.
- 3.08 “Council”** means the Fort Hall Business Council, governing body of the Shoshone-Bannock Tribes.
- 3.09 “Gaming or Gaming Activity”** means to deal, operate, carry on, conduct, maintain or expose for play any game played with cards, dice, equipment or any mechanical, electromechanical or electronic device or machine for money, property, checks, credit or any representative of value, including without limiting the generality of the foregoing, roulette, keno, bingo, twenty-one, blackjack, craps, poker, chuck-a-luck, wheel of fortune, baccarat, pai gow, beat the banker, video lottery device, video poker machine, pull tabs, bingo, any banking or percentage game or any other game or device approved by the TGC , but does not include games of cards in private homes or residences in which no person makes or charges money for operating the game, except as a player.
- 3.10 “Gaming Device”** means any equipment or mechanical, electromechanical or electronic contrivance, component or machine, including any game, which affects the result of a wager by determining win or loss. The term includes a system for processing information, which can alter the normal criteria of random selection, which affects the operation of any game or which determines the outcome of a game.
- 3.11 “Gaming Establishment or Gaming Premises”** means any premises where gaming, other than Class I gaming is operated or conducted, and includes all buildings, improvements, equipment and facilities used or maintained in connection with such gaming, including but not limited to the storage and maintenance of any gaming equipment, including all gaming devices, and surrounding areas, including parking areas, related to the gaming operation.
- 3.12 “Gaming Operation”** means each economic entity that is licensed by a tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by a tribe directly; by a management contractor; or, under certain conditions, by another person or other entity
- 3.13 “Gross Revenue,”** means the total monetary value that would be due to any operator of a gaming activity for any change taken, for any table fees for card playing, or other fees charged for participation or

admittance as evidenced by required records. The value shall be stated in U.S. currency, before any deductions or allowances for prizes, pay out of winnings, cost of operation, promotional expenses, taxes, labor expenses, equipment or materials used, or any other expenses. In the absence of records, gross revenue shall be the maximum that would be due to an operator from that particular activity if operated at maximum capacity.

**3.14 “Indian Land” means**

- (a) Land within the limits of an Indian reservation; or
- (b) Land over which an Indian tribe exercises governmental power and that is either --
  - (1) Held in trust by the United States for the benefit of any Indian tribe or individual; or
  - (2) Held by an Indian tribe or individual subject to restriction by the United States against alienation.

**3.15 “Key Employee” means**

- (a) a person who performs one or more of the following functions:
  - 1. Bingo caller, or
  - 2. Counting Room Supervisor, or
  - 3. Chief of Security, or
  - 4. Custodian of gaming supplies or cash, or
  - 5. Floor manager, or
  - 6. Pit boss, or
  - 7. Dealer, or
  - 8. Croupier, or
  - 9. Approver of credit, or
  - 10. Custodian of gambling devices including persons with access to cash and accounting records within such devices; or
- (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 most highly compensated persons in the gaming operation;

**3.16 “Licensee” means any person who has been issued a valid and current license pursuant to the provisions of this Gaming Code.**

**3.17 “Net Revenue” means gross gaming revenues of an Indian Gaming Operation less (a) amounts paid out or paid for prizes and (b) total gaming related operating expenses, excluding management fees.**

- 3.18 **“NIGC Chairman”** means the Chairman of the National Indian Gaming Commission as defined by 25 C.F.R. § 502.1 as may be amended from time to time.
- 3.19 **“Management Contract”** means any contract, subcontract, or collateral agreement between the Shoshone-Bannock Tribes and a contractor or between a contractor and subcontractor, if such contract or agreement provides for management of all or part of a gaming operation.
- 3.20 **“Management Fee”** means any monies paid from gaming revenue to any person (not an employee) or to any entity contracted and/or licensed to operate or manage a gaming establishment. Such term shall not include monies paid for operating expenses.
- 3.21 **“NIGC”** means the National Indian Gaming Commission
- 3.22 **“Operating Expense”** shall include
- (a) all monies that are reasonably attributed to maintaining and operating the gaming activities, reasonable salaries paid to employees, and activities that are reasonably related to promoting business in the gaming establishment;
  - (b) The TGC may determine that revenue participation fees with a third-party may be deemed an operating expense, even though such designation may vary from Generally Accepted Accounting Principles (GAAP);
  - (c) Unless specifically designated by the TGC, the determination of an “operating expense” shall be consistent with GAAP.
- 3.23 **“Patron”** means any person or group of persons who participate as players in games as defined by this Code, or who are physically present on premises wherein or whereon such games are being played.
- 3.24 **“Person”** means any association, partnership, corporation, firm, trust or other form of business association as well as a natural person.
- 3.25 **“Primary Management Official”** means:
- (a) The person having management responsibility for a management contract;
  - (b) Any person who has authority:
    - (1) To hire and fire employees; or
    - (2) To set up working policy for the gaming operation; or
  - (c) The chief financial officer or other person who has financial management responsibility.



- 3.26 **“Regulation”** means the regulations of the TGC under this Code.
- 3.27 **“Reservation”** when not qualified, means the Fort Hall Indian Reservation.
- 3.28 **“Services”** means labor provided by one person to or for another, where such labor is provided in pursuit of the purpose of gaming pursuant to this Code, or facilitates the operation of the gaming enterprise in any manner.
- 3.29 **“TGC”** means the Shoshone-Bannock Tribal Gaming Commission
- 3.30 **“TGC Chairman”** means the Chairperson of the Shoshone-Bannock Tribal Gaming Commission selected by the TGC Commissioners as the chief regulator of Shoshone-Bannock Gaming
- 3.31 **“Tribal Court”** means the Tribal Court of the Shoshone-Bannock Tribes.
- 3.32 **“Tribal-State Compact”** or **“Compact”** means an agreement between a tribe and a state about class III gaming under 25 U.S.C. 2710(d)..
- 3.33 **“Tribe”** or **“Tribes”** means the Shoshone-Bannock Tribes.
- 3.34 **“Weekdays”** means Monday through Friday except Federal or Tribal holidays.
- 3.35 **Words and Terms:** Tense, number and gender. In constructing the provisions of this Code, save when otherwise plainly declared or clearly apparent from the context;
  - (a) words in the present tense shall include the future tense;
  - (b) words in masculine, feminine and neuter genders shall include all genders;
  - (c) words in the singular shall include the plural, and in the plural shall include the singular.

**SUBCHAPTER 020  
GAMING AUTHORIZED**

Class II and Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(7)(A)(2) ("IGRA") as it may be amended and by the regulations promulgated by the National Indian Gaming Commission is hereby authorized.

**SUBCHAPTER 030  
JURISDICTION**

Nothing herein shall be construed to allow for jurisdiction of the State of Idaho except as provided in the Tribal/State Compact, which shall be narrowly construed with a presumption against allowing for such jurisdiction. Nothing herein shall be construed to allow for jurisdiction of the United States, except as provided in the Indian Gaming Regulatory Act.

The only discretionary decisions per this Gaming Code subject to review by the Tribal Court are (1) prosecution of unauthorized gaming by an Indian per subchapter 100, section 1, and (2) TGC disapproval of a management contract over the Council's objection per subchapter 300, section 3.

## **SUBCHAPTER 100 ADMINISTRATION AND ENFORCEMENT**

**100 Section 1 Unauthorized Gaming.** Any Indian or person who is otherwise subject to jurisdiction of the Tribe who commits any act of unauthorized gaming on this reservation or on any Indian land shall be guilty of a crime and shall be prosecuted in Tribal Court. Prosecution for such a crime in Tribal Court is not meant to be exclusive; a finding of guilt or innocence shall not deprive the federal government from criminal jurisdiction, and shall not deprive the state government from criminal jurisdiction, but only as provided for in a tribal-state compact. However, it is hereby declared that Class II and authorized Class III gaming, conducted on this reservation or on any Indian land, that fully complies with the provisions of this Code shall not be subject to any criminal penalties. Subject to approved Tribal protocol, the Tribes shall pursue Federal and State authorities to prosecute any non-Indian who commits an act of unauthorized gaming.

**100 Section 2 Ownership – Use of Gaming Revenue to Benefit Tribe.** The Tribe shall have the sole proprietary interest in, and the sole responsibility for the conduct of any Class II or Class III gaming activity except as authorized in Subchapter 200 Section 4 of this Gaming Code. Such provision does not, however, limit the Tribes' ability to enter into a management contract or a revenue participation agreement wherein net revenues are divided between the Tribe and other parties to the contract. A gaming establishment shall be operated so as to produce the maximum amount of net revenues to the Tribe. Net revenues to the Tribe and will be used, consistent with the federally approved revenue-distribution plan, solely for the following purposes:

- a) to fund tribal government operations and programs;
- b) to provide for the general welfare of the Tribe and its members;
- c) to promote tribal economic development;
- d) donate to charitable organizations;
- e) or help fund operations for local governments;

If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3) and (4).

**100 Section 3 Establishment of TGC.** The Shoshone-Bannock Tribal Gaming Commission is hereby reaffirmed as an existing subdivision of the Tribe.

A. The TGC in office on the approval date of this Code shall remain in place. Any TGC Commissioner that is lawfully in office as of the date of approval of these amendments to this Code is deemed to be a duly appointed TGC Commissioner under

this Code. A TGC Commissioner may be removed from office for cause by a majority vote of the Fort Hall Business Council. TGC Commissioners shall not be entitled to grievance rights and privileges otherwise available to TGC employees or employees of the gaming operations. The TGC shall consist of five (5) members appointed by a majority vote of the Council. The Council shall fill vacancies within 90 days. TGC Commissioners must meet the suitability standards for, and submit to the background check required of, primary management officials.

B. TGC Commissioners shall be residents of the Reservation, appointed by the Fort Hall Business Council. At least one member of the TGC shall be an accountant/bookkeeper who has practiced accounting for at least three years. At least one member of the TGC shall be a law enforcement officer who has been employed as such, not less than three years. Unless the Fort Hall Business Council determines that an emergency situation is present such that appointment of a member or members of the Fort Hall Business Council is absolutely necessary under the circumstances, No member of the Fort Hall Business Council may serve as a TGC Commissioner during his/her term as a member of Council.

(1) No individual shall be eligible for any appointment to, or continue to serve on the TGC, who:

- (a) Has been convicted of any felony; or convicted of any gaming related offense;
- (b) Has a financial interest in or management responsibility for any gaming activity or operation; or
- (c) Has a financial interest in or management responsibility for any management contract for a gaming activity or operation.

(2) The Fort Hall Business Council may, in its sole discretion, allow for an existing TGC Commissioner to take a leave of absence, paid or not paid, to attend to personal or health matters, and appoint a temporary TGC Commissioner, who shall have the power to act as a TGC Commissioner during the leave of absence.

(3) TGC Commissioners shall serve three-year terms. For purpose of the transition, the Council shall designate retroactive to January 1, 2004 one current TGC Commissioner as serving a one year term, two current TGC Commissioners as serving two year terms and two current TGC Commissioners as serving three year terms. Notwithstanding the January 2 date set forth in subsection 6 below, the TGC Commissioners shall select a TGC Chairman at the earliest date subsequent to Council approval of this Ordinance.

(4) No member of the Fort Hall Business Council may serve as a TGC Commissioner during his/her term as a member of Council.

- (a) This provision shall not apply if the Fort Hall Business Council determines that an emergency situation is present such that appointment of a member or

members of the Fort Hall Business Council is absolutely necessary under the circumstances.

(b) In such event, the Fort Hall Business Council shall proceed with all deliberate speed to replace such Commissioners with persons who are not members of the Fort Hall Business Council and are otherwise qualified for the office.

C. The TGC is empowered with the authority to regulate Class II and Class III Gaming activities on Indian land owned by the Shoshone-Bannock Tribes.

**100 Section 4 Restrictions on TGC Commissioners.** However, TGC Commissioners may engage in business, which is not subject to the provisions of this Gaming Code. TGC Commissioners shall not gamble in the gaming establishment and shall not have any personal financial interest in any gambling by any patron.

**100 Section 5 Compensation of TGC Commissioners.** TGC Commissioners shall be compensated at a rate to be established by the TGC and approved by the Fort Hall Business Council. TGC Commissioners shall be reimbursed for actual expenses incurred on TGC business, including necessary travel expenses. In no event shall compensation be based on a percentage of net profits from gaming operations of the Tribe.

**100 Section 6 Selection of Chairperson.** The TGC Chairman shall be appointed by the existing TGC Commissioners as of January 2 each year, and shall serve thereafter for a period of one year. Initially, the TGC Commissioners in place at the time of enactment of this Gaming Code shall appoint a TGC Chairman, who shall serve as TGC Chairman until January 2, 2005. The TGC Chairman shall continue to serve as one of the five TGC Commissioners. Nothing herein shall prevent a person from serving multiple and/or consecutive terms as TGC Chairman. If a vacancy occurs for any reason, the TGC Commissioners seated at the time shall appoint a TGC Chairman to serve until January 2 of the next year

**100 Section 7 Meetings Open to Membership.** Meetings of the TGC shall be open to all tribal members and shall be governed by Roberts Rules of Order. However, the TGC may recess at any time, upon majority vote to discuss any matter in executive session. The TGC must express in a motion calling for an executive session the general subject matter to be discussed in executive session. The TGC shall not take any final or official action on the matter in executive session.

**100 Section 8 Quorum – Majority Vote.** A quorum shall consist of three members of the TGC. All decisions shall be made by a majority vote unless indicated otherwise in this Code.

**100 Section 9 Monthly Reports and Annual Report.** The TGC shall make monthly reports to the Council within 30 days after the close of the month for which the information is being required. The reports shall include a full and complete statement of expenses and all other financial transactions of the TGC and a summary of all licensing and enforcement actions.

The Fort Hall Business Council may require the TGC to provide this information in a specific format with specific detail. The TGC shall make an annual report to the General Council in advance of the annual General Council meeting. If requested of Council, TGC Commissioners and/or the Executive Director shall attend and report on non-confidential TGC matters to District and tribal member community meetings.

**100 Section 10 Powers.** The TGC may exercise any proper power and authority necessary to perform the duties assigned to it by this Code, and is not limited by enumeration of powers in this Chapter. The TGC shall make recommendations and set policy, and transact other business that may be properly brought before it. The TGC shall promulgate rules and regulations for the operation of any gaming establishment and shall hear and resolve all disputes regarding any provision of this Code. In all decisions, the TGC shall act to promote and insure integrity, security, honesty, and fairness of the operation and administration of gaming and ancillary activities of the gaming enterprise. The TGC shall have the power and authority to deny any application, to revoke, limit, condition, suspend, or restrict any license; make a finding of suitability or approval of a license; or to impose a fine upon any person licensed, for any cause deemed reasonable by the TGC.

**100 Section 11 Prior Notices of Actions.** In adopting, amending, and repealing regulations, the TGC shall give prior notice of the proposed action to all licensees and other persons whom the TGC has reason to believe have legitimate and bona fide interest in such proposed action. Said notice shall inform such persons as to the general nature of the proposed action and advise them as to the manner in which comments on said proposed action shall be received by the TGC. In emergencies, the TGC may summarily adopt, amend or repeal any regulation if at the time the TGC determines such action is necessary for the immediate preservation of the public peace, health, safety, morals and good order or general welfare, together with a statement of facts constituting the emergency; provided, the TGC shall conduct a review of such emergency action at a regular hearing within thirty (30) days after any emergency meeting.

**100 Section 12 Requests for TGC Action.** Any person who is determined by the TGC to be a bona fide interested party may file a request in a manner and form approved by the TGC requesting the adoption, amendment or repeal of a regulation. Upon receipt of the request, the TGC shall within thirty (30) days deny the request in writing or schedule the matter for action pursuant to this Chapter.

**100 Section 13 Voting on Licensing.** Any TGC vote resulting in approving, disapproving, revoking, suspending, limiting or conditioning a license under this Code shall be by ballot only; provided, that in an emergency a phone vote may be polled pursuant to TGC regulations. Should an applicant disagree with the determination of the TGC, the TGC shall hold a hearing to review its decision within seven (7) weekdays from the date an applicant files his/her written disagreement with the TGC. At the hearing the burden shall be upon the applicant to show cause why the TGC's decision was incorrect. Any TGC Commissioner that may gain economically (other than gain to the Tribe and tribal membership generally) from the granting or denial of a licensing application shall abstain from voting on such application.



**100 Section 14 TGC Findings.** Following such hearing, the TGC shall, within seven (7) weekdays, reach a determination concerning:

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

**100 Section 15 Notification of TGC Decision.** Within five (5) weekdays following this determination the TGC shall inform the subject in writing of that determination.

**100 Section 16 Selection of and Duties of the Executive Director.** The Council shall hire an Executive Director to be responsible for the day-to-day functions of the TGC. The position shall be a full-time position. The Executive Director serves at the direction of the Council and may be removed "for cause" notwithstanding any policies, procedures or ordinances that may otherwise be in effect. The TGC may recommend the removal of the Executive Director. The TGC Chairman or a TGC Commissioner may serve in the position as Executive Director. The Executive Director shall perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and affect all purposes of this Code relating to the day-to-day activities of the TGC. In all decisions, the Executive Director shall act to promote and ensure integrity, security, honesty, and fairness of the operation and administration of all gaming activity. The Executive Director's duties shall include but not be limited to the following:

- a) Negotiate contracts for payments by the TGC for the provision of security and other professional services.
- b) Correspond with the NIGC and whatever is necessary to complete compliance with lawfully promulgated rules and regulations of that Agency.
- c) Assure that all gaming activity is conducted in a manner which adequately protects the environment and the public health and safety;
- d) Prescribe an adequate system that ensures that background investigations are conducted on all primary management officials and key employees of any Gaming establishment and that oversight of such officials and their management is conducted on an ongoing basis. The Executive Director will recommend to the TGC, which shall have final authority, on the granting of gaming licenses. The Executive Director shall immediately notify the NIGC of the issuance of licenses for primary management officials and key employees. The Executive Director will review for recommendation to the TGC all applications and background investigations completed by Vendor and Employee Licensing staff to ensure that no person shall be eligible for employment in or with any part of the gaming operation if that person's prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming. The Executive Director shall notify the NIGC of the results of such background checks;

- e) Review all records, documents, and anything else necessary and pertinent to enforcement of any provisions of this Code;
- f) Recommend to the TGC whether sanctions, fines or restrictions should be imposed on any person subject to the jurisdiction of this Code;
- g) Issue subpoenas to compel the attendance of witnesses for hearing at any place on Shoshone-Bannock lands, administer oaths, and require testimony under oath. Any process or notice may be served in the manner provided for service of process and notices in civil actions. The Executive Director may pay such transportation and other expenses of witnesses, as it deems reasonable and proper.

**100 Section 17 Right of Inspection.** The TGC and its agents and inspectors, have the authority:

- a) To inspect and examine all premises wherein gaming is conducted or gambling devices or equipment are manufactured, stored, maintained, sold or distributed;
- b) To inspect all equipment and supplies in, upon or about a gaming establishment, or inspect any equipment or supplies wherever located, which may, or have been used in the gaming establishment;
- c) Summarily to seize and remove from a gaming establishment (or wherever located) and impound such equipment or supplies for the purpose of examination, inspection, evidence or forfeiture;
- d) To demand access to and inspect, examine and audit all papers, books and records of applicants and licensees respecting any income produced by any gaming business, and require verification of income and all other matters affecting the enforcement of the policy of or any of the provisions of this Code;
- e) To seize and impound any patron's winnings which the TGC may have reasons to believe may have been won or obtained in violation of this Code pending a hearing before the TGC;
- f) For the purpose of administration and enforcement of this Code the TGC and its investigative personnel may, by resolution of the Fort Hall Business Council, have the powers of the peace officer of the Shoshone-Bannock Tribe for purposes of this Code only;

**100 Section 18 Confidentiality of Information.** The TGC may refuse to reveal, in any court proceeding the identity of any informant, or the information obtained from the informant, or both the identity and the information. See 300 Section 1 as applied to application requirements.

**100 Section 19 Powers of Delegation; Tribal Gaming Commission Budget; TGC Records.** The TGC may organize itself into functional divisions as it may deem necessary and from time to time alter such plan of organization, as it may deem expedient. Within the limitations of a Council approved budget sufficient to adequately regulate Gaming operations; the TGC shall establish its own budget for operations, and acquire such furnishings, equipment, supplies, stationery, books, motor vehicles, and other things as it may deem necessary or desirable in carrying out its functions, and incur such other expenses, within the limit of funds available to it, as it may deem necessary. Within the limits of a Council approved budget, the Executive Director shall employ and fix the salaries of or

contract for the services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the TGC may require. At the Council's discretion, said budget may be reviewed and modified by the Council every twelve (12) months. Upon the end of the budget year any surplus, which might exist, shall be refunded to the Tribes' General Fund at the Council's discretion. The TGC shall keep and maintain a file of all applications for licenses under this chapter, together with a record of all action taken with respect to such applications. The TGC shall keep and maintain such other files and records as they may deem desirable and all such records shall be open to public inspection only as the Fort Hall Business Council by resolution and the TGC by regulation deems appropriate; In the absence of express authority to disclose records, such records shall remain confidential, provided, that the annual TGC budget shall be made available to any tribal member upon demand.

**100 Section 20 Sanctions.** Any person who engages in activities on property subject to the provisions of this Gaming Code without a license, in violation of the license or terms imposed thereon, in violation of terms of suspension, or in violation of any regulation, provision, or amendment under this Code shall be in violation of this Code, including any person who unlawfully trespasses upon any premises licensed by this Code without the consent of the licensee and/or the TGC, shall be subject to punishment in accordance with the provisions of 100 Section 22 hereinafter. The TGC shall determine whether to consider the issuance of sanctions if the Fort Hall Business Council requests such consideration by formal resolution stating the purpose of the inquiry. Nothing herein shall be interpreted to limit the liability of such individuals in tribal, state or federal court.

**100 Section 21 Violations of Code – Punishment.** By accepting a license, the licensee is consenting to the civil jurisdiction of the TGC and is consenting to the jurisdiction of the Tribe. Any violation of this Code shall be subject to a fine of no more than twenty-five thousand dollars (\$25,000.00) for each separate count or violation. Each day of violation shall constitute a separate violation under this Code. A violator may also be required to pay TGC costs, storage fees, and auction or sales fees. All property used or which may be used in each and every separate violation of this Code may become the property of the Tribe; persons may be prohibited from trespassing on premises licensed under this Code, licenses may be suspended, revoked, or limited and/or establishments may be forcibly closed. All such action shall be taken at the discretion of the TGC. Winnings found to have been received in violation of this Code are forfeited and become the property of the Tribe.

**100 Section 22 Procedure Regarding Enforcement Actions.** The TGC shall promulgate regulations protecting the rights of all individuals and entities subject to the enforcement of this Code. Such regulations shall provide, at a minimum:

- a) Provide standards for emergency or summary suspension of license; and
- b) Provide fair notice and opportunity for hearing regarding any revocation or suspension of license, and regarding any enforcement action taken, or proposed to be taken pursuant to this Code.

**100 Section 23 Special Agents.** The TGC may authorize special agents appointed pursuant to and otherwise in compliance with tribal law, to perform services reasonably necessary to



assure compliance with the provisions of this Code only. Said special services of enforcement and surveillance shall be under the direction of the Executive Director. This section shall in no way be deemed to limit the normal law enforcement functions of these or other tribal law enforcement officers not so authorized.

**100 Section 24 Gratuities.** The Executive Director, TGC Commissioners, members of the Council and their immediate families and Gaming Management shall receive no personal compensation, gift, reimbursement or payment of any kind from any person doing or wishing to do business with the Tribe relating to gaming nor with any person wishing to obtain an unfair advantage in any authorized wager on gaming. Personal compensation, gift, reimbursement or payment of any kind shall not include business entertainment, meals, lodging, merchandise provided by vendors in the ordinary course of business with a nominal value (less than \$ 100), commitments by vendors to make contributions to tribally-sanctioned scholarships, programs or events, or other ordinary and reasonable expenses in the negotiation and solicitation of contracts, or maintenance of an on-going business relationship. Any property received in violation of this provision, including cash payments, shall be immediately forfeited to the Tribe and the offending persons shall be prosecuted to the fullest extent possible under applicable law for accepting a bribe. The TGC shall cooperate to the fullest extent possible with any Federal or State law enforcement agency to pursue prosecution under applicable Federal or State law.

**100 Section 25 Audit.**

A. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the NIGC. Specifically, the Executive Director shall arrange for an annual outside audit of authorized gaming and will provide a copy to the NIGC;

B. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection A. above.

**100 Section 26 Protection of the Environment and Public Health and Safety.** Class II and Class III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety. The TGC shall assure these requirements are met to protect licensed gaming facilities.

**100 Section 27 Designated Agent.** The TGC Chairman shall serve as the designated agent for service of process as required by 25 CFR §522.2 (g).

**SUBCHAPTER 200**

**LICENSING OF GAMES, NON-KEY EMPLOYEES AND OTHERS**

**200 Section 1 – Mandatory License.** Any person seeking to conduct, operate, or manage any gaming activity or sell or lease gaming-related equipment to a gaming operation pursuant

to this Code shall apply for, and receive, all the required licenses from the TGC prior to engaging in such gaming activities. Engaging in such gaming activities without first obtaining the required licenses shall be deemed a violation of this Code and shall be punishable in accordance with 100 Section 22. This provision shall not preclude the TGC from entering into consulting contracts for services, the payment of which is fixed and not determined by a percentage of the net profits from the gaming operation.

**200 Section 2 – Authorization of Class I Gaming Activity.** The TGC may authorize Class I Gaming Activity to be played on Indian lands that are within the jurisdiction of the Tribe.

**200 Section 3 – Licensing and Regulation of Class II Gaming Activity; Net Revenue Allocation; Audits; Contracts.**

- a. A separate license issued by the TGC shall be required for each place, facility, or location within the Tribes' jurisdiction at which any Class II Gaming Activity is conducted.
- b. The TGC shall not license and regulate a tribally owned Class II Gaming Activity unless –
  - i. such gaming activity is located on Indian lands within the Tribes' jurisdiction, and the State of Idaho permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal laws); and
  - ii. net revenues from such Gaming Activity are used in accordance with 100 Section 2 of this Code; and
  - iii. such gaming activity is subject to annual outside audits, which may be encompassed within existing independent tribal audit systems, and provided to the Council, and
  - iv. the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner which adequately protects the environment and the public health and safety; and
  - v. all primary management officials and key employees of the Class II gaming operation have successfully passed a background investigation, the procedure and scope of which is approved by the TGC.

**200 Section 4 – Licenses for Class II Gaming Owned by a Non-Tribal Entity.**

- a) The TGC may license and regulate Class II gaming activities owned by any person or entity other than the Tribe and conducted within the Tribes' jurisdiction, only if the requirements described in subparagraph (b) of this Section are met and are conducted in a manner that is at least as restrictive as the regulations established by Idaho State law governing similar gaming within its jurisdiction. No person or entity, other than the Tribe, shall be eligible to receive a license from the TGC to own a Class II gaming activity conducted within the Tribes' jurisdiction if such person or entity would not be eligible to receive a license from the State of Idaho to conduct the same activity within State jurisdiction.
- b) Such licenses are only valid so long as the licensee and the Tribe comply, at a minimum, with the following provisions

- i. income to the Tribe from such gaming is used only for the purposes described in 100 Section 2 of this Code, and
- ii. not less than 60 percent of the net revenues is income to the Tribe, and
- iii. the owner of such gaming operation pays the appropriate assessment levied by the NIGC.

**200 Section 5 Issuance of Tribal Gaming Licenses; Objections.** The TGC shall consult with appropriate Law Enforcement officials concerning any gaming licenses it may issue. If, after issuance of a gaming license by the TGC, reliable information is received that the licensee is not suitable, the TGC may suspend or restrict such license and, after notice and hearing, may revoke such license.

**200 Section 6 License and Regulation of Class III Gaming activities.**

a. A separate license issued by the TGC shall be required for each place, facility, or location within the Tribes' jurisdiction at which any Class III Gaming Activity is conducted.

b. The TGC shall not license a Class III Gaming Activity unless with respect to Class III gaming:

- (i) Such gaming meets the requirements of 200 Section 3, and
- (ii) Such gaming is conducted in conformance with the terms and conditions of a valid Tribal-State Compact entered into by the Tribes and the State of Idaho, or with the terms and conditions of valid procedures for the regulation of class III games in the absence of a compact, or in compliance with some other lawful remedy in the absence of a compact;

c. Nothing herein shall be interpreted to be a restriction on the sovereign authority of the Tribe to continue regulation of gaming on Indian Lands in the event the Federal courts strike all or part of IGRA to be invalid, illegal, unconstitutional or unenforceable.

**200 Section 7 Non-transferability of License.** Any license issued pursuant to the provisions of this Code is valid only for the person or entity at the place of business shown on the face thereof. It is not assignable or otherwise transferable to any other person or entity for any other location without approval of the TGC.

**200 Section 8 Granting of License – Majority Vote.** To approve of any license issued pursuant to this Code, a quorum of the TGC must be present with a majority vote of approval required. A license will not be issued to a person whose license has previously been revoked pursuant to this Code, or to whom the issuance of renewal of a license has been denied, except with the majority approval of the TGC members.

**200 Section 9 Application and License Fees.** The TGC shall set a fee for applications, background investigations, and licenses. All such fees shall be made payable to the Shoshone-Bannock Tribal Gaming Commission and delivered to the Shoshone-Bannock

Tribes' Accounting office. The fees shall be reasonable and commensurate with the job position. The TGC may, with Council approval, set a licensing fee for a facility license in an amount not to exceed the TGC's annual budget that is to be paid in monthly installments. The TGC may, with Council approval, use other application license fees collected to upgrade TGC equipment or supplement TGC operations. The TGC may, with Council approval, reimburse employee application and license fees to employees that remain employed with licenses in good standing for a period not less than six months.

**200 Section 10 Background Investigations.** No license shall be granted to any person or entity who has been determined to be a person or entity whose prior activities, criminal record, if any, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto. The background investigation shall be at least as stringent as the regulations of the NIGC published as 25 CFR § 556 in the Federal Register, Volume 58, no. 13, on Friday January 22, 1993 and any amendment to those regulations.

**200 Section 11 Failure of Applicant to Disclose Material Information.** An applicant for licensing shall make true and full disclosure of all information to the TGC as necessary or appropriate in the public interest or as required in carrying out the policies of this Tribe relating to licensing and control of the gaming industry. It is the duty of the applicant to disclose all information material to whether his involvement with gaming would jeopardize or compromise the Tribal interest, whether or not the applicant has been specifically requested to provide that information. It shall constitute a violation of this Code to fail to disclose, to mislead or to misstate any such material information to the TGC, or to any licensee's employer.

**200 Section 12 Temporary Licenses.** The TGC may issue a temporary employment license to any person or entity that has applied for a license to work in a licensed gaming establishment. A temporary license may not be issued until after the individual's or entity's application has been submitted and an initial determination of suitability has been made based upon the information provided in the application and other information known to the TGC at the time.

**200 Section 13 Parameters of Licensee.** Violation of any provision of this Code or any of the TGC's regulations by a licensee, his agent, or employee shall be deemed contrary to the public health, safety, morals, good order and general welfare of the Shoshone-Bannock Tribe or its members, and shall be deemed grounds for refusing to grant or renew a license, suspension or revocation of a license, or shall constitute grounds for the filing of charges by the TGC. Acceptance of a gaming license or renewal thereof, or condition imposed thereon, by a licensee, constitutes an agreement on the part of the licensee to be bound by all the regulations and conditions of the TGC and by the provisions of this Code as the same are now, or may hereafter be amended or promulgated, and to cooperate fully with the TGC. It is the responsibility of the licensee keep informed of the contents of all such regulations,

amendments, provisions, and conditions, and ignorance thereof will not excuse violations. The TGC shall use reasonable efforts to notify all licensees of changes in regulations.

**200 Section 14 Licensing of Distributors.** The TGC may authorize, require and issue such annual licenses as the TGC by regulation may provide, to any person or entity to engage in the selling, distributing, or otherwise supplying of gambling equipment or paraphernalia for use in connection with licensed gaming activity.

**200 Section 15 Licensing of Others.** The TGC may authorize, require and issue such annual licenses as the TGC by regulation may provide, to any person or entity that the TGC deems appropriate, without regard to whether such person or entity otherwise qualifies as a “primary management official,” “key employee” or distributor.

**200 Section 16 Classifications of Licensees.** The TGC may promulgate regulations that create different classes of licenses, such that a lessor or more severe background check may be applied, or a lessor or more severe standard for suitability may be applied. The variations in background requirements and suitability standards shall be commensurate with the need to protect the integrity of the gaming facility.

**200 Section 17 Protection of Due Process in Final Licensing Determinations.**

The TGC shall not consider information that ordinarily would be excluded from the finder of fact in a federal court of law. Specifically, the TGC shall not consider criminal charges that have not resulted in a conviction and shall not consider hearsay evidence unless such hearsay would be admissible in a federal civil action per the express exceptions provided by the Federal Rules of Evidence. This provision shall not prevent the TGC from suspending a license based on pending charges.

**SUBCHAPTER 300**

**LICENSING OF KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS**

**300 Section 1 - Licenses for Key Employees and Primary Management Officials.**

The Tribe, through the Executive Director and TGC Licensing staff, shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any Class II or Class III Gaming enterprise operated on Indian lands:

**A. Application Forms.**

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

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 NIGC 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 NIGC 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.

The following notice shall also be required on the application form:

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

**B. Existing key employees and primary management officials shall be notified in writing that they shall either:**

a. Complete a new application form that contains a Privacy Act notice; or  
Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

b. Complete a new application form that contains a notice regarding false statements;  
or  
Sign a statement that contains the notice regarding false statements.

**C. Background Investigations**

1. The Tribe, through TGC Licensing staff shall request from each primary management official and from each key employee all of the following information:

a. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

b. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;

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 (1)(b) of this section;

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), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1)(h) or (1)(i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- k. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- l. A current photograph;
- m. Any other information the Tribe deems relevant; and
- n. Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h). Fingerprints shall be obtained by the Tribal Police Department in cooperation with TGC Licensing staff and electronically transferred to NIGC.

2. TGC shall conduct a criminal history check including a check of criminal history records information maintained by the Federal Bureau of Investigation. TGC shall enter into and abide by a Memorandum Agreement with NIGC to obtain such information unless TGC is able to obtain the information through other means in a manner satisfactory to NIGC.

3. The Tribe shall conduct an investigation sufficient to make a determination under subsection D. below. In conducting a background investigation, the Tribe, and TGC Licensing staff shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

**D. Eligibility Determination.**

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

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

1. When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Tribe, through the TGC Licensing staff and Executive Director, shall forward to the NIGC a completed application for employment and conduct the background investigation and make the determination referred to in subsection D of this section.
2. The Tribe, through the Executive Director shall forward the report referred to in subsection F of this section to the NIGC within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the NIGC Chairman.
3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

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

1. Pursuant to the procedures set out in subsection E of this section, the Tribe, through the TGC Licensing staff and Executive Director shall prepare and forward to the NIGC an investigative report on each background investigation. An investigative report shall include all of the following:
  - a. Steps taken in conducting a background investigation;
  - b. Results obtained;
  - c. Conclusions reached; and
  - d. The bases for those conclusions.
2. The Tribe through TGC Licensing staff and Executive Director shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.
3. If a license is not issued to an applicant, the Tribe through TGC and Executive Director:
  - a. shall notify the NIGC; and
  - b. May forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.
4. With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the NIGC Chairman or his or her designee for no less than three (3) years from the date of termination of employment.

**G. Granting a Gaming License.**

1. If, within a thirty (30) day period after the NIGC receives a report, the National Indian Gaming Commission notifies the tribe, through the Executive Director, 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 NIGC, the Tribe may issue a license to such applicant.



2. The Tribe, through the Executive Director shall respond to a request for additional information from the NIGC Chairman concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph G. 1. of this section until the NIGC Chairman receives the additional information.

3. If, within the thirty (30) day period described above, the NIGC provides the Tribe and TGC with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the NIGC, the Tribe shall reconsider the application, taking into account the objections itemized by the NIGC. The Tribe shall make the final decision whether to issue a license to such applicant.

#### **H. License Suspension**

1. If, after the issuance of a gaming license, the 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 subsection D. above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Tribe through the TGC and Executive Director shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

3. After a revocation hearing, the Tribe, through the TGC and Executive Director shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

#### **I. Protection of Due Process in Final Licensing Determinations.**

The TGC shall not consider information that ordinarily would be excluded from the finder of fact in a federal court of law. Specifically, the TGC shall not consider criminal charges that have not resulted in a conviction and shall not consider hearsay evidence unless such hearsay would be admissible in a federal civil action per the express exceptions provided by the Federal Rules of Evidence. This provision shall not prevent the TGC from suspending a license based on pending charges.

### **SUBCHAPTER 400 MANAGEMENT CONTRACTS**

#### **400 Section 1 Tribal Gaming Commission Approval Required.**

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

- (i) the name, address, and other additional pertinent background information on each person or entity (including persons comprising such entity) having direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly and indirectly) 10 percent or more of its issued and outstanding stock; and
  - (ii) a description of any previous experience that each person listed pursuant to subparagraph (i) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming; and
  - (iii) any further or additional information as may be required under the Tribal-State Compact entered into between the Tribe and the State; and
  - (iv) any additional information that the TGC may reasonably request.
- B. Any person listed pursuant to sub subparagraph (a)(i) shall be required to respond to such written or oral questions that the TGC may propound in accordance with its responsibilities under this Subchapter 300.
  - C. For purposes of this Code, any reference to the management contract described in 300 Section 1(a) shall be considered to include all collateral agreements to such contract that relate to the gaming activity.
  - D. After the TGC has given its approval of a management contract, the TGC shall submit such contract to the National Indian Gaming Commission for its approval. No such contract shall be valid until the National Indian Gaming Commission has approved it.

**400 Section 2 Requirements for Management Contracts.** The TGC shall approve any management contract entered into by the Tribe pursuant to this Subchapter 400 unless it determines that such contract is not in compliance with the provisions of this Gaming Code, and does not provide at least:

- A. for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared, by or for the Council on a monthly basis;
- B. for access to the daily operations of the gaming to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such tribal gaming activity;
- C. for a minimum guaranteed payment to the Tribe that has preference over the retirement of development and construction costs;
- D. for an agreed ceiling fee for the repayment of development and construction costs;
- E. for a contract term not to exceed five years, except that, upon the request of the Tribe, the TGC may authorize a contract term that exceeds five years but does not exceed seven years if the TGC is satisfied that the capital investment required, and the income projections, for the particular gaming activity require additional time and the National Indian Gaming Commission concurs with the findings of the Shoshone-Bannock Gaming Commission; and

- F. for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the TGC
- G. for preference to Tribal members and non-member Indians in hiring of employees for the gaming establishment.

**400 Section 3 Reconsideration at Direction of Fort Hall Business Council.** In the event the TGC determines a contract is not in compliance with Subchapter 400, the TGC shall immediately communicate its determination to the Fort Hall Business Council. If the Fort Hall Business Council, by duly authorized resolution, request the TGC to reconsider the management contract, the TGC shall do so. If after fifteen (15) days of such request for reconsideration, the TGC has not determined that the management contract is in compliance with Subchapter 400, the Fort Hall Business Council may challenge the TGC's determination in Tribal Court. The decision of the Tribal Court shall be final.

**400 Section 4 Percentage-of-Net-Revenue Fees.**

- a. The TGC shall not approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity unless such percentage fee is reasonable in light of surrounding circumstances. Except as provided in this Section, such fee shall not exceed 30 percent of the net revenues;
- b. The TGC shall not approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity that exceeds 30 percent but not 40 percent of the net revenues unless the National Indian Gaming Commission and the Fort Hall Business Council are satisfied that the capital investment required, and income projects, for such tribal gaming activity require the additional fee, and such contract is otherwise in compliance with this Gaming Code.

**400 Section 5 Contract Disapproval.** The TGC shall not approve any contract if it determines that:

- a. Any person listed pursuant to 400 Section 1 (a)(i) who
  - i. has been or subsequently is convicted of any felony relating to a gaming offense; or
  - ii. has knowingly and willfully provided materially important false statements of information to the TGC or the Tribal officials who negotiate such contracts or has refused to respond to questions propounded pursuant to 300 Section 1(b); or
  - iii. has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

- c. The management contract has, or has attempted unduly to interfere or to influence for its gain or advantage any decision or process of tribal government relating to gaming activity;
- d. The management contractor has deliberately or substantially failed to comply with the terms of the management contract or the provisions of this Code or any regulations adopted pursuant to this Code or the Indian Gaming Regulatory Act.
- e. Any person listed in 300 Section 1 (a)(i) is an elected member of the Fort Hall Business Council.

**400 Section 6 Modifying or Voiding Contract.** The TGC , after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if it subsequently determines that any of the provisions of this Chapter have been violated.

**400 Section 7 Conveying Interest in Land.** No management contract for the operation of a gaming activity regulated by this Code shall transfer or, in any other manner, convey any interest in land or other real property, unless specific applicable statutory authority exists and unless clearly specified in writing in said Contract.

**400 Section 8 Fees for Investigation Cost.** The TGC may require a potential contractor to pay a fee to cover the cost of the investigation necessary to reach a determination require in 300 Section 4 of this Subchapter.

**SUBCHAPTER 500  
AUDITING AND INTERNAL CONTROL**

**500 Section 1 Minimum Procedure for Control of Internal Fiscal Affairs.** The TGC shall promulgate regulations for control of internal fiscal affairs of all gaming operations. At a minimum, those regulations shall:

- A. Prescribe minimum procedures for safeguarding the gaming operation’s assets and revenues, including recording of cash and evidences of indebtedness, mandatory count procedures. Such procedures shall establish a control environment, accounting system, and control procedures that safeguard the assets of the organization, assures that operating transactions are properly recorded, and encourage adherence to prescribed policies;
- B. Prescribe minimum reporting requirements to the TGC ;
- C. Provide for the adoption and use of internal audits, by internal auditors and Certified Public Accountants licensed to practice public accounting;
- D. Formulate uniform minimum internal control standards (MICS) of accounts and accounting classifications to assure consistency, comparability and effective disclosure of financial information. Such MICS shall require that records be retained that reflect statistical drop (amount of cash wagered by patrons), statistical win/loss (amount of cash won/lost by the gaming operation) and the percentage of win/loss to drop, or provide similar information, for each type of game, or each gaming device;

- E. Prescribe the intervals at which such information shall be furnished;
- F. Provide for the maintenance of documentation (i.e. checklists, programs, reports, etc.) to evidence all internal work performed as it relates to the requirements of this section; and
- G. Provide that all financial statements and documentation referred to in paragraph (f) be maintained for a minimum of five (5) year.

**500 Section 2 Tribal Gaming Commission Oversight of Internal Fiscal Affairs.**

- A. The TGC shall, by regulation, require audits of the financial statements of all gaming operations. Such audits must:
  - 1. be made by independent Certified Public Accountants;
  - 2. include an opinion, qualified or unqualified or, if appropriate, disclaim an opinion on the financial statements taken as a whole in accordance with standards of the accounting profession established by rules and regulations of the American Institute of Certified Public Accountants, except that revenue participation fees may be treated as “operating expense” without regard to GAAP;
  - 3. disclose whether the accounts, records and control procedures maintained by the gaming operation are as required by the regulations promulgated by the TGC ; and
  - 4. provide for a preliminary review of procedures and regulations relating to the control of internal fiscal operations upon adoption of the policies and procedures by the gaming operation, to disclose any deviation from prescribed rules and regulations and report such findings to the TGC and management;

**500 Section 3 TGC ‘s Right to Conduct Audit.** The TGC shall be able to retain its own appointed accountants, or direct an accountant employed by the Tribe, to conduct its own audit of any gaming operation.

**500 Section 4 Prohibition Against Embezzlement.** Any delay, maneuver or action of any kind, which in the formal findings of the TGC is effectuated by any licensee to unlawfully and intentionally divert gaming proceeds or other proceeds properly belonging to the Tribe shall constitute grounds for taking disciplinary action against that licensee. If the TGC finds an unlawful intentional diversion was attempted, it shall sanction the licensee. Sanctions may include fining, revoking, suspending, limiting or refusing to renew the license. Nothing herein shall be interpreted to limit the TGC ‘s authority per 100 Sections 20-22.

**500 Section 5 Other Gaming Contracts.** All contracts for goods and services, including Construction contracts in excess of \$5000.00 that utilize gaming funds shall be made available to TGC such that they may be reviewed for compliance with Tribal laws, property and procurement procedures, fraud or misrepresentation.

**SUBCHAPTER 600**



## **AUTHORIZATION OF GAMING**

**600 Section 1 Prohibition Against Gaming.** No person duly authorized by the TGC shall engage, conduct or condone any Class II or Class III game unless such game is approved by the TGC and regulations for rules governing such game have been duly promulgated by this TGC .

**600 Section 2 Grace Period.** The prohibition contained in 600 Section 1 shall not apply to those games already being played as of the date of enactment of this Code, provided, however, that the licensee conform to the rules promulgated there under within five (5) days of such promulgation.

**600 Section 3 Authorization of Gaming.** The TGC may authorize the playing of any game lawful under applicable federal law. The TGC shall promulgate regulations for rules governing the equipment (chips, dice, cards, tiles etc.) used in such game.

**600 Section 4 Approval of Gaming Equipment.** The TGC shall review and approve all gaming equipment and other devices used in the gaming operation as to design, integrity, fairness, honesty and suitability.

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

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

**600 Section 5 Posting of Rules.** The Rules of each authorized game offered at any duly licensed gaming establishment shall be posted in a conspicuous location and shall be clearly legible.

## **SUBCHAPTER 700**

### **EXCLUSION OR EJECTION OF INDIVIDUALS**

**700 Section 1 List of Undesirables.** The TGC shall, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any duly licensed gaming operation. The list may include any person whose presence in the gaming establishment is determined by the TGC to pose a threat to the interests of the Tribe, the State of Idaho, or to licensed gaming. Race, color, creed, national origin or ancestry, or sex must not be grounds for placing the name of a person on the list.

**700 Section 2 Notice and Opportunity to be Heard.** The TGC shall promulgate regulations providing fair notice and opportunity to be heard to any individual whose name is being contemplated by the Tribe to be placed on the list referred to in 700 Section 1. Such regulations must provide the person an opportunity to show cause to the TGC why his name should be deleted from the list.

**700 Section 3 Prohibitions Against Listed Individuals.** It shall be a violation of this Code for any licensee who knowingly fails to exclude or eject from the gaming establishment any persons placed on the list referred to in 700 Section 1. It shall be a violation of this Code for any person whose name appears on the list referred to in 700 Section 1 to enter into or engage in any game at a duly licensed gaming establishment. Nothing in this section may be interpreted to prevent the gaming operation from refusing service to anyone.

**700 Section 4 Prohibitions Against Certain Individuals.** It shall be a violation of this Code for any licensee who knowingly fails to exclude or eject from the gaming establishment any individual who:

- a). is visibly under the influence of liquor or any narcotic or such other substances; or
- b). is visibly in violation of the Tribal Law and Order Code, or
- c). is to be excluded per the provisions of the Tribal-State Compact.

#### **700 Section 5 Exclusion Pending Hearing**

Any patron or other individuals violating any gaming tribal laws and/or exhibiting undesirable conduct, in the opinion of a Gaming Commissioner, Security, or any gaming employee in a management position, may be immediately excluded by Gaming Security or officials of the Gaming Management or Operations. These exclusions will remain in effect until the TGC officially reviews the case and notifies the individual(s) of whether exclusion is to be lifted or become permanent, at which time a hearing may be requested. Such hearing must be requested within thirty (30) days of TGC notification. TGC shall make the initial determination within five (5) days of the event of exclusion, shall provide for a hearing within ten (10) days of the request for a hearing, and shall provide a final decision within ten (10) days of the hearing.

### **SUBCHAPTER 800 CHEATING**

**800 Section 1 Unlawful Acts.** It is unlawful and a violation of this Code, punishable by the TGC, for any person:

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

b). to place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or knowledge of any event that affects the outcome of the game or knowledge that is the subject of the bet or wager;

c). to aid anyone in acquiring such knowledge as set forth in subparagraph (b) for the purpose of increasing or decreasing a bet or wager, or for the purpose of determining the course of play contingent upon that event or outcome;

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

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

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

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

h). to manipulate with intent to cheat, any component of a gaming terminal or any tangible device used in connection with the gaming activity in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

**800 Section 2 Prohibitions against Electronic Aids.** Except as specifically permitted and approved by the TGC , no person shall possess with the intent to use, or actually use, at any table game, either by himself, or in concert with others, any calculator, computer, or other electronic, electrical, or mechanical device to assist in projecting an outcome at any table game, to keep track of or analyze the cards having been dealt, to change the probabilities of any table game or the playing strategies to be utilized. Nothing in this section shall be interpreted to preclude the gaming establishment from maintaining and offering such electronic aids so long as the information provided from such aids is made available to all players.

**SUBCHAPTER 900  
NATIONAL INDIAN GAMING COMMISSION  
And TRIBAL-STATE COMPACTS**

**900 Section 1 National Indian Gaming Commission – Regulations.** The TGC shall comply with all regulations lawfully and properly promulgated by the National Indian Gaming Commission, including, but not limited to, all requirements to report ordinances, contracts, license applications, background checks, and other information to the National Indian Gaming Commission. Nothing in this section shall be



interpreted as a waiver of the Tribes' right to challenge the legality of any such regulations.

**900 Section 2 National Indian Gaming Commission – Assessment.** The TGC shall take measures to ensure compliance with all assessments lawfully and properly authorized by the National Indian Gaming Commission. Such assessments shall be paid from the gaming enterprises. Nothing in this section shall be interpreted as a waiver of the Tribes' right to challenge the legality of any such regulations.

**900 Section 3 Compact with the State of Idaho.** The TGC shall comply with the provisions of the compact between the Tribe and the State of Idaho, negotiated and executed under IGRA. Nothing in this section shall be interpreted as a waiver of the Tribes' right to challenge the legality of any such compact or any compact provision.

#### **SUBCHAPTER 1000 MISCELLANEOUS**

**1000 Section 1 Security.** Each licensed gaming establishment must provide for adequate security. The TGC must license all security personnel.

**1000 Section 2 Maintenance of Code and Regulations.** Each licensed gaming enterprise shall obtain, maintain and keep current a copy of the Gaming Code and regulations promulgated there under, which shall be located at the premises used for the conduct of a licensed activity. This Code and regulations is not, in any way, affected by the Licensee's lack of a copy or knowledge of this Code and regulations.

**1000 Section 3 Compliance with Other Laws.** To the extent not inconsistent with this Code, all Tribal laws, ordinances and resolutions in effect shall apply to activities at the gaming establishments. The construction, maintenance and operation of any facility in which gaming activities are to take place shall be in a manner, which adequately protects the environment and the public health and safety and shall comply with any otherwise applicable tribal and federal laws relating to environmental protection and public health and safety.

**1000 Section 4 Amendments.** All provisions of this Gaming Code are subject to amendment by the Fort Hall Business Council. All regulations promulgated by the TGC are subject to proper revision, repeal, or amendment by the TGC .

**1000 Section 5 No Waiver of Sovereign Immunity.** Nothing herein shall be interpreted as empowering the TGC to waive the Tribes' or the TGC 's immunity from suit. Any contract or other agreement that provides for such waiver shall be void unless ratified by the Fort Hall Business Council.

**1000 Section 6 Severability.** If a Court of competent jurisdiction holds any provision of this Code, or its application to any purpose or circumstance, invalid, the

full remainder of the provision, or the application of the provision through another person or circumstance, shall not be affected.

SHOSHONE BANNOCK TRIBES  
GAMING COMMISSION (SBGC)

**PATRON DISPUTE PROCEDURES**

RULES IMPLEMENTING PROCEDURES FOR RESOLVING DISPUTES BETWEEN  
THE GAMING PUBLIC AND THE SHOSHONE BANNOCK TRIBES GAMING

The Shoshone Bannock Tribes Gaming Commission hereby establishes and implements the following rules implementing procedures for the resolution of disputes between the gaming public and tribal gaming operations, in accordance with the Shoshone Bannock Tribes Class II and Class III Gaming Code.

001 Reference to **Security Shift Manager/Supervisor** and/or  
**Gaming Department Manager/Supervisor**

When a patron brings a dispute to an employee, the employee shall refer the patron to the **Security Shift Manager/Supervisor** and/or the **highest level Manager/Supervisor** on duty for the Department **involved in the dispute**. The **Security Shift Manager/Supervisor** and/or the **Department Manager/Supervisor** shall make all reasonable efforts to resolve promptly, the dispute to the satisfaction of the patron.

002 Provide Patron With Notice of Procedures

If the patron is not satisfied with the decisions of the **Security Shift Manager/Supervisor** and/or **Department Manager/Supervisor**, the patron shall be provided with a written "Customer Concern Form" a copy of which is attached. Further, the Customer shall be provided a card that is 2.5" x 3.5" which states:

Any customer may request a determination of a dispute involving the conduct of a gaming or and other matter involving gaming on Indian lands of the Shoshone Bannock Tribes by submitting in writing, the details of your dispute to the Casino **General Manager**. If the determination is still not satisfactory after review and action taken by the Casino **General Manager**, a written statement of the dispute may be forwarded to Shoshone Bannock Tribes Gaming Commission Executive Director at the address below:

**Executive Director**  
**Shoshone-Bannock Gaming Commission**  
**PO Box 1001**  
**Fort Hall, ID 83201**

Please mark your mailing "Gaming Dispute"

The decision of the Shoshone-Bannock Gaming Commission will be final.

### 003 Actions by Casino **General Manager**

The Customer Concern Form shall be submitted by customer to the Casino **General Manager**, who shall review it and take whatever corrective action he/she deems appropriate, and if reasonably possible, the Casino **General Manager** shall notify the customer of the action taken, and record whether the customer is satisfied or dissatisfied with the decision.

### 004. Submission to the **Shoshone-Bannock Gaming Commission**

If the customer is dissatisfied with the decision of the Casino **General Manager**, a written statement of dispute may shall be forwarded by the Casino General Manager to the Gaming Commission (**SBGC**). The **SBGC** shall review and if a majority of the Commission believes that the decision of the Casino **General Manager** was not reasonable, the Commission shall take corrective action, as it deems appropriate, so long as such action is otherwise in compliance with the **Shoshone-Bannock** Gaming Code. Unless the customer is entitled to or seeks a hearing pursuant to rule 005, below the decision of the Commission is final.

### 005 Hearing Available if Customer alleges Deprivation of Winnings

If the customer is not satisfied with the initial decision of the Commission and the customer alleges that he/she has been deprived of winnings that belong to him or her, the customer may seek a full hearing before the **Gaming Commission** and present any facts or arguments he/she wishes to offer to the **Commission**. The Casino **General Manager** shall cooperate in making any relevant tapes, **reports** or documents available to the **Commission**. The **Commission** may, in its discretion, determine that such tapes, **reports** or documents be reviewed. A **resulting “Final Determination” of the Gaming Commission** is final and **non-appealable**.

### 006 Records of “Customer Concern Forms”

All “Customer Concern Forms” shall be recorded and maintained by the gaming operation for period not less than three years.

### 007 Corrective Actions Must Comply with Law

Nothing herein shall be interpreted to enable any gaming employee, or Shoshone Bannock Tribes Gaming Commission to take any corrective active action that contravenes tribal or federal law.

CUSTOMER CONCERN FORM

CUSTOMER  
NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_

DEPARTMENT INVOLVED \_\_\_\_\_

CONCERN/COMPLAINT:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CORRECTIVE ACTION  
TAKEN: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CUSTOMER WAS: \_\_\_\_\_ SATISFIED \_\_\_\_\_ DISSATISFIED

EMPLOYEE INVOLVED (IF NECESSARY): \_\_\_\_\_

**SECURITY**                                      **MANAGER/SUPERVISOR**                                      **INVOLVED:**  
\_\_\_\_\_

**DEPARTMENT**                                      **MANAGER/SUPERVISOR**  
**INVOLVED:** \_\_\_\_\_

SIGNATURE OF CUSTOMER: \_\_\_\_\_