

TITLE 16

SOUTHERN UTE INDIAN TRIBAL CODE

CLASS III GAMING CODE

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TITLE 16
SOUTHERN UTE INDIAN TRIBAL CODE
CLASS III GAMING CODE

Article 1. GENERAL PROVISIONS

16-1-101 Short Title. This title shall be known and may be cited as the “Class III Gaming Code.”

16-1-102 Legislative Declaration

- (1) This Code is adopted by the Southern Ute Indian Tribal Council of the Southern Ute Indian Tribe governing the establishment and operation of Class III Gaming on the Southern Ute Indian Reservation pursuant to the authority provided by the Indian Gaming Regulatory Act, P.L. 100-497, 25 U.S.C. §§ 2701-2721, the Southern Ute Indian Tribe - State of Colorado Gaming Compact and the Constitution of the Southern Ute Indian Tribe, as these may be amended.
- (2) The Southern Ute Indian Tribal Council hereby finds, determines and declares it to be the public policy of the Southern Ute Indian Tribe that:
 - (a) The success of gaming is dependent upon public confidence and trust that licensed gaming is conducted honestly and competitively and the conduct of gaming and the gaming facilities are free from criminal and corruptive elements;
 - (b) Public confidence and trust can be maintained only by strict regulation of all persons, locations, practices, associations, and activities related to the operation of licensed gaming facilities and the manufacture of gaming devices and equipment;
 - (c) All gaming facilities and all manufacturers and distributors of certain gaming devices and equipment must be licensed and regulated to protect the public health, safety, good order, and general welfare, to foster the stability and success of gaming and to preserve and promote the economy of the region; and
 - (d) No applicant for a license or other Southern Ute Indian Tribal Gaming Commission approval has any right to a license or to the granting of the approval sought. Any license issued or other Southern Ute Indian Tribal Gaming Commission approval granted pursuant to the provisions of this Code is a revocable privilege, and no holder acquires any vested right

therein.

- (3) It is the intent of the Southern Ute Indian Tribal Council that, to achieve the goals set forth in subsection (2), the Southern Ute Indian Tribal Gaming Commission should place great weight upon the policies expressed in subsection (2) in construing the provisions of this Code.

16-1-103 Definitions. As used in this Code, unless the context otherwise requires:

- (1) “Act” means the Indian Gaming Regulatory Act, (“IGRA”), P.L. 100-497, 25 U.S.C. §§ 2701-2721, and as may be amended.
- (2) “Adjusted Gross Proceeds” or “AGP” means the total amount of all wagers or buy-ins made by players on gaming, plus the rake on non-banking card games, less all payments to players. Payment to players shall include all payments of cash, chips, gaming coupons, or merchandise.
- (3) “Applicant” means any person who has applied for a license under this Code or who has applied for permission to engage in any act or activity which is regulated by this Code.
- (4) “Association” means two or more persons united and acting together without a corporate charter.
- (5) “Background investigation” means the security, criminal history, and financial checks of an applicant for a license, plus any other information deemed relevant by the Southern Ute Indian Tribal Gaming Commission or Division of Gaming, to establish the suitability of the applicant to become a licensee.
- (6) “Bet” means an amount placed as a wager in a game of chance.
- (7) “Blackjack” means a banking card game, also known as “21,” played by a maximum of seven players in which each player bets against the dealer. The object is to draw cards whose value will equal or approach twenty-one without exceeding that amount and to win amounts bet, payable by the dealer, if the player holds cards more valuable than the dealer’s cards.
- (8) “Career offender” means any person engaged in behavior in an occupational manner for the purpose of economic gain, utilizing methods deemed criminal violations of the public policy of the Tribe.
- (9) “Career offender cartel” means any group of persons who operate together as career offenders.

- (10) “Chip” means a nonmetal or partly metal representative of value, redeemable for cash, issued and sold for use in gaming.
- (11) “Class III Gaming” means all forms of gaming that are not Class I or Class II Gaming, as defined by the Act.
- (12) “Code” means the Southern Ute Indian Class III Gaming Code.
- (13) “Commission” means the Southern Ute Indian Tribal Gaming Commission.
- (14) “Compact” means the Southern Ute Indian Tribe - State of Colorado Gaming Compact.
- (15) “Consultant” means a person retained by the gaming operation as an independent contractor who is not an employee of the gaming operation.
- (16) “Division” means the Southern Ute Indian Tribal Division of Gaming.
- (17) “Drop” means the total face value of money, chips, and gaming coupons removed from the drop boxes.
- (18) “Drop box” means a locked container permanently marked with the game, shift and a number corresponding to a permanent number on the blackjack table. For slot machines, a container in a locked portion of the machine or its stand used to collect the money, and gaming coupons retained that is not used to make automatic payouts from the machine.
- (19) “Financial institution” means a bank, savings and loan association, credit union, trust company, or other similar entity chartered by the United States, an Indian tribe, a state, or a territory or commonwealth of the United States.
- (20) “Free play” in relation to promotional items, means the use of a coupon that is issued to a patron by an establishment for play for which no bet is required.
- (21) “Gaming” means those gaming activities which are authorized by this Code and the Class II Gaming Code and regulated by the Commission.
- (22) “Gaming coupon” means an encoded credit certificate, also known as a TITO ticket, which, when inserted into a slot machine, is validated by a computerized system which causes redeemable credits in the face amount to be placed on the machine. A gaming coupon has no value unless inserted into a slot machine or redeemed by the gaming operation in any other manner. Gaming Coupon does not include a marketing or promotional coupon used for gaming purposes which

cannot be inserted into a slot machine.

- (23) “Gaming device” or “gaming equipment” means any equipment or mechanical, electromechanical, or electronic contrivance, component (including software), or machine used remotely or directly in connection with gaming. The term includes a system for processing information which can alter the normal criteria of random selection, which affects the operation of any game or which determines the outcome of a game. The term includes a slot machine, roulette table and wheel, craps table and associated equipment, blackjack table, the cards used to play blackjack and a poker table and the cards used for poker, when played as a house-banked card game.
- (24) “Gaming Device or Equipment Manufacturer” means any person who designs, assembles, fabricates, produces, constructs or otherwise prepares a complete or component part of a table game, including cards, roulette wheels, dice, craps tables and associated equipment. “Gaming device or equipment manufacturer” does not include licensees performing incidental repairs.
- (25) “Gaming employee” means any person employed by the Tribe or management company of a gaming operation or gaming facility on the Southern Ute Indian Reservation to work with gaming. Gaming employees shall include, but shall not be limited to, the following: dealers; change and count room personnel; cashiers; cage personnel; accounting personnel; slot machine technicians; persons who accept or transport revenue from a slot or blackjack table drop or drop box; security and surveillance personnel; shift or pit bosses; floor managers; supervisors; slot machine personnel; any person involved in the handling, counting, collecting, or exchanging of money, property, checks, credit or any representative of value, including any coin, chip, gaming coupon, cash premium, merchandise, redeemable game credits, or any other thing of value or payoff from any game, any gaming, or any gaming device; and such other persons as the Commission shall by rule or regulation determine.
- (26) “Gaming facility” means the buildings, rooms or areas in which gaming is conducted, and any other place or location on Indian lands where the Tribe authorizes gaming.
- (27) “Gaming license” means any license issued by the Commission or the Division pursuant to this Code, which authorizes any person to engage in gaming on the Southern Ute Indian Reservation.
- (28) “Gaming operation” means any enterprise or economic entity licensed by the Tribe and operated on the Southern Ute Indian Reservation for the conduct of

any form of Tribal gaming.

- (29) “Gaming services contract” means an agreement for the providing of any goods or services to be used directly in connection with the operation of gaming, including equipment, maintenance or security services.
- (30) “House-banked game” means any game of chance that is played with the house as a participant in the game, where the house takes on all players, collects from all losers, and pays all winners, and the house can win.
- (31) “Immediate family” means a person’s spouse, children, brother, sister and/or parent residing in the same household.
- (32) “Imprest bank” means an area in which a predetermined dollar amount of chips, gaming coupons or cash are kept by the licensee.
- (33) “Internal Control Minimum Procedures” (“ICMPs”) means detailed procedural controls designed to protect the assets of the gaming operation, ensure the accuracy and reliability of accounting records, and protect the integrity of gaming.
- (34) “Key employee” means an employee of a gaming operation defined as a “key employee” in the Act, including federal regulations pertaining to gaming.
- (35) “Key licensee” means an employee of the gaming operation who has the power to exercise significant influence over decisions concerning the gaming operation.
- (36) “Licensed gaming facility” means any facility licensed pursuant to this Code for the conduct of gaming.
- (37) “Licensee” means any person licensed under this Code.
- (38) “Licensing authority” means the Commission and the Division.
- (39) “Local law enforcement agency” means any law enforcement agency that has jurisdiction to enforce federal, tribal or state laws within the Southern Ute Indian Reservation.
- (40) “Management company” means any person that has entered into, or proposes to enter into, a management contract with the Tribe for the operation and management of some or all gaming.

- (41) “Match play,” in relation to promotional items, means the use of a coupon that is issued to a patron by a gaming operation for play that must be accompanied by a bet.
- (42) “Moral turpitude” means contrary to honesty and good morals.
- (43) “Net revenues” means the gross gaming revenues of a gaming operation less amounts paid out as, or paid for, prizes and total gaming-related operating expenses, excluding management fees.
- (44) “Operator licensee” means the management company, which manages a tribal gaming operation pursuant to a management contract approved by the Southern Ute Indian Tribe and the National Indian Gaming Commission (“NIGC”), or a successor federal regulatory authority, and which holds an operator license.
- (45) “Past-Posting” means the act of making a wager on an event after the outcome has already been determined. This is most commonly used to refer to the act of making a wager on a sporting event or other such event after the event has already occurred, or of making a wager on an event after it has already started (such as to make a wager on a football game or horse race after it has already begun).
- (46) “Person” means an individual, partnership, business trust, government or governmental subdivision or agency, estate, association, trust, for-profit corporation, nonprofit corporation, organization, or any other legal entity or a manager, agent, officer or employee thereof.
- (47) “Pinching a Bet” means the act of decreasing a bet after the outcome of the event or the probable outcome of an event can be determined. This is the opposite of “pressing a bet” and usually refers to the act of removing part of a bet on a game so as to decrease a player’s loss, when it appears likely that the player’s wager will probably lose.
- (48) “Pressing a Bet” means the act of increasing a bet after the outcome of the event has been determined, or after the event has already begun. This is most commonly used to refer to the act of increasing a bet once on a game such as blackjack after the cards have already been dealt, and the probable outcome, such as the strength of the hand, can be judged.

- (49) “Primary management official” means:
- (a) The general manager or a person having management responsibility for a management contract; or
 - (b) Any person who has authority:
 - (i) To hire and fire employees; or
 - (ii) To set up working policy for a gaming operation; and
 - (c) The chief financial officer or other person who has financial management responsibility.
- (50) “Progressive controller” means the hardware and software that controls all communications among the machines within a progressive slot machine link and its associated progressive meter.
- (51) “Reservation” means the Southern Ute Indian Reservation as defined in Pub. Law 98-290.
- (52) “Slot machine” means any mechanical, electrical, video, electronic, or other device, contrivance or machine which, after use of a coin, gaming coupon, or electronic credit or upon payment of any required consideration by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, gaming coupons, electronic credits or redeemable free games, whether the payoff is made automatically from the machine or in any other manner.
- (53) “Slot machine malfunction” means a slot machine, in an active and valid play mode, which fails to automatically respond correctly or to meet the standards required by the Division, whether or not due to software failures, hardware failures, human errors, human intervention or other causes.
- (54) “Slot machine manufacturer” means any person who designs, assembles, fabricates, produces, constructs or otherwise prepares a complete or component part of a slot machine, other than tables or cabinetry; “slot machine manufacturer” does not include licensees performing incidental repairs.
- (55) “Strategy card” means a small, hand-held card imprinted with information that analyzes or suggests the strategy for playing or betting to be used in any authorized game; the card may have a movable dial or slide, but it may not be an

electronic device of any type or have computing capability.

- (56) “Substantial interest” means the lesser of: as large an interest in a corporation, partnership, or association as that of any other shareholder, partner, or principal; or any financial or equity interest equal to or greater than five percent.
- (57) “Suitability” or “suitable” means, in relation to a person, the ability to be licensed by the Commission or Division and, in relation to acts or practices, lawful acts or practices.
- (58) “Support licensee” means a gaming employee licensed by the Commission or Division other than operator licensees and key licensees.
- (59) “Ticket-in/Ticket-out (TITO)” means a gaming coupon.
- (60) “Tribal Council” means the Tribal Council of the Southern Ute Indian Tribe of the Southern Ute Indian Reservation.
- (61) “Tribe” means the Southern Ute Indian Tribe.
- (62) “Vendor” means a person who supplies any goods or services used in conjunction with any gaming operation.
- (63) “Wager” means a sum of money or thing of value risked on an uncertain occurrence.

16-1-104 Construction. Nothing contained in this Code shall be so construed as to conflict with any provision of the Compact or any applicable federal law.

16-1-105 Authorized Gaming. Gaming permitted pursuant to this Code shall include all games that are authorized by federal law and the Compact to be conducted on the Reservation. Gaming may take place 24 hours a day, 7 days per week in a licensed facility.

16-1-106 Ownership of Gaming. The Tribe shall have the sole proprietary interest and responsibility for the conduct of gaming on the Reservation or on Indian lands, as defined by the Act, unless the Tribe elects to allow individually-owned gaming.

16-1-107 Gaming Authorization. Regulation. Gaming is hereby authorized and may be operated subject to the provisions of this Code. All gaming authorized by this Code shall be regulated by the Commission and the Division.

- 16-1-108 Enforcement.** It shall be the duty of the Division to enforce the provisions of this Code, which may be accomplished with the cooperation of other law enforcement agencies.
- 16-1-109 Severability.** If any provision of this Code may be found unlawful, it shall not be considered to invalidate any of the other provisions of this Code.
- 16-1-110 Effective Date.** The effective date of this Code shall be the first day following its approval by the Tribal Council, the NIGC and the Secretary of the Interior or his authorized representative, if required by the Constitution of the Tribe.
- 16-1-111 Repeal.** Upon the effective date of this Code, any previously enacted Class III Gaming Codes shall be deemed repealed and re-enacted as contained or modified in this Code.

Article 2. DIVISION OF GAMING

- 16-2-101. Division of Gaming - Creation.** There is hereby created the Division of Gaming, the head of which shall be the director of the Division, who shall be hired in accordance with the Personnel Policies and Procedures of the Tribe. Notwithstanding any such administrative relationship to the Tribe, the Division, the Commission and the director of the Division shall exercise their respective powers and perform their respective duties and functions as specified in this Code.
- 16-2-102. Function of Division.** The primary function of the Division is to implement, regulate and supervise the conduct of gaming on the Reservation as authorized by this Code, the Class II Gaming Code, the Compact, the ICMPs, the Act and applicable NIGC regulations and the rules and regulations of individual games. The Division is also responsible for enforcing applicable criminal laws.
- 16-2-103. Director - Qualifications - Powers and Duties.** The director shall be qualified by training and experience to direct the work of the Division. The director shall not be engaged in any other profession or occupation that could present a conflict of interest with the director's duties. The director, as administrative head of the Division, shall direct and supervise or delegate his or administrative and technical activities, including the following:
- (1) To supervise and administer the operation of the Division in accordance with the provisions of this Code and the orders of the Commission.
 - (2) To attend meetings of the Commission or to appoint a designee to attend in the director's place;

- (3) To employ and direct such personnel as may be necessary to carry out the purposes of this Code in accordance with Tribal Personnel Policies and Procedures, but no person shall be employed who would be denied a license under the disqualification criteria of this Code.
- (4) To enter into agreements to secure services which the director deems necessary and to provide for the payment for such services with the approval of the Tribal Council.
- (5) To make available for inspection by the Commission or any member of the Commission, upon request, all gaming-related books, records, files and other information and documents kept by the Division.
- (6) To advise the Commission and recommend to the Commission rules, regulations, amendments to this Code, and such other procedures as the director deems necessary to improve the operation of the Division and the conduct of gaming.
- (7) To establish ICMPs for licensees.
- (8) To demand access to and inspection, examination, photocopying and auditing of all papers, books and records of applicants and licensees, on the licensed premises or elsewhere, pertaining to the gaming operation and to require verification of income, expenses and all other matters affecting the enforcement of the policies of the Commission or any provision of this Code; and to impound and remove all papers, books and records of applicants and licensees for inspection or examination.
- (9) To take any other lawful action which the Commission may direct in order to carry out the purposes and provisions of this Code.

16-2-104. Investigator Qualifications. Investigators shall meet suitability criteria through certification as a peace officer commissioned by the Tribe and not be involved in any activity which could present a conflict of interest.

16-2-105. Investigators - Peace Officers

- (1) All investigators of the Division shall have all the powers of peace officers to:
 - (a) Make arrests for any violation of the provisions of this Code, the orders of the Commission made pursuant to this Code, any other laws or regulations pertaining to the conduct of gaming, or any criminal law of the Tribe, if, during an investigator's exercise of powers or performance of duties, probable cause is established that a violation of any said law or order has

occurred.

- (b) Inspect, examine, investigate, seize and impound without notice any premises where gaming is conducted, any devices or equipment designed for or used in gaming, and any books and records in any way connected with any gaming or criminal activity.
 - (c) Require any person licensed pursuant to this Code, upon demand, to permit inspection of the licensed premises, gaming equipment and devices, or books or records; and to permit the testing and the seizure, without notice or hearing, of any equipment, devices, supplies, books or records, except those books or records protected by applicable law, for the purpose of examination or inspection.
 - (d) Serve warrants, notices, summonses or other processes.
 - (e) Conduct investigations into the character, record and reputation of all applicants for gaming licenses, all licensees and such other persons as the Division may determine pertaining to gaming.
 - (f) Investigate violations of all laws, ICMPs, regulations and rules of individual games pertaining to gaming.
 - (g) Assist or aid any other peace officer in the performance of his duties upon request.
- (2) Criminal violations of this Code discovered during an authorized investigation or discovered by the Division may be referred to the appropriate law enforcement and prosecution authorities.

16-2-106. Division of Gaming - Access to Records. The Division, for purposes of this Code, shall have full authority to procure, at the expense of the Division, any records furnished to or maintained by any entity for the purposes of carrying out its responsibilities pursuant to this Code.

Article 3. SOUTHERN UTE INDIAN TRIBAL GAMING COMMISSION

16-3-101. Gaming Commission - Appointment and Terms. The Commission shall consist of five members and two alternates appointed by the Tribal Council for staggered three-year terms; provided, however, that each member shall serve until reappointed or a successor is appointed.

16-3-102. Commissioner Terms

- (1) Commission members shall be appointed for three-year terms unless the vacancy was created by the resignation or removal of a Commissioner and that term has not yet expired, in which case the appointment shall be for the length of the unexpired term.
- (2) Commission terms shall run from the date of appointment by the Tribal Council.
- (3) The Administrative Assistant for the Division of Gaming ("Division") shall maintain a list of Commission members' appointment dates and term expiration dates, together with copies of all Tribal Council appointment resolutions or letters of appointment.

16-3-103. Commission Member Qualifications. Members of the Commission shall be of good character and shall be subject to the same suitability criteria as a key employee under federal regulations. In addition, members must meet the following specific qualifications:

- (1) Be at least 21 years of age.
- (2) Possess a basic knowledge and understanding of gaming activities authorized on the Reservation.
- (3) Have demonstrated regulatory experience or expertise in regulatory matters, or in administrative hearing procedures.
- (4) Have the ability to observe restrictions concerning conflict of interest and confidentiality.

16-3-104. Removal. A Commission member may be removed by a majority vote of the Tribal Council for neglect of duty, failure to attend meetings, failure to maintain eligibility requirements or other good cause demonstrating a member's unsuitability for continued membership.

16-3-105. Powers and Duties. In addition to any other powers and duties set forth in this Code, the Commission shall have the following powers and duties.

- (1) To adopt rules and regulations governing the licensing, conducting and operating of gaming as it deems necessary to carry out the purposes of this Code.
- (2) To conduct hearings upon complaints charging violations of this Code.

- (3) To formulate and recommend changes to this Code.
- (4) To issue licenses to those involved in the conduct of gaming.
- (5) To suspend or revoke gaming licenses, impose licensing conditions, levy fines and issue lesser forms of discipline, such as reprimands.
- (6) To establish appropriate fees and authorize their collection.
- (7) To obtain all information from licensees and other persons which the Commission deems necessary.
- (8) To issue subpoenas for the appearance of persons, or the production of records and other evidence, in connection with applications before the Commission or in connection with other matters under consideration by the Commission.
- (9) To apply for injunctive or declaratory relief to enforce the provisions of this Code and Tribal gaming rules and regulations.
- (10) To promulgate tribal gaming regulations and regulations regarding the operation of the Commission.
- (11) To approve specific rules for gaming.
- (12) To issue licenses to each facility or location where the Tribe allows gaming.
- (13) To ensure that the Tribe constructs, maintains and operates gaming facilities in a manner that adequately protects the environment and the public health and safety.
- (14) To obtain annual independent outside audits and submit these audits as required by federal law.
- (15) To ensure that net revenues from gaming are used for the limited purposes set forth in this Code and federal law.
- (16) To resolve patron disputes pursuant to this Code.
- (17) To exercise such other incidental powers as may be necessary to ensure the proper regulation of tribal gaming.

16-3-106. Delegation

- (1) The Commission shall delegate to the Division the authority for the following:
 - (a) To issue, suspend or revoke temporary licenses;
 - (b) To issue, suspend or revoke gaming-related consultant licenses;
 - (c) To conduct criminal investigations and law enforcement oversight relating to violations of this Code; and
 - (d) To inspect or examine the licensed premises, equipment, books, records or other written material maintained in accordance with this Code.
- (2) The Commission may delegate any act required to be performed by the Commission to the director of the Division.

16-3-107. Commission Meetings

- (1) Three members of the Commission shall constitute a quorum for taking official action.
- (2) The Commission may hold executive or closed meetings for any of the following purposes:
 - (a) Considering applications for licensing when discussing background investigations or personal information;
 - (b) Meeting with gaming officials of other jurisdictions or law enforcement officials in connection with possible criminal violations;
 - (c) Consulting with employees or agents of the Tribe concerning possible criminal violations or any security issues;
 - (d) Deliberations after hearing evidence in an informal consultation or in a contested case;
 - (e) Considering information deemed confidential or proprietary.

16-3-108. Communications – Privileged and Confidential. Communications among the Commission and within the Division relating to licensing, disciplining of licensees, or violations by licensees are privileged and confidential, if made lawfully and in the course of or in furtherance of the business of the Commission. The Commission or the Division may claim this privilege.

Article 4. CONFLICT OF INTEREST

16-4-101. Conflict of Interest

- (1) Because members of the Tribal Council, members of the Commission, and employees of the Division are in positions of public trust, to ensure confidence in the integrity of gaming, the following restrictions apply:
 - (a) No member of the Tribal Council, member of the Commission or employee of the Division, and no member of the immediate family of such person, as defined in this Code, shall have a direct or indirect interest in, or be employed by, any person who has entered into a gaming services contract with the Tribe, who is an operator licensee or who is licensed as a vendor.
 - (b) No member of the Tribal Council, member of the Commission or employee of the Division, and no member of the immediate family of such person, as defined in this Code, shall receive any gift, gratuity, employment or other thing of value from any person who contracts with or offers services, supplies, materials or equipment used by the Tribe in the normal course of its gaming operations, or who is licensed by the Commission; except such persons may accept on an infrequent basis, in the normal course of business, non-pecuniary items of insignificant value.
 - (c) No member of the Tribal Council, member of the Commission or employee of the Division shall participate in gaming on the Reservation.
 - (d) No member of the Commission may vote on licensing/hearing/disciplinary matters involving an immediate family member as defined in this Code.
 - (e) No member of the Tribal Council, member of the Commission or employee of the Division shall participate in any promotional activities, such as player tracking systems or drawings for prizes sponsored by the gaming operation.
- (2) The provisions of paragraphs (b) and (c) of subsection (1) of this section shall not apply to an employee of the Division acting in his or her official capacity while on duty

16-4-102. Financial Interest Restrictions

- (1) No vendor shall:
 - (a) Have any interest, directly or indirectly, in an operator licensee;

- (b) Allow any of its officers, or any other person with a substantial interest in such business, to have any interest in an operator licensee;
 - (c) Employ any person in any capacity or allow any person to represent the business in any way, if such person is also employed by an operator licensee; or
 - (d) Allow any operator licensee or any primary management official to have an interest, directly or indirectly, in the business.
- (2) The word “interest” includes stock or other type of ownership, as well as leases, joint ventures and other business relationships.

16-4-103. Persons Prohibited from Interest in Gaming. None of the following persons shall have any direct interest in any management contract or management company:

- (a) Officers, agents or employees of any law enforcement agency of the Tribe;
- (b) Employees of the Division;
- (c) Tribal judges;
- (d) Elected officials of the Tribe; and
- (e) Gaming Commission members.

Article 5. LICENSING

16-5-101. Licenses. The Commission may issue gaming and gaming-related licenses to include the following;

- (1) Gaming Licenses.
 - (a) Slot Machine Manufacturer or Distributor License. A slot machine manufacturer or distributor license is required for all persons who import, manufacture or distribute slot machines, or who otherwise act as a slot machine manufacturer or distributor.
 - (b) Operator License. An operator license is required for all persons who engage in the business of managing a tribal gaming operation pursuant to a management contract approved by the Tribe and the NIGC.

- (c) Support License. A support license is required for all gaming employees; however, key licensees need not obtain support licenses.
 - (d) Key License. A key license is required for all gaming employees who have the power to exercise significant influence over decisions concerning the gaming operation.
 - (e) Facility License. A facility license is required for each separate gaming facility located on the Reservation and must be issued by the Commission before any gaming may take place there.
 - (f) Associated Equipment Supplier License. An associated equipment supplier license is required for a person who imports, manufactures, or distributes associated equipment, or who otherwise acts as an associated equipment supplier. Slot machine manufacturers or distributors who are licensed and who import, manufacture, or distribute associated equipment need not obtain a separate associated equipment supplier license.
- (2) Gaming-Related Consultant License. A gaming-related Consultant License is required for any person, other than a gaming licensee of the Gaming Facility, who has access to gaming devices or equipment, restricted areas of the gaming facility or confidential gaming operation information.
- (a) In lieu of conducting its own background investigation, the Division may rely on a valid out-of-jurisdiction gaming license provided the license was issued by a state or tribal gaming regulatory agency with standards at least as stringent as the Southern Ute Indian Tribe's licensing requirements.
 - (b) A support license will be required for persons who have access to, or whose consultant work involves, any of the following:
 - (i) restricted areas of the gaming facility;
 - (ii) security or surveillance systems;
 - (iii) gaming software;
 - (iv) other sensitive or restricted parts of gaming devices or equipment; or
 - (v) confidential gaming operation information.
 - (c) The Division will determine the necessary level of background investigation based upon the particular consultant's scope of work, the

access requested and other relevant factors, including whether a support license is required for single or limited duration access to restricted areas of the Gaming Facility. A support license may not be required for a single or limited duration access to restricted areas of the Gaming Facility; however, in such situations, the consultant must be accompanied by a Division of Gaming investigator or a Gaming Facility security officer at all times during such access.

16-5-102. Gaming License Term. Each gaming license issued pursuant to this Code, with the exception of a temporary license, shall expire two years from the date of its issuance, but may be renewed upon the filing and approval of an application for renewal.

16-5-103. Gaming-Related Consultant License Term. A gaming-related consultant license may be issued for any term dependent on the scope of work required and the access needed; however, no consultant license shall be valid in excess of two years. Consultant licenses may be renewed upon the filing and approval of an application for renewal.

16-5-104. Key Licensee - Determination of Status.

- (1) If the Commission determines that an employee is performing key licensee functions and as such is subject to key licensing requirements, the Commission shall serve notice of such determination upon the employee and shall order the employee to apply for a key license within 30-days following receipt of notice. Failure of the employee to comply with the Commission's order is grounds for disciplinary action.
- (2) The person ordered to apply for key licensing may make a written request to the Commission to review its initial determination. If upon review the Commission determines that the person's functions do not require a key license, such person shall not be required to apply for a key license.

16-5-105. Temporary Licenses

- (1) The Division may issue, suspend or revoke temporary licenses with respect to all types of licenses authorized under this Code.
- (2) The Division may issue a temporary license only where the investigation of the applicant conducted thus far, and the application in its entirety, indicate that:
 - (a) the applicant meets all the requirements of this Code;
 - (b) the applicant meets all the requirements contained in the Compact;

- (c) the applicant does not present any danger to the public or to the reputation of gaming;
 - (d) further investigation most likely will not uncover any derogatory information about the applicant; and
 - (e) issuance of a temporary license is of economic necessity to the gaming operation.
- (3) The temporary license shall become void upon the issuance of a regular license, upon notice of recommendation of denial or upon separation from employment with the gaming operation.
- (4) The Division may revoke any temporary license if the Division discovers any information which would preclude the issuance of a license or if an applicant fails to supply information, documentation or assurances, as required, in a timely manner.

16-5-106. Conditional Gaming Licenses. The Commission may issue conditional gaming licenses with respect to all types of gaming licenses authorized under this Code.

16-5-107. Qualifications for Licensure. In addition to meeting any other requirements imposed by this Code or the Commission, a person shall have the burden of proving to the satisfaction of the Commission that he is of good moral character and qualified for licensure.

16-5-108. Good Moral Character Considerations. In considering whether an applicant is of good moral character, the Commission may, in addition to all other information, consider whether the applicant:

- (1) Has been denied a gaming license by any jurisdiction;
- (2) Has ever had a gaming license suspended or revoked in any jurisdiction; or
- (3) Has ever withdrawn an application for any type of gaming license in any jurisdiction and the reasons for such withdrawal.

16-5-109. Licenses - Revocable – Nontransferable

- (1) Every license issued pursuant to this Code is revocable and nontransferable. No licensee acquires any vested interest or property right in a license.
- (2) The revocable privilege for any license issued or other approval granted is conditioned upon the continuing qualification of the licensee and upon the

discharge of the affirmative responsibility of each licensee to provide to the regulatory, investigatory and law enforcement authorities any assistance and information necessary to ensure compliance with this Code.

16-5-110. Gaming Facility – Floor Plan

- (1) For purposes of this section, “floor plan” means a physical layout of the inside of the building in which gaming will take place, which shall show the location of the gaming areas within the facility. The floor plan is subject to approval of the Commission and those standards pertaining to the public health, safety, and general welfare of the Tribe. All gaming devices shall be located within the licensed premises.
- (2) Within the gaming facility, an operator licensee or primary management official has the discretion to arrange gaming equipment or devices upon notice to the Division; provided, however, their arrangement complies with the approved floor plan and provides for adequate surveillance.

16-5-111. Gaming Facilities - Health and Safety Standards

- (1) The Tribe shall construct, maintain and operate all gaming facilities in a manner which adequately protects the environment and the public health and safety.
- (2) The gaming facility shall meet safety standards and conditions for the protection of life and property as determined by the Tribe. In making such determinations, the following uniform codes are hereby adopted by the Tribe as minimum safety standards for gaming facilities:
 - (a) The International Building Code, as currently adopted and as may be modified from time to time; and
 - (b) The Uniform Fire Code, as currently adopted and as may be modified from time to time.
- (3) The gaming facility shall provide annual reports to the Division evidencing compliance with these health and safety standards.
- (4) In advance of any significant structural change to a gaming facility, the gaming facility shall submit such plans to the Division and the Commission. No changes may be made to a gaming facility until the plans are shown to be in compliance with the applicable health and safety standards approved by the Tribe.
- (5) Although the Tribe is not subject to the Americans with Disabilities Act, 42 USC 12101, *et seq.*, all gaming facilities shall be accessible to and functional for

the physically handicapped.

16-5-112. Gaming License Disqualification Criteria. The Commission shall deny a gaming license to any applicant who is disqualified for licensure on the basis of any of the following criteria:

- (1) Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this Code;
- (2) Failure of the applicant to provide information, documentation and assurances required by this Code or requested by the Division or the Commission;
- (3) Failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria; or
- (4) Conviction of the applicant, or any of its primary officers or directors, or any of its general partners, or any of its stockholders, limited partners, or other persons having a financial or equity interest of five percent or greater in the applicant, of any of the following:
 - (a) A gaming-related felony;
 - (b) A felony involving fraud, misrepresentation or theft by deception;
 - (c) Any felony within 10 years prior to the date of the application;
 - (d) A gaming-related misdemeanor offense within 10 years prior to the date of the application; or
 - (e) Any misdemeanor involving fraud, misrepresentation or theft by deception within ten years prior to the date of the application.
- (5) Current prosecution or pending charges in any jurisdiction against the applicant, or against any person listed in paragraph (4) of this section, for any of the offenses enumerated; except that, at the request of the applicant or the person charged, the Commission may defer decision during the pendency of any prosecution.
- (6) The identification of the applicant or any person listed in paragraph (4) of this section as a career offender or a member of a career offender cartel or an associate of a career offender or a career offender cartel.

- (7) The applicant's refusal to cooperate with any investigatory body of any Indian tribe, state or of the United States, when such body is engaged in the investigation of crimes relating to gaming, official corruption or organized crime activity.

16-5-113. Deferred Prosecution, Judgment or Sentence. If the prosecution, judgment or imposition of sentence is deferred by the court and a conviction would constitute a license disqualification factor under this Code, the Commission may consider the pertinent circumstances in determining the applicant's suitability. The Division shall fully investigate such circumstances by conducting, at a minimum, an interview of the applicant concerning the charges and a full review of the documentation in the relevant case file, including the arrest reports. A deferred prosecution, judgment or sentence shall not be considered "pending charges" for the purpose of determining suitability for a gaming license.

16-5-114. Applicants and Licensees – Providing Information

- (1) All applicants for licenses and all licensees, including all persons interested, directly or indirectly, in the gaming operation or license held by an applicant or licensee, shall provide fingerprints, and such persons shall allow themselves be photographed in accordance with procedures established by the Division.
- (2) Upon issuance of a formal request or subpoena by the Commission to answer or produce information, evidence or testimony, each applicant or licensee shall comply with the request or subpoena. Where an applicant or licensee, or any person interested, directly or indirectly in either, refuses or fails to comply with a Commission request or subpoena, then that person's license or application may be suspended, revoked or denied, based solely upon such failure or refusal.
- (3) Failure to provide information requested by the Division within 10 days after the request has been made may result in a recommendation of denial, based on the disqualification criteria.
- (4) An applicant may claim any right or privilege afforded by the Indian Civil Rights Act, 25 U.S.C. §§ 1301-1341, the Constitution of the United States, or Tribal law in refusing to answer questions by the Commission. However, such a claim of privilege with respect to any testimony or evidence pertaining to an application may constitute sufficient grounds for denial.

16-5-115. Gaming-Related Consultant License Applications and Investigations for Licensure

- (1) An applicant for a gaming-related consultant license must apply to the Division for licensure prior to doing business with the gaming operation. In lieu of conducting its own background investigation, the Division may rely on a valid

out-of-jurisdiction gaming license provided the license was issued by a state or tribal gaming regulatory agency with standards at least as stringent as the Southern Ute Indian Tribe's licensing requirements.

- (2) A support license will be required for persons who have access to, or whose consultant work involves, any of the following:
 - (a) restricted areas of the gaming facility;
 - (b) security or surveillance systems;
 - (c) other sensitive or restricted parts of gaming devices or gaming software;
 - (d) other sensitive or restricted parts of gaming devices or equipment; or
 - (e) confidential gaming operation information.
- (3) The Division will determine the necessary level of background investigation based upon the particular consultant's scope of work, the access requested and other relevant factors, including whether a support license is required for single or limited duration access to restricted areas of the Gaming Facility. A support license may not be required for a single or limited duration access to restricted areas of the Gaming Facility; however, in such situations, the consultant must be accompanied by a Division of Gaming investigator or a Gaming Facility security officer at all times during such access.

16-5-116. License Fees. The Commission may establish investigation and application fees for the purpose of paying for the administrative costs of the Commission and Division and for paying for any background investigations of applicants and others. These fees may vary depending on the type of application, the complexity of the investigation, or the costs of the Division.

16-5-117. Application - Authorization for Background Investigation - Waiver of Confidentiality.

- (1) By signing and filing an application for a license, which is subject to applicable perjury laws, the applicant authorizes the Division to obtain information from any source, public or private, in any jurisdiction, regarding the background or conduct of the applicant, and, if the applicant is a partnership or corporation, any of its shareholders, officers, directors, partners, agents or employees.
- (2) The application form shall include a waiver of any right of confidentiality and a provision that allows the information contained in the application to be accessible to the Tribe, the State of Colorado, the United States, and the NIGC.

The waiver of confidentiality shall extend to any financial or personal record, wherever maintained.

16-5-118. Waiver of Liability - Disclosures or Publications. All applicants and licensees shall waive liability as to the Tribe, its entities, employees and agents for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations or hearings.

16-5-119. Confidentiality of Records

- (1) Information and records of the Commission and the Division, listed below, are confidential and may not be disclosed except pursuant to an order of a court of competent jurisdiction, an order from the Commission, or a request from the Colorado Division of Gaming or the NIGC. No person may by subpoena, discovery or statutory authority obtain such information or records. Information and records considered confidential include:
 - (a) Tax returns;
 - (b) Credit reports;
 - (c) Audit work papers, worksheets and auditing procedures used by the Tribe, its agents or employees; and
 - (d) Investigative reports concerning violations of law or concerning the backgrounds of licensees, applicants or other persons, prepared by tribal investigators or investigators from other agencies working with the Division, and any work papers related to such reports; except that the Commission or Division may, in its sole discretion, disclose so much of said reports or work papers, as it deems necessary and prudent, to authorized persons showing a legitimate need for the information.
- (2) This section does not apply to requests for such information or records from any tribal, federal or state law enforcement agency, or for the use of such information or records by the Commission or Division for official purposes, or by employees of the Division in the performance of their authorized and official duties.
- (3) Any person who discloses confidential information in violation of the provisions of this section commits a criminal offense punishable under applicable law.

16-5-120. Renewal of Licenses

- (1) Subject to the power of the Commission to deny, revoke or suspend licenses, any current license shall be renewed by the Commission for the next succeeding license period upon proper application for renewal and payment of license fees as required. The license period for a renewed license shall be two years. The Commission shall act upon any such application prior to the date of expiration of the current license.
- (2) An application for renewal of a license shall be filed with the Division no later than 60 days prior to the expiration of the current license, and all fees shall be paid with the filing of the application.
- (3) Upon approval of the renewal of any license by the Commission, the Division shall issue a new license.
- (4) Renewal of a license may be denied by the Commission for any violation of this Code or gaming regulations, for any reason that would or could have prevented its original issuance, or for any good cause shown.

16-5-121. Duplicate Licenses. Upon the loss, mutilation or destruction of any license issued, application for a duplicate must be made on a form provided by the Division. A statement signed by the licensee, which details the circumstances under which the license was lost, mutilated or destroyed and certifies that such license was, in fact, lost, mutilated or destroyed, shall accompany such application. A mutilated license shall be surrendered to the Division upon issuance of a duplicate license. If a lost license is found, it must be immediately surrendered to the Division.

16-5-122. Reapplication. Any applicant, including a person who has an ownership interest of five percent or more in any management contract:

- (1) Whose application has been denied by the Commission may not reapply for licensure until at least one year from the date of denial;
- (2) Who has been denied a license for a second time may not reapply until at least three years from the date of the second denial.
- (3) Whose request to withdraw an application has been granted may not reapply for licensing until at least one (1) year from the date of such withdrawal.

16-5-123. Appeal of Final Action of Commission. Any person aggrieved by a final action of the Commission may appeal the final action to the Southern Ute Indian Tribal Court.

Article 6. GAMING LICENSE APPLICATIONS, INVESTIGATIONS AND LICENSURE

16-6-101 Qualifications for Licensure. To qualify for a gaming license an applicant must:

- (1) Be at least 21 years of age;
- (2) Possess a suitable character as determined by the Commission; and
- (3) If for a facility, the premises to be used for gaming must be deemed suitable by the Commission and must satisfy all health and safety requirements; and
- (4) Comply with all specific laws, rules and regulations pertaining to gaming on the Reservation.

16-6-102 Gaming License Applications

- (1) An applicant for any type of license must apply on forms provided by the Division.
- (2) Except for facility license applicants, the Division shall require, at a minimum, the following information from a gaming license applicant:
 - (a) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, and all languages (spoken or written);
 - (b) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license number;
 - (c) The names and addresses of at least three personal references (excluding relatives), including one personal reference who was acquainted with the applicant during each period of residence listed under subsection (b);
 - (d) Current business, residence telephone numbers, and cell phone numbers;
 - (e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
 - (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - (g) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to

- gaming, whether or not such license or permit was granted;
- (h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
 - (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application and not otherwise listed above, the criminal charge, the name and address of the court involved and the date and disposition;
 - (j) For each criminal charge (excluding minor traffic violations), whether or not there is a conviction, and not otherwise listed above, the criminal charge, the name and address of the court involved and the date and disposition;
 - (k) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
 - (l) A current photograph;
 - (m) Any other information that the Tribe deems relevant or that is required by NIGC or the Compact; and
 - (n) Fingerprints consistent with procedures adopted by the Tribe in accordance with federal law. Fingerprints shall be taken by the Division and will then be forwarded to the NIGC for processing through the Federal Bureau of Investigation (FBI) and the National Criminal Information Center to determine the applicant's criminal history, if any.
- (3) The following notice shall be placed on the Tribe's license application form for a key employee or a primary management official before it is filled out by the applicant:
- (a) In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§2701 *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Division and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal,

State, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when, pursuant to a requirement by a tribe or the NIGC, in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Southern Ute Indian Tribe being unable to license you for a primary management official or key employee position.

- (b) The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.
- (c) 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 a fine or imprisonment (U.S. Code, Title 18, Section 1001).

16-6-103 Gaming Background Investigations and Licensing

- (1) All applicants for gaming licenses will be subject to background investigations.
 - (a) All licensing documents required by federal law will be forwarded to the NIGC.
 - (b) Background investigations will be processed through the Division and an investigative report will be generated, which will be sent to the Colorado Division of Gaming, if requested pursuant to the Compact.
 - (c) Background investigations will include, but not be limited to, the following: a criminal history and warrants check through the Colorado Crime Information Center/National Crime Information Center; a fingerprint check; a credit history check, personal reference checks, and past employment verifications and checks.
 - (d) An investigative report shall be created and maintained and shall include all of the following: the steps taken in conducting the investigation; the results obtained; the conclusions reached; and the basis for those conclusions.
 - (e) Upon completion of the background investigation, the Division will recommend licensing or denial of licensing to the Commission.

- (f) The licensing decision of the Commission and the investigative report will be forwarded to the NIGC for review within 30 days of issuance, if required by federal law.
 - (g) For primary management officials or key licensees, the Commission shall prepare a notice of results of the applicant's background investigation which shall be submitted to the NIGC no later than 60 days after the applicant begins working for the Tribe and shall include the following:
 - (i) The applicant's name, date of birth and social security number;
 - (ii) The date on which the applicant began, or will begin, working as a primary management official or key employee;
 - (iii) A summary of the information presented in the investigative report, including licenses that have previously been denied; gaming licenses that have been revoked, even if subsequently reinstated; every known criminal charge brought against the applicant within the last 10 years of the date of the application; every felony offense of which the applicant has been convicted or any ongoing prosecution; and a copy of the licensing decision.
- (2) Non-tribal member key license and operator license applicants, including primary management officials, will have, at a minimum, the same level of background investigation described above. The Division will forward a copy of the completed application, together with the required fee, to the Colorado Division of Gaming, who will conduct the background investigation to determine licensing suitability and eligibility. Upon receipt of the report from the Colorado Division of Gaming, the Division will recommend licensing or denial of licensing to the Commission. The licensing decision of the Commission, along with the investigative report, will be forwarded to NIGC for review, if required by federal law.
- (3) The application forms shall be accompanied and supplemented by such documents and information as may be required.
- (4) If the Commission determines that employment of a person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a management contractor or gaming operation shall not employ that person.

- (5) If, within 30 days of its receipt of an investigative report or notice of results, the NIGC provides the Commission with a statement itemizing objections to the issuance of a license, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license.
- (6) If, after the issuance of a gaming license, the NIGC receives reliable information that a key employee or a primary management official is not eligible for employment as described in paragraph (4) of this part, the NIGC shall so notify the Commission. Upon receipt of such information, the Commission or the Division shall summarily suspend such license and shall notify the licensee of the suspension and the proposed revocation in writing. The licensee shall be notified of a time and place for a hearing on the proposed revocation of a license. After a revocation hearing, the Commission shall decide to revoke or to reinstate the gaming license. The Commission shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notice from the NIGC that a key employee or primary management official is not eligible for employment.
- (7) The Commission shall retain license applications, investigative reports, reports of background investigations and eligibility determinations for inspection by the NIGC for no less than three (3) years from the date of termination of employment.
- (8) The Tribe shall not employ a primary management official or key employee who does not have a license after 90 days of beginning work at a gaming operation.

16-6-104 Fees

- (1) License Fees. A license fee, if required, must accompany an application for licensure.
- (2) Application Fees. In addition to a license fee, applicants shall pay a non-refundable application fee at the time their applications are first submitted to the Division.
 - (a) All applicants for licenses shall pay the costs of investigations into their backgrounds, suitability and qualifications for licensure. The cost of such investigations shall be at the rate established by the Commission. All applicants shall also pay for the following actual costs incurred in conducting the background investigations: transportation, lodging, meals and document reproduction costs. Before any such investigations are conducted, each applicant shall pay the required non-refundable

application fee.

- (b) Where an applicant disputes any investigative charges, or the necessity for further deposits, the applicant may request a hearing before the Commission regarding the matters in dispute.
- (c) No license shall be issued until the applicant has paid the full amount due for any investigation or a guarantee of payment has been provided by the gaming operation.

16-6-105 Regulation of Ownership Interests. The Commission may, in its discretion, require any person having any financial interest in a management contract to undergo a full background investigation. The Commission may require the operator licensee to pay for that background investigation.

16-6-106 Untrue Statements. The Commission may revoke or deny a license to an applicant or licensee who makes deliberate misstatements, deliberate omissions, misrepresentations or untruths in the application or in connection with the applicant's or licensee's background investigation. Such conduct may also form the basis for criminal charges against the applicant or licensee.

16-6-107 Withdrawal of Application.

- (1) A request for withdrawal of an application may be made by filing a written request to withdraw the application with the Commission. If the applicant has been recommended for denial by the Division, the request for withdrawal must be filed at least 10 days before the date set for a hearing on the application.
- (2) The Commission may, in its discretion, deny or grant the request.

16-6-108 Recommendation to the Commission. After completion of its investigation, the Division will issue a recommendation to the Commission for the approval or denial of the application. If the Division recommends that an application be denied, the recommendation will include written reasons upon which the recommendation is based.

16-6-109 Approval. The Commission shall approve any license application that meets all requirements imposed by this Code, including payment of all fees and costs.

**Article 7. RIGHTS AND DUTIES OF OPERATOR LICENSEES AND PRIMARY
MANAGEMENT OFFICIALS**

16-7-101 Responsibility of Operator Licensee or Primary Management Official

- (1) The operator licensee or primary management official is responsible for ensuring compliance with applicable laws, rules and regulations, including audit and security measures as prescribed by this Code, the ICMPs, federal law, and lawful requirements of the Division or Commission.
- (2) ICMPs. Every operator licensee or primary management official shall ensure that all gaming devices on the licensed premises comply with the specifications set forth in this Code and the rules governing such devices.

16-7-102 Job Descriptions - List of Personnel. Prior to opening for business, an operator licensee or primary management official must furnish to the Division a written list of all persons employed by the gaming operation, including birth dates, social security numbers, and job titles and job descriptions. Additionally, the operator licensee or primary management official must submit changes to its lists of employees and changes to the job descriptions of all licensees by the first day of each month, unless the Division, in writing, demands more frequent notification or allows less frequent notification.

16-7-103 Information to be Furnished by Licensee

- (1) Each operator licensee must report to the Commission at least quarterly the full name and address of every person, including any lending agency, that has a right to share in the revenues of gaming, or to which any interest or share in the profits of gaming has been pledged as security for a debt or deposited as a security for the performance of an act or to secure the performance of a contract of sale.
- (2) Each operator licensee must immediately report to the Commission the name, date of birth, and social security number of all persons who obtain an ownership, financial or equity interest in the management company of five percent or greater, or have the ability to control the management company, or who have the ability to exercise significant influence over the management company, or who loan any money or other thing of value to the management company.

16-7-104 Inspections. An operator licensee or primary management official shall immediately make available for inspection by the Division, upon demand, all papers, books and records produced, used or kept in connection with gaming, and all portions of the premises where gaming is conducted or where gaming devices or equipment are kept. Upon demand, employees and agents of the Division must be given immediate access to any portion of the gaming facility for the purpose of inspecting or examining

records or documents, gaming devices or equipment, or the conduct of gaming activity.

- 16-7-105 Duty to Maintain Records.** Each operator licensee or primary management official shall keep a complete set of accounting records, correspondence and all other records necessary to show fully the gaming transactions of the gaming operation, all of which shall be open at all times during business hours for the inspection and examination of the Division. The Commission may require any operator licensee or primary management official to furnish such information as the Commission considers necessary for the proper administration of this Code and may require an audit to be made of such accounting records on such occasions as the Commission considers necessary by an auditor, who shall likewise have access to all such records of the gaming operation, and the operator licensee may be required to pay the expense thereof.
- 16-7-106 Key Licensee on Premises.** Each operator licensee or primary management official must ensure a key licensee is present on the premises and reasonably available to supervise the operation of any licensed game or slot machine available for play by the public.
- 16-7-107 Display of Facility License.** All operator licensees and primary management officials must display the gaming facility license and operator license in a manner plainly visible to the public.
- 16-7-108 Chip Reserves.** An operator licensee or primary management official must have sufficient numbers of chips to conduct gaming.
- 16-7-109 Payment of Winners - Reserves.** An operator licensee or primary management official shall have sufficient financial reserves available to pay winners of gaming activities. Payment must be made within 24 hours by cash or by check drawn upon a financial institution. Any check issued to any winner of gaming must, at the time of issuance and until cashed or three months has expired (whichever is earlier), be backed by and drawn upon sufficient funds to cover the full amount of the check.
- 16-7-110 Publication of Payoffs.** Payoff schedules for every licensed game or slot machine must be displayed or displayable at all times either on the table or machine or in a conspicuous place immediately adjacent to it. Payoff schedules must accurately state actual payoffs for the particular game and may not be misleading or deceptive to the public. A misleading or deceptive payoff schedule or failure on the part of an operator licensee or primary management official to make payment in strict accordance with posted payoff schedules is prohibited.

- 16-7-111 Taxes and Fees.** Every operator licensee or primary management official shall ensure the gaming operation pays all applicable taxes and fees, pursuant to this Code and applicable federal law, in a manner that assures receipt by the due date.
- 16-7-112 Player Rules.** An operator licensee or primary management official must post the following rules for players:
- (1) Players and other persons present in the gaming area must be at least 21 years of age;
 - (2) No side bets are permitted;
 - (3) No credit is extended;
 - (4) It is unlawful to claim unattended or unearned credits, chips, gaming coupons or money on gaming devices; and
 - (5) It is unlawful to participate in a gaming activity while visibly under the influence or intoxicated.
- 16-7-113 Advertising.** No operator licensee or primary management official shall allow any false or misleading advertising concerning gaming operations.
- 16-7-114 Rules of Conduct.** An operator licensee or primary management official may establish rules of conduct for players and spectators at the gaming facility. Any such rules must be available upon request. The Director of the Division shall have the authority to terminate any of such rules.
- 16-7-115 Procedure upon Dissolution.** Upon dissolution of a corporation, partnership or association, the operator licensee must return the operator license to the Division within 10 days following the date of the dissolution.
- 16-7-116 Transfers of Interest.** No person may sell, lease, purchase, convey or acquire an interest in an operator licensee without the prior approval of the Commission. However, this requirement shall not apply to stock transfers of less than five percent in a publicly traded corporation.
- 16-7-117 Termination of Employment of Licensees.** When a licensee changes positions or leaves employment, the gaming operation must notify the Division in writing within seven days.
- 16-7-118 Post-Termination Matters.** Upon termination of a license issued to an operator licensee for any reason, no gaming activity shall be conducted by said licensee. After

such termination, said operator licensee shall surrender its license.

16-7-119 Revocation or Expiration of License. A key or support licensee whose license has been revoked, suspended or expired shall notify the operator licensee or primary management official for the gaming operation within 24 hours after such revocation, suspension or expiration. An operator licensee or primary management official shall not allow any person whose license has been revoked, has been suspended, or has expired to work in any licensed position.

16-7-120 License Denial by Foreign Jurisdiction. Any operator licensee or primary management official who has applied to another jurisdiction for licensure and has been denied shall notify the Division of such application and denial. The licensee shall make available to the Division copies of all related documents, including the denial.

Article 8. RIGHTS AND DUTIES OF LICENSEES

16-8-101 Responsibility of Licensees. Acceptance of a gaming license or renewal thereof by a licensee constitutes an agreement on the part of the licensee to be bound by this Code and all the orders of the Commission. It is the responsibility of the licensee to keep informed of the content of this Code, and ignorance of the Code requirements does not excuse violations.

16-8-102 Discovery of Violations. Each licensee must immediately notify the Division of the discovery of a violation or of a suspected violation of this Code.

16-8-103 Licensee Notification Requirements.

- (1) Any person licensed by the Commission must notify, in writing, the director of the Division of any criminal charge pending against such person within 10 days of such person's arrest or filing of charges. This notification requirement shall not apply to traffic violations, unless they result in suspension or revocation of a driver's license or unless they are based on allegations of driving under the influence of intoxicating liquor or drugs.
- (2) The licensee must notify, in writing, the director of the Division of the disposition of the charges within 10 days of said disposition.
- (3) Any person licensed by the Commission must notify the Division, in writing, of any change of name, physical address or mailing address within 10 days of such change.

16-8-104 Licensee Identification. When on duty, every gaming licensee must wear, in plain view, identification issued by the Division, except for skills, proposition players or

employees engaged in undercover operations. When on duty, all other licensees must possess identification issued by the Division and are required to display either the identification issued by the Division or a name tag issued by the gaming facility.

16-8-105 Persons Suspected of Violating Code - Limitations on Liability - Posting of Notice.

- (1) Any licensee may question any person in the gaming facility suspected of violating any of the provisions of this Code. A licensee is not criminally or civilly liable:
 - (a) On account of any such questioning; or
 - (b) For reporting to the Commission, the Division or law enforcement authorities the person suspected of the violation.
- (2) Any licensee who has probable cause to believe that there has been a violation of this Code in the gaming facility by any person may detain him or her in the facility in a reasonable manner for a reasonable length of time. Such a detention does not render the licensee criminally or civilly liable.
- (3) A licensee is not entitled to the immunity from liability provided for in subsection (2) of this section unless there is displayed, in a conspicuous place in the gaming facility, a notice in boldface type clearly legible and in substantially this form:

ANY GAMING LICENSEE WHO HAS PROBABLE CAUSE TO BELIEVE
THAT ANY PERSON HAS VIOLATED ANY PROVISION OF THE
GAMING CODE MAY DETAIN THAT PERSON

16-8-106 Intoxicated Persons

- (1) No licensee shall permit:
 - (a) Persons who are visibly intoxicated or noticeably under the influence to participate in gaming; or
 - (b) Service of alcoholic beverages in the licensed premises to persons who are visibly intoxicated.
- (2) No person shall participate in gaming when under the influence or intoxicated.

16-8-107 Patron Disputes

- (1) In a patron dispute, a licensee must notify the disputing patron that the patron has a right to contact the Division regarding the dispute.
- (2) If a licensee refuses payment of alleged winnings to a patron, the licensee and the patron are unable to resolve the dispute to the patron's satisfaction, or the dispute involves at least \$250, the licensee must immediately notify the Division. An agent of the Division shall investigate the dispute and notify the patron, in writing, of the outcome of the investigation and the findings of the Division.
- (3) If the patron is not satisfied with the determination of the Division, within thirty (30) days of the Division's decision, the patron may notify the Commission, in writing, of the disputed point for a decision.
- (4) The Commission shall hold a hearing within 30 days of receipt of the patron's complaint. The patron may have legal counsel present at the hearing and may be allowed to present evidence, at the discretion of the Commission.
- (5) The Commission must notify the licensee and the patron in writing of the Commission's decision regarding the dispute within 30 days after the hearing.
- (6) The decision of the Commission is final when issued and shall constitute the patron's final remedy.
- (7) Failure to immediately notify the Division of a dispute, or to notify a patron of the patron's rights, or failure to pay after an adverse decision, is a violation by the licensee.

16-8-108 Patron Violations. Licensees shall not allow a patron to repeatedly violate the rules of the game.

Article 9. PROCEDURES FOR DISCIPLINARY ACTIONS

16-9-101 Grounds for Disciplinary Action

- (1) Any license granted pursuant to this Code may be suspended for up to six months or revoked:
 - (a) for any cause which would have prevented its issuance;
 - (b) if reliable information is received that a licensee does not meet suitability standards for issuance of a gaming license;

- (c) for any violation of this Code, the ICMPs or any order of the Commission;
or
 - (d) for conviction of a crime involving moral turpitude or a felony.
- (2) Such suspension or revocation shall occur after notice to the licensee and a hearing upon proof by a preponderance of the evidence, as determined by the Commission, except in those instances covered by summary suspension.
 - (3) The Commission may revoke or suspend the gaming license of any person who is convicted of a crime, even though the convicted person's post-conviction rights and remedies have not been exhausted.
 - (4) When a licensee is charged with a felony or a misdemeanor involving dishonesty or moral turpitude in any jurisdiction, it is grounds for disciplinary action. The Commission may find the licensee unsuitable based on the facts of the criminal charge even if the licensee is acquitted.

16-9-102 Initiation of Disciplinary Proceedings

- (1) Disciplinary proceedings, as used herein, shall mean procedures to suspend or revoke any license issued, to impose a monetary penalty against any licensee, or to otherwise sanction violations of gaming laws, regulations and rules. The Division may initiate an investigation of any licensee upon written complaint or on its own initiative.
- (2) The Division may initiate disciplinary proceedings against a licensee where it determines that there is probable cause to believe:
 - (a) That the licensee or the operator licensee's employees or agents have violated any of the provisions of this Code, gaming regulations or rules;
 - (b) That the licensee or persons associated with the operator licensee are of unsuitable moral character; or
 - (c) That the licensee is no longer suitable for licensing.

16-9-103 Assurance of Voluntary Compliance. The Division may accept an assurance of voluntary compliance from any licensee who is alleged to have violated the Code or is about to engage in a Code violation. The assurance must be in writing and may include a stipulation for the voluntary payment of the costs of the investigation and any restitution owed, which may have been acquired by the alleged violator because of the acts or practices. An assurance of voluntary compliance may not be considered an admission of a violation for any purpose; however, proof of failure to comply with

the assurance of voluntary compliance is prima facie evidence of a violation of this Code. The Commission may review an assurance of voluntary compliance and approve or reject the disposition proposed by the Division

16-9-104 Final Action by Commission

- (1) After hearing the evidence in connection with any disciplinary proceeding, the Commission may find the grounds alleged for disciplinary action substantiated or unsubstantiated. The Commission may substantiate the recommendation of disciplinary action by a preponderance of the evidence on some or all of the grounds alleged. In the event the recommendation of disciplinary action is found unsubstantiated, the disciplinary proceedings shall be dismissed.
- (2) The Commission may allow or require briefs of law before making its decision.
- (3) Written findings of fact, conclusions of law, and an order must be entered before any decision of the Commission to suspend, revoke or impose conditions upon a license shall be considered final.
- (4) In the event the recommendation of disciplinary action is substantiated, the Commission may revoke the license, may suspend the license for a period of time up to six months, may impose a monetary penalty, may impose conditions upon the license, may issue a public or private letter of reprimand to be placed in the file of the licensee, or may take any combination of these actions.

16-9-105 Penalties

- (1) In addition to revocation or suspension, or in lieu of revocation or suspension, the Commission may impose a reprimand and/or a monetary penalty not to exceed the following amounts:
 - (a) If the licensee is a slot machine manufacturer or distributor, \$100,000.00.
 - (b) If the licensee is an operator, \$25,000.00.
 - (c) If a key licensee, \$5,000.00.
 - (d) If a support licensee, \$2,500.00.
- (2) Any monetary penalty received by the Commission pursuant to this section shall be deposited in the gaming fund established pursuant to this Code.
- (3) The civil penalties set forth in this section shall not be a bar to any criminal prosecution or to the imposition of any other civil or administrative remedy.

16-9-106 Summary Suspension. Every license granted pursuant to this Code may be summarily suspended by the Division upon the authorization of the Commission Chairperson, pending a hearing before the Commission.

- (1) Where the Commission Chairperson finds reasonable grounds to believe that any licensee has been guilty of a deliberate or willful violation of the Code, or has been charged with a felony, or has committed other violations of law that threaten the public health, safety or welfare requiring emergency action, or where the Division has received post-license notification from the NIGC, the Division may, upon authorization of the Commission Chairperson, summarily suspend a license pending disciplinary proceedings for suspension or revocation. Any such disciplinary proceedings shall be promptly initiated.
- (2) The order for Summary Suspension shall state when the suspension will begin and the grounds for the suspension.
- (3) The summary suspension of license without notice pending a hearing shall be for a period not to exceed 30 days.

16-9-107 Notice of Summary Suspension. The Division shall serve the order of summary suspension personally or by certified mail, return receipt requested, to the licensee summarily suspended.

16-9-108 Disciplinary Proceeding Notice Required. The Division must serve upon the summarily suspended licensee a notice pursuant to 16-10-102 initiating disciplinary proceedings. The Commission shall hear the matter on an expedited basis but in no event later than 30 days after the summary suspension.

Article 10. PROCEDURES FOR HEARINGS

16-10-101 Request for Hearing. A person aggrieved by an action of the Commission or Division that was taken without a hearing may, within 30 days following the date of the action, request a hearing. The Commission may direct the aggrieved person to provide certain information to the Commission prior to the hearing or it may grant the hearing conditioned upon the fulfillment of other reasonable terms and conditions.

16-10-102 Notice of Hearing

- (1) The Division shall give written notice to an applicant or licensee for whom the Division or Commission recommends a conditional license, suspension of a license, or denial of a license. The notice shall contain the time and place when the licensing issue will come before the Commission for consideration and shall notify the applicant or licensee of the right to attend the Commission meeting.

- (2) The notice shall be served, together with a copy of the Division's recommendation, at least 10 days prior to the meeting by personal service or by first class mail to the address listed for the applicant in the application.
- (3) No notice of hearing is required if an applicant recommended for a conditional license has been provided a copy of the recommendation and the terms of the conditional license and has signed a consent to the granting of a conditional license upon the conditions stated.

16-10-103 Summoning of Licensee. A licensee must appear before the Commission when summoned. Failure to appear and testify fully at the time and place designated, unless excused, may constitute grounds for disciplinary action against a licensee.

16-10-104 Conduct of Hearing

- (1) Hearings shall be conducted as administrative proceedings with all rights of due process; however, strict evidentiary and procedural rules shall not apply.
- (2) All testimony must be given under oath and must be relevant and not unduly repetitive. Testimony so taken may be used by the Commission as evidence in any proceeding or matter then before it or which may later come before it.
- (3) The Division will first present its case, including witnesses, exhibits and testimony. The licensee will then have the opportunity to present his case, including witnesses, exhibits and his own testimony.
- (4) The Commission or its legal counsel may ask questions of any witnesses for clarification and may recall witnesses, if necessary, but must remain neutral.

16-10-105 Decisions of the Commission. The Commission shall issue all decisions in writing within 10 days of the hearing. Commission actions shall be deemed final in such cases upon the mailing of the decision by first class mail to the address listed with the Division

16-10-106 Judicial Review. Any person aggrieved by a final action of the Commission may appeal the decision to the Southern Ute Indian Tribal Court by filing a petition for review within 30 days of the date the Commission's decision is mailed.

16-10-107 Service on the Commission. If service of notice on the Commission is permitted or required by this Code, the notice may be served on the Commission by personal delivery or first class mail delivered to the Director of the Division or his designee. Service is complete on the date it is received by the Director.

Article 11. GAMING FUND

16-11-101 Gaming Fund. There is hereby created a gaming fund, which shall be maintained and operated as follows:

- (1) The following funds shall be deposited into the gaming fund: The Tribe's share of net revenues from gaming; the gaming fund fee; and any other taxes or fees the Tribe may collect from the gaming operation, including any payments required pursuant to a management contract with an operator licensee.
- (2) All expenses of the Division and the Commission, including expenses of background and other investigations, prosecution, and legal expenses related to gaming, shall be paid from the gaming fund.
- (3) In addition to the direct gaming expenses stated in subsection (2), upon adoption of a resolution by the Tribal Council, the gaming fund may be used for the following purposes:
 - (a) To fund tribal government operations or programs;
 - (b) To provide for the general welfare of the Tribe and its members;
 - (c) To promote tribal economic development;
 - (d) To donate to charitable organizations; and
 - (e) To help fund operations of local government agencies.
- (4) Net revenues from gaming shall not be used for any purpose other than those listed above, and no per capita distribution shall be paid from the gaming fund except pursuant to a plan approved by the Secretary of the Interior.

Article 12. PROHIBITED ACTIVITIES

16-12-101 Fraudulent Acts

- (1) It is unlawful for any person to commit a fraudulent act, including but not limited to the following:
 - (a) Misrepresentation of the probabilities of pay out or pay out awards of any gaming device or game;
 - (b) Misleading or deceptive pay off schedules or pay out awards; and

- (c) Failure of a licensee to make payment in strict accordance with posted payoff schedules.
- (2) It is unlawful for any person:
- (a) To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is determined but before it is revealed to the players;
 - (b) To place, increase or decrease a bet, or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet, or determining the course of play contingent upon that event or outcome;
 - (c) To claim, collect, or take, or attempt to claim, collect, or take, money or anything of value in or from a gaming activity with intent to defraud and without having made a wager contingent thereon, or to claim, collect, or take an amount greater than the amount won;
 - (d) To knowingly entice or induce another to go to any place where gaming is being conducted or operated in violation of the provisions of federal, state, or tribal law with the intent that the other person participate in that gaming activity;
 - (e) To place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets;
 - (f) To reduce the amount wagered or to cancel a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets;
 - (g) To manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation may affect the outcome of the game or with knowledge of any event that affects the outcome of the game;
 - (h) To win or attempt to win money or property by any trick or sleight of hand performance, or by fraud or fraudulent scheme; or

- (i) To issue, suspend, revoke or renew any license pursuant to this Code for any personal pecuniary gain or anything of value, or for any person to violate any of the provisions of this Code pertaining to conflict of interest.
- (3) It is unlawful for any operator or primary management official:
- (a) To conduct a gaming operation without a valid operator license;
 - (b) To conduct a gaming operation on unlicensed premises;
 - (c) To permit any gaming activity to be conducted on any licensed premises by an unlicensed person;
 - (d) To conduct or permit any wagering or gambling, except gaming which is authorized by applicable federal law, this Code or the Class II Gaming Code.
 - (e) To place any games or slot machines into play or display such games or slot machines without the authorization of the Commission;
 - (f) To employ or continue to employ any person in a gaming operation who is not duly licensed in a position whose duties require a license pursuant to this Code; or
 - (g) To be employed, work or otherwise act in a position whose duties would require licensing pursuant to this Code without first obtaining the requisite license.

16-12-102 Collusion

- (1) It is unlawful for any person in any game to play or attempt to play in cooperation or collusion with any other person, and for any licensee to knowingly permit cooperation or collusion.
- (2) Collusion may include, but shall not be limited to, the following:
 - (a) Any play intended to assist one player over another;
 - (b) A continuing or repeated pattern of betting by or between the same two or more players, the purpose of which is to cause other players to fold or withdraw from a game;
 - (c) Two or more players sharing winnings from a hand or a player agreeing to share winnings with another player if either wins any part of the pot,

except as permitted in tournament play;

- (d) An agreement not to bet or not to raise another player;
- (e) Verbal or non-verbal communication pertaining to the game between persons including, but not limited to: imparting information about one's hand to a player in the pot; advising someone on how to play a hand or suggesting a particular betting action; reading a hand for a player who has not yet shown his hand; or any communication between players by means other than spoken English, unless such communication, or its import, is understood by all persons at the table; or
- (f) Any other act by two or more persons that fraudulently creates an unfair advantage or disadvantage for any player in the game.

16-12-103 False Statements - Misleading Information - Falsifications of Records. It is unlawful for any person to knowingly make a false statement in any application for a license or in any statement attached to the application; or provide any false or misleading information to the Commission, the Division or the Tribal Council; or fail to keep records to substantiate the receipts, expenses or uses resulting from gaming conducted under this Code; or falsify any records which relate to any transaction connected with the holding, operating and conducting of any gaming.

16-12-104 Underage Participants

- (1) It is unlawful for any person under 21 years of age to:
 - (a) Linger in the gaming area of a casino;
 - (b) Sit on a chair or be present at a gaming table, slot machine, or other area in which gaming is being conducted; or
 - (c) Participate, play, be allowed to play, place wagers, or collect winnings, whether personally or through an agent, in or from any gaming.
- (2) It is unlawful for any person to engage in gaming with, or to share proceeds from gaming with, any person under 21 years of age.
- (3) It is unlawful for any licensee to permit any person who is less than 21 years of age to:
 - (a) Linger in the gaming area of a casino;

- (b) Sit on a chair or be present at a gaming table, slot machine or other area in which gaming is being conducted; or
- (c) Participate, play, be allowed to play, place wagers, or collect winnings, whether personally or through an agent, in or from any gaming.

16-12-105 Underage Persons Conducting Gaming. It is unlawful for any person under the age of 21 years to be employed as a gaming employee, conduct, or assist in conducting, any gaming activity, or to manage or handle any of the proceeds from gaming.

16-12-106 Licensees - Requirements and Restrictions

- (1) It is unlawful for any operator licensee or primary management official to employ any person to work in the field of gaming, or to handle any of the proceeds of gaming, unless such person holds a valid key or support license issued by the Commission or Division.
- (2) It is unlawful for any gaming licensee to participate in gaming in the gaming facility where such licensee is employed, except that such gaming licensee may participate in gaming if such participation is performed as part of the licensee's employment responsibilities.
- (3) It is unlawful for any licensee to knowingly participate in an illegal gambling activity in any jurisdiction.

16-12-107 Extension of Credit Prohibited. It is unlawful for any licensee to extend credit to another person for participation in gaming. Repeatedly honoring checks drawn on insufficient funds may be considered an unlawful extension of credit.

16-12-108 Maximum Amount of Bets. It is unlawful for any person to make or allow any bet in an amount that exceeds the maximum bet amount authorized by the Commission or allowed under the Compact.

16-12-109 Failure to Pay Winners. It is unlawful for any licensee to willfully refuse to pay the winner of any game.

16-12-110 Exchange - Redemption of Chips. It is unlawful for any person to exchange or redeem chips for anything whatsoever, except currency, negotiable personal checks, negotiable counter checks, or other chips.

16-12-111 Tips

- (1) It is unlawful for any employee who serves in a supervisory position to solicit or accept any tip from any player or patron at the premises where he is employed, except that a supervisor may accept a tip on behalf of an employee under his

supervision.

- (2) All such tips shall be immediately deposited in a lockbox reserved for that purpose, accounted for, and distributed based upon procedures established in the ICMPs.

16-12-112 Cheating

- (1) Cheating is unlawful, including but not limited to: (1) altering the selection criteria that determine the result of a game or the amount or frequency of payment in a game; or (2) using cards or any mechanical device, or any combination of games or devices that have been marked or tampered with or placed in a condition or operated in a manner, the result of which tends to deceive the public or tends to alter the normal random selection of characteristics or the normal chance of the game which could determine or alter the result of the game.

16-12-113 Use or Possession of Device for Calculating Probabilities. It is unlawful for any person to use, or possess with the intent to use, any device to assist in:

- (1) Projecting the outcome of the game;
- (2) Keeping track of the cards played;
- (3) Analyzing the probability of the occurrence of an event relating to the game; or
- (4) Analyzing the strategy for playing or betting to be used in the game, except for the use of strategy cards, which may be used at the discretion of the gaming operation.

16-12-114 Use of Counterfeit or Unapproved Chips, Gaming Coupons or Unlawful Tender. It is unlawful for any person engaged in any gaming activity:

- (1) To use or attempt to use counterfeit chips; or
- (2) To knowingly use anything other than the chips, lawful tender or gaming coupons approved by the Commission and intended to be used in that gaming activity.

16-12-115 Possession of Unlawful Devices, Equipment, Products or Materials

- (1) It is unlawful for any person to possess any device, equipment or material which he knows has been manufactured, distributed, sold, tampered with, or serviced in violation of the provisions of this Code

- (2) It is unlawful for any person, not an authorized employee of a licensee acting in furtherance of his employment, to have in his possession any device intended to be used to violate the provisions of this Code.
- (3) It is unlawful for any person, not an authorized employee of a licensee acting in furtherance of his employment, to have in his possession while on the licensed gaming premises any key or device designed for the purpose of and suitable for opening, entering or affecting the operation of any gaming activity, drop box or electronic or mechanical device connected thereto, or for removing money or other contents therefrom.
- (4) Possession of more than one of the devices, equipment, products or materials described in this section shall give rise to a rebuttable presumption that the possessor intended to use them for cheating.
- (5) It is unlawful for any person to use or possess while on the licensed gaming premises any cheating device, including but not limited to, tools, drills, wires, coins or gaming coupons attached to strings or wires or electronic or magnetic devices, to facilitate the alignment of any winning combination or to facilitate removing from any slot machine any money or contents thereof, unless the person is a licensee acting in the furtherance of his employment.

16-12-116 Unauthorized Cards or Chips. It is unlawful for any persons to bring onto the licensed gaming premises, or introduce into a game, playing cards or chips other than those authorized for play.

16-12-117 Unlawful Manufacture, Sale, Marking, Altering, or Modification of Gaming Devices or Associated Equipment - Unlawful Instruction.

- (1) It is unlawful to manufacture, sell or distribute any cards, chips, dice, game or device which is intended to be used to violate any provision of this Code.
- (2) It is unlawful to mark, alter, or otherwise modify any gaming device or associated equipment in a manner that:
 - (a) Affects the results of a wager by determining win or loss; or
 - (b) Alters the normal criteria of random selection, which affects the operation of a game or which determines the outcome of a game.
- (3) It is unlawful for any person to instruct another in cheating, or in the use of any device for that purpose, with the knowledge that the information so conveyed may be used to violate any provision of this Code.

16-12-118 Excluded Persons. It is unlawful for any person to enter the licensed premises of a gaming facility if the Commission has excluded that person from the facility.

16-12-119 Failure to Display Licenses and Required Notices. It is unlawful for a licensee to fail to display in a conspicuous manner:

- (1) Operator and facility licenses granted by the Commission; and
- (2) Notices in bold face type, which are clearly legible and in substantially the following form:

YOU MUST BE 21 YEARS OF AGE WITH PROPER ID TO ENTER THE CASINO.

IT IS UNLAWFUL FOR ANY PERSON UNDER THE AGE OF 21 TO ENGAGE IN GAMING.

16-12-120 Prohibitions on Giving Items of Value. No licensee or applicant for a license shall give anything of value to any member of the Tribal Council, member of the Commission, or employee of the Division, except for items of insignificant value distributed without charge to the general public or items provided by vendors for demonstration, educational or training purposes.

- (1) Any person violating this Code is subject to prosecution and punishment under applicable law, which may be tribal, state or federal, depending on the offense and whether the defendant is Indian or non-Indian.
- (2) Any licensee who violates any provision of this Code is subject to prosecution and punishment under applicable law, and to disciplinary proceedings concerning his license.
- (3) Persons prosecuted in Tribal Court are subject to the punishment allowed by applicable federal and tribal law.

16-12-121 Seizure of Evidence. Gaming Investigators or other tribal law enforcement officers may seize any property which constitutes evidence of a violation of this Code, consistent with the Indian Civil Rights Act, tribal law and pursuant to applicable standards of lawful search and seizure.

16-12-122 Disposition of Seized Property or Evidence. Property seized as evidence as a result of a violation of this Code shall be disposed of in the following manner at the conclusion of all official proceedings, including appellate proceedings in the Tribal

Court system:

- (1) Unlawfully obtained gaming money, chips or gaming coupons shall be returned to the gaming operation.
- (2) Unlawful counterfeit money, chips or gaming coupons shall be either destroyed by the Division or may be retained by the Division for display or training purposes.
- (3) Cheating devices shall be either destroyed by the Division or may be retained by the Division for display and training purposes.
- (4) Surveillance recordings, records or logs shall be returned to the gaming operation.

Article 13. EXCLUDED PERSONS

16-13-101 Legislative Declaration. The exclusion of certain persons from licensed gaming facilities is necessary to carry out the policies of this Code and to maintain the strict regulation of gaming.

16-13-102 Factors Considered

- (1) The Commission shall establish a list of persons who are excluded from any licensed gaming premises, including any person whose presence in the facility is determined to threaten the interest of the Tribe or gaming.
- (2) In making the determination for exclusion, the Commission may consider the following:
 - (a) Prior conviction of a felony, a misdemeanor involving moral turpitude, or a violation of the gaming laws of any Indian tribe, any state, the United States, or any of its possessions or territories;
 - (b) A violation, attempt to violate, or conspiracy to violate the provisions of this Code;
 - (c) A reputation that would adversely affect public confidence and trust that tribal gaming is free from criminal or corruptive influences;
 - (d) Prior exclusion under the gaming laws or regulations of any other Indian tribe, state, the United States, any of its possessions or territories; and

- (e) Career or professional offenders or associates of career or professional offenders.

16-13-103 Procedure

- (1) If a person is placed on the exclusion list, the Division shall serve notice of that action upon the person by one of the following means:
 - (a) By personal service;
 - (b) By certified mail to the last known address of the person; or
 - (c) By publication in a newspaper of general circulation in the area where the person resides, if personal service or service by certified mail is not possible.
- (2) A person placed on the exclusion list may contest that action by filing a written protest with the Commission, and the Commission shall hold a hearing on the matter.

16-13-104 Sanctions

- (1) The Commission may impose sanctions upon any operator or key licensee, in accordance with the provisions of this Code, if such licensee fails to exclude from the licensed premises any person placed by the Commission on the list of persons to be excluded, which sanctions may include, but not be limited to, suspension, revocation, or denial of any license.
- (2) Any person on the exclusion list may not have any personal pecuniary interest in any management contract, management company or in any entity licensed pursuant to this Code.

Article 14. ACCOUNTING

16-14-101 Definitions. In addition to definitions previously set forth in this Code, the following definitions apply to this Article:

- (1) “Examination or Examine” means an audit, review or other financial examination procedures.
- (2) “Fiscal Year” means a period beginning on October 1st and ending September 30th of the following year.

16-14-102 Accounting and Financial Records

- (1) Each operator licensee or primary management official must keep accurate, complete and legible records of all financial transactions. If records are kept in a computerized form or imaging system, the Division or the Commission, on request, must be provided with a detailed index to the imaging system or computer record. All such records must be made available upon request to the Commission and the Division.
- (2) Each operator licensee or primary management official must keep general accounting records on a double entry system of accounting, maintaining necessary detailed, supporting, subsidiary records, including:
 - (a) Detailed records identifying revenues, expenses, assets, liabilities and equity for each facility;
 - (b) Detailed records of all returned checks;
 - (c) Slot and table game statistical reports and supporting documentation as required by the ICMPs;
 - (d) The records required by the ICMPs, as approved by the Division, applicable to the gaming operation;
 - (e) Journal entries prepared by the operator licensee or primary management official and adjustments proposed by the independent auditor; and
 - (f) Any other records that the Commission or Division specifically requires to be maintained.
- (3) Each operator licensee or primary management official must create and maintain records sufficient to accurately reflect AGP and expenses relating to the gaming operation on a monthly and year-to-date basis, as well as financial statements.

16-14-103 AGP Computations

- (1) For each blackjack, craps or roulette game, AGP equals the closing bankroll plus credit slips for cash, chips, or tokens returned to the casino cashier cage, plus drop, plus face value of coupons, plus tournament entry fees, less opening bankroll and less fills to the table.
- (2) For each slot machine, AGP equals drop, plus tickets, plus slot coupons dropped, plus cashable electronic promotion in, plus non-cashable electronic promotion in, plus tournament adjusted gross proceeds, minus fills to the machine, minus hand pay jackpot payouts, minus hand pay external bonus

payouts and accumulated credits, minus non-cashable electronic promotion out, and minus tickets redeemed.

- (3) For each player banked poker game, adjusted gross proceeds equals all money received by the licensee as compensation through the rake process for conducting the game, plus poker tournament entry fees.
- (4) An operator licensee or primary management official must include in AGP money paid out on wagers knowingly accepted by the gaming operation in violation of this Code.
- (5) An operator licensee or primary management official must include in AGP money paid out on wagers that exceed the value of the winning combination posted unless previously approved by the Division.
- (6) Returned and uncollectable checks are not allowed as a deduction from AGP.

16-14-104 Internal Control Minimum Procedures

- (1) The Division shall establish ICMPs for the gaming operation. The ICMPs will contain the minimum requirements to be followed by each gaming operation and will be established to ensure gaming operations are conducted in such a manner as to ensure and maintain public confidence in the security, accuracy, integrity and propriety of gaming on the Reservation.
- (2) The gaming operation shall establish and ensure compliance with written policies and internal control procedures for the gaming operation, including accounting procedures, reporting and compliance procedures for the purpose of determining the gaming operation's liability for applicable fees and to exercise effective control over internal fiscal affairs.
- (3) The procedures must ensure that:
 - (a) Assets are safeguarded and accountability is maintained;
 - (b) Financial transactions with vendors, contractors, patrons and other third parties are conducted in compliance with federal law and federal regulations.
 - (c) Liabilities are properly recorded and contingent liabilities are properly disclosed;

- (d) Financial records of revenue, expenses, assets, liabilities and equity are accurate and reliable;
 - (e) Transactions are performed only in accordance with generally accepted accounting principles (“GAAP”) and the gaming operation’s stated policies, which cannot be inconsistent with GAAP and this Code;
 - (f) Transactions are adequately and properly recorded;
 - (g) Access to assets is permitted only in accordance with specific authorization from the operator licensee or primary management official;
 - (h) Recorded accountability for assets is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies; and
 - (i) Functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by qualified personnel.
- (4) Each operator licensee or primary management official must describe the gaming operation’s administrative, accounting, and reporting procedures in detail in a written system of internal control. Each operator licensee and primary management official must at all times follow and comply with the written system of internal control and must submit a copy of the written policies and procedures required by this Article to the Division at least 15 days prior to conducting gaming. Each written system must include:
- (a) An organizational chart depicting appropriate segregation of functions and responsibilities;
 - (b) A description of the duties and responsibilities of each position shown on the organizational chart;
 - (c) A detailed, narrative description of the administrative and accounting procedures designed to satisfy the requirements of subsections (2);
 - (d) A written statement signed by the gaming operation’s Chief Financial Officer or controller and the operator licensee or primary management official, attesting that the system satisfies the requirements of this section; and
 - (e) Such other items as the Commission or Division may require.

- (5) At least 15 days prior to implementation, the operator licensee or primary management official must submit to the Division for review, any proposed amendments of the policies and procedures required by this Article.

16-14-105 ICMP Revisions

- (1) At least 45 days prior to revising the ICMPs, the Division shall provide a copy of the proposed revision to the operator licensee or primary management official.
- (2) Prior to adopting revisions to the ICMPs, the Division shall consider all written statements, arguments or contentions submitted.
- (3) In the event that the Division and the operator licensee or primary management official disagree with a proposed ICMP revision, and they have failed to reach a decision acceptable to both, the dispute may be submitted to the Commission for resolution.
- (4) The Division will provide the operator licensee or primary management official with 30 days prior written notice of the effective date of any revised ICMP.
- (5) The Division has the authority to waive any of the above time frames for good cause.

16-14-106 Variances

- (1) The operator licensee or primary management official may not implement policies and procedures that do not comply with the ICMPs unless the Division has approved a variance. Variances are specific to the gaming operation requesting the variance and do not apply to other gaming operations.
- (2) Requests for variances must be submitted in writing to the Division. The Division must review the request for variance and respond, in writing, within 10 days of receipt of the request, indicating whether or not the variance is approved.
- (3) All licensees must comply with approved variances within 10 days of notification.

16-14-107 Audits

- (1) The Tribe shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the National Indian Gaming Commission.

- (2) 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 this section.
- (3) Operator licensees or primary management officials shall cooperate with the independent auditor engaged by the Tribe to audit or review the financial statements of the gaming operation and to prepare a report on the gaming operation's compliance with the ICMPs. Using the criteria established by the Division, the independent auditor shall report each material event and procedure discovered during the course of the examination that does not satisfy the ICMPs or approved variances.
- (4) The operator licensee or primary management official shall prepare a letter addressing each item of noncompliance and describing the corrective measures taken.
- (5) The independent auditor shall provide to the Commission and the Tribal Council, within 120 days after the end of the Fiscal Year, a copy of the report on the ICMPs and any other information related to accounting or internal controls, such as a management letter, along with the operator licensee's or primary management official's response letter.

16-14-108 Failure to Comply. Failure to comply with the ICMPs or the approved variances may result in a fine, penalty or disciplinary action against any licensee determined by the Division to be responsible.

16-14-109 Examination Procedures

- (1) The Division shall examine or review on a periodic basis, when requested by the Commission, or when otherwise deemed necessary by the Division:
 - (a) the accounting and financial records of gaming operation, including but not limited to revenue, systems and compliance audits;
 - (b) the accounting principles and procedures used by the gaming operation;
 - (c) methods and procedures used by licensees to count and handle cash, chips, gaming coupons, tickets, gaming wagers, gaming payments, and negotiable instruments;
 - (d) the gaming operation's internal control procedures; and

- (e) accounting and financial records of the gaming operation.
- (2) At the conclusion of each examination requested by the Commission, the Division shall prepare a report for submission to the Commission, documenting the results of the examination and incorporating any responses of the operator licensee or primary management official.

16-14-110 Records Retention – Noncompliance

- (1) Each operator licensee or primary management official must provide to the Division, upon the Division’s request, the records required to be maintained by this Code and the Internal Control Minimum Procedures. Unless the Commission approves or requires otherwise in writing, each operator licensee or primary management official must retain all such records within the exterior boundaries of the Reservation for at least five years. Records include, but are not limited to, hard copy documents, revenue system databases along with table and field structures of the databases, meter files, and electronic reports.
- (2) Failure to keep and provide such records is an unsuitable method of operation and subjects the operator licensee or primary management official to a fine, penalty or revocation of license

16-14-111 Records of Ownership - Corporation. Each corporate operator licensee must provide to the Division, upon its request, the following documents pertaining to the corporation:

- (1) A certified copy of the articles of incorporation and any amendments;
- (2) A copy of the bylaws and any amendments;
- (3) A list of all current and former officers and directors;
- (4) Minutes of all meetings of the stockholders;
- (5) Minutes of all meetings of the directors;
- (6) A list of all stockholders, listing each stockholder’s name, address, the number of shares held, and the date the shares were acquired;
- (7) The stock certificate ledger;
- (8) A record of all transfers of the corporation’s stock; and

- (9) A record of amounts paid to the corporation for issuance of stock and other capital contributions.

16-14-112 Partnership, Limited Liability Company, or Association Records. Each partnership, limited liability company, or association operator licensee must provide to the Division, upon its request, the following documents:

- (1) A copy of the partnership, limited liability company, or association agreement and, if applicable, the certificate of limited partnership;
- (2) A list of the general and limited partners, or associates, including their names and addresses, the percentage of interest held by each, the amount and date of each capital contribution of each partner or associate, the date the interest was acquired, and the compensation paid by the partnership or association to each partner or associate; and
- (3) A record of all withdrawals of partnership or association funds or assets.

16-14-113 Sole Proprietor Records. Each sole proprietor operator licensee must provide to the Division, upon its request, a schedule showing the name and address of the proprietor and the amount and date of the proprietor's original investment and of any additions and withdrawals.

16-14-114 Handling of Cash. Each licensee who receives United States currency (other than tips or gratuities) from a patron in the gaming area of a gaming facility must promptly place the currency in the locked box in the table, in an appropriate place on the table, in the cash register, in an appropriate place in the cashier's cage, or in another repository approved by the Division.

16-14-115 Procedure for Accepting Checks

- (1) Checks may not be accepted on the gaming floor except at a cashier's cage.
- (2) Once a check is accepted at the cashier's cage, it must be deposited in a financial institution. Prior to depositing the check, the licensee may not return the check to the player or anyone else. Only if a check has been returned by the financial institution may a check be returned to a patron in exchange for payment of the delinquent funds.

16-14-116 Minimum Bankroll Requirements

- (1) Each operator licensee or primary management official must maintain, in such manner and amount as the Division may approve or require, cash or cash equivalents in an amount sufficient to protect patrons against defaults in gaming debts owed by the gaming operation. The Division shall distribute to operator

licensees or primary management officials a formula by which minimum bankroll requirements are to be determined.

- (2) If at any time the gaming operation's available cash or cash equivalents are less than the required minimum bankroll, the operator licensee or primary management official must immediately notify the Division.
- (3) Failure to maintain the required minimum bankroll or failure to notify the Division of any deficiencies is an unsuitable method of operation and may result in a fine, penalty or other disciplinary action.

16-14-117 Promotional Items

- (1) A gaming operation engaging in promotions may not deduct payouts made pursuant to the promotion from AGP except for money or gaming coupons paid at face value directly to a patron as the result of a specific wager.
- (2) No deduction is allowed in the computation of AGP for any prizes, premiums, drawings, benefits or tickets that are redeemable for money, merchandise or other promotional allowances.

16-14-118 Match Play Coupons

- (1) Match play coupons are allowed, but once used may not be retained for subsequent play by the gaming patron. Match play coupons do not apply to slot machines.
- (2) When match play coupons are used at a table game, the value of the coupon must be reflected at its face value in the total drop amount for that table for that shift.
- (3) The patron's matching wager must equal or exceed the dollar value of the match play coupon. The combination of the match play coupons and the required wager of the patron cannot exceed the value of \$100. Match play coupons are a wager, and shall be paid the specified odds payout for the wager being made.
- (4) A match play coupon must have printed on it the name of the gaming facility, its value, and an explanation of its use. All coupons must have an expiration date printed on them.

16-14-119 Free Play Items. Free play coupons are allowed but once used, may not be retained for subsequent play by the customer. A free play coupon must have printed on it the name of the issuing establishment, the monetary worth of the coupon and a sequential control number. All coupons must have an expiration date printed on them.

16-14-120 Reporting and Paying Gaming Taxes and Fees. Required taxes and fees, and all reports relating thereto, must be paid and submitted not later than the due date.

16-14-121 Financial Statements

- (1) Each operator licensee or primary management official must prepare a financial statement covering all financial activities of the gaming operation on a monthly and year-to-date basis. If the gaming operation includes room, food, beverage or other non-gaming revenue, the financial statements must include those operations as well as gaming operations, in which case the gaming operation's financial statements must be presented separately.
- (2) Operator licensees or primary management officials must submit the financial statements to the Division and the Tribal Council not later than 15 days following the end of the month covered by the statement and 45 days after the last month of the fiscal year.

16-14-122 Audited Financial Statements

- (1) Annual financial statements covering all financial activities of every gaming operation shall be prepared and audited in accordance with Generally Accepted Auditing Standards by an independent CPA. In addition, all contracts for supplies, services or concessions for a contract amount in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to gaming shall be audited in accordance with Generally Accepted Auditing Standards by an independent CPA. Said audits may be encompassed within existing independent tribal audit systems and shall be provided by the Division to the NIGC, if required by federal law.
- (2) Statements required must be presented on a comparative basis after the first period of operation. Consolidated financial statements may be filed by commonly operated facilities, but the consolidated statements must include separate financial statements for each facility.
- (3) The independent CPA must issue a report on the financial statements that expresses an opinion, whether it is unqualified, qualified, adverse or a disclaimer of opinion. The independent CPA must also include any necessary explanatory or emphasis paragraph as may be required by Generally Accepted Auditing Standards. The independent CPA must include in the report on the consolidated financial statements an appropriate opinion on the consolidated financial information, if any.
- (4) Each operator licensee or primary management official must submit to the Division and the Tribal Council a copy of its audited statements not later than 120 days after the last day of the gaming operation's Fiscal Year. In the event

of a license termination, change in business entity, or a change in control of ownership, the operator licensee or primary management official must, not later than 120 days after the event, submit to the Division and the Tribal Council copies of audited statements covering the period since the previous statement. If a license termination, change in business entity, or a change in control of ownership occurs within 120 days after the end of the Fiscal Year for which a statement has not been submitted, the operator licensee or primary management official may submit statements covering both the Fiscal Year and the final period of business.

- (5) The Commission or the Division may request additional information and documents from the operator licensee, the primary management official or the independent CPA regarding the financial statements or the services performed by the independent CPA.
- (6) Failure to submit the requested information or documents is an unsuitable method of operation and may result in a fine, penalty or revocation of license.

Article 15. GAMING DEVICES AND EQUIPMENT

16-15-101 Slot Machines – Shipping

- (1) Any slot machine manufacturer shipping a slot machine to the Reservation shall provide to the Division at the time of shipment a copy of the shipping invoice, which shall include, at a minimum, the destination, the serial number of the machine, and a description of each machine.
- (2) All slot machine game software shall be shipped to the Division at least five (5) days prior to the shipment of the slot machine or the planned installation of a software update.
- (3) Upon arrival of any slot machine, the gaming operation shall notify the Division, which shall be responsible for the receipt and verification of each machine, its serial number and description.
- (4) Any machine licensed pursuant to this Code shall be licensed for a specific licensed facility, and movement of the machine from that facility shall be reported to the Division and approved by the Division prior to such movement.

16-15-102 Security and Audit Specifications. All gaming equipment shall have the features, security provisions and audit specifications listed in this Code and the regulations implementing this Code.

16-15-103 Defective Gaming Devices or Equipment. No licensed manufacturer, distributor or operator licensee of gaming equipment shall sell, offer for sale, offer for play, or use for any other gaming purpose any gaming device or equipment the licensee knows, or reasonably should know, is defective. Licensed manufacturers and distributors shall notify the Division of Gaming in writing immediately upon discovery of any defect in the gaming equipment.

16-15-104 Testing, Inspection and Approval

- (1) All slot machines, and such other gaming devices as the Commission may determine, shall be tested by the Division prior to approval for use in gaming.
- (2) The Division shall not recommend approval of a slot machine or slot machine game to the Commission unless the tests conducted indicate that the device meets minimum standards to ensure the safety, accuracy, security, accountability and integrity of the slot machine or slot machine game, as well as notice to the player of the rules of play.
- (3) If an identical slot machine or slot machine game is currently approved for use by the State of Colorado, or has been approved to the standards of the State of Colorado by a testing lab certified by the State of Colorado, the Division may waive its inspection and testing requirement and assess compliance with its standards based on the findings of the tests and inspections performed by the certified testing lab.
- (4) The Division shall verify the software signature and the accuracy of the pay table. Once verified the software shall be sealed in a manner determined by the Division. The manufacturer of the gaming device shall provide any special software testing equipment to the Division.

16-15-105 Slot Machine Minimum Payback. The minimum theoretical payback value on a slot machine shall be at least 80 but not more than 100 percent of the value of any coins or gaming coupons played or accumulated credits played except for tournament slot machines with theoretical payback values greater than one hundred percent where such machines do not accept or pay out coins or gaming coupons.

16-15-106 Device and Equipment Approval

- (1) Except for gaming devices and equipment approved by the Division in accordance with subsection (2), the Commission must approve, in writing and with particularity, all gaming devices and equipment before use by any licensee.
- (2) The Division must approve each individual slot machine, bill, or acceptor, ticket printer or system, progressive system or progressive controller, and card table with electronic or electro-mechanical components, mechanical shuffling device,

card shoe, or other gaming devices or equipment before it is used for gaming.

16-15-107 Approval of Chips and Gaming Coupons

- (1) An application for approval of chips or gaming coupons must include the following in addition to other information that the Commission may require:
 - (a) For chips, an exact drawing of each side and the edge of the proposed chip, drawn to actual size or drawn in scale to larger than actual size, showing the measurements of the proposed chip in each dimension;
 - (b) For gaming coupons, an exact replica of the coupon;
 - (c) Written specifications for the proposed chips or gaming coupons;
 - (d) The name and address of the manufacturer; and
 - (e) The intended use for the proposed chips or gaming coupons.
- (2) If the Commission is satisfied with the proposed chips or gaming coupons, the Division will notify the operator licensee or primary management official. The operator licensee or primary management official must submit a sample of the proposed chips or gaming coupons in final, manufactured form to the Commission. If the Commission is satisfied that the sample conforms with the requirements of this section and with the information submitted with the application, the Commission shall approve the proposed chips or gaming coupons.

16-15-108 Specifications for Chips

- (1) Chips must be designed, manufactured and constructed in compliance with all applicable statutes, rules and regulations of the United States and the Tribe to prevent counterfeiting. Chips must not resemble any currency of the United States or any other nation.
- (2) The name of the gaming facility and the value of the chip must be inscribed on each side of a chip.
- (3) A chip must be designed so that when stacked with chips of other denominations and viewed by surveillance, the denomination of the chip may be distinguished from that of the other chips in the stack.

16-15-109 Other Gaming Devices. Other gaming devices must be designed, manufactured, approved, used, discontinued, destroyed or otherwise disposed of in accordance with

the provisions of this Code.

Article 16. SURVEILLANCE REQUIREMENTS

16-16-101 Video Camera Capabilities

- (1) At all times during the conduct of gaming the following surveillance shall be required:
 - (a) Video cameras providing fixed or pan, tilt and zoom surveillance of all gaming activities being played, including:
 - (i) A clear, unobstructed view of all slot machine areas, pit and card game areas and all table games;
 - (ii) A clear, unobstructed view of the dealing action of all games, including sufficient specific coverage to identify dealers, patrons, spectators and game number;
 - (iii) A clear, unobstructed view of all areas in the count rooms, cage areas, cage windows or areas where business with the public is transacted and fill windows where chip fill transactions are being handled; and
 - (iv) A clear, unobstructed view of entrances and exits of the gaming facility.
 - (b) Video cameras of sufficient quality to ensure that card values in specific hands, as well as denominations of chips, can be determined.
- (2) A surveillance system must be capable of providing a photo of any video image.

16-16-102 Video Camera Requirements

- (1) All pan, tilt and zoom cameras shall be concealed in a manner to prohibit viewing the camera and determining the direction of the camera or the area under surveillance.
- (2) All fixed and pan, tilt and zoom cameras shall be connected to video monitors and linked to recording devices that will provide instant playback.

16-16-103 System Recording Requirements

- (1) Video recordings of all gaming areas is required at all times during the conduct of gaming.

- (2) In the event of the loss of recording of any gaming camera that does not have adequate alternate coverage, all gaming-related activity covered by that camera shall be discontinued immediately, without unnecessary delay.
- (3) No time lapse recording systems are allowed.

16-16-104 Preservation of Video Recordings. Video recordings of gaming areas under this section shall be preserved and stored for a period of at least 30 days and shall not be erased, recorded over, or otherwise altered during that time. Any video recordings shall be immediately viewable upon request by the Division at any time during the 30-day storage period.

Article 17. CHIPS AND GAMING COUPONS

16-17-101 Forms of Wagers. All wagers must be made with United States currency, chips or gaming coupons.

16-17-102 Sale of Chips; Redemption of Chips and Gaming Coupons

- (1) Chips must be sold for cash only; no credit may be extended.
- (2) Where a gaming operation redeems chips and gaming coupons, it must redeem its own chips and gaming coupons from its patrons at face value.

16-17-103 Use of Chips and Gaming Coupons

- (1) A gaming operation using chips or gaming coupons must do the following:
 - (a) Comply with all applicable statutes, rules and regulations of the Tribe and of the United States relating to chips or gaming coupons;
 - (b) Sell chips only to patrons of the gaming facility and only at their request;
 - (c) Promptly redeem the facility's own chips and gaming coupons from its patrons;
 - (d) Post conspicuous signs notifying patrons that federal law prohibits the use of the gaming operation's gaming coupons and chips outside the gaming facility for any monetary purpose; and
 - (e) Take reasonable steps, including examining chips and segregating those issued by other gaming facilities, to prevent sales to its patrons of chips issued by another gaming operation.

- (2) Except for chips given as tips or gratuities in the gaming facility, chips or gaming coupons may not be accepted as payment for goods or services other than gaming or as change in any other transaction.

16-17-104 Redemption. A licensee may not redeem chips or gaming coupons if presented by a person who the licensee knows, or reasonably should know, is not a patron of the gaming facility, unless they are presented as follows:

- (1) By another gaming facility which represents that it redeemed the chips and gaming coupons from its patrons or received them unknowingly, inadvertently or unavoidably;
- (2) By an employee of the gaming facility who presents the chips and gaming coupons in the normal course of employment; or
- (3) By a person engaged in the business of collecting chips and gaming coupons issued by other gaming facilities and presenting them to the issuing gaming facility for redemption.

16-17-105 Use of Other Facility's Chips. A licensee may not knowingly sell, use, permit the use of, accept or redeem chips issued by another gaming facility unless the chips are presented by a patron at a game, and the licensee redeems the chips with chips of its own gaming facility, places the redeemed chips in the imprest bank or the table's drop box, and separates and accounts for the redeemed chips during the count performed pursuant to the ICMPs.

16-17-106 Redemption and Disposal of Discontinued Chips and Gaming Coupons. An operator licensee or primary management official who permanently removes from use or replaces chips or gaming coupons at the gaming facility or ceases gaming activity for any reason must prepare a plan for redeeming discontinued chips and gaming coupons that remain outstanding at the time of discontinuance. The operator licensee or primary management official must submit the plan in writing to the Commission no later than 30 days before the discontinuance. If the cause for discontinuance of the chips or gaming coupons cannot reasonably be anticipated, the operator licensee or primary management official must submit the plan as soon as practicable. The Commission may approve the plan or require modification as a condition of approval. Upon approval of the plan, the operator licensee or primary management official must implement the plan as approved. In addition to other provisions the Commission may approve or require, the plan must provide for the following:

- (1) Redemption of outstanding discontinued chips and gaming coupons for 120 days after the discontinuance or for a longer or shorter period required by the

Commission;

- (2) Redemption of the chips and gaming coupons at the gaming facility or at another location approved by the Commission;
- (3) Publication of notice of the discontinuance of the chips and gaming coupons and their redemption and the pertinent times and locations. The notice must be published in at least two newspapers of general circulation on or near the Reservation at least twice during each week of the redemption period. Publication is subject to the Commission's approval of the form of the notice, the newspapers selected for publication, and the specific days of publication;
- (4) Conspicuous posting of the notice at the gaming facility or other redemption location; and
- (5) Destruction or other disposition of the discontinued chips and gaming coupons.

16-17-107 Destruction of Counterfeit Chips and Gaming Coupons

- (1) As used in this section, counterfeit chips or gaming coupons means any chips or gaming coupons that have not been approved pursuant to this Code.
- (2) Unless the Division, the Commission or a court of competent jurisdiction orders otherwise, operator licensees or primary management officials must destroy or otherwise dispose of counterfeit chips and gaming coupons in a manner approved by the Commission.

16-17-108 Disposition Reports and Records

- (1) In addition to other information the Commission may require, the operator licensee or primary management official must report the following information to the Division in writing on a monthly basis:
 - (a) The number and denominations, actual and purported, of any coins, counterfeit chips or gaming coupons destroyed or otherwise disposed of pursuant to this section;
 - (b) The month during which they were discovered;
 - (c) The date, place and method of destruction or other disposition, including, in the case of foreign coin exchanges, the exchange rate and the identity of the financial institution at which the coins were exchanged; and

- (d) The names of the persons carrying out the destruction or other disposition on behalf of the operator licensee or primary management official.
- (2) Each operator licensee or primary management official must maintain records required by this section for at least five years.

TITLE 16

CLASS III GAMING CODE

History and Amendments¹

The Southern Ute Indian Tribe Gaming Code adopted by Tribal Resolution No. 92-128 on August 11, 1992.

Adopted various amendments as recommended by the Bureau of Indian Affairs by Resolution No. 92-148 on September 30, 1992.

Amendments to the Gaming Code adopted by Resolution No. 94-32 on February 28, 1994.

Amendments to the Gaming Code adopted by Resolution No. 95-1 on January 9, 1995.

Adopted revised Gaming Code by Resolution No. 00-95 on June 13, 2000.

Adopted amendments as recommended by the National Indian Gaming Commission by Resolution No. 01-60 on March 26, 2001.

Resolution No. 2018-048 repealed and replaced prior versions of Title 16 – Class III Gaming Code on April 3, 2018. Colorado Division of Gaming recommended amendments adopted by Resolution No. 2018-117 on July 10, 2018. The National Indian Gaming Commission and the Bureau of Indian Affairs approved the revised Gaming Code on October 22, 2018 and October 26, 2018 respectively.

Resolution No. 2021-151 repealed and replaced the Class III Gaming Code with a reformatted Class III Gaming Code for online publication that contained no changes from the 2018 version and only added a History and Amendments page. On April 25, 2023, BIA confirmed approval of the reformatted version.

Resolution No. 2023-079 authorized on-line publication of the 2021-151 reformatted Class III Gaming Code and provided an effective date of May 25, 2023.

¹ This page does not constitute an official part of any code. Information contained on this page is solely for informational and historical purposes and is from sources deemed reliable.