



February 14, 2018

Via First Class Mail

Charissa Eichman, Esq.
The Confederated Tribes of the
Colville Reservation
Office of the Reservation Attorney
P.O. Box 150
Nespelem, WA 99155

Re: Colville Gaming Code

Dear Ms. Eichman:

This letter responds to your request for the National Indian Gaming Commission Chairman to review and approve amendments to the Confederated Tribes of the Colville Reservation (Tribes') Gaming Code. The Colville Business Council approved Resolution 2017-663 on November 2, 2017. The resolution amends various several sections that relate to individually owned gaming. Based on the Tribes' representations detailed below, I am approving the amendment.

The Indian Gaming Regulatory Act and NIGC regulations provide both ordinance content requirements and submission requirements that must be satisfied prior to the approval of a gaming ordinance.¹ A content requirement is information that must be included in the body of the ordinance itself, while a submission requirement may be submitted separately, as part of a regulation, for example. IGRA requires that a tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation unless it elects to allow individually owned gaming.² NIGC adopted regulations to implement IGRA, which also identify gaming ordinance approval requirements.³ Tribes that choose to authorize individually owned gaming are also required to comply with 25 C.F.R. §§ 522.10 or 522.11.⁴ Section 522.10 identifies additional provisions related to individually owned gaming that must be incorporated into an ordinance.

Because the Tribes authorize individually owned gaming in §§ 6-5-113, 6-5-132, and 6-5-135, the gaming ordinance must comply with 25 C.F.R. § 522.10, which sets forth the specific requirements that apply to individually owned gaming. The Tribes' ordinance at § 6-5-132(d) does provide for the requirements of 25 C.F.R. § 522.10, and

¹ 25 U.S.C. § 2710(b)(2); 25 C.F.R. §§ 522.2, 522.4(b).

² 25 U.S.C. § 2710(b)(2)(A).

³ 25 C.F.R. § 522.4.

⁴ 25 C.F.R. § 522.4(b)(1).

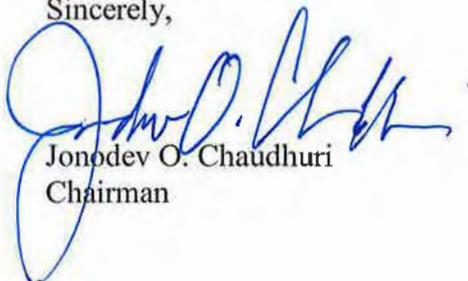
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those requirements clearly apply to the specific type of individually owned gaming authorized in § 6-5-132 (Non-tribal Organizations and Entities). However, it is not entirely clear that the individually owned gaming authorized in § 6-5-131 (Tribal Organizations Other Than the Gaming Enterprise, and Tribal members and Groups) and § 6-5-135 (Washington State Lotteries) are subject to the requirements of § 6-5-132(d).

As requested, you provided a written statement with the Tribes' interpretation of the amendment, which asserted the Tribes read § 6-5-132(d) and the requirements of 25 C.F.R. § 522.10 apply to all types of individually owned gaming, including Washington State Lotteries, Tribal organizations other than the gaming enterprise, and Tribal members and groups. With this commitment to ensure that any gaming other than that operated by the Tribe is treated as individually owned gaming pursuant to the requirements found in IGRA, NIGC regulations, and § 6-5-131, I approve the amendment. Please be aware that permitting individually owned gaming by Tribal members and groups in a manner inconsistent with 25 C.F.R. § 552.10 and § 6-5-132(d) is a violation of IGRA and NIGC regulations and may result in the issuance of a Notice of Violation, that could result in a Civil Fine Assessment.⁵

If you have any questions, please feel free to contact Senior Attorney Esther Dittler at 202-420-9229.

Sincerely,



Jonodev O. Chaudhuri
Chairman

⁵ 25 C.F.R. §573.3-4; 25 C.F.R. §575.



Colville Tribal Gaming Commission Resolution 2017-027



DATE: July 7, 2017

SUBJECT: Chapter 6-5 (Gaming) – Proposed Amendments

Whereas, the Colville Business Council (“CBC”), by Resolutions 1995-178, 1995-179, and 1995-348, approved the Gaming Code (Title 40) for the Confederated Tribes of the Colville Reservation (“Tribes”), and the National Indian Gaming Commission (“NIGC”) approved said document on July 21, 1995; and

Whereas, on January 9, 1997, the CBC, by Resolution 1997-02, determined that the entire Colville Tribal Law and Order Code needed to be reformatted/recodified, which changed the Gaming Code from Title 40 to Title 6 (Regulatory Provisions), Chapter 6-5 (Gaming); and

Whereas, on January 22, 2016, the Colville Tribal Gaming Commission (“Commission”), by Resolution 2016-004, recommended amendments (related to tort claims, prize claims, background investigations, notice and hearing requirements, and internet gaming) to the Gaming Code, which the CBC approved by Resolution 2016-188 on April 14, 2016; and

Whereas, the NIGC raised concerns regarding the amendments approved by CBC Resolution 2016-188, related to notice and hearing requirements associated with licensing; and

Whereas, on June 10, 2016, the Commission, by Resolution 2016-053, recommended additional amendments to the Gaming Code (Chapter 6-5) in response to NIGC’s concerns, and the CBC approved the additional amendments by Resolution 2016-364 on July 7, 2016; and

Whereas, the NIGC approved the Gaming Code approved by CBC Resolution 2016-364 on September 22, 2016; and

Whereas, on September 23, 2016, the NIGC notified the Tribes that the Gaming Code approved on September 22, 2016, does not allow for individually-owned gaming and would need to be revised before permitting such activity; and

Whereas, on June 28, 2017, the CBC, during a regularly scheduled Law and Justice Committee meeting, requested the Commission Director to draft an amendment to the Gaming Code to address concerns related to raffles; furthermore, the Commission would like to use this opportunity to recommend other amendments related to individually-owned gaming (addressing NIGC’s concerns in the September 23, 2016 letter), state lottery, and the appeal timeframe for exclusions, all of which are included in Exhibit A to this Resolution.

Now therefore be it resolved, that the Colville Tribal Gaming Commission meeting in regular session on July 7, 2017, hereby approves the proposed amendments to Chapter 6-5 attached as Exhibit A to this Resolution, and authorizes the presentation to the Colville Business Council through its Law and Justice Committee for final approval.

Vote:

Signed:

YES / NO

YES / NO

YES / NO

YES / NO

x: Mel Tonasket
Mel Tonasket, Chairman

x: Deb Louie
Deb Louie, Commissioner

x: absent
Jessica Pakootas, Commissioner

x: Margo Hill
Margo Hill, Commissioner

x: Jill Nanpuya-Moomaw
Jill Nanpuya-Moomaw, Commissioner

FOR: 3

AGAINST: 0

ABSTAINED: 0



RESOLUTION

WHEREAS, it is the recommendation of the Law & Justice Committee to enact amendments to Chapter 6-5 Gaming Code as proposed (attached). Chapter 6-5 has been processed utilizing CBC Procedural Rule 3 (b), (e), (f), and (g) and is in the final stage. Requests for clarification on the amendments were received and reviewed during this comment period. Once approved, a copy shall be forwarded to the Code Reviser for certification and distribution.

THEREFORE, BE IT RESOLVED, that we, the Colville Business Council, meeting in a **SPECIAL SESSION** this 2nd day of November, 2017 acting for and in behalf of the Colville Confederated Tribes, Nespelem Washington, do hereby approve the above recommendation of the Law & Justice Committee.

The foregoing was duly enacted by the Colville Business Council by a vote of **8 FOR 0 AGAINST 0 ABSTAINED**, under authority contained in Article V, Section 1(a) of the Constitution of the Confederated Tribes of the Colville Reservation, ratified by the Colville Indians February 26, 1938, and approved by the Commissioner of Indian Affairs on April 19, 1938.

ATTEST:

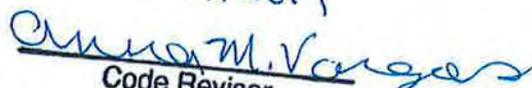

Dr. Michael E. Marchand, Chairman
 Colville Business Council

cc: Joel Boyd, Committee Chair
 Deanna James, Committee Secretary
 Francis Somday, Executive Director
 Joseph Holford, Acting BIA Superintendent
 Anna Vargas, Reservation Attorney
 William Nicholson II, Chief Financial Officer
 Dept. or Program: Anna Vargas, Office of Reservation Attorney



Effective This Date
 As Certified by the
 Code Reviser

NOV 2, 2017


 Code Reviser

Confederated Tribes of the Colville Reservation

Nespelem, Washington

TO: COLVILLE BUSINESS COUNCIL DATE: October 25, 2017

FROM: Law & Justice Committee

SUBJECT: Code Amendment Chapter 6-5 Gaming

Initiated By: Anna Vargas, Code Reviser

Program: Reservation Attorney

Committee Recommendations: It is the recommendation of the Law and Justice Committee to enact amendments for Chapter 6-5 Gaming Code as proposed (attached). Chapter 6-5 has been processed utilizing CBC Procedural Rule 3 (b), (e), (f) and (g) and is in the final stage. Requests for clarification on the amendments were received and reviewed during this comment period. Once approved, a copy shall be forwarded to the Code Reviser for certification and distribution.

<u>COMMITTEE MEMBERS</u>	<u>VOTE CAST</u> (YES) (NO)	<u>COMMITTEE MEMBERS</u>	<u>VOTE CAST</u> (YES) (NO)
<i>Shirley C. Leach</i>	_____	_____	_____
<i>George Sampson</i>	X	_____	_____
<i>Jack Ferguson</i>	X	_____	_____
<i>Joseph R. Lorrain</i>	X	_____	_____
<i>Walter Williams</i>	X	_____	_____
<i>W. L. ...</i>	X	_____	_____
<i>Ken ...</i>	X	_____	_____

Business Council Actions:

Seconded by:

George Sampson

8 FOR _____ Signed:

Shirley C. Leach
Committee Chairperson

0 NAY _____ Signed:

Walter Williams
CBC Chairperson

0 ABSTAINED _____

Date Enacted: 11-2-17

Amendments: _____

Emergency (10 Affirmative Signatures) Rationale: _____

CHAPTER 6-5 GAMING

FINDINGS, POLICY, PURPOSE, EFFECTIVE DATE

6-5-1 Findings

The Colville Business Council finds that:

- (a) The Business Council has the authority, under the Constitution and By-Laws of the Confederated Tribes of the Colville Reservation, to enact laws necessary for the protection of the health, security, and general welfare of the Tribes;
- (b) Certain forms of gaming activities are desired by Colville Tribal members, and their regulation is necessary for the protection of the health, security, and general welfare of the Tribes;
- (c) Revenues from such activities are essential to fund Tribal governmental programs and services;
- (d) Authorized forms of gaming activities must be regulated and operated by the Tribes to insure their orderly and lawful operation in order to protect the public interest in the integrity of such gaming activities, to prevent improper or unlawful conduct in the course of such gaming activities, and to promote the development of a balanced Tribal economy by dedicating all of the net revenues from such gaming activities to the public purposes of the Tribes;
- (e) Washington State law is not applicable to Tribal operations, nor does it adequately address the special interests and needs of the Tribes in both protecting Colville Indian lands and its residents and providing needed revenues to the Tribes. Under the Tribal and federal policies of Indian self-determination, it is necessary and appropriate for the Tribes to regulate gaming on Colville Indian lands; and
- (f) Amendments to the currently effective Gaming Code are necessary to better provide for the regulation of the Tribes' gaming activities, and that the Gaming Code as set forth herein shall revoke, supersede, and replace the currently effective Gaming Code in its entirety.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-2 Policy

It shall be Tribal policy to develop and oversee the regulation and operation of authorized gaming activities to the end that the Tribes is better able to provide its members with community and social services and economic development while at the same time insuring that unregulated gambling and gaming are not allowed on Colville Indian Lands.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-3 Purpose

The purposes of this Chapter are:

- (a) To provide a new and continuous source of revenue for governmental and social services to the Tribes and employ Tribal members;
- (b) To insure the proper regulation and operation of authorized amusement games and gambling;
- (c) To allow Tribal members and guests to participate in certain forms of amusement games and gambling;
- (d) To provide for the social welfare and protection of Tribal members and all others who reside within or who may pass through Colville Indian lands; and
- (e) To preempt state law, including the licensing, taxing, revenue distribution and enforcement parts of RCW Chapter 9.46 as that law may apply to those activities specifically covered by this Chapter, and to implement in the place of State law, Tribal regulation and control of the activities covered herein.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-4 Effective Date

This Chapter shall become effective as a replacement for Gaming Code, Title 40, which was approved by Resolution 1995-178 and subsequently amended by Resolution 1995-179 of the Colville Business Council, immediately upon its approval by the Chair of the National Indian Gaming Commission. Upon such approval, this Chapter shall revoke, supersede, and replace the currently effective Gaming Code in its entirety. All other laws of the Tribes inconsistent with the provisions of this Chapter and existing as of the effective date of this Chapter are hereby repealed, including all inconsistent laws, codes, ordinances, and resolutions. Repeal by this Chapter of any law, code, ordinance, or resolution shall not have the effect of reviving any prior law, code ordinance, or resolution heretofore repealed or suspended by such repealed code.

6-5-5 Regulatory Implementation of Chapter Revisions

All regulations, rules, and directives in effect prior to any amendment to this Chapter becoming Colville law shall remain in effect for 270 days or until the Commission adopts superseding regulations, rules, or directives, whichever comes first.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

DEFINITIONS

6-5-20 Rules of Construction

In this Chapter, unless otherwise specifically provided:

- (a) The masculine includes the feminine;
- (b) The singular includes the plural;
- (c) "Includes" and "including" are not limiting; and
- (d) "Or" is not exclusive.

6-5-21 Definitions:

For purposes of this Chapter, unless otherwise expressly provided, the following definitions shall apply:

(a) "Act" or "IGRA" means the Indian Gaming Regulatory Act, Public Law 100-497, 25 U.S.C. § 2701-2721 and 18 U.S.C. § 1166-1168.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(b) reserved.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(c) "Applicant" means any person who has applied for a License or Finding of Eligibility under the provisions of this Chapter or Commission regulations, or employment with the Gaming Enterprise, or approval of any act or transaction for which approval is required or permitted under the provisions of this Chapter or Commission regulations.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(d) "Application" means a request for the issuance of a License, or Finding of Eligibility, or for employment by the Gaming Enterprise, or for approval of any act or transaction for which approval is required under the provisions of this Chapter or Commission regulations.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(e) "Bingo" means a form of gaming wherein players play for prizes with cards bearing numbers or other designations; cover numbers or designations when object, similarly numbered or designated, are drawn or electronically determined; and win the game by being the first person to cover a designated pattern on such cards.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(f) "Class I Gaming" means all forms of gaming defined as Class I in Section 4(6) of the Act, 25 U.S.C. § 2703(6).

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(g) “Class II Gaming” means all forms of gaming defined as Class II in Section 4(7) of the Act, 25 U.S.C. § 2703(7).
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(h) “Class III Gaming” means all forms of gaming defined as Class III in Section 4(8) of the Act, 25 U.S.C. § 2703(8).
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(i) “Colville Business Council” means the Business Council of the Confederated Tribes of the Colville Reservation exercising its constitutional functions and duties.

(j) “Colville Tribal Federal Corporation” means the federally-chartered corporation formed pursuant to Section 17 of the Indian Reorganization Act for the purposes of overseeing certain Tribal gaming, construction, retail, recreational, and other commercial activities.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(k) “Commission” means the Colville Tribal Gaming Commission established by this Chapter.

(l) “Commission Director” means the individual appointed by the Commission and approved by the Business Council to direct the day-to-day operations of the Commission as provided herein.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(m) “Enterprise” means the Colville Tribal Federal Corporation, its designee, or other duly authorized enterprise established by the Tribes to conduct all gaming activities of the Tribes on Colville Indian lands.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)
(Amended 6/6/13, Resolution 2013-383, Certified 6/14/13)

(n) “Finding of Eligibility” means a formal finding by the Commission that the applicant is eligible for a gaming License.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(o) “Gaming” or “Gambling” means all forms of Class I, Class II, or Class III Gaming, as defined in IGRA at 25 U.S.C. § 2703(6-8) conducted on the Indian Lands of the Tribes, or any other game or device approved by the Commission, but does not include games played with cards in private homes or residences in which no person makes or charges money for operating the game, except as a player, nor traditional Indian games played privately by Tribal members and their guests.

(p) “Gaming Employee” means any person employed as a Primary Management Official or Key Employee by the Gaming Enterprise and any other person employed in the operation or management of the Gaming Enterprise, including, but not limited to, any person whose employment duties require or authorize access to restricted areas of a Gaming Facility not otherwise open to the public.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)
(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(q) “Gaming Enterprise” means the Enterprise or division of the Enterprise established to operate and manage any gaming activity conducted within any Gaming Facility or over an Internet Gaming System.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(r) “Gaming Facility” or “Gaming Facilities” means the building, improvements, facilities, and premises in which Class II and/or Class III gaming is conducted on a regular or ongoing basis.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(s) “Gaming Goods or Services” means the providing of Gaming or Gaming-related goods or services to the Tribes in connection with the operation of Class II or Class III gaming in a Gaming Facility or on the Internet Gaming System, including any items or supplies used for or in conjunction with games and Gaming and the security for such games and shall include the games themselves including gaming machines, gaming tables, cards, chips, dice, etc.; machines that count, weigh, or otherwise are used to process currency, chips, gaming tickets, gift cards, and other items of monetary value on the gaming floor or in backroom operations including currency and ticket counters, ticket

redemption units, ticket and currency kiosks, and bill breakers; software and computer hardware that control such games and/or that monitors or accounts for money and tickets for one or more games or that tracks players; security equipment such as surveillance cameras, recording equipment, key security systems, etc.; and the parts and supplies for such games, machines, items, and systems.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(t) "Gaming Operation" means the Gaming Enterprise operated by the Tribes in accordance with the Tribal-State Compact and all business and economic activities conducted by the Gaming Enterprise

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(u) "Gaming Vendor" means any person or entity that manufactures, sells, or supplies Gaming Goods or Services as defined in sub-section (s) above.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(v) "Indian lands" means all lands of the Confederated Tribes of the Colville Reservation that meet the definition of Indian lands as defined in 25 U.S.C. § 2703(4).

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(w) "Internet Gaming" means the placing of wagers using an Internet Gaming System, the core components of which are physically located on the Indian lands of the Tribes, through which the Confederated Tribes of the Colville Reservation may offer authorized games to authorized players who have established Internet Gaming Accounts, and includes all games of chance and gaming activities that are not expressly prohibited by federal law. Internet Gaming shall not include any promotional or marketing activities conducted over the Internet in which the elements of consideration, chance, and reward are not present.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(x) "Internet Gaming Account" means an account that an authorized player shall use for the deposit and withdrawal of funds used for Internet Gaming.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(y) "Internet Gaming Service Provider" means a Person that does any of the following on behalf of the Confederated Tribes of the Colville Reservation:

- (1) Directs, provides, or solicits customers to or for the Internet Gaming System or materially assists in any of those activities in exchange for a commission or other fee;
- (2) Manages, administers, or controls wagers on authorized Internet games;
- (3) Manages, administers, or controls the Internet games with which those wagers are associated;
- (4) Develops, maintains, provides, or operates an Internet Gaming System; or
- (5) Manufactures, sells, or supplies gaming goods, equipment, or services used in connection with an Internet Gaming System.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(z) "Internet Gaming System" means all hardware, software, and communications that comprise a system for the purpose of offering authorized Internet Gaming.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(aa) "Interstate Common Pari-Mutuel Pool" means a pari-mutuel pool consisting of pari-mutuel wagers placed at a track, its intrastate betting locations, other jurisdictions and the off-track pari-mutuel wagers placed and accepted by pari-mutuel books.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(bb) "Key Employee" means a person who performs one or more of the following functions: bingo caller; counting room supervisor; chief of security; custodian of gaming supplies or cash; floor manager; pit boss; dealer; croupier; approver of credit; or custodian of gambling devices and the Internet Gaming System, including persons with access

to cash and accounting records within such devices. "Key Employee" also includes:

- (1) Person whose duties and functions are in relation to the operation, management, administration, or control of wagers and games on an authorized Internet Gaming System;
- (2) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000.00 per year;
- (3) If not otherwise included, the four most highly compensated persons in the Gaming Enterprise; or
- (4) Any other person as designated by the Commission.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(cc) "License" means a revocable privilege granted by authority of the Commission to any natural person or an entity to be involved with the gaming operation or in providing Gaming Goods or Services to the Gaming Enterprise.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(dd) "Licensee" means any natural person or entity who has been licensed by the Commission to be involved with the gaming operation or in providing Gaming Goods or Services to the Gaming Enterprise.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(ee) "Lottery" means a scheme, plan or device for the distribution of money or property by an element of chance which, for the opportunity to possibly share in such distribution persons have paid or agreed to pay a valuable consideration. "Valuable consideration" as an element of a lottery shall not include:

- (1) Listening to or watching a television or radio program or subscribing to a television service;
- (2) Filling out and returning a coupon or entry blank or facsimile which is received through the mail or published in a newspaper or magazine, or in a program sold in connection with and at a regularly scheduled sporting event, or the purchase of such a newspaper, magazine or program;
- (3) Sending a coupon or entry blank by mail to a designated address in connection with a promotion conducted on Colville Indian lands;
- (4) Visiting any business establishment to obtain a coupon or entry blank;
- (5) Mere registration without the purchase of any goods or services;
- (6) Expenditure of time, thought, attention or energy in pursuing promotional material;
- (7) Placing or answering a telephone call in a prescribed manner or otherwise making a prescribed response or answer; or
- (8) Furnishing the container of any product as packaged by the manufacturer, or a particular portion thereof but only if furnishing a plain piece of paper or card with the name of the manufacturer or product handwritten on it is acceptable in lieu thereof.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(ff) "Management Contract" means a contract within the meaning of 25 U.S.C. §§ 2710(d)(9) and 2711.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(gg) "Management Contractor" means a natural person or entity that has entered into a management contract with the Tribes or the Gaming Enterprise which has been approved pursuant to 25 U.S.C. §§ 2710(d)(9) and 2711.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(hh) "Manufacturer" means a natural person or entity that manufactures Gaming Devices and/or component parts

thereof as defined by this Chapter or Commission regulations for use or play in the Gaming Facilities.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(ii) "National Indian Gaming Commission (NIGC)" means the federal commission established pursuant to 25 U.S.C. § 2704.

(jj) "Net Revenue" means gross revenues of a gaming activity less amounts paid out as, or paid for, prizes, winnings and total gaming-related operating expenses, including all those expenses of the Gaming Enterprise commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, but excluding management fees paid to a management contractor.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(kk) "Non-Gaming Goods or Services" means services or goods to a Gaming Facility or in relation to the Internet Gaming that are not directly related to or used in connection with Gaming activities or the handling, processing, and/or accounting of cash or cash equivalents from Gaming activities. Examples of Non-Gaming Goods or Services include, but are not limited to, utilities, landscaping; furniture; fuel; retail items; art or design services; linen and laundry services; airlines; hotels used for business travel; subscription newspapers and periodicals; food and beverages; cleaning supplies; and general purpose equipment or items such as light bulbs, vacuum cleaners, decorations, and providers of entertainment services.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(ll) "Non-Gaming Employee" means any person employed by the Gaming Enterprise who is not a Gaming Employee.
(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(mm) "Non-Gaming Employee License" means a revocable privilege granted by the authority of the Commission to any natural person employed in a non-gaming position with the Gaming Enterprise.
(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(nn) "Non-Gaming Vendor" means any person or entity that sells or supplies Non-Gaming Goods or Services.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(oo) "Off-track Pari-mutuel Wager" means a wager placed by a Patron and accepted by the Gaming Enterprise's pari-mutuel book on a race or races offered as part of an interstate common pari-mutuel pool whether or not the wager is actually included in the total amount of the interstate wagering pool.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(pp) "Pari-mutuel" means a system of wagering on a race or sporting event whereby the winners divide the total amount wagered, after deducting commission, fees, and taxes, in proportion to the amount individually wagered.

(qq) "Patron" means any person or group of persons who participate as players in games as defined by this Chapter, or who are physically present on premises wherein or whereon such games are being played, but shall not include employees of the Gaming Enterprise in the course of their employment.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(rr) "Person" means any natural person or an association, partnership, corporation, firm, trust, cooperative or other form of business entity.
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(ss) "Premises" means land together with all buildings, improvements, fixtures, and personal property located thereon.

(tt) "Primary Management Official" means any individual of the Gaming Enterprise who exercises authority and management responsibility over the daily operation of the Gaming Facility, including the authority to hire and fire employees, to supervise employees or to establish operational policy for the gaming activity or Gaming Facility. Such officials shall include, but not be limited to, all owners, officers, shareholders with greater than a ten (10%) percent ownership interest, partners of the management contractor, if any, the chief financial officer, any other

person who has financial management responsibility, and any other person designated by the Commission as a primary management official.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)
(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(uu) "Principal" means with respect to any management contractor or business entity:

- (1) Each of its officers and directors;
- (2) Each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer or general manager; Each of its owners or partners, if an unincorporated business;
- (3) Each of its shareholders who own more than ten (10%) percent of the shares of the corporation, if a corporation;
- (4) Each person other than a banking institution who has provided financing for the entity constituting more than ten (10%) percent of the total financing of the entity; and
- (5) Each of the beneficiaries, or trustees of a trust.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(vv) "Race book" means the business of accepting wagers upon the outcome of any event held at a track which uses the pari-mutuel system of wagering.

(ww) "Regulation" means a rule, standard, directive or statement of general applicability which effectuates the provisions and policy of the Commission, this Chapter or the policy of the Tribes.

(xx) "Reservation" or "Tribal Lands" means all lands within the exterior boundaries of the Tribes' reservation, and lands otherwise enumerated in 18 U.S.C.1151 and 25 U.S.C. 2703(4).

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(yy) "State" means the State of Washington, its authorized officials, agents and representatives.

(zz) "Track" means an in-state or out-of-state facility licensed to operate horse or other racing where pari-mutuel wagering on races is conducted. Where applicable, the term also includes a person or governmental agency in or outside a state that operates a track or shares in its revenues and also includes an association of tracks.

(aaa) "Tribal Court" means the Courts of the Confederated Tribes of the Colville Reservation exercising their constitutional functions.

(bbb) "Tribal Law Enforcement Agency" means the police force of the Tribes established and maintained by the Tribes pursuant to the Tribes powers of self-government to carry out law enforcement on Colville Indian lands.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(ccc) "Tribal-State Compact or Compact" means a written document, either negotiated and agreed to by the Colville Tribes and an official or agency of the State of Washington, or prescribed by the Secretary pursuant to 25 U.S.C. § 2710(d)(7)(B)(vii), governing the conduct of Class III gaming activities on Colville Indian lands.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(ddd) "Tribes" and "Tribal" means the Confederated Tribes of the Colville Reservation.

COLVILLE TRIBAL GAMING COMMISSION

6-5-50 Establishment

The Colville Tribal Gaming Commission having been established under the Tribes' prior Gaming Code, which was approved by the NIGC on July 21, 1995, shall continue to act as the gaming regulatory body of the Tribes and be

responsible for carrying out regulatory functions as defined in this Chapter. The Commission shall consist of five members, at least two of whom shall be members of the Tribes, but none of whom shall be employees or managers of the Gaming Enterprise.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)
(Amended 6/6/13, Resolution 2013-385, Certified 6/14/13)

6-5-51 Composition

The five members of the Commission shall be appointed by resolution of the Council to a term of three (3) years commencing on the date of their appointment. Three Commissioners shall constitute a quorum. Once appointed, Commission members may serve beyond the expiration of his or her term until a successor has been appointed. The Commission shall elect a Chairman, and any other Commission officers it sees fit from the Commissioners.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-52 Vacancy

Should any vacancy in the Commission occur, the position shall be filled by appointment of the Business Council. The terms of office of each person appointed to fill a vacant position shall be for the balance of the unexpired term for such position; provided, however, that any prospective appointee must meet the qualifications established by this Chapter. The Business Council may appoint Commissioners on a *pro tempore* basis if the need arises. *Pro tempore* appointments shall not exceed three months.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-53 Qualifications of Commissioners

The Commissioners shall be at least twenty-five (25) years of age and shall have substantial education or experience in gaming operations, the practice of gaming law, gaming control, law enforcement, accounting, or public administration. No member or employee of the Commission shall participate as a player in any gaming activities conducted by the Tribes or have a financial interest in, or management responsibility for, any gaming activity. No member or employee of the Commission shall have been convicted of any gaming-related offense or any crime involving an element of untruthfulness or dishonesty, including but not limited to fraud, theft, bribery, or embezzlement, regardless of the degree of the offense, by any court of law.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)
(Amended 2/24/12, Certified 3/8/12, Resolution 2012-81)

6-5-54 Removal of Members

(a) A Commissioner may only be removed by the Colville Business Council or the Commission for cause, which shall include, without limitation, gross neglect of duty or misconduct; conviction of a felony, any gaming related offense, or any offense of any degree involving dishonesty or untruthfulness; solicitation or acceptance of bribes; excessive use of intoxicants or controlled substances; and any conduct which threatens the honesty or integrity of the Commission or otherwise violates the letter or intent of this Chapter.

(b) Notice of a proposed suspension and/or removal shall be provided to the Commissioner at least fourteen (14) days in advance of the date set for a hearing before the Business Council, which notice shall state the cause or causes for removal with sufficient particularity to put the Commissioner on notice of the nature of the charges against him or her. The Commissioner shall be afforded the right to respond to the charges and present evidence in his or her defense at a hearing convened by the Business Council.

(c) The decision of the Business Council following the hearing shall be final and binding and shall not be subject to judicial review.

(d) The Commissioner shall be removed by the Business Council and the position deemed immediately vacant if the Commissioner is convicted by a court of law of any felony or any offense of any degree involving an element of untruthfulness or dishonesty.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-55 Compensation

The members of the Commission shall serve on a part-time basis as needed to perform the functions established by this Chapter. Compensation for the Commissioners shall be set by the Business Council after considering the

recommendation of the Commission, provided that once established, compensation shall not be reduced during a Commissioner's term.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-56 Confidentiality

Any record or document maintained by the Commission shall not be subject to being produced, copied, or disclosed in any manner, except by order of a court of competent jurisdiction, by request pursuant to a Compact provision, or by request of an administrative agency of the United States, if the Commission determines that the disclosure of such information would be harmful to the effective and fair regulation of gaming, would disclose trade secrets or proprietary information, or would impair ongoing investigations. Information and records of the Commission shall be deemed confidential and may not be disclosed except pursuant to the discretion of the Commission in proceedings before it, as required by the Compact or this Chapter, or pursuant to a court order of competent jurisdiction.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-57 Powers and Duties of the Commission

The Commission shall have independent authority to exercise any reasonable power and authority necessary to perform the duties, functions, and responsibilities assigned hereunder. The Commission's duties and responsibilities shall be limited and specific to regulatory functions, as distinguished from the management and operational functions of the Gaming Enterprise. The Colville Tribal Gaming Commission will fairly and impartially administer the provisions of this Chapter, and shall have and perform powers and duties as prescribed by this Chapter, which include the following powers and duties, which shall be exercised consistently with IGRA, the Compact, this Chapter, and all applicable tribal and federal laws, rules, regulations, and policies:

(a) Administer this Chapter, by exercising all powers necessary to accomplish the purposes of this Chapter and recommend to the Business Council amendments to this Chapter.

(b) Provide regulatory oversight for purposes of safeguarding the honesty, integrity, fairness of the Tribes' gaming operations and the security of the Tribes' gaming revenues through an on-going program of reviews and audits and regulation of all gaming revenues. All money or thing of value commingled with gaming revenue shall be subject to the Commission's regulatory oversight.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(c) Establish, adopt and enforce rules and regulations in furtherance of the regulatory purposes of this Chapter and the performance of its administrative, licensing, and regulatory functions.

(d) Establish by written regulation and provide regulatory oversight of the Tribes' gaming activities, including pari-mutuel betting and amusement games, which may hereafter be authorized in accordance with this Chapter.

(e) Verify that all authorized Internet Gaming Systems are designed in a manner that requires players to verify their identity and physical location prior to game play.

(f) Verify implementation of appropriate data security standards to prevent Internet Gaming System access to persons whose age and location have not been verified.

(g) Verify that the Tribes' Gaming Facilities are constructed, maintained, and operated in a manner that adequately protects the environment and public health and safety

(h) Assess and collect fees and payments established by this Chapter or by regulation.

(i) Adopt and submit to the Business Council an annual proposed operating budget.

(j) Retain legal counsel and professional services, including investigative services, to assist in any matters over which the Commission possesses jurisdiction.

(k) Conduct or cause to be conducted background investigations and a review of the prior activities, reputation, habits, and associations, as prescribed by law, of all Key Employees and Primary Management Officials, Principals

of Gaming Vendors and Internet Gaming Service Providers, provided that the licensure of licensed professionals, such as certified public accountants, attorneys, among others, shall not be required if such licensed professionals are retained by the Gaming Commission or Gaming Enterprise to provide services covered by a professional license or certification.

(l) Issue, renew, suspend, condition, and/or revoke all licenses, registrations, and permits, as appropriate and in accordance with the provisions of this Chapter, in a manner that adheres to fundamental fairness and basic principles of due process of law.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(m) Develop and implement a program of registration for Non-Gaming Vendors subject to less stringent standards than are otherwise required for the issuance of a license for providers of gaming goods and services

(n) Establish, adopt, and enforce regulations to govern the administration, conditioning, provision, suspension, and revocation of Non-Gaming Employee Licenses in accordance with the provisions of this Chapter, in a manner that adheres to fundamental fairness and basic principles of due process of law.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(o) Establish and revise tribal internal control standards for Class II and Class III gaming activities, as well as reasonable and necessary control standards for Class I gaming.

(p) Classify and license Class I, Class II, and Class III games consistent with IGRA.

(q) Verify that those gaming promotions that require game play as a condition of eligibility are subject to rules established and implemented by the Gaming Enterprise.

(r) Develop and administer internal agency forms as are necessary to carry out the provisions of this Chapter and any regulations promulgated thereunder.

(s) Establish a program providing a process for excluding persons from the premises of any Gaming Facility or Internet Gaming permanently or for a set term as more fully set forth in Chapter 6-5-212 of this Code

(t) Investigate violations of this Chapter, the IGRA, any applicable Compact, and any other applicable laws and regulations pertaining to the Tribes' gaming activities, including rules and regulations issued thereunder, and take appropriate enforcement action or refer any matter to a criminal law enforcement agency for investigation and possible prosecution.

(u) Impose or levy, for cause, reasonable sanctions and/or civil penalties for violations of this Chapter, the IGRA, any applicable Compact, and any other applicable laws and regulations pertaining to the Tribes' gaming activities in accordance with this Chapter and consistent with principles of fundamental fairness and due process of law.

(v) Conduct hearings pertaining to all matters arising under this Chapter, including Patron disputes, licensure matters, violations, sanctions, and penalties.

(w) Issue and serve subpoenas for the production of documents, things, or persons and to administer oaths or affirmations, and to require testimony under oath or affirmation before the Commission in the course of any investigation or hearing conducted under this Chapter, for which process and notices shall be served in the manner provided by this Chapter.

(x) Work with law enforcement and regulatory agencies as needed to carry out the Commission's duties and responsibilities.

(y) Issue such orders and directives as may be necessary to effect compliance with all applicable laws, regulations, and the Compact.

(z) Ensure and verify that an independent financial audit of the Gaming Enterprise is performed annually, which

encompasses a sampling of contracts for services and supplies totaling over \$25,000.00 in a year as well as agreed upon procedures to measure compliance with the operation's internal control procedures.

(aa) Conduct or cause to be conducted audits and compliance reviews.

(bb) Establish regulations requiring the Gaming Enterprise to provide notice to the Gaming Commission of any patron prize claims or personal injury or property damage claims.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-58 Tribal Gaming Agents (Inspectors)

The Commission shall have primary responsibility for the regulatory oversight of Tribal gaming operations to assure the integrity of such operations and shall, for that purpose, employ non-uniformed inspectors who shall be present in all gaming facilities during all hours of operation and who shall be under the sole supervision of the Commission and not that of any management employees of the Gaming Enterprise. Such inspectors shall have unrestricted access to all areas of the Gaming Facilities at all times, and personnel employed by the Gaming Enterprise shall for such purposes provide such inspectors access to locked and secured areas of the Gaming Facilities; subject, however, to the tribal internal control standards applicable to the Gaming Enterprise. Such inspectors shall promptly report to the Commission regarding any failure by the Gaming Enterprise to comply with any of the provisions of this Chapter and any other applicable laws, codes, regulations, and ordinances of the Tribes or the United States or as specified by Compact.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-59 Investigations

The Commission may on its own initiative investigate any aspect of the operations of the Gaming Enterprise in order to protect the public interest in the integrity of such gaming activities, and to prevent improper or unlawful conduct in the course of such gaming activities, and shall investigate any report of a failure of the Gaming Enterprise to comply with the provisions of this Chapter and any applicable Compact and may require the Gaming Enterprise to take any corrective action deemed necessary by the Commission upon such terms and conditions as the Commission may determine appropriate. The Commission may compel any person employed by or doing business with the Gaming Enterprise to appear before it and to provide such information, documents or other materials as may be in their possession to assist in any such investigation.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-60 Public Safety Plan

The Gaming Enterprise shall prepare or cause to be prepared a plan for the protection of public safety and the physical security of Patrons in each Gaming Facility.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-61 Public Health and Safety Standards

(a) Each Gaming Facility shall be constructed, maintained, and operated in a manner that protects the environment and the public health and safety. It shall be the responsibility of the Gaming Enterprise to operate in compliance with all applicable public health and safety standards in accordance with this Chapter and such other provisions of tribal law as may be applicable. At a minimum, the Gaming Enterprise shall prepare and implement an emergency preparedness plan, and obtain periodic health and safety inspections by qualified inspectors including food, drinking water, and fire inspections for each Gaming Facility. With regard to Gaming Facility construction, the Gaming Enterprise shall comply with applicable buildings codes and shall cause to be conducted inspections by qualified inspectors for all major building systems, including electrical, plumbing, heating and air conditioning, and fire suppression in accordance with applicable standards, the results of which shall be submitted to the Commission.

(b) It shall be the responsibility of the Commission to verify that the Gaming Enterprise complies with this Chapter and all applicable public health and safety standards and to ensure that such standards are implemented in each Gaming Facility in accordance with this Chapter or such other provisions of tribal law as may be applicable. Prior to issuing a facility License for any Gaming Facility, the Commission shall verify that the Gaming Facility has passed all requisite health and safety inspections.

(c) In complying with this Chapter, the Gaming Enterprise or the Commission may utilize the services of other tribal

agencies, qualified independent inspectors, federal agencies, such as, for example, the Indian Health Service, or other qualified persons, agencies, or entities to perform such inspections. All inspections shall be performed by persons, agencies, or entities properly qualified to conduct such inspections.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-62 Insurance

The Gaming Enterprise shall secure and maintain a public liability policy for each Gaming Facility at such levels and limits as are appropriate for the size and scale of the facility or as otherwise established by tribal law, regulation, or policy. This requirement for the maintenance of public liability insurance shall in no way be construed as a waiver of the Tribes' sovereign immunity from suit or that of any of its entities or instrumentalities, including any agent, official or employee, provided that the insurer shall not assert the Tribes' sovereign immunity to defeat any legitimate claim up to the limits of the policy.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-63 Budget

The Commission may adopt an annual operation budget which shall be subject to the approval of the Business Council and may in accordance with said budget employ such staff from time to time as it deems necessary to fulfill its responsibilities under this Chapter, and may obtain legal counsel and other professional services, including investigative services, to assist the Commission with respect to any of the matters over which the Commission exercises jurisdiction. The expenses of the Commission in accordance with such budget shall be assessed against the Gaming Enterprise and the Gaming Enterprise shall pay such assessment to the Tribes.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-64 Chairman

The Chairman of the Commission or any other member of the Commission acting in the absence of the Chairman may, whenever s/he deems it necessary to protect the public interest in the integrity of Tribal gaming operations, issue in the name of the Commission any order which the Commission has the power to issue, to the Gaming Enterprise or any licensee, registrant, employee or contractor of the Gaming Enterprise or to any other person within the jurisdiction of the Tribes to take any action or cease and desist from any action as may be required to protect the public interest; provided, that such order shall be subject to review by the Commission at its earliest opportunity, whereupon it may be confirmed or vacated by the Commission.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-65 Commission Director

The Commission shall appoint an individual to serve as a full time director of the Commission to administer its responsibilities on a day-to-day basis and to oversee Commission staff. The Commission Director shall be subject to a background investigation prior to appointment and must meet the eligibility standard set forth herein. The Commission Director shall be responsible for coordination of the functions of the Commission with Tribal law enforcement and other law enforcement agencies. The Commission may authorize and delegate authority to the Commission Director to conduct a preliminary investigation and render a recommendation to the Commission with respect to the grant or denial of any License, the imposition of any penalty, the investigation of any complaint, or any other action within the jurisdiction of the Commission. Furthermore, the Commission may delegate to the Commission Director such other powers as the Commission possesses, including any powers relating to any hearing, investigation or inquiry. The Commission or Director may designate an Acting Director from the Commission staff, from time to time to perform the Director's duties in the Director's absence and/or in the case of possible conflicts of interest. The Director shall have authority to issue interpretations of Colville Gaming law at the request of a representative of the Gaming Enterprise, a licensee, a license applicant, or *sua sponte*. Appeal of such interpretations shall be made to the Commission pursuant to the Commission's hearing procedures.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-66 Procedures of the Commission

(a) Regular meetings of the Commission may be held with or without notice, and at such time and place as shall from time to time be fixed by the Commission. Unless otherwise specified by the Commission, no notice of such regular meeting shall be necessary.

(b) Special meetings of the Commission may be called by the Chairman or the Commission Director. The person or persons calling the special meeting shall fix the time and place thereof. Neither the business to be transacted at, nor

the purpose of, any regular or special meeting of the Commission needs to be specified in any notice of the meeting.

(c) At any meeting of the Commission, a majority of the members then in office shall constitute a quorum for the transaction of business. The vote of a majority of the members present at a meeting at which a quorum is present shall be the act of the Commission. The Chairman shall preside at all meetings of the Commission unless the Chairman designates another member to preside in his or her absence.

(d) Any action required or permitted to be taken at a meeting of the Commission may be taken without a meeting if all of the members sign written consents setting forth the action taken or to be taken, at any time before or after the intended effective date of such action. Such consents shall be filed with the minutes of the Commission, and shall have the same effect as a unanimous vote or resolution of the Commission at a duly called meeting thereof. Any such action taken by unanimous written consents may, but need not be, set forth in such consents in the form of resolutions or votes.

(e) Members of the Commission may participate in a meeting of the Commission by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting in such matter by any member who does not object at the beginning of such meeting to the holding thereof in such manner shall constitute presence in person at such meeting.

(f) No final action of the Commission to impose a penalty pursuant to this Chapter, or to deny or revoke a License issued by the Commission, shall be valid unless the person affected has been given notice of the proposed action, including the cause therefore, and, upon request, the opportunity to appear and be heard before the Commission, either in person or through a representative or legal counsel, and to submit such evidence as the Commission deems relevant to the matter at issue. If, however, the Commission deems it necessary to protect the public interest in the integrity of the gaming activities, the Commission may take an action with immediate effect as it deems required, and shall thereupon provide notice and an opportunity to be heard to the affected person as soon as is reasonably practicable following such action, provided that in no event shall such notice be provided later than thirty (30) days from when such action was taken.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

HEARINGS

6-5-70 Commission Hearings

(a) Any person or licensee who has received notice of an adverse action or decision by the Commission pursuant to this Chapter may submit a written request for a hearing before the Commission within thirty (30) days following receipt of such notice. The Commission shall thereupon afford the respondent an opportunity to appear and be heard before the Commission, either in person or through a representative or legal counsel, and to submit such evidence as the Commission deems relevant to the matter at issue. Thereafter the Commission may either affirm, modify, reverse, or vacate its decision.

(b) For licensing hearings, the applicant or Licensee shall be required as applicable to show cause: 1) why the Commission's action(s) or decision(s) should not issue; 2) why the application in question should not be denied; 3) why the License in question should not be revoked or suspended; or 4) why special conditions or limitations upon a License should not be imposed.

(c) Any hearing conducted under this subsection may, at the direction of the Commission, be conducted by the Commission Director or by one or more members of the Commission designated by the Commission for that purpose.

(d) Any person or Licensee who fails to request a hearing within thirty (30) days following the date of issuance of any notice of an adverse decision or who fails to appear at the hearing after being duly notified of the date, time, and place of such hearing, shall be deemed in default and the action of the Commission shall be deemed final and unappealable.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-71 Final Determinations

The Commission shall, within forty-five (45) days, or less, pursuant to Commission regulation, of the hearing, issue a final written determination, which may be in the form of an order or an opinion or both, but which shall contain a finding(s) of fact and conclusion(s) of law.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-72 Commission Conflicts

In the event that a conflict of interest arises in relation to the subject or subject matter of the hearing, the conflicted Commissioner shall recuse himself/herself from hearing the issue. A conflicted Commissioner may also be recused by vote of the Commission. The vote shall be conducted by the remaining Commissioners, and shall be supported by a reasoned basis describing the alleged conflict. In the event that enough Commissioners to deny a quorum are conflicted, the Commission, by majority vote, may appoint a qualified hearing officer pro tem.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-73 Appeals

(a) Any affected party may appeal any final decision of the Commission within thirty (30) days after such decision by filing a notice of appeal with the Colville Tribal Court pursuant to Colville Tribal Code Chapter 2-4. Upon such filing, the Commission shall submit the full record of the proceeding with the Tribal Court.

(b) Upon hearing of the appeal, the Tribal Court shall give proper deference to the administrative expertise of the Commission. The Tribal Court shall not set aside, modify, or remand any determination, except in relation to the reasonableness of fines, penalties, or sanctions, by the Commission unless it finds the determination to be arbitrary and capricious, unsupported by substantial evidence, or contrary to law.

(c) The Tribal Court shall issue a written decision on all appeals, which decision shall be final.

(d) Failure to seek review of a final decision of the Commission in accordance with Chapter 2-4 shall constitute a waiver of all rights of appeal and shall deprive the Colville Tribal Court of jurisdiction over the matter.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

COMPLIANCE WITH THE ACT

6-5-90 Construction Consistent With IGRA and NIGC Regulations

(a) This Chapter shall be construed in a manner which conforms to the Act in all respects, and if inconsistent with the Act in any manner, the provisions of the Act shall govern.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(b) This Chapter shall be construed in a manner which conforms with the minimum requirements established in the NIGC regulations, and if inconsistent with the regulations, the regulations shall govern.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

6-5-91 Limitation on Gaming Operation

In compliance with 25 U.S.C. § 2710(b)(2)(A), the Tribes shall have the sole proprietary interest and responsibility for the conduct of any gaming activity on Colville Indian lands; provided however, that nothing herein shall interfere with the exercise by any secured party of its rights under any financing agreement with the Tribes to enforce its security interests in personal property located on or within the premises on which such gaming activities may be conducted, or to enforce its rights against unobligated revenues of the Tribes from its gaming activities for the purpose of repayment of the debt obligations of the Tribes to such secured party in accordance with the lawful provisions of such agreements.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-92 Application of Net Revenues

In compliance with 25 U.S.C. §§ 2710(b)(2)(B), net revenues from any gaming activity are not to be used for purposes other than:

(a) To fund Tribal government operations or programs;

- (b) To provide for the general welfare of the Tribes 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.

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

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-93 Annual Audit

In compliance with 25 U.S.C. §§ 2710(b)(2)(C) and (D), all gaming activities shall be subject to an audit by independent certified public accountants, not less than annually, and copies of the annual audit shall be provided to the NIGC. All contracts for supplies, services, or concessions for a contract amount in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to Class II or Class III gaming shall be subject to such audits.

6-5-94 Designation of Agent for Service of Process

The Commission Chairman is hereby designated as agent for service of any official determination, order, or notice of violation of this Chapter or of the Indian Gaming Regulatory Act. The Commission Chairman shall promptly report and provides copies of any such service to the Office of the Reservation Attorney.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-95 Public Safety Standards

In compliance with IGRA the construction and maintenance of any Gaming Facilities, and the operation of gaming activities, shall be conducted in a manner which adequately protects the environment and the public health and safety and for that purpose shall comply with all applicable health, safety and environmental standards enacted by the Tribes, and to the extent that federal water discharge standards are specifically applicable to Colville Indian Lands, such federal standards shall govern. The Commission established by this Chapter shall be empowered to enforce these requirements in accordance with this Chapter and the health and safety codes of the Tribes unless enforcement authority is vested in another agency or department of the Tribes.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-96 Background Investigations (Finding of Eligibility)

(a) In compliance with IGRA, all Primary Management Officials and Key Employees of any Class II or Class III Gaming Enterprise shall be licensed by the Commission and subject to the Commission's background investigations and ongoing review, including annual renewal of such Licenses. The Commission shall perform background investigations for Primary Management Officials and Key Employees according to requirements that are as stringent as those required by the NIGC regulations. The Commission shall review a person's prior activities, criminal records, if any, and reputation, habits, and associations to make a finding concerning the eligibility of the applicant for licensure as a Gaming Employee. The Commission shall deny or revoke such Licenses for any employee whose 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 practice and methods and activities in the conduct of gaming.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(b) In conducting a background investigation the Commission shall make requests from each Gaming Employee pursuant to IGRA, NIGC regulation, Commission regulation and applicable Compact provisions and shall verify this information.

- (1) The information requested of each Primary Management Official and Key Employee shall be verified and include, but not be limited to, the following:

(A) Full name, any other names used (written or oral), Social Security Number(s), date of birth, place of birth, citizenship, gender, all languages spoken or written, driver's license number(s) for the last five (5) years (including the current one), current business and residence phone numbers, and a photograph;

(B) All business and employment positions held and ownership interests in those businesses for the last five (5) years (including any current interests);

(C) All business and residence addresses for the last five (5) years (including current addresses)

(D) Names and current addresses of at least three (3) personal references, including one reference who was acquainted with the applicant at each residence listed;

(E) A description of any current and previous business relationships with Indian tribes, including any ownership interests in those businesses;

(F) A description of any current and previous business relationships with the gaming industry generally, including any 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 the license or permit was granted;

(H) 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 such license or permit was granted; and

(I) The charge, name and address of the court, and the date and disposition (if any) for each felony in which there is an ongoing prosecution or conviction, each misdemeanor (excluding minor traffic violations) with an ongoing prosecution or conviction within 10 years of the application, and each criminal charge (excluding minor traffic charges), whether or not there is a conviction within 10 years of the application if not otherwise listed.

(2) If NIGC regulations require information in addition to the criteria listed in this sub-section, those regulations shall govern.

(3) Nothing in this sub-section shall preclude the Commission from gathering additional information deemed relevant as part of the regulations established by the Commission for background investigations.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(c) Fingerprints shall be taken by the Commission pursuant to Commission regulation and applicable NIGC regulation and compact provisions.

(d) Upon an applicant's submission of a complete and signed application, the Commission shall verify the information submitted by the applicant and conduct an investigation sufficient to make a Finding of Eligibility. In conducting a background investigation, the Commission shall interview the applicant and a sufficient number of knowledgeable people, but not less than three, such as previous employers, personal references, and any other person(s) who may provide the Commission with a knowledgeable basis for making its Eligibility determination. The Commission shall keep confidential the identity of each person interviewed in the course of the investigation.

(e) A comprehensive background investigation will be conducted to determine eligibility for licensing which will include the results of a Federal Bureau of Investigation (FBI) inquiry. Upon receipt of the FBI Criminal History Report Information (CHRI), the report will be reviewed for reconsideration of the initial permitting/licensing decision.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(f) All permit or license approvals become inactive after thirty (30) days from issuance if the individual is not employed by the gaming facility or Commission.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(g) The Commission shall prepare and maintain a complete application file, which shall include all of the following information:

- (1) Steps taken in conducting a background investigation;
- (2) Investigative report for each background investigation conducted that includes all information collected under section 6-5-96(b) (if any);
- (3) Results obtained;
- (4) Conclusions reached; and
- (5) The basis for those conclusions.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(h) The Commission shall submit a notice of the results of the applicant's background investigation to the NIGC no later than sixty (60) days after an employee begins work, which shall contain the following information:

- (1) The applicant's name, date of birth, and social security number;
- (2) The date on which the applicant began or will begin work as a Gaming Employee;
- (3) A copy of the eligibility determination; and
- (4) A summary of the information presented in the investigative report, including a listing of Licenses that have been previously denied, gaming Licenses that have been revoked, even if subsequently reinstated, every known criminal charge brought against the applicant within the last 10 years of the date of application, and every felony of which the applicant has been convicted or any ongoing prosecution.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-97 Privacy Act and False Statement Notices

The following notices shall be placed on the application form for a Gaming Employee License:

(a) In compliance with the Privacy Act of 1974, the following information is provided:

Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming License. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the 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's being unable to license you for 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.

(b) 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.)

(c) The Commission shall retain applications for licensing, employment, reports (if any) of background investigations, and eligibility determinations for no less than three (3) years from the date of termination of employment.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

6-5-98 Gaming Licenses

(a) Once the Notice of Results of an applicant's background investigation has been submitted to the NIGC, the Commission may issue the License to the applicant. If, within 30 days from providing the Notice of Results to the NIGC, the NIGC provides the Commission with a statement itemizing objections to the issuance of a License, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. Upon issuance of the License, the Commission shall notify the NIGC of such issuance within thirty (30) days. If a License has been provided and then suspended or revoked, notice and hearing shall be provided to the Licensee pursuant to 6-5-98 (c). The Commission shall make the final determination whether to issue a License to such applicant.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(b) If the Commission denies the License application or the License is otherwise not issued, the Commission shall notify the NIGC and submit copies of its eligibility determination and notice of results to the NIGC for inclusion in the Indian Gaming Individual Records System.

(c) If, after the issuance of a gaming License, the Commission receives from the NIGC reliable information indicating that the Licensee is not eligible for employment, the Commission shall immediately suspend such License and shall notify the Licensee in writing of the suspension and proposed revocation. The Commission shall notify the Licensee of a time and a place for a hearing on the proposed revocation of a License. Following the revocation hearing, the Commission shall make the final determination whether to revoke or reinstate the gaming License. The Commission shall notify the NIGC of its decision within forty-five (45) days of receiving notice from the NIGC pursuant to this Section.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(d) The Gaming Enterprise shall not employ a Key Employee or Primary Management Official who does not have a license after ninety (90) days.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(e) The right to a revocation hearing vests only when a License is granted under this Gaming Code.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

6-5-99 Separate Licenses

A separate License shall be required for each location or facility in which Class II or Class III gaming is conducted by the Tribes. The License shall be issued by the Commission and shall be displayed by the Gaming Enterprise at the Gaming Facility.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

AUTHORIZATION FOR GAMING ACTIVITIES

6-5-130 Tribal Gaming Authorized

(a) The Confederated Tribes of the Colville Reservation may conduct any Class II gaming activity authorized by the Commission consistent with provisions of this Chapter and the Act.

(b) The Confederated Tribes of the Colville Reservation may conduct any Class III gaming activity authorized by the Commission consistent with the provisions of this Chapter, the Act, and the terms of the Tribal-State Gaming Compact.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-131 Tribal Organizations and Entities

(a) Tribal Organizations Other Than the Gaming Enterprise:

The Commission may issue regulations authorizing other Tribal enterprises, departments, programs, political subdivisions, or subordinate charitable organizations of the Tribes to operate raffles and

amusement games. Such operation shall be consistent with this Chapter and any special conditions imposed by the Commission by rule or regulation.

(b) **Tribal Members and Groups:**

(1) Tribal members and groups for the purpose of this Chapter are considered Tribal entities.

(2) The Commission may issue regulations authorizing Tribal groups to operate raffles and amusement games. Such operation shall be consistent with this Chapter and any special conditions imposed by the Commission by rule or regulation.

(d) Income must only be used for the purposes listed in 6-5-92 of this Chapter.

(Amended 11/02/17, Resolution 2017-663, Certified 11/06/17)

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-132 Non-Tribal Organizations and Entities

(a) This does not apply to Washington State Lotteries; refer to 6-5-135.

(b) The Commission may issue regulations for non-tribal organizations and entities to operate raffles and amusement games; however, these will be considered individually owned gaming and will be subject to applicable NIGC regulations.

(c) Non-tribal organizations and entities include all other organizations and entities that are not defined in 6-5-131, and do not include any individuals or for-profit businesses.

(d) The following requirements apply to the licensing of individually owned gaming operations in accordance with applicable NIGC regulations:

(1) The income to the tribe be only used for the purposes listed in 6-5-92 of this Chapter;

(2) Not less than 60 percent of the net revenues be income to the tribe; however, the Colville Business Council may donate net revenues back to the operation by Tribal resolution;

(3) The owner pay an assessment to the NIGC in accordance with applicable NIGC regulations;

(4) Such organization or entity must obtain a license or permit from the Washington State Gambling Commission as part of its application to the Commission; such requirement will ensure that:

(A) Licensing standards for non-Tribal organizations and entities, and thus individually owned gaming operations, are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the surrounding state;

(B) Denial of a license for any person or entity that would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the surrounding State.

(Amended 11/02/17, Resolution 2017-663, Certified 11/06/17)

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-133 Prohibition Against Gaming

No person duly authorized by the Commission shall engage in, conduct or condone any Class II or Class III gaming activity unless such activity is approved by the Commission and regulations covering such game have been duly promulgated by the Commission.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-134 Traditional Games

Traditional Indian games played privately by Tribal members and their guests shall not constitute gaming within the meaning of this Chapter, but traditional Indian games involving the placement of wagers and the payment of significant prizes where conducted publicly constitute Class I gaming and may be subject to reasonable and necessary regulation by the Commission. Traditional Indian contests involving physical skill or endurance or mental acuity, such as pow wows, hand games, races, and rodeos, for example, in which prizes may be awarded shall not constitute gaming within the meaning of this Chapter.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-135 State Lottery

Colville entities and non-tribal businesses are permitted to sell Washington State Lottery and Scratch Tickets on Colville Indian lands. Such sales shall be made in accordance with RCW 67.70, WAC 315. The Tribes, inclusive of the Commission and the Gaming Director, shall have authority to enter into intergovernmental agreements with the Washington State Lottery Commission to regulate Lottery sales on Colville Indian lands. The Tribal Gaming Commission shall have authority otherwise reserved for the State Lottery Commission, to enforce RCW 67.70, WAC 315, when matters fall outside of Washington State jurisdiction. Nothing in this section shall constitute a waiver of the Colville Tribes sovereign immunity or an abrogation of the Colville Tribes' retained sovereignty.

(Amended 11/02/17, Resolution 2017-663, Certified 11/06/17)

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(Amended 6/6/13, Resolution 2013-385, Certified 6/14/13)

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

AUDITING AND INTERNAL CONTROL

6-5-180 Minimum Procedures for Control of Internal Fiscal Affairs

The Commission shall promulgate regulations regarding the internal fiscal affairs of all gaming operations. At a minimum, those regulations shall:

(a) Prescribe minimum procedures for safeguarding the Gaming Enterprise's assets and revenues, including recording of cash and evidence of indebtedness and mandatory count procedures. Such procedures shall establish a control environment, accounting system, and control procedures that safeguard the assets of the organization, assure that operating transactions are properly recorded, promote operational efficiency, and encourage adherence to prescribed policies;

(b) Prescribe minimum reporting requirements to the Commission;

(c) Provide for the adoption and use of internal audits, by internal auditors and certified public accountants licensed to practice public accounting;

(d) Require adherence to a uniform system of accounting consistent with Generally Accepted Accounting Principles to assure consistency, comparability and effective disclosure of financial information, including a requirement that records be retained that reflect drop (amount of cash wagered by Patrons), win/loss (amount of cash won/lost by the Gaming Enterprise) and the percentage of win/loss to drop, or provide similar information, for each type of game, or each gaming device;

(e) Prescribe the intervals at which such financial information shall be furnished;

(f) Provide for the maintenance of documentation (i.e., checklists, programs, reports, etc.) to evidence all internal work performed as it relates to the requirements of this section; and

(g) Provide that all gaming financial statements and documentation referred to in subsection (f) be maintained for a minimum period of five (5) years.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(h) Non-gaming financial documents shall be retained for at least 2 years after the accounting records have been audited by the independent certified public accountants.

(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

6-5-181 Commission Oversight of Internal Fiscal Affairs

(a) The Commission shall, by regulation, require independent audits of the financial statements of all gaming operations. Such audits must:

- (1) Be made by independent certified public accountants;
- (2) Include an opinion, qualified, or unqualified or, if appropriate, disclaim an opinion on the financial statements taken as a whole in accordance with standards of the accounting profession established by rules and regulations of the American Institute of Certified Public Accountants;
- (3) Disclose whether the accounts, records and control procedures maintained by the Gaming Enterprise are as required by the regulations promulgated by the Commission; and
- (4) Provide for a preliminary review of the internal control structure, upon adoption of the policies and procedures by the entity, to disclose any deviation from prescribed rules and regulations and report such findings to the Commission and management.

(b) The Commission shall bear its own costs related to performance of the provisions of this section.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-182 Commission Right to Conduct Audit

The Commission shall be able to retain its own appointed accountants, or direct an accountant employed by the Tribes, to conduct its own audit of any gaming operation.

PROHIBITED ACTS

6-5-210 Violations

It shall be a violation of this Chapter for any person to:

(a) Conduct or participate in any Class II or Class III gaming activities on Colville Indian lands without a gaming License issued by the Commission, as required by this Chapter.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(b) Receive, distribute, apply or divert any property, funds, proceeds or other assets of the Gaming Enterprise to the benefit of any individual or any other person except as authorized by this Chapter and any applicable resolution of the Tribes.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(c) Tamper with any equipment used in the conduct of Tribal gaming operations with the intent to cause any person to win or lose any wager other than in accord with the publicly announced rules of such gaming activities.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(d) Do any other act in connection with the conduct of the Tribal gaming operations with the intent to effect the outcome of any wager other than in accord with the publicly announced rules of such gaming activities.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(e) To engage in any fraudulent conduct affecting either the Tribe or a Patron of the Gaming Enterprise, which shall include:

- (1) Defrauding the Tribes, any Licensee, or any participant in any gaming activity or promotion;
- (2) Providing information that is known or should have been known to be false or making false statements with respect to an application for employment or for any License with the Commission;
- (3) Claiming, collecting or taking, or attempting to claim, collect, or take, money or anything of value in or from a Game/Gaming Facility with intent to defraud or claiming, collecting, or taking an amount greater

than the amount actually won in such game;

(4) Providing information that is known or should have been known to be false or misleading or making any false or misleading statement to the Tribes, the Commission, or other agency of the Tribes with regard to any contract for services or property relating to gaming;

(5) Making any statement that was known or should have been known to be false or misleading in response to any official inquiry by the Commission or other civil agency of the Tribes;

(6) Entering into any contract or making payment on any contract for the delivery of goods or services to the Gaming Enterprise, when such contract fails to provide for or result in the delivery of goods or services of less than fair value for the payment made or contemplated;

(7) Concealing, altering, defacing, falsifying, or destroying any records, documents, information, or materials of any kind, including but not limited to, photographs, audio recordings, or videotapes;

(8) Offering or attempting to offer anything of value to a Licensee in an act that is an attempt to induce, or may be perceived as an attempt to induce, the Licensee to act or refrain from acting in a manner contrary to the official duties of the Licensee under Tribal law; and

(9) Acceptance by a Licensee of anything of value with the expectation that the receipt of such thing of value is intended, or may be perceived as intended, to induce the Licensee to act or refrain from acting, in a manner contrary to the official duties of the Licensee under Tribal law.

(f) To fail or cease to meet the eligibility standards established by this Chapter.

(g) To damage or attempt to damage either intentionally or negligently any property, game device or equipment, or any article belonging to the Tribes, a Patron, or an employee.

(h) To violate any provision of this Code, any rule, regulation, or order that the Commission may promulgate or issue.

(i) To knowingly cause, aid, abet, or conspire with another person or cause any person to violate any provision of this Chapter or any regulation adopted pursuant to this Chapter.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-211 RESERVED

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-212 Exclusion or Ejection of Certain Persons from Gaming Facility

(a) The Tribes hereby declare that the exclusion or ejection of certain persons from licensed Gaming Facilities is necessary to carry out the policies of this Chapter and to maintain effectively the strict regulation of gaming activities.

(1)The Commission Director shall be authorized to remove and exclude such persons who pose a threat to the integrity of the Tribes' gaming operations or to the public health and safety of Patrons and employees or other persons on the premises permanently or for such lesser period as the Gaming Commission deems appropriate. The Gaming Commission shall have the authority to promulgate appropriate regulations for such exclusions ensuring due process.

(2) The Gaming Enterprise is authorized to deny service or otherwise remove and eject any person(s) from licensed Gaming Facilities.

(b) The Commission shall maintain a master list of persons who are excluded or ejected from any licensed Gaming Facility. The Commission shall have the authority to promulgate appropriate regulations regarding the maintenance, distribution, and enforcement of the exclusion master list.

(c) A person involuntarily excluded by the Commission Director or Gaming Enterprise for a period exceeding thirty (30) days but less than one (1) year may contest that action by filing an appeal with the Gaming Commission. Such action, however, shall become final and non-reviewable if no appeal is filed within thirty (30) days after such name is placed on the master exclusion list. For involuntary exclusions exceeding one (1) year, such action shall become final and non-reviewable if no appeal is filed within sixty (60) days after such name is placed on the master exclusion list. The Enterprise may also appeal such an exclusion decision by the Commission Director to the Gaming Commission, but shall adhere to the same appeal timeframes established in this section.

(Amended 11/02/17, Resolution 2017-663, Certified 11/06/17)

(d) A person shall be afforded the opportunity to voluntarily place him/herself on the exclusion list temporarily or permanently by completing a form and filing it with the Gaming Commission, whereupon such person's name shall be placed on the voluntary exclusion list. The Commission shall have the authority to promulgate appropriate regulations regarding voluntary exclusions, so long as such regulations ensure minimal standards of due process.

(e) During any period of exclusion, such excluded person shall not be eligible to claim any prize or participate in any promotion sponsored by the Gaming Enterprise or conducted in a Gaming Facility and if such excluded person shall enter any Gaming Facility and participate in any gaming activity or promotion, any wager, prize, or jackpot for which he/she would otherwise be eligible shall be null and void.

(f) Any excluded person, whether such exclusion is voluntary or involuntarily, who enters a Gaming Facility during the period of exclusion may be deemed in trespass and subject to such criminal or civil penalties as may be available under applicable law. Other sanctions may also be levied pursuant to Commission regulations.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

CIVIL JURISDICTION

6-5-240 Patron Claims

(a) It is the policy of the Tribes that all disputes between members of the gaming public and the Gaming Enterprise shall be promptly and amicably reconciled by the Gaming Enterprise to the extent practicable and in accordance with the requirements and limitations established herein.

(b) Recognizing that there may be cases where such disputes cannot be promptly and amicably resolved or settled by the Gaming Enterprise, the provisions contained herein, as may be supplemented by internal policies and procedures of the Gaming Enterprise consistent with the provisions contained in this Section, shall apply.

(c) Except in relation to the Gaming Enterprise up to the limits of its liability insurance policy, no liability of any kind or nature shall ever attach to the property or assets of the Tribes as a result of any settlement, award, or judgment in any claim asserted against a Gaming Facility. The sovereign immunity of the Tribes with respect to lawsuits against its officials, acting in their official capacities, is expressly reserved in any and all instances.

(d) A brochure containing the procedures for the filing of prize claims or claims for personal injury or property damage in accordance with this Chapter shall be prepared by the Gaming Enterprise and made available to all patrons at the cage and/or any other appropriate area of the casino.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-241 Prize Claims

(a) In the event of a dispute between a Patron and the Gaming Enterprise regarding the payment of a wager or distribution of winnings, the Patron may make a claim against the Gaming Enterprise in accordance with this Section, commencing with the submission of a written prize claim notice to the Gaming Enterprise immediately following the event giving rise to the claim and prior to exiting the premises. The written notice of the prize claim shall state, at a minimum, the following information:

- (1) Time;
- (2) Date;
- (3) Place;
- (4) Circumstances of the claim;
- (5) Identity of tribal or gaming employees and witnesses, as applicable;
- (6) Amount of the relief demanded; and
- (7) The name, address, and telephone number of the claimant.

(b) If the Gaming Enterprise denies the prize claim, the claimant shall have five (5) days from the date the claim was denied to file the prize claim with the Commission for review. Failure to file the prize claim during such five-day period shall forever bar such prize claim against the Gaming Enterprise.

(c) Upon receipt of the prize claim notice, the Commission shall promptly review, investigate, and make a determination regarding the prize claim. The Commission may conduct a hearing and receive evidence with regard to such complaint if it deems an evidentiary proceeding useful in the resolution of the prize claim. The Commission shall have authority to promulgate regulations to facilitate this section.

(d) Any portion of the prize claim which remains unresolved after thirty (30) days from the date of filing with the Commission shall be deemed denied if the Commission fails to notify the claimant in writing of its decision within such 30-day period.

(e) To appeal the Commission's decision, the claimant must file an appeal with the Tribal Court not later than thirty (30) days after the Commission's decision or constructive denial. Such an appeal shall be made pursuant to Chapter 2-4 of the Colville Tribal Code.

(f) No claimant asserting a prize claim shall be entitled to a recovery of a monetary award in excess of the available prize.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-242 Personal Injury and/or Property Damage Claims

(a) Any Patron having a claim against the Gaming Enterprise for personal injury or property damage must present that claim to the Gaming Enterprise on the date of the alleged incident and prior to leaving the Gaming Facility premises. If, due to the circumstances, the Patron is unable to file such claim on the date of the alleged incident, the patron or the patron's representative must file the claim within five (5) days of the date of the alleged injury or damage. Failure to file the claim during such five-day period shall forever bar such claim against the Gaming Enterprise.

(b) The notice of claim for personal injury or property damage shall state the following:

- (1) Date;
- (2) Time;
- (3) Place;
- (4) Circumstances of the claim;
- (5) The identities of tribal or gaming employees, and witnesses, as applicable;
- (6) The amount of compensation or other relief demanded;

(7) The name, address, and telephone number of the claimant; and

(8) The name, address, and telephone number of any representative authorized to settle the claim.

(c) The Gaming Enterprise shall promptly review, investigate, and make a determination regarding the claim within thirty (30) days from the filing date, provided that if the Gaming Enterprise refers the claim to its liability insurer for further investigation or consideration, such period shall be tolled until such time as the insurer notifies the Gaming Enterprise of its findings. A formal notice of denial shall be sent to the claimant by registered mail with return receipt requested. Failure to notify the claimant of the decision within one hundred sixty (160) days from the date on which the claim arose shall be deemed a denial of the claim unless the Gaming Enterprise has notified the claimant that the insurer is still investigating or considering the claim.

(d) To appeal the Gaming Enterprise's denial of a claim or any portion thereof, the claimant must file an appeal with the Tribal Court not later than thirty (30) days after the Gaming Enterprise's decision or constructive denial.

(e) The Tribal Court shall have exclusive jurisdiction to adjudicate a claim by a Patron for personal injury or property damage provided for herein, but only if:

(1) The purported injury occurred on the premises of a Gaming Facility licensed under this Chapter;

(2) The claimant has filed a timely and valid notice of claim as provided herein;

(3) The claimant has followed all required procedures pursuant to the Tribes' laws;

(4) The Gaming Enterprise has denied the claim; and

(5) The claimant has filed an appeal with the Tribal Court no later than on the thirtieth (30th) day after the date on which the claim was denied by the Gaming Enterprise.

(6) The Gaming Enterprise carries an insurance policy covering the claim in question.

(A) A sworn affidavit from the insurance carrier's representative shall constitute sufficient evidence that the Gaming Enterprise lacks insurance covering the claim in question.

(f) Failure to file an appeal denying a claim for personal injury and/or property damage within thirty (30) days of the date of denial shall deprive the Tribal Court of jurisdiction over the matter and forever bar such claim against the Gaming Enterprise.

(g) The Tribes' laws shall govern every claim brought pursuant to this Chapter.

(h) The maximum amount of damages payable for any claim for personal injury or property damage shall be strictly limited to the limits of the liability insurance coverage maintained by the Gaming Enterprise and no other damages shall be recoverable against the Gaming Enterprise, including, but not limited, to punitive, special, indirect, consequential, and/or extraordinary damages.

(i) Nothing in this section shall constitute a waiver of the Colville Tribes' sovereign immunity.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-243 Violations

Any person who within the jurisdiction of the Tribes violates any provision of this Code may be subject to the sanctions and penalties of Chapter 2-3 and Chapter 3-2, and Section 3-1-185 of the Colville Tribal Code as now or hereafter amended, in addition to the civil enforcement actions and sanctions set forth in this Section.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-244 Civil Enforcement Actions and Sanctions

The Commission may take any or a combination of the following actions with respect to any person or entity who violates any provision of this Chapter, provided that the affected person or entity has been given notice and an opportunity to be heard before the Commission in accordance with Subsection 6-5-66(f) of this Chapter:

- (a) Impose a civil fine for each violation, and if such violation is a continuing one, for each day of such violation;
- (b) Suspend, deny, condition, or revoke any Gaming or Gaming-related License or non-gaming registration;
- (c) Temporarily or permanently exclude, bar, or deny admission from or to the Gaming Facility, provided that the sanction shall be commensurate with the seriousness of the violation; and/or
- (d) Issue, as appropriate, orders to cease and desist, compel, cure, or such other orders as may be appropriate under the circumstances.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-245 Civil Penalties and Sanctions

(a) Whenever, upon preliminary factual finding, the Commission determines that any person or entity has failed to comply with the provisions of this Code or any regulations promulgated hereunder, the Commission shall provide written notice to the affected person or entity explaining the alleged violation, the proposed civil penalty and/or sanction, and the steps needed for cure, if any. Such notice may be delivered in person or by letter to the last known address and shall describe the procedures for invoking the right to a hearing.

(b) Upon receipt of the notice described in Section 6-5-245(a) above, the affected person or entity shall be entitled to an opportunity for hearing pursuant to Section 6-5-70 prior to any final action resulting in the imposition of a civil penalty and/or sanction which the Commission is authorized to impose under this Chapter. At such hearing, it shall be the obligation of the affected person or entity to show cause why the Commission's preliminary determination is incorrect and why the proposed civil penalty and/or sanction should not be taken.

(c) Following such hearing, the Commission shall issue a final determination pursuant to Section 6-5-71 concerning the proposed civil penalty and/or sanction. The Commission shall apply a standard of reasonableness, taking into consideration the seriousness of the violation; history of violations, if any; and whether any financial gain was derived as a result of the violation. The Commission's final determination may be appealed in accordance with Section 6-5-73.

(d) If an administrative fine is levied, such fine shall be remitted to the Commission within thirty (30) days from the date of the order issued by the Commission imposing such fine. Any unpaid administrative fine shall constitute a debt to the Commission, which debt may be sued upon and recovered in any proper form of action in the name of the Commission in the Tribal Court or any court of competent jurisdiction. The Commission shall have the authority to withhold licensure, gaming, or other privileges until a fine has been paid. Non-payment of fines shall also be grounds for other sanctions by the Commission.

(e) All fines levied by the Commission shall be deposited into the Tribes' general fund, unless the Colville Business Council subsequently resolves otherwise.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-246 Cease and Desist Orders

An order to cease and desist shall give reasonable notice of the rights of the Licensee to request a hearing before the Commission and shall state the reason for the entry of the order. Failure to cease and desist upon service of such an order shall be grounds for regulatory action by the Commission. If the Licensee to whom a cease and desist order is issued fails to request a hearing within thirty (30) days following the entry of the Commission's order or fails to appear at the hearing after being duly notified of such hearing, the Licensee shall be deemed in default and the proceeding may be determined against the Licensee upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-247 Separate Offenses

Each day that a violation continues may be considered a separate offense for the purposes of this subchapter.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-248 Acknowledgement

Every person or entity that applies for a License or Registration under this Chapter and accepts such License or completes such Registration thereby acknowledges and consents to the civil enforcement jurisdiction and authority of the Commission under this Chapter.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

JURISDICTION

6-5-280 Tribal Court Jurisdiction

Subject to the filing requirements set forth in Section 6-5-245, the Colville Tribal Court shall have exclusive jurisdiction to adjudicate controversies under this Chapter, including appeals from final adverse actions and decisions of the Commission, provided that the affected person has exhausted all administrative remedies.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-281 Sovereign Immunity Preserved

Nothing in this Chapter is intended or shall be construed as a waiver of the sovereign immunity of the Tribes; and no manager, officer or employee of the Commissioner shall be authorized, nor shall he or she attempt, to waive the immunity of the Tribes.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-282 Damage Suits

Damage suits against any employee, officer, agent, manager or director of the Tribes or any of its departments or agencies for disputes arising under this Chapter or regulations promulgated hereunder are prohibited.

6-5-283 Applicable Law

All controversies involving contracts relating to gaming entered into under the authority of the Colville Business Council or the Gaming Enterprise shall be resolved, as appropriate, in accordance with:

- (a) The laws of the Confederated Tribes of the Colville Reservation;
- (b) The Indian Gaming Regulatory Act and its implementing regulations; and/or
- (c) The Tribal-State Compact.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

INTERNET GAMING

6-5-300 Internet Gaming Systems

The Gaming Enterprise shall not operate an Internet Gaming System unless and until such Internet Gaming System has been approved and licensed by the Colville Tribal Gaming Commission.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-301 Internet Gaming System License Requirements

The Commission shall issue a separate License for Internet Gaming Systems on which authorized Internet games are offered, provided that the following minimum requirements are satisfied:

- (a) The core components of the Internet Gaming System, including the servers and databases running the Games on the Internet Gaming System and storing Game and Internet Gaming Account information, are physically located on the Indian lands of the Tribe.
- (b) The integrity of the Internet Gaming System and all of its core components are tested on an ongoing basis.
- (c) The Internet Gaming System is designed in a manner that:

- (1) Requires players to log in to individual Internet Gaming Accounts in order to participate in Internet Gaming;
- (2) Implements automated procedures to verify the identity, date of birth, and physical location of any Patron attempting to access the Internet Gaming System;
- (3) Identifies and prevents unauthorized Patrons from accessing the Internet Gaming System and placing bets or wagers thereon. For purposes of this Section, unauthorized Patrons shall include Patrons under the age of eighteen (18) years; Patrons physically located outside the exterior boundaries of Colville Indian lands; Patrons on the exclusion list; and Patrons who have had their accounts deactivated or suspended;
- (4) Utilizes appropriate data security measures to ensure Patron access is strictly limited to the account holder including, at a minimum, a personal identification number; password or other access security features that are required each time Patrons log in to their Internet Gaming Accounts; and immediate termination of a Patron's session whenever the Patron fails any authentication during the session;
- (5) Detects and reports suspicious behavior, such as cheating, theft, embezzlement, collusion, money laundering, or any other illegal activities;
- (6) Ensures secure communications between an account holder's terminal and the Internet Gaming System; and
- (7) Does not in any manner interfere with the ability of the Colville Tribal Gaming Commission to monitor and investigate any suspicious activities conducted thereon.

(d) Adequate procedures are in place for the resolution of disputes arising out of Internet Gaming Accounts and the Internet Gaming System.

(e) The Internet Gaming System has been certified by an independent testing laboratory as compliant with all technical standards specified as required under applicable laws and regulations.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-302 Regulations

The Colville Tribal Gaming Commission shall have the authority to exercise regulatory oversight over all gaming activity conducted on all Internet Gaming Systems and shall establish, maintain, and implement regulations to ensure that appropriate data security standards and age and location verification requirements are in place to block and prevent access to unauthorized Patrons.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

MISCELLANEOUS

6-5-310 Amendments

All provisions of this Chapter and any regulations promulgated hereunder are subject to revision, repeal, or amendment by the Business Council at any time in accordance with applicable law.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(Amended 6/6/13, Resolution 2013-385, Certified 6/14/13)

(Recodification error between Resolutions 1983-61 and 1995-178)

6-5-311 Severability

If any provision or application of this Chapter 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 provision of this Chapter.

6-5-312 Consent to Jurisdiction

Any person who:

- (a) Applies for and/or is granted a License, registration or other privilege under
- (b) Applies for employment in any Gaming Facility licensed and/or regulated under this Chapter;
- (c) Enters into any contract, engagement, or agreement related to gaming regulated under this Chapter; and/or
- (d) Participates in any gaming activity authorized by this Chapter or enters onto the premises of any Gaming Facility licensed under this Chapter is subject to the civil jurisdiction of the Tribes, Commission, and the Tribal Court, and a person's performance of any of these acts shall constitute consent to the Tribes' exercise of such jurisdiction. Nothing in this Section shall limit the jurisdiction of the Tribes, the Commission, or the Tribal Court under any circumstances not explicitly contemplated in this Chapter, nor shall this Chapter be construed to waive, in whole or in part, the Tribes' or the Gaming Enterprise's sovereign immunity from unconsented suit.

(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(Chapter 6-5 Adopted 2/15/95, Resolution 1995-178)

(Certified 2/21/95)