



June 25, 2009

Ronald G. Charles, Tribal Chairman
The Port Gamble S'Klallam Tribe
31912 Little Boston Road NE
Kingston, WA 98346

RE: The Port Gamble S'Klallam gaming ordinance amendment

VIA FACSIMILE AND MAIL 360-297-7097

Dear Chairman Charles:

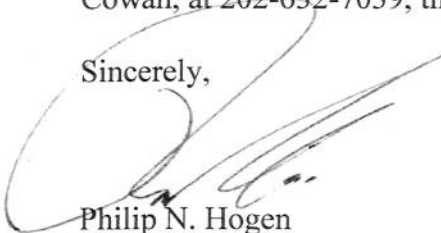
This letter responds to your request received June 11, 2009 to the National Indian Gaming Commission (NIGC) for the review and approval of an amended Port Gamble S'Klallam Tribal Gaming Ordinance. The original Tribal Gaming Ordinance was approved on March 28, 1995.

This amendment to the Tribal Gaming Ordinance was adopted by the Tribal Council by Resolution No. 09-A-039, dated April 28, 2009. This letter constitutes approval of this amended Gaming Ordinance as submitted pursuant to the Indian Gaming Regulatory Act (IGRA).

However, it is important to note that the gaming ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe exercises jurisdiction. Furthermore, this approval does not constitute approval of specific games.

Thank you for submitting this amendment to the Tribal Gaming Ordinance and for working with our staff to assure that this version is comprehensive and in full conformity with IGRA. Should you have any questions or concerns, please contact Toni Cowan, at 202-632-7039, the staff attorney assigned to this matter.

Sincerely,



Philip N. Hogen
Chairman

cc: Gina Beckwith, Tribal Attorney

**THE
PORT GAMBLE
S'KLALLAM
TRIBAL COUNCIL
OF THE
PORT GAMBLE
S'KLALLAM TRIBE**

I.

WHEREAS, the Port Gamble S'Klallam Tribe entered into the Treaty of Point No Point with the United States of America on January 26, 1855, reserving sovereign and aboriginal rights in perpetuity; and

II.

WHEREAS, the Port Gamble S'Klallam Reservation was proclaimed on June 16, 1938 to be an Indian reservation, held in trust by the federal government "...for the benefit and use of the Port Gamble Band of Clallam Indians...", under the provisions of Section 5 of the Indian Reorganization Act, the purchase of which was paid in full by Tribe; and;

III.

WHEREAS, the Port Gamble S'Klallam Tribe's General Council delegated the Tribe's primary legislative authority to the Tribal Council under Article IV, Section 3 of the Constitution of the Port Gamble S'Klallam Tribe, approved by the Secretary of Interior on July 7, 2007; and

IV.

WHEREAS, Title 20, the Gaming Ordinance, of the Tribe's Law and Order Code was adopted in 1995 as approved by the Tribal Council and the National Indian Gaming Commission respectively;

V.

WHEREAS, aspects of Gaming continues to become increasingly sophisticated;

VI.

WHEREAS, the Tribe seeks to ensure Gaming is stringently regulated and reflects the continued development of gaming;

VII.

WHEREAS; the amended Title 20 specifies new primary management officials, strengthens conflict of interest and ethics provisions, and specifies the respective powers, duties and authorities between managers, policy makers, and regulators;

VIII.

WHEREAS; the Port Gamble S'Klallam Tribal Council upon completion of a Public Hearing, pursuant to the notice in conformity with the requirements of the Port Gamble S'Klallam Tribal Council Policy Manual and scheduled for May 26, 2009;

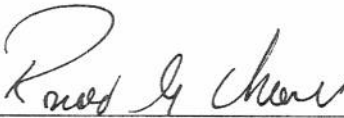
VI.

NOW THEREFORE BE IT RESOLVED, that the Tribal Council hereby adopts the amended Gaming Ordinance, Title 20, of the Port Gamble S'Klallam Law and Order Code and hereby rescinds the Gaming Ordinance as adopted on 1995 in its entirety.

CERTIFICATION

WE HEREBY CERTIFY that on this date there was a regular meeting held of the Port Gamble S'Klallam Tribal Council on the Port Gamble S'Klallam Indian Reservation, at which time a quorum was present;

WE FURTHER CERTIFY, that the above numbered resolution, was at said meeting, introduced, evaluated, and was passed by a vote of 4 FOR, 0 AGAINST, 0 ABSTAIN dated this 28th day of April, 2009.



Ronald G. Charles
Chairperson



Attest:
Council Member

NEW CODE

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TITLE 20

GAMING

Section 20.01.01 Purpose

Pursuant to Article IV, Section 3.A. of the Constitution of the Port Gamble S'Klallam Tribe, the Tribal Council is empowered to enact laws and hereby enacts this ordinance in order to govern Class II and Class III gaming operations on the Tribe's Indian lands.

Section 20.01.02 Definitions

Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as defined in the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 *et seq.*, and its regulations, 25 C.F.R. § 500 *et seq.* Specifically:

- (a) **(Board of Directors** means the Chief Executive Officer, the _____ and the _____ of the Tribe, who shall serve as primary management officials in overseeing the General Manager and the day-to-day non-regulatory aspects of the gaming operation.
- (b) **Class I gaming** means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.
- (c) **Class II gaming** means
 - (1) the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith):
 - (A) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,
 - (B) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and
 - (C) 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, and
 - (2) card games that:
 - (A) are explicitly authorized by the laws of the State, or

- (B) are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.
- (3) The term “class II gaming” does not include:
 - (A) any banking card games, including baccarat, chemin de fer, or blackjack (21), or
 - (B) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.
- (d) **Class III gaming** means all forms of gaming that are not class I gaming or class II gaming.
- (e) **Commission** means the Tribal Gaming Commission established to perform regulatory oversight and to monitor compliance with Tribal, Federal, and applicable State regulations. The Commission is the same entity referred to in the Compact as the Tribal Gaming Agency.
- (f) **Commissioner** means a member of the Tribal Gaming Commission.
- (g) **Compact** means a Tribal-State Compact entered into and in effect by and between the Tribe and the State of Washington concerning class III gaming approved by the Secretary of the Interior and published in the Federal Register pursuant to 25 U.S.C. § 2710(d).
- (h) **Complimentary** means a service or item provided at no cost, or at a reduced cost, to a customer.
- (i) **Conflict of Interest** means an action or decision by a Member of the Tribal Gaming Board of Directors or the Tribal Gaming Commission that benefits the official or the official’s immediate family in a manner that is materially different from the benefit to the general membership of the Tribe.
- (j) **Director** means a Member of the Tribal Gaming Board of Directors.
- (k) **Executive Director** means the employee hired by the Commission who is primarily responsible for carrying out the duties of the Tribal Gaming Commission.
- (l) **Financial Interest** means an interest held by a Director or a member of the Tribal Gaming Commission, or their immediate family, in any income, investment, employment, or other beneficial interest in property or a business or any interest in employment or prospective employment in the casino or with the Tribal Gaming Commission.

- (m) **Gaming Services** means the provision of any goods or services to the Tribe with a value in excess of \$15,000 annually, whether provided on or off of the Tribe's reservation, directly in connection with the operation of Class II or Class III gaming in a gaming facility, including equipment, maintenance, or security services for the gaming facility. Gaming services shall not include professional legal or accounting services or indirect goods and services such as food and beverage suppliers.
- (n) **Gift** means any gratuity, special discount, favor, hospitality, payment, loan, subscription, economic opportunity, advance, deposit of money, services or other benefit received without the payment of consideration and not extended or provided to the general public; excluding gifts from family members.
- (o) **Immediate family** means parents, brothers, sisters, spouse, children, grandchildren and members of the household of a Member of the Board of Directors or the Tribal Gaming Commission.
- (p) **Indian lands** means:
- (1) all lands within the limits of the Tribe's reservation;
 - (2) any lands title to which is either held in trust by the United States for the benefit of the Tribe or individual or held by the Tribe or individual subject to restriction by the United States against alienation and over which the Indian Tribe exercises governmental power; and
 - (3) for all lands acquired into trust for the benefit of an Indian tribe after October 17, 1988, the lands meet the requirements set forth in 25 U.S.C. § 2719.
- (q) **Indian Tribe or Tribe** means the Port Gamble S'Klallam Tribe.
- (r) **Key Employee** means:
- (1) A person who performs one or more of the following functions:
 - (A) Bingo caller;
 - (B) Counting room supervisor;
 - (C) Chief of security;
 - (D) Custodian of gaming supplies or cash;
 - (E) Floor manager;
 - (F) Pit boss;
 - (G) Dealer;

- (H) Croupier;
- (I) Approver of credit; or
- (J) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
- (2) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
- (3) If not otherwise included, the four most highly compensated persons in the gaming operation.
- (s) **Net Revenues** means gross gaming revenues of an Indian gaming operation less
 - (1) Amounts paid out as, or paid for, prizes; and
 - (2) Total gaming-related operating expenses, excluding management fees.
- (t) **Primary Management Official** means
 - (1) The person(s) having management responsibility for a management contract;
 - (2) Any person who has authority:
 - (A) To hire and fire employees; or
 - (B) To set up working policy for the gaming operation; or
 - (C) The chief financial officer or other person who has financial management responsibility.

Section 20.01.03 Gaming Authorized

Class II and Class III gaming are hereby authorized.

Section 20.01.04 Ownership of Gaming

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

Section 20.01.05 Use of Gaming Revenue

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

- (a) to fund tribal government operations and programs;
- (b) to provide for the general welfare of the Tribe and its members;

- (c) to promote tribal economic development;
- (d) to donate to charitable organizations; or
- (e) to help fund operations of local government agencies.

Section 20.01.06 Board of Directors

- (a) Establishment. In addition to the General Manager for the facility, there shall be established a Tribal Gaming Board of Directors which shall serve in a management oversight role over the General Manager and the day-to-day operations at the gaming facilities. In the event that the Tribe enters into a management contract approved by the NIGC, the Board may delegate some or all duties to the approved management contractor. The Board of Directors shall oversee all non-regulatory aspects of the gaming operation. Regulation of the gaming operation shall be the sole responsibility of the Tribal Gaming Commission.
- (b) Members. The Board of Directors shall consist of three (3) members; a Chairperson, Vice-Chairperson, and Director. The Chief Executive Officer of the Tribe shall be the Chairperson, the _____ of the Tribe shall be the Vice-Chairperson and the _____ of the Tribe shall be a Director. The members of the Board shall be subject to the same background investigation requirements as key employees and primary management officials, and must be licensed accordingly.
- (c) Duties. The Board of Directors shall perform the following duties:
 - (1) Monitor and oversee the day-to-day operations of the gaming facility, whether managed by a tribal employee or by an approved management contractor;
 - (2) Inspect and examine on a periodic basis all books, records, and papers of the gaming facility;
 - (3) Set hours of operation for the gaming facility;
 - (4) Set wager limits;
 - (5) Develop marketing plans;
 - (6) Oversee the interview, selection, and training of employees of the gaming operation;
 - (7) Establish employee policies, rates of pay, and hours of work;
 - (8) Adopt an annual operating budget, subject to Tribal Council approval;

- (9) Enter into contracts on behalf of the gaming facility, subject to Tribal Council approval;
 - (10) Any other duties necessary to monitor and oversee the gaming operation; and
 - (11) Make monthly written reports to the Tribal Council on the gaming operations, including a comparison of the actual revenues and expenditures compared to the approved budget.
- (d) Conflicts of Interest. The Tribe recognizes the importance of an independent Tribal Gaming Board of Directors in maintaining a well-managed gaming operation. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe hereby finds that, at a minimum:
- (1) No member of the Tribal Council or Tribal Gaming Commission may serve on the Board of Directors;
 - (2) No member of the Board of Directors may serve on the Tribal Council or the Tribal Gaming Commission;
 - (3) No person in the immediate family of any Tribal Council member or Tribal Gaming Commissioner may serve on the Board of Directors;
 - (4) Members of the Board of Directors are prohibited from gambling in the facility; and
 - (5) Members of the Board of Directors are prohibited from accepting complimentary items from the gaming operation.
- (e) Removal. Members of the Board of Directors may be removed from the Board by the Tribal Council only for neglect of duty, misconduct, malfeasance, or other acts that would render the Director unqualified for his/her position. When the Tribal Council believes that a removal is appropriate, it shall so notify the Director(s) and hold a hearing on the matter. The Tribal Council may opt to preliminarily remove the Director pending the hearing. At the hearing the Director may provide evidence rebutting the grounds for his/her removal. A vote of the Tribal Council on the validity of the preliminary removal shall be final and not subject to further appeal. A finding by the Tribal Council that the preliminary removal was wrongful shall entitle the affected Director to compensation for expenses incurred in appealing the wrongful removal, and shall entitle the Director to any pay withheld. This provision does not apply if a Member of the Board of Directors no longer serves in his or her respective capacity as a tribal employee.
- (f) Compensation. Members of the Tribal Gaming Board of Directors shall not be compensated above and beyond the compensation paid to them in their capacity as employees of the Tribe.

- (g) Meetings and Records. The Board shall meet at the call of the CEO or any two members, as necessary, but in any event shall meet at least once each month and shall maintain a written record of all actions taken with due regard to the need to protect proprietary information and the privacy of individuals.
- (h) Quorum. Two members of the Board shall constitute a quorum for the conduct of business.
- (i) Sovereign Immunity. The sovereign immunity of the Tribe is hereby extended to, and shall protect the Board members from civil liability for any act, omission or statement taken or made in the lawful performance of their duties under this ordinance.

Section 20.01.07 Gaming Commission

- (a) Establishment. The Tribe hereby establishes a Tribal Gaming Commission whose duty it is to regulate tribal gaming operations. The Tribal Gaming Commission shall consist of five (5) members. There shall be among them a Chairperson, Vice-Chairperson, a Secretary and two additional Commissioners.
- (b) Purpose and Authority. The purpose of the Tribal Gaming Commission is regulatory, not managerial. The Commission will conduct oversight to ensure compliance with Tribal, Federal, and, if applicable, State laws and regulations. The Commission will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the internal controls for the gaming operation and in tracking revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual or vendor gaming license when appropriate.
- (c) Independence and Conflict of Interest. The Tribe recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated gaming operation. The Commission shall be and act independently and autonomously from the Tribal Council in all matters within its purview. No prior or subsequent review by the Tribal Council of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Ordinance. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe hereby finds that, at a minimum:
 - (1) No member of the Tribal Council or Tribal Gaming Board of Directors may serve on the Tribal Gaming Commission;
 - (2) No member of the Tribal Gaming Commission may serve on the Tribal Council or the Board of Directors;

- (3) No member of the immediate family of any Tribal Council member or of a member of the Tribal Gaming Board of Directors may serve on the Tribal Gaming Commission;
 - (4) Members of the Tribal Gaming Commission are prohibited from gambling in the facility; and
 - (5) Members of the Tribal Gaming Commission are prohibited from accepting gifts from licensee's or applicants for licenses or complimentary items from the gaming operation, excepting food and beverages valued under five dollars and gifts given uniformly to a class of people such as gifts given to all tribal elders
- (d) Appointments. Tribal Gaming Commissioner positions shall be filled through appointments made by the Tribal Council.
- (e) Background Investigations. Nominees for positions of Tribal Gaming Commissioner shall be subject to a background investigation and must satisfy the suitability standards set forth for key employees and primary management officials, found in Sections 20.01.22 and 20.01.23 of this Ordinance. The background investigations shall be performed under the direction of the Tribal Council.
- (f) Duties. The Tribal Gaming Commission shall:
- (1) Conduct or cause background investigations to be conducted on, at a minimum, primary management officials and key employees and vendors who are paid more than \$15,000 in any calendar year for goods or services provided to the casino;
 - (2) Review and approve all investigative work conducted;
 - (3) Report results of background investigations to the NIGC;
 - (4) Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
 - (5) Make licensing suitability determinations, which shall be signed by the Chairman of the Gaming Commission;
 - (6) Issue gaming licenses to management officials, key employees of the operation and vendors, consistent with the suitability determination;
 - (7) Require all licensed employees to wear identification cards in plain view while working in the gaming facilities;
 - (8) Establish standards for licensing Tribal gaming operations;

- (9) Issue facility gaming licenses to Tribal gaming operations;
- (10) Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;
- (11) Ensure compliance with all Tribal, State, and Federal laws, rules, and regulations regarding Indian gaming;
- (12) Investigate any suspicion of wrongdoing associated with any gaming activities;
- (13) Hold hearings on patron complaints, in compliance with procedures established in the gaming ordinance and other Tribal gaming regulations;
- (14) Comply with any and all reporting requirements under the IGRA, the Compact, and any other applicable law;
- (15) Promulgate and issue regulations necessary to comply with applicable internal control standards;
- (16) Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
- (17) Promulgate and issue regulations for the conduct of hearings and the levying of fines, not to exceed \$5,000.00 per violation per day, and/or suspension or revocation of gaming licenses for violations of the gaming ordinance, or any other applicable Tribal, Federal, or State gaming regulations;
- (18) Establish a list of persons not allowed to game in the Tribal gaming facilities in order to maintain the integrity of the gaming;
- (19) Establish a list of persons who have voluntarily asked to be excluded from the Tribal gaming facility and create regulations for enforcing this exclusion;
- (20) Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, Federal, or State statutes, ordinances, or resolutions;
- (21) Create a list of regulatory authorities that conduct vendor background investigations and licensing which the Commission recognizes as trustworthy;
- (22) Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;

- (23) Perform such other duties as the Commission deems appropriate for the proper regulation of the Tribal gaming operation;
 - (24) Make monthly written reports to the Tribal Council on the activities of the Commission , including a comparison of the actual revenues and expenditures compared to the approved budget and the status of all employees or applicants for employment with the Commission; and
 - (25) Promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Ordinance.
- (g) Confidentiality of Information. The Tribal Gaming Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel or others employed by the tribal gaming operation on a need-to-know basis for actions taken in their official capacities. This Section does not apply to requests for such information or records from any Tribal, Federal or State law enforcement or regulatory agency, or for the use of such information or records by the Commission and staff in the performance of their official duties.
- (h) Terms of Office. The terms of Office for Tribal Gaming Commissioners shall be as follows: the Chair shall serve an initial term of one year, with subsequent Chairs serving three year terms. The Vice-Chair and one Commissioner shall serve an initial term of two years, with subsequent Vice-Chairs and Commissioners serving three-year terms. Secretary and one Commissioner shall serve a three year term, with subsequent Secretaries and Commissioners serving three year terms.
- (i) Persons Not Eligible for Appointment. The following persons are not eligible to serve as Tribal Gaming Commissioners:
- (1) Tribal Council members, while serving as such; employees of the gaming operation, while serving as such; gaming contractors (including any principal of a management or other contracting company); persons in the immediate family of any of the above; persons ineligible to be key employees or primary management officials.
 - (2) Non-tribal members previously convicted of a felony, of embezzlement, of theft, or of any other money-related crime or honesty-related crime (such as fraud) cannot serve as Tribal Gaming Commissioners. Tribal members previously convicted of a felony, of embezzlement, of theft, or of any other money-related crime or honesty-related crime (such as fraud) will only be allowed to serve as Tribal Gaming Commissioners if the Tribal

Council specifically finds that a significant amount of time has passed and that the person is now of trustworthy character.

The Tribal Council shall require a criminal history check with appropriate law enforcement agencies and shall review this criminal history report and make an appropriate suitability determination before appointing an individual to a position as a Tribal Gaming Commissioner. No one may be appointed to the Commission who would not otherwise be eligible for an individual gaming license, although a license need not be required.

- (j) Removal of Commissioners. The independence of the Tribal Gaming Commission is essential to a well-regulated gaming operation. For that reason, Commissioners may only be removed from office by the Tribal Council prior to the expiration of their respective terms for neglect of duty, misconduct, malfeasance, or other acts that would render a commissioner unqualified for his/her position. Any allegations of neglect of duty, misconduct, malfeasance, or other acts that would render him or her unqualified for his/her position must be substantiated by a preponderance of the evidence. Commissioners will be given an opportunity to provide evidence rebutting the grounds for their proposed removal before the removal is considered. A vote of the Tribal Council on the validity of the removal shall be final and not subject to further appeal.
- (k) Quorum. A majority of the Commission shall constitute a quorum. The concurrence of a majority of the members appointed to the Commission shall be required for any final determination or final action by the Commission. The Commission may act in its official capacity even if there are vacancies on the Commission.
- (l) Compensation. Tribal Gaming Commissioners shall be compensated at a level determined by the Tribal Council. Commissioner compensation shall not be based on a percentage of gaming revenue in order to ensure the Commission is not improperly influenced. A Commissioner's compensation shall not be reduced during that Commissioner's term of office.
- (m) Meetings and Records. The Commission shall meet at the call of the Chair or any three members, as necessary, but in any event shall meet at least once each month and the Secretary shall maintain a written record of all actions taken with due regard to the need to protect proprietary information and the privacy of individuals. The Commission may meet in closed session when considering applications for licensing, law enforcement or security matters, for deliberations following a hearing, discussing personnel matters or meeting with legal counsel.
- (n) Sovereign Immunity. The sovereign immunity of the Tribe is hereby extended to, and shall protect the Commission members from civil liability for any act, omission or statement taken or made in the lawful performance of their duties under this ordinance.

Section 20.01.08 Ethics Requirements for Members of the Board of Directors and the Tribal Gaming Commission

- (a) Prohibited Conduct. The Tribe recognizes that the duties of the Gaming Board of Directors and the Tribal Gaming Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Board of Directors and the Gaming Commission shall be held to extremely high ethical standards. Prior to taking their positions on the Board and the Commission, the Members shall agree to be bound by the following principles:
- (1) Members shall not hold financial interests that conflict with the conscientious performance of their duties as managers and regulators. Per capita distributions, if any, are not to be considered such financial interests.
 - (2) Members shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others to further any private interest.
 - (3) Members shall not solicit or accept any gift or other item of monetary value, including complimentary items or services (see Section 20.01.09), from any person or entity seeking official action or inaction from, doing business with, or conducting activities overseen, managed or regulated by the Member's organization, or whose interests may be substantially affected by the performance or nonperformance of the Members' duties.
 - (4) Members shall make no unauthorized commitments or promises of any kind purporting to bind the Tribe.
 - (5) Members shall not use their positions for private gain.
 - (6) Members shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons in the immediate family of Members.
 - (7) Members shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.
 - (8) Members shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.
 - (9) Members shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

- (10) Members shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.
- (11) Members shall disclose any real or apparent financial or personal conflicts of interest. If there is a real conflict or the appearance of one, the member shall not take part in any discussion of or decision related to the conflict of interest.

Section 20.01.09 Complimentary Items

- (a) Regulations. The use of complimentary items shall be governed by regulations established by the Tribal Gaming Commission.
- (b) Prohibition. No Key Employee, Primary Management Official, Tribal Council member, member of the Gaming Board of Directors or the Tribal Gaming Commission, or any person in the immediate family of such persons, shall be authorized to receive complimentary items other than food and beverages valued at under five dollars, or, if at a public event held at the gaming facility, the free food and beverages offered to the general public.
- (c) Budget and Limitations. Complimentary Items shall be included in the annual budget for the gaming operation, with maximum limits specified, and shall be subject to approval by the Tribal Council.

Section 20.01.10 Executive Director and Staff of the Tribal Gaming Commission

- (a) Hiring. The Tribal Gaming Commission shall select and employ a Executive Director and staff to assist in carrying out the duties of the Commission. The Commission shall utilize the Human Resources office of the Tribe to assist in the selection of a Director and staff. The Executive Director and staff shall be subject to background investigations conducted by the Commission prior to employment consistent with the same procedures and standards applied to primary management officials and key employees pursuant to this Ordinance.
- (b) Supervision and Evaluation. The Commission shall directly supervise the Executive Director to ensure that the Executive Director is providing the management and supervision of the staff that is necessary for the implementation of this Ordinance, any regulations issued by the Commission and all applicable federal and state laws. The Commission shall provide for an evaluation of the performance of the Executive Director annually.
- (c) The Commission shall have the sole authority to suspend or remove the Executive Director of the Commission and may do so without cause. The Commission shall utilize the Human Resources office of the Tribe to assist in the process to ensure compliance with Human Resources policies and procedures.

Section 20.01.11 Annual Audit

- (a) Submission to NIGC. The Tribe shall cause an annual outside independent Annual Audit of gaming operations to be conducted, and shall submit the resulting audit reports to the National Indian Gaming Commission (NIGC) not later than 120 days after the close of the Tribe's fiscal year.
- (b) Contracts Included. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$15,000.00 annually, except contracts for professional legal and accounting services, shall be included within the scope of the Annual Audit.

Section 20.01.12 Environment and Public Health and Safety

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

Section 20.01.13 Patron Dispute Resolution

Patrons who have complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief with the Tribal Gaming Commission. Complaints shall be submitted in writing, and at the discretion of the Commission, the petitioner may be allowed to present evidence. The Gaming Commission shall hold a hearing within 30 days of receipt of petitioner's complaint. Petitioner may have counsel present at such hearing. The Commission shall render a decision in a timely fashion and all such decisions will be final when issued. Any patron complaint must be submitted to the Commission within thirty (30) days of the incident giving rise to the complaint. All claims by patrons shall be limited to a maximum recovery of \$750.00 per occurrence, and a cumulative limit of \$1,500.00 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 Commission's decision shall constitute the complainant's final remedy.

Section 20.01.14 Tribal Internal Control Standards

The Tribe shall adopt and implement Internal Control Standards (ICS) for the operation of its Tribal gaming operation in accordance with applicable law. The Tribe's ICS shall be set out in separate regulations to be reviewed and approved by the Tribal Council.

Section 20.01.15 Agent for Service of Process

The Tribe hereby designates the Chief Executive Officer as agent for service of process, who may be contacted at:

Port Gamble S'Klallam Tribe
31912 Little Boston Road N.E.
Kingston, Washington 98346

Section 20.01.16 Compliance with Federal Law

The Tribe will comply with all applicable federal law, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*

Section 20.01.17 Facility Licenses

- (a) Separate Licenses. The Tribal Gaming Commission shall issue or deny a separate license to each place, facility, or location on Indian lands where class II and/or class III gaming is conducted under this ordinance.
- (b) Application and Standards. The Tribal Gaming Commission shall issue a separate license annually to each place, facility, or location on Indian lands where Class II and/or Class III gaming is conducted under this ordinance. The Tribal Gaming Commission shall specify the form, conditions and content for the application for such licenses, which shall be submitted by the chief management official of the facility. The initial application shall include a legal description of the lands whereon the facility is located, a certification that said premises constitute "Indian lands" as specified in the Indian Gaming Regulatory Act, and shall identify the environmental, health, and public safety standards with which the facility must comply, and a certification that the facility is in compliance with such standards. Each subsequent application for the renewal of such facility license shall identify any changes or additions to the legal description and applicable environmental, health and safety standards, and include current certifications of compliance with all such standards. The Tribal Gaming Commission shall only issue such licenses if the applications include the required information and certifications and such further conditions as the Tribal Gaming Commission shall have specified. In the event that the Tribal Gaming Commission determines that a facility license should be denied, the Tribe will have thirty (30) days to cure the deficiencies which gave rise to the denial of a license.

Section 20.01.18 Licenses for Key Employees and Primary Management Officials

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any gaming enterprise operated on Indian lands. The Tribe will issue licenses annually and perform background investigations according to requirements established by the Commission that are at least as stringent as 25 C.F.R. Parts 556 and 558 and the Compact.

Section 20.01.19 License Application Forms

- (a) Required Notices. The following notice shall be placed on the application form for a key employee or a primary management official:

- (1) “In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by the Tribe and the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when necessary pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigation 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 hire you in a primary management official or key employee position.

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

- (2) “A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, section 1001).”
- (b) Existing Employees. The Commission shall notify in writing existing key employees and primary management officials who have not completed an application containing the notices set forth above that they shall either:
- (1) Complete a new application form that contains both the Privacy Act and false statement notices; or
 - (2) Sign a statement that contains the Privacy Act and false statement notices and consent to the routine uses described in that notice.

Section 20.01.20 License Fees

The Tribe may charge a license fee, to be set by the Tribal Gaming Commission, to cover its expenses in investigating and licensing Key Employees and Primary Management Officials of the gaming operation.

Section 20.01.21 Fingerprints

Each applicant for a Key Employee or Primary Management Official shall be required to have fingerprints taken as part of the license application procedure. Fingerprints shall be taken by the Tribal Gaming Commission. Fingerprints will then be forwarded to the NIGC for processing through the FBI and NCIC to determine the applicant’s criminal history, if any.

Section 20.01.22 Background Investigations and Suitability Determinations

- (a) Tribal Gaming Commission. The Tribal Gaming Commission is responsible for conducting background investigations and suitability determinations.
- (b) Required Information. The Tribal Gaming Commission shall request from each primary management official and from each key employee all of the following information:
 - (1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
 - (2) Currently and for the previous 10 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
 - (3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (b)(2) of this section;
 - (4) Current business and residence telephone numbers;
 - (5) A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;
 - (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - (7) 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;
 - (8) For each felony for which there was an ongoing prosecution or a conviction, ever as of the date of the application, the charge, the name and address of the court involved, and the date and disposition if any;
 - (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
 - (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction juvenile or adult infractions must be noted and is not otherwise listed pursuant to paragraph (b)(8) or (b)(9) of this section, the

criminal charge, the name and address of the court involved and the date and disposition;

- (11) 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;
- (12) two current photographs;
- (13) A complete credit history; and
- (14) Any other information the Tribe or the Commission deems relevant.

Section 20.01.23 Procedures for Conducting a Background Check on Applicants

- (a) Investigation. As part of its review procedure, the Commission or its agent shall conduct a background investigation on each applicant sufficient to allow the Commission to make an eligibility determination under Section 20.01.24. The investigation shall:
 - (1) Verify the applicant's identity through items such as a social security card, drivers license, birth certificate, or passport;
 - (2) Contact each personal and business reference provided in the License Application, when possible;
 - (3) Obtain a personal credit check;
 - (4) Obtain a Washington Judicial Information History;
 - (5) Conduct a civil history check;
 - (6) Conduct a criminal history check via the submission of the applicant's fingerprints to the NIGC, and further obtain information from the appropriate court regarding past felony and/or misdemeanor convictions or criminal charges, including convictions or charges committed as a juvenile;
 - (7) Inquire into any previous or existing business relationships with the gaming industry and Indian tribes by contacting the entities or tribes;
 - (8) Verify the applicant's history and status with any licensing agency by contacting the agency; and
 - (9) Take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted.

- (b) Report. The Commission shall create an investigative report noting the steps taken, information gained, potential problem areas, and disqualifying information through a Suitability Report or Notification of Results.
- (c) Confidentiality. The Commission shall keep confidential the identity of each person interviewed in the course of the investigation, other than disclosure as required under Federal, Tribal, or State law.

Section 20.01.24 Eligibility Determination

The Tribal Gaming Commission 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 employment in a gaming operation. If the Tribal Gaming Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, then the tribal gaming operation shall not employ that person in a key employee or primary management official position. The Commission shall notify the National Indian Gaming Commission and the State of its eligibility determination on each license. All eligibility determinations are final and shall not be reviewed or reconsidered for a period of twelve months unless the Commission determines that it did not have all of the relevant evidence when it reached an eligibility determination.

Section 20.01.25 Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

- (a) New Employees or Officials. When a key employee or primary management official is employed to work at a gaming operation authorized by this ordinance, the Commission shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Section 20.01.23.
- (b) Failure to Obtain License. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

Section 20.01.26 Report to the National Indian Gaming Commission

- (a) Content of Report. The Tribal Gaming Commission shall prepare and forward a report on each background investigation to the National Indian Gaming Commission. An investigative report shall include all of the following:
 - (1) Steps taken in conducting a background investigation;
 - (2) Results obtained;
 - (3) Conclusions reached; and

- (4) The bases for those conclusions.
- (b) Time for Filing. The Commission shall forward the completed report to the National Indian Gaming Commission within 60 days after an employee begins work.
- (c) Eligibility Determination. The Commission shall submit, with the investigative report, a copy of the eligibility determination, unless the NIGC shall have advised the Tribe that the submission of the eligibility determination is not necessary. This determination shall include a Statement describing how the information submitted by the applicant was verified; a Statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; a Statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Tribal Gaming Commission to make a finding concerning the eligibility for licensing required for employment in a gaming operation; and a Statement documenting the disposition of all potential problem areas noted and disqualifying information obtained.
- (d) Denial of License. If a license is not issued to an applicant, the Tribal Gaming Commission:
 - (1) Shall notify the NIGC and the State; and
 - (2) Shall forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.
- (e) Retention of Applications and Records. With respect to all employees, and in particular key employees and primary management officials, the Tribal Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

Section 20.01.27 Granting a Gaming License

- (a) Issuance of License. If, within a thirty (30) day period after the National Indian Gaming Commission receives Notification of Results, the National Indian Gaming Commission notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided a conditional license, the Tribal Gaming Commission, acting for the Tribe, may issue a license with no restrictions.
- (b) NIGC Request for Information. The Tribal Gaming Commission shall respond to a request for additional information from the Chairman of the National Indian

Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (a) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

- (c) NIGC Objections. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a Statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribal Gaming Commission has provided a conditional license, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant. A decision to deny a license to an applicant is final and not subject to review unless the Tribal Gaming Commission subsequently determines that it did not have all of the relevant evidence when it reached the decision to deny the license.

Section 20.01.28 License Suspension and Revocation

- (a) Notice from the NIGC or the State. If, after the issuance of a gaming license, the Tribal Gaming Commission receives from the National Indian Gaming Commission, the State or any other credible source reliable information indicating that a key employee or a primary management official is not eligible for employment, the Tribal Gaming Commission shall suspend such license and shall provide written notification to the licensee of the suspension and the proposed revocation, including any fines that may be levied.
- (b) Revocation Hearing. The Tribal Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license. The licensee may be represented by legal counsel at the licensee's own expense at any revocation hearing.
- (c) Notice of Decision. After a revocation hearing, the Tribal Gaming Commission shall decide whether to revoke or to reinstate a gaming license. If the Tribal Gaming Commission determines that the licensee poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, then the Commission shall revoke the license. The Commission shall notify the National Indian Gaming Commission and the State of its determination on each license.
- (d) All revocation determinations are final and shall not be reviewed or reconsidered unless the Commission determines that it did not have all of the relevant evidence when it reached a revocation determination.

Section 20.01.29 Licenses for Vendors

- (a) Covered Vendors. Vendors of gaming services or supplies with a value of \$15,000 or more annually must have a vendor license from the Tribal Gaming

Commission issued annually pursuant to regulations established by the Commission, in order to transact business with the Tribal gaming operation(s). Contracts for professional legal and accounting services or with federally regulated commercial lending institutions, the Port Gamble S'Klallam Tribal government or the federal government for are excluded from the licensing requirements of this section.

- (b) Gaming Vendors. Gaming vendors are vendors, including the manufacturers of gaming equipment, who provide gaming supplies and services, including financiers and providers of cash-related services that are not federally regulated commercial lending institutions.
- (c) Non-Gaming Vendors. Non-gaming vendors provide services that do not have the ability to impact the integrity of the Tribal gaming operations, such as media advertising, facility maintenance workers, linen and laundry services, and food and beverage suppliers. The Tribal Gaming Commission shall create a regulation detailing which vendors fall into this category and shall maintain a register of the non-gaming vendors that it licenses. The regulation may exempt from licensing requirements non-gaming vendors who: 1) are Tribal, Local, State, or Federal government agencies; 2) are regulated by the State of Washington or the Tribe; or 3) will provide goods of insubstantial or insignificant amounts or quantities if the Tribal Gaming Commission determines that licensing of the vendor is not necessary to protect the public interest.

Section 20.01.30 Submission of a Vendor License Application

In order to obtain a gaming vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include its officers, directors, management, owners, partners, non-institutional stockholders that either own 10% or more of the stock or are the 10 largest stockholders, and the on-site supervisor or manager under the agreement with the Tribe, if applicable.

Section 20.01.31 Contents of the Vendor License Application

- (a) Contents. Applications for gaming vendor licenses must include the following:
 - (1) Name of business, business address, business phone, federal tax ID number (or SSN if a sole proprietorship), main office address if different from business address, any other names the applicant has done business under, type of service applicant will provide;
 - (2) Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;
 - (3) If the applicant is a corporation, the state of incorporation, and the qualification to do business in the State of Washington if the gaming operation is in a different State than the State of incorporation;

- (4) Trade name, other names ever used, names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
- (5) General description of the business and its activities;
- (6) Whether the applicant will be investing in or loaning money to the gaming operation and, if so, how much;
- (7) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (8) A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial, or management interests in non-gaming activities;
- (9) Names, addresses, and phone numbers of three business references with whom the company had regularly done business for the last five years;
- (10) The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (11) If the business has ever had a license revoked for any reason, the circumstances involved;
- (12) A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition if any;
- (13) A list of the business' funding sources and any liabilities of \$50,000 or more;
- (14) A complete credit history and report;
- (15) A list of the principals of the business, their social security numbers, addresses and telephone numbers, title, and percentage of ownership in the company; and
- (16) Any further information the Tribe deems relevant.

(b) Required Notice. The following notice shall be placed on the application form for a vendor and its principals:

“Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Tribe’s vendor license.”

- (c) Applications Filed With Other Jurisdictions. A vendor may submit a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit in writing any changes in the information since the other license application was filed and any information requested by the Tribe not contained in the other application.

Section 20.01.32 Vendor Background Investigation

- (a) Investigations. The Tribal Gaming Commission or its agent shall complete an investigation of the gaming vendor. This investigation shall include, at a minimum, the following steps:
- (1) Verification of the business' incorporation status and qualification to do business in the State where the gaming operation is located;
 - (2) Conduct a Better Business Bureau check on the vendor;
 - (3) Conduct a check of the business' credit history;
 - (4) Interview each of the references listed in the vendor application; and
 - (5) Conduct an investigation of the principals of the business, including a criminal history check, a credit report, and interviews with the personal references listed.
- (b) Report. The staff of the Commission shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals and present it to the Tribal Gaming Commission.

Section 20.01.33 Vendor License Fee

The Tribe may charge a license fee, to be set by the Tribal Gaming Commission, to cover its expenses in investigating and licensing vendors of the gaming operation.

Section 20.01.34 Suspension or Revocation of a Vendor License

- (a) Notice from the NIGC or the State. If, after the issuance of a vendor license, the Tribal Gaming Commission receives from the National Indian Gaming Commission, the State or any other credible source reliable information indicating that a vendor is not eligible for a license, the Tribal Gaming Commission shall suspend such license and shall provide the licensee with written notification of the suspension and the proposed revocation, including any fines that may be levied.
- (b) Revocation Hearing. The Tribal Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license. The licensee may be represented by legal counsel at the licensee's own expense at any revocation hearing.

- (c) Notice of Decision. After a revocation hearing, the Tribal Gaming Commission shall decide whether to revoke or to reinstate a gaming license. If the Tribal Gaming Commission determines that the licensee poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, then the Commission shall revoke the license. The Commission shall notify the National Indian Gaming Commission and the State of its determination on each license.
- (d) All revocation determinations are final and shall not be reviewed or reconsidered unless the Commission determines that it did not have all of the relevant evidence when it reached a determination on a license.

Section 20.01.35 Exemption for Vendors Licensed by Recognized Regulatory Authorities

The Tribal Gaming Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors which have received a license from one of the named regulatory authorities.

Section 20.01.36 Licenses for Non-Gaming Vendors

For non-gaming vendors, the Tribal Gaming Commission is authorized to create a less stringent vendor licensing process, including a due diligence check rather than a full background investigation as required in Section 20.01.32. The Gaming Commission may investigate such vendors when appropriate and may conduct audits in addition to monitoring Tribal purchases.

Section 20.01.37 Repeal

All prior gaming ordinances of the Tribe are hereby repealed.