

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 Colville Tribal Business Council of the Confederated Tribes of the Colville Reservation ("Tribes"), empowered by the Constitution and By-Laws of the Confederated Tribes of the Colville Reservation to enact Chapters, hereby enacts this Chapter in order to govern and regulate the operation of Class II and Class III Gaming Operations on the Tribes' Indian lands. The regulation of gaming includes authorized amusement games and gaming.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

6-5-4 Effective Date

This Chapter shall take effect immediately upon its approval by the Chair of the National Indian Gaming Commission (NIGC). This Chapter replaced the Amendment approved in November 2017. The original Gaming Code was Title 40, and was approved by Resolution 1995-178 and subsequently amended by Resolution 1995-179. 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.

6-5-5 Applicability

Unless specifically indicated otherwise, all provisions of this Chapter shall apply to Class I, Class II and Class III gaming on the Tribes' Indian lands.

6-5-6 Tribal Gaming Authorized; Ownership of Gaming

(a) Tribal Gaming Authorized.

- (1) 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 Indian Gaming Regulatory Act (“IGRA” or “Act”).
- (2) The Confederated Tribes of the Colville Reservation may conduct any Class III Gaming Activity authorized by the Colville Tribal Gaming Commission (the “Commission”) consistent with the provisions of this Chapter, the Act, and the terms of the Tribal-State Gaming Compact.
- (3) No person 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.

(b) Ownership of Gaming.

- (1) The Tribes shall have the sole proprietary interest in and responsibility for the conduct of any Gaming Operation authorized by this Chapter, except as expressly provided in this Chapter.
- (2) No person or entity, other than the Tribes, shall conduct gaming without obtaining a license from the Tribal Gaming Commission.
- (3) The Tribal Gaming Commission may issue a license for individually-owned gaming so long as:
 - (A) The individually owned Gaming Operation is licensed and regulated pursuant to this Chapter;
 - (B) The income to the Tribes from an individually owned Gaming Operation is used only for the purposes listed in this Chapter;
 - (C) Not less than 60 percent of the net revenues of the individually owned Gaming Operation is income to the Tribes;
 - (D) The owner of the individually owned gaming pays an annual assessment to NIGC pursuant to 25 C.F.R. § 514.1;
 - (E) The Tribal Gaming Commission applies licensing standards that are at least as restrictive as those established by State law governing similar gaming; and
 - (F) The Tribal Gaming Commission determines that the owner of the individually owned gaming would be eligible to receive a State license to conduct the same activity within the jurisdiction of the surrounding State.

(c) Nothing in this Chapter 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 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-7 Agent for Service of Process

The Tribe designates the Commission Chair or his or her designee as the agent for service of any official determination order or notice of violation. To serve the Commission, or a tribal officer or employee in their official capacity, under this Chapter, a party must:

- (a) Deliver a copy of the official determination order or notice of violation to the Office of the Reservation Attorney; and

(b) Send a copy of the official determination order or notice of violation by registered or certified mail to the Commission Chair/designee.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-8 Compliance with Federal Law: Construction

(a) The Tribes shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*

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

(c) In this Chapter, unless otherwise specifically provided, the following apply: the masculine includes the feminine, the singular includes the plural, "includes" and "including" are not limiting, and "or" is not exclusive.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

DEFINITIONS, FUNDS, AND STRUCTURE

6-5-20 Definitions:

The following terms shall have the same meaning and effect as those same terms as defined in the Indian Gaming Regulatory Act ("IGRA" or "Act"), 25 U.S.C. §§ 2701 *et seq.*, and the National Indian Gaming Commission ("NIGC") regulations, 25 C.F.R. §§ 500 *et seq.*, if they are defined in IGRA and the NIGC's regulations. In the event that this Chapter is inconsistent with the IGRA or the NIGC regulations, the IGRA and its regulations will govern:

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

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

(b) "Chair" means the Chair of the Tribal Gaming Commission.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

(c) "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)

(d) "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)

(e) "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)

(f) "Colville Business Council" means the Business Council of the Confederated Tribes of the Colville Reservation exercising its constitutional functions and duties.

(g) "Colville Tribal Federal Corporation" means the federally-chartered corporation formed pursuant to Section 17 of the Indian Reorganization Act for the purposes of overseeing the Tribes' business enterprises.

(Amended 04/08/2020, Resolution 2020-158, Certified 04/14/20)

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

(h) "Colville Gaming LLC." means the Tribal corporation that is responsible for managing the Tribes' Gaming operations.

(i) "Commission" means the Colville Tribal Gaming Commission established by this Chapter.

(j) "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)

(k) "Commissioner" means Tribal Gaming Commissioner.

(l) "Days" means calendar days unless otherwise indicated.

(m) "Directly related to" means a spouse, child, step-child, foster child, parent, step-parent, foster parent, sibling, grandparent, grandchild, aunt, uncle, or first cousin.

(n) "Facility License" means a separate license issued by the Tribes to each place, facility, or location on Indian lands where the Tribes elects to allow class II or III gaming.

(o) "Gaming Activities" means those only activities falling within the scope of Class I, Class II, and Class III gaming and located on Indian lands.
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(p) "Gaming Assets" means Gaming Revenue and those items used to facilitate gambling including, but not limited to, machines, kiosks, cage, dice, cards and other similar items. "Gaming Assets" do not include non-Gaming Revenues or items or property that are not used in relation to the conduct of Gaming Activities.
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(q) "Gaming Employee" means any individual employed in the operation or management of gaming in connection with the Tribes' Gaming Operation or Facilities, whether employed by or contracted to the Tribes or by or to any person or enterprise providing gaming operation and management services to the Tribes, including but not limited to, gaming operation managers and assistant managers, accounting personnel, security personnel, cage cashiers, dealers or croupiers; box men, floor men, pit bosses; shift bosses, cage personnel, collection personnel, gaming consultants, pari-mutual clerks, management companies and their principals, and any person whose employment duties require or authorize access to restricted areas of a Gaming Facility which are not otherwise open to the public or to areas designated by the Commission. For the purposes of this definition, "restricted areas of the gaming facilities which are not otherwise open to the public" means those areas specifically related to Gaming Activities such as (but not limited to) the vault, server room, surveillance room, cage, or other designated area within the Gaming Facility.
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(r) "Gaming Facility" or "Gaming Facilities" means only those areas within a building or buildings in which Class I, Class II, and Class III Gaming Activities occur, and includes restricted areas such as the gaming server room, count room, cage, vault, surveillance, security, and inventory storage. Gaming Facility does not include the following areas: food and beverage, hotel, lounge, spa, sweet shop, valet, amphitheater, lounge, entertainment venues, parking lot, pool, and non-gaming back-of-the house areas such as employee break rooms, kitchen, food storage and similar areas.
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(s) "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. A gaming operation may be operated by the Tribes directly; by a management contractor; or, under certain conditions, by another person or entity.
(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(t) "Gaming Revenue" means "Net Revenues" as that term is defined by the Indian Gaming Regulatory Act, 25 U.S.C. §2703(9) and 25 C.F.R. §502.16. It does not include any non-Gaming Revenues that may be comingled with Gaming Revenue derived from Gaming Activities.
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(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 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(v) "Indian lands" means:

(1) Land within the limits of the Colville Indian Reservation; or

(2) Land over which the Tribes exercises governmental power and that is either;

(A) Held in trust by the United States for the benefit of the Tribes or individual(s); or

(B) Held by the Tribes or individual Indians subject to restriction by the United States against alienation.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(w) "Johnson Act" means the *Johnson Act* as codified at 18 U.S.C. §1166-1168.

(x) "Key Gaming Employee" means a person employed by the Gaming Operation who performs one or more of the following functions:

(1) Bingo caller;

(2) Counting room supervisor;

(3) Chief of Security;

(4) Custodian of gaming supplies or cash;

(5) Floor manager;

(6) Pit boss;

(7) Dealer;

(8) Croupier;

(9) Approver of credit;

(10) Custodian of gambling devices, including persons with access to cash and accounting records within such devices;

(11) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000.00 per year;

(12) If not otherwise included, the four most highly compensated persons in the Gaming Enterprise;

(13) Any other person as designated by the Tribes.

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

(y) "License" means a revocable privilege granted by authority of the Commission to any Gaming Employee or a Gaming Vendor.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(z) "Licensee" means:

(1) Any person licensed by the Commission as a Gaming Employee, including primary management officials,

and Key Gaming Employees;

(2) Any Gaming Operation owned and operated by the Tribes;

(3) Any Gaming Vendor licensed by the Commission.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(aa) “National Indian Gaming Commission” or “NIGC” means the federal commission established pursuant to 25 U.S.C. § 2704.

(bb) “Net Revenue” means gross Gaming Revenues of an Indian Gaming Operation less:

(1) Amounts paid out as, or paid for, prizes; and

(2) Total gaming-related operating expenses, 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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(cc) “Primary Management Official” means:

(1) Any person who has authority:

(A) To hire and fire Gaming Employees; or

(B) To set up working policy for the Gaming Operation; or

(2) The chief financial officer or other person who has financial management responsibility; or

(3) Any other person designated by the Tribes as a primary management official.

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

(dd) “Safeguard the Assets” or “Protect the Assets” of the Gaming Operation means regulating the Gaming Activities of the Gaming Operation and any other gaming activities on Indian lands in order to ensure that those Gaming Activities are conducted in accordance with the Indian Gaming Regulatory Act, the Compact, and this Chapter. It does not include regulation of or over items or property owned and operated by the Tribes, Gaming Operation or the Enterprise that are not used to facilitate Gaming Activities, such excluded items or property include but are not limited to gaming-related furniture, food and beverage inventory, gift shop inventory, sweet shop inventory, hotel inventory, vehicles, valet, amphitheater inventory, any other non-gaming items or property, or the revenues derived from any non-Gaming Activities.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(ee) “Tribal-State Compact or Compact” means the most recently executed version of the Tribes' Tribal-State Gaming Compact with the State of Washington, including all amendments, appendices, and attachments.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(ff) “Tribes” means the Confederated Tribes of the Colville Reservation.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-21 Use of Net Gaming Revenues

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

(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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-22 Per Capita Payments

Net revenues from any Class II or Class III Gaming Activities conducted or licensed by the Tribes may be used to make per capita payments to Tribal members only if:

(a) The Tribes has prepared a plan to allocate revenues to one or more of the five uses authorized by 6-5-21 of this Chapter;

(Amended 04/08/2020, Resolution 2020-158, Certified 04/14/20)

(b) The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in this Chapter;

(c) The interests of minors and other legally incompetent persons who are entitled to receive any of 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 as may be necessary 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 Tribes notify its members of such tax liability when payments are made.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-23 Regulation Adoption, Amendment, and Repeal Process

(a) All regulations, rules, guidelines and directives in effect prior to any amendment to this Chapter becoming Colville law shall remain in effect until the Commission adopts superseding regulations, rules, or directives.

(b) Upon approval of this Chapter by the Chair of National Indian Gaming Commission, the Commission shall immediately review its regulations, rules, guidelines and directives to ensure compliance with this Chapter and repeal, amend or adopt new regulations, rules, guidelines, policies and/or directives as soon as practicable but no later than two hundred ten (210) days from Chapter approval.

(c) Notwithstanding any other requirement in this Section, any regulations, rules, guidelines and directives that do not comply with the new Chapter, including but not limited to, regulations, rules, guidelines, policies and/or directives related to non-gaming areas and activities shall be repealed within thirty (30) days of approval of this Chapter by the Chair of National Indian Gaming Commission.

(d) Regulation promulgation, amendment, and repeal process:

(1) Before making, adopting, amending, or repealing any Commission regulation or procedure, policy, or guideline that impacts the Gaming Operation, including Tribal Internal Control Standards, the Commission shall give written notice of any such proposed action to the Colville Business Council, the Enterprise, and the Gaming Operation(s) and any other persons or entities with whom the Commission has reason to believe have a legitimate interest in the proposed action.

(2) The notice shall provide not less than fourteen (14) days for comments and provide a draft of the proposed action and the manner in which comments on the proposed action shall be received by the Commission.

(3) The Commission shall review all comments received and provide a written summary of the comments and rationale for accepting or rejecting them when adopting, amending or repealing any regulation.

(4) The Gaming Operation or Enterprise shall have the right to appeal the final decision of the Commission pursuant to Section 6-5-201 of this Chapter.

(e) Within ninety (90) days of the approval of this Chapter by the Chair of the National Indian Gaming Commission, the Commission shall promulgate a regulation in accordance with Subsection 6-5-40(d) above, governing the process by which the Commission and its staff must approve necessary Gaming Operations policies, procedures, promotions, game installation, game floor reconfiguration and similar submittals. The regulation shall require the Commission to approve the submittal within forty-five (45) days of date of submission or such item will be deemed approved to the extent is in compliance with the Compact, the IGRA, and this Chapter.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

COLVILLE TRIBAL GAMING COMMISSION

6-5-50 Establishment

The Tribes hereby re-establishes a Tribal Gaming Commission (“Commission”) to regulate Gaming Activities on Indian lands. The Commission shall consist of five (5) members, including a Chair and Vice-Chair. No less than two (2) of the Commissioners shall be members of the Tribes.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(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 Colville Business Council (CBC) and Commission Meeting

The Commission and Colville Business Council (through the Law & Justice Committee) shall meet no less than quarterly to discuss Commission activities and gaming policy issues. Commission shall provide the CBC with a report of Commission activities. Commissioners will be compensated at the current compensation rate for their attendance.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-52 Responsibilities

The Commission will conduct oversight to ensure compliance with Tribal, federal and, if applicable, state gaming laws and regulations and the Tribal State Compact. It will serve as the licensing authority for individuals employed by the Gaming Operation as Gaming Employees and will administer background investigations as part of the licensing and employment process. The Commission will also have a role in monitoring compliance with the Gaming Operation’s internal controls and in tracking Gaming Revenues to protect the Gaming Assets of the Gaming Operation. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming facility where Gaming Activities are conducted and to all gaming records. The Commission shall have authority to take enforcement actions over any Licensee.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-53 No Authority over Non-Gaming Activities

The Commission is prohibited from regulating, exerting authority over or otherwise interfering in non-Gaming Activities of the Gaming Operation including, but not limited to, non-Gaming Assets, personnel decisions, amphitheater, entertainment venues, lounge, valet, sweet shop, gift shop, food and beverage, hotel, marketing, non-gaming promotions or any other non-Gaming Activity conducted by the Gaming Operation in the Gaming Facilities as an amenity to the Gaming Activities

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

6-5-54 Vacancies; Pro Tempore Appointment

Commissioner positions, including vacancies, shall be filled through appointment by Resolution of the CBC. The CBC may appoint Commissioners on a pro tempore basis if the need arises. Pro tempore appointments shall not exceed three months.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

6-5-55 Term

Commissioner terms shall be three (3) years with the exception of terms filled due to a vacancy. The terms of office of each person appointed to fill any vacant position shall be for the balance of the unexpired term for such position. Once appointed, Commission members may serve beyond the expiration of his or her term until a successor has been appointed.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-56 Qualifications of Commissioners

(a) 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.

(b) 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.

(c) Nominees for Commissioner positions must satisfy the eligibility standards set forth for primary management officials and Key Gaming Employees found in this Chapter.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

(Amended 2/24/12, Certified 3/8/12, Resolution 2012-81)

6-5-57 Ineligible persons

The following persons are not eligible to serve as Commissioners:

(a) Colville Business Council members, while serving as such;

(b) Current employees of the Gaming Operation;

(c) Gaming Vendors (including any principal of a management, or other contracting company);

(d) Persons directly related to, or sharing a residence with, any of the above;

(e) Persons ineligible to be Key Gaming Employees or primary management officials; and

(f) Non-tribal members previously convicted of any felony or misdemeanor offense of embezzlement, theft or any other money-related or honesty-related misdemeanor offense, such as fraud.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-58 Commissioner Eligibility Determination

The Colville Business Council shall require a criminal history check with appropriate law enforcement agencies for each Commissioner candidate; shall review the candidate's criminal history check results; and shall make an appropriate eligibility determination before appointing an individual to the position of Commissioner.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-59 Independence of Commissioners

The Tribes recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated Gaming Operation. The Commission shall be independent of, and act independently and autonomously from, the Colville Business Council in all matters within its purview. No prior, or subsequent, review by the CBC of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Chapter. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribes requires that, at a minimum:

(a) No member of the CBC, Colville Gaming LLC Board members, or Colville Tribal Federal Corporation (CTFC) Board of Directors may serve on the Tribal Gaming Commission;

(b) No member directly related to, or living with, any CBC member, Colville Gaming LLC Board member, or CTFC Board of Directors member may serve on the Tribal Gaming Commission;

(c) Members of the Commission are prohibited from gambling in the facility(ies); and

(d) Commissioners are prohibited from accepting complimentary items from the Gaming Operation.

(e) No member or employee of the Commission shall participate as a player in any Class II or Class III Gaming

Activities conducted by the Tribes or have a financial interest in, or management responsibility for, any Class II or Class III Gaming Activity.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-60 Powers and Duties of the Commission

(a) Establish necessary Commission infrastructure to fulfill the duties and responsibilities under this Chapter including but not limited to hiring a Director, establishing a Commission administrative structure and organization chart subject to approval by the Colville Business Council;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(b) Develop administrative processes necessary to fulfill the duties and responsibilities of the Commission;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(c) Adopt and submit to the Business Council an annual proposed operating budget;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(d) Retain legal counsel and professional services, including investigative services, to assist in any matters over which the Commission has jurisdiction;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(e) Employ qualified Tribal Gaming Agents who shall be subject to no less stringent background investigations and eligibility requirements than those required for Gaming Employee licensees under the provisions of this Chapter, the IGRA, NIGC regulations and the Compact;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(f) Conduct background investigations, or cause such investigations to be conducted for primary management officials, Key Gaming Employees, and other Gaming Employees or other employee positions requiring a background check;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(g) Review and approve all investigative work conducted in connection with the background investigations of primary management officials and key Gaming Employees;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(h) Create and maintain investigative reports based on the background investigations for employees issued a License;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(i) Designate a law enforcement agency to obtain and process fingerprints and conduct a criminal history check that shall include a check of criminal history records information maintained by the Federal Bureau of Investigation;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(j) Make licensing eligibility determinations;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(k) Submit a Notice of Results to the NIGC of the background investigations done for each primary management official and key Gaming Employee applicant;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(l) Issue Licenses to Gaming Employees, Key Employees, and Primary Management Officials;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(m) Issue, renew, suspend, condition, and/or revoke all Licenses 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 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

(n) Classify and license Class I, Class II, and Class III games consistent with IGRA;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

- (o) Conduct hearings pertaining to all matters arising under this Chapter, including Patron disputes, licensure matters, violations, sanctions, and penalties;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (p) 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;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (q) Work with law enforcement and regulatory agencies as needed to carry out the Commission’s duties and responsibilities;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (r) Issue such orders and directives as may be necessary to effect compliance with all applicable laws, regulations, and the Compact;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (s) 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;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (t) Conduct or cause to be conducted audits and compliance reviews;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (u) Issue Facility Licenses to Tribal gaming facilities;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (v) Ensure compliance with applicable Tribal, federal and applicable state laws, rules and regulations regulating Gaming Activities conducted by the Tribes;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (w) Investigate any suspicion of wrongdoing associated with any Gaming Activities;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (x) Hold hearings on patron complaints, in accordance with procedures established in this Chapter and the Tribal gaming regulations;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (y) Comply with any and all reporting requirements under IGRA, the NIGC’s regulations, the Compact, this Chapter, and any other applicable law;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (z) Promulgate and issue regulations necessary to comply with applicable federal gaming internal control standards;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (aa) Promulgate and issue regulations on the levying of fees associated with Gaming License applications;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (bb) Promulgate and issue regulations on the levying of fines and/or the suspension or revocation of Gaming Licenses for violations of this Chapter or any applicable Tribal, federal or applicable state gaming regulations;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (cc) Establish a list of persons not allowed to game in the Tribes’ gaming facilities in order to maintain the integrity of the Gaming Activities and create regulations for maintenance and distribution of the list;
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
- (dd) Establish a list of persons who have voluntarily agreed to be excluded from the Tribal gaming facilities, and

create regulations for enforcing the exclusions;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(ee) 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;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(ff) Create a list of regulatory authorities that conduct background investigations of, and licenses, Gaming Vendors who are recognized as trustworthy;

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(gg) May, draft regulations exempting Gaming Vendors from the Commission's licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority; and

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(hh) Promulgate such regulations as deemed appropriate to implement the provisions of this Chapter related to the Gaming Activities of the Tribes, so long as they are in furtherance of, and not in conflict with, any provisions of this Chapter.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-61 Chair of the Commission

(a) Chair shall preside over all meetings of the Commission.

(b) Chair may designate another Commissioner to act as Chair in his or her absence.

(c) The Chair may, whenever she/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 or Gaming Vendor of the Gaming Enterprise; 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 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-62 Confidentiality

(a) The Commission shall ensure that all records and information obtained as a result of an employee background investigation, including but not limited to, the identity of each person interviewed in the course of an investigation, shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel and/or others employed by the Tribal Gaming Operation on a need-to-know basis, for actions taken in their official capacities.

(b) 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 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

6-5-63 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) A Commissioner shall be immediately removed from the Commission for conviction of a felony, any gaming related offense, or any offense of any degree involving dishonesty or untruthfulness and the position will be deemed immediately vacant. All other removals shall be by hearing before the CBC in accordance with the process outlined in this Section.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(c) Notice of removal shall be provided to the Commissioner at least fourteen (14) days in advance of the date set for a hearing before the CBC, 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.

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

6-5-64 Quorum

A majority of the Commission shall constitute a quorum. The concurrence of a majority of the Commissioners shall be required for any final determination by the Commission. The Commission may act in its official capacity, even if there are vacancies on the Commission.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-65 Compensation

Commissioners shall be compensated at a level determined by the Colville Business Council. In order to ensure the Commission is not improperly influenced, a Commissioner's compensation shall not be based on a percentage of Gaming Revenue. Compensation for Commissioners shall not be decreased during a Commissioner's term.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-66 Minutes

The Commission shall keep a written record of all its meetings which shall be provided to the CBC or Office of the Reservation Attorney upon its request.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-67 Tribal Gaming Agents

A Tribal Gaming Agent shall be present in all Gaming Facilities during all hours of operation. Agents shall be provided unrestricted access to areas of the Gaming Facilities used for Gaming Activities at any time to fulfill their duties under this Chapter. Agents shall promptly report to the Commission regarding any failure by the Gaming Enterprise to comply with this Chapter and any other applicable laws, codes, regulations, and ordinances of the Tribes or the United States regulating Gaming Activities or as specified by Compact.

Tribal Gaming Agents will be treated as key employees. They are delegated by the Gaming Commission to ensure the operations compliance with this Code, the Tribal-State Compact, and the Regulations. They will have general oversight of gaming activities within the gaming facilities. They will be under the supervision and oversight of the Gaming Commission.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-68 Investigations

The Commission may investigate any aspect of the Gaming Activities conducted in the Gaming Facilities 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. Gaming Commission 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. The Commission may compel any licensed employee or Gaming Vendor 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.

6-5-69 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 delegate to the Commission Director other powers as the Commission possesses, including any powers relating to any license action, 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 on the Director's own initiative. 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)

6-5-70 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) 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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(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) Commissioners 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. Participation in such a meeting by any Commissioner who does not object at the beginning to holding the meeting in such manner shall constitute presence in person at the meeting.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(f) Hearings:

(1) No final action of the Commission to impose a penalty or sanction or to deny or revoke a License issued by the Commission, shall be valid unless the affected individual or entity has been given written notice of the proposed action, including the cause therefore, and upon request, the opportunity to appear and be heard before the Commission within no less than thirty (30) days of receipt of the proposed action unless good cause shown, 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.

(2) 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 necessary, and shall thereupon provide written notice and an opportunity to be heard to the affected individual or entity as soon as is reasonably practicable following such action, provided that in no event shall such written notice be provided later than thirty (30) days from when such action was taken.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-71 Audits

(a) The Tribes shall cause to be conducted independent audits of Gaming Operations annually and shall submit the results of those audits to the NIGC.

(b) Annual audits shall conform to generally accepted auditing standards.

(c) 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 in accordance with this Chapter.

(d) 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 within 120 days after the end of each fiscal year of the Gaming Operation.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-72 Environment and Public Health and Safety; Public Safety Plan

(a) Each Gaming Facility shall be constructed, maintained, and operated in a manner that protects the environment and the public health and safety. Enforcement over non-gaming areas shall lie with the appropriate Tribal officials and departments with regulatory authority over such areas and not the Commission.

(b) The Colville Business Council shall identify and enforce through designated tribal departments such as the Tribal Occupational Safety and Health Administration, applicable laws, resolutions, ordinances, policies, standards, or procedures, which are applicable to each gaming place, facility or location, to ensure adequate protection of the environment and the health and safety of the public.

(c) The Gaming Enterprise shall prepare a plan for the protection of public safety and the physical security of Patrons in each Gaming Facility.

(d) 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. The Gaming Enterprise may utilize the services of other tribal agencies, qualified independent inspectors, federal agencies, such as, the Indian Health Service, or other qualified persons, agencies, or entities to perform such inspections.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

DISPUTES

6-5-80 Patron Dispute Resolution

(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. 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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(b) 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 12/19/19, Resolution 2019-812, Certified 01/14/20)

(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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(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 Gaming Facility.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(e) 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:

(1) The Patron shall submit a written prize claim notice to the Gaming Enterprise immediately following the event giving rise to the claim and prior to exiting the premises.

(2) The written notice of the prize claim shall state, at a minimum, the following information:

(A) Time;

(B) Date;

(C) Place;

(D) Circumstances of claim;

(E) Identity of Tribal or Gaming Employees and witnesses, as applicable;

(F) Amount of the relief demanded; and

(G) The name, address, and telephone number of the claimant.

(3) 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 (5) day period shall forever bar such prize claim against the Gaming Enterprise.

(4) 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.

(5) 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 thirty (30) day period.

(6) 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.

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

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(f) 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:

(1) 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 two (2) years of the date of the alleged injury or

damage. Failure to file the claim during such two (2) year period shall forever bar such claim against the Gaming Enterprise.

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

(A) Time;

(B) Date;

(C) Place;

(D) Circumstances of claim;

(E) Identity of Tribal or Gaming Employees and witnesses, as applicable;

(F) The amount of compensation or other relief demanded;

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

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

(3) 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.

(4) 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.

(5) 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.

(6) 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:

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

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

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

(D) The Gaming Enterprise has denied the claim;

(E) The claimant has filed an appeal with the Tribal Court no later than thirty (30) days after the date on which the claim was denied by the Gaming Enterprise;

(F) The Gaming Enterprise carries an insurance policy covering the claim in question; and

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

(7) 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.

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

(9) The maximum amount of monetary 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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

VIOLATIONS, PENALTIES, AND SANCTIONS

6-5-90 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 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-91 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 6-5-50(u)(6) 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 License;

(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 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-92 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 with return receipt requested and shall describe the procedures for requesting a hearing.

(b) Upon receipt of the notice described in Subsection 6-5-90(c)(1) above, the affected person or entity shall be entitled to an opportunity for hearing pursuant to Section 6-5-50(u)(6) 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.

(c) 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.

(d) Following such hearing, the Commission shall issue a final determination pursuant 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.

(e) The Commission's final determination may be appealed in accordance with Section 6-5-200.

(f) 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.

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

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-93 Cease and Desist Orders

An order to cease and desist shall state the reason for the entry of the order and give reasonable notice of the rights of the individual or entity to request a hearing before the Commission. Failure to cease and desist upon service of such an order shall be grounds for regulatory action by the Commission. If the individual or entity 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 individual or entity shall be deemed in default, the allegations resulting in the cease and desist order will be deemed to be true.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-94 Separate Offenses

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

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

LICENSES

6-5-100 Facility Licenses

(a) The Tribes shall issue a separate license to each place, facility, or location on Indian lands where Class II or Class III gaming is conducted under this Chapter

(b) The Tribal Gaming Commission is responsible for issuing new or renewed facility licenses to each place, facility or location.

(c) A Facility License shall be valid for five (5) years from date of issuance.

(d) The Tribal Gaming Commission shall require that a facility license application be completed by the chief management official of the gaming facility for each gaming place, facility or location.

(e) The Tribal Gaming Commission shall specify the form, conditions and content of a facility license application. The application shall include a legal description of the lands upon which the facility is located, and a certification that the site constitutes "Indian lands," as defined in IGRA, the NIGC's regulations, the NIGC Office of General Counsel and DOI Solicitor Offices' Indian lands legal opinions, judicial decisions and any other applicable law.

(f) The Tribal Gaming Commission shall issue a facility license if the application includes the required information and documentation and the Commission has verified compliance with applicable laws, codes, ordinances, regulations and the Compact. Verification shall be by inspections conducted under Subsection 6-5-70(d) of this Chapter. 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.

(g) The Tribal Gaming Commission shall provide notice of the facility license to the NIGC in accordance with applicable federal regulations.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-101 Gaming Employee Licenses; Background Investigations; Eligibility Determinations

(a) License application forms:

(1) The following notice shall be placed on the Tribes' license application form for all Gaming Employees, including key Gaming Employee or a primary management official before it is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the 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 Tribes 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 Tribes or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a Tribes or a Gaming Operation. Failure to consent to the disclosures indicated in this notice will result in a Tribes being unable to license you for a primary management official or key Gaming Employee position.

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

(2) The following additional notice shall be placed on the application form for all Gaming Employees, including key employees or primary management officials before it is filled out by an applicant:

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

(3) All license applications shall include acknowledgment and acceptance of civil jurisdiction of the Tribes.

(b) The Commission will establish a license fee schedule and charge a fee to cover its expenses in investigating and licensing Gaming Employees and Gaming Vendors.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

(c) Background Investigations:

(1) The Tribal Gaming Commission shall perform a background investigation for every Gaming Employee including primary management officials and key Gaming Employees in its Gaming Operation. The investigation must be sufficient to allow the Tribal Gaming Commission to make an eligibility determination as required by this Chapter.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(2) The Tribal Gaming Commission is responsible for conducting background investigations of primary management officials and key gaming employees. The background investigation shall include a check of criminal history records information maintained by the Federal Bureau of Investigations.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(3) The Tribal Gaming Commission shall take fingerprints from each primary management official and key Gaming Employee.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(4) The Tribal Gaming Commission shall request from each primary management official and key gaming employee the following information:

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

(B) Currently, and for the previous five (5) years; business and employment positions held and ownership interests in those businesses, business and residential addresses, and driver's license number(s);

(C) The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed in above;

(D) Current business and residential telephone numbers, and all cell phone numbers;

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

(F) A description of any existing and previous business relationships with the gaming industry generally, including 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 any license or permit related to gaming or occupational license whether such license or permit was granted;

(H) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition (if any)

(I) For each misdemeanor conviction or an ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of application, the name and address of the court involved and the date of disposition, if any;

(J) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application, and is not otherwise listed above, the criminal charge, the name and address of the court involved, and the date of disposition, if any;

(K) A photograph;

(L) Fingerprints obtained in accordance with procedures adopted by the Tribes;

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

(O) Any other information the Tribes deems relevant including information required by the Compact.

(Amended 04/08/2020, Resolution 2020-158, Certified 04/14/20)
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(5) When a primary management official or key employee is employed by the Tribes, a complete application file, containing all of the information listed in this sub-section shall be maintained.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(6) The Tribal Gaming Commission, and its investigators, shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(d) Procedures for Conducting Background Investigations

(1) The Commission shall conduct 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 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(2) The Commission shall employ or engage an investigator to conduct a background investigation of each applicant for a primary management official or key Gaming Employee position. The investigator shall:

- (A) Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;
- (B) Contact each personal and business reference provided in the license application, when possible;
- (C) Conduct a personal credit check;
- (D) Conduct a civil history check;
- (E) Conduct a criminal history records check;
- (F) Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony and/or misdemeanor convictions or ongoing prosecutions within the past 10 years;
- (G) Inquire into any previous or existing business relationships with the gaming industry, including with any tribes with Gaming Operations, by contacting the entities or tribes;
- (H) Verify the applicant's history and current status with any licensing agency by contacting the agency; and
- (I) Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(e) Investigative Reports

- (1) Tribes shall create and maintain an investigative report for each background investigation of a primary management official or key gaming employee.
- (2) Investigative reports shall include all of the following information:
 - (A) Steps taken in conducting a background investigation;
 - (B) Results obtained;
 - (C) Conclusions reached; and
 - (D) The basis for those conclusions.

(Amended 04/08/2020, Resolution 2020-158, Certified 04/14/20)
 (Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
 (Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)

(f) Eligibility Determinations

(1) Before a license is issued to a primary management official or key Gaming Employee, an authorized Tribal official shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations. 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. 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 12/19/19, Resolution 2019-812, Certified 01/14/20)

(2) If the authorized Tribal official, in applying the standards adopted in this Chapter, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, he or she shall not license that person in a key Gaming Employee or primary management official position.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(3) 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 Gaming Employee.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(g) Notices of Background Investigations

(1) Before issuing a license to a primary management official or key Gaming Employee, the Tribal Gaming Commission shall prepare a Notice of Results of the applicant's background investigation to submit to the NIGC.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(2) The Notice of Results must be submitted to the NIGC no later than 60 days after the applicant begins working for the Tribes.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(3) The Notice of Results shall include the following information:

(A) The applicant's name, date of birth and social security number;

(B) The date on which the applicant began, or will begin, working as a primary management official or key Gaming Employee;

(C) A summary of the information presented in the investigative report, including:

(i) Licenses that have previously been denied;

(ii) Gaming licenses that have been revoked, even if subsequently reinstated;

(iii) Every known criminal charge brought against the applicant within the last 10 years of the date of the application;

(iv) Every felony offense of which the applicant has been convicted or any ongoing prosecution; and

(v) A copy of the eligibility determination made in accordance with this Chapter and NIGC regulations.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-102 Granting Gaming Licenses

(a) All Gaming Employees, including primary management officials and key Gaming Employees, must have a gaming license issued by the Tribes. Non-Gaming Employees shall not be issued a Gaming License unless they have been designated a key non-Gaming Employee or primary management official by the Tribes.

(b) The Tribal Gaming Commission is responsible for granting and issuing gaming licenses to primary management officials, key Gaming Employees and other designated employees.

(c) The Tribal Gaming Commission may license a primary management official or key Gaming Employee applicant after submitting a Notice of Results of the applicant's background investigation to the NIGC, as required by this Chapter.

(d) The Tribal Gaming Commission shall notify the NIGC of the issuance of a license to a primary management official or key Gaming Employee within thirty (30) days of issuance.

(e) The Tribes shall not employ an individual in a primary management official or key Gaming Employee position who does not have a license after ninety (90) days of beginning work at the Gaming Operation.

(f) The Tribal Gaming Commission must reconsider a license application for a primary management official or key Gaming Employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within thirty (30) days of the NIGC receiving a Notice of Results of the applicant's background investigation.

(g) The Tribal Gaming Commission shall take the NIGC's objections into account when reconsidering a license application.

(h) The Tribes will make the final decision whether to issue a license to an applicant for a primary management official or key Gaming Employee position.

(i) If the Tribal Gaming Commission has issued a license to a primary management official or key Gaming Employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the Licensee, as required by this Chapter.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-103 Conditional Licenses

(a) The Director may issue a Conditional License to enrolled members of the Tribes if:

(1) The Applicant meets the requirements of a Conditional License as prescribed by the Compact and Memorandum of Understanding between the Tribes and Washington State; and

(2) The Director determines that imposing conditions on the Licensee will sufficiently ameliorate licensing concerns and that if the Licensee or Applicant strictly adheres to such conditions he or she will not pose an appreciable risk to the public or to the lawful operation of a Gaming Facility.

(Amended 04/08/2020, Resolution 2020-158, Certified 04/14/20)

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(b) The Director shall provide the Commission a summary of any Conditional Licenses issued at the next Commission meeting. Upon Commission request, the Director shall provide a comprehensive file for an individual issued a Conditional License.

(c) A Conditional License may be revoked by either the Director or the Commission if either determine the Applicant to be out of compliance with the terms of the Conditional License or if the Commission, upon review of the file, finds that the individual should not have been issued a Conditional License. Such revocations shall not be subject to appeal under this Chapter.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-104 Denying Gaming Licenses

(a) The Commission shall not license a primary management official or key Gaming Employee if an authorized Tribal official determines, in applying the standards of this Chapter for making a license eligibility determination, that licensing the person:

(1) Poses a threat to the public interest;

(2) Poses a threat to 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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(b) When the Tribal Gaming Commission does not issue a license to an applicant for a primary management official or key Gaming Employee position, or revokes a previously issued licenses 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 for inclusion in the Indian Gaming Individuals Record System.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-105 Primary management official or key gaming employee gaming license suspensions and revocations

(a) If, after a license is issued to a primary management official or a key gaming employee, the Tribes receives

notice from the NIGC that the primary management official or key gaming employee is not eligible for employment, the Tribal Gaming 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) Following a revocation hearing, the Tribes shall decide whether to revoke or reinstate the license at issue.

(c) The Tribes shall notify the NIGC of its decision to revoke or reinstate a license within forty-five (45) days of receiving notification from the NIGC that a primary management official or key Gaming Employee is not eligible for employment.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-106 Records Retentions

The Tribal Gaming Commission shall retain, for no less than three (3) years from the date a primary management official or key Gaming Employee is terminated from employment with the Tribes, the following documentation:

- (a) Application for licensing;
- (b) Investigative Reports; and
- (c) Eligibility Determinations.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-107 Licenses for Gaming Vendors

(a) Vendors of gaming services or supplies, with a value of \$25,000 or more annually, must have a vendor license from the Tribal Gaming Commission in order to transact business with the Tribal Gaming Operation. Contracts for professional legal and accounting or other services covered by a professional license or certification services are excluded from the licensing requirements of this Chapter.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(b) In order to obtain a Gaming Vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include those officers, directors, managers, owners, partners, and non-institutional stockholders that either own 10% or more of the business' stock or are the 10 largest stockholders, as well as the on-site supervisors or managers designated in an agreement with the Tribes, if applicable.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(c) Applications for Gaming Vendor licenses must include the following:

- (1) Name of business, business address, business telephone number(s), federal tax identification number (or social security number, if a sole proprietorship), main office address (if different from business address), any other names used by the applicant in business, and type of service(s) applicant will provide;
- (2) Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship or other entity;
- (3) If the applicant is a corporation, the state of incorporation and the qualification to do business in the State of Washington, if the Gaming Operation is in a different state than the state of incorporation;
- (4) Trade name, other names ever used and names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
- (5) General description of the business and its activities;
- (6) Whether the applicant will be investing in, or loaning money to, the Gaming Operation, and if so, how much;

- (7) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (8) A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial or management interests in any non-Gaming Activity;
- (9) Names, addresses and telephone numbers of three (3) business references with whom the company has regularly done business for the last five (5) years;
- (10) The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (11) If the business has ever had a license revoked for any reason, the circumstances involved;
- (12) A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;
- (13) A list of the business' funding sources and any liabilities of \$50,000 or more;
- (14) A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles and percentage of ownership in the company; and
- (15) Any further information the Tribes deems relevant.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

- (d) The following notice shall be placed on the application form for a vendor and its principals:

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

A vendor may submit to the Tribal Gaming Commission a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit, in writing, any changes in the information since the other license application was filed, and any information requested by the Tribes not contained in the other application.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

- (e) The Tribal Gaming Commission shall employ or otherwise engage an investigator to complete an investigation of a Gaming Vendor. This investigation shall include, at a minimum, the following steps:

- (1) Verification of the vendor’s business’ incorporation status and qualifications to do business in the state where the Gaming Operation is located;
- (2) Obtaining a business credit report, if available, and conducting a Better Business Bureau check on the vendor;
- (2) Conducting a check of the vendor’s business’ credit history;
- (3) Calling and questioning each of the references listed in the vendor application; and
- (4) Conducting an investigation of the principals of the vendor’s business, including facilitating a criminal history check, obtaining criminal history check results, obtaining a credit report, and interviewing the personal references listed.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

- (f) The Tribes may charge a license fee, to be set by the Tribal Gaming Commission, to cover its expenses in investigating and licensing vendors of the Gaming Operation.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(g) The investigator shall complete an investigative report covering each of the steps taken in the background investigation of the Gaming Vendor and its principals, and present it to the Tribal Gaming Commission.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-108 Registration for Non-Gaming Vendors

(a) The following categories of vendors are exempt from licensing requirements:

(1) Non-Gaming Vendors supplying less than \$25,000 in goods or services annually;

(2) Vendors supplying only accounting or legal services; and

(3) Non-Gaming Vendors supplying only food, beverage, gift shop, advertising, non-gaming promotional, entertainment, marketing goods and services or other contracted services not associated with Gaming Activities including but not limited to spa, valet, pool or hotel services.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(b) Non-Gaming Vendors shall register with the Commission by providing federal tax identification number, legal structure of business, and list of principals in the business.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(c) Upon completion of the registration form the Non-Gaming Vendor may be issued a temporary identification card if they will be accessing non-public areas including but not limited to the kitchen, employee break rooms, or other non-gaming back-of-the-house areas.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(d) Non-Gaming Vendors shall not be subject to the Gaming Vendor backgrounding requirements of 6-5-106.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(e) Commission may implement and charge a fee to cover the cost of registration.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-109 Non-gaming Employees

(a) Non-Gaming Employees will be issued a Non-Gaming Permit which, once issued, shall not be subject to suspension or revocation by the Commission.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(b) Non-Gaming Employees shall be subject to the backgrounding requirement of this Chapter, however the decisions whether to employ the individual will be at the discretion of the Gaming Operation.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(c) Non-Gaming Permit shall be rescinded without prejudice when the Non-Gaming Employee is separated for any reason from the Gaming Operation.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(d) Non-Gaming Employees will be issued a identification card indicating their status as a Non-Gaming Employee and shall be prohibited from entering areas of the gaming facilities related to gaming which are not otherwise open to the public including but not limited to those areas specifically related to Gaming Activities such as the vault, server room, surveillance room, cage, or other designated areas within the Gaming Facility.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(e) Commission may implement and charge a fee to cover the cost of the background investigation and identification card issuance.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

APPEALS; ADMINISTRATIVE REVIEW PROCESS

6-5-200 Tribal Court Jurisdiction

Subject to the filing requirements set forth in this Chapter, 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 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

6-5-201 Appeals

(a) Any affected party may appeal any final decision, action or order of the Commission within thirty (30) days after such decision, action or order 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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(b) Any Licensee, individual or entity seeking Tribal Court review of a final Commission decision, action or order shall be protected from any retaliation arising from or related to the appeal.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(c) 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 final Commission decision, order or action, except in relation to the reasonableness of fines, penalties, or sanctions, by the Commission unless it finds the it to be arbitrary and capricious, unsupported by substantial evidence, or contrary to law.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(d) The Tribal Court shall issue a written decision on all appeals and such decision shall be final.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(e) 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 12/19/19, Resolution 2019-812, Certified 01/14/20)

EXCLUSIONS/EJECTION

6-5-300 Exclusion or Ejection of Certain Persons from Gaming Facility

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.

(a) 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.

(b) The Gaming Commission shall have the authority to promulgate appropriate regulations for such exclusions ensuring due process.

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

(d) The Commission shall maintain a master list of persons who are excluded or ejected from any licensed Gaming Facility.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(e) 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 including and 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.

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

(f) The Gaming Enterprise may also appeal such an exclusion decision by the Commission Director to the Gaming Commission. The appeal timeframes of this Section will apply to any Enterprise or Operation appeal.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(g) 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.

(h) 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.

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

OTHER AUTHORIZED GAMING

6-5-400 Prohibition Against Non-Authorized Gaming

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

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

6-5-401 Gaming by 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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-402 Gaming by Tribal Entities

(a) Tribal members and tribal member groups shall be considered Tribal entities for the purposes of this Chapter.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(b) The Commission may issue regulations authorizing Tribal entities 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. These will be considered individually owned gaming and will be subject to applicable NIGC regulations.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(c) Income must only be used for the purposes listed in 6-5-21 of this Chapter.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

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

6-5-403 Gaming by Non-Tribal Organizations and Entities

(a) 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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(b) Non-tribal organizations and entities include all other organizations and entities that are not defined in 6-5-402, and do not include any individuals, for-profit businesses, or state lotteries.

(Amended 11/02/17, Resolution 2017-663, Certified 11/06/17)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-404 Traditional Games

(a) Traditional Indian games played privately by Tribal members and their guests shall not constitute gaming within the meaning of this Chapter.

(b) 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.

(c) 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)

6-5-405 State Lottery

Tribal 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, including the Commission, 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 04/08/2020, Resolution 2020-158, Certified 04/14/20)
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 11/02/17, Resolution 2017-663, Certified 11/06/17)
(Amended 04/14/16, Resolution 2016-188, Certified 04/15/16)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)
(Amended 6/6/13, Resolution 2013-385, Certified 6/14/13)

INTERNET GAMING

6-5-500 Definitions

(a) "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 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(c) "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 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

6-5-501 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 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

6-5-502 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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(b) The integrity of the Internet Gaming System and all of its core components are tested on an ongoing basis.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

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

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(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 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-503 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 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

MISCELLANEOUS

6-5-600 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 Commission 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)

6-5-601 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.

6-5-602 Applicable Law

All controversies relating to gaming 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 04/08/2020, Resolution 2020-158, Certified 04/14/20)
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(Amended 02/05/15, Resolution 2015-102, Certified 02/09/15)

6-5-603 Consent to Jurisdiction

(a) Any person who:

- (1) Applies for and/or is granted a License, registration or other privilege under this Chapter;
- (2) Applies for employment in any Gaming Facility licensed and/or regulated under this Chapter;
- (3) Enters into any contract, engagement, or agreement related to gaming regulated under this Chapter; and/or
- (4) 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.

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(b) 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 04/08/2020, Resolution 2020-158, Certified 04/14/20)
(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)
(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)

6-5-604 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 04/08/2020, Resolution 2020-158, Certified 04/14/20)

(Amended 12/19/19, Resolution 2019-812, Certified 01/14/20)

(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)

6-5-605 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.

(Amended 04/08/2020, Resolution 2020-158, Certified 04/14/20)