

TITLE 11. COMMERCE

Chapter 11.5

GAMING

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11.5.1. Title. The ordinance codified in this chapter is known as the “Suquamish Gaming Code.” (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.2. Authorization. This chapter, governing the conduct and regulation of gaming activities within the Port Madison Indian Reservation and other tribally owned land, is authorized and required by the Indian Gaming Regulatory Act, PL 100-447, 25 USC 2703 (“IGRA”) and by regulations promulgated by the National Indian Gaming Commission at 25 CFR 502 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992). (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.3. Findings. The Suquamish Tribal Council finds that:

(a) The Suquamish Tribe has the sovereign right and exclusive authority to regulate Class I and Class II gaming activities on Suquamish Indian lands;

(b) The Suquamish Tribe has the sovereign right to operate, license, and regulate Class III gaming activities on Suquamish Indian lands, provided it operates its Class III gaming activities consistent with a compact entered into between the Tribe and the State of Washington;

(c) The raising of funds for the promotion of tribal government and social programs and/or bona fide charitable or nonprofit organizations through gaming activities on Suquamish Indian lands is in the tribal and public interest;

(d) The exercise of tribal sovereign power through this ordinance is necessary to protect the right of tribal self-government and to regulate its internal relations so as to protect its political and economic security; and

(e) It is essential to the health, safety, and general welfare of the Suquamish Tribe and to visitors of the Port Madison Indian Reservation that standards and regulations be promulgated to govern the conduct of gaming activities on Suquamish Indian lands. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008)

11.5.4. Interpretation. (a) This chapter is considered an exercise of the Suquamish Tribe's sovereign power, and all of this chapter's provisions will be liberally construed to accomplish the statement of purpose.

(b) Any ambiguity in this chapter or in any rules or regulations later promulgated according to this chapter will be resolved so as to be consistent with IGRA and other applicable tribal and federal law. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.5. Statement of Purpose. The purposes of this chapter are to:

(a) Govern, regulate, and provide standards for the operation, conduct, and playing, on Suquamish Indian lands, of Class I and Class II gaming, as defined by the Indian Gaming Regulatory Act of 1988, 25 USC 2701 et seq., and Class III gaming, as defined by the same act and as authorized by and according to the provisions of the tribal-state compact entered into in compliance with the Act;

(b) Strengthen the Suquamish Tribe's existing economy and promote tribal economic development;

(c) Increase employment opportunities for tribal citizens; and

(d) Generate revenue to use for the improvement of tribal citizens' health, education, and welfare. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.6. Definitions. (a) "Act" or "IGRA" means the Indian Gaming Regulatory Act, Public Law 100-497, codified as 25 USC 2701 et seq.

(b) "Bingo" means the game of chance (whether manual, electronic, computer, or otherwise technologically assisted) that is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the card's holder covers those numbers or designations when objects similarly numbered or designated are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards.

(c) “Class I gaming” means and includes social and traditional games played for prizes of minimal value and traditional forms of Indian gaming individuals engage in as part of or in connection with Suquamish Tribal ceremonies or celebrations.

(d) “Class II gaming” means and includes all forms of gaming that are defined as “Class II gaming” in IGRA, 25 USC 2703(7)(A), and the regulations promulgated by the National Indian Gaming Commission at 25 CFR 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 1992). This definition includes but is not limited to the following forms of games: bingo; pull-tabs, Lotto or other lotteries, punchboards, tip jars, instant bingo, speed bingo, and other games similar to or that are a form of bingo if played in the same location; and nonbanking card games, when played in conformity with IGRA, 25 USC 2703(7).

(e) “Class III gaming” means and includes all gaming that is not Class I or Class II, as defined in IGRA, or as authorized by judicial determination, federal regulation, or federal pronouncement and as the Tribe authorizes and conducts in accordance with and by authority of the provisions of the tribal–state compact and this chapter.

(f) “Class II gaming contract” means a contract for the provision of any goods or services for the conduct of Class II gaming.

(g) “Class III gaming contract” means a contract for the provision of any goods or services for the conduct of Class III gaming.

(h) “Class II gaming contractor” means any individual, business, or other entity that applies for or is a party to a Class II contract.

(i) “Class III gaming contractor” means any individual, business, or other entity that applies for or is a party to a Class III contract.

(j) “Commission” or “tribal gaming commission” means the Suquamish Tribal Gaming Commission established by this chapter.

(k) “Commissioner” means a member of the Suquamish Tribal Gaming Commission.

(l) “Contractor” means any contractor who manages or operates a Class II or Class III gaming operation for the Tribe or leases gaming equipment or supplies gaming services to the Tribe.

(m) “Entity” means any organization and any division, department, or unit in that organization and includes but is not limited to a public or private corporation, partnership, joint venture, voluntary or unincorporated association, proprietorship, trust, estate, commission, bureau, or agency, except this definition does not include the Suquamish Tribe.

(n) “Game card” or “bingo game card” means a regular or special bingo card.

(o) “Gaming activities” means the conduct of gaming activities permitted according to IGRA or the tribal–state gaming compact.

(p) “Gaming facility” means any premises in which Class II or Class III gaming activities as authorized by IGRA or the tribal–state gaming compact are conducted on Suquamish Indian lands. The term “premises” means the structure or structures within which any Class II or Class III activity is conducted. Attached buildings and structures where Class II or Class III activity is not conducted are not included in the definition of “gaming facility.” Subject to the foregoing, the Tribal Gaming Commission may adopt regulations (including, but not exclusively, maps, building plans, etc.) defining what constitutes the gaming facility.

(q) “Gaming operation” or “tribal gaming operation” means any enterprise the Tribe operates on Suquamish Indian lands for the conduct of any form of Class II or Class III gaming in any gaming facility. Where a tribal department, agency, or wholly-owned corporation operates gaming, the terms do not include those portions of the department or agency that are unrelated to gaming.

(r) “Gross receipts” means the total receipts from the conduct of gaming activities.

(s) “High security employee” means any person who the gaming operation employs to perform one or more of the following functions:

(1) Floor manager;

(2) Pit boss;

(3) Dealer;

(4) Croupier;

(5) Approver of credit;

(6) Counting room supervisor;

(7) Custodian of gaming supplies or cash;

(8) Custodian of gaming devices, including persons with access to cash or accounting records within such devices;

(9) Bingo caller;

(10) Chief of security;

(11) Any other person not otherwise included in §11.5.6(s) whose total cash compensation is more than fifty thousand dollars (\$50,000) per year; and

(12) The four (4) most highly compensated persons in the gaming operation if not otherwise included.

(t) "Indian lands" or "Suquamish Indian lands" means Indian lands as defined by 25 USC 2703(4)(A) and (B).

(u) "Individual" or "person" means but is not limited to natural persons and business entities, including business sole proprietorships, partnerships, corporations, joint ventures, organizations, and associations.

(v) "Key employee" means any person the gaming operation employs to perform one or more of the following functions:

(1) Floor manager;

(2) Pit boss;

(3) Dealer;

(4) Croupier;

(5) Approver of credit;

(6) Count room supervisor;

(7) Custodian of gaming supplies or cash;

(8) Custodian of gaming devices, including persons with access to cash or accounting records within such devices;

(9) Bingo caller;

(10) Chief of security;

(11) Any other person not otherwise included in §11.5.6(v) whose total cash compensation is in excess of fifty thousand dollars (\$50,000) per year; or

(12) The four (4) most highly compensated persons in the gaming operation if not otherwise included.

(w) "License" or "licensed" means a tribal gaming license or having a valid tribal gaming license issued by the Suquamish Gaming Agency (SGA) according to the

powers and authorities granted under this chapter. A tribal gaming license is a privilege and not a right and the commission may revoke it on good cause shown after notice and an opportunity to be heard.

(x) "Lottery" means any scheme for the disposal or distribution of property among persons who have paid valuable consideration for the chance of obtaining such property or a portion or share of or interest in such property upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it may be known. Nothing in this chapter may be interpreted to regulate or prohibit state lottery ticket sales conducted according to Suquamish Tribal Code chapter 11.7.

(y) "Low security employee" means any person who is not a key employee or primary management official, and who is employed by the tribal gaming operator to work in a gaming facility with no responsibility for management or operation of Class II or Class III gaming activities and no access to the cashier's cage, the count room, the interior of any gaming terminals, or any Class II or Class III electronic gaming system. Notwithstanding the foregoing, "low security employee" includes environmental services workers, who may enter secure areas such as the cashier's cage and count room solely for purposes of cleaning those areas, provided they are escorted by a security officer at all times they are present in those areas. "Low security employee" also includes, without limitation, food and beverage workers, gift shop salespeople, valets, and other employees whose positions do not involve the performance of gaming activity.

(z) "Major procurement" means any procurement action or contract for any goods, services, or products involving the determination of winners in any Class III gaming activities; for the printing of tickets used in any Class III gaming activity; or for any goods or services involving the receiving or recording of number selections in any Class III gaming activity.

(aa) "Minor procurement" means any procurement action or contract related to any Class III gaming activity that is neither a major procurement nor a sensitive procurement.

(bb) "National Indian Gaming Commission" or "NIGC" means the federal gaming regulatory commission established according to IGRA.

(cc) "Native American" or "Indian" means a person who is an enrolled citizen of a federally recognized Indian tribe.

(dd) "Net revenues" means the total gross revenues from gaming activities minus all reasonable sums actually expended for operating expenses and liabilities, including but not limited to amounts paid for or paid out as prizes.

(ee) "NIGC Chairman" means the Chairman of the National Indian Gaming Commission.

(ff) “Nonbanking card game” means any card game in which two or more players play against each other and the players do not wager against the house. Nonbanking card games played in conformity with state law regulating them are Class II gaming. All other nonbanking card games are Class III games.

(gg) “Player” means any person paying some amount of United States currency to the Tribe for admission to or participation in Class II or Class III gaming activity and who is participating with the reasonable expectation of or the chance of receiving a prize of some value as a result of participating in, playing, or wagering on that game.

(hh) “Primary management official” means any person the gaming operation employs who:

- (1) Has management responsibility for a management contract;
- (2) Has the authority to hire and fire employees;
- (3) Has the authority to set up working policy for the gaming operation; or
- (4) Has financial management responsibility, including but not limited to the chief financial officer.

(ii) “Principal” means with respect to any enterprise:

- (1) Each of its officers and directors;
- (2) Each of its key management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager;
- (3) Each of its owners or partners, if an unincorporated business;
- (4) Each of its shareholders who own more than ten percent (10%) of the shares of the corporation, if a corporation; and
- (5) Each person or entity other than a banking institution that has provided financing for the enterprise constituting more than ten percent (10%) of the start-up capital or operating capital over a twelve-month period or any combination of start-up or operating capital.

(jj) “Prize” means any United States currency, cash, or other property or thing of value awarded to or received by a player or players as a result of their participation in a gaming activity.

(kk) “Pull-tabs” means factory-covered tickets that customers purchase and open and that reveal a predetermined winning or losing arrangement.

(ll) “Punchboard” means a small board which has many holes, each filled with a rolled up, printed slip to be punched out upon payment of a player fee in an effort to obtain a slip that entitles the player to a predesignated prize.

(mm) “Regular bingo card” means a paper card or board issued to a person or a game card generated by and appearing on the screen of a computer employed by the gaming facility and assigned to a player that, upon payment of an admission fee, affords the person an opportunity to participate in all regular bingo games played at a bingo occasion.

(nn) “Secretary” means the Secretary of the United States Department of the Interior.

(oo) “Sensitive procurement” means any procurement action or contract for goods or services, other than a major procurement, that may either directly or indirectly affect the integrity, security, honesty, and fairness of the operation and administration of Class II or Class III gaming. A typical example of this class of procurement is the acquisition of security systems required to protect the security and integrity of Class II or Class III gaming.

(pp) “Special bingo card” means a disposable, specially marked bingo card or a game card generated by and appearing on the screen of a computer employed by the gaming facility and assigned to a player that affords a person the opportunity to participate in a special bingo game for special prizes.

(qq) “Special bingo game” means any bingo game that is not a regular bingo game and that is played with special bingo cards whether or not for special prizes.

(rr) “State” means the State of Washington.

(ss) “State gaming agency” means the Washington State Gambling Commission or any successor agencies.

(tt) “Suquamish Gaming Agency” or “SGA” means the agency designated to provide the day-to-day enforcement of this code and applicable regulations.

(uu) “Tribal Council” or “Suquamish Tribal Council” means the Suquamish Tribe’s governing body as set forth in the Suquamish Tribe’s Constitution and Bylaws.

(vv) “Tribal Court” means the Suquamish Tribal Court.

(ww) “Tribal gaming agent” or “SGA agent” means an enforcement officer hired by the Tribal Gaming Agency and authorized by this chapter to enforce its provisions and the provisions of the tribal–state gaming compact, including the right to detain and/or arrest individuals. SGA agents are the only persons authorized to carry and/or

display badges as tribal gaming enforcement agents on Suquamish Indian lands. SGA agents, under the direction of the director of the Suquamish Gaming Agency, regulate and monitor the day-to-day operations of any tribal gaming facility.

(xx) “Tribal gaming operator” means any person or entity operating a tribal gaming operation on behalf of or under contract with the Suquamish Tribe.

(yy) “Tribal citizen” means an enrolled citizen of the Suquamish Tribe.

(zz) “Tribal–state gaming compact” means any compact between the Suquamish Tribe and the State of Washington regulating Class III gaming activities on Suquamish Indian lands.

(aaa) “Tribe” or “Suquamish Tribe” means the Suquamish Indian Tribe. This definition includes all tribal agencies and officials. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 96-006 (part), passed Jan. 16, 1996; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2009-047, passed Apr. 6, 2009; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.7. Class I Gaming Authorized. Class I gaming is hereby authorized on Suquamish Indian lands and may be conducted by any person. This chapter does not regulate class I gaming. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.8. Class II Gaming Authorized. (a) Class II gaming is hereby authorized on Suquamish Indian lands. Class II gaming is regulated by the SGA and the tribal gaming commission and may only be operated at gaming facilities on Indian lands in a manner consistent with the provisions of this chapter and IGRA.

(b) A tribal gaming operator or any manager under contract to manage a tribal Class II gaming facility may conduct bingo, nonbanking card games, and other Class II gaming activities. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.9. Class III Gaming Authorized. (a) Class III gaming is hereby authorized on Suquamish Indian lands. Class III is regulated by the tribal gaming commission and SGA and may only be operated in a manner consistent with this chapter, the tribal–state gaming compact, and IGRA.

(b) The tribal gaming operator or any manager under contract to manage the tribal Class III gaming facility may conduct any Class III game permitted in the tribal–state gaming compact.

(c) The tribal gaming operator or any manager under contract to manage the tribal Class III gaming facility may conduct any Class III game that is legalized within the State of Washington after the date of the compact then in effect or that becomes permitted on Indian lands according to federal law or federal regulation, through a

consensual lawsuit, or by court decision, provided that before beginning the play of such games, the gaming operator complies with the terms of the tribal–state gaming compact regulating the playing of new games. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.10. Unauthorized Gaming Prohibited. Gaming by any person, party, or other entity on any lands subject to the Suquamish Tribe’s jurisdiction except as authorized by this chapter is prohibited and declared unlawful. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.11. Ownership of Gaming Operation. (a) The Suquamish Tribe has the sole proprietary interest in and authority and responsibility for the conduct of any Class II gaming operation authorized by this chapter.

(b) The Suquamish Tribe has the sole proprietary interest in and responsibility for the conduct of any Class III gaming conducted on Suquamish Indian lands authorized by this chapter and the tribal–state gaming compact.

(c) Individually owned gaming operations are prohibited, except individually owned Class II pull-tab operations existing as of this chapter’s enactment date are grandfathered under this provision.

(d) No license to own or operate any Class II or Class III gaming may be issued to any person or entity other than the Suquamish Tribe. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2009-047, passed Apr. 6, 2009)

11.5.12. Management, Finance, and Construction Contracts. (a) The Suquamish Tribal Council or its authorized agents have the authority to enter into construction, consulting, or other contracts necessary to operate, build, and maintain Class II or Class III gaming activities on Suquamish Indian lands, including the authority to enter engineering, architectural, and environmental assessment agreements preliminary to those contracts, provided all such contracts are in conformity with applicable tribal and federal laws, rules, and regulations then in effect.

(b) The Suquamish Tribal Council or its authorized agents have the authority to enter into finance contracts relating to Class II or Class III gaming activities on Suquamish Indian lands, provided no financing contract exceeding one million five hundred thousand dollars (\$1.5 million) is valid to bind the Suquamish Tribe without the prior approval of the Tribal Council.

(c) The Suquamish Tribal Council or its authorized agents have the authority to lease gaming equipment, provided such leases are in conformity with IGRA, this chapter’s provisions, and any other applicable tribal and federal laws, rules, and regulations then in effect.

(d) The Suquamish Tribal Council or its authorized agents may enter into a contract with an individual manager or managers or with a management company for the operation and management of Class II or Class III gaming activities. Each such contract must comply with IGRA, this chapter's provisions, and other applicable provisions of tribal and federal law, rules, and regulations then in effect. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.13. Net Revenue Tax. There is a tribal tax upon the net revenue of any Class II or Class III gaming activity within the Tribe's jurisdiction, in an amount the Tribal Council will determine. The tribal tax will be assessed and paid monthly into the Suquamish Tribe's general fund. Net revenues, for the purposes of this section, mean gross gaming revenues minus amounts paid out as or paid for prizes and total gaming-related operating expenses, excluding any management contract fees. The Tribal Council may reduce or waive this tax as is necessary to promote economic development on the Port Madison Indian Reservation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-021, passed Dec. 15, 2008)

11.5.14. Use of Gaming Revenue. Net revenues from Class II and Class III gaming may be used only for the following purposes:

- (a) To fund tribal government operations, programs, or businesses;
- (b) To provide for the general welfare of the Tribe and its tribal citizens;
- (c) To promote tribal economic development;
- (d) To donate to charitable and/or nonprofit organizations; and

(e) To fund, entirely or partly, operations of local government agencies affected by gaming activities. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.15. Suquamish Gaming Commission – Establishment. The Suquamish Tribal Council is authorized to establish a Suquamish Tribal Gaming Commission and to designate five (5) tribal citizens to be its commissioners. The gaming commission will exercise all powers necessary and proper to administer this chapter and regulations promulgated under this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2005-181, passed Oct. 3, 2005; amended by Res. 2008-021, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.16. Terms for Commissioners. Commissioners will be appointed for a period of three (3) years, except that of the first commissioners, one commissioner will be appointed for one (1) year, one for two (2) years, and one for three (3) years, and of the two commissioners added in 2005, one will be appointed for one (1) year and one for two (2) years, in order to achieve a staggered appointment schedule and to provide continuity within the commission. Commissioners may be reappointed for one or more

successive terms. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2005-181, passed Oct. 3, 2005)

11.5.17. Minimum Qualifications for Commissioners. (a) The gaming commissioners must possess and demonstrate as minimum qualifications:

(1) Knowledge of, experience in, or familiarity with business management;
or

(2) Knowledge of and experience in administration and administrative procedure.

(b) The gaming commissioners must also possess or express a willingness to acquire:

(1) Knowledge of and experience in the commercial gaming industry;

(2) Familiarity with IGRA; and

(3) Knowledge of and experience in law enforcement. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2005-181, passed Oct. 3, 2005; amended by Res. 2008-201, passed Dec. 15, 2008)

11.5.18. Appointment of Commissioners. (a) Gaming commissioners will be appointed from among the Tribe's General Council membership. At least one Suquamish Tribal Council member will be appointed to the gaming commission. The Tribal Council may, at its option, appoint one non-tribal citizen Indian or a non-Indian if that person has demonstrated expertise in critical areas of gaming regulation or law enforcement. The gaming commission must insure that commissioners who are tribal citizens are trained to assume full responsibility to regulate the tribal gaming facility as soon as practicable.

(b) No person may be appointed to the gaming commission unless the Tribal Council is satisfied that the nominee:

(1) Is a person of good character, honesty, and integrity, whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the Tribe's public interest, to its tribal citizens, or to the effective regulation of gaming, or create or increase the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental to gaming; and

(2) Has no interest in any private gaming activity on Suquamish Indian lands or any activity that may have interests that conflict with the tribal gaming operation.

(c) A Tribal Council member who also serves as a gaming commissioner must immediately vacate his or her position with the gaming commission if he or she no longer serves on the Tribal Council for any reason, including voluntary resignation, recall, non-reelection, serious illness, or death. The Tribal Council will appoint another Tribal Council member as a gaming commissioner to fulfill the remaining term of the vacated position.

(d) Upon appointment but before sitting as a commissioner, each appointee must pass a drug test, a criminal background investigation, and a credit background investigation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 96-006 (part), passed Jan. 16, 1996; amended by Res. 2005-181, passed Oct. 3, 2005; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.19. Commissioners – No Financial Interest in Gaming. No commissioner may have any direct or indirect financial interest in the Class II or Class III gaming activities. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2005-181, passed Oct. 3, 2005; amended by Res. 2008-201, passed Dec. 15, 2008)

11.5.20. Commissioners – Compensation. Tribal gaming commissioners will receive, at minimum, a stipend or be reasonably compensated, as the Tribal Council will determine in its annual tribal budgeting process. Any stipend or compensation will be paid from the Tribe's income from gaming activities, including taxes and profits paid to the Tribe from the Class II and Class III gaming activities. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2005-181, passed Oct. 3, 2005)

11.5.21. Removal of Commissioners. A majority of all Tribal Council members may remove a gaming commissioner for good cause after written notice specifying the cause for removal and an opportunity to be heard by the Tribal Council. Good cause includes but is not limited to repeated failure to attend commission meetings, neglect of duty, abusing the powers or privileges of the office, conflict of interest, and engaging in criminal acts. The Tribal Council's decision on such removal is final and not subject to judicial review except that an appeal to the Tribal Court may be maintained exclusively on the grounds that the Tribal Council denied the commissioner's rights to due process of law. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2005-181, passed Oct. 3, 2005; amended by Res. 2008-201, passed Dec. 15, 2008)

11.5.22. Commission Administration – Purpose, Responsibilities, and Powers. The commission is established and authorized as a Suquamish regulatory commission.

(a) Consistent with the purposes and requirements of this chapter, IGRA, applicable federal regulations, and in the case of Class III gaming the tribal-state compact, the commission will license and regulate the conduct of Class II and III gaming activities on Suquamish Indian lands.

(b) Consistent with the purpose and requirements of this chapter, IGRA, and applicable federal regulations, the commission will license and regulate all gaming operations within Suquamish Indian lands that conduct Class II pull-tab gaming.

(c) The commission members may not interfere with or become involved in the day-to-day management of any gaming facility.

(d) The commission members may not participate as players in any Class II or Class III game played within the Suquamish Tribe's jurisdiction.

(e) The commission, in order to accomplish its regulatory function on the Suquamish Tribe's behalf, where it considers appropriate, may:

(1) Execute contracts and interlocal agreements, memoranda of understanding, technical compact revisions, and other agreements consistent with the terms of a gaming compact, papers, and documents in the commission's name, honoring related contracts the Suquamish Tribal Council has previously entered into related to the commission's business conforming to tribal policy.

(2) Verify the functionality, authenticity, and legal conformity of all equipment for the operation of Class II and Class III gaming as provided in this chapter.

(3) Authorize the Suquamish Tribal government to establish and operate, by itself or through its authorized agent, all Class II and Class III gaming activities on Suquamish Indian lands. The Tribe has sole proprietary interest and responsibility for the conduct of any Class II or Class III gaming activity, with the exception of existing gaming activities specifically grandfathered according to §11.5.11(c) of this chapter.

(4) Pay all customs, duties, excises, charges, and obligations whatsoever related to the commission's business.

(5) Require and approve the rules of play for each Class II and Class III game permitted.

(6) License, inspect, and oversee all gaming activities and persons employed in gaming activities conducted on Suquamish Indian lands.

(7) Establish systems:

(A) To adequately check the background of primary management officials and key employees of the gaming enterprise;

(B) To monitor primary management officials, key employees, and high security employees on a continuing basis; and

(C) To provide for the verification of background check results provided by the NIGC before any licenses are issued for Class II or Class III gaming.

(8) Ensure that Class II gaming facilities are operated in compliance with this chapter and IGRA.

(9) Ensure that Class III gaming facilities are operated in compliance with this chapter, the tribal–state gaming compact, and IGRA.

(10) Ensure that pertinent regulators and law enforcement protect the physical safety of patrons in gaming facilities.

(11) Ensure that pertinent regulators and law enforcement protect the physical safety of gaming operation personnel.

(12) Ensure the physical safeguarding of assets transported to and from the gaming facility and the cashier's cage department.

(13) Protect the patrons' and the gaming operation's property from illegal activity.

(14) Temporarily detain, to the extent of its authority under this chapter and until notification of the appropriate law enforcement authorities, persons who may be involved in illegal acts.

(15) Approve any Suquamish Gaming Agency regulations limiting SGA or gaming operation employee gaming.

(16) Report to the Tribal Council on any matter related to gaming that is deemed by the tribal gaming commission to constitute an emergency requiring immediate action.

(17) Employ such SGA employees as are necessary to carry out the specific and general powers and duties of the tribal gaming commission, including but not limited to an executive director, gaming inspectors, and necessary support staff. All such employees shall be subject to the Suquamish Tribe's personnel policies and procedures, except to the extent that the commission staff's unique mission requires deviation from those policies. To be valid and enforceable, all commission policies and procedures related to employees of the SGA shall be in writing, be approved by the commission.

(18) Establish systems to log and record, in a permanent and detailed manner:

(A) A security log recording any and all unusual occurrences at any gaming facility that require further investigation under the terms of the tribal–state gaming compact; and

(B) A surveillance log, as written or computerized records, recording all surveillance activities in the monitoring room of the gaming facility.

(19) Perform all matters and things directly or indirectly necessary to conduct its business and carry out its duties and functions.

(20) Perform all other duties related to the conduct and operation of the powers and duties this chapter authorizes. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-021, passed Dec. 15, 2008; amended by Res. 2009-047, passed Apr. 6, 2009; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.23. Promulgation of Regulations. It is the Suquamish Tribal Gaming Commission’s responsibility to promulgate regulations necessary to administer this chapter and to perform its functions, including the enforcement provisions and penalties authorized under this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-021, passed Dec. 15, 2008)

11.5.24. Meetings – Schedule, Quorum, Notice. The commission will meet regularly and make every effort to meet twice every month. Meetings may be conducted electronically through telephone or other facilitating technology. The commission will also meet at the request of two (2) commission members or the Tribal Council chairperson. A quorum is three (3) members. Voting is by majority and may be conducted electronically. Notice of the meetings must be given to commission members and to the Tribal Council at least five (5) days before the meeting except in the case of an emergency or special meeting. An agenda will be established. Minutes of substantive hearings will be recorded, filed, and maintained for three (3) years. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 96-006 (part), passed Jan. 16, 1996; amended by Res. 2005-181, passed Oct. 3, 2005; amended by Res. 2008-021, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.25. Reporting. The commission will report to the Tribal Council upon Tribal Council request and/or in conformance with any other required reporting of any tribal department. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.26. Annual Audits. (a) The tribal gaming operator will cause to be conducted an annual independent audit of its Class II and Class III gaming operations and must submit the resulting audit reports to the tribal gaming commission, to the Tribal Council, and to the extent required by the tribal–state compact, IGRA, or other applicable federal law, to the National Indian Gaming Commission. The audit reports will be made

available to federal agencies authorized by federal law to obtain copies of the audit results. All audits are considered to be confidential and proprietary information and not subject to disclosure without the tribal gaming commission's express written approval.

(b) Audit(s) will be conducted by an independent auditing firm, selected at the discretion of the gaming operator's chief financial officer. Nothing in this paragraph prohibits the annual audit of tribal gaming activities from being encompassed within the Tribe's existing audit system.

(c) All gaming related contracts which result in the purchase of supplies, services, or concessions in excess of twenty-five thousand dollars (\$25,000) annually, except for professional, legal, or accounting contracts, must be specifically included within the scope of the annual independent audits. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-021, passed Dec. 15, 2008)

11.5.27. Suquamish Gaming Agency. (a) The Suquamish Gaming Agency is an agency of the Squamish Tribal government tasked with the day-to-day regulation of gaming on Suquamish Indian lands.

(b) The SGA will be managed by an Agency Director and any necessary departmental managers. The SGA Director and staff report to the Suquamish Gaming Commission.

(c) The SGA may employ as many tribal gaming agents and other employees as it finds necessary to ensure full enforcement of this chapter.

(d) The SGA will establish and maintain personnel policies and procedures, training and operations procedures, and a budget for its operations, and at the Tribal Council's request will rate the performance of the SGA or any manager or management company with whom the tribal gaming operator or its authorized agent has an approved contract.

(e) Consistent with the purpose and requirements of this chapter, Suquamish Gaming Commission regulations, IGRA, and applicable federal regulations, the SGA will license and regulate all gaming operations within Suquamish Indian lands that conduct Class II and Class III gaming.

(f) SGA staff may not participate as players in any Class II or Class III game played within the Suquamish Tribe's jurisdiction.

(g) SGA, in order to accomplish its regulatory function on the Suquamish Tribe's behalf, where it considers appropriate, may:

(1) Execute contracts and inter-local agreements, papers, and documents in the SGA's name, honoring related contracts the Suquamish Tribal Council has

previously entered into related to the SGA's business, consistent with applicable Suquamish Government contracting procedures.

(2) Verify the functionality, authenticity, and legal conformity of all equipment for the operation of Class II and Class III gaming as provided in this chapter.

(3) License, inspect, and oversee all gaming activities and persons employed in gaming activities conducted on Suquamish Indian lands.

(4) Temporarily detain, to the extent of its authority under this chapter and until notification of the appropriate law enforcement authorities, persons who may be involved in illegal acts.

(5) Carry on continuous monitoring and investigation of Class II and Class III gaming on Suquamish Indian lands for the following purposes:

(A) To ascertain any defects in or abuses of the standards and regulations in this chapter and of any and all applicable rules and regulations;

(B) To formulate recommendations to the Suquamish Gaming Commission for changes in the standards and regulations in this chapter and in any and all applicable rules and regulations; and

(C) To prevent abuses and evasions of the standards and regulations prescribed by this chapter and applicable rules and regulations.

(6) Report to the Tribal Council and STGC on any matter related to gaming that is deemed by the SGA to constitute an emergency requiring immediate action.

(7) Take any action it deems necessary and appropriate for violation(s) of this chapter, applicable rules, or regulations, including but not limited to license suspension, license revocation, prosecution, referral for prosecution, or civil suit.

(h) The SGA may be present in any Class II gaming facility during all operating hours of the gaming operation. SGA must have immediate access to any and all areas of any Class II gaming operation for the purposes of ensuring compliance with this chapter and IGRA.

(i) If required by compact, at least one SGA agent must be present in the Class III gaming facility during all operating hours of the gaming operation and must have immediate access to any and all areas of the gaming operation and reasonably prompt (by commercially reasonable standards) access to all of the tribal gaming operator's

records to the extent relevant to the gaming operation's conduct of gaming for the purposes of ensuring compliance with this chapter and with the tribal–state gaming compact.

(j) If required by compact, the SGA will forward reports of any Class III gaming violation to the state gaming agency on a continuing basis. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.28. Investigation of Violations and Sanctions. (a) The SGA will investigate any reported violation of this chapter, the tribal–state compact provisions, IGRA, or any other applicable law, ordinance, or regulation.

(b) If a violation is found, the SGA will require the gaming operator or manager to correct the violation upon the terms and conditions the SGA determines are necessary. In addition, the SGA may impose fines or other sanctions as provided in this chapter against any gaming employee or any person directly or indirectly involved in or benefiting from the violation.

(c) If required by compact, the SGA will forward copies of all completed investigation reports and final dispositions concerning Class III gaming violations to the state gaming agency on a continuing basis.

(d) The SGA may request the state gaming agency to assist in any investigation of Class III gaming violations or to provide related investigation services. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.29. Meetings with State Gaming Agency. (a) The tribal gaming commission may meet with the state gaming agency from time to time for the purpose of reviewing existing practices and examining methods to improve the regulatory program created by the tribal–state gaming compact.

(b) The tribal gaming commission will follow the protocol established in the tribal–state gaming compact in initiating and conducting meetings with the state gaming agency. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.30. Gaming Facility. (a) To ensure that the environment, public safety, public health, and tribal welfare are adequately protected, the tribal gaming facility will be constructed, maintained, and operated in compliance with applicable tribal and federal laws, including but not limited to fire, health, life safety, and building codes.

(b) The tribal gaming facility is subject to inspection as the SGA determines necessary and appropriate. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.31. Operation of Class II Gaming Facility. (a) The tribal gaming operator must obtain a facility license from SGA a minimum of once every three (3) years as a condition of operating a Class II gaming facility.

(b) Class II gaming may be conducted each and every day of the week and at such hours of the day or night as determined in the exercise of the Tribe's sole discretion. There will be no limit as to prize money for any single gaming activity, bingo game, or session except as determined in the exercise of the Tribe's sole discretion and in compliance with any applicable regulatory requirements.

(c) Before beginning operation of a Class II game or making any material change in the operation, the tribal gaming operator must notify the SGA of the hours and days that its facility will be open and of the gaming that it will conduct. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.32. Operation of Class III Gaming Facility. (a) The tribal gaming operator of a Class III gaming facility must obtain a facility license from SGA a minimum of once every three (3) years as a condition of operating a Class III gaming facility.

(b) Class III gaming may be conducted to the maximum allowed by and in conformance with the hours and days provided in the tribal-state compact or any amendment to that compact.

(c) Before beginning operation of a Class III game or making any material change in operation, the operator of the Class III gaming facility must notify the SGA of the proposed hours and days that its facility will be open and of the gaming that it will conduct. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.33. Record Maintenance. (a) The tribal gaming operator will maintain accurate and up-to-date records for each Class II and Class III gaming activity conducted. The gaming operator will provide the SGA commercially reasonable prompt access to all of the gaming operator's records to the extent relevant to the gaming operation's conduct of such gaming upon request.

(b) Records for each Class II and Class III gaming activity must include records of:

(1) All financial transactions, including but not limited to gross receipts, payouts for prizes whether in cash or merchandise, any and all operating expenses, and net profits.

(2) All gaming machine testing, malfunctions, maintenance, and repairs.

(3) Personnel.

(4) Patron complaints and resolutions of those complaints.

(5) In-house investigations of incidents or accidents of any kind.

(6) Actions by the gaming facility against players or facility visitors.

(7) Actions by the gaming facility against or reprimanding employees where the reprimand is directly related to an alleged violation of this chapter, the regulations promulgated under this chapter, IGRA, or the tribal–state compact. All other personnel records of the gaming operator will be maintained or destroyed according to the gaming operator’s internal policies and procedures.

(8) Tax records or information provided to the tribal, state, or federal government as required by tribal or federal law.

(c) Records for each Class III gaming activity must also include any information required to be kept under the terms of the tribal–state compact.

(d) All such records must be maintained for a minimum of at least two (2) years unless a longer period of time is required by the tribal–state compact or another tribal or federal law. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.34. Prohibition on Per Capita Payments. The Tribe may make per capita payments to tribal citizens only upon approval of a plan submitted to the Secretary of the Interior according to IGRA 25 USC 2710(b)(3). (Res. 95-031 (part), 7 passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.35. Prohibition on Minors. (a) No person under the age of eighteen (18) years will be permitted to play any Class II or Class III game.

(b) Where alcoholic beverages are offered in any Class II or Class III gaming facility, all such alcoholic beverages must be offered in accordance with all applicable laws.

(c) No person who is a director or equivalent position in any department of a Class II or Class III gaming facility, who is employed in the compliance department of a Class II or Class III gaming facility, or who is employed as part of the executive management of a Class II or Class III gaming facility (which for these purposes shall be the chief executive officer, chief financial officer, Class II or Class III gaming facility general manager or assistant general manager, and comptroller), whether on a full-time, part-time, or contract basis, may play any games conducted in any gaming facility. All other employees of any gaming facility while not on the clock and while out of uniform may play any games that are not part of their department. By special exception to this

section, poker employees while off the clock may participate in a Class II or Class III poker game and while on the clock may participate in a Class II or Class III poker game as a “proposition player” using their own money for wagering. A proposition player participates in a poker game at the request of a customer in order to facilitate or to keep the game in play.

(d) No political appointee of the gaming operation shall be excluded from Class II or Class III gaming unless otherwise prohibited by this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 96-006 (part), passed Jan. 16, 1996; amended by Res. 96-063 (part), passed Jul. 1, 1996; amended by Res. 97-021, passed Feb. 24, 1997; amended by Res. 2000-026, passed Jun. 19, 2000; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.36. Prohibition on Firearms. No person may possess firearms within any Class II or Class III gaming facility, except as provided in this section. The SGA must place a notice of this prohibition near the entrance to each gaming facility. This prohibition does not apply to lawfully commissioned tribal gaming agents; to authorized agents or officers of the tribal law enforcement agency or the state gaming agency; or to authorized agents or officers of federal, state, or local law enforcement agencies authorized by law or by a cooperative, mutual aid, cross-deputization agreement or memorandum of understanding entered into with the Tribe. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.37. Bona Fide Employees. (Removed) (Res. 95-031 (part), passed Apr. 3, 1995; removed by Res. 2023-064, passed Feb. 15, 2023)

11.5.38. Identification Tags. All persons assisting in, operating, or conducting any Class II or Class III game must wear in plain view and attached to their uniforms a legible identification tag issued by the SGA. The tag must include the person’s photograph, first name, an identification number unique to the individual’s tribal gaming license, a tribal seal or signature, and an expiration date. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.39. Prizes: Taxing and Reporting to the Internal Revenue Service. The Tribe’s gaming operation will observe and comply with the provisions of the United States Internal Revenue Code concerning the taxation and reporting of withholding of taxes with respect to prizes or winnings from gaming or wagering according to the operation of Class II or Class III gaming operated on the Port Madison Indian Reservation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008)

11.5.40. Assignment and Forfeiture of Prizes. (a) The right of any person to a prize is not assignable except that payment of any prize may be made to the estate of a deceased prize winner or to a person according to an order of the Tribal Court or other court of competent jurisdiction.

(b) The gaming operator will retain any unclaimed prize of a Class II or Class III gaming activity for a reasonable time after the prize is available to be claimed. The time for collecting a prize will be established for each game and will be prominently posted. Any person who fails to claim a prize during that time forfeits all rights to the prize, and the amount of the prize will be returned to the gaming operator.

(c) Any consideration paid by and all rights to any prize won by a person under the age of eighteen (18) years, or by a patron under any barring notice or refusal of service, or by an employee while on duty or in uniform unless authorized under §11.5.35 will be forfeited as a violation of §11.5.35. The amount of any such consideration and/or prize will be awarded to the Tribe for the purposes of charitable or problem gambling contributions consistent with the tribal–state compact. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.41. Licenses for Gaming Employees, Facilities, Financiers, and Contractors. (a) No licensing is required for Class I gaming.

(b) The SGA has exclusive authority to license Class II gaming operations on Suquamish Indian lands which are now or may later be permitted by federal law, this chapter, the tribal–state compact, or court decision.

(c) The SGA has exclusive authority to license Class III gaming operations on Suquamish Indian lands which are now or may later be permitted by federal law, this chapter, the tribal–state compact, or court decision.

(d) The SGA will ensure that the policies and procedures set forth in this section are implemented with respect to licensing of all persons employed at any Class II or Class III gaming enterprise operated on Suquamish Indian lands.

(e) The SGA may issue the following licenses for gaming on Suquamish Indian lands:

- (1) Gaming operation license.
- (2) Financier license.
- (3) Primary management official license.
- (4) High security license.
- (5) Low security license.
- (6) Facility license.

(7) Class II gaming contractor's license.

(8) Class III gaming contractor's license.

(9) Other licenses as necessary and appropriate. The SGA may not require or issue such "other licenses" except as in accordance with regulations promulgated for that purpose according to this chapter's provisions.

(10) "Conditional" or "provisional" licenses to enrolled tribal citizens who do not meet the state certification criteria in accordance with Section V(C)(6) of the tribal-state gaming compact. The SGA may not issue any other form of "conditional" or "provisional" license except as in accordance with defined criteria and standards set forth in regulations promulgated by the gaming commission for that purpose according to this chapter's provisions or as set out in §11.5.56(e).

(f) Licenses must indicate the type and class of license on the license's face. A combined Class II and Class III license may be issued if appropriate. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.42. License Fees; Application and Renewal Fees. (a) Any person or entity making application for a tribal gaming license according to this chapter must submit the application, required forms and information, and an application fee to the SGA.

(b) A licensee must make application for renewal at least sixty (60) days before the license expires, as required by the SGA or tribal gaming commission regulation, and must submit the application, required forms and information, and a renewal fee equivalent to one hundred percent (100%) of the then prevailing license fee.

(c) The SGA may immediately issue a license to a prospective employee if the prospective employee has a current license or certification issued by the state gaming agency, if the state gaming agency certifies that the prospective employee is in good standing, and if the prospective employee consents to disclosure of the prospective employee's records to the tribal gaming commission.

(d) The SGA may immediately issue a temporary license of limited duration to gaming contractor personnel to enable such personnel to provide services that are necessary to maintain gaming operations. The tribal gaming commission has the authority to establish by regulation other criteria for the issuance of such a temporary limited license.

(e) The tribal gaming commission has the authority to establish the license application fees provided in this section by regulation. The basis for any such license fee will reflect the costs the SGA incurs associated with issuing gaming licenses, including background checks.

(f) The SGA is authorized to collect payment for license fees by lump sum payment, monthly payment plan, payroll deduction, or by any other means the commission or SGA determines to be appropriate. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.43. Duration and Renewal of Tribal Gaming License. (a) With the exception of the temporary license described in Section 11.5.42(d), each tribal gaming license will be effective for three (3) years from the date of issuance.

(b) A licensed employee or entity who has timely applied for license renewal may continue to be employed under the expired tribal gaming license until the SGA takes action on the renewal application.

(c) Applicants seeking renewal of a gaming license must provide information updating originally submitted information on the appropriate renewal forms. Applicants will not be required to resubmit historical data already available to the SGA.

(d) Additional background investigation by the SGA is not required unless the SGA discovers new information concerning the applicant's continuing suitability or eligibility for a tribal gaming license.

(e) If the SGA denies a renewal application, the commission must notify the applicant in writing of the denial determination and forward a copy of the denial to the NIGC and, for Class III gaming license renewal denials, to the state gaming agency in accordance with the tribal-state gaming compact. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.44. Privacy Act Notice on Application Forms. (a) The following notice must be placed on the application form provided to any applicant for a key employee, high security employee, or primary management official position:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by the Indian Gaming Regulatory Act, 25 USC 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have a need for the information in the performance of their official duties. The information may be disclosed to appropriate federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the

disclosures indicated in this notice will result in the Tribe's being unable to hire you for a primary management official, high security employee, or key employee position.

The disclosure of your social security number (SSN) is voluntary. However, failure to supply your SSN may result in errors in processing your application.

(b) The tribal gaming commission must notify existing key employees, high security employees, and primary management officials in writing that they must either:

(1) Complete a new application form that contains a Privacy Act notice; or

(2) Sign a statement that contains the Privacy Act notice and consent to the routine use described in that notice. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.45. False Statement Notice on Application Forms. (a) The following notice must be placed on the application form provided to any applicant for a key employee, high security employee, or primary management official position:

A false statement on any part of your application may be grounds for not hiring you or for firing you after you begin work. Also, you may be punished by fine or imprisonment. 18 USC 1001.

(b) The SGA must notify existing key employees, high security employees, and primary management officials in writing that they must either:

(1) Complete a new application form that contains a notice regarding false statements; or

(2) Sign a statement that contains the notice regarding false statements. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.46. License; Qualifications and Requirements. (a) Before beginning operation and annually thereafter, principals of any management company under contract with the gaming operation must be licensed by the SGA in accordance with the provisions of the tribal-state compact and IGRA.

(b) All primary management officials, high security employees, and low security employees to be employed by the gaming operation must be licensed by the SGA in accordance with the provisions of this chapter, any tribal gaming commission regulations, the tribal-state compact, IGRA, and NIGC regulations, as applicable.

(c) All prospective primary management officials and key employees of the gaming facility must provide to the tribal gaming commission any required application fee and, at minimum, the following information:

- (1) Full name and any other names used (oral or written);
- (2) Social security number(s);
- (3) Date and place of birth;
- (4) Citizenship;
- (5) Gender;
- (6) All languages spoken or written;
- (7) Current and for the previous five (5) years: business and employment positions held and the address of each business or employer;
- (8) Current and for the previous five (5) years: ownership interests in any business and the address of each business;
- (9) Current and for the previous five (5) years: residence address(es);
- (10) Current driver's license number and any other driver's license held in the past five (5) years;
- (11) Description of any existing or previous business relationships, including prior employment, with any Indian tribe and, if applicable, any ownership interest in such business(es);
- (12) The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (9) of this section;
- (13) Current business and residence telephone numbers;
- (14) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (15) The name and address of any licensing or regulatory agency with whom the person has filed an application for an occupational license or permit, whether or not that license or permit was granted;

(16) The name and address of any licensing or regulatory agency with whom the person has filed an application for a license or permit related to gaming, whether or not that license or permit was granted;

(17) For each felony conviction or continuing prosecution, the charge, the name and address of the court involved, and the date and disposition, if any;

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

(19) For each criminal charge within ten (10) years of the date of the application and not otherwise listed according to paragraph (17) or (18) of this section whether or not there is a conviction but excluding civil traffic infractions, the criminal charge, the name and address of the court involved, and the date and disposition, if any;

(20) One (1) current photograph;

(21) Any other information the SGA considers relevant or the tribal gaming commission requires by regulation; and

(22) Fingerprints consistent with procedures adopted by the SGA or tribal gaming commission regulations in accordance with 25 CFR 522.2(h). The SGA will engage the Suquamish Tribal Police or other qualified law enforcement agency to complete license applicant fingerprinting.

(d) All prospective low security employees of the gaming facility must provide to the SGA any required application fee and the following information:

(1) Full name and any other names used (oral or written);

(2) Social security number(s);

(3) Date of birth;

(4) Gender;

(5) Current residence address and telephone number;

(6) Current driver's license number (or other form of government-issued photo ID); and

(7) Any other state(s) of residence for the previous five (5) years. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.47. Completion of State Certification Application or Registration. (a) Each applicant for a Class III gaming related license must also submit to the SGA a completed state certification application together with all fees required by the state gaming agency and the SGA. For business entity applicants, the principals of those entities will submit the required application, attachments, and fees.

(b) The SGA will transmit a copy of all Class III gaming license application materials for each applicant, together with a set of fingerprint cards, a current photograph, and the fee required to the state gaming agency.

(c) Notwithstanding the requirements of Section 11.5.47(a), the SGA may waive the requirement for gaming employees to submit a state certification application and maintain a state certification, and instead register gaming employee licenses with the state gaming agency according to procedures described in the tribal-state gaming compact. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.48. Request for Temporary State Certification of Gaming Employees. (a) The SGA may, within thirty (30) days of receiving a completed application, request that the state gaming agency issue a temporary state certification to the applicant, unless the state gaming agency's background investigation during that period discloses that the applicant has a criminal history or the state gaming agency discovers compelling evidence of dishonesty, criminal conduct, or an association(s) sufficient to disqualify the applicant under the state's certification requirements.

(b) Any temporary certification granted will become void and be of no effect upon either the issuance of a state certification or the issuance of an intent to deny, in accordance with the tribal-state gaming compact. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.49. Background Investigation Procedures. (a) The SGA will conduct an investigation of each license applicant sufficient to make a determination as set forth below in this section. In conducting a background investigation, the SGA and its investigative personnel will keep confidential the identity of each person interviewed.

(b) The SGA is responsible for conducting background investigations and for making suitability determinations for Class II gaming license applicants.

(c) The tribal police agency, a qualified contractor of the SGA, or the SGA will obtain fingerprints, if required, from all Class II gaming license applicants. The SGA may use the NIGC or the state gambling commission enforcement agency, as may be required by IGRA or the tribal-state gaming compact, to process the fingerprints.

(d) The SGA is authorized to conduct background investigations of Class III gaming license applicants. The SGA may alternatively rely solely on the background investigation report the state gaming agency provides in accordance with the tribal–state gaming compact in determining whether to issue a Class III gaming license.

(e) The minimum investigative procedures to be performed in connection with a background investigation of low security employees will include a criminal background check. Potential problem areas will be noted and additional information will be obtained as necessary and according to any applicable tribal gaming commission regulations. The minimum investigative procedures to be performed in connection with a background investigation of primary management officials and key employees will include the following:

(1) Verification by written or oral communication of information submitted by the applicant;

(2) Inquiry into the applicant’s prior activities, reputation, habits, associations, and criminal record (including criminal history records maintained by the Federal Bureau of Investigation), if any;

(3) Interviews with a sufficient number of knowledgeable people such as former employers, personal references, and others to whom reference is made in order to provide a basis for the SGA to make a finding concerning an applicant’s eligibility for a license in the gaming operation; and

(4) Documentation of all potential problem areas noted, and any disqualifying information.

(f) The SGA will review and approve the investigative work done. If the SGA determines that licensing the applicant poses a threat to the public interest or to the effective regulation of gaming or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming, the SGA will not license that applicant in a key employee or primary management official position.

(g) The SGA will deny a gaming license to any prospective key employee or primary management official who has been convicted of, or entered a plea of guilty or no contest to, any of the following offenses:

(1) Any felony within the preceding ten (10) years;

(2) Any gaming-related offense; or

(3) Any crime of dishonesty within the preceding ten (10) years, including, not exclusively: fraud; forgery; possession of a forgery device; theft; counterfeiting; embezzlement; making a false representation; obstruction of

justice; intent to defraud; bribery; mail fraud; perjury; willful tax evasion; and attempt, aiding and abetting, being an accessory, and/or conspiracy to commit a crime of dishonesty.

(h) The SGA may deny a gaming license to any prospective key employee or primary management official who:

(1) Has associated in a business relationship, whether as a partner, joint venturer, or employer, with any other person who has been convicted of one of the crimes listed in subparagraph (g) of this section;

(2) Had been employed by any other person who has been convicted of one of the crimes listed in subparagraph (g) of this section, if the prospective employee or official was in any way involved in or aware of the criminal activity as it occurred;

(3) Fails to disclose any material fact to the SGA or its authorized agents during a background or security investigation;

(4) Misstates or falsifies a material fact to the SGA during a background or security investigation; or

(5) Is ineligible for any other reason the SGA considers sufficient, provided that reason is consistent with the tribal–state compact and this chapter.

(i) In determining whether to deny a gaming license to any prospective key employee or primary management official, the SGA will consider but need not be limited to the following factors:

(1) Whether the applicant has been convicted of any crime other than a crime listed in subparagraph (g) in any jurisdiction;

(2) Whether the applicant has associated with persons or businesses of known criminal background or persons of disreputable character that may adversely affect the general credibility, honesty, integrity, security, fairness, or reputation of the gaming operation; or

(3) Whether there is any aspect of the applicant’s past conduct that the SGA determines would adversely affect tribal gaming assets, or the honesty, integrity, security, or fairness of the gaming operation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.50. Denial of License Application. (a) The SGA will deny a gaming license to any prospective low security employee who has committed any of the crimes listed in §11.5.49(g).

(b) The SGA may reject any applicant who:

(1) Fails to provide all the information requested in the application;

(2) Violates, fails, or refuses to comply with any provision, requirement, condition, limitation, or duty imposed by this chapter, IGRA, or the tribal–state gaming compact;

(3) Fails to provide information reasonably required to investigate the application for a tribal license or to reveal any fact that the applicant knows or should reasonably know is material to that application, or who has furnished any information that is untrue or misleading in connection with that application;

(4) Has had a tribal or state gaming license revoked or denied during the twelve (12) months before the date on which the Tribe received the application; or

(5) Is currently on probation imposed by, has demonstrated a willful disregard for, or has failed to comply with the requirements of any gaming regulatory authority in any jurisdiction, including offenses that could subject the individual or entity to suspension, revocation, or forfeiture of a gaming license. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.51. Waiver of Disqualifying Criteria. (a) If a prospective key employee, primary management official, or low security employee is disqualified for licensing under the provisions of §11.5.49 or §11.5.50, as applicable, and the SGA believes there are mitigating circumstances justifying a waiver of the disqualifying factor, the SGA, with tribal gaming commission approval, may decide to waive the disqualification. If the applicant in question is a candidate for a Class III gaming license, the SGA will give written notice to the state requesting a meeting to confer on the waiver of an applicant's disqualification in accordance with the terms of the tribal–state compact.

(b) In order to waive a disqualification for a Class III gaming license, both the SGA and the state must agree on the waiver.

(c) Waiver of licensing disqualification may be based on one or more of the following circumstances:

(1) Applicant's age at the time of any conviction;

(2) Passage of time since conviction for the crime committed;

(3) Severity of the offense committed;

(4) Applicant's overall criminal record;

(5) Applicant's current reputation and standing in the community; or

(6) The nature of the position for which the application is made. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.52. Gaming Applications by Tribal Citizens, Indians. (a) The SGA may, by mutual agreement with the state gaming agency, waive certain criteria for any enrolled tribal citizen and issue a provisional or conditional gaming license if the tribal citizen applicant does not pose a material risk of engaging in unlawful activity or activity detrimental to the operation of the gaming facility. The provisional or conditional gaming license issued may be a temporary license based upon specific conditions and a further detailed review of the tribal citizen applicant. The SGA may require the tribal citizen applicant to pay additional fees to maintain a temporary, conditional, or provisional gaming license.

(b) An application submitted for a tribal gaming license by an Indian from a federally recognized Indian tribe may not be denied, suspended, or revoked on the grounds that the Indian has been charged or convicted under any state law of nongambling related offenses if the charge or conviction occurred before the United States Supreme Court rulings upholding state jurisdiction over Indians for such offenses as but not limited to:

(1) Hunting or fishing offenses;

(2) Cigarette sales offenses; or

(3) Alcohol sales offenses.

(c) An Indian from a federally recognized Indian tribe who has been charged or convicted in cases involving the exercise of nongambling related trust or treaty rights is not barred as a result of such activities from obtaining a tribal gaming license if there are no other violations, activities, or factors that would justify denial, suspension, or revocation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.53. Denial Appeal. Applicants may appeal an SGA denial of a license to an impartial administrative law judge. The administrative law judge (ALJ) will be chosen by the Office of the Tribal Attorney upon receipt of the request to appeal. The administrative law judge's decision on the appeal is final. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.54. Procedures for Forwarding Applications and Reports of Class II Gaming License Investigations to the National Indian Gaming Commission. (a) Within sixty (60) days after a primary management official, high security employee, or low security employee begins working at a tribal Class II gaming facility, the SGA must forward to the NIGC a completed application for licensing, conduct a background investigation, and make the determination referred to in §11.5.49.

(b) No key employee, primary management official, high security employee, or low security employee may be employed at the tribal Class II gaming facility for longer than ninety (90) days without the necessary and applicable license.

(c) The SGA must prepare and forward to the NIGC an investigative report on each Class II gaming license application background investigation it conducts no later than 60 days after the applicant begins working. The investigative report must include all of the following:

- (1) Steps taken in conducting a background investigation;
- (2) Results obtained;
- (3) Conclusions reached; and
- (4) The bases for such conclusions.

(d) Along with the report, the SGA must submit a copy of the eligibility determination made under §11.5.49(g) of this chapter. Before issuing any license to a primary management official or key employee, the SGA will prepare a notice of results of the applicant's background investigation to submit to the NIGC.

(e) If a license is not issued to an applicant, the SGA:

- (1) Must notify the NIGC; and
- (2) May forward copies of its eligibility determination and investigative report, if any, to the NIGC for inclusion in the Indian Gaming Individuals Records System.

(f) With respect to key employees, high security employees, and primary management officials, the SGA must retain applications for licensing and reports, if any, of background investigations for inspection by the chairman of the NIGC or his or her designee for not less than three (3) years from the date of termination of employment. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.55. Granting a Class II Gaming License. (a) If within thirty (30) days after the NIGC receives a report the NIGC notifies the SGA that it has no objection to the

issuance of a license according to a license application an applicant has filed for a key employee, high security employee, or primary management official position for whom the SGA has provided an application and investigative report to the NIGC, the SGA may issue a license to that applicant.

(b) The SGA will respond to a request for additional information from the chairman of the NIGC concerning any key employee, high security employee, or primary management official who is the subject of a report. Such a request suspends the thirty-day period under §11.5.55(a) until the chairman of the NIGC receives the additional information.

(c) If within the thirty-day period described above the NIGC provides the SGA with a statement itemizing objections to the issuance of a license to a key employee, high security employee, or primary management official for whom the SGA has provided an application and investigative report, the SGA must reconsider the application, taking into account the objections itemized by the NIGC. The SGA will make the decision on whether to issue a license to the applicant. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.56. License Suspension and Revocation. (a) The SGA will immediately suspend the license issued according to this chapter of any person or entity who is or becomes ineligible to hold a license under this chapter and regulations promulgated under this chapter or who violates any provision of this chapter, of STC §7.20.2, of 25 USC 2701 et seq., of 18 USC 1163, or of any rule or regulation promulgated and adopted under any of those statutes.

(b) If, after issuing a license, the SGA receives reliable information from the NIGC indicating that the applicant or employee does not meet the standards established and set forth in this chapter or is ineligible to hold a license under this chapter, the SGA must immediately suspend that license.

(c) Upon SGA suspending a license and within five (5) working days, an ALJ chosen by the Office of the Tribal Attorney must set a date, time, and place for a revocation hearing and SGA will give written notice to any licensee whose license has been suspended and include in the notice the following information:

(1) The suspension's effective date;

(2) The reason(s) for the suspension and potential revocation; and

(3) The date, time, and place of the revocation hearing which may occur no later than thirty (30) calendar days from the suspension date.

(d) At least five (5) days before a revocation hearing involving a Class III license, the SGA will forward to the state gaming agency a copy of any notice of hearing to be held.

(e) After conducting the revocation hearing, the ALJ may decide to revoke or to reinstate the gaming license or to reinstate with conditions on the license and licensee consistent with this chapter's provisions and the regulations promulgated under this chapter, provided the SGA must review those conditions on the license's next renewal date. The SGA may not reinstate any Class II or Class III gaming license with conditions if the proven acts of the licensee would be grounds for denial of a license under this chapter, the IGRA, or the tribal-state compact unless the commission has concurrence from the state gaming agency or NIGC in the conditions. The ALJ will be the sole judge of the proof offered at a hearing.

(f) No later than thirty (30) days after the hearing, the ALJ must notify the licensee in writing as to its decision and send a copy of the decision to the NIGC and in the case of a Class III gaming license to the state gaming agency. The revocation notice must include the following information:

(1) The revocation's effective date.

(2) The reason(s) for the revocation.

(3) The right of the licensee to appeal the ALJ's decision to the Tribal Court under the conditions set out in subsection (4) below within ten (10) days of the licensee's receipt of the ALJ decision.

(4) The decision of the ALJ is final and conclusive and not subject to appeal to the Tribal Court, except that an appeal to the Tribal Court may be maintained exclusively on the grounds that the ALJ denied the licensee's rights to due process of law.

(g) Regardless of anything to the contrary in this chapter, the licensee and SGA may request in writing the reasonable extension of any timeframe set forth above. The ALJ may reasonably extend any of the timeframes set forth above at the request of the licensee or SGA, or at the ALJ's own discretion. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.57. Appeal of ALJ Decision. (a) A licensee may appeal an ALJ decision on the revocation of his or her license to the Tribal Court only on the ground set out in §11.5.56(f)(4) by sending a written notice of appeal of the revocation to the Tribal Court and the SGA no later than ten (10) days after the licensee receives notice that the license has been revoked. The notice of appeal must state all reasons the licensee believes the ALJ denied the licensee due process of law.

(b) Upon receiving the notice of appeal of the license revocation, the Tribal Court will schedule a hearing to be conducted within twenty (20) days of receiving the licensee's notice of appeal. Written notice of the time, date, and place of the hearing

must be delivered to the licensee no later than five (5) days before the scheduled hearing date.

(c) The licensee and the Tribe may be represented by legal counsel at the appeal hearing. The hearing will be limited to the question of whether the ALJ denied the licensee due process of law. The licensee and the Tribe may present witnesses and evidence in support of their respective positions, cross-examine witnesses, and examine evidence submitted by the opposing party.

(d) The Tribal Court will issue its decision on the appeal no later than ten (10) working days following the appeal hearing. The decision may uphold the decision below or remand the decision to the ALJ with instructions to meet due process requirements as set out in this chapter. The decision of the Tribal Court is final and conclusive, and no appeal to a higher court is allowed.

(e) The ALJ and SGA must comply with the Tribal Court order and must forward a copy of any revised decision of the ALJ concerning the license revocation to the NIGC and the state gambling commission. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.58. Application for Relicensing. No person, entity, or contractor whose gaming license has been revoked is eligible to apply for a new license until twelve (12) months after the effective date of his or her license revocation. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.59. Facility License. Not less than once every three (3) years, the SGA will issue a separate license to each place, facility, or location on Suquamish Indian lands where Class II or Class III gaming is conducted under this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.60. Facility Inspection. (a) The SGA will inspect each gaming operation before beginning operation and at least annually thereafter to verify its conformance to the licensing and other requirements of this chapter and, as to Class III gaming activities, the tribal–state gaming compact. If the gaming operation fails to meet any licensing requirement or other requirement of this chapter or, as to Class III gaming activities, the tribal–state gaming compact, the SGA will send a noncompliance letter to the gaming operator within seven (7) working days after completing the inspection.

(b) SGA will make an initial verification that all licenses have been issued and that requirements for such licensing have been met. The preoperation review must be conducted no later than ten (10) days before the scheduled opening of the gaming facility to the public. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.61. Financier License. (a) Any party who extends or intends to extend financing directly to the gaming facility or gaming operation is subject to the annual licensing requirements of this chapter, IGRA, and/or the tribal–state gaming compact. That party must obtain a tribal license before completing the financing agreement and annually thereafter as long as the financing agreement is in effect. This section does not apply to financing provided by a federally regulated commercial lending institution, the Suquamish Tribal government or its agencies, or the federal government.

(b) An applicant for a financier license must fully disclose to the SGA both the source of all funds to be used in any financing agreement and other information as may be required to be disclosed under and in accordance with IGRA and/or the tribal–state gaming compact. As to Class III gaming financier license applications, the SGA must provide a copy of disclosures made under this subsection to the state gaming agency in accordance with the tribal–state gaming compact. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.62. Key Personnel List. Before beginning operations and annually thereafter, the gaming operator must provide the SGA with information identifying all key employees in its gaming operation. The SGA must provide a copy of the submitted information to the state gaming agency only to the extent required under the tribal–state gaming compact. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.63. Background Investigation During Employment. The SGA may request the state gaming agency to conduct additional background investigations of any gaming employee at any time during the term of employment. The SGA will request the state gaming agency to advise the SGA of any facts which would cause the revocation of a license and dismissal of any employee under the criteria established in §11.5.49 and to furnish the SGA with copies of all relevant information supporting such facts. The SGA will review the state gaming agency’s report and supporting materials and revoke the employee’s license if the report presents facts establishing that the SGA would have been required to deny a license to that employee under the provisions of §11.5.49 if the information had been known. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.64. Procedural Manual. The tribal gaming operator must maintain a procedural manual for employees that includes rules and regulations of conduct; provides disciplinary standards for breach of procedures; and prohibits violation of the tribal–state compact and applicable federal or tribal law. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008)

11.5.65. Contracts with Manufacturers and Suppliers. (a) The primary management officials will contract in writing with any manufacturers and suppliers of goods and services related to the play of any Class II or Class III game before offering that game to the public for play.

(b) The SGA may require that Class II and Class III gaming contractors be subject to a background investigation by the SGA before any contracts for goods and services are executed.

(c) All Class II and Class III gaming contract applicants and any principal, owner, or key employee of a gaming contract applicant must provide all personal and business information required by the SGA and/or the state gaming agency in accordance with the terms of a tribal-state gaming compact, to conduct the background investigation.

(d) Primary management officials may not enter into any Class II gaming contract if the license applicant does not provide the SGA or the NIGC with access to its business and financial records.

(e) Primary management officials may not enter into any Class III gaming contract if the license applicant does not provide the SGA, the state gaming agency in accordance with the terms of a tribal-state gaming compact, or the NIGC access to the contractor's business and financial records.

(f) If a Class III gaming contract license applicant is currently licensed or certified by the state gaming agency to supply goods or services to any other tribe in the state, the SGA may immediately issue a contract license to supply the same services or goods to the tribal gaming operation.

(g) In the event a Class III gaming contractor provides or intends to provide less than twenty-five thousand dollars (\$25,000) worth of gaming services annually, the SGA, upon mutual agreement with the state gaming agency, may waive the certification and licensing requirement.

(h) All contractors must comply with all applicable gaming regulations. The gaming operator will make commercially reasonable efforts to ensure such contractor compliance. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.66. Criteria for Denial of Class II or Class III Gaming Contract License Application. The SGA will deny a Class II or Class III gaming contract license application under any of the following conditions:

(a) The applicant fails to disclose, misstates, or falsifies any material fact to the SGA, the state, or their authorized agents during a background or security investigation.

(b) A person who is unqualified or disqualified to be a Class II or Class III gaming contractor owns, is an agent of, or has any other interest in the applicant, regardless of the qualifications of the person who seeks approval as a contractor.

(c) The applicant demonstrates inadequate financing for the business proposed under the type of contract for which application is made. In determining whether financing is adequate, the SGA will consider whether financing is from a source that meets the qualifications of §11.5.49 and whether the financing is in an amount to ensure the likelihood of success in the performance of the contractor's duties and responsibilities.

(d) The applicant or its employees fails to demonstrate business ability and experience to establish, operate, and maintain the business for the type of contract for which application is made.

(e) Any other reason the SGA considers sufficient. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.67. No Interest in Electronic Gaming Devices. No person applying for a Class II or Class III gaming contract license may own, manufacture, possess, operate, own an interest in, or gain income or reimbursement in any manner from video gaming devices in any jurisdiction unless:

(a) The devices are approved and certified by another state lottery, gambling, or gaming control agency, Indian tribe, NIGC, or foreign country that has jurisdiction to approve that activity; and

(b) Such ownership, manufacture, possession, operation, or income is disclosed to the SGA. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.68. Rejection of License Application. The SGA may reject an application for either a Class II or Class III gaming contract license if the applicant has not provided all the information requested in the application. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.69. Criteria for Denial of Major or Sensitive Procurement Contract Application. The SGA will deny a Class II or Class III gaming contract application for a major or sensitive procurement if the applicant or any owner, principal, or key employee of the applicant:

(a) Has been convicted of a crime or is the subject of a civil judgment based upon facts which constitute the elements of a crime described in §11.5.49(g)(1–26).

(b) Has associated in a business relationship, whether as a partner, joint venturer, or employer, with any other person who has been convicted of one of the crimes listed in §11.5.49(g)(1–26).

(c) Was employed by any other person who has been convicted of one of the crimes listed in §11.5.49(g)(1–26), if the applicant, owner, principal, or key employee was in any way involved in or aware of the criminal activity as it occurred. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.70. Criteria for Denial of Minor Procurement Application. The SGA will deny a Class II or Class III gaming contract application for a minor procurement if the applicant or any owner, principal, or key employee of the applicant has been convicted of, or entered a plea of guilty or no contest to, any of the offenses listed in §11.5.49(g). (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.71. Contractor Report Requirements. (a) All licensed Class II gaming contractors must submit to the SGA or the NIGC any financial and operating data requested by the SGA.

(b) All licensed Class III gaming contractors must submit to the SGA and the state any financial and operating data requested by the SGA, the state, or their authorized agents.

(c) The SGA may specify the frequency and a uniform format for submitting that data.

(d) The SGA and tribal gaming commission reserve the right to examine Class II gaming contractor tax records and the detailed records from which the tax reports are compiled.

(e) The SGA, tribal gaming commission, the state, or their authorized agents reserve the right to examine Class III gaming contractor tax records and the detailed records from which the tax reports are compiled. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.72. Duration of Contractor License and Renewal. (a) Any gaming contractor license is effective for not more than three (3) years from the date of issue. Applicants for renewal must provide a renewal fee and updated information to the SGA but will not be required to resubmit historical data already provided.

(b) Class II gaming contractors must comply with all IGRA requirements for license renewals.

(c) Class III gaming contractors must comply with all tribal–state gaming compact requirements for license renewals. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.73. Revocation of Contractor License. The SGA may revoke any contractor’s license according to this chapter and/or tribal gaming commission regulations .. The SGA will revoke any contractor’s license upon determination that an event has occurred

that would have prohibited the SGA from licensing the contractor under the criteria established in this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.74. Fee for Approval of Employment License and Contracts. (a) The SGA, with tribal gaming commission approval, will set fees for the conduct of its background investigations and for its review of employee and contractor license applications.

(b) The SGA will additionally collect fees from license applicants equivalent to the amount the state charges for approval, certification, or registration of employee and contractor licenses, in accordance with the terms of the tribal–state compact.

(c) Should the state gaming agency incur costs exceeding the fees set forth in the state gaming agency’s fee schedule, , the SGA will collect any other required costs from the license applicant.

(d) The applicant is required to pay all license fees in full before the contract or license is issued. License fees are nonrefundable. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.75. Management Contract. (a) At all times, the primary management official will provide the SGA and the state gaming agency with a current copy of any management agreement with the tribal gaming operator that allows it to conduct Class III gaming on Suquamish Indian lands.

(b) The primary management official will furnish to the Tribal Council, the SGA, and the state gaming agency complete information pertaining to any transfer of controlling interest in the management company at least thirty (30) days before that change or if the primary management official is not a party to the transaction effecting that change of ownership or interests, immediately upon acquiring knowledge of that change or any contemplated change. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.76. Customer Dispute Procedure. (a) The SGA may receive a dispute from a customer who claims to be adversely affected by an act or omission of the tribal gaming operator that is asserted to violate this chapter, the tribal–state compact, or the standards of management and operation adopted according to this chapter. Before lodging a complaint with the SGA, the customer must exhaust the gaming operation’s internal dispute remedy procedures.

(b) The gaming operation must post a notice in the gaming facility advising customers of its dispute resolution procedure and must have dispute forms easily accessible to its customers.

(c) A customer with a dispute must complete a written dispute form stating the facts or circumstances of the dispute with the tribal gaming operator and submit it to the

tribal gaming operator within four (4) days after the incident giving rise to the dispute. The tribal gaming operator will promptly provide a copy of the dispute form to the SGA and has seven (7) days to prepare and deliver its written response to the customer and SGA. The tribal gaming operator must provide a copy of the customer's statement and its response to the SGA. The customer's written complaint must include at a minimum:

- (1) Time of incident;
- (2) Date of incident;
- (3) Place of incident;
- (4) Circumstances of the claim;
- (5) Identity of SGA employees, tribal gaming operation employees, and other individuals who were involved in or witnessed the events in questions;
- (6) Relief (if any) demanded; and
- (7) The name, address, and telephone number of the claimant.

(d) In the event the customer is dissatisfied with the tribal gaming operator's response, the customer may request that the SGA review the dispute. The customer must make this request to the SGA within seven (7) days after receiving the tribal gaming operator's response.

(e) The SGA, through a SGA agent, will review the dispute and the tribal gaming operator's response. The agent will conduct whatever investigation he or she considers necessary, report his or her findings, and make a recommendation to the Director. The Director may conduct any additional investigation the Director sees fit. The Director, upon consideration of the matter, will issue a written decision and mail it to the parties by registered mail or certified mail, return receipt requested. The Director must fully consider and complete its final review of the dispute within thirty (30) days after receiving the customer's request.

(f) Within 5 days of receipt of the written Director decision, any party may appeal the decision to an ALJ, appointed by the Office of the Tribal Attorney. The request for appeal must be made in writing and must include a basis for the appeal. If the ALJ decides to hold a hearing, the ALJ will provide written notification of the date, time, and place for the hearing to the customer and the tribal gaming operator at least five (5) days before the hearing. At the hearing, the customer will have the opportunity to submit written evidence and present oral testimony in support of his or her dispute. The tribal gaming operator will have the opportunity to respond to the customer's dispute with evidence or testimony. If the ALJ fails to issue a written decision within sixty (60) days, the claim will be deemed denied.

(g) The liability of the tribal gaming operator in any dispute under this section is limited, in the event of a technical malfunction, to the amount of the customer's wager; and in the event of an act or omission of the tribal gaming operator that the ALJ determines to constitute a violation of this chapter, the tribal-state compact, or the standards of management and operation adopted according to this chapter, to (i) the amount the ALJ determines the customer would have won but for the tribal gaming operator's act or omission, or (ii) the amount the customer spent on the merchandise (if any) that is the subject of the dispute. No customer complainant is entitled to any other award, including but not limited to special, consequential, or punitive damages, damages for mental distress, or attorneys' fees or other costs of the dispute.

(h) The ALJ's decision is final and not subject to judicial review, except as provided in §11.5.88.

(i) Failure to file a timely dispute will forever bar the dispute against the gaming operation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.77. Recording and Reporting of Incidents. (a) The SGA must record, in a permanent and detailed manner, any and all occurrences at any gaming facility which require further investigation under the terms of the tribal-state gaming compact.

(b) Each incident recorded will be assigned a sequential number, and at a minimum the following information must be maintained regarding the incident:

(1) The assigned number;

(2) The date;

(3) The time;

(4) The nature of the incident;

(5) The name, address, and telephone number of all persons involved in the incident; and

(6) The name and identification number of the tribal gaming agent or SGA employee assigned responsibility for recording the occurrence.

(c) The commission may adopt regulations on the tribal gaming operation's recording and reporting of incidents. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.78. Civil Offenses. The following offenses are civil offenses, punishable by a fine of up to five thousand dollars (\$5,000). In addition, any person licensed by the SGA

who is found to have violated any provision of this section will be subject to immediate suspension of his or her gaming license, awaiting a hearing before the commission according to §11.5.56.

(a) It is a civil offense for any person to operate, perform, supervise, hold, conduct, or participate in gaming on Suquamish Indian lands in violation of this chapter's provisions or in violation of rules or regulations promulgated according to this chapter.

(b) It is a civil offense for any person to conduct any gaming activity without the license or licenses required by this chapter, by IGRA, or in the case of Class III gaming activities, by the tribal–state gaming compact.

(c) It is a civil offense for any person to knowingly make a false statement in an application for employment or a license application required in this chapter, by IGRA, or in the case of Class III gaming activities, by the tribal–state gaming compact.

(d) It is a civil offense for any person to make any false or misleading entry, willfully fail to maintain or make any entry required to be maintained or made, or willfully refuse to produce for inspection by the SGA or in the case of Class III gaming activities, by any person authorized to inspect according to tribal law, IGRA, or the tribal–state gaming compact any book, record, or document required to be maintained or made by tribal law, federal law, or the tribal–state gaming compact.

(e) It is a civil offense for any person to bribe, attempt to bribe, inappropriately influence, or attempt to inappropriately influence any person who licenses, operates, conducts, assists, or is otherwise employed in a gaming activity or enterprise located on Suquamish Indian lands.

(f) It is a civil offense for any person directly or indirectly operating any gaming activity on Suquamish Indian lands to employ any device, scheme, or artifice to defraud; to make any untrue statement of a material fact or to mislead by leaving out a material fact; or to engage in any act, practice, or course of operation which would operate as a fraud or deceit upon any person.

(g) It is a civil offense for any person participating directly or indirectly in any gaming activity on Suquamish Indian lands to employ or attempt to employ any device, scheme, or artifice or to engage in any act, practice, or operation which would operate as a fraud or deceit upon any other participant or any operator.

(h) It is a civil offense for any person to change or misrepresent the outcome or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players.

(i) It is a civil offense for any person to place, increase, or decrease a bet or to determine the course of play after acquiring knowledge not available to all players of the

game's outcome or of any event that affects the game's outcome or that 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 dependent upon that event or outcome.

(j) It is a civil offense for any person to claim, collect, or take or attempt to claim, collect, or take money or anything of value in or from a gambling game with intent to defraud without having made a wager on that game or to claim, collect, or take an amount greater than the amount won.

(k) It is a civil offense for any person to knowingly entice or induce another to go to any place where a gambling game is being conducted or operated in violation of this chapter's provisions or the tribal–state gaming compact with the intent that the other person play or participate in that gambling game.

(l) It is a civil offense for any person to place or increase a bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including past-posting and pressing bets.

(m) It is a civil offense for any person to reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including pinching bets.

(n) It is a civil offense for any person knowingly to use other than coins or tokens the tribal gaming commission has approved or other lawful coin or legal tender of the United States of America or to use coin not of the same denomination as the coin intended to be used in the gambling game.

(o) It is a civil offense for any person to engage in any act, practice, or operation or possess any device while participating in a gaming activity with the intent of cheating any other participant or any operator in order to gain an advantage in the game over any other participant or any operator. For the purposes of this chapter, the word “cheat” means to alter the selection of criteria that determines the result of a gaming activity or the amount or frequency of payment in such gaming activities.

(p) It is a civil offense for any person to induce any person having a direct or indirect financial interest in a management contract, a person having management responsibility for a management contract, or their agents to significantly and improperly influence the adoption of an ordinance or resolution regarding Class II or Class III gaming.

(q) Except as authorized by this chapter, the rules and regulations adopted according to this chapter, IGRA, and in the case of Class III gaming activities, the tribal–state gaming compact, it is a civil offense for any person to give, provide, or offer to give or provide directly or indirectly any compensation, reward, or share of money or property paid or received through gambling activities in consideration for obtaining any

license, authorization, permission, or privilege to participate in any gaming operations to any of the following persons: Tribal Council member, tribal gaming commission member, SGA employee, primary management official, key employee, high security employee, low security employee, contractor, person with a direct or indirect interest in the operation of Class II or Class III gaming, or person who licenses, regulates, or enforces laws related to gaming activities on Suquamish Indian lands.

(r) It is a civil offense for any person to knowingly cause, aid, abet, or conspire with another to cause any person to violate any provision of this chapter, any rules or regulations adopted by the tribal gaming commission, or in the case of Class III gaming, any provision of the tribal–state gaming compact.

(s) It is a civil offense for any person, in violation of this chapter, to engage in, be employed in, manage, or operate any professional gambling activity together with any number of persons or for any wager amounts.

(t) For the purposes of this chapter, the word “professional gambling” means engaging in conduct which materially aids any other form of gaming activity; knowingly accepting or receiving money or other property according to an agreement or understanding with any other person by which he or she participates in or is to participate in the proceeds of the gaming activity; engaging in bookmaking, conducting a lottery, or acting in any manner to create or establish a particular game, contest, scheme, or device; engaging in any activity to acquire or maintain premises, paraphernalia, equipment, or apparatus for the purpose of soliciting or inducing persons to participate in the playing of a game, contest, scheme, or device; or arranging any of the financial or recording phases of the operation of that game, contest, scheme, or device. This definition includes any person who has substantial proprietary or other authoritative control over any premises and knowingly permits the premises to be used for the purpose of conducting gambling activities this chapter does not authorize and makes no effort to prevent their occurrence or continuation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.79. Civil Fines and Penalties. (a) Any person who violates any provision of this chapter or any rule or regulation promulgated under this chapter is guilty of a civil offense punishable by a fine not to exceed five thousand dollars (\$5,000) for each violation or for each day the violation continues. Before the SGA may issue any civil gaming infraction or corresponding fine, it must first establish a schedule of fines for each civil gaming infraction set out in §11.5.78 and §11.5.88 and must have the schedule approved by Suquamish Tribal Council resolution.

(b) Any non-Indian who violates a provision of this chapter may also be excluded from Indian lands within the Suquamish Tribe’s jurisdiction.

(c) The SGA may seize any property, equipment, material, or supplies used in committing a violation of a provision of this chapter. The owner of the property will be

given an opportunity to object and be heard in accordance with the principles of due process. If no objection is raised or the objection is not sustained, the seized property will be forfeited to the Suquamish Tribe.

(d) A separate violation occurs on each day that a violation arises or continues after the SGA notifies the violator in writing either in the form of an order to cease and desist or in the form of a civil citation. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008 which also moved criminal fines and penalties to chapter 7.20; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.80. Notice of Infraction. (a) An SGA agent has the authority to issue a notice of civil gaming infraction:

(1) When it occurs in the agent's presence; or

(2) When a agent investigating any incident or event in or connected to the gaming facility has reasonable cause to believe a civil gaming infraction has been committed.

(b) The tribal prosecutor may issue a notice of civil gaming infraction upon receiving a written statement of a tribal gaming enforcement officer that there is probable cause to believe that an infraction has been committed.

(c) A notice of gaming infraction represents a determination that a civil gaming infraction has been committed. The determination will be final unless contested as provided in this chapter.

(d) The form for the notice of civil gaming infraction must include the following statements.

(1) A statement that the notice represents a determination that the person named in the notice has committed a civil gaming infraction and that the determination will be final unless contested as provided in this chapter.

(2) A statement that a civil gaming infraction is a noncriminal offense for which imprisonment may not be imposed as a penalty and that the penalty for a civil gaming infraction may include the suspension or revocation of a person's privilege to hold a gaming license within the exterior boundaries of the Port Madison Indian Reservation.

(3) A statement of the specific civil gaming infraction for which the notice was issued.

(4) A statement of the monetary penalty established for the civil gaming infraction.

(5) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options.

(6) A statement that at any hearing to contest the determination the Tribe has the burden of proving by a preponderance of the evidence that the infraction was committed and that the person may subpoena witnesses, including the officer who issued the notice of infraction.

(7) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the infraction the person will be considered to have committed the infraction and may not subpoena witnesses.

(8) A statement that the person must respond to the notice as provided in this chapter within fifteen (15) days or the person's privilege to gamble or to hold a gaming license within the exterior boundaries of the Port Madison Indian Reservation may be suspended or revoked.

(9) A statement that failure to appear at a hearing requested to contest the determination or to explain mitigating circumstances may result in the suspension or revocation of the person's privilege to hold a gaming license or to gamble within the exterior boundaries of the Port Madison Indian Reservation.

(10) A statement that failure to respond to a notice of civil gaming infraction and/or the nonpayment of a fine may result in the person's case being sent to a collection agency and/or the loss of any gaming license issued by the SGA.

(11) A statement, which the person must sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter. If the person refuses to sign the infraction, the officer must write "refused" in place of the person's signature. A person who refuses to sign a citation is presumed to have notice of its contents.

(e) Any person who receives a notice of civil gaming infraction must respond to that notice as provided in this subsection within fifteen (15) days of the date of the notice.

(1) If the person determined to have committed the infraction does not contest the determination, the person must respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the Suquamish Tribal Court. A check or money order in the amount of the penalty set forth for the infraction must be submitted with the response. When a response that does not contest the determination is received, an appropriate order will be entered in the Court's records, and a copy of the order will be mailed to the person who committed the infraction at the address listed on the citation.

(2) If the person determined to have committed the infraction wishes to contest the determination, the person must respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the Suquamish Tribal Court. The Court will notify the person in writing of the time, place, and date of the hearing, and that date may not be sooner than seven (7) days from the date of the notice, except by agreement.

(3) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person must respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the Suquamish Tribal Court. The Court will notify the person in writing of the time, place, and date of the hearing, and that date may not be sooner than seven (7) days from the date of the notice, except by agreement.

(4) If any person issued a notice of civil gaming infraction fails

(A) To respond to the notice of civil gaming infraction as provided in §11.5.80, or

(B) To appear at a hearing requested according to §11.5.80(e)(2),

the Court will enter an appropriate order assessing the monetary penalty set forth for the civil gaming infraction and any other penalty the Suquamish Tribal Code authorizes. (Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.81. Hearings. (a) Procedures for the conduct of all hearings provided for in this chapter, to the extent that they are consistent with the procedures set forth in this section, may be established by the chief judge of the Suquamish Tribal Court.

(b) Any person subject to proceedings under this chapter may be represented by counsel at his or her own expense.

(c) The Tribe may be represented by counsel.

(d) A hearing held to contest the determination that an infraction has been committed will be without a jury.

(1) The Court may consider the notice of civil gaming infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for issuing the notice in place of the officer's personal appearance at the hearing. The person named in the

notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court.

(2) The burden of proof is upon the Tribe to establish that the infraction was committed by a preponderance of the evidence.

(3) After consideration of the evidence and argument, the Court will determine whether the infraction was committed. Where it has not been established that the infraction was committed, an order dismissing the notice will be entered in the Court's records. Where it has been established that the infraction was committed, an appropriate order will be entered in the Court's records.

(4) An appeal from the Court's determination or order will be to the Suquamish Tribal Court of Appeals. The decision of the Suquamish Tribal Court is subject only to discretionary review.

(e) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding an infraction will be an informal proceeding. The person may not subpoena witnesses. The determination that an infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(1) After the Court has heard the explanation of the circumstances surrounding the infraction, an appropriate order will be entered in the Court's records.

(2) There may be no appeal from the Court's determination or order.
(Res. 2008-201, passed Dec. 15, 2008)

11.5.82. Order of Court. All orders entered by the Court under this chapter are civil in nature. The Court may at its discretion waive, reduce, or suspend the fine. The Court may also order suspension or revocation of the violator's privilege to gamble within the Tribe's jurisdiction. (Res. 2008-201, passed Dec. 15, 2008)

11.5.83. Other Offenses and Penalties. (a) Every other gaming activity relating to the subject matter of this chapter held, conducted, or engaged in within the Port Madison Indian Reservation or Suquamish Indian lands that is contrary to this chapter's provisions is by this section prohibited and declared unlawful and a public nuisance. The Suquamish Tribal Gaming Commission and SGA are authorized to apply to the Tribal Court for such adjudicative, injunctive, or declaratory relief as is required to abate any public nuisance under this section.

(b) The Tribal Court may assess a civil penalty on any person or entity violating any term or condition of any license issued according to this chapter or any provision of a management contract issued according to this chapter under the procedures set out in

§§11.5.80-11.5.82, but only after the Tribal Council has first approved the schedule of those penalties as set out in §11.5.79(a).

(c) The penalty assessed according to §11.5.80(a) may not exceed the greater of five thousand dollars (\$5,000) per violation or twice the amount of any grand prize awarded in a gaming activity which is directly associated with the violation. (Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.84. Fines. (a) Fines may be established as liens upon specifically described property involved in a violation of this chapter by Suquamish Tribal Court order. In the case of real property, that order must be filed for record notice with the Kitsap County or other county clerk and recorder where the real property is located. Liens on personal property must be filed with the Secretary of State for the State of Washington. Upon twenty (20) days' written notice served by U.S. registered or certified mail or fifty (50) days' notice by publication with opportunity to request a hearing on the matter no later than ten (10) days after expiration of the notice period, the Tribal Court may order the property sold at public auction or forfeited to the Suquamish Tribe.

(b) Any person licensed by the SGA who fails to pay a fine lawfully imposed though this chapter is subject to immediate suspension of his or her gaming license by the SGA pending a hearing as set out in §11.5.56. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.85. Removal of Persons from a Gaming Facility. SGA agents have the power and authority to remove, exclude, or cause the removal or exclusion of any person from any gaming facility or surrounding parking area for a period of seventy-two (72) hours, or, with the written approval of the Agency Director or his or her designee, until the next regular scheduled tribal gaming commission meeting, if in the agent's sole determination and, as necessary, the Agency Director or his or her designee, the person is creating a threat to the public health or safety of the facility. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.86. Permanent Barring of Persons from a Gaming Facility. (a) The tribal gaming commission has the power and authority to permanently bar any person from a gaming facility, if that person causes or has caused a serious or repeated disturbance, acts or has acted inappropriately, or in any other way interferes with or has interfered with the orderly conduct of ordinary business within the gaming facility.

(b) The request for permanent bar of a person may be brought only by an SGA agent before a properly convened meeting of the commissioners. If the permanent bar requested is involuntary, the commission must serve notice of the time and place of the hearing on the person to be barred at least five (5) days before the hearing. At the hearing, the person to be barred is entitled to make a statement to the commission and to challenge any evidence the enforcement agent presents. The commissioners may

consider the bar request in an open or a closed meeting. The commission will render a decision 15 days from the close of the hearing. The commission's permanent bar decision may be reviewed on appeal by an ALJ appointed by the Office of the Tribal Attorney, but only for an allegation of denial of due process. The appeal must be in writing and received by the Office of the Tribal Attorney within 5 business days of the bar decision. The ALJ may hold a hearing on the appeal or may make a decision based solely on the written record. The ALJ will render a decision 45 days from receipt of the notice of appeal. The ALJ is only authorized to provide injunctive relief. Except as otherwise provided in this chapter, the decision of the ALJ is final and not subject to judicial review.

(c) Any Suquamish Tribal citizen permanently and involuntarily barred from the gaming facility by the tribal gaming commission may, after one year from the date of exclusion, petition the Suquamish Tribal Council for readmittance to the facility on good cause shown. Good cause may be demonstrated by evidence of rehabilitation and evidence that the offending behavior is not likely to be repeated. The Suquamish Tribal Council has sole discretion to grant, deny, or grant with conditions readmittance to the gaming facility. The Suquamish Tribal Council's decision is final and not subject to judicial review.

(d) Any patron who has requested a self-barring may, after one year from the date of exclusion, petition the tribal gaming commission for readmittance to the facility on good cause shown. Good cause may be demonstrated by evidence of rehabilitation and evidence that the person requesting readmittance is aware of problem gambling's effects on the person and is not likely to repeat the problem behavior. The tribal gaming commission has sole discretion to grant, deny, or grant with conditions readmittance to the gaming facility to a self-barrred patron. The tribal gaming commission's decision is final and not subject to appeal. regardless of anything to the contrary in this section, the tribal gaming commission will only provide this opportunity to a self-barrred patron once and if the patron requests a self-barring again, then that patron may never again petition for readmittance to the facility.

(e) The SGA will establish a list of persons permanently excluded from the gaming facility who pose a threat to the integrity of tribal gaming activities because of their criminal history or association with one or more career offenders or career offender organizations.

(f) When a person is permanently excluded from the gaming facility by a final decision, that person's name will be reported to the SGA. At least quarterly, the SGA will send a copy of its list of excluded persons to the Washington State Gambling Commission and its enforcement agency, as well as to any other enforcement agency the commission has determined is appropriate to receive that information.

(g) The commission must notify the person permanently excluded of the final decision in writing, either by personally delivering the notice to the person or by mailing it by U.S. certified mail to the person's last known address.

(h) Except as authorized by §11.5.86(c) or §11.5.86(d), the SGA must employ its best efforts to keep excluded persons from entering into any Suquamish gaming facility. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.87. Tribal Sovereignty and Jurisdiction. The Suquamish Indian Tribe, by enacting this chapter, intends to assert tribal sovereignty and jurisdiction on the Port Madison Indian Reservation and over all lands subject to its jurisdiction and to preempt any civil regulatory power or law, if any, of the State of Washington, subject to IGRA, except as authorized under a tribal–state compact.

(a) Other than limited, authorized Suquamish Tribal Court judicial review, nothing in this chapter may be considered to constitute a waiver of sovereign immunity on the part of the Suquamish Tribal government, its agencies, or any entity created by either as to any assets or property of any nature whatsoever or the adjudication of any federal rights or immunities.

(b) The Suquamish Tribal Court has exclusive jurisdiction over any action authorized and arising under this chapter.

(c) The Suquamish Tribal Court has exclusive civil and criminal jurisdiction under the Suquamish Tribal Code with respect to Class II and Class III gaming violations of this chapter perpetrated by Native Americans.

(d) The Suquamish Tribal Court has civil jurisdiction with respect to Class II and Class III gaming violations perpetrated by any person. Any person who enters a gambling facility within the Port Madison Indian Reservation or is employed by the Tribe, the Tribe’s enterprises, or the Tribe’s boards and commissions is considered to have consented to the Tribal Court’s jurisdiction to enforce this chapter’s provisions.

(e) With respect to Class III gaming violations, the tribal gaming commission and SGA may also establish enforcement protocols with the State of Washington and other law enforcement agencies. Nothing in this chapter may be construed to authorize or require the criminal trial and punishment by the Tribe of non-Indians except to the extent allowed or required by any applicable present or future act of Congress or any applicable court decision. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.88. Appeals. The Tribal Court may review any decision of an ALJ that is not subject to appeal under this chapter for the limited purpose of establishing whether the ALJ provided procedural due process in the decision for which remedy is sought. The sole remedy available in such a review proceeding is a Court order remanding the matter to the ALJ and directing the ALJ or SGA to comply with this chapter’s procedural due process requirements. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.89. Nonpreemption of Federal Laws. Nothing in this chapter may be construed to supersede or preempt the criminal laws of the United States of America, as far as said laws are found applicable to Indian gaming activities. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.90. Cooperation with Law Enforcement. SGA agents and tribal police officials will cooperate with law enforcement officials of the State of Washington, the Bureau of Indian Affairs, the Federal Bureau of Investigation, and other law enforcement agencies to the extent required by a tribal–state compact, IGRA, or other applicable federal law. Law enforcement activities and responsibilities related to Class III gaming must be consistent with and in accordance with the tribal–state compact’s provisions or any amendments to a compact. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008; amended by Res. 2023-064, passed Feb. 15, 2023)

11.5.91. Severability; Construction. If any phrase, clause, part, sentence, provision, or section of this chapter is found to be invalid by the Suquamish Tribal Court, the remainder of this chapter is not affected, remains in full force and effect, and will continue in effect as if the invalid provision(s) were not a part of this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008)

11.5.92. Contractual Obligations. Nothing in this chapter impairs or affects the authority of the commission or the Tribal Council in any manner whatsoever to fulfill its complete contractual obligations related to any subject matter in this chapter. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.93. Incorporation of Tribal–State Compact by Reference. The provisions of the tribal–state compact are, by this reference, incorporated into this chapter as though fully set forth in this chapter. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.94. Designation of an Agent for Service of Process. Consistent with 25 CFR 522.2(g) and 519.1, the tribal gaming commission will designate an agent for service of any official determination, order, or notice of violation and advise the Tribal Council in writing of the designation. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.95. Amendment. All of this chapter’s provisions are subject to amendment by the Suquamish Tribal Council. All regulations the commission promulgates are subject to revision, repeal, or amendment by the commission. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.96. Effective Date. This chapter becomes effective upon adoption by the Suquamish Tribal Council in accordance with the provisions of the Constitution and Bylaws of the Suquamish Tribe. (Res. 95-031 (part), passed Apr. 3, 1995)

11.5.97. Repeal of Inconsistent Tribal Law. To the extent they are inconsistent with this chapter, all prior gaming codes or ordinances or other provisions of tribal law related to

gaming are hereby repealed, are of no further force and effect, and are replaced by this chapter. (Res. 95-031 (part), passed Apr. 3, 1995; amended by Res. 2008-201, passed Dec. 15, 2008)

Note: In addition to substantive changes as noted in the relevant subsections' history notes, Resolution 2023-064 made changes to language, but not content, throughout this chapter, to increase clarity and ease of reading.