

JAN 28 1997

Honorable Ronald Jackson
Interim Tribal Chief, Saginaw Chippewa
Indian Tribe of Michigan
7070 East Broadway
Mount Pleasant, Michigan 48858

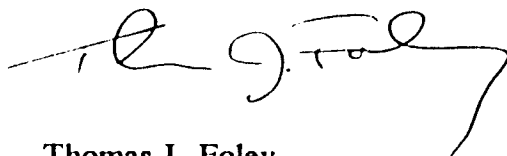
Dear Chief Jackson:

This letter responds to your request to review and approve the amendment to the Saginaw Chippewa Indian Tribe of Michigan's tribal gaming ordinance submitted on November 27, 1996. The amendment was adopted by Resolution No. 96-073 on August 14, 1996. The ordinance was approved by the Chairman of the National Indian Gaming Commission (NIGC) on January 18, 1994. The amendment does not require approval by the NIGC because the amendment addresses issues not raised in the Indian Gaming Regulatory Act (IGRA) or the NIGC's regulations.

Under the IGRA and the regulations of the NIGC, the Chairman is directed to review ordinances and amendments with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval.

Thank you for submitting the Saginaw Chippewa Indian Tribe of Michigan's amendment for review. If you have questions or require further assistance, please contact Ms. Frances Fragua at (202) 632-7003.

Sincerely yours,



Thomas J. Foley
Commissioner

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

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

DEC - 2 1997

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 Tribe finds that:

1.1.1 Tribal regulation and control of gaming activity within the jurisdiction of the Saginaw Chippewa Indian Tribe 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 Isabella Reservation lacks income-generating natural resources and because the Tribe's tax base is almost non-existent, the Tribe must rely on tribal

business 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.

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 "Code" means this Code, the Saginaw Chippewa Gaming Code, as now or hereafter amended.

2.6 "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.

2.7 "Compensation" means all wages, salaries, bonuses, and all other forms of remuneration for services rendered.

2.8 "Council" or "Tribal Council" means the governing body of the Saginaw Chippewa Indian Tribe.

2.9 "Educational, charitable, patriotic, veteran's, fraternal, religious, civic, or public-spirited uses" are:

2.9.1 Uses benefiting an indefinite number of people by bringing them under the influence of educational or cultural programs.

2.9.2 Uses otherwise lessening the burden of tribal government.

2.9.3 Uses benefiting 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.

2.9.4 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.

2.10 "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 a coin or currency, or by the use of a credit, and awards game credits, cash, tokens, or replays, or a written statement of the player's accumulated credits, which written statements are redeemable for cash.

2.11 "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 Isabella Reservation.

2.12 "Equipment for games of chance". See "Gaming Apparatus."

2.13 "Game" or "game of chance" means any activity which falls within the broad definition of gaming or gaming activity.

2.14 "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.

2.15 "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.

2.16 "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.

2.17 "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.

2.18 "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.

2.19 "Gross proceeds" means any money collected or received from any gaming activity.

2.20 "Indian Gaming Regulatory Act" or "IGRA" means Public Law 100-497, 102 Stat. 2426, 25 U.S.C. §§2701-2721 (1988), as amended.

2.21 "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.

2.22 "Indian lands" means:

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

2.22.2 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

2.22.3 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.

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

2.24 "Key employee" means:

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

2.24.1.1 Bingo caller;

2.24.1.2 Counting room supervisor;

2.24.1.3 Chief of security;

2.24.1.4 Custodian of gaming supplies or cash;

2.24.1.5 Floor manager;

2.24.1.6 Pit boss;

2.24.1.7 Dealer;

2.24.1.8 Croupier;

2.24.1.9 Approver of credit;

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

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

2.24.1.12 Any person authorized to make on-site repairs, adjustments or alterations to any piece of gaming equipment.

2.24.2 If not otherwise included, any other person whose total cash compensation derived from gaming subject to this Code is in excess of \$50,000 per year; or,

2.24.3 If not otherwise included, the four most highly compensated persons in any gaming activity subject to this Code; or

2.24.4 any employee whom the Tribal Commission may by written notice classify as a key employee.

2.25 "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.

2.26 "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.

2.27 "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.

2.28 "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.

2.29 "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.

2.30 "Player" means a person participating in any game, but does not include a gaming operator.

2.31 "Primary Management Official" means

2.31.1 The person having management responsibility for a management contract approved by the National Indian Gaming Commission; or

2.31.2 Any person who has authority:

2.31.2.1 To hire and fire gaming employees; or

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

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

2.32 "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.

2.33 "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.

2.34 "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.

2.35 "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.

2.36 "Reservation" means the Isabella 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 Tribe and the State of Michigan for so long as that subsection is legally applicable by its own terms or under applicable law.

2.37 "State" means the State of Michigan.

2.38 "Tribal Commission" means the Saginaw Chippewa Gaming Commission described in Section 4 of this Code.

2.39 "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.

2.40 "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:

2.40.1 Aces count either one or 11, at the player's option.

2.40.2 Kings, queens, and jacks each have a count of ten.

2.40.3 All other cards are counted at their face value.

2.41 "Wager" means the bet made or consideration or value given by a player in any game.

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 social gaming 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 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 size 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 Isabella 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 in 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 six 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; or

4.11.3.4 A member of his immediate family is employed as an employee in any tribal gaming activity.

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 serve a term of four years. The initial terms for appointment of the Commissioners shall be staggered terms, with two Commissioners appointed for two-year terms, two Commissioners appointed for three-year terms, and two Commissioners 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 Commission or vote in any decision of the Commission. No member of the Tribal Council shall be appointed as a member of the Tribal Commission.

4.14 Meetings.

4.14.1 Regular Meetings. The Tribal Commission shall hold at least one regular monthly meeting which shall take place on the first Monday of each month, or as otherwise determined by the Tribal Commission.

4.14.2 Special Meetings. Special meetings may be called at the request of the Tribal Council, the Chairperson of the Tribal Commission or 4 or more members of the Tribal Commission.

4.14.3 Compensation of Commissioners. Commissioners shall be compensated at a full-time salary commensurate with their job responsibilities and duties.

4.14.4 Quorum. A quorum for all meetings shall consist of four members, one of whom must be the Chairperson of the 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.

4.14.5 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.

4.15 Organization.

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

4.15.2 The Tribal Commission Chairperson shall perform all of the duties of a Gaming Commissioner, and in addition shall assume the following duties: conduct Commission meetings; direct work assignments among the Commissioners and Commission employees; establish Commission work priorities; implement and ensure compliance with all Commission operating policies, procedures and regulations; and, generally, manage all daily 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.

4.15.3 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.

4.16 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 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 Commission hearing procedures. 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.

4.16.2 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 request the assistance of the Tribal Court or Tribal Appellate Court in conducting gaming hearings, defining terms used in this Code or other tribal laws, or in any other matter in which the Tribal Commission deems such assistance to be necessary or proper.

4.18.10 To consider any gaming matter brought before it by any person, organization or business, and all matters referred to it by the Tribal Council.

4.18.11 To obtain and publish a summary of federal revenue laws relating to gaming and to insure compliance with the same.

4.18.12 To arrange for training of Tribal Commission members, tribal employees and others in areas relating to the regulation or operation of gaming.

4.18.13 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.

4.18.14 To make recommendations to the Council on the hiring of all supervisory gaming employees.

4.18.15 To promulgate rules and regulations to implement and further the provisions of this Code.

4.18.16 To approve or disapprove any application for a tribal gaming license.

4.18.17 To consult with and make recommendations to the Tribal Council regarding changes in tribal gaming laws and policies.

4.18.18 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.

4.18.19 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.

4.18.20 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.

4.18.21 To permanently close, after notice and hearing, any game or games which are operating in violation of tribal law.

4.18.22 To sue or be sued in courts of competent jurisdiction within the United States and Canada, 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.

4.18.23 To use the seal of the Tribe with the approval of the Tribal Council.

4.18.24 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.

4.18.25 To sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its personal property and assets.

4.18.26 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.

4.18.27 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.

4.18.28 To arbitrate, compromise, negotiate, or settle any dispute to which it is a party relating to the Tribal Commission's authorized activities.

4.18.29 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.

4.18.30 To invest and reinvest its funds in such mortgages, bonds, notes, debentures, share of preferred and common stock, and any other securities of any kind whatsoever, and property, real, personal or mixed, tangible or intangible, as the Tribal Commission shall deem advisable and as may be permitted under applicable law, provided that the Tribal Commission shall have authority to invest or reinvest in real property, whether located on or off the Reservation, subject to the restrictions set forth in subsection 4.18.27 above.

4.18.31 To exercise the tribal power to tax authorized by the Saginaw Chippewa Tribal Constitution in accordance with a Council resolution delegating such power to the Tribal Commission and in accordance with this Code and other applicable law.

4.18.32 To purchase insurance from any stock or mutual company for any property, or against any risk or hazard.

4.18.33 To engage in any and all activities which directly or indirectly carry out the purposes of the Tribe as set forth in this Code.

4.18.34 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.

4.18.35 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.

4.18.36 To establish and maintain such bank accounts as may be necessary or convenient.

4.18.37 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.

4.18.38 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 of at least 10 years.

4.18.39 To adopt a schedule of fees to be charged for gaming licenses issued pursuant to this Code.

4.18.40 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.

4.18.41 To conduct background investigations of all persons who propose to participate in any gaming activity or operation.

4.18.42 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.

4.18.43 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.

4.18.44 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 of an licensee does not meet the standards for being licensed under the IGRA.

4.18.45 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 by August 15th of each year.

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 for record both in the office of the Tribal Secretary and in the Office of the Clerk of the Tribal Court.

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.

4.23 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 subsection 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. The Tribal Commission shall determine who shall have check writing authority from such account.

4.26 Quarterly Report of Tribal General Manager Reports. The Tribal Commission shall file a quarterly report with the Council summarizing reports received from each manager of any 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 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 Tribe 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 or operation 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 procedures to be used in such gaming activity.