

**TITLE IX
GAMING CODE**

**SAGINAW CHIPPEWA INDIAN TRIBE
OF MICHIGAN**

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**GAMING CODE
OF THE
SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN**

A law to authorize, license and regulate certain forms of gaming within the jurisdiction of the Saginaw Chippewa Indian Tribe of Michigan.

Section 1. Findings, Purposes and Policy.

1.1 Findings. The Saginaw Chippewa Tribal Council on behalf of the Saginaw Chippewa Indian Tribe of Michigan finds that:

- 1.1.1** Tribal regulation and control of gaming activity within the jurisdiction of the Saginaw Chippewa Indian Tribe of Michigan is essential for the protection of public health and welfare, and the interests of the Tribe and the residents of and visitors to the tribal community.
- 1.1.2** The Tribe has the legal authority to license and regulate all gaming activity not specifically prohibited by federal law, within the jurisdiction of the Tribe.
- 1.1.3** Properly licensed and regulated gaming activities conform with announced federal policy promoting Indian self-government and Indian tribal economic self-sufficiency.
- 1.1.4** It is essential that the Tribe, through the Saginaw Chippewa Gaming Commission regulate gaming in a manner commensurate with applicable federal and tribal law and policy.
- 1.1.5** The present needs of the Tribe include increased employment, job and skills training, housing, quality health care, improved nutrition, educational opportunities, social services, law and order, public safety and judiciary, and community and economic development; needs that are not adequately addressed by present tribal, federal and state programs.
- 1.1.6** Tribal operation and licensing of gaming activities on the Reservation are appropriate means of generating revenue to address the needs of the Tribe.
- 1.1.7** The Tribe is vigorously pursuing its goal of self-sufficiency and self-determination through the development of tribal businesses and enterprises. Because the Reservation lacks income-generating natural resources and because the Tribe's tax base is almost non-existent, the Tribe must rely on tribal economic development to raise the funds necessary to expand its social, health, and education programs, increase employment and improve its on-reservation economy. This effort has recently become

increasingly important as a result of cutbacks in federal and state funding and the increased costs of self-government. It is therefore essential that the Tribe develop new and expanded sources of revenue to support its ever-increasing governmental needs and to provide much needed employment and training for tribal members.

1.1.8 As a result, the adoption of the following new and expanded gaming law is in the best interest of the Saginaw Chippewa Indian Tribe of Michigan.

1.2 Purposes. The purposes of this Code are to:

1.2.1 Regulate, control, and license the operation of all gaming within the jurisdiction of the Tribe.

1.2.2 Make clear and explicit that a tribal license to operate a gaming activity is a revocable privilege, not a right or property interest.

1.2.3 Ensure that the operation of tribally regulated gaming will continue as a means of generating tribal revenue.

1.2.4 Ensure that tribally regulated gaming is conducted fairly and honestly by both gaming operators and players and that it remain free from corrupt, incompetent, unconscionable and dishonest persons and practices.

1.2.5 Promote and strengthen tribal economic development and self-determination and enhance employment opportunities for its members.

1.2.6 Generate revenue to strengthen and improve tribal self-government and the provision of tribal governmental services.

1.2.7 Ensure that all gaming revenue is used for the benefit of the Tribe and the Reservation community.

1.2.8 Ensure that tribal gaming laws are strictly and fairly enforced against all persons involved in gaming activities within the jurisdiction of the Tribe.

1.2.9 Ensure that the Tribe provide a fair and impartial forum for the resolution of gaming disputes.

1.3 Tribal Policy of Self-Government. The Tribe is firmly committed to the principle of tribal self-government. Consistent with federal policy, tribal government provides a wide range of public services on the Reservation, including general governmental services, maintenance of peace and good order, establishment of educational systems and programs, and promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

- 1.4 Tribal Gaming Policy.** The establishment, promotion, and operation of gaming is necessary and desirable, provided that such gaming is regulated and controlled by the Tribe pursuant to tribal and federal law and any tribal-state gaming compact entered into pursuant to the Indian Gaming Regulatory Act, and that all proceeds of such gaming are used for the benefit of the Tribe as required by the Indian Gaming Regulatory Act and tribal law. When operated in accordance with the provisions of this Code, such gaming will be conducive to the general welfare of all residents of the Reservation.

Section 2. Definitions.

In this Code, except where otherwise specifically provided or where the context otherwise requires, the following terms and expressions shall have the following meanings:

- 2.1** "Adjusted gross proceeds" means gross proceeds less all cash prizes or the aggregate price of merchandise prizes, except in the case of the games of draw poker and stud poker. Regarding games of draw poker and stud poker, "adjusted gross proceeds" means the time buy-ins or tournament fees collected by the gaming operator.
- 2.2** "Bingo" means the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of each card covers such numbers or designations when objects similarly numbered or designated are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip-jars, instant bingo, and other games similar to bingo.
- 2.3** "Charitable gaming ticket" means any game piece used in the play of a paper pull tab game, or jar ticket game, or raffle.
- 2.4** "Cheating" means operating or playing in any game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for oneself or someone in privity with one, an advantage over and above the chance of the game.
- 2.5** "Chief Executive Officer" or "CEO" means the Person employed by the Tribe as the Chief Executive Officer responsible for the overall management and operation of Tribal owned and operated Gaming Facilities.
- 2.6** "Code" means this Code, the Saginaw Chippewa Gaming Code, as now or hereafter amended.

- 2.7** "Compact" means a gaming compact between the Tribe and the State of Michigan as authorized by the Indian Gaming Regulatory Act (IGRA), or by tribal or state law.
- 2.8** "Compensation" means all wages, salaries, bonuses, and all other forms of remuneration for services rendered.
- 2.9** "Council" or "Tribal Council" means the governing body of the Saginaw Chippewa Indian Tribe of Michigan.
- 2.10** "Educational, charitable, patriotic, veteran's, fraternal, religious, civic, or public-spirited uses" are:
- 2.10.1** Uses benefitting an indefinite number of people by bringing them under the influence of educational or cultural programs.
- 2.10.2** Uses otherwise lessening the burden of tribal government.
- 2.10.3** Uses benefitting one or more persons suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense that is uncompensated by insurance.
- 2.10.4** Uses for community service projects that promote the common good, enhance the social and economic welfare of the community, and benefit an indefinite number of people.
- 2.11** "Electronic games of chance" means electronic games featuring coin drop and payout as well as printed tabulations, whereby the software of the device predetermined the presence or lack of a winning combination and payout. Electronic games of chance are microprocessor controlled electronic devices which allow a player to play games of chance, which may be affected by an element of skill, activated by the insertion of currency, or by the use of a credit, and awards game credits, cash, or replays, or a written statement of the player's accumulated credits, which written statements are redeemable for cash.
- 2.12** "Eligible organization" means any nonprofit organization operated for educational, charitable, patriotic, veteran's, fraternal, religious, civic, or public-spirited uses, or for the relief of poverty, distress, or other condition on the Reservation.
- 2.13** "Equipment for games of chance". See "Gaming Apparatus."
- 2.14** "Game" or "game of chance" means any activity which falls within the broad definition of gaming or gaming activity.

- 2.15** "Gaming employee" means any natural person employed in the operation or management of each gaming activity or operation, whether employed by or contracted to the Tribe or by any person or enterprise providing on or off-site services to the Tribe within or without the gaming facility regarding any gaming activity or operation, including, but not limited to, gaming operation managers and assistant managers; accounting personnel; surveillance personnel; cashier supervisors; dealers or croupiers; box men; floormen; pit bosses; shift bosses; cage personnel; collection personnel; gaming consultants, management companies and their principals; and any other natural person whose employment duties require or authorize access to restricted areas of each gaming activity or operation not otherwise open to the public.
- 2.16** "Gaming" or "gaming activity" means any activity, operation or game in which valuable consideration is wagered upon the outcome determined in whole or in part by chance, skill, speed, strength, or endurance or any combination of strength or endurance, and in which something of value is awarded to a person or persons so wagering, and any activity in furtherance thereof, including owning, financing, managing, participating in, conducting, or assisting in any way in any such activity at the site at which it is being conducted, directly or indirectly, whether at the site in person or off the Reservation.
- 2.17** "Gaming apparatus" or "gaming equipment" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gaming activity, whether or not specifically designed for the purpose, but excluding tables and chairs normally used in the occupancy of any gaming facility.
- 2.18** "Gaming facility" means any location or structure, stationary or movable, where gaming is permitted, promoted, performed, conducted, or operated. Gaming facility does not include the site of a fair, carnival, exposition, or similar occasion.
- 2.19** "Gaming Operator" means a person who has obtained a gaming license under this Code or who is otherwise permitted by this Code to perform, promote, conduct, or operate any gaming activity on Indian lands.
- 2.20** "Gross proceeds" means any money collected or received from any gaming activity.
- 2.21** "Indian Gaming Regulatory Act" or "IGRA" means Public Law 100-497, 102 Stat. 2426, 25 U.S.C. §§2701-2721 (1988), as amended.
- 2.22** "Immediate Family" means, with respect to the person under consideration, a husband, wife, father, mother, son, daughter, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

2.23 "Indian lands" means:

2.23.1 all lands within the limits of the Reservation, notwithstanding the issuance of any patent and including rights-of-way running through such lands; and

2.23.2 all lands title to which is either held in trust by the United States for the benefit of the Tribe or individual member of the Tribe or held by the Tribe or individual member of the Tribe subject to restriction by the United States against alienation and over which the Tribe possesses governmental powers; and

2.23.3 all lands within the State of Michigan which may be acquired by the Tribe and which meet the requirements of Section 20 of the IGRA, 25 U.S.C. § 2719.

2.24 "IRS" means the United States Internal Revenue Service.

2.25 "Key employee" means:

2.25.1 Any person involved in gaming under this Code and who comes under one or more of the following descriptions:

2.25.1.1 Bingo caller;

2.25.1.2 Counting room supervisor;

2.25.1.3 Chief of security;

2.25.1.4 Custodian of gaming supplies or cash;

2.25.1.5 Floor manager;

2.25.1.6 Pit boss;

2.25.1.7 Dealer;

2.25.1.8 Croupier;

2.25.1.9 Approver of credit;

2.25.1.10 Custodian of gambling devices including persons with access to cash and accounting records within such devices;

2.25.1.11 Employee or any other person with access to finance or accounting offices; or

- 2.25.1.12** Any person authorized to make on-site repairs, adjustments or alterations to any piece of gaming equipment.
- 2.25.2** If not otherwise included, the four most highly compensated persons in any gaming activity subject to this Code; or
- 2.25.3** any gaming employee whom the Tribal Commission may by written notice classify as a key employee.
- 2.26** "License" means any official, legal, and revocable permission granted by the Tribal Commission pursuant to this Code to an applicant to conduct any gaming activity on Indian lands.
- 2.27** "Lotto" means a form of gaming in which all or a part of the proceeds derived from the sale of tickets or chances are pooled and such proceeds are allotted by chance to one or more chance takers or ticket purchasers. The amount of cash prizes or winnings are determined by the gaming operator conducting the "lottery" and a progressive pool is permitted.
- 2.28** "Net revenues" means gross gaming revenues of the tribal gaming operation less amounts paid out as, or paid for prizes; and total gaming related operating expenses, excluding management fees.
- 2.29** "Participate" in any gaming activity means to operate, direct, finance, or in any way assist in the establishment or operation of any class of gaming or any site at which such gaming is being conducted, directly or indirectly, whether at the site in person or off the Reservation.
- 2.30** "Person" means any individual, partnership, joint venture, corporation, joint stock company, company, firm, association, trust, estate, club, business trust, municipal corporation, society, receiver, assignee, trustee in bankruptcy, political entity, and any owner, director, officer, or employee of any such entity, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, the government of the Tribe, any governmental entity of the Tribe, or any of the above listed forms of business entities that are wholly owned or operated by the Tribe; provided, however, that the term does not include the federal government and any agency thereof.
- 2.31** "Player" means a person participating in any game, but does not include a gaming operator.
- 2.32** "Primary Management Official" means
- 2.32.1** The person having management responsibility for a management contract approved by the National Indian Gaming Commission; or

2.32.2 Any person who has authority:

2.32.2.1 To hire and fire gaming employees; or

2.32.2.2 To set up working policy for a gaming enterprise; or

2.32.3 The chief financial officer or other person who has financial management responsibility for a gaming activity.

2.32.4 Any gaming employee whom the Tribal Commission may by written notice classify as a primary management official.

2.33 "Principal" means with respect to any management contractor: (i) each of its officers and directors; (ii) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager; (iii) each of its owners or partners, if it is an unincorporated business; (iv) each of its shareholders who owns more than ten percent of the shares of the corporation, if a corporation; and (v) each person other than a banking institution who has provided financing for the enterprise constituting more than ten percent of the total financing of the enterprise.

2.34 "Progressive gaming" means any game in which a cash prize not being won by any player during any game is retained and further monetarily enhanced by the gaming operator or eligible organization, and offered as a prize to players in the next game.

2.35 "Pull-tabs, punchboards, and tip jars" means any disposable card, board, ticket, or display which accords the player an opportunity to win something of value by opening, pulling, detaching, or otherwise removing or uncovering tabs or covers from the card, board, ticket, or display to reveal a set of numbers, letters, symbols, configurations, or combinations thereof which have been previously specified as a winning combination.

2.36 "Raffle" means any gaming in which each player buys a ticket for a chance to win a prize, with the winner determined by a random method. "Raffle" does not include slot machines.

2.37 "Reservation" means the Isabella Indian Reservation, including all lands lying within the outer boundaries of the six townships set aside for the Saginaw Chippewa Indian Tribe under the Treaty of August 2, 1855 and confirmed by the Treaty of October 18, 1864, notwithstanding the issuance of any patent and including rights-of-way running through such lands, and all other lands added thereto by Executive Order, Act of Congress, or otherwise under federal law.

For purposes of Class III gaming only, the term "Reservation" shall have the meaning contained in Section (2)(E) of the Class III compact between the Saginaw Chippewa Indian Tribe of Michigan and the State of Michigan for so long as that subsection is legally applicable by its own terms or under applicable law.

- 2.38** "State" means the State of Michigan.
- 2.39** "Tribal Commission" means the Saginaw Chippewa Gaming Commission described in Section 4 of this Code.
- 2.40** "Tribe" means and "Tribal" refers to the Saginaw Chippewa Indian Tribe of Michigan, a federally recognized Indian tribe acting through the duly elected Tribal Council pursuant to the tribal constitution and bylaws, unless the context clearly indicates a general meaning.
- 2.41** "Twenty-one", also known as "blackjack," means a card game played by a maximum of seven players and one dealer where each player plays his hand against the dealer's hand with the object of obtaining a higher total card value than the dealer by reaching 21 or as close to 21 as possible without exceeding that count. The cards have the following value:
- 2.41.1** Aces count either one or 11, at the player's option.
- 2.41.2** Kings, queens, and jacks each have a count of ten.
- 2.41.3** All other cards are counted at their face value.
- 2.42** "Wager" means the bet made or consideration or value given by a player in any game.
- 2.43** "Certificate of Rehabilitation" means the certificate issued by the Tribe when the Tribe has determined that a Tribal member who would otherwise be denied a license due to the Tribal member's background check is not likely again to engage in any offensive or criminal course of conduct and the public good does not require the Tribal member be denied a license as a key employee or primary management official pursuant to §4(D)(3) of the Compact.

Section 3. General Provisions.

- 3.1 Authority and Sovereign Powers and Responsibilities.** This Code is enacted pursuant to the inherent sovereign powers of the Tribe and the powers expressly delegated to the Tribal Council by Article VI of the Tribal Constitution.

3.2 Application of Federal Policy . In 1970 President Nixon announced the policy of the United States government to promote self-determination for Indian tribes. At the heart of this policy is a commitment by the federal government to foster and encourage tribal self-government, economic development, and self-sufficiency. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act, Public Law 93-638, 88 Stat. 2203, 25 U.S.C. §§450-450n. In 1983 President Reagan reaffirmed that commitment in his Indian policy statement, encouraged tribes to reduce their dependence on federal funds by generating more of their own revenues, and pledged to assist tribes in that endeavor.

In 1988 the federal commitment to promote tribal economic development, tribal self-sufficiency, and strong tribal government was expressly legislated in the Indian Gaming Regulatory Act ("IGRA"), Public Law 100-497, 102 Stat. 2426, 25 U.S.C. §§ 2701, et seq. (1988), which recognized the inherent sovereign right of tribes to operate and their exclusive right to regulate on Indian lands gaming which is not specifically prohibited by federal law and is conducted within a state which does not, as a matter of criminal law and public policy, prohibit such gaming, and provided a federal statutory basis for operation and regulation of Indian gaming.

3.3 Saginaw Tribal Policy of Self-Government. The Tribe is firmly committed to the principal of tribal self-government. Consistent with federal policy, tribal government provides a wide range of public services on the Reservation, including general governmental services, the maintenance of peace and good order, the establishment of educational systems and programs, and the promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

3.4 Title, Repeal of Prior Laws, and Effect of Repeal. This Code may be cited as the Saginaw Chippewa Gaming Code. The Code shall be appropriately inserted in the Saginaw Chippewa Tribal Code.

All ordinances of the Tribe and all titles, chapters, and sections of the Tribal Code that pertain to gaming and are in effect as of the effective date of this Code are hereby repealed, and all other tribal laws or parts thereof inconsistent with the provisions of this Code are hereby repealed.

Repeal of this Code or any portion thereof shall not have the effect of reviving any prior tribal law theretofore repealed or suspended.

3.5 Classes of Gaming. There are three classes of gaming on Indian lands under this Code:

3.5.1 "Class I Gaming" means

3.5.1.1 social gaming solely for prizes of minimal value; or

3.5.1.2 traditional forms of Indian gaming engaged in by individuals as a part of or in connection with tribal ceremonies or celebration.

3.5.2 "Class II Gaming" means

3.5.2.1 The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith), which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of the card covers such numbers or designations when objects similarly numbered or designated are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played at the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo; and

3.5.2.2 All card games operated by the Tribe prior to May 1, 1988.

3.5.2.3 All other card games explicitly authorized or not explicitly prohibited by the laws of the State and which are played at any location in the State, if played in conformity with State laws and regulations regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

3.5.3 "Class III Gaming" means all forms of gaming that are not Class I or Class II gaming.

3.6 Construction. In construing the provisions of this Code, unless the context otherwise requires, the following rules shall apply:

3.6.1 This Code shall be liberally construed to effect its purpose and to promote substantial justice.

3.6.2 Words in the present tense include the future and past tenses.

3.6.3 Words in the singular number include the plural, and words in the plural number include the singular.

3.6.4 Words of the masculine gender or neuter include masculine and feminine genders and the neuter.

3.7 Savings Clause. If any section of this Code is invalidated by a court of competent jurisdiction, the remaining sections shall not be affected thereby.

Section 4. Tribal Gaming Commission.

4.1 Establishment. The Tribe hereby charters, creates and establishes the Saginaw Chippewa Gaming Commission as a governmental subdivision of the Tribe.

4.2 Location and Place of Business. The Tribal Commission shall be a resident of and maintain its headquarters, principal place of business, and offices on the Reservation. The Tribal Commission may, however, establish other places of business in such other locations as the Tribal Commission may from time to time determine to be in the best interest of the Tribe.

4.3 Duration. The Tribal Commission shall have perpetual existence and succession in its own name, unless dissolved by the Tribe pursuant to Tribal law.

4.4 Attributes. As a governmental subdivision of the Tribe, the Tribal Commission has been delegated the right to exercise one or more of the substantial governmental functions of the Tribe, including regulation of tribal gaming pursuant to the IGRA and tribal law. It is the purpose and intent of the Tribe in creating the Tribal Commission that the operations of the Tribal Commission be conducted on behalf of the Tribe for the sole benefit and interests of the Tribe, its members, and the residents of the Reservation. In carrying out its purposes under this Code, the Tribal Commission shall function as an arm of the Tribe. Notwithstanding any authority delegated to the Tribal Commission under this Code, the Tribe reserves to itself the right to bring suit against any person or entity in its own right, on behalf of the Tribe or on behalf of the Tribal Commission, whenever the Tribe deems it necessary to protect the sovereignty, rights, and interests of the Tribe or the Tribal Commission.

4.5 Recognition as a Political Subdivision of the Tribe. The Tribe, on behalf of the Tribal Commission, shall take all necessary steps to acquire recognition of the Tribal Commission as a political subdivision of the Tribe, recognized by all branches of the United States Government as having been delegated the right to exercise one or more substantial governmental functions of the Tribe.

4.6 Sovereign Immunity of the Tribal Commission. The Tribal Commission is hereby clothed with all the privileges and immunities of the Tribe, except as specifically limited by this Title or other tribal law, including sovereign immunity from suit in any tribal, federal, or state court. Except as provided in this section, nothing in this Code nor any action of the Tribe or the Tribal Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribal Commission, or to be a consent of the Tribe or the Tribal Commission to the jurisdiction of the United States or of any state or any other tribe with regard to

the business or affairs of the Tribe or the Tribal Commission to any cause of action, case, or controversy, or to the levy of any judgment, lien or attachment upon any property of the Tribe or the Tribal Commission, or to be a consent of the Tribe or the Tribal Commission to suit in respect to any Indian land, or to be a consent of the Tribe or the Tribal Commission to the alienation, attachment, or encumbrance of any such land.

- 4.7 Sovereign Immunity of the Tribe.** All inherent sovereign rights of the Tribe as a federally recognized Indian tribe with respect to the existence and activities of the Tribal Commission are hereby expressly reserved, including sovereign immunity from suit in any tribal, federal or state court. Except as provided in section 4.8 below, nothing in this Code nor any action of the Tribal Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribe, or to be a consent of the Tribe to the jurisdiction of the United States or of any state or of any other tribe with regard to the business or affairs of the Tribal Commission or the Tribe, or to be a consent of the Tribe to any cause of action, case, or controversy, or to the levy of any judgment, lien, or attachment upon any property of the Tribe, or to be a consent to suit in respect to any Indian land, or to be a consent to the alienation, attachment, or encumbrance of any such land.
- 4.8 Waiver of Sovereign Immunity of the Tribal Commission.** Sovereign immunity of the Tribal Commission may be waived only by express resolutions of both the Tribal Commission and the Tribal Council after consultation with the Tribe's attorneys. All waivers of sovereign immunity must be preserved by resolution of the Tribal Commission and the Tribal Council of continuing force and effect. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Tribal Commission. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property, or funds, if any, of the Tribal Commission subject thereto, court having jurisdiction pursuant thereto, and law applicable thereto. Neither the power to sue and be sued provided in subsection 4.18.22 nor any express waiver of sovereign immunity by resolution of the Tribal Commission shall be deemed a consent to the levy of any judgment, lien, or attachment upon property of the Tribal Commission other than property specifically pledged or assigned, or a consent to suit in respect of any land within the exterior boundaries of the Reservation or a consent to the alienation, attachment, or encumbrance of any such land.
- 4.9 Credit of the Tribe or Tribal Commission.** Nothing in this Code nor any activity of the Tribal Commission shall implicate or any way involve the credit of the Tribe or the Tribal Commission.
- 4.10 Assets of the Tribal Commission.** The Tribal Commission shall have only those assets specifically assigned to it by the Council or acquired in its name by the Tribe or by the Tribal Commission on its own behalf. No activity of the Tribal

Commission nor any indebtedness incurred by it shall implicate or in any way involve or effect any assets of tribal members or the Tribe not assigned in writing to the Tribal Commission.

4.11 Membership.

4.11.1 Number of Commissioners. The Tribal Commission shall be comprised of four Commissioners appointed by the Tribal Council.

4.11.2 Qualification of Commissioners. Each Commissioner must be a member of the Tribe.

4.11.3 Background Check. Prior to the time that any Tribal Commission member takes office on the Tribal Commission, the Tribe shall perform or arrange to have performed a comprehensive background check on each prospective member. No person shall serve as a Commissioner if:

4.11.3.1 His prior activities, criminal record, if any, or reputation, habits or associations:

4.11.3.1.1 Pose a threat to the public interest; or

4.11.3.1.2 Threaten the effective regulation and control of gaming; or

4.11.3.1.3 Enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming; or

4.11.3.2 He has been convicted of or entered a plea of *nolo contendere* to a felony or any gaming offense in any jurisdiction or to a misdemeanor involving dishonesty or moral turpitude; or

4.11.3.3 He or any member of his immediate family has a financial interest in any gaming activity or facility other than per capita payments provided to Tribal members under an approved Revenue Allocation Plan in accordance with the Indian Gaming Regulatory Act 25 U.S.C. §2701 et seq and 25 C.F.R Part 290; or;

4.11.3.4 A member of his immediate family is employed as an employee in any tribal gaming except that the Commissioner may serve as a Commissioner if he is

recused from all proceedings involving such immediate family member

4.11.4 Date of Appointment. Each member of the Tribal Commission shall take office no later than one week after said member is appointed and licensed by the Tribal Council.

4.12 Term of Office. Each Commissioner shall be appointed for four-year terms. Commissioners may be reappointed to additional four year terms at the discretion of the Tribal Council.

4.13 Tribal Council Representation. The Tribal Chief or a designated member of the Tribal Council may attend meetings of the Tribal Commission, but shall not be a member of the Tribal Commission or vote in any decision of the Tribal Commission. No member of the Tribal Council shall concurrently serve as a member of the Tribal Commission.

4.14 Organization.

4.14.1 The Tribal Council shall appoint from among the members of the Tribal Commission a Chairperson. Such Chairperson may be appointed at any time during his or her Tribal Commission term and shall serve as Chairperson during the remaining length of his or her remaining Tribal Commission term, at which time the Chairpersonship shall end. However, Commissioners may be reappointed to successive Chairperson terms.

4.14.2 The Tribal Commission Chairperson shall perform all of the duties of a Gaming Commissioner, and in addition shall assume the following duties: conduct Tribal Commission meetings; direct work assignments among the Tribal Commissioners and Tribal Commission employees; establish Tribal Commission work priorities; implement and ensure compliance with all Tribal Commission operating policies, procedures and regulations; and, generally, manage all daily Tribal Commission activities, provided that in no event shall the Chairperson have the authority to take disciplinary actions against the remaining , Commissioners, other than issuing reprimands. All other disciplinary actions concerning Commissioners shall be decided by the Tribal Council.

4.14.3 The Tribal Commission shall develop its own operating procedures and shall assign a Commission staff person as a reporter to be responsible for keeping Tribal Commission minutes and transmitting to the Tribal Council a copy of those minutes, handling correspondence and reporting Tribal Commission decisions, and such other officers as the Tribal Council deems advisable.

4.15 Meetings.

4.15.1 Regular Meetings. The Tribal Commission shall hold at least one regular monthly meeting on a date determined by the Tribal Commission.

4.15.2 Special Meetings. Special meetings may be called at the request of the Tribal Council, the Chairperson of the Tribal Commission or 3 or more members of the Tribal Commission.

4.15.3 Compensation of Commissioners. Commissioners shall be compensated at a salary commensurate with their job responsibilities and duties.

4.15.4 Quorum. A quorum for all meetings shall consist of one less than the total number of Commissioners appointed, one of whom must be the Chairperson or Acting Chairperson of the Tribal Commission. If the Chairperson is unavailable due to unexpected or special circumstances, the Executive Council shall select from the remaining Commissioners an Acting Chairperson to perform the duties of the Chairperson in the absence of the Chairperson. Upon the Executive Council's determination that the Chairperson is able to resume the Chairperson's duties, the Commissioner's selection as Acting Chairperson shall terminate.

4.15.5 Voting. All questions arising in connection with the action of the Tribal Commission shall be decided by majority vote. The Chairperson of the Tribal Commission shall only be entitled to vote to break a tie.

4.16 Removal of Members or Vacancies.

4.16.1 Removal. A Commissioner may be removed by the Council for serious inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, misconduct in office, or for any conduct which threatens the honesty or integrity of the Tribal Commission or otherwise violates the letter or intent of this Code. Except as provided below, no Commissioner may be removed without notice and an opportunity for a hearing before the Council, and then only after the Commissioner has been given written notice of the specific charges at least ten business days prior to such hearing. At any such hearing, the Commissioner shall have the opportunity to be heard in person or by counsel and to present witnesses on his behalf. If the Council determines that immediate removal of a Commissioner is necessary to protect the interests of the Tribe, the Council may immediately remove the Commissioner temporarily, and the question of permanent removal shall be determined thereafter pursuant to Tribal Council Hearing. A written record of all removal proceedings together with the charges and findings thereon shall be kept by the Tribal Secretary. The decision of the Council upon the removal of a

Commissioner shall be final.

4.16.1.1 Reorganization of the Tribal Commission. The Tribal Council may, from time to time, reorganize the Tribal Commission which may include reducing or increasing the number of Tribal Commissioners provided that there shall be no less than three Commissioners appointed to the Commission. If the Tribal Council reduces the number of Tribal Commissioners, pursuant this subsection then Commissioner(s) may be released from their position(s) and the release of such Commissioner(s) shall not entitle the Commissioner(s) to a hearing.

4.16.2 Vacancies. If any Commissioner shall die, resign, be removed, or for any reason be unable to serve as a Commissioner, the Council shall declare his position vacant and shall appoint another person to fill the position. The terms of office of each person appointed to replace an initial Commissioner shall be for the balance of any unexpired term for such position, provided, however, that any prospective appointee must meet the qualifications established by this Code.

4.17 Conflict of Interest. No person shall be appointed or continue serving as a Commissioner if he has any personal, business, or legal relationship that creates a conflict of interest with his duties and responsibilities as a Commissioner.

4.18 Powers of the Tribal Commission. In furtherance, but not in limitation, of the Tribal Commission's purposes and responsibilities, and subject to any restrictions contained in this Code or other applicable law, the Tribal Commission shall have and is authorized to exercise by majority vote the following powers in addition to all powers already conferred by this Code:

4.18.1 To oversee the day-to-day operation of and to supervise, inspect and regulate all gaming activities within the jurisdiction of the Tribe.

4.18.2 To promote the full and proper enforcement of this Code and other applicable law regarding gaming activities within the jurisdiction of the Tribe.

4.18.3 To enact and enforce such rules and regulations regarding its activities and governing its internal affairs as the Tribal Commission may deem necessary and proper to effectuate the powers granted by this Code and the powers granted and duties imposed by applicable law.

4.18.4 To publish and distribute copies of this Code and Tribal Commission rules and any Council, Tribal Commission, or Tribal Court decisions regarding

gaming matters.

- 4.18.5** To prepare and submit for Council approval proposals, including budget and monetary proposals, which could enable the Tribe to better carry forth the policies and intent of this Code.
- 4.18.6** To work with the staff of any tribal department, program, project, or operation and to cooperate with the Tribal Council or any Council Committee in regard to gaming issues.
- 4.18.7** To make or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property, and the books, records, papers, vouchers, accounts, documents, and financial statements of any game or gaming activity operating, or suspected of operating, within the jurisdiction of the Tribe. In undertaking such examination or investigation, the Tribal Commission may request the assistance of tribal gaming staff, federal and local law officials, legal counsel, and other third parties.
- 4.18.8** To maintain and keep current a record of new developments in the area of Indian gaming.
- 4.18.9** To consider any gaming matter brought before it by any person, organization or business, and all matters referred to it by the Tribal Council.
- 4.18.10** To obtain and publish a summary of federal revenue laws relating to Gaming and to insure compliance with the same.
- 4.18.11** To arrange for training of Tribal Commission members, in areas relating to the regulation or operation of gaming.
- 4.18.12** Upon prior explicit written approval of the Council, to employ such advisors as it may deem necessary. Advisors may include, but shall not be limited to, law enforcement specialists and gaming professionals, the Tribe's general or special counsel, and the Tribe's accountants.
- 4.18.13** To promulgate rules and regulations to implement and further the provisions of this Code.
- 4.18.14** To approve or disapprove any application for a tribal gaming license.
- 4.18.15** To consult with and make recommendations to the Tribal Council

regarding changes in tribal gaming laws and policies.

- 4.18.16** To examine under oath, either orally or in writing, in hearings or otherwise, any person or agent, officer or employee of any person, or any other witness, with respect to any matters related to this Code, including enforcement of tribal gaming laws, regulations, and policies, and to compel by subpoena the attendance of witnesses and the production of any books, records, and papers with respect thereto.
- 4.18.17** When necessary or appropriate, to request the assistance and utilize the services of the courts, law enforcement and government officials and agencies, and private parties in exercising its powers and carrying out its responsibilities.
- 4.18.18** To delegate to an individual member or members of the Tribal Commission, or, with the approval of the Tribal Council, to Tribal Commission staff, such of its functions as may be necessary to administer this Code efficiently; provided that the Tribal Commission may not re-delegate its power to exercise any substantial governmental function of the Tribe or its power to promulgate rules and regulations; and provided further that the Tribal Commission may not delegate to anyone the power to permanently revoke a tribal gaming license.
- 4.18.19** To permanently close, after notice and hearing, any game or games which are operating in violation of tribal law.
- 4.18.20** To sue or be sued in courts of competent jurisdiction within the United States, subject to the provisions of this Code and other tribal laws relating to sovereign immunity; provided that no suit shall be brought by the Tribal Commission without the prior explicit written approval of the Tribal Council.
- 4.18.21** To use the seal of the Tribe with the approval of the Tribal Council.
- 4.18.22** To purchase, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, and use property and assets of every description, real and personal, tangible or intangible, including money, securities, or any interests therein, rights and services of any kind and description or any interest therein; provided that the Tribal Commission shall have authority to purchase any interest in real property, whether located on or off the Reservation, only with the express, prior written consent of the Tribal Council as to each

such action, and that title to such real property and property which is to become a fixture or permanent improvement or part of the real property shall be taken in the name of the Tribe or in the name of the United States in trust for the Tribe, and title to all trust and restricted real property shall remain in trust or restricted status.

- 4.18.23** To sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its personal property and assets.
- 4.18.24** To deal in inventions, copyrights, and trademarks; to acquire by application, assignment, purchase, exchange, lease, hire, or otherwise; and to hold, own, use, license, lease and sell, either alone or in conjunction with others, the absolute or any partial or qualified interest in and to inventions, improvement, letters patent and applications therefor, licenses, formulas, privileges, processes, copyrights and applications therefor, trademarks and applications therefor, and trade names, provided that title to all such interests shall be taken in the name of the Tribe.
- 4.18.25** With the prior permission of the Tribal Council, to borrow money and to make, accept, endorse, execute and issue bonds, debentures, promissory notes, guarantees, and other obligations of the Tribal Commission for moneys borrowed, or in payment for property acquired or for any of the purposes of the Tribal Commission and to secure payment of any obligations by secured interest, mortgage, pledge, deed, indenture, agreement, or other instrument of trust or by other lien upon, assignment of, or agreement in regard to all or any part of the property, rights, or privileges of the Tribal Commission.
- 4.18.26** To arbitrate, compromise, negotiate, or settle any dispute to which it is a party relating to the Tribal Commission's authorized activities.
- 4.18.27** To enter into, make, perform, and carry out any agreement, partnership, joint venture contract, or other undertaking with any federal, state, or local governmental agency, tribe, person, partnership, corporation, or other association or entity for any lawful purpose pertaining to the business of the Tribal Commission or which is necessary or incidental to the accomplishment of the purposes of the Tribal Commission.
- 4.18.28** To engage in any and all activities which directly or indirectly carry out the purposes of the Tribe as set forth in this Code.

- 4.18.29** With prior approval of the Tribal Council, to make application and accept grants and other awards from private and governmental sources in carrying out or furthering the purposes of the Tribal Commission or the Tribe.
- 4.18.30** To exercise all authority delegated to it or conferred upon it by law and to take all action which shall be reasonably necessary and proper for carrying into execution the foregoing powers and all of the powers vested in this Code as permitted by the purposes and powers herein stated and which are deemed to be in the best interests of the Tribe, exercising prudent management and good business judgment, all in compliance with applicable law.
- 4.18.31** With prior approval of Tribal Council, to establish and maintain such bank accounts as may be necessary or convenient.
- 4.18.32** To require by regulation the filing of any records, forms, and reports and all other information desired by the Council for implementation of this Code relating to any gaming activity or operation or any investigation as required by tribal law and the IGRA.
- 4.18.33** To provide for an internal system of record keeping with adequate safeguards for preserving confidentiality as deemed necessary by the Tribal Commission. All applications, background investigations and Tribal Commission decisions shall be retained in Tribal Commission files for a period that is consistent with federal guidelines.
- 4.18.34** To adopt a schedule of fees to be charged for gaming licenses issued pursuant to this Code.
- 4.18.35** To adopt a schedule of fees and charges for services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files, and records.
- 4.18.36** To conduct background investigations of all persons who propose to participate in any gaming activity or operation.
- 4.18.37.** To compel obedience of its lawful orders by proceedings of mandamus or injunction or other proper proceedings in the name of the Tribe in Tribal Court or in any other court having jurisdiction of the parties and of the subject matter; provided that no suit shall be brought by the Tribal Commission without the prior explicit written approval of the Tribal Council after consultation with the

Tribal attorneys.

4.18.38 To discipline any licensee or other person participating in any gaming activity by ordering immediate compliance with this Code or Tribal Commission regulations and to issue an order of temporary suspension of any license issued under this Code, whenever the Tribal Commission is notified of a violation by any such person of this Code or any other applicable law.

4.18.39 To issue an order of temporary closure of any gaming activity or operation in the event the Tribal Commission determines that immediate closure is necessary to protect assets or interests of the Tribe, pursuant to Tribal Commission regulations, or whenever the Tribal Commission shall receive information from the National Indian Gaming Commission that a primary management official or key employee does not meet the standards for being licensed under the IGRA.

4.18.40 To become self-regulating whenever the Tribe becomes eligible for a certificate of self-regulation under the IGRA.

4.19 Annual Budget. The Tribal Commission shall prepare an annual operating budget for all Tribal Commission activities and present it to the Council each year by a date determined by the Council.

4.20 Tribal Commission Regulations.

4.20.1 Tribal Commission regulations necessary to carry out the orderly performance of its duties and powers shall include, but shall not be limited to:

4.20.1.1 Internal operational procedures of the Tribal Commission and its staff;

4.20.1.2 Interpretation and application of this Code as may be necessary to carry out the Tribal Commission's duties and exercise its powers;

4.20.1.3 A regulatory system for all gaming activity, including accounting, contracting, management, and supervision;

4.20.1.4 The findings of any reports or other information required by or necessary to implement this Code; and

4.20.1.5 The conduct of inspections, investigations, hearings,

enforcement actions, and other powers of the Tribal Commission authorized by this Code.

4.20.2 No regulation of the Tribal Commission shall be of any force or effect unless it is adopted by the Tribal Commission by written resolution and subsequently approved by a resolution of the Tribal Council and filed in the office of Tribal Clerk.

4.20.3 The Tribal Court and any other court of competent jurisdiction shall take judicial notice of all Tribal Commission regulations adopted pursuant to this Code.

4.21 Right of Entrance; Monthly Inspection. The Tribal Commission and duly authorized officers and employees of the Tribal Commission, during regular business hours, may enter upon any premises of any gaming operator or gaming facility for the purpose of making inspections and examining the accounts, books, papers, and documents of any such gaming operator or gaming facility. Such gaming operator shall facilitate such inspection or examinations by giving every reasonable aid to the Tribal Commission and to any properly authorized officer or employee.

A Commissioner or a member of the Tribal Commission's staff shall visit each tribally owned or tribally operated gaming facility at least once every two weeks during normal business hours for the purpose of monitoring its operation. Such visits shall be unannounced.

4.22 Investigations. The Tribal Commission, upon complaint or upon its own initiative or whenever it may deem it necessary in the performance of its duties or the exercise of its powers, may investigate and examine the operation and premises of any person who is subject to the provisions of this Code. In conducting such investigation, the Tribal Commission may proceed either with or without a hearing as it may deem best, but it shall make no order without affording any affected party notice and an opportunity for a hearing pursuant to Tribal Commission regulations.

4.3 Hearings; Examiner. Pursuant to regulations, the Tribal Commission may hold any hearing it deems to be reasonably required in administration of its powers and duties under this Code. Whenever it shall appear to the satisfaction of the Tribal Commission that all of the interested parties involved in any proposed hearing have agreed concerning the matter at hand, the Tribal Commission may issue its order without a hearing.

The Tribal Commission may designate one of its members to act as examiner for the purpose of holding any such hearing or the Tribal Commission may appoint another person to act as examiner under section 4.24 below. The Tribal

Commission shall provide reasonable notice and the right to present oral or written testimony to all people interested therein as determined by the Tribal Commission.

- 4.24 Appointment of Examiner; Power of Examiner.** The Tribal Commission may appoint any person qualified in the law or possessing knowledge or expertise in the subject matter of the hearing to act as examiner for the purpose of holding any hearing which the Tribal Commission or any member thereof has power or authority to hold. Any such appointment shall constitute a delegation to such examiner of all powers of a Commissioner under this Code with respect to any such hearing.
- 4.25 Bank Account for Tribally Owned or Tribally Managed Gaming Facility.** The Tribal Commission shall ensure that the Tribe opens a separate bank account for each tribally owned or tribally managed gaming activity, and all money of such facility shall be deposited in that account.
- 4.26 Quarterly Report of CEO.** The Tribal Commission shall file a quarterly report with the Council summarizing reports received from the CEO of tribally owned or managed gaming activity and make such comments as it deems necessary to keep the Council fully informed as to the status of its various gaming activities.

Section 5. Gaming Operator Licenses.

- 5.1 Applicability.** This Code applies to all persons engaged in gaming within the jurisdiction of the Tribe. Any application for license pursuant to this Code and participation in any gaming activity within the jurisdiction of the Tribe shall be deemed to be a consent to the jurisdiction of the Tribe and Tribal Court in all matters arising from the conduct of such gaming and all matters arising under any of the provisions of this Code or other tribal laws, PROVIDED, that the provisions of this section are not and shall not be deemed or construed to be a waiver of the Tribe's sovereign immunity from suit in any federal, state or tribal court.
- 5.2 License Required.** No person shall operate Class II or Class III gaming within the jurisdiction of the Tribe unless such gaming is licensed by the Tribe. A separate tribal gaming license shall be obtained for each game authorized by Section 10.
- 5.3 Types of Licenses.** The Tribal Commission shall issue each of the following types of gaming licenses:
- 5.3.1 Tribally Owned or Tribally Operated Class II.** This license shall be required of all tribally owned or tribally operated gaming activity operating one or more Class II games of chance.

5.3.2 Tribally Owned or Tribally Operated Class III. This license shall be required for all tribally owned or operated gaming activity operating any games of chance other than Class I or Class II gaming.

5.4 No License Requirement for Class I Gaming. A tribal license shall not be required for any Class I gaming activity provided, however, that each Class I gaming activity or operation must have written permission of the Tribal Commission, and such permission must be on file with the Tribal Secretary before any such Class I gaming is conducted.

5.5 Application Procedures.

5.5.1 Application for Gaming License. For any proposed Class II or Class III gaming activity, the Council shall file with the Tribal Commission an application for a tribally owned or tribally operated Class II or Class III gaming license, whichever is appropriate, which shall contain the name of the proposed enterprise, its location, and all other pertinent information required by this Code and Tribal Commission regulations.

5.5.2 Tribally Owned and Tribally Operated Class II. Before issuing a license to a tribally owned or operated Class II gaming activity the Tribal Commission shall:

5.5.2.1 Review the proposed gaming activity to ensure that all criteria required by this Code shall be met.

5.5.2.2 Perform the necessary background checks on management contractors, primary management officials, and key employees required by this Code.

5.5.2.3 Review and approve the accounting policies to be used in such gaming activity.

5.5.2.4 Take any additional steps necessary to ensure the integrity of such gaming activity.

5.5.3 Tribally Owned and Tribally Operated Class III. Before issuing a license to a tribally owned or operated Class III gaming activity the Tribal Commission shall:

5.5.3.1 Review the proposed gaming activity to ensure that all criteria required by this Code shall be met.

5.5.3.2 Perform the necessary background checks on management contractors, primary management officials, and key employees

required by this Code.

5.5.3.3 Review and approve the accounting policies to be used in such gaming activity.

5.5.3.4 Take any additional steps necessary to ensure the integrity of such gaming activity.

5.5.3.5 Review all aspects of the proposed gaming operation to ensure that it will be in compliance with the provisions of the applicable tribal-state gaming compact.

5.6 Criteria Which a Potential Gaming Operator Must Meet. The Tribal Commission shall issue the above license to any tribally owned or tribally operated Class II or Class III proposed gaming activity only if all of the following criteria are met:

5.6.1 The proposed gaming activity is to be conducted on "Indian lands," as the term is defined under Section 2703(4) of the Indian Gaming Regulatory Act (25 USC §§ 2701-2721) and Section 2 (B) of the Tribal-State Compact between the Tribe and the State of Michigan.

5.6.2 The proposed gaming activity is to be played as Class II gaming as defined by this Code and the IGRA or as Class III gaming authorized by a tribal-state gaming compact.

5.6.3 The proposed gaming activity is authorized by a Tribal Council resolution.

5.6.4 The Tribe will have the sole proprietary interest and the exclusive responsibility for the conduct of the proposed gaming activity, or if the Tribe does not have the sole proprietary interest, the management contract for such gaming is consistent with this Code, tribal or federal law and is properly approved by the National Indian Gaming Commission.

5.6.5 The Tribal Council resolution authorizing the proposed gaming activity provides that:

5.6.5.1 The revenues of the proposed gaming activity shall be audited annually and copies of those audits will be provided to the Tribal Commission and the National Indian Gaming Commission.

5.6.5.2 The proposed gaming activity shall comply with all IRS reporting and filing requirements.

5.6.5.3 All of the net proceeds of the proposed gaming activity shall be

used for the purposes stated in section 9.2.

5.6.5.4 All contracts for supplies, services, or concessions for an amount in excess of \$25,000 annually (except contracts for legal and consulting services) may be subject to an annual independent audit.

5.6.5.5 The construction or maintenance of the gaming facility and the operation of the proposed gaming activity shall be conducted in a manner which the Tribal Commission finds will adequately protect the environment and the public health and safety.

5.6.5.6 The CEO, primary management officials, and key employees have passed the background investigations and obtained the tribal gaming employee licenses required by this Code. Each application must state in writing that all future management officials and key employees will be required to pass background investigations and obtain tribal gaming employee licenses.

5.6.5.7 The Tribal Commission shall have the authority to regulate the proposed gaming activity.

5.6.5.8 The proposed gaming activity shall pay to the National Indian Gaming Commission such fees as federal law may require to be paid.

5.6.5.9 If the gaming activity is Class III gaming, such gaming activity meets all other criteria established by the tribal-state gaming compact.

5.7 License Application Fees. No application fee shall be required for a tribally owned or tribally operated Class II or Class III gaming activity.

5.8 License Tax. No annual license tax shall be required for a tribally owned or tribally operated Class II or Class III gaming operation.

5.9 Form of Gaming License. Every gaming license issued by the Tribal Commission shall include the name and address of the authorized licensee and the signature of an authorized officer of the Tribal Commission.

5.10 Scope of Gaming License. A gaming license issued by the Tribal Commission shall be effective only for the gaming activity and location specified in the application. Such license may be transferred only upon prior approval of the Tribal Commission upon written request that details the proposed new gaming activity, its location, and proposed gaming operator.

- 5.11 Terms of License.** A tribally owned and tribally operated Class II and Class III gaming license shall be valid for a period of one year from the date of issuance.
- 5.12 Posting of Licenses.** Each gaming operator shall post its tribal gaming license in a conspicuous location at the gaming operator's gaming facility. If a gaming operator has more than one gaming facility, the gaming operator must obtain and post a separate license for each gaming facility. A gaming operator licensed to sell raffle tickets outside a gaming facility shall carry a copy of the gaming license under which such person is employed.
- 5.13 Gaming License Renewals.** Each tribal gaming license must be renewed annually. No renewal fee shall be required for a tribally owned or tribally operated Class II or Class III license. In order to obtain a renewal of a license, the gaming operator shall submit a written renewal application to the Tribal Commission on the form provided by the Tribal Commission. No renewal application shall be approved until the annual report required by section 5.14 has been properly filed. All renewal applications submitted by a tribally owned Class II or Class III gaming activity shall be approved within a reasonable time unless the Tribal Commission determines, based on reasonable grounds, that the enterprise has been or will be operated in violation of tribal, federal, or other applicable law or the terms of the tribal-state gaming compact.
- 5.14 Annual Reports.** Each gaming operator who possesses a Class II or Class III tribal gaming license must file an annual report with the Tribal Commission and the Tribal Council between the 15th day and the last day of the 12th month of the duration of each such license. The report shall be submitted to the Tribal Commission on the annual report form provided by the Tribal Commission and shall include the following information:
- 5.14.1** The name, address, and telephone number of the gaming operator;
 - 5.14.2** The names, addresses, and titles of its current CEO, and all submanagers;
 - 5.14.3** A description of each gaming activity that it is operated and the total gross proceeds of each;
 - 5.14.4** A written copy of any changes the gaming operator proposes to initiate in its rules of play;
 - 5.14.5** A brief statement of the dates and times during which the gaming activity will be operated during the next license period;
 - 5.14.6** The name and address of the person who will be the CEO, if any, and the names and addresses of all persons who will be the primary management officials during the next license period;

- 5.14.7** A statement of any anticipated changes in the CEO or in the primary management officials or key employees who will operate the gaming activity over the next license period;
- 5.14.8** The names and addresses of any employees who the Tribal Commission may determine to be key employees during review of the application;
- 5.14.9** Written proof that the gaming operator has paid to the National Indian Gaming Commission such fees as federal and tribal law may require it to pay, and will continue to do so;
- 5.14.10** A sworn statement that the gaming operator has complied with the Internal Revenue Code and regulations, including written notice of customer winnings, and a statement that the gaming operator shall continue to obey all tribal and applicable federal laws;
- 5.14.11** The description of any location at which the gaming activity has been conducted and any new location which is expected to be established during the next license period;
- 5.14.12** The number of full-time equivalent persons, on an annualized basis, employed by the operation during the past 12 months, together with a projection of the number of full-time equivalent persons who are expected to be employed during the next license period;
- 5.14.13** The total gross proceeds of the gaming operator attributable directly or indirectly to tribally licensed gaming activity over the proceeding 12 months;
- 5.14.14** A sworn statement that the gaming operator will continue to comply with all tribal and federal laws applicable to the gaming operator's gaming operation;
- 5.14.15** A sworn statement that the gaming operator and all of its key employees and management contractors continue to consent to Tribal Court jurisdiction and service of process in all matters arising from the conduct of tribally licensed gaming activity;
- 5.14.16** The name, address, and signature of the agent who will accept service of process on behalf of the gaming operator, who must reside on the Reservation; and
- 5.14.17** If the gaming operator is a corporation, a copy of any amendment to its articles of incorporation, properly certified by the

incorporating government, unless a current copy has already been filed with the Tribal Commission.

5.15 Procedure to Remedy Gaming License Violation. If the Tribal Commission finds that a tribally owned or operated gaming activity is being operated in violation of this Code or otherwise presents a threat to the Tribe or to the public, the Tribal Commission shall immediately take all necessary steps to bring such activity into compliance, including, but not limited to, closing down such activity temporarily or permanently pursuant to enforcement procedures and regulations duly promulgated by the Tribal Commission under this Code. Nothing contained in this Section or in this Code shall be construed as limiting, restraining or effecting a waiver of the Tribe or the Tribal Council's right and authority to take appropriate action to remedy any gaming violation pursuant to tribal and federal law.

Section 6. Gaming Employee Licenses.

6.1 Current and Valid Gaming Employee License Required. Every primary management officials and key employees of any Class II or Class III gaming activity subject to this Code shall possess a current, valid gaming employee license.

6.2 Application for Gaming Employee License.

6.2.1 A person seeking a tribal gaming employee license must be at least 18 years of age. All applicants shall submit an application to the Tribal Commission on such form and in such manner as the Tribal Commission may require.

6.2.2 Such application shall include, at a minimum, the following information:

6.2.2.1 The applicant's full name, including all other names used, oral or written, social security number(s), place of birth, date of birth, citizenship, gender, all languages (spoken or written) and driver's license number(s) including any other driver's license numbers used throughout the past five years and current telephone number. The applicant shall also provide the applicant's address(es) of his or her personal residences over the past five years.

6.2.2.2 The name, address, and telephone number of the gaming facility and of the gaming operator for whom the applicant intends to work and the specific location in which the applicant will be employed.

6.2.2.3 The name and job description of the applicant's position.

- 6.2.2.4** The names and addresses of the applicant's living parents, grandparents, spouse, children, brothers, and sisters.
- 6.2.2.5** A statement as to whether or not the applicant has ever been charged with a crime, and if so, the charge, the name and address of the court involved, and the applicant's explanation of the outcome of the case, including the date of final disposition.
- 6.2.2.5.1** 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;
- 6.2.2.5.2** For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 5 years of the date of the application, the name and address of the court involved and the date and disposition, if any;
- 6.2.2.5.3** 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 sections 6.2.2.5.1 or 6.2.2.5.2 of this Code, the criminal charge, the name and address of the court involved and the date and disposition.
- 6.2.2.6** The names, current addresses, and telephone numbers of at least three personal references, who are not related to the applicant, including at least one personal reference who was acquainted with the applicant when the applicant was residing at each of the addresses listed in subsection 6.2.2.1.
- 6.2.2.7** A list of the applicant's current and previous jobs employment positions held over the preceding five years, including the name(s), address(es) and telephone number(s) of his employer(s), and the position(s) held.
- 6.2.2.8** The name(s), addresses, telephone number(s) and a brief description of all businesses in which the applicant currently holds a position with, or has within the last five years held a position with, and detailing any ownership interest in those businesses.
- 6.2.2.9** A description of any existing and previous business relationship(s) with an Indian tribe, including any employee position held, name

of the tribe involved and the name and address of a person who can attest to the accuracy of the information provided.

- 6.2.2.10** A description of any existing and/ current or previous business relationships the applicant has had with an Indian tribe, including the name of the tribe involved, and any ownership interests in those businesses, and the name and address of a person who can attest to the accuracy of the information provided.
- 6.2.2.11** A description of any existing and previous business relationships with the gaming industry, generally, including ownership interests in those businesses. If this section is applicable, the applicant shall provide a written statement describing his position, the dates during which that position was held, a description of the applicant's ownership interest or job responsibilities, the name, address, and phone number of the business, and the name of a person who can attest to the accuracy of the information provided.
- 6.2.2.12** A list of all gaming-related licenses or permits the individual has ever applied for, whether or not those licenses or permits were granted, and the name, address, and phone number of any licensing or regulatory agency involved.
- 6.2.2.13** A list of all occupational licenses or permits the applicant has applied for, whether or not those licenses were granted, and the name, address, and phone number of the regulatory agency involved.
- 6.2.2.14** A statement of all languages written or spoken.
- 6.2.2.15** A sworn statement that neither the applicant nor any member of his immediate family has a past or current financial interest, other than a salary interest, in any gaming-related enterprise anywhere. If the applicant has any relative who has such a relationship, the applicant shall fully disclose that relative's name and the nature of the relationship.
- 6.2.2.16** Written permission giving the Tribal Commission or its Designee the right to investigate the applicant's background, including his criminal record, civil and

criminal judgments, and credit history.

6.2.2.17 A complete disclosure of any pending or anticipated civil or criminal action against the applicant, including the name and address of the police department and court involved.

6.2.2.18 A disclosure of any civil or criminal judgments rendered against the applicant, including the case number, a description of the judgment, and the name and address of the court involved.

6.2.2.19 Any other information which might bring into question his fitness to serve as a primary management official or key employee of a licensed gaming operation.

6.2.3 Each application shall be accompanied by a sworn statement that if the license is issued, the applicant will submit to the jurisdiction of the Tribe and the Tribal Court.

6.2.4 Each application shall be accompanied by a photograph of the applicant taken within the last year.

6.2.5 Each application shall be accompanied by a sworn statement that the applicant will abide by this Code and all other applicable laws.

6.2.6 Each application shall be accompanied by a written statement that the applicant has read, understands and approves of the following Privacy Act notice:

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 granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the tribe or the NIGC 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 issuance, denial 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 license you for a primary management official or key employee position.

A false statement on any part of your license application shall be grounds for denying a license or the suspension or revocation of a license.

Any update to the Federal Privacy Policy shall be considered adopted by this Code.

- 6.2.7** Each application for a gaming employee license shall be accompanied by a non-refundable application fee in an amount established by the Tribal Commission by regulation pursuant to this Code.
- 6.2.8** The disclosure of an applicant's social security number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing the application.
- 6.2.9** Each applicant shall provide fingerprints consistent with procedures adopted by the Tribe.

6.3 Review Procedure for Gaming Employee License Application. Before issuing a gaming employee license, the Tribal Commission shall:

- 6.3.1** Perform or arrange to have performed the necessary background investigation of the applicant required by this Code and sufficient to make an eligibility determination. Such investigation shall include contacting each reference provided in the application, a review of the applicant's prior activities, the applicant's criminal record, if any, and reputation, habits and associations and shall take all appropriate steps to verify the accuracy of information contained in the application. The applicant's fingerprints will be taken by a Saginaw Chippewa Tribal representative and forwarded on to the appropriate federal agencies for a criminal record search. In conducting a background investigation, the identity of each Person interviewed in the course of the investigation shall be kept confidential consistent with the Tribal Commission's confidentiality policies. The applicant shall be notified in writing of the Tribal Commission's decision. If the Tribal Commission votes to deny the gaming employee license, it shall include in such notice the specific reasons for its decision.
- 6.3.2** Create and maintain an investigative report on each background investigation which shall include:
 - 6.3.2.1** Steps taken in conducting a background investigation;

6.3.2.2 Results obtained;

6.3.2.3 Conclusions reached;

6.3.2.4 The basis for those conclusions; and

6.3.2.5 Any other requirement for the granting of a gaming employee license required by this Code.

6.3.3 The Tribal Commission or its delegate shall prepare a written report of the findings and conclusions of the investigation.

6.3.4 The Tribal Commission shall then review the findings and conclusions and either grant or deny the gaming Employee License.

6.3.4.1 Within 30 days after the issuance of a gaming employee license, the Tribal Commission shall notify the National Indian Gaming Commission of its issuance.

6.3.4.2 If the Tribal Commission does not license an applicant, it shall forward copies of its determination and notice of results to the National Indian Gaming Commission.

6.3.5 A notice of the results of the applicant's background investigation and the Tribal Commission's findings and decision will be forwarded to the National Indian Gaming Commission no later than sixty (60) days after the applicant begins work. The notice of results shall contain:

6.3.5.1 Applicant's name, date of birth, and social security number;

6.3.5.2 Date on which applicant began or will begin work as a key employee or primary management official;

6.3.5.3 A summary of the information presented in the investigative report, which shall at a minimum include a listing of:

6.3.5.3.1 Licenses that have previously been denied;

6.3.5.3.2 Gaming Licenses that have been revoked, even if subsequently reinstated;

6.3.5.3.3 Every known criminal charge brought against the applicant within the last 10 years of the date of application; and

6.3.5.3.4 Every felony of which the applicant has been convicted or any ongoing prosecution.

6.3.5.4 A copy of the eligibility determination made under section 6.3.4.

6.3.6 After the Tribal Commission has provided the notice of results of the background check to the National Indian Gaming Commission, the Tribal Commission may license a primary management official or key employee subject to 6.3.7.

6.3.7 If, within 30 days from the time the Tribal Commission provides the notice of the results to the National Indian Gaming Commission as set forth in section 6.3.5, the National Indian Gaming Commission provides the Tribe with objections to the issuance of a gaming employee license to a key employee or to a primary management official applicant, then the Tribal Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission.

6.3.7.1 Upon receipt of the National Indian Gaming Commission's objections, the Tribal Commission shall immediately suspend the gaming employee license and shall provide the licensee with written notice of suspension and proposed revocation. If the Tribal Commission has issued the gaming employee license to the primary management official or key employee applicant prior to receiving the National Indian Gaming Commission's statement of objections, the licensee shall be entitled to notice and hearing in accordance with section 6.10 of this Code.

6.3.7.1.1 The Tribal Commission shall notify the primary management official or the key employee of a time and place for a hearing on the proposed revocation of the gaming employee license.

6.3.7.1.2 A right to a hearing under this part shall only vest upon receipt of a gaming license under this Code.

6.3.7.2 After considering the National Indian Gaming Commission's objections, the Tribal Commission shall make the final decision whether to not issue or to revoke a gaming employee license. The Tribal Commission shall notify the National Indian Gaming Commission of its decision within 45 days of receiving notification from the National Indian Gaming Commission.

6.3.8 All applications (including all of the information contained in section 6.2

of this Code),, background checks, and Tribal Commission decisions shall be retained in the Tribal Commission files in accordance with the standards provided set forth in 25 CFR Part 558.

6.4 Standards For Denial of A Key Employee or Primary Management Official License. The Tribal Commission shall not license, hire, or employ as a key employee or primary management official in connection with Class II or Class III gaming, any person who:

6.4.1 Is under the age of 18; or,

6.4.2 Has been convicted of or entered a plea of guilty or no contest to any of the following:

6.4.2.1 a gambling-related offense; or

6.4.2.2 a criminal offense involving fraud or misrepresentation. For the purposes of this section, fraud and misrepresentation shall mean a criminal offense committed in any jurisdiction, involving theft, fraud or misrepresentation, which is a felony or would be a felony if committed in Michigan, and which was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from the Person's criminal record by executive pardon, state court order or operation of law; or

6.4.3 Has been convicted of or entered a plea of guilty or no contest to any offense not specified in section (6.4.2) within the immediately preceding five years;

6.4.3.1 For the purposes of this section, the term any offense shall mean:

6.4.3.1.1 Any criminal offense not described in section 6.4.2 whether committed in the State of Michigan or any other jurisdiction; and

6.4.3.1.2 That is or would be a crime under the provisions of the Michigan Penal Code, Act No. 328 of the Public Acts of 1931, as amended, being MCL750.1-750.568, or the controlled substance provisions of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, being MCL 333.7101 to 333.7545; or

6.4.3.1.3 Any other criminal offense not specified in section 6.4.2 involving theft, dishonesty, fraud or

misrepresentation arising under the law of any jurisdiction that was committed as an adult or prosecuted as an adult offense and which has not been effectively removed from the Person's criminal record by executive pardon, state court order or operation of law.

6.4.3.2 this section shall not apply if that person has been pardoned by the Governor of the State where the conviction occurred or,

6.4.3.3 if the person is a Tribal member, has been determined by the Tribal Commission to be a person who is not likely again to engage in any offensive or criminal course of conduct and the public good does not require that the applicant be denied a license as a key employee or primary management official and has received a Certificate of Rehabilitation; or

6.4.4 the Tribal Commission determines, after notice and hearing, that the person has participated in organized crime or unlawful gambling or is a person whose prior activities, criminal record, reputation, habits, and/or 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 and methods and activities in the conduct of gaming or to the carrying on of the business and financial arrangements incidental to the conduct of gaming or

6.4.5 is found to have supplied false or misleading information or has omitted material information on his license application.

6.4.6 Provided further that the Tribal Commission may, by regulations, add additional limitations and conditions for denial of said license.

6.5 **Scope of Gaming Employee License.** A gaming employee license shall be effective only for the person to whom it is issued and only with respect to the gaming facility specified in the application.

6.6 **Licensing Period.** An employee gaming license issued pursuant to this Code shall be effective for a period of one year from the date of issuance and shall state on its face the date that the license became effective and the date that it expires.

6.7 **Renewals.** A holder of an gaming employee license shall apply to the Tribal Commission for a renewal before his original license has expired, updating all information contained in the original application.

6.8 **Requirement to Produce License Upon Request.** Any person receiving an

gaming employee license must carry that license upon his person during all working hours and must produce that license upon the request of any law enforcement official with jurisdiction over the gaming activity or any agent of the Tribe, the Tribal Commission, or the National Indian Gaming Commission.

6.9 Permanent Revocation of Gaming Employee License.

6.9.1 Grounds for Permanent Revocation. The Tribal Commission may permanently revoke a gaming employee license, after notice and an opportunity for a hearing, for any of the following reasons:

- 6.9.1.1** The employee has withheld pertinent information on his application;
- 6.9.1.2** The employee has made false statements on the application;
- 6.9.1.3** The employee has participated in gaming activity which was not authorized by any tribal gaming license;
- 6.9.1.4** The employee has attempted to bribe a Tribal Council member, Tribal Commissioner, or other person in an attempt to avoid or circumvent this Code or any other applicable law;
- 6.9.1.5** The employee has offered something of value or accepted a loan, financing, or other thing of value from a Tribal Commission member a subordinate employee or any person participating in any gaming activity;
- 6.9.1.6** The employee has knowingly promoted, played, or participated in any gaming activity operated in violation of this Code or any other applicable law;
- 6.9.1.7** The employee has been knowingly involved in the falsification of books or records which relate to a transaction connected with the operation of gaming a activity;
- 6.9.1.8** The employee has violated any provision of this Code or the rules and regulations of the Tribal Commission;
- 6.9.1.9** The employee has been convicted of, or has entered a plea of *nolo contendere* to, any crime involving gaming, fraud, theft, embezzlement, or other activity which, if perpetrated at the employee's place of employment, would injure or pose a threat to the public interest, or the integrity of the gaming activity, or the effective regulation of gaming or enhance the dangers of unfair,

unsuitable, or illegal gaming practices;

6.9.1.10 The employee has been convicted of, or entered a plea of *nolo contendere* to, a crime involving the sale of illegal narcotics or controlled substances;

6.9.1.11 The employee has failed to comply with any lawful order, inquiry or directive of the Tribal Commission, the Tribal Council, or any administrative or judicial body of competent jurisdiction, arising from any gaming activity whether or not subject to this Code; or

6.9.1.12 The employee is determined to have present or prior activities, including criminal record, or reputation, habits or associations which 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.

6.9.2 Procedure for Permanent Revocation. Whenever, the Tribal Commission has reasonable cause to believe that an employee has violated any of the conditions in section 6.9.1. or has failed to comply with any condition of his tribal gaming license, or has failed to obtain a license, the Tribal Commission or its Designee may either undertake an investigation, or serve upon such employee an order to show cause why the employee's license should not be revoked, or why the employee should not be enjoined from conducting gaming activities within the jurisdiction of the Tribe. The order shall state the grounds for which such revocation or injunction is sought and that the employee shall have an opportunity to present testimony and to cross examine opposing witnesses, and to present any other evidence as to why revocation or injunction should not be issued. The hearing shall be set for not less than ten business days nor more than 14 business days from the date of notice. The hearing shall be governed in all respects in accordance with tribal law and Tribal Commission regulations.

6.10 Temporary Suspension of Gaming Employee License.

6.10.1 Grounds for Temporary Suspension. The Tribal Commission may temporarily suspend a gaming employee license for not more than thirty days for any of the following reasons:

6.10.1.1 The employee has been charged with a violation of any gaming law;

- 6.10.1.2 The employee's continued employment as a primary management official or key employee of a game or gaming activity poses a threat to the general public;
- 6.10.1.3 The employee has made a material false statement in his license application;
- 6.10.1.4 The employee has participated in gaming activity unauthorized by his tribal gaming license;
- 6.10.1.5 The employee has refused to comply with any lawful order of the Tribal Commission, the Tribal Council, the Tribal Court, or the National Indian Gaming Commission arising from or relating to gaming.

6.10.2 Immediate Temporary Suspension. Upon receipt of notification from the National Indian Gaming Commission pursuant to 25 C.F.R. § 558.4 that reliable information exists that a primary management official or key employee is not eligible for employment, the Tribal Commission shall immediately suspend the employee's gaming employee license. The Tribal Commission shall provide notification to the gaming employee of the suspension and proposed revocation and the time and place for hearing under section 6.10.3 below.

6.10.3 Procedure for Temporary Suspension. Whenever the Tribal Commission has reasonable cause to believe that a person has violated any of the conditions in subsections 6.10.1, or has failed to comply with any condition of his employee gaming license or of this Code constituting a direct and immediate threat to the peace, safety, morals, or health or welfare of the community, or whenever the Tribal Commission receives the notification referred to in section 6.10.2, the Tribal Commission or its Designee shall issue a written notice of temporary suspension of such person's gaming employee license, which shall be served upon the employee. The notice shall state the grounds upon which such temporary suspension is ordered and that the employee shall have an opportunity to present testimony and to cross-examine opposing witnesses, and to present any other evidence as to why suspension should not issue. The employee shall immediately cease and desist operating in his capacity as primary management official or a key employee upon receipt of the order, but such person may file a notice of appeal with the Tribal Commission within five business days of such receipt. Upon receipt of such notice of appeal, the Tribal Commission shall hold a hearing on the order within fourteen calendar days of its receipt of the appeal. At the hearing, the employee shall have the opportunity to present testimony and cross-examine witnesses, and present any other evidence as to why temporary suspension

order should not be issued. Such hearing shall be governed in all respects by tribal law and Tribal Commission regulations.

6.10.4 Upon conclusion of the hearing in section 6.10.3, the Tribal Commission shall decide to revoke or reinstate the Gaming Employee License. The Tribal Commission shall notify the National Indian Gaming Commission of its decision within 45 days of receiving the notification from the National Indian Gaming Commission referenced in section 6.10.2 above.

Section 7. Provisions of General Applicability to All Gaming Operators.

- 7.1** Each Class II or Class III gaming activity within the jurisdiction of the Tribe shall be conducted only by a gaming operator who possesses a current and valid tribal gaming license.
- 7.2** Each tribal gaming license shall be applicable only to one gaming site and the gaming operator named on such license.
- 7.3** No tribal gaming license shall be sold, lent, assigned or otherwise transferred.
- 7.4** Each management and key employee of a licensed gaming activity shall possess a current and valid tribal gaming employee license.
- 7.5** A tribal gaming license shall be issued only to a person who qualifies therefor under this Code, or to the Tribe or a tribal subdivision.
- 7.6** Each gaming operator shall have a copy of this Code and regulations readily available for inspection by any person at each authorized gaming facility or activity.
- 7.7** Each gaming facility shall post the following in a prominent place in each room where gaming is conducted a sign stating the following:

This facility is regulated by one or more of the following: The National Indian Gaming Commission, the Bureau of Indian Affairs of the United States Department of the Interior and the Government of the Saginaw Chippewa Indian Tribe of Michigan.

This facility is not regulated by the State of Michigan.

- 7.8** Each facility that houses one or more card games shall post, in a prominent place in each card room, the rules of each card game played. These rules shall notify the public of the following:

7.8.1 The maximum rake-off percentage, time buy-in and other fees charged;

- 7.8.2** The number of raises allowed;
 - 7.8.3** The monetary limit of each raise
 - 7.8.4** The amount of ante; and
 - 7.8.5** Other rules as may be necessary.
- 7.9** All persons employed in conjunction with the operation of any Class III gaming activity shall be provided with such benefits to which the employee would be eligible to by virtue of Michigan Public Act No. 1 of 1936, as amended (being MCL 421.1 et. seq.), and Michigan Public Act No. 317 of 1969, as amended (being MCL 481.101 et. seq.) as if his or her employment services were provided to an employer engaged in a business enterprise which is subject to, and covered by, the respective Acts.
- 7.10** No Class III gaming equipment or supplies shall be operated, purchased, leased or otherwise acquired by the Tribe unless that Class III equipment or supplies meet the technical equipment standards of either the State of Nevada or the State of New Jersey.
- 7.11** The Tribe hereby adopts and applies as tribal law to all tribal Class III gaming facilities those state laws, as amended, relating to the sale and regulation of alcoholic beverages in the following areas: sale to a minor; sale to a visibly intoxicated individual; sale of adulterated or misbranded liquor; hours of liquor sales; and such other laws prohibiting the sale of alcoholic beverages to certain categories of individuals.
- 7.12** All tribally licensed Class III gaming facilities shall purchase all liquor sold in those facilities from the Michigan Liquor Control Commission, and shall purchase all beer and wine from distributors licensed by the Michigan Liquor Control Commission, at the same price and on the same basis that such beverages are purchased by Michigan Class C licensees.
- 7.13** All accounting records of each tribally licensed gaming facility shall be kept on a double entry system of accounting, maintaining detailed, supporting, subsidiary records. The operator and the Tribe shall maintain the following records for not less than three (3) years:
- 7.13.1** Revenues, expenses, assets, liabilities and equity for each location at which Class II and Class III gaming is conducted;
 - 7.13.2** Daily cash transactions for each Class II and Class III game at each location at which gaming is conducted, including but not limited to transactions relating to each gaming table bank, game drop box, and

gaming room bank;

- 7.13.3** All markers, IOU's, returned checks, hold checks or other similar credit instruments;
- 7.13.4** Individual and statistical game records (except card games) to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;
- 7.13.5** Contracts, correspondence and other transaction documents relating to all vendors and contractor's;
- 7.13.6** Records of all tribal gaming enforcement activities;
- 7.13.7** All gaming related audits prepared by or on behalf of the Tribe or one of its subdivisions.
- 7.13.8** Personnel information on all Class II and Class III gaming employees or agents including rotation sheets, hours worked, employee profiles and background checks.
- 7.14** No person under the age of 18 shall be employed as a key employee or primary management official of any class III game.
- 7.15** No person under the age of 18 years shall be permitted to conduct, assist in, or play any gaming activity conducted at any location having an alcoholic beverage license of any type or class.
- 7.16** No unaccompanied underage person shall be permitted to enter the area of any building in which a gaming activity is being conducted.
- 7.17** Reserved.
- 7.18** Each gaming operator shall post in a conspicuous location near where each gaming activity is being played or shall otherwise provide the public with an explanation of the rules of play of every game he operates.
- 7.19** A gaming operator is prohibited from renting or lending gaming equipment to any person without the prior written approval of the Tribal Commission.
- 7.20** A gaming operator is prohibited from exchanging pull-tabs, punch-boards, sports pools, and twenty-one boxes (shoes) without the approval of the Tribal Commission. All other gaming equipment may be exchanged without prior approval. Any request for approval shall be made to the Tribal Commission at

least 5 days prior to the exchange.

- 7.21** Each gaming operator who anticipates the printing, manufacture, or construction of any equipment for gaming activity shall first notify the Tribal Commission of his intention and shall have the finished product approved by the Tribal Commission before it is placed in service.
- 7.22** Gaming chips and other tokens of value may be sold and redeemed only by the gaming operator and only for full face value.
- 7.23** Every licensed gaming operation shall maintain and keep per federal standards permanent books of accounts and records, including inventory records of gaming supplies, sufficient to establish the gross and net income, deductions, expenses, receipts, and disbursements of the enterprise.
- 7.24** A gaming operator who conducts a gaming activity at a site in which the operator does not have a legal ownership interest shall file with the Tribal Commission, prior to conducting any gaming activity at such site, a written agreement, attested to by both the gaming operator and the owner of such site, setting forth the terms under which the operator is permitted the use of such site.

7.24.1 Such agreement shall contain all of the following information:

7.24.1.1 The name of the legal owner of the site. If the gaming operator is to be a sub-lessee, then the name of the lessee must also be included.

7.24.1.2 The name and gaming license number of the gaming operator.

7.24.1.3 The term of such use of the site.

7.24.1.4 The monetary consideration to be paid for such use of the site, if any.

7.24.1.5 A precise description of the location or premises.

7.24.1.6 A prohibition of advertising of the gaming activity by the owner.

7.24.1.7 The following provision:

The (grantor/lessor) hereby agrees that neither (he), (his) spouse, nor any employee or agent of the (grantor/lessor) shall participate in the selling,

distributing, conducting, assisting, or participating in gaming activity at the site herein (granted/leased) without the prior written approval of the Tribal Commission.

- 7.24.2** Any rent or lease provision of such agreement shall include a fixed monthly rental dollar amount, unless otherwise approved in writing by the Tribal Commission.
 - 7.24.3** A graduated lease rate for use of the site is prohibited unless approved in writing by the Tribal Commission.
 - 7.24.4** Other remuneration in lieu of money for use of the site is prohibited unless approved in writing by the Tribal Commission.
 - 7.24.5** A percentage lease rate for use of the site is prohibited unless approved in writing by the Tribal Commission.
 - 7.24.6** No game of chance shall be operated in conjunction with the conduct of the grantor's business operation unless approved in writing by the Tribal Commission.
 - 7.24.7** Any renegotiated agreement shall be submitted to the Tribal Commission for approval prior to its effective date.
 - 7.25** There shall be no sale of liquor at any gaming site without the prior approval of the Tribal Council.
 - 7.26** Consideration for the chance to play in any gaming activity shall only be cash or cash equivalent or approved incentive or, if allowed by the gaming operator, personal check and shall be presented at the time the game is played. No other form of consideration shall be allowed unless the Tribal Commission gives prior written approval.
 - 7.27** Evidence of any win or loss incurred by a player must, upon request, be provided to such player.
- All Class III gaming must comply with the applicable provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. §§ 5312-5314.
- 7.28** Each gaming operator shall pay all fees and file all reports required by law within the time prescribed.
 - 7.29** Each gaming operator shall respond immediately to and obey all inquiries, subpoenas, or orders of the Tribal Commission, the Tribal Council, the Tribal

Court, or the National Indian Gaming Commission.

- 7.30 Each gaming operator shall prominently display at each gaming site a current, valid tribal gaming license.
- 7.31 Each gaming operator shall at all times maintain an orderly, clean, and neat gaming facility, inside and out.
- 7.32 Each gaming operator shall provide adequate security to protect the public before, during, and after any gaming activity.
- 7.33 Each licensed gaming activity shall be subject to patrol by the tribal police force for the purpose of enforcing tribal law, and each gaming operator shall cooperate at all times with the tribal police force.
- 7.34 Each gaming operator shall make its premises and books and records available for inspection during normal business hours by the Tribal Commission and members of the Tribal Council or their Designee.
- 7.35 Reserved.
- 7.36 No gaming operator may discriminate on the basis of sex, race, color, or creed in the conduct of any licensed gaming activity.
- 7.37 Each gaming operator shall keep accurate books and records of all moneys received and paid out and provide the Tribal Commission or its Designee with copies of or access to the same upon request.
- 7.38 All net proceeds of any gaming activity shall be used only in a manner prescribed by this Code.
- 7.39 Every gaming operator shall comply with all applicable tribal and federal revenue reporting laws.
- 7.40 Each gaming operator shall immediately suspend any employee who is charged with a crime of theft, embezzlement, fraud or other gaming crime, or any offense related to the sale, possession, manufacture, or transport of illegal drugs. The gaming operator shall also immediately notify the Tribal Commission in writing of the name of the person and the pending charge and advise the Tribal Commission of the outcome of the case. If the employee is convicted or pleads *nolo contendere* to the charge, the employee's employment shall be terminated.

Section 8. Enforcement.

- 8.1 **Jurisdiction.** Except as provided in this Code or in any tribal-state gaming

compact under the IGRA, the Tribal Court shall have jurisdiction over all violations of this Code.

8.2 Prohibited Acts. In addition to other civil and criminal offenses provided for in this Code or under other applicable law, the following acts are prohibited and subject any violator to the civil or criminal penalties specified herein:

8.2.1 Knowingly making a false statement in an application for employment with any gaming operator or with the Tribal Commission.

8.2.2 Knowingly making a false statement in connection with any contract to participate in any gaming activity.

8.2.3 Attempting to bribe any person participating in any gaming activity.

8.2.4 Offering or accepting a loan, financing, or other thing of value between a Tribal Commission member or employee and any person participating in any gaming activity.

8.2.5 Failing to keep sufficient books and records to substantiate receipts, disbursements, and expenses incurred or paid from any gaming activity authorized pursuant to this Code.

8.2.6 Falsifying any books or records which relate to any transaction connected with any gaming activity pursuant to this Code.

8.2.7 Conducting or participating in any gaming activity which in any manner results in cheating or misrepresentation or which allows any other disreputable tactics that detract from the fair nature and equal chance of participation between gaming players, or which otherwise creates an advantage over and above the chance of such gaming activity and which affects its outcome.

8.2.8 To conduct a gaming activity with or to allow participation in a gaming activity by an intoxicated or disorderly player.

8.2.9 To allow or participate in the sale of liquor at gaming sites when such sale is prohibited by tribal law.

8.2.10 To accept consideration other than money, personal checks, or other approved consideration for the chance to play or participate in any gaming activity.

8.2.11 To solicit, directly or indirectly, or to use inside information on the nature or status of any gaming activity for the benefit of any person.

- 8.2.12** To tamper with a gaming device or conspire to tamper or manipulate the outcome or the payoff of a gaming device, or otherwise interfere with the proper functioning of the machine.
- 8.2.13** To alter or counterfeit a gaming license.
- 8.2.14** To aid, abet, or conspire with another person knowingly or knowingly to cause any person to violate any provision of this Code or any rules and regulations adopted hereunder.
- 8.2.15** To operate, use, or make available to the public any illegal gaming device, apparatus, material, or equipment.
- 8.2.16** To sell or hold out for sale or transport into or out of the jurisdiction of the Tribe any illegal gaming device, apparatus, material, or equipment.
- 8.2.17** To assist or allow a person who is under age to participate in any gaming activity.
- 8.2.18** To possess any illegal narcotics or controlled substances on any licensed gaming site.
- 8.2.19** To steal or attempt to steal funds or other items of value from any gaming facility or from the Tribal Commission.
- 8.2.20** To employ any person at a licensed gaming facility whom the gaming operator knows has been convicted of a gaming crime or a crime of fraud.
- 8.2.21** To conspire with or induce any person to violate any of the provisions of this Code or any tribal or federal law.
- 8.2.22** No gaming operator or any of his employees or agents shall engage in any act, practice, or course of operation which could result in a fraud or deceit upon any person.
- 8.2.23** To use bogus or counterfeit chips or charitable gaming tickets, or to substitute or use any game, cards, charitable gaming tickets, or gaming equipment that have been marked or tampered with.
- 8.2.24** To employ or have on the Reservation any device to facilitate cheating in any game of chance.
- 8.2.25** To knowingly use any fraudulent scheme or technique, or to solicit, provide, or receive inside information about any gaming activity with the intent of benefitting any person.

- 8.2.26** To take, solicit, or encourage any action which undermines the integrity of any game of chance.
- 8.2.27** No gaming operator shall knowingly employ any person who has been convicted of or entered a plea of *nolo contendere* to a crime of theft, embezzlement, fraud, or other gaming crime.
- 8.3** **Criminal Violation.** Any Indian who violates or fails to comply with any provision of this Code, or who fails to comply with any order or decision of the Tribal Commission, shall be guilty of a crime and shall be required to pay a maximum fine of \$5,000 or 1 year imprisonment, or both. Each day during which such violation of failure to comply continues shall constitute a separate violation of this Code.
- 8.4** **Civil Violation.** Any person who violates or fails to comply with any provision of this Code, or who fails or neglects to comply with any order of the Tribal Commission, shall be liable for a civil fine not to exceed \$5,000 for each violation thereof. Each day during which such violation or failure to comply continues shall constitute a separate violation of this Code. The amount of any such civil fine may be recovered in a civil action in the Tribal Court.
- 8.5** **Cumulative Fines.** All civil fines accruing under this Code shall be cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, judgment, penalty, forfeiture, or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution.
- 8.6** **Purpose of Civil Penalties.** The civil fines imposed under this Code are intended to be remedial and not punitive, and are designed to compensate the Tribe for the damage done to the peace, security, economy, and general welfare of the Tribe and the Reservation, and to compensate the Tribe for costs incurred by the Tribe in enforcing this Code. The civil fines under this Code are also intended to coerce persons into complying with this Code and Tribal Commission regulations and not to punish such persons for violation of such laws and regulations.
- 8.7** **Civil Action for Penalties.** In enforcing the civil infraction provisions of this Code, the Tribal Commission shall proceed, in the name of the Tribe, by civil complaint pursuant to the provisions of this Code. The Tribal Commission in such action shall have the burden of showing, by the preponderance of the evidence, that such person violated the applicable provision of this Code.
- 8.8** **Seizure and Forfeiture of Property.** All property utilized in violation of this Code shall be subject to seizure and forfeiture by order of the Tribal Court pursuant to Title I of the Tribal Code.
- 8.9** **Reporting of Offenders.** Upon final order of the Tribal Court in any action for

criminal or civil violation under this Section, the Clerk of the Tribal Court shall notify the Tribal Commission in writing of the final court disposition.

Section 9. Operation of Tribally Owned or Tribally Operated Games.

9.1 Management by a Chief Executive Officer.

9.1.1 The Tribal Council may appoint one person to serve as CEO of the tribally owned gaming enterprise. The CEO shall undergo a background check by the Tribal Commission and shall obtain an gaming employee license before commencing work. The Tribal Council shall retain the authority to suspend or dismiss the CEO as it deems necessary.

9.1.2 The CEO shall be responsible for managing and overseeing the day-to-day operations of the gaming operation. The CEO shall have such authority as the Tribal Council may delegate.

9.1.3 The CEO shall provide a written monthly report to the Tribal Council which details the number of patrons served, the amount of income generated, the numbers of employees working at the facility, a detailed description of any patron complaints and other problems experienced at the facility, and a written statement of any changes in key employees or primary management officials and all bills which are 30 days or more past due.

9.1.4 The CEO shall propose and the Tribal Commission shall approve a patron's complaint process. Each tribally owned and tribally operated gaming facility shall post at least one sign in each gaming room informing patrons that they may file complaints directly with the Tribal Commission, and advising them of the Tribal Commission's address and phone number.

9.1.5 The CEO shall be personally responsible for seeing that all gaming activities are managed in accordance with tribal and federal law and that all gaming activities comply with all IRS reporting requirements.

9.2 Use of Net Proceeds of Tribally Owned or Tribally Operated Gaming Activities.

9.2.1 All net proceeds of a tribally owned or tribally operated gaming activity shall be held in the name of the Tribe. Such net proceeds may only be expended by the Tribal Council by resolution and only for the following purposes:

9.2.1.1 To fund tribal government operations or programs.

9.2.1.2 To provide for the general welfare of the Tribe and its members. [if the Tribe elects to make per capita distributions, the plan must be approved by the Secretary of the Interior under 25 U.S.C. 2710 (b)(3)].

9.2.1.3 To promote tribal economic development.

9.2.1.4 To donate to charitable organizations.

9.2.1.5 To help to fund operations of local government agencies.

9.3 Maintenance of Records. The Tribal Commission shall insure that all accounting records of each tribally licensed gaming facility is kept on a double entry system of accounting, maintaining detailed, supporting, subsidiary records. The Tribal Commission shall also insure that both the operator and the Tribal Commission maintain the following records per federal standards for not less than three (3) years:

9.3.1 Revenues, expenses, assets, liabilities and equity for each location at which Class II and Class III gaming is conducted;

9.3.2 Daily cash transactions for each Class II and Class III game at each location at which gaming is conducted, including but not limited to transactions relating to each gaming table bank, game drop box, and gaming room bank;

9.3.3 All markers, IOU's, returned checks, hold checks or other similar credit instruments;

9.3.4 Individual and statistical game records (except card games) to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;

9.3.5 Contracts, correspondence and other transaction documents relating to all vendors and contractor's;

9.3.6 Records of all tribal gaming enforcement activities;

9.3.7 All gaming related audits prepared by or on behalf of the Tribe or one of its subdivisions.

9.3.8 Personnel information on all Class II and Class III gaming employees or agents including rotation sheets, hours worked, employee profiles and background checks.

9.4 Audit Requirements.

- 9.4.1** The Tribal Commission and the CEO shall obtain an annual independent audit of such gaming activity. A copy of such audit shall be provided to the Tribal Commission, the Tribal Council, and the National Indian Gaming Commission.
- 9.4.2** Each contract for supplies, services (other than legal and accounting services) or concessions for a contract amount in excess of \$25,000.00 annually may be subject to an independent audit. A copy of such audit will be provided to the Tribal Commission, the Tribal Council, and the National Indian Gaming Commission.

9.5 Management Contracts.

- 9.5.1** Each management contract shall fully comply with and is subject to the prior approval of the National Indian Gaming Commission.
- 9.5.2** Before submission to the National Indian Gaming Commission, each management contract shall be approved by the Council with the advice and comment of the Tribal Commission. Before giving final consideration to any proposed management contract, the Council shall direct the Tribal Commission to conduct a complete background investigation of Persons and entities with a financial interest in, or having management responsibility for, the management contract, including requiring the submission of all information required under 25 C.F.R. § 537.1, as amended, incorporated herein by this reference.
- 9.5.2.1** Background information on the proposed management contractor including: its name, its address, the names and addresses of each person or entity having a direct financial interest or management responsibility for the proposed management contractor, and in the case of a corporation the names and addresses of each member of its board of directors and all stockholders who hold directly or indirectly 10 percent or more of its issued or outstanding stock.
- 9.5.2.2** A description of any previous experience that each person listed in subsection 9.5.2.1 above has had with other gaming contracts with Indian tribes or with any gaming activity or operation wherever located, including the name and address of any tribal government or licensing agency with which such person has had a contract, license, or other agreement or permit relating to gaming.
- 9.5.2.3** A complete financial statement of each person listed in subsection 9.5.2.1 above.

9.5.2.4 The Tribal Commission shall contact each of the tribal governments and licensing agencies in subsection 9.5.2.2 to determine the performance history of the proposed management contractor.

9.5.2.5 The Tribal Commission shall arrange to have each proposed management contractor investigated to learn of his personal attributes and to determine whether he has a prior criminal record or any pending criminal charges.

9.5.2.6 The Tribal Commission shall obtain an independent verification of the completed financial statements of the proposed management contractor.

9.5.2.7 The Tribal Commission shall undertake any additional steps it can to determine the character and reputation of the proposed management contractor and each person listed in subsection 9.5.2.1.

9.5.2.8 If the Tribal Council, after reviewing the above described information, still desires to enter into a management contract with the proposed management contractor, such management contract shall be made in writing and submitted to the Tribe's attorneys for review.

9.5.3 Any management contract approved by the Council must include at a minimum with respect to the gaming activity to which the contract is applicable, all of the required provisions contained in 25 C.F.R. § 53.1, as amended, incorporated herein by this reference.

9.5.4 All persons who possess an ownership interest or management position in the proposed management contract shall apply for a gaming employee license under this Code. No management contract shall be approved by the Council until all gaming employee license applications have been reviewed and the Tribal Commission has submitted written findings on such application to the Council.

9.5.5 If the Council is satisfied with the information it receives it shall submit the proposed contract along with all of the above described information to the Chairperson of the National Indian Gaming Commission for approval.

9.6 Additional Requirements for Operation of Tribally Owned or Tribally Operated Games.

9.6.1 Each tribally owned or tribally operated gaming facility shall carry

sufficient liability insurance to protect the public in the event of an accident. The Tribal Commission shall determine the amount of liability insurance required for each gaming facility.

- 9.6.3** Each tribally owned or tribally operated gaming activity shall post the rules of play of each game in a conspicuous place where gaming is conducted and shall make written copies of such rules available to any member of the general public upon request.

Section 10. Authorized Games.

Consistent with applicable law, the Tribe authorizes the licensing of the following games of chance:

10.1.1 Bingo.

10.1.2 Twenty-one or Blackjack.

10.1.3 Poker.

10.1.4 All other games of chance authorized under a tribal-state gaming compact with the State of Michigan pursuant to the IGRA.

Section 11. Severability.

In the event that any section or provision of this Code is held invalid, it is the intent of the Tribal Council that the remaining sections or provisions of this Code shall continue in full force and effect.

Legislative History

Title IX enacted by Resolution 93-032 approved on March 16, 1993. Repealed and reenacted by Resolution 94-001 approved on October 5, 1993. Amended to add gaming vendor licensing regulations by Resolution 94-007 approved on October 5, 1993. Amended by Resolution 94-034 approved on December 14, 1993. Amended by Resolution 96-073 approved on August 14, 1996. Amended by Resolution 98-076 approved on August 12, 1998. Amended by Resolution 99-010 approved on November 11, 1998. Amended by Resolution 24-033 approved on November 15, 2023 and approved by National Indian Gaming Commission on March 6, 2024.