



June 2, 2022

VIA E-MAIL

Glen Nenema, Chairman  
P.O. Box 39  
Usk, WA 99180

Re: Gaming Ordinance Amendment

Dear Mr. Nenema:

This letter responds to your request for the National Indian Gaming Commission (NIGC) Chairman to review and approve the Kalispel Tribe of Indians' Gaming Ordinance amendment. The Kalispel Business Committee amended its Gaming Ordinance on March 22, 2022, by Kalispel Resolution No. 2022-50.

Thank you for bringing the gaming ordinance to the Agency's attention and for providing a copy. I approve the ordinance as it is consistent with the Indian Gaming Regulatory Act and NIGC regulations. As the Tribal Gaming Agency (TGA) will be changing its process for conducting a criminal history check, I want to remind the Tribe that as long as Criminal History Record Information that has been received from the NIGC still resides within the TGA's system(s), the Federal Bureau of Investigation Criminal Justice Information Services (CJIS) Security Policy requirements apply until such time as the information is securely disposed of, in accordance with the Security Policy.

If you have any questions, please contact Senior Attorney Esther Dittler at 202-853-7511.

Sincerely,

A handwritten signature in black ink that reads "E. Sequoyah Simermeyer".

E. Sequoyah Simermeyer  
Chairman

MAILING ADDRESS: NIGC/DEPARTMENT OF THE INTERIOR 1849 C Street NW, Mail Stop #1621 Washington, DC 20040 Tel: 202.632.7003 Fax: 202.632.7066

REGIONAL OFFICES Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK; Oklahoma City, OK; Rapid City, SD  
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509 445-1147  
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**RESOLUTION**

**WHEREAS,** the Kalispel Business Committee is the duly Constituted governing body of the Kalispel Tribe by the authority of the Constitution and By-Laws for the Kalispel Tribe; and

**WHEREAS,** under the Constitution and By-Laws of the Tribe, the Kalispel Business Committee is charged with the duty of protecting the health, security and general welfare of the Kalispel Tribe and all reservation residents; and

**WHEREAS,** there is a need to amend Chapter 11 of the Kalispel Law and Order Code – Kalispel Tribe Gaming Ordinance (“Gaming Ordinance”) to comply with the Indian Gaming Regulatory Act (“IGRA”) and revisions approved by the National Indian Gaming Commission (“NIGC”); and

**WHEREAS,** the Kalispel Business Committee has delegated the Tribal Gaming Agency (“TGA”) with the authority to revise the Gaming Ordinance from time to time as necessary to be compliant with applicable federal and state law; and

**WHEREAS,** the Kalispel Business Committee previously amended the Gaming Ordinance on March 26, 2019, under Resolution No. 2019-28; and

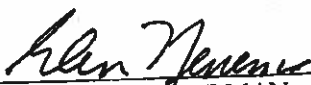
**WHEREAS,** TGA recommends the revisions noted in the attached amended Gaming Ordinance.

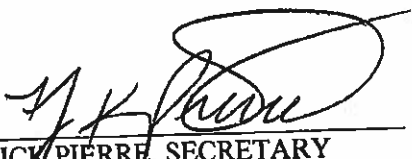
**NOW THEREFORE, BE IT RESOLVED,** the Kalispel Business Committee hereby approves the amendment to the Kalispel Tribe Gaming Ordinance Chapter 11 as attached, to become effective immediately; and

**BE IT FURTHER RESOLVED,** that this Resolution supersedes Resolution No. 2019-28.

**CERTIFICATION**

The Kalispel Business Committee adopted the foregoing RESOLUTION at a meeting held on the 22<sup>nd</sup> day of March, 2022, at the Tribal office on the Kalispel Indian Reservation near Usk, Washington, with the required quorum present by a vote of 4 FOR and 0 AGAINST.

  
GLEN NENEMA, CHAIRMAN  
KALISPEL BUSINESS COMMITTEE  
(TERM EXPIRES JUNE 2023)

  
NICK PIERRE, SECRETARY  
KALISPEL BUSINESS COMMITTEE  
(TERM EXPIRES JUNE 2022)

20220322.01

## CHAPTER 11 – FINAL KALISPEL TRIBE GAMING ORDINANCE

### SECTION 11-1: PURPOSE OF THIS ORDINANCE

#### 11-1.01 PURPOSE

The purposes of this Ordinance are:

- (1) To provide a new and continuous source of revenue to the Tribe for the Tribe's governmental needs;
- (2) To ensure the proper regulation and operation or authorize amusement games and gambling;
- (3) To allow Tribal members and guests to participate in certain forms of amusement games and gambling;
- (4) To provide for the social welfare and protection of Tribal members and all others who reside within or who may pass through the Reservation.
- (5) To preempt State law including the licensing, taxing, revenue distributions and enforcement parts of Washington State RCW 9.46 as that law may apply to those activities specifically covered by this Ordinance, and to implement in the place of State law, Tribal regulation and control of the activities covered herein.

### SECTION 11-2: PUBLIC POLICY

#### 11-2.01 PUBLIC POLICY

Public policy of the Kalispel Tribe concerning gaming:

- (1) The Kalispel Business Committee hereby finds, and declares to be the public policy of the Kalispel Tribe that:
  - (A) The gaming industry is vitally important to the economy of the Tribe and general welfare of the Tribal members.
  - (B) The growth and success of gaming is dependent upon public confidence and trust that licensed gaming is conducted honestly and competitively, and that gaming is free from criminal and corruptive elements.
  - (C) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, activities related to the operation of licensed gaming establishments.
  - (D) All establishments where gaming is conducted and where gambling devices are operated must therefore be licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the Tribal members, to foster the stability and success of gaming.
- (2) No applicant for a license has any right to a license or the granting of the approval sought. Any license issued pursuant to the provisions of this Ordinance is a revocable privilege, and no holder acquires any vested right therein or thereunder.

SECTION 11-3:  
DEFINITIONS

11-3.01 DEFINITIONS

As used in this Ordinance, the following words or phrases shall each have the designated meaning unless a different meaning is expressly provided, or the context is clearly indicated:

- (1) "Adjusted gross receipts" shall be computed according to the following formula: Gross receipts minus total moneys expended for prizes and operators' salaries.
- (2) "Bingo equipment" includes all equipment which is actually used, or made or sold for the purpose of use, in bingo games for which consideration is charged persons to play in connection with which prizes are awarded. Unless otherwise specified, the term shall include, but not be limited to, machines or other devices from which balls or other items are withdrawn to determine the letters and numbers or other symbols to be called, those balls or items themselves, bingo cards, and any other device commonly used in the direct operation of the game.

Bingo game sets commonly manufactured and sold as children's games for retail price of twenty-five (25) dollars or less shall be presumed not to be bingo equipment for purposes of this Ordinance unless the set, or portion thereof is actually used in a bingo game defined in subsection (5) below.

- (3) "Board" means the Kalispel Tribal Gaming Board, including its designated agents.
- (4) "Class I Gaming" means social games played 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.
- (5) "Class II Gaming" means:

(A) the game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used):

- (i) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations.
- (ii) in which the holder of the card covers such numbers or designations when objects, similarly, numbered or designated, are drawn or electronically determined; and
- (iii) 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, ~~lots~~, punch boards, tip jars, instant bingo, and other games similar to bingo; and

(B) Non-banking card games that:

- (i) State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
- (ii) Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.

- (C) The term "class II gaming" does not include:
- (i) any banking card games, including baccarat, chemin de fer, or blackjack (21); or
  - (ii) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.
- (D) Notwithstanding any other provisions of this section, the term "class II gaming" includes those card games played in the State of Washington, that were actually operated in the State by an Indian Tribe on or before May 1, 1988, but only to the extent of the nature and scope of the card games that were actually operated by an Indian tribe in the State on or before such date, as determined by the Chairman of the National Indian Gaming Commission (NIGC).
- (6) "Class III Gaming" means all forms of gaming that are not Class I gaming or Class II gaming. Class III gaming includes, but is not limited to,
- (A) Any house banking game, including but not limited to
    - (i) Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
    - (ii) Casino games such as roulette, craps, and keno;
  - (B) Any slot machines as defined in 15 U.S.C. Sec. 1171(a)(1) and electronic or electromechanical facsimile of any game of chance.
  - (C) Any sports betting and parimutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or
  - (D) Lotteries
- (7) "Council" means the Kalispel Business Committee of the Kalispel Indian Reservation.
- (8) "Game" and "gambling game" mean any banking or percentage game played with cards or any device, for money, property, credit or any representative of value, including bingo, pan, poker, Texas hold-em, twenty-one, and all other forms of gaming as defined in 25 U.S.C. Section 2703 (7) and (8) but shall not include social games in private homes or residences, not open to the general public, and not otherwise subject to regulation under the provisions of this Ordinance.
- (9) "Gambling": A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome, but shall not include bona fide business transactions valid under the law of contracts, nor include traditional Indian games played by Tribal members and their guests.
- (10) "Gross receipts" means the total of all sums received as revenue from the operation of an authorized gambling activity during a given period of time, without allowances, or deduction for pay out of winnings, costs of the transaction, cost of materials or equipment used, labor expense, salaries or any other compensation for services rendered, interest, discount, rent, taxes, or any other allocated or

allocable expense or loss during the same period of time.

- (11) "Immediate family" means and is limited to, the subject individual's spouse, children, and parents---- adopted or biological.
- (12) "Indian Land" means:
- a. Any lands located within the exterior boundaries of the Kalispel Indian Reservation; and
  - b. Any lands title to which is either held in trust by the United States for the benefit of the Kalispel Tribe of Indians, or held by the Kalispel Tribe of Indians subject to restriction by the United States against alienation and over which the Kalispel Tribe of Indians exercises governmental power; and
  - c. Any lands title which is either held in trust by the United States for the benefit of the individual Indian or held by an individual Indian subject to restriction by the United States against alienation and over which the Kalispel Tribe of Indians exercises governmental power.
- (13) "Key Employee" means all employees who have authority over receipt or distribution of revenues from the gaming activity, and shall include but not be limited to bingo callers, counting room supervisor, cashiers, dealers, pit bosses, floor managers, chief of security, supervisors, custodian of gaming supplies or cash, croupier, approver of credit, or custodian of gambling devices including persons with access to cash and accounting records within such devices. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year. If not otherwise included, the four most highly compensated persons in the gaming operation.
- (14) "Management Contract" means any contract, subcontract, or collateral agreement between the Kalispel Tribe and a contractor or between a contractor or subcontractor, if such contract or agreement provides for management of all or part of a gaming operation.
- (15) "Net Revenue" means gross gaming revenue of an Indian gaming operation less amounts paid out as, or paid for, prizes and less total gaming-related operating expenses, excluding management fees.
- (16) "Patron" means any person or group of persons who participate as players in games as defined by this Ordinance, or who are physically present on premises wherein or whereon such games are being played, but shall not include current employees of the gaming establishment who are actually providing services at the time of such games are being played.
- (17) "Person" means any association, partnership, corporation, firm, co-operative or other forms of business entity, as well as a natural person.
- (18) "Premises" means land together with all buildings, improvements, fixtures, and personal property located thereon.
- (19) "Primary Management Official" means the person having management responsibility for a management contract, any person who has authority to hire and fire employees, to supervise employees or to establish operational policy for the gaming operation, the chief financial officer or other person who has financial management responsibility.

- (20) "Pulltab" means a single folder or banded ticket or card, the face of which is initially covered or otherwise hidden from view to conceal a number, symbol or set of symbols, a few of which numbers or symbols out of every set of pulltabs have been designated in advance and at random as prize winners, when for the opportunity to obtain each such folded or bonded ticket or card, view the numbers or symbols thereon and possibly obtain a prize-winning pulltab a person pays some consideration to an operator.
- (21) "Punch board" means a board or similar item containing a number of holes or receptacles of uniform size in which are placed mechanically and at random serially numbered slips of paper or other substance which may be punched or drawn from said hole or receptacle by any person desiring to do so, when, for the opportunity to obtain symbols thereon and possibly obtain a prize-winning slip of paper, a person pays some consideration to an operator.
- (22) "Reservation" means the Kalispel Indian Reservation.
- (23) "Services" means labor provided by one person to or for another, where such labor is provided in pursuit of the purposes of gambling on the Kalispel Reservation.
- (24) "Tribe" and "Tribal" refer to the Kalispel Indian Tribe of the Kalispel Reservation.
- (25) "Tribal-State Compact" means a written document, either negotiated and agreed to by the Kalispel Tribe and an official or agency of the State of Washington, or prescribed by the Secretary pursuant to 25 U.S.C. Sec. 2710(7)(B), governing the conduct of Class III gaming activities on Indian lands.

**SECTION 11-4: AUTHORIZED ACTIVITIES**

**11-4.01 AUTHORIZED ACTIVITIES**

The Kalispel Tribe may operate or authorize Class II and Class III gaming activities, including bingo, lotteries, punch boards, and all other forms of gaming as defined in 25 U.S.C. Section 2703 (7) and (8), and pulltabs consistent with the provisions of this ordinance.

If the Indian Gaming Regulatory Act is unconstitutional, the Board may license and regulate Class III gaming activities without regard to the IGRA and without regard to the laws of the State of Washington. In such situation, agents of the Washington State Gambling Commission are prohibited from entry onto Indian lands subject to the jurisdiction of the Kalispel Tribe of Indians.

**11-4.02 LICENSE REQUIRED**

It is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others to knowingly license any gambling game within the exterior boundaries of the Kalispel Reservation unless licensed by the Board. The Board shall issue a separate license to each place, facility, or location on Indian lands where the Tribe elects to allow gaming.

Each gaming facility shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public.

**11-4.03 TRADITIONAL INDIAN GAMES**

Traditional Indian games played by Tribal members and their guests shall not constitute gaming within the meaning of this Ordinance.

**SECTION 11-5: RULES OF CONSTRUCTION**

**11-5.01 RULES OF CONSTRUCTION**

In this title, unless otherwise specifically provided:

- (1) The masculine includes the feminine;
- (2) The singular includes the plural;
- (3) "Includes" or "including" are not limiting; and
- (4) "Or" is not exclusive.

**SECTION 11-6: ADMINISTRATION**

**11-6.01 KALISPEL TRIBAL GAMING BOARD ESTABLISHED**

The Kalispel Tribal Gaming Board, consisting of the seated members of the Kalispel Tribal Council, is hereby created. The Tribal Gaming Board may delegate their authority to other individuals. This delegation must be approved by the Kalispel Tribal Council through Resolution.

**11-6.02 OWNERSHIP - REVENUES TO BENEFIT TRIBE (res. 2008-44)**

The Tribe shall have the sole proprietary interest in, and the sole responsibility for the conduct of any gaming operation authorized by this Ordinance. Such provision does not, however, limit the Tribe's ability to enter into a management contract wherein net revenues are divided between the Tribe and other parties to the contract. A gaming establishment shall be operated so as to produce the maximum amount of net revenues to the Tribe. Net revenues will go entirely to the Tribe and will be used solely for the following purposes:

- (1) to fund tribal government operations or programs;
- (2) to provide for the general welfare of the Tribe and its members;
- (3) to promote tribal economic development;
- (4) to donate to charitable organizations; or
- (5) to help fund operations of local government agencies.

Net revenues from the gaming establishment may be used to make per capita payments to members of the Tribe upon the preparation of a plan to allocate revenues to the above uses and approval of this plan by the Secretary of the Department of Interior.

**11-6.03 LICENSING POWERS**

- (1) The provisions of this Ordinance with respect to Tribal gaming licenses must be administered by the



Board or its designated agents for the protection of the public and in the public interest in accordance with the policy of the Kalispel Tribe.

(2) The Board or its designated agents shall be charged with the responsibility to promulgate regulations necessary to administer the provisions of this Ordinance. Their duties shall include but not be limited to the following:

(A) Printing and making available application forms for initial and renewal licenses, as well as any other necessary forms required by this Ordinance;

(B) Supervising the collection of all fees and taxes prescribed in this Ordinance;

(C) Processing all license applications and tax returns;

(D) Issuing licenses;

(E) Determining applicable license fees;

(F) Auditing all returns;

(G) The Board shall investigate the qualifications of each applicant under this Ordinance before any license is issued, and shall continue to observe the conduct of all licensees and other persons having a material involvement directly or indirectly with a licensed gaming operation to ensure that licenses are not issued or held by, nor is there any material involvement directly or indirectly with a licensed gaming operation by unqualified, or unsuitable person or persons whose operations are conducted in an unsuitable manner or in unsuitable or prohibited places or locations.

(H) The Board has full and absolute power and authority to deny any application or limit, condition, restrict, revoke or suspend any license or fine any person licensed for any cause deemed reasonable by the Board. In all decisions, the Board shall act to promote and ensure integrity, security, honesty, and fairness of the operation and administration of all gaming activities.

(I) The Board and their agents may:

(i) Inspect and examine all premises wherein gaming is conducted.

(ii) Inspect all equipment and supplies in, upon or about such premises.

(iii) Summarily seize and remove from such premises and impound any equipment or supplies for the purpose of examination and inspection.

(iv) Demand access to and inspect, examine, photocopy and audit all papers, books and records of licensees, on their premises, and if practicable in the presence of the licensee or his agent, respecting the gross income produced by any gaming business, and require verification of income, and all other matters affecting the enforcement of the policy.

(v) To seize and impound any patron's winnings which the Board may have reasons to believe may have been won or obtained in violation of this Ordinance pending a civil forfeiture hearing on such seizure.

(J) For the purpose of conducting audits after the cessation of gaming by a licensee, the former licensee shall furnish, upon demand of an agent of the Board, books, papers and records as necessary to conduct the audits. The former licensee shall maintain all books, papers and records necessary for audits, pursuant to 25 CFR 571.7 and generally accepted accounting principles after the date of the surrender or revocation of his/her gaming license.

(K) TGA shall retain, for no less than three (3) years from the date a primary management official or key employee is terminated from employment with the Tribe the following documentation:

- (i) Application for licensing;
- (ii) Investigative Reports; and
- (iii) Eligibility Determinations

#### 11-6.04 ADMINISTRATIVE DUTIES OF THE TRIBAL GAMING BOARD

The Tribal Gaming Board shall perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and affect all purposes of this Ordinance relating to the regulation of all gaming activity. In all decisions, the Board shall act to promote and ensure integrity, security, honesty, and fairness of the operation and administration of all gaming activity. The Board's duties shall include but not be limited to the following:

- (1) Cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the National Indian Gaming Commission ("NIGC"), specifically including all gaming-related contracts that result in the purchase of supplies, services or concessions for more than \$25,000 in any year (except contracts for professional legal and accounting services);
- (2) Assure that all gaming activity is conducted in a manner which adequately protects the environment and the public health and safety;
- (3) Proscribe an adequate system which ensures that background investigations are conducted on all primary management officials and key employees of any gaming operation and that oversight of such officials and their management is conducted on an ongoing basis. In conducting a background investigation, the Board or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.
- (4) The Board shall immediately notify the NIGC of the issuance of such licenses. The Board will review all applications and background investigations to ensure that no person shall be eligible for licensure in or with any part of the gaming operation if that person's prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming. The Board shall notify the NIGC of the results of such background checks before the issuance of such licenses;

- (5) Recommend the hiring of such professional, clerical, technical, and administrative personnel as may be necessary to carry out the provisions of this Ordinance;  
Identify and make necessary arrangements for a law enforcement agency to take fingerprints and for conducting a criminal history check which shall, at a minimum, include a check through the Federal Bureau of Investigation National Criminal Information Center;
- (6) Review all records, documents, and anything else necessary and pertinent to enforcement of any provisions of this Ordinance.

#### 11-6.05 MEETINGS OPEN TO PUBLIC

General meetings of the Board shall be open to the general membership of the Kalispel Tribe, all meetings shall be governed by Roberts Rules of Order.

#### 11-6.06 QUORUM - MAJORITY VOTE

A quorum shall consist of three members of the Board. All decisions shall be made by majority vote of the quorum present (or participating by telephone line), unless indicated otherwise in this Ordinance. Proxy or assignments of voting shall be prohibited.

#### 11-6.07 AMENDING REGULATIONS

The Board may summarily adopt, amend or repeal any regulation if the Board determines such action is necessary for the preservation of the public peace, health, safety, morals, and good order or general welfare of the Kalispel Tribe of Indians.

#### 11-6.08 POWERS OF DELEGATION

The Board may organize itself into functional divisions as it may deem necessary and from time to time alter such plan of organization as it may deem expedient. The Board shall establish its own budget for operations, and acquire such furnishings, equipment, supplies, stationary, books, motor vehicles, and other things as it may deem necessary or desirable in carrying out its functions, and incur such other expenses, within the limit of funds available to it, as it may deem necessary. Within the limits of the budget, the Board shall employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the Board may require.

#### 11-6.09 DUTY OF BOARD TO INITIATE PROCEEDINGS, ACTIONS

The Board shall initiate proceedings or actions appropriate to enforce the provisions of this Ordinance, and may request that the Tribal prosecuting attorney prosecute any public offense committed in violation of this Ordinance.

### SECTION 11-7: LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

#### 11-7.01 APPLICATION FORMS

- (1) The following notice shall be placed on the Tribe's license application form for a key employee or a primary management official before it is filled out by an applicant:

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 NIGC members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe being unable to license you for a primary management official or key employee position.

(A) The disclosure of your Social Security Number ("SSN") is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(2) The following additional notice shall be placed on the application form for a key employee or a primary management official before it is filled out by an applicant:

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, section 1001).

#### 11-7.02 FAILURE OF APPLICANT TO DISCLOSE MATERIAL INFORMATION

An applicant for licensing shall make true and full disclosure of all information to the Board as necessary or appropriate in the public interest or as required in order to carry out the policies of the Tribe relating to licensing and control of the gaming industry. It is the duty of the applicant to disclose all information material to whether his involvement with gaming would jeopardize or compromise the Tribal interest, whether or not the applicant has been specifically required to provide that information. It shall constitute a violation of this Ordinance to fail to disclose, to mislead or to misstate any such material information to the Board, or to any licensee's employer.

#### 11-7.03 BACKGROUND INVESTIGATIONS

The Tribe shall perform a background investigation for each primary management official and key employee in its gaming operation. The investigation must be sufficient to allow the Tribal Gaming Agency to make an eligibility determination under Section 11-7.04 of this Ordinance.

(1) The Board shall obtain from each primary management official and key employee all of the following information:

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

(B) Currently and for the previous five (5) years: business and employment positions held,

- ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (C) The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph 1(B) of this section;
  - (D) Current business and residential telephone numbers, and all cell phone numbers;
  - (E) A description of any existing and previous business relationships with other Indian tribes, including any ownership interests in those businesses;
  - (F) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
  - (G) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
  - (H) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
  - (I) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the date and 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 ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph 1(H) or 1(I) of this section, the criminal charge, the name and address of the court involved and the date and disposition, if any;
  - (K) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
  - (L) A current photograph;
  - (M) Any other information the Board deems relevant; and Fingerprints obtained in accordance with procedures adopted by the Board, pursuant to 25 C.F.R. Sec. 522.2(h). The Tribe shall perform a background investigation for each primary management official and key employee of the gaming operation. The Tribe shall request fingerprints from each primary management official and key employee.
  - (N) The Board shall keep and maintain a file of said applications for licenses under this Ordinance, together with a record of all action taken with respect to such applications.

- (2) If the NIGC has received an investigative report concerning an individual who another tribe wishes to employ as a key employee or primary management official and if the second tribe has access to the investigative materials held by the first tribe, the second tribe may update the investigation and update the investigative report under 11- 7.06 below.

#### 11-7.04 ELIGIBILITY DETERMINATION:

The Board, an authorized Tribal official, shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for licensure in a gaming operation. If the Board, in applying the standards adopted in this tribal ordinance, determines that licensure of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a management contractor or a tribal gaming operation shall not employ that person in a key employee or primary management official position. In conducting a background investigation, the Board or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

#### 11-7.05 TEMPORARY EMPLOYMENT LICENSES

TGA may issue a temporary employment license to any person or entity applying for a license to work in a licensed gaming establishment which shall be valid pending the background investigation of the applicant. In no event shall such temporary license be valid for greater than ninety (90) days, and no such employee shall work without a gaming license.

#### 11-7.06 PROCEDURES FOR FORWARDING APPLICATIONS AND REPORTS FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS TO THE NATIONAL INDIAN GAMING COMMISSION

- (1) Before issuing a license to a primary management official or key employee, TGA shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.
- (A) The notice of results shall include the following information:
- i. The applicant's name, date of birth, and social security number; and
  - ii. The date on which the applicant began, or will begin, working as a primary management official or key employee.
- (B) A summary of the information presented in the investigative report, including:
- i. Licenses that have previously been denied;
  - ii. gaming licenses that have been revoked, even if subsequently reinstated;
  - iii. every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
  - iv. Every felony offense of which the applicant has been convicted or any ongoing prosecution;

(D) A copy of the eligibility determination made in accordance with Section 11-7.04.

- (2) The notice of results must be submitted to the NIGC no later than sixty (60) days after the applicant begins working for the Tribe.

#### 11-7.07 REPORT TO THE NATIONAL INDIAN GAMING COMMISSION

- (1) Before issuing a license to a primary management official or key employee, pursuant to the procedures set out in Section 11-7.06 of this section, the Board shall create and maintain an investigative report for each background investigation of a primary management official or key employee. An investigative report shall include all of the following:

(A) Steps taken in conducting a background investigation;

(B) Results obtained;

(C) Conclusions reached; and

(D) The basis for those conclusions.

- (2) The Board shall submit, with the report, a copy of the eligibility determination made under Section 11-7.04 of this section.

- (3) If a license is not issued to an applicant, the Board:

(A) Shall notify the NIGC; and

(B) Shall forward copies of its eligibility determination and Notice of Results to the NIGC for inclusion in the Indian Gaming Individuals Records System.

#### 11-7.08 GRANTING A GAMING LICENSE

- (1) All primary management officials and key employees of the gaming operation must have a gaming license issued by the Tribe.

- (2) The Board is responsible for granting and issuing gaming licenses to primary management officials and key employees.

- (3) TGA may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by Section 11-7.06.

- (4) TGA shall notify the NIGC of the issuance of a license to a primary management official or key employee within thirty (30) days of issuance.

- (5) TGA shall not employ an individual in a primary management official or key employee position who does not have a license after ninety (90) days of beginning work at the gaming operation.

- (6) TGA must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within thirty (30) days of the NIGC receiving a notice of results of the applicant's background.

- (7) TGA shall take the NIGC's objections into account when reconsidering a license application.

- (8) The Tribe will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.
- (9) If TGA has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing as specified in 11-7.09, shall be provided to the licensee.

#### 11-7.09 LICENSE SUSPENSION

- (1) If, after a license is issued to a primary management official or a key employee, the Tribe receives notice from the NIGC that the primary management official or key employee is not eligible for employment, TGA shall do the following:
  - (A) Immediately suspend the license;
  - (B) Provide the licensee with written notice of the suspension and proposed revocation; and
  - (C) Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.
- (2) The right to a revocation hearing vests only when a license is granted under an ordinance approved by the NIGC Chair.
- (3) Following a revocation hearing, the Tribe shall decide whether to revoke or reinstate the license at issue.
- (4) The Tribe shall notify the NIGC of its decision to revoke or reinstate a license within forty-five (45) days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

#### 11-7.10 DENYING GAMING LICENSES

- (1) The TGA shall not license a primary management official or key employee if an authorized Tribal official determines, in applying the standards in Section 11-7.04 for making a license eligibility determination, that licensing the person:
  - (A) Poses a threat to the public interest;
  - (B) Poses a threat to the effective regulation of gaming; or
  - (C) Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.
- (2) When the TGA does not issue a license to an applicant for a primary management official or key employee position, or revokes a previously issued license after reconsideration, it shall:
  - (A) Notify the NIGC; and
  - (B) Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.



**11-7.11 RECORDS RETENTION**

The Board or its designated agent shall retain, for no less than three years from the date a primary management official or key employee is terminated from employment with the Tribe, the following documentation:

- (1) Application for licensing;
- (2) Investigative Reports; and
- (3) Eligibility Determinations.

**SECTION 11-8: LICENSING PROCEDURE FOR GAMING OPERATION EMPLOYEES OTHER THAN KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS**

**11-8.01 LICENSING PROCEDURE**

All gaming operation employees, other than key employees and primary management officials, shall submit an application form containing the notices set forth in Section 11-7.01 of this Ordinance and all information requested in Section 11-7.03(1) of this Ordinance. An applicant for licensing shall make a true and full disclosure of all information to the Board as necessary or appropriate in the public interest or as required in order to carry out the policies of the Tribe relating to licensing and control of the gaming industry. It shall be a violation of this Ordinance to fail to disclose, to mislead or to misstate any such material information to the Board, or to any licensee's employer.

The Board or its designated agent shall conduct an investigation sufficient to make a determination under Section 11-8.02 below. In conducting a background investigation, the Board or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation. The Board may issue a temporary employment license to any person applying for a license to work in a licensed gaming establishment which shall be valid pending the background investigation of the applicant. In no event shall such temporary license be valid for greater than 90 days.

**11-8.02 ELIGIBILITY DETERMINATION**

The Board, an authorized Tribal official, shall review a person's prior activities, criminal record, if any, and reputation, habits and association to make a finding concerning the eligibility of a person for employment in a gaming operation. If the Board, in applying the standards adopted in this tribal Ordinance, determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a management contractor or a tribal gaming operation shall not employ that person.

**11-8.03 NO RIGHT TO APPEAL**

The determinations of the Board with regard to issuance, revocation, termination, suspension, or limitations of any employment license are final.

**SECTION 11-9: APPLICATION, LICENSING, AND REGULATION OF GAMING OPERATIONS**

**11-9.02 LICENSE APPLICATION (res. 2008-44)**

Any agency or department of the Tribe shall submit a request for a license to engage in any authorized

activity. The request shall contain the following information:

- (1) The complete name of the applicant.
- (2) The name and address of the department, agency or organization head and his/her position.
- (3) For each person identified, provide the following information:
  - (A) The nature and extent of any interest in the applicant agency, department, or organization.  
Identify specifically the extent of any financial managerial or control interest.
  - (B) Whether the person, organization or agency, or department has a substantial interest in or has applied for, and/or received any license under this part.
- (4) The location of the proposed gambling area.
- (5) Identify the type of activity for which the license is sought (e.g., bingo, lotteries, punch boards, pulltabs).
- (6) A description of the purpose for holding or engaging in the activity for which the license is sought, and a description of the purposes for which the revenues, if any, will be expended.
- (7) Each application shall contain an acknowledgment that the applicant assumes full responsibility for the fair and lawful operation of all licensed activities that the applicant conducts.
- (8) The Board shall furnish to the applicant supplemental forms, which the applicant shall complete and file with the application. Such supplemental forms shall require, but shall not be limited to complete information and details with respect to the applicant's habits, character, criminal record, business activities, financial affairs and business associates, covering a time period specified immediately preceding the date of filing of the application.

#### 11-9.03 ELIGIBILITY FOR STATE LICENSE (res. 2008-44)

The Board shall deny a license for any person or entity, other than the Tribe or an agency or department of the Tribe, that would not be eligible to receive a State license to conduct the same activity within the State of Washington. State law standards, if applicable, shall apply with respect to purpose, entity, pot limits and hours of operation.

#### 11-9.04 ASSESSMENT FEE

The owner of a gambling license issued under this section shall pay an assessment fee to the NIGC as annually published in the Federal Register pursuant to 25 C.F.R. Sec. 514.1.

#### 11-9.05 PUBLIC INFORMATION REQUIRED

All licensees prior to conducting any of the activities authorized by this Ordinance shall first provide the following information which shall be publicly available:

- (1) What particular activity will be conducted.
- (2) When such activity will be conducted and the exact location where the activity will be conducted.
- (3) The names and addresses of those persons who will be in charge of the operation of said activity along

with a statement that said operators shall have no interest in the activity to be conducted except for the receipt of a reasonable salary which will be paid in consideration for their operation of the activity.

(4) Any special limitations or considerations which may be applicable to the particular activity.

#### 11-9.06 LIMITATIONS

No licensee shall hold more than one license to conduct bingo or a license to operate punch boards or pulltabs at more than one business site. Each such license shall authorize the conduct of the activity only upon the premises shown on the license application.

#### 11-9.07 ISSUANCE LIMITED

The Board may limit the number or licenses issued to ensure that the purposes of this Ordinance are met.

#### 11-9.08 REGULATIONS

The Board may adopt regulations to administer and implement any part of this Ordinance that are at least as restrictive as those established by Washington State law governing similar gaming.

### SECTION 11-10: GAMING

#### 11-10.01 CLASS AND FEES

Two classes of licenses shall be issued. Each shall have a separate fee. Licensees shall operate and conduct only those activities authorized under each license as listed below and may be further specified in regulations promulgated hereunder.

**Class A:** Five hundred (\$500) dollars annual fee. Class A licenses shall carry a life of twelve months or less, and shall expire on December 31 of each calendar year. The fee shall be prorated according to the date of issuance.

**Class B:** Twenty-five (\$25) dollar fee. A Class B license shall be issued only for special events and shall carry life of three (3) days only. Said special event days must fall within a period seven (7) consecutive calendar days from the date of issuance. All license fees will be paid in advance.

#### 11-10.02 REFILE OF APPLICATION

Every licensee intending to continue engaging in gaming activities on the reservation during the next following year shall apply for renewal of the license at least thirty (30) days prior to the expiration of the previous license period.

#### 11-10.03 NO RIGHT TO APPEAL

The determinations of the Board with regard to issuance, revocation, termination, suspension, or limitations of any license are final.

#### 11-10.04 INDEPENDENCE OF BOARD

The Board, members of the Council and their immediate families shall receive no personal compensation, gift, reimbursement or payment of any kind from any person doing or wishing to do business with the Tribe

relating to gaming nor with any person wishing to obtain an unfair advantage in any authorized wager on gaming. Personal compensation, gift, reimbursement or payment of any kind shall not include business entertainment, meals, lodging or other ordinary and reasonable expenses in the negotiation and solicitation of contracts. Any property received in violation of this provision, including cash payments, shall be immediately forfeited to the Tribe and the offending persons shall be prosecuted to the fullest extent possible under tribal law for accepting a bribe. The Board shall cooperate to the fullest extent possible with any Federal or State law enforcement agency to pursue prosecution under applicable Federal or State law.

#### 11-10.05 PARAMETERS OF LICENSEE

Violation of any provision of this Ordinance or any of the Board's regulations by the licensee, his agent, or employee shall be deemed contrary to the public health, safety, morals, good order and general welfare of the Kalispel Tribe and the inhabitants of the Kalispel Reservation, and shall be deemed grounds for refusing to grant or renew a license, suspension or revocation of a license, or shall constitute grounds for the filing of charges by the Board. Acceptance of a gaming license or renewal thereof, or condition imposed thereon, by a licensee, constitutes an agreement on the part of the licensee to be bound by all the regulations and conditions of the Board and by the provisions of this Ordinance as the same are now, or may hereafter be amended or promulgated, and to cooperate fully with the Board. It is the responsibility of the licensee to keep himself informed of the contents of all such regulations, amendments, provisions, and conditions and ignorance thereof will not excuse violations. The Board shall use reasonable efforts to notify all licensees of changes in regulations.

### SECTION 11-11: RULES OF OPERATION AND GENERAL APPLICABILITY

#### 11-11.01 HOUSE RULES TO BE DEVELOPED AND POSTED

Each licensee shall develop a set of house rules which will govern the type, scope and manner of all gambling activities to be conducted. A copy of the rules shall be posted conspicuously on the licensed premises at all times, and a copy thereof shall be made available upon request to any Tribal enforcement officer or representative of the Board.

#### 11-11.02 SECURITY

Licensees shall provide for their in-house security PROVIDED, that such security personnel are approved by the Board.

#### 11-11.03 AGE LIMITATIONS

(1) No person under the age of eighteen (18) shall participate in any gaming operation, or be allowed on the gaming floor during actual hours of operation. Should alcoholic beverages be offered in the gaming area pursuant to applicable law, then no patron under the age of twenty-one (21) shall be permitted in the gaming area during actual hours of operation. PROVIDED, that such age limitation shall not apply to an individual accompanied by an adult for the specific and limited purpose of proceeding directly

and immediately across the gaming area for a legitimate non-gaming purpose, with no gaming area loitering or gaming participation by the underage person or accompanying adult.

- (2) No person under the age of eighteen (18) years of age shall be employed as a gaming employee.
- (3) Any licensee, employee, dealer or other person(s) who violates or permits the violation of any of the provisions of this section and any person who violates any of the provisions of this section is guilty under this Ordinance and shall be prosecuted in the Tribal Court, or Washington State Court for any non- Indian.
- (4) In any prosecution or other proceeding for the violation of any of the provisions of this section, it is no excuse for the licensee, employee, dealer or other person to plead that he believes the person to be eighteen (18) years old or over, or if applicable, twenty-one (21) years old or over.

#### 11-11.04 CHEAT DEFINED

As used in this Ordinance:

- (1) Cheat means to alter the selection of criteria which determine:
  - (A) The result of a game; or
  - (B) The amount or frequency of payment in a game.

#### 11-11.05 FRAUDULENT ACTS

It is unlawful for any person:

- (1) To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players.
- (2) To place a bet after acquiring knowledge, not available to all players, of the outcome of the game or other event which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing a bet contingent upon the outcome.
- (3) To claim, collect, or take, or attempt to claim, collect or take money or anything of value in or from a gambling game, with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won.
- (4) To use counterfeit chips in a gambling game.

#### 11-11.06 CHEATING PROHIBITED

It is unlawful for any person, whether he is an owner or employee of or a player in an establishment to cheat at any gambling game.

Detention and questioning of person suspected of violating Ordinance.

- (1) Any licensee, or his officers, employees or agents may question any person in his establishment suspected of violating any of the provisions of this Ordinance. No licensee or any of his officers, employees or agents is subject to criminal or civil liability:
  - (A) On account of any such questioning; or

(B) For reporting to the Board or Tribal law enforcement authorities the person suspected of the violation.

- (2) Any licensee or any of his officers, employees or agents who has seen a violation of this Ordinance in his establishment by any person may take that person into custody and detain him in the establishment in a reasonable manner and for a reasonable length of time. Such a taking into custody and detention does not render the licensee or his officers, employees or agents criminally or civilly liable unless it is established by clear and convincing evidence that the taking into custody and detention were unreasonable under all the circumstances.
- (3) No licensee or his officers, employees or agents are entitled to the immunity from liability provided for in subsection B unless there is displayed in a conspicuous place in his establishment a notice in boldface type clearly legible and in substantially this form:

ANY GAMING LICENSEE, OR ANY OF HIS OFFICERS, EMPLOYEES  
OR AGENTS WHO HAS PROBABLE CAUSE FOR BELIEVING THAT  
ANY PERSON HAS VIOLATED ANY PROVISION OF CHAPTER 11 OF  
THE KALISPEL TRIBAL CODE PROHIBITING CHEATING IN  
GAMING MAY DETAIN THAT PERSON IN THE ESTABLISHMENT.

#### 11-11.07 WORKERS TO WEAR IDENTIFICATION TAGS

Each licensee shall furnish to each person participating in the management or operation of the event an identification tag which at a minimum shall contain that person's name. The licensee shall cause each such person to wear this tag at all times when the person is working. The tag shall be in plain view so as to be easily seen and read by persons participating in the event.

#### 11-11.08 NO CREDIT TO BE ALLOWED

No licensee, or any of its members or employees, or any operator, conducting, or in any way participating in the conduct of any gambling activities, shall allow a person to play that activity on credit or shall grant a loan of any kind at any time to a person playing the activity, unless provided for in a separate agreement.

#### 11-11.09 ON DUTY OPERATORS SHALL NOT PLAY

No operator shall allow a person who manages or receives any compensation directly or indirectly, for the operation of any gambling game conducted by the operator to play in a gambling game while on duty.

#### 11-11.10 GAMBLING ORDINANCE ON PREMISE

Each licensee shall obtain, maintain, and keep current a copy of the Kalispel Tribal Gaming Ordinance which shall be located upon the premises used for the conduct of a licensed activity by a licensee during all times the activity is there conducted. The rules shall be produced by the licensee and shown to any person upon demand. The fact that the licensee may not have a current copy of each of the rules of the Board shall not in any way diminish the licensee's obligation to abide by these rules.

## SECTION 11-12: PUNCH BOARDS AND PULLTABS

### 11-12.01 OPERATION

- (1) No person under the age of eighteen (18) years and no person visibly intoxicated or visibly under the influence of any narcotic shall be allowed to play or operate any pulltab or Punch board game.
- (2) Whenever alcoholic beverages are being served in the same room in which a Punch boards and pulltab games are being conducted, no one under the age of twenty-one (21) years shall be allowed in the same room.
- (3) It shall be the responsibility of the person physically operating the pulltab or Punch board game to determine that no unauthorized person is allowed to play.
- (4) No licensee shall license the display or operation of any pulltab or Punch board game which may have in any manner been marked, defaced, tampered with or otherwise placed in a condition, or operated in a manner, which may deceive the public or which affects the chances of winning or losing upon the taking of any chance thereon.
- (5) No licensee shall display any Punch board:
  - (A) To which any key to any winning number, or symbol, exists other than a key which is furnished to the operator, which key designates the color codes or all chances on that board without regard to whether or not such chances or designated winner; or
  - (B) Which has taped sides, corners, or edges.

### 11-12.02 PRIZES

- (1) All prizes in pulltab and Punch board games shall be in cash or in merchandise. Prizes may not involve the opportunity of taking an additional chance or chances on another Punch board or of obtaining another pulltab or pulltabs unless the customer specifically asks for such.
- (2) Where the prize involves the opportunity to punch again on the same Punch board, all prizes must be awarded for each such punch which is not less than the highest amount of money, or worth not less than the most valuable merchandise prize, which might otherwise have been won by the punch for which the opportunity to take the second punch was awarded.
- (3) No Punch board which offers as a prize the opportunity to take another punch on that board shall be sold or placed out for play unless that particular style and set up board has been approved in advance by the Kalispel Tribal Gaming Board. Each such board must clearly indicate on its face the terms and conditions under which the opportunity to obtain the second, or step-up punch may be obtained and the prizes which may be won by the step-up punch.
- (4) All prizes shall be displayed in the immediate vicinity of the Punch board or pulltab game and such prizes shall be in full view of any person prior to that person purchasing the opportunity to play.

When a prize is cash, then the money itself shall not be displayed, but a coupon designating the cash

amount represented thereby available to be won shall be substituted therefore in any display which also includes merchandise prizes.

- (5) The cash prizes to be awarded in connection with punch boards and pulltabs series in connection with which only cash prizes are awarded shall be clearly and fully described or represented by a coupon displayed upon the prize flare attached to the face or displayed in the immediate vicinity of the pulltab game.
- (6) Displayed prizes shall be so arranged that a patron can easily determine which prizes are available from any particular Punch board or pulltab game located upon the premises.
- (7) Upon determination of a winner of a merchandise prize, the operator shall immediately remove that prize from any display and present it to the winner.
- (8) Immediately upon determining the winner of any cash prize with a retail value of five hundred (500) dollars or more, but prior to award of the prize, the licensee shall conspicuously delete all references to the prize being available to players from any flare, Punch board or pulltab game upon which such reference may appear, and from any other list, sign, or notice which may be posted, in such a manner that all future patrons will know the prize is no longer available. The prize shall then be paid or delivered to the winner forthwith.
- (9) No licensee shall offer to pay cash in lieu of merchandise prizes which may be won.
- (10) When and if required by the United States Internal Revenue Code, a record shall be made by the licensee of the win. Any required record shall contain:
  - (A) The full name of the winner;
  - (B) The current address of the winner;
  - (C) The date of the win;
  - (D) A description of the prize won; and
  - (E) If the prize is merchandise, its retail value.
- (11) It shall be the responsibility of the licensee to determine the identity of any winner if required by subsection (10) and the licensee shall require such proof of identification as is necessary to properly establish the winner's identity. The licensee shall not pay out any prize unless and until the winner has fully and accurately furnished to the licensee all information required by this section to be kept upon the records of the licensee.
- (12) Every licensee shall keep all necessary records required by subsection (10) and shall display the same to any member of the public, or Board upon demand.
- (13) For purposes of this section, the retail value of a merchandise prize shall be the amount actually paid there for by the licensee plus fifty (50) percent of that actual cost.
- (14) No operator shall put out for play any Punch board or pulltab game that does not contain the following minimum percentage in prizes:



- (A) Punch boards - a minimum of sixty (60) percent respecting each Punch board placed out for public play;
- (B) Pulltabs - a minimum of sixty (60) percent respecting each series of pulltabs out for play.
- (C) For the purpose of determining the percentage of prizes offered on any Punch board, or in any pulltab series under this section, total merchandise prizes shall be computed at the amount actually paid therefore by the operator plus fifty (50) percent of that actual cost.
- (D) Single cash prizes on punch boards/pulltabs shall not exceed:
  - (i) One thousand (1,000) dollars in cash; or
  - (ii) A merchandise prize, or combination merchandise prize, for which the licensee has expended more than one thousand (1,000) dollars.

**11-13.03 SPECIAL LIMITATIONS ON PULLTABS**

- (1) No pulltabs shall be placed out for public play unless the total number of pulltabs originally in the series shall be clearly disclosed on the face of the flare advertising the prizes available from that series of pulltabs.
- (2) No pulltab shall be added to a series of pulltabs after that series has been received on the reservation.
- (3) No pulltab series, or any portion thereof shall be placed in play until any other series of pulltabs previously in play has been played out or permanently removed from public play.
- (4) No pulltab once placed out for public play shall be removed from play until the series is permanently removed from public play, except only:
  - (A) Those pulltabs actually played by customers;
  - (B) Those pulltabs temporarily removed during necessary repair or maintenance of the gambling facility.
  - (C) Excepting those pulltabs removed under (2) and (3) above, once a pulltab has been removed from public play it shall not again be put out for public play.
- (5) No person shall put out any pulltab series for public play unless the entire series is initially put out for public play.
- (6) No pulltab series shall be put out for public play which contains more than twelve thousand (12,000) individual pulltabs.
- (7) Pulltabs shall be constructed so that it is impossible to determine the covered or concealed number, symbol, or set of symbols, on the pulltab until it has been dispensed or otherwise sold for consideration to and opened by the player, by any method or device, including the use of a marking, variance in size, variance in paper fiber, or light.
- (8) No person with knowledge or in circumstances whereunder he reasonably should have known, shall possess, display, put out for play, sell or otherwise furnish to any other person any pulltab series or

pulltab from any series:

- (A) In which the winning pulltabs have not been completely and randomly distributed and mixed among all other pulltabs in the series; or
- (B) In which the location, or approximate location, or any of the winning pulltabs can be determined in advance of opening the pulltabs in any manner or by any device, including any pattern in the manufacturer, assembly or packaging of the pulltabs, by any marking on the pulltabs or container, or by the use of light, or;
- (C) The written record so made is maintained at the offices of the licensee and the offices of the Kalispel Tribal Gaming Board for a period of not less than five (5) years after the series is removed.

#### 11-13.04 FLARES

- (1) No person shall place or have out in public view more than one flare advertising the prizes available from the operation of any Punch board or from any series of pulltabs.
- (2) The flare advertising prizes available from the operation of any Punch board or any series of pulltabs shall:
  - (A) Be placed upon the upper face or the top of any such Punch board, directly near the pulltab game, in full view of the patron;
  - (B) Clearly set out each of the prizes available and the number or symbol which wins prizes;
  - (C) Set out the winning numbers or symbols for prizes or merchandise valued in amounts specified in previous or letter sections of this Ordinance, in such a manner that each may be easily and clearly deleted or marked off as each prize is won and awarded. For purposes of this subsection, the retail value of a merchandise prize shall be the amount actually paid therefore by the licensee plus fifty (50) percent of the actual cost.
- (3) Each flare describing the prizes and winning numbers or symbols for a series of pulltabs in play shall clearly set out the series number assigned to that pulltab series by the manufacturer. The series number will be placed upon the flare by the manufacturer prior to the series being sold to an operator.

#### 11-13.05 BUSINESS RESTRICTIONS

- (1) No licensee shall buy, receive or otherwise obtain any Punch board, pulltab, related equipment, or merchandise or prizes to be awarded in connection with such activities, except upon the basis of a cash transaction, nor shall any operator license any manufacturer or distributor, or anyone connected therewith, to acquire any interest, including a security interest, in any such equipment or merchandise. A cash transaction shall include payment or payments by check: PROVIDED, that each check is presented for pay into the banking system by the end of the second business day following the day the check is written.

- (2) No contract shall be made or entered into whereby an operator agrees to deal in, purchase, or operate any particular brand or brands of gambling equipment to the exclusion of any other brand or brands of gambling equipment.
- (3) No manufacturer or distributor, or his employee, shall directly or indirectly solicit, give, offer to, or receive from any licensee or any employee thereof any gifts, discounts, loans of money, premium, rebates, free merchandise of any kind, treats or services of any nature; nor shall any operator or employee thereof directly or indirectly solicit, receive from, or give or offer to any manufacturer or distributor, or his employee any gift, discount, loans of money, premium, rebates, free merchandise of any kind, treats or services of any nature whatsoever: PROVIDED, that nondiscriminatory discounts offered to all parties on the same condition shall be licensed.
- (4) No manufacturer, distributor, or distributors representative shall sell to any person upon the reservation, or solicit from any such person, and order for any gambling or related equipment, merchandise, property or service, contingent upon that person or another purchasing or ordering any other gambling or related equipment, merchandise, property or service, shall not vary upon whether or not that person, or another, purchases or orders some other equipment, merchandise, property or service.
- (5) No person shall enter an agreement, express or implied, with any other person which requires any person to purchase exclusively from any person.

#### SECTION 11-14: RECORDS

##### 11-14.01 RECORDS – BINGO AND LOTTERY

The Tribe, or any agency or department of the Tribe, when operating a bingo game, lottery or other gaming activity shall keep and maintain a set of permanent records of all the activities. These records shall be kept by the month and shall include but not necessarily be limited to the following:

- (1) The gross receipts from the conduct of each of the activities licensed.
- (2) Full details of all the expenses relating to each of the activities.
- (3) Total Amount of cash prizes actually paid out and the total of:
  - (A) The cost of the Tribe or licensee, and
  - (B) The total estimated retail value of all merchandise prizes actually paid out.
- (4) Total amount of the gross receipts from each licensed activity which has been retained by the licensee or Tribe.
- (5) Records which clearly show in detail how those proceeds from each activity were used or disbursed by the licensee or Tribe.
- (6) All compensation, in whatever form, paid to any person by the licensee or the Tribe for any work connected with the management, promotion, conduct or operation of the licensed activities, including

the description of the work performed by each person.

- (7) Each of these records shall be maintained for a period consistent with 25 CFR 571.7 and generally accepted accounting principles, for which the records are kept

#### 11-14.02 CENTRAL ACCOUNTING SYSTEM REQUIRED - ALL OTHER GAMBLING

Each licensee shall establish and maintain a central accounting system in a form prescribed by the Board for all activities conducted in conjunction with gambling. Licensees shall obtain accounting forms which have been approved by the Board or machine copies of such forms. Every licensee is required to keep accurate and detailed records of all receipts from admission, food, merchandise or refreshment consistent with 25 CFR 571.7 and generally accepted accounting principles for which the record is kept. Such system shall contain, but not be limited to, the following items:

- (1) There shall be adequate personnel and physical areas to provide for the following minimum separation of duties:
- (A) A banker, cashier, or count room to handle the original bankroll, provide coin and/or chips to the games and redeem chips and cash checks for the players;
  - (B) A runner to transport money, chips and lockboxes between stations.
  - (C) Pit bosses, each of whom shall supervise the operation of not more than six gambling stations and who shall supervise the transfer of lockboxes and chips/change trays to the count room;

#### 11-14.03 INSPECTION OF PREMISES, RECORDS AND DEVICES

All premises at which a licensed activity takes place, or any premises in any way connected physically or otherwise with a licensed business, including vehicles used in connection therewith, shall at all times be open to inspection by the Board or its authorized representatives.

At any time during which a licensed activity is being operated upon a premises, the Board and any authorized representative of the Board, may enter upon the premises without advance notice and:

- (1) Make a count of all moneys received during the operation of the licensed activity located on the premises, inspect all receipts for prizes which have been awarded by the licensee.
- (2) Inspect any of the other records of the licensee, or of any member that directly participates in the management, operation or promotion of a licensed activity, or of any employee of the licensee, or of any operator of the licensed activity.
- (3) Inspect, including the dismantling of, all pieces of equipment or parts thereof, or devices of any nature, which are being used to conduct the licensed activity.
- (4) When the Board or its authorized representative discovers facts that leads it to believe that there is a reasonable probability that Tribal law has been or is being violated by the licensee or its employees or operators, remove to another location or locations for further inspection and investigation, any and all

records and any and all equipment, parts thereof, and devices of any nature located upon the premises related to the operation of the licensed activity.

- (5) Monitoring all gaming activities in facilities to ensure compliance with all Tribal, state and federal laws, rules and regulations regarding Indian gaming, through physical and recorded electronic surveillance methods, with sufficient number(s) of onsite personnel. Limited exceptions to monitoring include ensuring recorded surveillance coverage with appropriate documentation while personnel are outside the monitoring room to address an issue while in the same gaming location or a brief emergency situation in which monitoring is maintained through Tribal Police or recorded surveillance with notification to TGA management.
- (6) All receipts shall be issued to the licensee of the activity which shall list and describe each record and each piece of equipment, or part thereof, and device which has been removed from the premises. Each such record, piece of equipment, part thereof, and device so removed shall be returned to the premises or to the address of the licensee within seventy-two (72) hours, except Saturdays, Sundays, and Tribal legal holidays after its removal in as good a condition as it was in when removed, unless the Board determines that the record, equipment or device so removed are necessary for an ongoing investigation of possible violation of this Ordinance by the licensee or its employees or operators. The Board shall notify the licensee by certified mail of this determination.

#### 11-14.04 ALL RECORDS SUBJECT TO TRIBAL AUDIT

Any and all records of a licensee, its employees, any of its members that directly participate in the management, operation or promotion of a licensed activity, or any operator of a licensed activity, including but not limited to, those which are required to be kept or which relate in any manner to any requirement of state law or of a rule of the Tribe, shall be subject to an audit by the Board or any of its authorized representatives, without notice:

PROVIDED, that unless otherwise provided elsewhere in these rules, such an audit must be begun between the hours of 8:00 AM and 5:00 PM on a weekday other than a holiday, or during the hours in which the activity is being actually operated, and performed upon the premises of the licensee where the records are located.

In the event of audit by the Board, or any of its authorized representatives, the licensee shall immediately provide all such records, provide a place where such audit may be performed and rendered such reasonable assistance to the Board and its representatives in inspecting such records as may be requested.

### SECTION 11-15: MANAGEMENT CONTRACTS

#### 11-15.01 TRIBAL APPROVAL REQUIRED

- (1) Any management contract for the operation and management of Class II and Class III gaming activity must be submitted to the Tribe for approval, but, before approving such contract, the Tribe

shall require and obtain the following information:

- (A) the name, address, and other additional pertinent background information on each person or entity (including persons comprising such entity) having direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock; and
  - (B) a description of any previous experience that each person listed pursuant to subsection 1(A) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming; and
  - (C) a complete financial statement of each person listed pursuant to subsection 1(A).
- (2) Any person listed pursuant to subsection 1(A) shall be required to respond to such written or oral questions that the Tribe may propound in accordance with its responsibilities under this section.
  - (3) For purposes of this Ordinance, any reference to the management contract described in Section 11-15.01(1) shall be considered to include all collateral agreements to such contract that relate to the gaming activity.
  - (4) After the Tribe has given its approval of a management contract, the Tribe shall submit such contract to the NIGC for its approval. No such contract shall be valid and operational until the NIGC has approved it.
  - (5) In making the determination to approve management contracts, when the Tribe has submitted competing bids or proposals involving gaming wherein the bids or proposals will provide substantially the same return to the Tribe and its membership, the Tribe shall give preference to tribal members and cooperative associations of Tribal members over non- Tribal members. Further, preference will be given to non-member Indians and cooperative associations of non-member Indians over non-Indians.

#### 11-15.02 APPROVAL OF MANAGEMENT CONTRACTS

The Tribe shall approve any management contract only if it determines that such contract is in compliance with the provisions of this Gaming Ordinance, and provides at least:

- (1) for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared, by or for the Tribe on a monthly basis;
- (2) for access to the daily operations of the gaming to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such tribal gaming activity;
- (3) for a minimum guaranteed payment to the Tribe that has preference over the retirement of development and construction costs;
- (4) for an agreed ceiling for the repayment of development and construction costs;

- (5) for a contract term not to exceed five years, except that, the Tribe may authorize a contract term that exceeds five years but does not exceed seven years if the Tribe is satisfied that the capital investment required, and the income projections, for the particular gaming activity require additional time;
- (6) for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the Tribe; and
- (7) for preference to tribal members and non-member Indians in hiring of employees for the gaming establishment and for provisions that the management contract be subject to the TERO ordinance, if one is in effect.
- (8) A designated agent for service of any official determination, order or notice of violations.

**11-15.03 PERCENTAGE OF NET REVENUE FEES**

- (1) A management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity may be approved by the Tribe if such percentage fee is reasonable in light of surrounding circumstances. Except as provided in this section, such fee shall not exceed 30 percent of the net revenues.
- (2) The Tribe shall approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity that exceeds 30 percent but not 40 percent of the net revenues if the Tribe is satisfied that the capital investment required, and income projections, for such tribal gaming activity require the additional fee, and such contract is otherwise in compliance with this Gaming Ordinance.

**11-15.04 CONTRACT DISAPPROVAL**

The Tribe shall not approve any contract if it determines that:

- (1) Any person listed pursuant to Section 11-15.01(1)(A) who
  - (A) has been or subsequently is convicted of any felony relating to a gaming offense; or
  - (B) has knowingly and willfully provided materially important false statements of information to the Tribe or the tribal officials who negotiate such contracts or has refused to respond to questions propounded pursuant to Section 11-15.01(2); or
  - (C) has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;
- (2) The management contractor has, or has attempted unduly to interfere or to influence for its gain or advantage any decision or process of tribal government relating to gaming activity;
- (3) The management contractor has deliberately or substantially failed to comply with the terms of the

management contract or the provisions of this Ordinance or any regulations adopted pursuant to this Ordinance of the Indian Gaming Regulatory Act.

11-15.05 MODIFYING OR VOIDING CONTRACT

The Tribe shall have the authority to require appropriate contract modifications or may void any contract if it subsequently determines that any of the provisions of this Ordinance have been violated.

11-15.06 CONVEYING INTEREST IN LAND

No management contract for the operation of a gaming activity regulated by this Ordinance shall transfer or, in any other manner, convey any interest in land or other real property, unless specific applicable statutory authority exists and unless clearly specified in writing in said contract.

11-15.07 FEE FOR INVESTIGATION COST

The Tribe may require a potential contractor to pay a fee to cover the cost of the investigation necessary to reach a determination required in Section 11-15.04 of this Ordinance.

SECTION 11-16: PATRON DISPUTE RESOLUTION

11-16.01 PATRON DISPUTE RESOLUTION

Patrons with gaming-related complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief with the Board. Such complaints shall be submitted in writing. This petition for relief is not available to patrons known to be excluded or ejected from the gaming establishment on the date of the incident giving rise to the complaint, nor for the review or appeal of any exclusions or ejections of patrons as referenced under SECTION 11-19 herein. As to all gaming-related complaints, the Board shall hold a hearing within thirty (30) days of receipt of the petitioner's written complaint. The petitioner may have counsel present at the hearing. The petitioner may be allowed to present evidence at the discretion of the Board. After the hearing, the Board shall render a decision in a timely fashion. All such decisions will be final when issued. Any patron complaint must be submitted to the Board within thirty (30) days of the incident giving rise to the complaint. All claims by patrons shall be limited to a maximum recovery of \$100.00 per occurrence, and a cumulative limit of \$500.00 per patron in any twelve (12) month period, except disputes relating to a patron's entitlement to a game prize, which shall be limited to the amount of such prize. The Board's decision shall constitute the complainant's final remedy.

SECTION 11-17: ENFORCEMENT

11-17.01 ENFORCEMENT

All provisions of this Ordinance, and any regulations that may be developed, shall be enforced by the Kalispel Tribal Police or law enforcement agency so authorized by a joint law agreement between the agency and the Tribe.

All persons who operate an activity, pursuant to a license issued under this Ordinance shall be subject to



inspection of the premises in which the activity takes place and all equipment involved by the Kalispel Tribal Police. Acceptance of the license is hereby deemed to be consent of the licensee to an inspection without notice of his premises and/or equipment without the need of obtaining a Search Warrant. Failure to cooperate with the Kalispel Tribal Police officer or an officer designated through a joint agreement between the Tribe and an outside law enforcement agreement who is engaged in the enforcement of this Ordinance shall be grounds for the revocation of any license issued hereunder. When an authorized law enforcement officer has probable cause to believe that a violation of this Ordinance is taking place or has taken place the police officer shall issue the licensee a citation. If the licensee is not present, the citation shall be issued to the operator or employee present. All citations shall be referred to Tribal Court, and a duplicate copy delivered to the Board. The Board upon receipt of any citation may act to suspend a licensee pending final action by the Kalispel Tribal Court.

## SECTION 11-18: PENALTIES

### 11-18.01 PENALTIES

Any person, operator, player, employee of any licensee or the Tribe who violates any provision of this Ordinance or regulation adopted hereunder, shall be subject to a fine of \$5000 dollars or imprisonment of not to exceed one (1) year, or both as well as cost for prosecution, storage fees, auction and sales fees. Each day that a violation continues shall be considered a separate offense of purposes of this section. All property used or which may be used in activities in each and every separate violation of this Ordinance may become the property of the Tribe. Establishments violating the provisions of this Ordinance or other applicable laws may be forcibly closed, at the discretion of the Board. Issuance, suspension, revocation, limitations, or termination of any license is determined by the Board and such determination is final. Winnings found to have been received in violation of this Ordinance are forfeited and become the property of the Tribe.

## SECTION 11-19: EXCLUSION OR EJECTION FROM ESTABLISHMENTS

### 11-19.01 REGULATIONS REQUIRING EXCLUSION OR EJECTION OF CERTAIN PERSONS FROM LICENSED ESTABLISHMENTS

- (1) The exclusion or ejection (also referred to as a "trespass" or "barring") of certain persons from licensed gaming establishments is necessary to effectuate the policy of this Ordinance, as well as other applicable law, and to maintain effectively the strict regulation of licensed gaming.
- (2) The Tribal Gaming Authority may establish a list of persons who are to be permanently excluded or ejected from any licensed gaming establishment, as determined by the Kalispel Tribal Council or Tribal Gaming Authority, to pose a threat to the interests of the Tribe or to licensed gaming, or both.
- (3) Individuals who are excluded by the Kalispel Tribal Council under the provision of Chapter 5 of

the Kalispel Tribe Law and Order Code ("KLOC"), may petition the Kalispel Tribal Council for review of their exclusions. Agents with the Tribal Gaming Authority shall have the sole authority to eject individuals from licensed gaming establishments. Such ejections shall be permanent subject to review only by the Executive Director of the Tribal Gaming Authority or the Executive Director's Designee. If the decision is made to modify or rescind a permanent ejection, notice shall be provided to the ejected individual by certified mail. There shall be no appeal by any individual of an ejection issued by the Tribal Gaming Authority; said decisions are final and binding.

#### SECTION 11-20: AMENDMENTS AND SEVERABILITY

##### 11-20.01 AMENDMENTS

All provisions of this Ordinance and any regulations promulgated hereunder are subject to revision, repeal, or amendment by the Tribal Council at any time.

##### 11-20.02 SEVERABILITY

If any provision or application of this Ordinance is determined by review to be invalid, such determination shall not be held to render such provision inapplicable to other persons or circumstances, nor shall such determination render invalid any other provisions of this Ordinance.

CHAPTER 11 - KALISPEL TRIBE GAMING ORDINANCE (DC Edits 03-09-2022)

SECTION 11-1: PURPOSE OF THIS ORDINANCE

11-1.01 PURPOSE

The purposes of this Ordinance are:

- (1) To provide a new and continuous source of revenue to the Tribe for the Tribe's governmental needs;
- (2) To insure the proper regulation and operation or authorize amusement games and gambling;
- (3) To allow Tribal members and guests to participate in certain forms of amusement games and gambling;
- (4) To provide for the social welfare and protection of Tribal members and all others who reside within or who may pass through the reservation;
- (5) To preempt State law including the licensing, taxing, revenue distributions and enforcement parts of Washington State RCW 9.46 as that law may apply to those activities specifically covered by this Ordinance, and to implement in the place of State law, Tribal regulation and control of the activities covered herein.

SECTION 11-2: PUBLIC POLICY

11-2.01 PUBLIC POLICY

Public policy of the Kalispel Tribe concerning gaming:

- (1) The Kalispel Business Committee hereby finds, and declares to be the public policy of the Kalispel Tribe that:
  - (A) The gaming industry is vitally important to the economy of the Tribe and general welfare of the Tribal members.
  - (B) The growth and success of gaming is dependent upon public confidence and trust that licensed gaming is conducted honestly and competitively, and that gaming is free from criminal and corruptive elements.
  - (C) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, activities related to the operation of licensed gaming establishments.
  - (D) All establishments where gaming is conducted and where gambling devices are operated must therefore be licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the Tribal members, to foster the stability and success of gaming.
- (2) No applicant for a license has any right to a license or the granting of the approval sought. Any license issued pursuant to the provisions of this Ordinance is a revocable privilege, and no holder acquires any vested right therein or thereunder.