

Squaxin Island Gaming Ordinance 6.08

Revised 2/8/2021

Contents

6.08.010	Purpose.....	4
6.08.020	Interpretation.....	4
6.08.025	Definitions.....	4
6.08.030	General Prohibition.....	9
6.08.040	Permitted Gaming.....	9
6.08.050	Primacy of Compact.....	9
6.08.060	Ownership of Gaming.....	9
6.08.070	Use of Net Gaming Revenues.....	9
6.08.080	Per Capita Payments.....	10
6.08.090	Gaming Commission.....	10
6.08.100	Governmental Attributes of the Commission.....	11
6.08.110	Delegation of Authority.....	11
6.08.120	Independence of Commission.....	11
6.08.130	Commission Funding.....	12
6.08.140	Commission Members.....	12
6.08.150	Commission Meetings.....	13
6.08.160	Commission Powers and Duties.....	13
6.08.170	Director: Appointment; Qualifications; Removal.....	15
6.08.180	Powers and Duties of the Director.....	16
6.08.190	Types of Licenses.....	16
6.08.200	Fees.....	17
6.08.210	Records Retention.....	17
6.08.220	Judicial Review and Due Process.....	17
6.08.230	Patron Dispute Resolution.....	18
6.08.240	Conduct of Audit.....	18
6.08.250	Agent for Service of Process.....	18
6.08.260	Tribal Access to Financial Information.....	18
6.08.270	License Application Forms.....	18
6.08.280	Fingerprints.....	19
6.08.290	Background Investigations.....	19
6.08.300	Eligibility Determinations.....	21

6.08.310	Notice of Results of Background Investigations	21
6.08.320	Granting Gaming Licenses	21
6.08.330	Denying Gaming Licenses	22
6.08.340	Gaming License Suspensions and Revocations.....	22
6.08.350	Licenses for Vendors.....	23
6.08.360	Vendors Licensed by Recognized Authorities.....	23
6.08.370	Gaming Operations.	23
6.08.380	Violations-Jurisdiction.	24
6.08.390	Net Revenue Tax.	25
6.08.400	Compliance with Federal Law	25
6.08.410	Severability Clause.....	25
6.08.420	Enactment of Tribal-State Compact.....	26
6.08.430	Repeal	26
6.08.440	Effective Date	26

Chapter 6.08 Gaming Ordinance

6.08.010 Purpose

The Tribal Council of the Squaxin Island Tribe ("Tribe"), enacts this ordinance to set terms for gaming on the Tribe's Indian lands. Under the authority of the Tribe's Constitution, the Tribal Council is the governing body and is vested with the sovereign powers of the Tribe. Acting in accordance to tribal customs, traditions and values not inconsistent with any provisions of the Constitution finds, and declares to be public policy of the Tribe, that:

- A. Proper regulation of gambling is essential to ensure gaming is conducted honestly and with integrity.
- B. Strict regulation should be imposed to ensure gaming is free from unlawful conduct and to protect tribal assets.
- C. Licensing regulations, policies and procedures should be maintained and followed to ensure those licensed by the Tribe will not be a risk to the integrity of gaming, safety of the public and the general welfare of the Tribe.
- D. The proper regulation of the Tribe of gambling/gaming activities of the tribe promotes Tribal self-government and economic self-sufficiency.
- E. The substantial and relative stable source of revenue derived from licensed and regulated gaming enables the Tribe to fulfill its governmental responsibilities to the Tribal membership.
- F. Participation in Class II and Class III gaming as a licensee under this ordinance shall be deemed a revocable privilege conditioned upon the proper and continued qualification of the individual licensee and upon the discharge of the affirmative responsibility of each licensee to obey the rules and regulations imposed and approved by the Squaxin Island Gaming Commission ("Commission").

6.08.020 Interpretation

This chapter shall be deemed an exercise of the sovereign power of the Squaxin Island Tribe and all provisions of this chapter shall be liberally construed for the accomplishment of the statement of purpose.

6.08.025 Definitions

"Class I Gaming" - Social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, Tribal ceremonies or celebrations.

"Class II Gaming"

- A. Bingo or Lotto (whether or not electronic, computer, or other technologic aids are used) when players:
 - 1. Play for prizes with cards bearing numbers or other designations;
 - 2. Cover numbers or designations when object, similarly numbered or

- designated, are drawn or electronically determined; and
- 3. Win the game by being the first person to cover a designated pattern on such cards;
- B. If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;
- C. Nonbanking card games that:
 - 1. State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
 - 2. Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes;
- D. Card games played in the states of Michigan, North Dakota, South Dakota, or Washington if:
 - 1. An Indian tribe actually operates the same card games as played on or before May 1, 1988, as determined by the Chairman; and
 - 2. The pot and wager limits remain the same as on or before May 1, 1988, as determined by the Chairman;
- E. Individually owned class II gaming operations:
 - 1. That were operating on September 1, 1986;
 - 2. That meet the requirements of 25 U.S.C. 2710(b)(4)(B);
 - 3. Where the nature and scope of the game remains as it was on October 17, 1988; and
 - 4. Where the ownership interest or interests are the same as on October 17, 1988.

“Class III Gaming”

All forms of gaming that are not class I gaming or class II gaming, including but not limited to:

- A. Any house banking game, including but not limited to:
 - 1. Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
 - 2. Casino games such as roulette, craps, and keno;
- B. Any slot machines as defined in 15 U.S.C. 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance;
- C. Any sports betting and parimutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or
- D. Lotteries.

“Commission” – Squaxin Island Tribal Gaming Commission. Appointed members of the Tribe empowered by the Tribal Council through gaming ordinance to hire or contract staff to regulate the gaming on Indian lands. They administer policy, legislate and conduct hearings, actively regulating to maintain sovereignty by ensuring a safe, fair and ethical gaming experience for customers of the gambling activities. Also known as the Tribal Gaming Regulatory Authority.

“Commissioner” – Individual A member of the Commission.

“Compact” - The Compact/agreement between the Tribe and State entered into under IGRA Section 2710.

“Contractor” - Contractor refers to any management contractor who operates for the Tribe,

tribal premises used for Class II or Class III gaming, or operates as lessee under a lease with the Tribe and any lessor of gaming equipment or supplier of gaming services to the Tribe.

“Director” – The Director of the Squaxin Island Tribal Gaming Commission.

“Facility License” - A separate license issued by the Tribe to each place, facility or location on Indian lands where the Tribe elects to allow Class II or III gaming.

"Gaming" - an activity in which a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event, not under his or her control or influence, upon an agreement or understanding that the person, or someone else, will receive something of value if a certain outcome occurs, but shall not include bona fide business transactions.

"Gaming Activities" - any Class I, Class II, or Class III gaming activity conducted by or under the jurisdiction of the Tribe, and shall include all activities of a Gaming Enterprise subject to the jurisdiction of the Tribe regardless of its nature.

“Gaming Employees” - All employees of a gaming facility who manage, operate, maintain, set-up or have access to components of Class II or Class III Games, or the cash or cash equivalents associated with Class II or Class III games. Gaming employees include but are not limited to:

- Key Employees
- Primary Management Officials
- Class III Gaming Employee or Class II Gaming Employee
- Dealers, Cashiers, Service Technicians, Bankers and Security Personnel

“Gaming Facility” - A building within Indian lands or in the control of the Tribe that conducts Class II or Class III gaming activity.

“General Council” – All registered Tribal members of the Squaxin Island Tribe.

“IGRA” - Indian Gaming Regulatory Act (25 USC 2701).

“Internal Controls” (SICS) – Operation’s procedures to ensure adequate controls over a gaming activity.

“Key Employee” - Class II or Class III gaming employee(s), including but not limited to those performing one or more of these functions, are considered Key Employee(s):

- | | |
|----------------------|--|
| • Bingo Caller | • Counting Room Supervisor |
| • Chief of Security | • Custodian of gaming supplies or cash |
| • Floor Manager | • Pit Boss |
| • Dealer | • Croupier |
| • Approver of Credit | • Custodian of gaming devices |

Personnel responsible for maintenance or repair of gaming devices, including those with access to cash and accounting records pertaining to gaming devices.

Those not otherwise included, whose total compensation exceeds \$50,000 per year.

Those not otherwise included, who are among the four (4) most highly compensated in the gaming operation.

The Commission or TGRA may, at its own discretion, include other positions within the definition of "Key Employee."

"Licensee" – A tribally owned Class II or Class III gaming operation or a person licensed by the Commission as a primary management official, key employee or other gaming employee under this ordinance.

"Management Company / Financiers" - Persons or entities with which the Tribe contracts for financing, development, management, or operation of any Class II or Class III Tribal Gaming Operation.

"Management Contract" – Any contract, subcontract or collateral agreement between the Tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

"National Indian Gaming Commission" (NIGC) - the Commission established under IGRA.

"Net revenues"- Gross gaming revenues of a gaming operation less:

- A. Amounts paid out as, or paid for prizes; and
- B. The total gaming related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

"Non-gaming employees" - All employees of TGO employed in a non-gaming area or in a non-gaming activity, such as the hotel, food and beverage or hotel housekeeping, will have to obtain a license before being employed at the TGO. The Commission or TGRA may, at its own discretion, include other positions within the definition of "Non-gaming employee."

"Ordinance" - The Squaxin Island Gaming Ordinance as adopted.

"Patron" - Persons actually participating in the gaming activities and other persons present on gaming property.

"Person" – A natural person, firm, association, corporation or other legal entity.

"Player" – Any person paying some amount of U.S. currency to the Tribe or the contractor or the agent, servant or employee of the Tribe or such contractor for admission to, or participation in, Class II or Class III gaming and with some reasonable expectation of receiving a prize because of participating, playing or wagering on such Class II or Class III gaming.

"Primary Management Official" – Person(s) associated with a Class II or a Class III gaming enterprise considered Primary Management Officials include:

- Persons with management responsibility for a management contract.
- Persons authorized to hire and fire employees.
- Persons authorized to set up working policy for the gaming operation.

- The Chief Financial Officer or others with financial management responsibility.
- The Commission or TGRA may, at its own discretion, include other positions within the definition of “Primary Management Official.”

“Prizes” - Means and refers to any United State currency, cash or other property or thing of value awarded to a player of Class II or Class III gaming.

“Suppliers, Distributors and Manufacturers” - All companies, sole proprietors or publicly traded, that sell, lease, rent, or offer a manufactured product or service including nongaming vendors engaged in business with a Class II or Class III gaming facility.

“State” - the State of Washington.

“TGRA Director” – The Director of the Squaxin Island Tribal Gaming Commission.

“Tribal Council” – The governing body of the Tribe, as set forth in the Tribe's Constitution and Bylaws.

“Tribal Court” - any court established by the Tribe to hear disputes or, if there is none, the Tribal Council.

“Tribal Gaming Regulatory Authority” (TGRA)– The entity authorized by Tribal law (Gaming Ordinance) to regulate gaming conducted under the Indian Gaming Regulatory Act. Established herein to regulate and monitor gaming activities, investigate wrongdoing, conduct background investigations, issue licenses, and perform other duties as required for regulating gaming on Indian lands as directed or delegated by the Gaming Commission.

“Tribal Gaming Commission” or “Tribal Gaming Commissioners” – Appointed members of the Tribe empowered by the Tribal Council through gaming ordinance to hire or contract staff to regulate the gaming on Indian lands. They administer policy, legislate and conduct hearings, actively regulating to maintain sovereignty by ensuring a safe, fair and ethical gaming experience for customers of the gambling activities.

“Tribal Gaming Operations” (TGO) – Gaming entity. The licensed management entity that conducts gaming activities on Indian lands.

“Tribal Minimum Internal Controls” (TMICS) –Minimal requirements developed by the TGRA for TGO to use in developing their Internal Controls (SICS). The TMICS will encompass Internal Control requirements from the NIGC Minimum Internal Controls (MICS), Tribal/State Compact and any other required Internal Control as determined by the TGRA.

“Tribal-state compact” – A Compact/agreement between the Tribe and State entered into under IGRA Section 2710.

“Tribe” - The Squaxin Island Tribe of the Squaxin Island Indian Reservation in Mason County, Washington, whose Constitution was approved July 8, 1965 by the United States Secretary of the Interior. (Res. 04-10(part);Res 94-78(part))

“Vendor employee” - All employees of a vendor that provides services to the facility.

“Washington State Gambling Commission” (WSGC) – This is the Gambling regulatory authority for the State of Washington.

6.08.030 General Prohibition

Only authorized and legal forms of gambling may be conducted on Squaxin Island land:

- A. Persons are prohibited from operating, supervising, facilitating, or conducting any Class II or Class III gaming without a license issued by the Squaxin Island Gaming Commission for that purpose.
- B. Individuals are prohibited from owning gaming operations.

6.08.040 Permitted Gaming

All gaming shall be conducted by persons duly licensed by the Commission except for Class I gaming to the extent the Commission determines such persons do not require licensing. The following gaming is allowed under the noted provisions:

- A. **Class I Gaming** – Class I traditional games are permitted to the extent consistent with Tribal custom and practice. The Commission may, at its discretion, consult with the Tribal Council to determine which games and practices follow the Tribe's customs and practices. The Commission may prohibit or regulate the conduct of Class I traditional games if it determines such regulation is necessary to promote the public policies behind this ordinance.
- B. **Class II Gaming** – Class II games hereby may be conducted on Indian land; provided, however, that such Class II games shall be conducted only under this ordinance, regulations imposed and approved by the Commission, NIGC regulations and IGRA.
- C. **Class III Gaming** – Class III games are authorized on Indian lands; provided, however, that Class III games shall be conducted only under this ordinance, regulations imposed and approved by the Commission, NIGC regulations, IGRA and the Compact.

6.08.050 Primacy of Compact

Solely regarding Class III gaming, any regulatory requirements in this ordinance are supplemented by, rather than conflict with the Compact. The Commission may enforce those obligations in the Compact as if set forth herein.

6.08.060 Ownership of Gaming

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation(s) authorized by this Ordinance. Individually owned gaming operations are prohibited.

6.08.070 Use of Net Gaming Revenues

Net revenues from Tribal gaming shall be used only for these purposes:

- A. To fund Tribal government operations or programs;
- B. To provide for the general welfare of the Tribe and its members;
- C. To promote Tribal economic development;
- D. To donate to charitable organizations; or

- E. To help fund operations of local government agencies.

6.08.080 Per Capita Payments

Net revenues from any class II and/or class III gaming activities conducted or licensed by the Tribe may make per capita payments to Tribal members if:

- A. The Tribe has prepared a plan to allocate revenues to one or more of the five uses authorized by section 6.08.070 of this Ordinance;
- B. The plan is approved by the Secretary of the Interior as adequate, particularly regarding the uses described in sections 6.08.070 (A) and (C) of this Ordinance;
- C. The interests of minors and other legally incompetent persons entitled to receive the per capita payments are protected and preserved, and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts for the health, education, or welfare of the minor or other legally incompetent person; and
- D. The per capita payments are subject to Federal taxation and the Tribe notifies its members of such tax liability when payments are made.

6.08.090 Gaming Commission

- A. The Tribal Council establishes the Squaxin Island Gaming Commission (Commission) as an independent governmental subdivision of the Tribe. No more than seven members of the General Council will be appointed by the Tribal Council. Members will serve three year terms; however, appointments may be for shorter terms so that terms termination dates are staggered terminating only one member a year throughout 5 years. Absent a Commission the Tribal Council will serve as the Commission.
- B. The Commission will establish a Chair and a Vice Chair through vote of Commission members that will serve for one year. The Chair may not serve consecutive years.
- C. A Commissioner may, at the discretion of the Tribal Council, continue to serve in his or her position as Commissioner, with full authority, after completing his or her term until a replacement is appointed and sworn into office.
- D. Commission members may resign from the Commission by submitting in writing a resignation to all other members and to the Tribal Council secretary.
- E. A Commissioner may be removed from office by the Tribal Council with at least four (4) members of Tribal Council affirming the vote to remove and only because :
 - 1. Nonfeasance, including the persistent failure to perform duties of the office, including failure to attend a significant number of meetings;
 - 2. Misfeasance, including any substantial or repeated failure to exercise authority or discharge responsibilities in conformity with this ordinance, regulations, NIGC regulations, IGRA, or Compact;
 - 3. Malfeasance, including (i) a conviction or a plea of guilty or no contest regarding any felony criminal offense or any other criminal offense involving dishonesty or moral turpitude, (ii) a substantial violation of the Squaxin Island

Tribal Ethics or Ethics established by the Commission, (iii) a knowing violation of this ordinance or other applicable Tribal Law, (iv) misconduct of office that threatens the integrity or public image of the Commission.

4. Failure to maintain the qualifications of the office prescribed in section 6.08.140.
5. Physical or mental disability that prevents the performance of duties.

If the Tribal Council has reason to believe that cause for removal of a Commissioner exists, the Tribal Council shall direct that an investigation to be conducted. If, in the Tribal Council's determination, the investigation substantiates the existence of cause for removal, the Tribal Council shall notify the Commissioner of the time and place for a hearing before the Tribal Council, which notice shall also describe the purpose for the hearing and all claims and allegations to be addressed. Upon review of the investigative material and upon hearing the testimony of this Commissioner a vote shall be called. The decision of the Tribal Council is final and there is no right for appeal.

6.08.100 Governmental Attributes of the Commission

The Tribal Council declares the Commission is a political subdivision of the Tribe possessing all the rights, privileges, and immunities of the Tribe, including but not limited to sovereign immunity of the Tribe from suit absent express consent from Tribal Council. Individual members of the Commission are officers of the Tribal government and shall be immune from suit when acting in their official capacity to the fullest extent permitted by law.

6.08.110 Delegation of Authority

The Tribal Council delegates to the Commission sole authority and responsibility to regulate all Gaming conducted on Indian lands, as provided by this ordinance, which authority includes without limitation the authority to:

- Regulate gaming operations;
- Regulate gaming establishments;
- Regulate management contractors;
- License gaming establishments;
- License gaming suppliers;
- License gaming employees;
- License all persons under this ordinance; and
- Hire or contract staff.

The Commission shall ensure that all gaming/gambling conducted on Indian lands conforms with this ordinance, regulations, the Compact, NIGC regulations, and other applicable Tribal and Federal laws. The Commission may delegate part or all their authority to the Director of the Commission and may also rescind any delegated authority.

6.08.120 Independence of Commission

In all matters subject to its regulatory authority, the Commission shall be and shall act independently and autonomously from Tribal Council. No prior or subsequent review by the Tribal Council of any actions of the Commission shall be required or permitted, except as

may be otherwise explicitly provided in this ordinance. Notwithstanding the foregoing, the Commission shall be subject to all Tribal law, including generally-applicable Tribal administrative policies and procedures not in conflict with this ordinance, except if an exception for the Commission is provided. The Commission fiscal year shall be the fiscal year of the Tribe. The Commission must submit a report quarterly to Tribal Council as a minimum informing them of any current gaming developments, health of the Commission and staff and future concerns or events.

6.08.130 Commission Funding

Commission funding shall be in an amount adequate for the Commission to properly fulfill all of its regulatory obligations and responsibilities under this ordinance. The Commission funding shall be established annually through the annual budget process. Annual budgets are approved by the Tribal Council. The Commission budget will reflect the retention of unexpended funds retained at the end of the prior Fiscal Year, excluding funds obligated for costs or expenses incurred during the prior Fiscal Year. Tribal Council may approve requests by the Commission to supplement the budget when necessary. Funding for all costs and expenses of the Commission shall be the sole obligation of the Squaxin Island Gaming Enterprise.

6.08.140 Commission Members

- A. Qualifications – No person shall serve on the Commission if that person is:
 - 1. Under the age of twenty-one (21);
 - 2. A member of Tribal Council
 - 3. A judge or employee of the Tribal Court
 - 4. Employed by any Gaming Operations;
 - 5. Residing in the same household with, a person employed as a Primary Management Official or Key Employee of any Gaming Operation;
 - 6. Directing or has influence over financial interest directly or indirectly in any Gaming Operation, including any Management Supplier or direct financial interest in any Gaming Supplier. For this section, direct or indirect financial interest shall not include the right to per capita distributions of Gaming revenues under IGRA and indirect financial interest shall not include ownership of any mutual funds that hold such stock;
 - 7. Employed or otherwise serves in a position that creates a conflict of interest or the appearance of a conflict of interest with the duties and responsibilities of the Commission, as determined by the Tribal Council; or
 - 8. Unable to establish and maintain eligibility to serve as a Gaming Commissioner under the requirements in this ordinance.
- B. Additional Qualifications – besides qualifications prescribed in subsection A. A Commission member must:
 - 1. Be a Tribal member;
 - 2. Have at least 5 years' experience in gaming or other regulatory affairs, public

accounting or business finance, public or business administration, judicial or dispute resolution services, criminal justice, civil or criminal investigation, or law; and

3. Can qualify for a Class III gaming license under the regulations approved by the Commission. TGRA will make determination of qualification and documents need not be submitted to any other regulatory authority.
- C. Commission members must attend minimum training courses as determined by the Commission.
- D. Qualifications will be verified through recruitment process.

6.08.150 Commission Meetings

- A. The Commission shall meet at least 6 times a year, with additional meetings held as necessary to properly carry out the duties of the Commission.
- B. The Commission shall receive compensation in an amount and under a schedule adopted by Tribal Council. Commissioners may have reimbursement for actual expenses incurred on Commission business, including necessary travel expenses and training, subject to any written guidelines the Tribal Council may establish.

6.08.160 Commission Powers and Duties

- A. Hire or contract staff – The Commission may hire and contract staff to carry out and delegate the duties and responsibilities of the Commission;
- B. Conduct background investigations, or cause such investigations to be conducted, for primary management officials and key employees;
- C. Review and approve all investigative work conducted with the background investigations of primary management officials and key employees;
- D. Create and maintain investigative reports based on the background investigations of primary management officials and key employees;
- E. Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
- F. Make licensing eligibility determinations;
- G. Limit, revoke, terminate, condition, suspend, or restrict any License and to reprimand, warn, or fine a Licensee when the same will further the purposes of this ordinance, rules, internal controls, regulations or Compact;
- H. Submit a notice of results to the NIGC of the background investigations done for each primary management official and key employee applicant;
- I. Issue gaming licenses to primary management officials and key employees of the operation, if warranted by the eligibility determination;
- J. Establish standards for licensing Tribal gaming facilities;
- K. Issue gaming licenses to Tribal gaming facilities;
- L. Inspect, examine and monitor the Tribe's gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming

establishment;

- M. Monitor, inspect and audit to ensure compliance with all Tribal, state and federal laws, rules and regulations and Compact regarding Indian gaming;
- N. Investigate any suspicion of wrongdoing associated with any gaming activities;
- O. Hold hearings on patron complaints, under procedures established in this Ordinance and/or any Commission regulations;
- P. Comply with any reporting requirements under IGRA, the NIGC's regulations and any tribal-state compact to which the Tribe is a party, and any other applicable law;
- Q. Promulgate and issue regulations to ensure gaming is conducted honestly and with integrity and for protecting tribal assets;
- R. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
- S. Promulgate and issue regulations on the levying of fines and/or the suspension or revocation of gaming licenses for violations of this ordinance or any Tribal, federal or state gaming regulations, if applicable;
- T. Establish, maintain and enforce a list of persons not allowed to game in the Tribe's gaming facilities to maintain the integrity of the gaming operation;
- U. Establish, maintain and enforce a list of persons who have voluntarily agreed to be excluded from the Tribal gaming facility, and create regulations for enforcing the exclusions;
- V. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, federal or state statutes, ordinances, regulations, codes or resolutions;
- W. List regulatory authorities that conduct background investigations of, and license, vendors recognized as trustworthy;
- X. Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
- Y. Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation; ~~and~~
- Z. Promulgate such regulations and guidelines as deemed appropriate to implement this Ordinance, so long as they are to further, and not in conflict with, any provisions of this ordinance;
- AA. The Commission will also have a role in monitoring compliance with the gaming operation's internal controls and in tracking gaming revenues. To carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all of its records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate;
- BB. The Commission shall cause a report to be submitted quarterly to the Council on the Commission's responsibilities and any other matter considered appropriate to

report by the Tribal Gaming Commission. The Commission shall report to the Council twice annually on the performance of any approved Management Company with whom the Tribe has an approved contract; and

- CC. The Commission shall ensure that all records and information obtained because of an employee background investigation shall remain confidential and shall not be disclosed to any persons not directly involved in the licensing process.

The confidentiality requirements above, do not apply to requests for such records or information from any tribal, federal, or state law enforcement or regulatory agency, or for such records or information by the Commission and staff in the performance of their official duties.

6.08.170 Director: Appointment; Qualifications; Removal

- A. Appointment of the Director – The Gaming Commission shall appoint a Director at any time there is a vacancy in the position. Absent a Director an interim Director shall be assigned the powers and duties of the position by the Commission. Absent a Gaming Commission the Tribal Council will appoint a Director.
- B. Qualifications of the Director – The Director will possess these minimum qualifications:
1. Experience – The Director must have experience and training of significant scope, depth and relevancy to enable him/her to direct the work of the Commission, as shown through at least five (5) years experience at a management level in Gaming regulation, particularly Class III Gaming. Additional experience is preferred in the areas of public accounting or business finance, public or business administration, judicial or dispute resolution services, criminal justice, civil or criminal investigation, and law. Other additional experience may apply as established by the Commission or Tribal Council; and
 2. Standards – Director must pass standards to qualify for gaming license under the regulations annually as established by the Commission. Other additional standards may apply as established by the Commission or Tribal Council.
- C. Removal, suspension – The Commission may, by majority vote, remove or suspend the Director for:
1. Nonfeasance, including the persistent failure to perform duties of the office, including failure to attend a significant number of meetings;
 2. Misfeasance, including any substantial or repeated failure to exercise authority or discharge responsibilities in conformity with this ordinance, regulations, NIGC regulations, IGRA, or Compact;
 3. Malfeasance, including:
 - a. A conviction or a plea of guilty or no contest regarding any felony criminal offense or any other criminal offense involving dishonesty or moral turpitude;
 - b. Substantially violating the Squaxin Island Tribal Ethics or Ethics established by the Commission;

- c. A knowing violation of this ordinance or other applicable Tribal Law; and
- d. Misconduct of office that threatens the integrity or public image of the Commission.

4. Physical or mental disability that prevents the performance of duties.

6.08.180 Powers and Duties of the Director

The Director shall have the power and the duty, subject to Commission supervision, to carry out on behalf of the Commission the administrative and executive requirements of the Commission under this ordinance, Squaxin Island Gaming Commission Regulations, Tribal Minimum Internal Controls, Compact and NIGC regulations, including without limitation:

- A. Providing administrative support to the Commission, including managing and supervising all Commission staff, consultants, and contractors, records management, and the development and oversight of the Commission budget;
- B. Directing human resources and other personnel matters; including recruitment, hiring, supervision, and disciplining Commission staff, whose positions shall be established by written position descriptions subject to all applicable hiring and employment laws and policies of the Tribe;
- C. Negotiating and contracting for acquisition of goods and services required by Commission and may otherwise expend Commission funds for the operation of the Commission, subject to such requirements as the Commission may establish;
- D. Directing the day to day operations of the Commission, including maintaining oversight of the licensing, surveillance, inspection, monitoring, and enforcement of licensees of the Commission. In addition, maintain the proper processing, reporting and recording of criminal activity;
- E. Assisting the Commission in developing and maintaining a suitable records system to manage and retain all confidential and sensitive records and information, protecting the information from unauthorized release;
- F. Evaluating the effectiveness of the Tribe's Gaming regulatory process and procedures and controls. Making changes in accordance with policies established by the Commission that are necessary and improve oversight; and
- G. Performing other duties as directed by the Commission deemed necessary.

6.08.190 Types of Licenses

The Tribal Gaming Commission shall issue upon determination of qualifications under rules, regulations, policy and Compact these licenses:

- A. The Tribe shall issue a separate license to each place, facility or location on Indian lands where Class II and/or Class III gaming is conducted under this Ordinance. Each license shall be valid for a term of one (1) year commencing from the date the license is issued: The Commission will inspect and determine the following before issuing or renewing the license:
 - 1. The facility operates in a manner that adequately protects the environment;

2. The facility operates in a manner that adequately protects the health and safety of the public; and
 3. There is adequate enforcement of public health and safety laws, resolutions, codes and procedures as it relates to the operation of the gaming facility.
- B. Third Party Management. The Tribal Gaming Commission shall issue and renew a separate license to a Management Contractor with respect to Gaming Operations operated by a Management Contractor under a Management Contract or by an individual operator, and each license shall be valid for a term of one (1) year commencing from the date the license is issued.
- C. The Commission shall issue a license to each Gaming Employee employed by the gaming facility. Each license shall be valid for a term of one (1) year commencing from the date the license is issued.
- D. Vendor Licenses. Licenses issued under section 6.08.350 shall be valid for no more than two (2) years from issuance.

6.08.200 Fees

- A. The Commission may establish license fees to cover direct or indirect costs.
- B. The Commission may establish fines to be imposed in lieu of a license suspension based on violations to rules, regulations or Compact.
- C. The Commission may fine a licensed business entity or licensed facility to facilitate compliance to licensing requirements as established in this ordinance and regulations approved by the Commission.
- D. All fines and fees must be paid upon the notification of such fine or fee and in accordance with any regulation approved by the Commission.
- E. Fines and fees should be reasonable and proportionate.

6.08.210 Records Retention

The Tribal Gaming Commission shall retain records physically or electronically, for no less than three years from the date a primary management official or key employee is terminated from employment, the following documentation:

- A. Applications for licensing;
- B. Investigative Reports; and
- C. Eligibility Determinations

6.08.220 Judicial Review and Due Process

- A. Licensees may appeal revocations as outlined in 6.08.340(A).
- B. Licensees may appeal fines and other penalizing licensing decisions short of revocation to the Commission by requesting a hearing.
- C. Applicants may appeal a licensing decision by requesting a hearing.
- D. Imposed barrings and volunteer self-exclusions may be lifted at the discretion of the Commission. All decisions are final.

E. All decisions from the Commission hearing are final.

6.08.230 Patron Dispute Resolution

Patrons with complaints against the gaming establishment (not otherwise provided for by Squaxin Island Tribe Tort Claim Ordinance) shall have as their sole remedy the right to file a petition for relief with the Commission. Complaints shall be submitted in writing. The Commission shall hold a hearing within 30 days of receipt of the petitioner's complaint. The petitioner may have counsel present at the hearing. The petitioner may present evidence, at the discretion of the Commission. After the hearing, the Commission shall decide promptly. All such decisions will be final when issued. Any patron complaint must be submitted to the Commission within thirty (30) days of the incident causing the complaint. All claims by patrons shall be limited to a maximum recovery of \$500.00 per occurrence, and a cumulative limit of \$1,000.00 per patron in any 12-month period, except disputes relating to a patron's entitlement to a game prize, which shall be limited to the amount of such prize. The Commission's decision shall be considered final, and not subject to appeal.

6.08.240 Conduct of Audit

- A. The Tribe shall cause to be conducted independent audits of gaming operations annually based on generally accepted auditing standards and shall submit the results to the NIGC.
- B. All gaming-related contracts that result in the purchase of supplies, services or concessions for more than \$25,000 in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under Section 6.08.240 A. of this Ordinance.
- C. Copies of the annual audit of each licensed gaming operation, and each audit for supplies, services or concessions of each gaming operation, shall be furnished to the NIGC after the end of each fiscal year of the gaming operation and within the timeline required by federal rules.

6.08.250 Agent for Service of Process

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

6.08.260 Tribal Access to Financial Information

A copy of the Tribal gaming operation's annual audit will be made available for review to the Squaxin Island Tribal Council.

6.08.270 License Application Forms

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

Privacy Notice

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals

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

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

Notice regarding false statements

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

6.08.280 Fingerprints

The Commission shall request fingerprints from each applicant for a gaming employee licensee to be taken in such a manner and form as the Commission may require, which shall be processed under this ordinance, Compact and the regulations. The Commission is the Tribal Gaming Regulatory Agency authorized to take all fingerprints required to be taken under this ordinance, Compact and the IGRA. The fingerprints will be submitted to be processed by any governmental agency's criminal history check system maintained by the Federal Bureau of Investigation as necessary or required under Compact, regulations or IGRA.

6.08.290 Background Investigations

Minimum background investigation procedures for gaming employees seeking licensure shall be:

- A. Verify by written or oral communication the information submitted by the applicant. Such application information will include at a minimum the following.
 1. Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender and all languages spoken and/or written);
 2. Currently, and for the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
 3. The names and current addresses of at least three (3) personal references, including one (1) personal reference acquainted with the applicant during each period of residence under paragraph (A)(2) of this section;
 4. Business and residential telephone numbers, and all cell phone numbers;

5. A description of any existing and previous business relationships with Indian tribes, including any ownership interests in the businesses;
 6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in the businesses;
 7. The name and address of any licensing or regulatory agency with which the person has applied for a license or permit related to gaming, whether or not such license or permit was granted;
 8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court, and the date of disposition, if any;
 9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the application, the name and address of the court involved and the date of disposition, if any;
 10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the application, and is not otherwise listed under paragraphs (A)(8) or (A)(9) of this Section, the criminal charge, the name and address of the court, and the date of disposition, if any;
 11. The name and address of any licensing or regulatory agency with which the person has applied for an occupational license or permit, whether or not such license or permit was granted;
 12. A photograph;
 13. Fingerprints obtained under procedures adopted by the Tribe under 25 C.F.R. § 522.2(h); and
 14. Any other information the Commission deems relevant.
- B. Review informational resources available to the Commission to determine if the person seeking licensure poses a threat or risk to the gaming industry.
1. If, in a background investigation, it is discovered that the applicant has a notice of results on file with the NIGC from a prior investigation and the Commission has access to the earlier investigative materials (either through the NIGC or the previous tribal investigative body), the Commission may rely on those materials and update the investigation and confidential investigative file.
 2. In conducting the background investigation, the Commission shall keep confidential the identity of each person interviewed in the investigation.
- C. Create and maintain a confidential investigative file on each gaming employee applicant, electronically or physically that includes:
1. Application information as listed under 6.08.290 A. above;
 2. Steps taken in investigating;
 3. Results obtained;
 4. Conclusions reached; and

5. The basis for those conclusions.

6.08.300 Eligibility Determinations

- A. Before a license is issued to a primary management official or key employee, the Commission shall make a finding about the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record and reputation, habits and associations.
- B. If the Commission, in applying the standards adopted in this Ordinance, commission regulations and policies, determines that licensing the person threatens the public interest or to effectively regulating gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, he or she shall not license that person in a key employee or primary management official position.
- C. Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a primary management official or key employee.

6.08.310 Notice of Results of Background Investigations

- A. Before issuing a license to a primary management official or key employee, the Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC. The notice of results must be submitted to the NIGC within 60 days after the applicant works for gaming operations.
- B. The notice of results shall include 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, working as a primary management official or key employee;
 3. A summary of the information in the investigative report, including:
 - a. Licenses previously denied;
 - b. Gaming licenses revoked, even if reinstated;
 - c. Every known criminal charge brought against the applicant within the last 10 years of the application; and
 - d. Every felony offense of which the applicant has been convicted or any ongoing prosecution; and
 - e. A copy of the eligibility determination made under Section 6.08.300.
- C. If a license is not issued to a gaming employee applicant a notification of results shall be submitted to the NIGC.

6.08.320 Granting Gaming Licenses

- A. All primary management officials and key employees of the gaming operation must have a gaming license issued by the Tribe.
- B. The Commission grants and issues gaming licenses to primary management officials

and key employees.

- C. The Commission may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by Section 6.08.310.
- D. The Commission shall notify the NIGC of issuing a license to a primary management official or key employee within 30 days of issuance.
- E. Gaming operations shall not employ an individual in a primary management official or key employee position without a license after 90 days of beginning work at the gaming operation.
- F. The Commission must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within 30 days of the NIGC receiving a notice of results of the applicant's background investigation. The Commission shall consider the NIGC's objections when reconsidering a license application.
- G. The Commission will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.
- H. If the Commission has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee, as required by Section 6.08.220.

6.08.330 Denying Gaming Licenses

- A. The Commission shall not license a primary management official or key employee if it is determined, in applying the standards in Section 6.08.300 for making a license eligibility determination, that licensing the person:
 - 1. Threatens the public interest;
 - 2. Threatens the effective regulation of gaming; or
 - 3. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.
- B. When the Commission does not issue a license to an applicant for a primary management official or key employee position, or revokes an issued license after reconsideration, it shall:
 - 1. Notify the NIGC; and
 - 2. Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC to include in the Indian Gaming Individuals Record System.

6.08.340 Gaming License Suspensions and Revocations

- A. If, after a license is issued to a primary management official or a key employee, the Commission receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Commission shall do the following:
 - 1. Immediately suspend the license;

2. Provide the licensee with written notice of the suspension and proposed revocation; and
 3. Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.
- B. The right to a revocation hearing vests only when a license is granted under an ordinance approved by the NIGC Chair.
 - C. Following a revocation hearing, the Commission shall decide whether to revoke or reinstate the license.
 - D. The Commission shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

6.08.350 Licenses for Vendors

Vendors of gaming services or supplies, with a compensation value of \$25,000 or more annually, must have a vendor license from the Tribal Gaming Commission to transact business with the Tribal gaming operation. The Commission will approve regulations and policies regarding application, background investigation and eligibility requirements. Contracts for professional legal and accounting services are excluded from this Section.

6.08.360 Vendors Licensed by Recognized Authorities

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

6.08.370 Gaming Operations.

- A. The Tribe's Class II gaming may be conducted every day of the week and at such hours of the day or night as determined in exercising the Tribe's sole discretion, and there shall be no limit as to prize money for any single gaming activity, bingo game or session except as determined in exercising the Tribe's sole discretion and in compliance with NIGC rules and regulations.
- B. The Tribe's Class III gaming may be conducted every day of the week and at such hours of the day or night as determined in exercising the Tribe's sole discretion, and there shall be no limit as to prize money for any single gaming activity, bingo game or session except as determined in exercising the Tribe's sole discretion and as limited, if, by agreement in a tribal-state compact.
- C. All persons involved in the conduct of Class II and Class III gaming must be a bona fide employee of the Tribe or contractor.
- D. No person under the age of eighteen (18) shall participate in any Class II or Class III gaming.
- E. No person who holds, operates, conducts or assists in holding, operating or conducting Class II or Class III gaming may play at the game at which such person is holding, operating, conducting or assisting.
- F. All persons operating or assisting the operation or conduct of any Class II or Class III

gaming shall wear their Identification Badge, issued by the Tribal Gaming Agency. The Badges shall be legible tags evidencing the person's name and photo, and other information required by the Commission. Identification Badges must be visible and worn or otherwise affixed to all persons operating or helping to operate any Class II or Class III gaming, under applicable internal controls.

6.08.380 Violations-Jurisdiction.

- A. It is unlawful for any person to:
1. Alter or misrepresent the outcome or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;
 2. Place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome;
 3. Claim, collect or take or attempt to claim, collect or take, money or anything of value in or from a gambling game, with intent to defraud, without having made a wager thereon, or to claim, collect or take an amount greater than the amount won;
 4. Knowingly to entice or induce another to go to any place where a gambling game is being conducted or operated in violation of the tribal-state compact or this chapter with the intent that the other person plays or participate in that gambling game;
 5. Place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets;
 6. Reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets;
 7. Manipulate with the intent to cheat, any component of a slot machine or gaming device in a manner contrary to the design and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a slot machine or gaming device, knowing that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game;
 8. Knowingly to use other than coins or tokens approved by the Tribe, or other lawful coin, legal tender of the United States of America, or to use coin not of the same denomination as the coin intended to be used in the gambling game;
 9. Use any device or means to cheat or to possess any such device while at the Tribe's gaming facility;
 10. Any person having a direct or indirect financial interest in a management contract, a person having management responsibility for a management contract, or their agents to significantly and unduly influence the adoption of an ordinance or resolution regarding Class II or Class III gaming;
 11. Give or provide, or offer to give or provide, directly or indirectly to any Tribal Council or Commission member, primary management official, key employee, employee, contractor, or any person with an indirect or direct interest in operating Class II or

Class III gaming any commission or reward, or share of the money or property paid or received through gambling activities, in consideration for obtaining any license, authorization, permission or privilege to participate in any gaming operations except as authorized by this chapter or the rules and regulations adopted under this chapter.

- B. For purposes of this section, "cheat" means to alter the selection of criteria which determined the result of a Class II or Class III gaming activity, or the amount or frequency of payment in such gaming activities.
- C. Any person who willfully or knowingly violates any provision, or any rule or regulation authorized, shall be guilty of a criminal offense punishable by a fine not to exceed five hundred dollars (\$500.00) for each violation, or for each day the violation continues, or by imprisonment for not more than six months, or both.
- D. Any person who willfully and knowingly violates any provision, or any rule or regulation authorized, may have the equipment, material and supplies used in conducting the unlawful activity seized and forfeited.
- E. The Tribal Courts shall have exclusive civil and criminal jurisdiction regarding Class II gaming. The Tribe may, regarding Class III gaming, enter into a tribal-state compact allocating criminal jurisdiction and establishing enforcement protocols. Nothing, however, in this chapter shall be construed to authorize or require the criminal trial and punishment by the Tribe of non-Indians except to the extent allowed or required by any present or future act of Congress or any federal court decision.
- F. The Tribe shall retain the right to revoke any license of any contractor who engages in conduct other than as authorized by this chapter, the tribal-state compact or the contractor's agreement with the Tribe, which involves moral turpitude, dishonesty or any act which is punishable as a felony or misdemeanor involving moral turpitude under state or federal laws, or which involves a violation of tribal law.

6.08.390 Net Revenue Tax.

There shall be a tribal tax of that percentage of the net Class II and Class III gaming revenue equivalent to one and one-half percent (1.5%) of gross revenues within the jurisdiction of the Tribe. The tribal tax shall be assessed and paid monthly into the Squaxin Island general fund. "Net revenues" means gross gaming revenues less amounts paid out as, or paid for, prizes; and total gaming-related operating expenses, excluding management fees. The Council may reduce or waive such tax as necessary to promote economic development on Indian lands.

6.08.400 Compliance with Federal Law

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

6.08.410 Severability Clause.

This chapter shall be severed and if any phrase, clause, sentence or provision is found to be contrary to the Tribe's Constitution, or declared to violate applicable federal law

or is held to be invalid, the validity of the remainder of this chapter shall not be affected and shall remain in full force and effect.

6.08.420 Enactment of Tribal-State Compact.

This chapter relating to operating Class III gaming shall become effective upon the effective date of the tribal-state compact. The Tribe enacts and incorporates herein by reference the provisions of the tribal-state compact as set forth in this chapter.

6.08.430 Repeal

To the extent that they are inconsistent with this Ordinance, all prior Tribal gaming ordinances are hereby repealed.

6.08.440 Effective Date

This ordinance shall take effect immediately upon its approval by the NIGC Chair.