

**NISQUALLY INDIAN TRIBE
TRIBAL CODE
TITLE 17 – GAMING
(COMPLETE AND SUPERSEDING AMENDMENT)**



NISQUALLY LAW AND ORDER CODE
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 (COMPLETE AND SUPERSEDING AMENDMENT)

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17.01 GENERAL PROVISIONS

17.01.01 Purpose

The Nisqually Indian Tribe has established a gaming operation for the purpose of promoting tribal economic development, self-sufficiency, and generating much-needed revenue for the programs and people of the Nisqually Tribe. This Title 17, together with the Compact and applicable federal law, shall provide for the regulation of Class II and Class III Gaming on Tribal Lands.

17.01.02 Gaming Authorized

- (a) Class I gaming shall be allowed within the jurisdictional territory of the Nisqually Tribe and shall not be regulated. Class I games include social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, Tribal ceremonies or celebrations.
- (b) Class II gaming, as defined in Section 17.01.09(a), and Class III gaming, as defined in Section 17.01.09(b), are authorized at wholly-owned tribal enterprises. No entity other than the Nisqually Tribe or a tribally owned entity may conduct Class II and Class III gaming on Tribal Lands.

17.01.03 Environment and Public Health and Safety

- (a) Gaming Facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and public health and safety.
- (b) The Nisqually Tribal Council may adopt standards that assure the adequate protection of the environment and public health and safety.

17.01.04 Sovereign Immunity

Nothing in this Title shall be construed as a waiver of the Nisqually Tribe's sovereign immunity from suit. The Tribe's sovereign immunity is expressly preserved.

17.01.05 Effective Date

This Title shall become effective upon its approval by the Chairman of the National Indian Gaming Commission and publication in the Federal Register.

17.01.06 Definitions

- (a) “Class II Gaming” shall mean and be defined as set forth in 25 C.F.R. §502.3, as may be amended.
- (b) “Class III Gaming” shall mean and be defined as set forth in 25 C.F.R. §502.4, as may be amended.
- (c) “Closely Associated Independent Contractor” shall mean any contractor that shares common ownership, officers or directors with any management principal or person related thereto.
- (d) “Compact” shall mean the Nisqually Indian Tribe – State of Washington Gaming Compact and all amendments and appendices thereto.
- (e) “Commission or “Gaming Commission” shall mean the Nisqually Gaming Commission, as established herein.
- (f) “Gaming” or “Gambling” shall mean Class II and/or Class III Gaming.
- (g) “Gaming Contractor” shall mean any person or entity that supplies Class II or Class III gaming devices or other Class II or Class III gaming equipment, personnel or services including gaming management or consulting services to any Class II or Class III gaming operation or enterprise.
- (h) “Gaming Employee” shall mean any individual employed in the operation or management of gaming in the Tribe’s gaming operation, whether employed by or contracted to the Tribe or by or to any person or enterprise providing gaming operation and management services to the Tribe
- (i) “Gaming Enterprise” shall mean the entities through which the Tribe conducts, regulates, and secures gaming on Tribal Lands pursuant to the Indian Gaming Regulatory Act.
- (j) “Gaming Facility” means a building in which Class II or Class III gaming activities are conducted.

- (k) “Gaming Operation” or “Casino” means each economic entity that is licensed by the Tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses.
- (l) “Gaming Services” means the providing of any goods or services to the Tribe, whether on or off site, directly in connection with the operation of Class II or Class III gaming in a gaming facility, including equipment, maintenance or security services for the gaming operation. Gaming services shall not include professional legal and accounting services.
- (m) “Illegal Gambling or Related Activity” shall mean any violation of this Title, any other Tribal gaming-related law, applicable Washington State gaming and gaming-related law and/or federal gaming and gaming-related law.
- (n) “Key Employee” shall mean and be defined as set forth in 25 C.F.R §502.14, as may be amended.
- (o) “Person” shall mean any natural person or entity, including but not limited to corporations, limited liability companies, partnerships and trusts.
- (p) “Person related to” shall refer to persons who are related as a spouse, grandparent, parent, child, step-child, grandchild, or sibling.
- (q) “Primary Management Official” shall mean and be defined as set forth in 25.C.F.R §502.19, as may be amended.
- (r) “Promotional Contest of Chance” shall mean a game of chance in which a prize is offered, the element of chance is involved in the selection of winners, but no valuable consideration is required to participate.
- (s) “Reservation” or “Tribal Lands” shall mean (i) all lands within the limits of the Nisqually Indian Reservation and (ii) any lands title to which is either held in trust by the United States for the benefit of the Nisqually Indian Tribe or a Tribal Member or held by the Tribe or a Tribal Member subject to restriction by the United States against alienation and over which the Tribe exercises governmental power.
- (t) “State” shall mean the State of Washington.
- (u) “Tribal Council” shall mean the elected Tribal Council of the Tribe, as set forth in the Tribe’s Constitution and By-laws.

- (v) "Tribal Court" shall mean any court established by the Tribe to hear disputes or, if there is none, the Tribal Council.
- (w) "Tribal Gaming Agency" or "Gaming Agency" means the Nisqually Tribal Gaming Agency, as established in this Title hereinbelow.
- (x) "Tribal Member" shall mean any duly enrolled member of the Tribe.
- (y) "Tribe" or "Tribal" shall mean or refer to the Nisqually Indian Tribe.

17.01.07 Complete and Superseding Effect.

This Title 17 (Gaming), when effective, shall completely amend and supersede Title 17 as existed prior to the effective date of this Title 17.

17.01.08 Agent for Service of Process

The Tribe designates the Chairman of the Nisqually Tribal Council as the agent for service of any official determination, order or notice of violation.

17.01.09 Ownership of Gaming

The Tribe shall have the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance, except as expressly provided in this Ordinance.

17.02 USE OF GAMING REVENUE

17.02.01 Use of Gaming Revenue

Net revenues from tribal gaming shall be used only for the following purposes:

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

17.02.02 Per Capita Payments

- (a) "Per Capita Payment" means the distribution of money or other thing of value to all members of the Tribe, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity.
- (b) If the Tribe elects to make per capita payments to tribal members from revenues of its gaming operation, it shall ensure that the requirements of 25 C.F.R. Part 290, as may be amended from time-to-time, and other applicable law are met.

17.03 TRIBAL GAMING COMMISSION

17.03.01 Establishment

- (a) There is hereby established a Nisqually Tribal Gaming Commission, created to provide oversight to the Tribal Gaming Agency, to act in an advisory capacity to the Tribal Council and to interact with the State Gaming Agency on matters specified in this Title.
- (b) The Tribal Gaming Commission is a subordinate agency of the Nisqually Indian Tribe. The Commission shall comply with all Tribal administrative policies, including, but not limited to, personnel, Indian preference in hiring, procurement, travel, budgeting, IT, and vehicle use policies. Except for the appointment of Commissioners, the Gaming Commission shall utilize the Tribe's Personnel Department for recruitment and hiring of Gaming Commission staff.
- (c) It is the intent of the Tribal Council that the Gaming Commission shall be bound by all the provisions of Title 2 (Committees and Commissions) that are not inconsistent with the provisions of this Title 17.

17.03.02 Membership

- (a) Selection. The Gaming Commission shall consist of five (5) voting Tribal members who are appointed by the Tribal Council. Commissioners must meet standards equal to the requirements for license under this Title and the Compact.
- (b) Ineligible Persons. The following persons shall be ineligible for appointment as Gaming Commissioners:

- (i) Any person employed in or in conjunction with the management, supervision, or conduct of any gaming activity on the Reservation, or until at least two (2) years have passed since that employment;
 - (ii) Any person related to any gaming supplier or gaming contractor, including any principal thereof or persons related to any associated independent contractor;
 - (iii) Any member of the Tribal Council, during his/her term thereof;
 - (iv) Any person who cannot obtain or maintain a valid license issued by the Nisqually Tribal Gaming Agency.
- (c) Terms of Office. Commissioners shall serve a term of three (3) years. The terms of the Commissioners shall be staggered.
- (d) Compensation. Commission members shall receive stipends and travel reimbursement in accordance with Tribal policies. The Tribal Council shall determine and authorize the amount of the stipend and shall consider the time requirements and the duties and responsibilities of the Commissioners in making such determination.

17.03.03 Removal

- (a) Without Cause. The Tribal Council may remove a Commissioner with or without cause at any time.

17.03.04 Officers

There shall be a Chairperson, Vice-Chairperson, Secretary and Treasurer of the Nisqually Tribal Gaming Commission elected from its membership who shall be appointed for a term of one (1) year by simple majority vote of the Gaming Commission. The duties of the officers shall be as follows:

- (a) The Chairperson shall generally preside over meetings, sign documents on behalf of the Commission when authorized by the Commission to do so, and carry out other responsibilities as assigned by the Commission or the Tribal Council.
- (b) The Vice-Chair shall preside over meetings of the Commission in the absence of the Chair, and carry out other responsibilities as assigned by the Commission or the Tribal Council.

- (c) The Secretary shall keep a record of all matters transacted at meetings, shall maintain all other records and documents of the Commission and shall carry out other responsibilities as assigned by the Commission or the Tribal Council.
- (d) The Treasurer shall keep a full and accurate record of all financial transactions related to the operating function of the Commission and shall monitor the Commission's budget. The Treasurer shall also participate in the audit review process described in Section 17.03.09 and carry out other responsibilities as assigned by the Commission or the Tribal Council.

17.03.05 Meetings

- (a) Regular. Regular meetings of the Commission shall be held on a schedule adopted by the Commission, but shall be held at least four (4) times per year. Meetings shall be held at times most convenient to the greatest number of Commission members. Change in regularly established meeting days and times will be communicated to all members of the Commission by the Secretary.
- (b) Special. Special meetings of the Commission may be called at the request of any member and only by the poll of the Secretary. Reasonable notice of each special meeting shall be given to each Commission member.
- (c) Location. All meetings of the Commission shall be held at locations which are accessible to the public and to physically handicapped persons to the maximum extent feasible. The Commission shall endeavor to hold meetings on tribal lands whenever possible.
- (d) Notice of Meetings. A written schedule of the regular meetings shall be provided to each member of the Commission and to the Tribal Council. Any change in the date of a previously scheduled regular meeting shall be communicated to each Commission member and to the Tribal Council a reasonable time in advance of the rescheduled meeting time. The Chair shall send 24 hour notice of special meetings to all Commissioners unless the Commissioners concur on the need to meet earlier.
- (e) Quorum. A quorum shall consist of three (3) members of the Commission. No business shall be transacted unless a quorum is present.
- (f) Meetings Open to Tribal Members. All meetings of the Commission shall be open to members of the Tribe.

- (g) Executive Sessions. The Gaming Commission may hold an executive session during a regular or special meeting, however an executive session may be held only for the following reasons:
- (i) To discuss the details of an on-going criminal investigation involving a casino patron or an employee of the gaming operation or the Gaming Agency;
 - (ii) To evaluate complaints or charges brought against an employee of the casino or the Gaming Agency;
 - (iii) To discuss with legal counsel representing the Commission or the Tribe matters relating to enforcement actions, or to discuss with legal counsel representing the Commission or the Tribe litigation or potential litigation to which the Tribe, the casino, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the Tribe.
- (h) Conduct of Meetings. Meetings of the Commission shall be conducted according to Robert's Rules of Order.
- (i) Commission Decisions. The Commission shall attempt to reach consensus on all decisions, but in those cases where agreement cannot be reached, official actions of the Commission shall be determined by vote.
- (j) Proxy Voting. There will be no voting by proxy on any Commission matters.

17.03.06 Records

- (a) Minutes. The Secretary shall maintain a permanent volume of the minutes of Commission meetings and shall provide copies of the meeting minutes to each Commission member. The minutes must be submitted to the Tribal Council within 20 days for their review as well as making them accessible for viewing by the Tribal members.
- (b) Commission Actions. The Secretary shall keep a permanent compilation of Commission actions and reports and documents concerning Commission relations and accounts with all institutions, advisory committees and consultants with whom the Commission has business or official relationships.

17.03.07 Budget

The Gaming Commission shall create a proposed budget of necessary expenditures annually and shall submit such budget to the Tribal Council and the Budget Committee for approval through the tribal budget process. The Gaming Commission budget shall be separated from the Gaming Agency budget.

17.03.08 Powers and Duties

- (a) Oversight of Tribal Gaming Agency. The Commission shall provide oversight to the Tribal Gaming Agency and oversee the activities and duties assigned to the Director and the Tribal Gaming Agency to ensure compliance with this Title and the Tribal State Gaming Compact.

- (b) Meetings with Gaming Operation. The Commission shall meet not less than once a month with the General Manager of the gaming operation and the Director of the Gaming Agency. The purpose of the meeting shall be to discuss ongoing and future issues and areas of concern. The intent of this meeting requirement is to resolve current or future issues through ongoing dialogue between the respective parties.

- (c) Hearings on Appeals. The Commission shall hold appeal hearings for denial, suspension or revocation of a license in accordance with this Title and may establish internal procedures for such hearings.

- (d) Reports to Tribal Council. The Commission shall keep the Tribal Council informed of the activities of the Gaming Agency and provide the Tribal Council with reports of any violations of this Title or the Compact as well as an update of the required meetings between the Gaming Operation, TGA and the Commission. The Commission shall also keep up to date on the status of laws and policies related to tribal gaming regulation and advise the Tribal Council on relevant updates or changes.

17.03.09 Audit

- (a) The Tribal Council or its designee shall select independent certified accountants to perform an annual audit of the gaming operation at the gaming operation's expense. The audit shall include the following:
 - (i) An audit of the annual financial statement, books and records of the gaming operation;

- (ii) An audit of all gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal or accounting services;
 - (iii) A review of the accounting methods and procedures used by the gaming operation;
 - (iv) A review of the methods and procedures used by the gaming operation to count and handle cash, chips, tokens, negotiable instruments and credit instruments; and,
 - (v) A review of applicable internal control procedures and the gaming operation's compliance therewith.
- (b) The independent auditor's report shall contain information regarding any material weakness in accounting and internal controls, and the opinion of the independent auditor as to whether the operation has followed the system of accounting and internal control on file with the Tribal Gaming Agency.
 - (c) The independent auditor shall give a final report to the Tribal Council, the General Manager of the Gaming Operation and the Tribal Gaming Commission to discuss any findings or irregularities in the audits and to make recommendations regarding any necessary corrective action.
 - (d) The Gaming Commission shall submit the resulting audit reports to the National Indian Gaming Commission and to the State Gaming Agency as required by the Compact or as otherwise agreed to between the State Gaming Agency and the Tribe.

17.03.10 Patron Disputes over Game Winnings

- (a) It is the intent of the Tribal Council that all patron disputes regarding game winnings be resolved fairly, justly, equitable and expediently. In order to implement this directive, the gaming operation and the Gaming Commission shall abide by the following dispute resolution process:
 - (i) The gaming operation general manager shall attempt to resolve the dispute with the parties.
 - (ii) If the dispute is unresolved, the manager shall inform the customer of the right to request an investigation by the Gaming Commission.

- (iii) The Gaming Commission, through the Executive Director, shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.
 - (iv) The Executive Director shall provide written notice to the general manager of the gaming operation. The customer will also be advised by certified mail of the Executive Director's decision resolving the dispute within thirty (30) days after the date that the Gaming Commission first receives notification from the manager or a request to conduct an investigation from the customer.
 - (v) The decision of the Executive Director is effective on the date it is received by the aggrieved party, as reflected on the return receipt.
 - (vi) Within thirty (30) working days after the date of receipt of the written decision of the Executive Director, the aggrieved party may file a petition with the Gaming Commission requesting a review of the decision. The Gaming Commission may set a hearing on the matter, or may make a decision based solely upon the Executive Director's decision and other documentation provided to it by the customer and the manager. The Gaming Commission shall then issue a written decision and mail to the parties by registered mail or certified mail, return receipt requested.
- (b) The liability of the Tribe and/or Gaming Operation in any patron dispute over game winnings shall be limited to the amount of the winnings determined to be owing, if any, and a customer shall not be entitled to an award of special damages, punitive damages, attorney's fees, or any other damages or costs whatsoever.
- (c) The decision of the Gaming Commission shall be final and not be subject to judicial review.

17.03.11 Fiduciary Duty of Commissioners

Commission members serve as fiduciaries for the Nisqually Tribe, and as such must follow the strict fiduciary standards normally applicable to Tribal officials, including the Tribe's Code of Conduct. Commission members owe the Tribe the duty of undivided loyalty and cannot be influenced by individual interest or interests of a third party. Commission members shall act fairly, justly, honestly, with sound judgment and prudence, but shall not be responsible for mere mistakes or errors of judgment.

17.04 TRIBAL GAMING AGENCY

17.04.01 Purpose

The Tribal Gaming Agency has been created to maintain the integrity of the gaming operation, to ensure compliance with the Tribal-State Compact and to reduce the dangers of unfair or illegal practices in the conduct of gaming. The Nisqually Tribal Gaming Agency shall be the primary regulator of Class II and Class III Gaming.

17.04.02 General Requirements

Tribal Gaming Agency personnel shall be independent of the Tribal gaming operation, and shall be supervised and accountable only through the Gaming Agency's chain of command. No employee of the gaming operation may be an employee of the Tribal Gaming Agency. All Gaming Agency employees shall meet standards equal to the requirements for license under this Title and the Compact.

17.04.03 Chain of Command

The Executive Director shall be selected by the Nisqually Tribal Council. For the purposes of ensuring compliance with the Tribe's administrative policies, the Executive Director shall be supervised by the Tribe's Chief Executive Officer or, if the Tribe does not have a Chief Executive Officer, by the primary supervisor of Tribal government personnel. The Executive Director shall have direct supervision of the Agency's staff.

17.04.04 Administrative Policies

The Gaming Agency is a subordinate agency of the Nisqually Indian Tribe and shall comply with the Tribe's organizational structure. The Gaming Agency shall comply with all tribal administrative policies, including, but not limited to, personnel, Indian preference in hiring, procurement, travel, budgeting, IT, and vehicle use policies. Gaming Agency budgets shall be separate from the Gaming Commission budget and shall be approved through the tribal budget process. The agency shall utilize the Tribe's Personnel Department for recruitment and hiring of Agency staff.

17.04.05 Duties of Executive Director

- (a) The Executive Director shall be responsible for the day-to-day operations of the Agency and shall supervise all Agency staff;

- (b) The Executive Director shall be responsible for ensuring that the agency complies with all tribal administrative policies.
- (c) The Executive Director shall ensure the Gaming Commission is informed of all information and activities of Agency staff.
- (d) The Executive Director shall be responsible for the budget of the Agency, as well as the submission of its budget for review and approval through the tribal budget process.
- (e) The Executive Director shall be responsible for the efficient operation of the Agency and shall supervise all Agency staff.
- (f) The Executive Director shall meet with the State Gaming Agency as requested.
- (g) The Executive Director shall forward all customer complaints regarding game winnings that the Agency receives to the Casino General Manager to handle according to the procedures established in section 17.03.10.

17.04.06 Duties and Responsibilities of Agency

- (a) The Agency shall take and process applications for gaming licenses, conduct the necessary background investigations, and forward completed application packets to the Gaming Agency Executive Director or Deputy Director with a recommendation for approval or disapproval.
- (b) The Agency shall require all Casino employees to wear in plain view identification cards issued by the Agency that shall bare the legal first name or derivative, badge number, department and expiration month / day.
- (c) Cashier's Cage/Gaming Station Security. To protect the gaming operation and the Tribe from theft, the Gaming Agency shall perform the duties assigned to the Agency regarding gaming station and cashier's cage security and the applicable procedure for counting and recording the contents of drop boxes.
- (d) Employee and Customer Safety. To ensure that the physical safety of the casino employees and the public are adequately protected and that the gaming operation is complying with the standards for public health and safety, the Gaming Agency shall:
 - (i) Review the policies and procedures of the Casino with respect to health and safety and meet at least quarterly with the Casino's Human Resources Department to

ensure that the Casino's policies and procedures meet the applicable standards for public health and safety.

- (ii) Review the records of all health and safety inspections performed at the Gaming Facility and determine whether any violations of the applicable health and safety requirements have been corrected.
 - (iii) Keep a log and follow-up on any possible safety hazard reported to or observed by any Gaming Agency official or agent in the course of his or her regular duties.
 - (iv) Report any safety concerns to the Casino General Manager and the Tribal Gaming Commission.
- (e) Surveillance/Illegal Gambling Activity. The Gaming Agency has the authority to investigate any illegal gambling or unlawful activity at the gaming facility and has the duty to protect the gaming operation from theft. The Gaming Agency will establish controls to protect Gaming Facilit(ies), patrons, and employees from illegal activity that include the following:
- (i) Monitor the surveillance cameras at all times during casino hours.
 - (ii) Keep a surveillance log recording all surveillance activities in the monitoring room and recording all unusual occurrences for which a gaming agent is assigned to investigate.
 - (iii) If a gaming agent suspects that illegal gaming activity or theft is occurring on a gaming table or anywhere at the facility, the agent shall notify the Director of the Gaming Agency, as soon as practicable.
 - (iv) If the illegal gaming activity is being conducted by a person who is likely to flee, the agent may temporarily detain the individual and shall then immediately notify law enforcement.
 - (v) The Executive Director and the Agency shall work together with law enforcement to investigate any suspected illegal activity at the Gaming Facility and/or with respect to the Gaming Operation.
 - (vi) To the extent such information will not jeopardize the investigation, the Executive Director shall advise the Casino General Manager on the status of the investigation, as soon as practicable.

(f) Inspection/Monitoring

- (i) A Tribal Gaming Agent shall be present in the gaming facility during all hours of operation and shall have immediate access to any and all areas of the gaming facility for the purpose of ensuring compliance with the provisions of the Compact and this Title.
- (ii) Inspectors shall record in a permanent and detailed manner any and all unusual occurrences within the gaming facility. Each incident, without regard to materiality, shall be assigned a sequential number and, at a minimum, the following information shall be recorded as required by the Compact or as otherwise agreed to between the State Gaming Agency and the Tribe:
 - A. the assigned number;
 - B. the date;
 - C. the time;
 - D. the nature of the incident;
 - E. the person involved in the incident; and
 - F. the security department or Tribal Gaming Agency employee assigned.
- (iii) Any violation(s) of the provisions of the Compact, or of State, Federal, and/or tribal law by the Tribal gaming operation, a gaming employee, or any person on the premises, whether or not associated with the Tribal gaming operation, shall be reported immediately to the Tribal Gaming Agency.
- (j) Barred Patrons. The Gaming Agency has the authority to bar patrons from the gaming facility in accordance with the procedures established in section 17.05.
- (k) Promotional Games. The Gaming Agency shall review the Casino's promotional games and activities to determine whether the activity constitutes gambling or is a promotional game of chance.

17.05 BARRING PROCEDURES

17.05.01 Grounds for Barring of a Patron by the Tribal Gaming Agency

- (a) The Tribal Gaming Agency may bar a patron from the gaming facility if the Agency determines that the patron poses a threat to the safety or security of the gaming operation, the facility, employees and/or other patrons. In determining whether a person poses such a threat to safety and security, the Gaming Agency may consider the patron's observed behavior, recent criminal history or association with gangs or other criminal organizations.

17.06 LICENSING

17.06.01 Required Licenses

- (a) Key Employees and Primary Management Officials. Key Employees and Primary Management Officials shall be licensed by the Tribal Gaming Agency.

- (b) Financiers. Any individual or entity, other than a federally regulated commercial lending institution, the Tribal government or the federal government, who extends financing either directly or indirectly to the gaming operation must be licensed by the Tribal Gaming Agency.

- (c) Management Companies
 - (i) Any individual or business entity with which the Tribe enters into a contractual agreement for management or operation of any Class II or Class III gaming enterprise, must qualify for and receive a Class III Certification.

 - (ii) No license shall be granted to a management company if any elected official of the Tribe or a member of a committee or agency of the Tribe serves on the board of directors or holds (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of the corporation, or ten percent (10%) or more of the beneficial interest in any partnership, trust, or other entity, in any such corporation, partnership, trust or other entity, having a financial interest in, or management responsibility for, such contract. Notwithstanding the foregoing, no license shall be granted to the management company if any member of the Gaming Commission holds any interest whatsoever (directly or indirectly), in such company. Nor shall any such license be granted if any elected official of the Tribe, member of the Gaming Commission, or a member of any other committee

or agency of the Tribe has a financial interest in or management responsibility for any agreement between such management company and the Tribe.

- (d) Suppliers, Distributors and Manufacturers License.
 - (i) Any manufacturer, distributor, or supplier of gaming services, as defined in Section 17.01.09, must be licensed by the Tribal Gaming Agency. Individuals or entities that supply legal and accounting services are not required to be licensed.
 - (ii) The Gaming Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the licensing process for any supplier, distributor and manufacturer which has received a license from one of the named regulatory authorities.
- (e) Gaming Facility License. The Gaming Agency will issue a license to each tribally owned facility or location where Class II or Class III gaming is to be conducted on tribal lands. Gaming facility licenses are valid for no more than one (1) year from date of issuance. Inspection of gaming facilities for the purposes of licensing includes review of security and surveillance procedures and equipment; compliance with tribal ordinances and other applicable laws and regulations, including any requirements of the Compact regarding gaming facilities; and compliance with applicable safety requirements and codes.

17.06.02 Temporary or Conditional License

- (a) Temporary License

If an applicant has completed a license application to the satisfaction of the Gaming Commission, and a preliminary background investigation has been conducted, a temporary license may be issued so long as there are no disqualifying criteria that could result in denial of licensure. Temporary licenses are issued for up to 90 days.
- (b) Conditional Licensing

A conditional license is a license that is issued by the Gaming Commission through the TGA that allows the employee to be employed by the Gaming Operation and contains, expresses or is dependent upon defined criteria established by the Gaming Commission that must be met in order for the employee to work or continue working for the Gaming Operation. Regularly scheduled reviews will be conducted by the Gaming Commission to monitor and make certain that the employee is meeting the conditions as described and outlined for continuation of licensure. A conditional license may be instituted at any time, provided that the issuance complies with any applicable requirements for this Title, the Compact and IGRA. When the terms of the conditional license are met, the licensee will

be granted the appropriate regular Gaming Commission license. It is the responsibility of the licensee to keep himself informed of the contents of all such regulations, provisions and conditions, and ignorance thereof will not excuse the violations.

17.06.03 License Applications

A license applicant must submit all applicable materials, including any fees required, to the office of the Nisqually Tribal Gaming Agency. License applications are subject to the following requirements:

- (a) Applications must be submitted on forms approved by the Gaming Agency. An application is considered incomplete until all information requested is provided to the Gaming Agency. If the application is incomplete or if the applicant fails to promptly provide any additional materials requested, the license may be denied. If the applicant does not respond to written notification of an incomplete application, the failure to submit additional materials, or the failure to submit required fees, within thirty (30) days of the written notice, the Gaming Agency may close the applicant's file.
- (b) Applications must be signed under oath by an individual attesting that the information provided in the application and any accompanying materials is true, accurate and complete.
- (c) Applications must be signed by the following:
 - (i) For a corporation (non-profit or for profit), the highest ranking officer or official of the corporation.
 - (ii) For a sole proprietorship, the principal owner.
 - (iii) For a partnership, all partners; for a limited partnership, the general partner.
 - (iv) For employee licenses, the individual seeking a license.
- (d) Applicants must provide a general release and waiver for release of information required to conduct the review and investigation.
- (e) The Gaming Agency will only consider applications that are fully completed and submitted on the approved Gaming Agency's forms. Application forms are available from the office of the Gaming Agency or will be mailed upon request.

17.06.04 Fingerprints

Each applicant for a Key Employee or Primary Management Official shall be required to have fingerprints taken as part of the license application procedure. Fingerprints will be processed using procedures that are approved by the Gaming Commission and consistent with applicable federal law.

17.06.05 Waiver of Liability

- (a) The application to receive a gaming license constitutes a request for determination of the applicant's general character, integrity, and ability to participate or engage in, or to be associated with the gaming operation. Any written or oral statement made in the course of an investigation, proceeding or process of the Gaming Agency by any member, employee or agent of the Tribe or by any witness, testifying under oath, which is relevant to the investigation, proceeding or process, is absolutely privileged and shall not impose any liability for slander, libel or defamation, or constitute any grounds for recovery in any legal action. An applicant must accept all risk of adverse public notice, embarrassment or other action that may result from the application and investigation process, and, by the act of applying for licensure, expressly waives any claim for damages as a result of the process.
- (b) All applicants, by the act of applying for licensure, expressly waive any and all liability to the Tribe, its commissions, employees and agents for any damages resulting from disclosure or publication in any manner of information acquired by the Gaming Agency during its licensing or other investigations, inquiries or hearings.

17.06.06 Withdrawal of Application

An applicant may request to withdraw the application by submitting to the Gaming Operation a written request for withdrawal. The Gaming Operation shall promptly submit any such request to the Gaming Agency. To be effective, the written request to withdraw must be received by the Gaming Agency before the Gaming Agency approves or issues a denial of the license.

17.06.07 Application Forms

- (a) The Gaming Agency shall provide application forms and instructions, as applicable, to any individual or entity seeking to be licensed.

- (b) All license applicants must acknowledge in writing the applicability of the Privacy Act of 1974 and sign a notice regarding the penalty for making false statements on the application. The following notices shall be placed on the application form.
- (i) Privacy 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 the Tribe or the NIGC in connection with the issuance, denial or revocation of a gaming license, or investigations of activities while associated with the Tribe or its gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Tribe's being unable to hire you in a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.
- (ii) Notice Regarding False Statements. A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, § 1001).
- (c) Any Gaming Employee that has not signed an application containing the above notices, must either: (i) sign a statement which contains the notices and consent to the routine uses described in such notice; or (ii) complete and sign a new application form which contains the notices.

17.06.08 Information Required from License Applicants

All license applicants shall provide information to the Gaming Agency including, but not limited to, the following:

- (a) Full name, current address and telephone number(s) (both business and residence), date and place of birth, Social Security number(s); any other names used (oral or written), citizenship, gender, and all languages spoken or written;

- (b) The name, address, and telephone number for all businesses and organizations in which the applicant has any financial interest and the details of that financial interest;
- (c) Currently and for at least the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (d) Names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period-of residence listed in subsection (e) immediately above;
- (e) Description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (f) Description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (g) Name and address of any licensing or regulatory agency (federal, tribal, state, local or foreign) with which the person has ever filed either: (a) an application for a license or permit related to gaming, and whether or not such license or permit was granted, or (b) an application for an occupational license or permit, whether or not such license or permit was granted;
- (h) For each felony for which there is an ongoing prosecution or conviction, the charge, the name and address of the court involved, and the date of disposition, if any;
- (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved, and the date of disposition, if any;
- (j) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application, and is not otherwise listed pursuant to subparagraphs (h) or (i) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;
- (k) Current photographs;
- (l) Any other information the Tribe or the Gaming Agency deems relevant.

In conducting a background investigation, the Tribe and its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

17.06.09 Eligibility Determination

The Gaming Agency shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of the applicant for licensing. If the Gaming Agency determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming, the Agency shall deny the application for a license.

17.06.10 Licensing Prior to Employment

An individual or entity required to be licensed must obtain the required license, whether regular, temporary or conditional, prior to commencing their employment at or by any gaming operation. No individual or entity may perform key employee or primary management official duties or responsibilities for a period that exceeds ninety (90) days unless such individual or entity has been issued a regular license.

17.06.11 License in Compliance with Applicable Laws

No gaming license shall be granted in violation of Tribal laws and regulations, the Tribal-State Compact, IGRA and regulations promulgated thereunder, or other applicable law.

17.06.12 License and Investigation Reports to NIGC

- (a) Prior to the issuance of a license to a key employee or primary management official, the Gaming Agency will complete and maintain the application materials, investigative reports and eligibility determination used to evaluate the applicant or licensee eligibility for a license. The investigative report provided shall include at least the following information:
 - (i) Steps taken in conducting the background investigation;
 - (ii) Results obtained;
 - (iii) Conclusions reached; and
 - (iv) The basis for those conclusions.

- (b) Also before the issuance of a license to a key employee or primary management official, the Gaming Agency shall submit a notice of results of the applicant's background investigation to the NIGC no later than sixty (60) days after the applicant begins work. The notice of results shall contain:
- (i) Applicant's name, date of birth, and social security number;
 - (ii) Date on which applicant began or will begin work as key employee or primary management official;
 - (iii) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:
 - A. Licenses that have previously been denied;
 - B. Gaming licenses that have been revoked, even if subsequently reinstated;
 - C. Every known criminal charge brought against the applicant within the last 10 years of the date of application; and
 - D. Every felony of which the applicant has been convicted or any ongoing prosecution.
 - (iv) A copy of the eligibility determination made by the Gaming Agency.
- (c) If, upon investigation and for any reason, the Gaming Agency does not issue or renew a license for a key employee or primary management official, the Gaming Agency will notify NIGC of such denial and may forward copies of the eligibility determination and notice of results, if any, to the NIGC for inclusion in the Indian Gaming Individuals Records System.
- (d) The Gaming Agency will retain the applications of key employees and primary management officials, including reports of background investigations, eligibility, determination, investigative reports, the requisite Privacy Act Notice and the requisite False Statement Notice, for a period of no less than three (3) years from the date of denial of license or termination of employment, whichever is later.

- (e) For license applicants who are not key employees or primary management officials, no investigative report or eligibility determination will be forwarded to NIGC, unless specifically requested by NIGC and approved by the Gaming Commission.
- (f) After the Gaming Agency has provided a notice of results of the background check to the NIGC, the Tribe may license a primary management official or key employee.

17.06.13 Licensure for Business Entities

- (a) Any entity seeking license as a financier, a management company or a supplier, distributor or manufacturer of gaming services shall provide the following information on the application:
 - (i) Name of business, business address, business phone, federal tax ID number (or SSN if a sole proprietorship), main office address if different from business address, any other names the applicant has done business under, type of service applicant will provide;
 - (ii) Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;
 - (iii) If the applicant is a corporation, the state of incorporation;
 - (iv) Trade name, other names ever used, names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
 - (v) General description of the business and its activities;
 - (vi) Whether the applicant will be investing in or loaning money to the gaming operation and, if so, how much;
 - (vii) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - (viii) A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial, or management interests in non-gaming activities;
 - (ix) Names, addresses, and phone numbers of three business references with whom the company had regularly done business for the last five years;

- (x) The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
 - (xi) If the business has ever had a license revoked for any reason, the circumstances involved;
 - (xii) A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition if any;
 - (xiii) List the business' funding sources and any liabilities of \$50,000 or more;
 - (xiv) A list of the principals of the business, their social security numbers, addresses and telephone numbers, title, and percentage of ownership in the company; and
 - (xv) Any further information the Tribal Gaming Agency deems relevant.
- (b) The following notice shall be placed on the application form for a vendor and its principals:
- Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the applicant's vendor license.*
- (c) A vendor may submit a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit in writing any changes in the information since the other license application was filed and any information requested by the Tribal Gaming Agency not contained in the other application.

17.06.14 Business Entity Background Investigation

The Gaming Agency shall complete an investigation of the gaming vendor. This investigation shall contain, at a minimum, the following steps:

- (a) Verify the business' incorporation status;
- (b) Obtain a business credit report, if available, and conduct a Better Business Bureau check on the vendor.

- (c) Conduct a check of the business' credit history;
- (d) Call each of the references listed in the vendor application; and
- (e) Conduct an investigation of the principals of the business, including a criminal history check, a credit report, and interviews with the personal references listed.

17.06.15 License Fees

The Gaming Agency may charge a fee, subject to approval by the Tribal Gaming Commission, to cover its expenses in investigating and processing license applications. Applicants may be required to pay a reasonable deposit for costs of gathering information and investigation prior to beginning processing of the application. At the discretion of the Gaming Operation, members of the Tribe may be exempted from any license fees or costs.

17.06.16 NIGC Review of Licensing

- (a) The NIGC has a period of thirty (30) days after receipt of the report provided by the Gaming Agency, as referenced above, to notify the Tribe of any objections to the issuance of a license. If the NIGC, within the thirty (30) day period, provides to the Tribe a statement itemizing objections to the issuance of a license to an applicant, the Tribal Gaming Agency will reconsider the application taking into account the objections raised. The Tribal Gaming Agency will fully consider the information provided by the NIGC and issue a formal decision after full reconsideration of the application and additional information.
- (b) If, within the thirty (30) day period, the NIGC requests additional information concerning a license applicant for whom a report is provided, that request will suspend the thirty (30) day period until the Chairman of the NIGC receives the information requested.
- (c) If, after issuance of a license, the Tribe receives reliable information from the NIGC that the licensee is not eligible for employment under the above provisions, the Gaming Agency will take the following steps:
 - (i) Suspend the license and notify the licensee immediately of the suspension and proposed revocation of the license;
 - (ii) Notify the licensee of a time and a place for a hearing on the proposed revocation of the license; and

- (iii) Conduct the revocation hearing and make a determination whether to revoke or to reinstate the license; and
- (iv) After a revocation hearing, notify the NIGC of the final decision regarding the revocation or re-instatement of the license within forty-five (45) days after having received said reliable information from the NIGC.

17.06.17 Grounds for Denial, Suspension or Revocation of License

The Gaming Agency may deny, suspend or revoke a license when the applicant or licensee, or any other person or entity with an ownership or management interest in a business applicant:

- (a) Is determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods and activities in the conduct of the gaming activities;
- (b) has violated, or has failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by this Title, an approved Gaming Commission regulation, the Tribal-State Compact, the IGRA and regulations promulgated there under, or any other applicable laws or regulations;
- (c) knowingly causes, aids, abets or conspires with another to cause any person to violate any of the applicable laws or regulations;
- (d) has obtained a license by fraud, misrepresentation, concealment or through inadvertence or mistake;
- (e) fails to promptly produce for inspection or audit any book, record, or document required by the Tribe's laws or regulations;
- (f) has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to the crime of forgery, larceny, extortion, conspiracy, fraud, tax evasion, or similar offenses, or of any crime, whether a felony or misdemeanor, involving moral turpitude or any gambling activity; or
- (g) allows any person who has been convicted of, or forfeited bond upon, any of the offenses above to participate in the management or operate in a key position with the entity licensed by the Gaming Agency, without prior notice to and written approval from the Gaming Agency.

17.06.18 License Suspension or Revocation Process

- (a) Any license issued under these regulations may be suspended or revoked by the Gaming Agency for the reasons listed in 17.06.17, The licensee, and any person directly affected by the license action, shall have the right to be present and to offer oral or documentary evidence relevant to the breach or violation charged. Notwithstanding the foregoing, the Gaming Agency may summarily suspend or revoke any license if the continued licensing appears to constitute a threat to the public health, safety or welfare.
- (b) Upon receiving written notice of the suspension or revocation of any license issued by the Gaming Agency the licensee is required, within five (5) days, to surrender and return the license to the Gaming Agency.

17.06.19 Appeal of Denial, Suspension or Revocation of License

- (a) Decisions of the Gaming Agency regarding the denial, suspension or revocation of licenses shall be final and effective when issued.
- (b) An applicant or licensee whose license is denied, revoked or suspended by the Gaming Agency may, within fifteen (15) business days after the date of receipt of a written decision of the Gaming Agency, file a an appeal to the Gaming Commission requesting a hearing to reverse the decision. The petition must set forth the basis of the appeal. If no appeal is filed within the time prescribed, the Gaming Agency decision shall be deemed final and not subject to further reconsideration or appeal to and review by the Gaming Commission.
- (c) The Gaming Commission shall consider the evidence presented by the applicant and the Gaming Commission prior to making a determination on the licensing decision. The appellant and the Gaming Commission may offer such information and documents as are relevant to the determination of the applicant's suitability for license and may call witnesses to testify in such a proceeding if such witnesses can provide information regarding the applicant's suitability. No determination of the Gaming Commission shall be considered valid if it would place the Tribe in violation of this Title, the Tribal-State Compact, the IGRA and regulations promulgated there under, or any other applicable law.

17.06.20 Hearings Closed to Public

All hearings regarding gaming license proceedings or reconsideration of an application shall be closed to the public unless the applicant or licensee requests that the hearing be open to the

public, in which case the hearing can be opened to the public by a majority vote of the Gaming Commission.

17.06.21 Notification of Licensing Action

The Gaming Agency shall promptly notify, in writing, each applicant upon the granting, denial, suspension or revocation of a license. Within thirty (30) days after the issuance of a license, the Tribe shall notify the NIGC of its issuance. If the Tribe revokes a key employee or primary management official's license, the Tribe shall notify the NIGC and shall forward copies of its license revocation decision for inclusion in the Indian Gaming Individuals Record System.

17.06.22 Duty of Licensee to Report

Any person licensed by the Gaming Agency who is arrested or charged with a felony or a misdemeanor in any court, or is arrested or charged with any violation of the Nisqually Criminal Code, must report such arrest or charge to the Gaming Agency within seventy-two (72) hours.

CERTIFICATION

The undersigned hereby certify that the foregoing Title 17 Gaming (Complete and Superseding Amendment) to the Nisqually Tribal Code was approved and adopted by the Nisqually Tribal Council pursuant to Resolution No. 90-2024 dated October 3, 2024.

NISQUALLY TRIBAL COUNCIL

E.K. Choke
E.K. Choke, Chairman

Jackie Whittington
Jackie Whittington, Secretary