

ROSEBUD SIOUX LAW AND ORDER CODE

TITLE 13: GAMING

TABLE OF CONTENTS

CHAPTER ONE
LEGISLATIVE FINDINGS, POLICY AND PURPOSE

§13-1-101.	Sovereign Powers and Responsibilities	1
§13-1-102.	Federal Policy of Tribal Self-Determination	1
§13-1-103.	Rosebud Sioux Tribal Policy of Self-Government	1
§13-1-104.	Tribal Alcohol Rehabilitation Program	1
§13-1-105.	Land Consolidation Program	2
§13-1-106.	Tribal Need for Governmental Revenue and Additional Economic Development	2
§13-1-107.	Tribal Gaming Policy	2
§13-1-108.	Purposes of Title	2

CHAPTER TWO
GENERAL PROVISIONS

§13-2-101.	Definitions	3
(1)	"BIA Police"	3
(2)	"Bingo"	3
(3)	"Code"	3
(4)	"Commission"	3
(5)	"Commission Member"	3
(6)	"Compact"	3
(7)	"Gaming"	3
(8)	"Gaming Establishment"	3
(9)	"IGRA"	3
(10)	"Indian"	3
(11)	"Indian Gaming Commission"	4
(12)	"Immediate Family"	4
(13)	"Judge"	4
(14)	"Licensee"	4
(15)	"Manager"	4
(16)	"Officer"	4
(17)	"Participate" or "Participation" or "Participating"	4
(18)	"Person"	4
(19)	"Property"	4
(20)	"Pull-Tab"	4
(21)	"Reservation"	4
(22)	"State"	4
(23)	"Tribal Council" or "Council"	4
(24)	"Tribal Court"	5
(25)	"Tribe"	5

(26)	"Wager"	5
§13-2-102.	Sovereign Immunity and Waiver	5
(1)	Sovereign Immunity	5
(2)	Waiver of Sovereign Immunity	5
(3)	Credit of the Tribe	6
(4)	Credit of the Commission	6
(5)	Assets of the Commission	6
§13-2-103.	Tribal Gaming Commission Account Established	6
§13-2-104.	Allocation and Use of Gaming Revenue	6
§13-2-105.	Savings Clause	7

**CHAPTER THREE
TRIBAL GAMING COMMISSION**

§13-3-101.	Creation of Commission	8
§13-3-102.	Number and Selection of Commissioners	8
§13-3-103.	Terms of Office	8
§13-3-104.	First Commission	8
§13-3-105.	Disqualification of Commissioner	8
§13-3-106.	Vacancies	8
§13-3-107.	Resignation	9
§13-3-108.	Removal	9
§13-3-109.	Officers of the Commission	9
(1)	President	9
(2)	Vice President	9
(3)	Secretary/Treasurer	9
§13-3-110.	Annual Budget	9
§13-3-111.	Offices of Tribal Gaming Commission	10
§13-3-112.	Compensation of Commissioners	10
§13-3-113.	Quorum	10
§13-3-114.	Majority Vote	10
§13-3-115.	Conflict of Interest	10
§13-3-116.	General Procedures of the Commission	10
§13-3-117.	Tribal Gaming Commission Director	11
§13-3-118.	Powers of the Commission	11
§13-2-119.	Commission Regulations	13
§13-3-120.	IGRA Compact	14
§13-3-121.	Right of Entrance; Inspection	14
§13-3-122.	Investigations	14
§13-3-123.	Hearings; Examiner	15
§13-3-124.	Appointment of Examiner; Power of Examiner	15

**CHAPTER FOUR
CLASSES OF GAMING**

§13-4-101.	Classes of Gaming	16
(1)	Class I	16
(2)	Class II	16

(3)	Class III	16
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**CHAPTER FIVE
REGULATION OF GAMING**

§13-5-101.	Gaming Regulated	17
§13-5-102.	Authority Of The Commission	17
§13-5-103.	License Requirement	17
(1)	Class I	17
(2)	Class II	17
(3)	Class III	17
§13-5-104.	Application For License	17
§13-5-105.	Form and Display of License	18
§13-5-106.	Financial Reports	18
§13-5-107.	Audits	18
(1)	Quarterly Audit	18
(2)	Additional Audits	18
(3)	Supplies, Services and Concessions Audits	18
(4)	Audits Furnished to the Indian Gaming Commission	18
(5)	Audits Furnished to the State	19
§13-5-108.	Equal Opportunity To Win By Each Player	19
§13-5-109.	Determination of Winners	19
§13-5-110.	Employee Disqualifications	19
§13-5-111.	Age Limitation	19
§13-5-112.	Wager Limitation; Notice	19
§13-5-113.	Credit Restriction	19
§13-5-114.	Gaming Location	20
§13-5-115.	Construction, Maintenance and Operation Standards	20
§13-5-116.	Persons Participating Or Assisting In Gaming Activities or Operations	20
§13-5-117.	Participants In Gaming	20
§13-5-118.	Prohibition Against Intoxication	20
§13-5-119.	Regulations To Be Posted	21
§13-5-120.	Revocation of License	21
(1)	Exclusive Tribal Court Jurisdiction	21
(2)	Initiation By Commission	21
(3)	Commission Hearing Record	21
(4)	Revocation By Commission	21
§13-5-121.	Reserved Power of Council	21

**CHAPTER SIX
ENFORCEMENT**

§13-6-101.	Jurisdiction	22
§13-6-102.	Prohibited Acts	22
§13-6-103.	Criminal Violation of This Title or Commission Order or Regulation	22
§13-6-104.	Civil Violation of This Title or Commission Order or Regulation	23
§13-6-105.	Cumulative Fines	23
§13-6-106.	Purpose of Civil Penalties	23

§13-6-107. Civil Action for Penalties 23
§13-6-108. Seizure of Property 23

CHAPTER SEVEN
EFFECTIVE DATE

§13-7-101. Effective Upon Federal Approval 24

ROSEBUD SIOUX LAW AND ORDER CODE

TITLE 13: GAMING

CHAPTER ONE
LEGISLATIVE FINDINGS, POLICY AND PURPOSE

§13-1-101. Sovereign Powers and Responsibilities.

This Title is enacted pursuant to the inherent sovereign tribal powers expressly delegated to the Council in Article IV, Section 1(c), (h), (i), (k), (m), (t) and (u) of the Tribal Constitution, which authorize the Council to manage and otherwise deal with tribal lands and property, to exclude by ordinance from the restricted lands of the Reservation persons not legally entitled to reside therein, to promulgate and enforce ordinances providing for the maintenance of law and order and the administration of justice on the Reservation, to regulate the conduct of trade and the use and disposition of property upon the Reservation, to engage in any business that will further the economic well being of members of the Tribe, to regulate tribal agencies and tribal officials, and to delegate to subordinate boards or tribal officials the forgoing powers, subject to review by the Council.

§13-1-102. Federal Policy of Tribal Self-Determination.

In 1970, President Nixon announced the policy of the United States government to promote self-determination for Indian tribes. At the heart of this policy is a commitment by the federal government to foster and encourage Tribal self-government, economic development and self sufficiency. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act, Public Law 93-638, 88 Stat. 2203, 25 U.S.C. §§450-450n. In 1983, President Reagan reaffirmed that commitment in his Indian policy statement and encouraged tribes to reduce their dependence on federal funds by generating more of their own revenues and he pledged to assist tribes in that endeavor.

The federal commitment was furthered in 1988 by passage of Public Law 100-497, 102 Stat. 2426, 25 USC §§2701 et seq (1988), through which the federal government recognized the inherent sovereign right of tribes to conduct and regulate gaming on their reservations and preempted state authority in the area of Indian gaming.

§13-1-103. Rosebud Sioux Tribal Policy of Self-Government.

The Tribe is firmly committed to the principal of tribal self-government. Consistent with federal policy, tribal government provides a wide range of public services on the Reservation, including general governmental services, the maintenance of peace and good order, the establishment of educational systems and programs, and the promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

§13-1-104. Tribal Alcohol Rehabilitation Program.

Among the governmental services provided by Tribal government is its alcohol rehabilitation program. Increasingly dependent upon tribal funding, this program combats the most serious medical and social problem on the Reservation and is essential to the health and welfare of the Tribe.

§13-1-105. Land Consolidation Program.

As recognized by Congress in the Act of January 25, 1983, Public Law 94-459, Title I, the continued existence of Reservations as permanent homelands for Indian Tribes and as necessary foundations for continued self-determination requires that the Tribes consolidate and increase the trust land base in their Reservations and prevent further loss of trust land. Accordingly, the Tribe has established a Land Consolidation Program which is dependent upon Tribal funding.

§13-1-106. Tribal Need for Governmental Revenue and Additional Economic Development.

The Tribe is vigorously pursuing its goal of self-determination through the development of manufacturing and farming enterprises. The Tribal Farming Enterprise and Tribal Ranch Enterprise require a vastly expanded land base for increased efficiency and productivity, expansion of its programs and increased employment and training of tribal members. Because of the modest income level of the Tribe and because of cutbacks in federal funding and increasing costs of self-government, it is essential that the Tribe develop additional economic activities on the Reservation to support general governmental programs, the Alcohol Rehabilitation Program and the Land Consolidation Program and to provide employment for Tribal members.

§13-1-107. Tribal Gaming Policy.

The establishment, promotion and operation of gaming is necessary and desirable, provided that such gaming is regulated and controlled by the Tribe pursuant to tribal and federal law and any IGRA compact, and that the proceeds of such gaming is used exclusively for the purposes of the tribal government pursuant to tribal law and the IGRA. Gaming provided for hereunder include all gaming authorized by the State, and operated pursuant to state law. When operated in accordance with the provisions of this Title, such gaming will be conducive to the general welfare of all residents of the Reservation.

§13-1-108. Purposes of Title.

The purposes of this Title are:

- (1) To regulate, control and license the operation of all gaming within the Reservation.
- (2) To promote and strengthen tribal economic development, independence and self-determination.
- (3) To generate revenue to strengthen and improve tribal self-government and the provision of governmental services.
- (4) To enhance employment opportunities for tribal members.

CHAPTER TWO
GENERAL PROVISIONS

§13-2-101. Definitions.

In this Title, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings:

(1) "BIA Police" means the Rosebud Agency Bureau of Indian Affairs Police Department or police officers serving as part of it, each with a tribal commission.

(2) "Bingo" means the game of chance commonly known as bingo whether or not electronic, computer, or other technologic aids are used in connection therewith, which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of the card covers such 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, including instant bingo and other games similar to bingo.

(3) "Code" means this Law and Order Code of the Rosebud Sioux Tribe, comprising Titles 1 through 17, together with all amendments, additions, or modifications which may be enacted from time to time by the Tribal Council.

(4) "Commission" means the Rosebud Sioux Tribal Gaming Commission established in this Title.

(5) "Commission Member" means a member of the Commission.

(6) "Compact" means any gaming compact between Tribe and State as authorized by IGRA, or by state or tribal law.

(7) "Gaming" means any activity or game of chance in which any valuable consideration may be wagered upon the outcome determined by chance, skill, speed, strength or endurance, and in which any valuable prize is awarded to the player so wagering, including but not limited to lotteries, keno, pull-tabs, parimutuel wagering, slot, poker, or other mechanical and electronic gaming, and the like, as well as those relying on satellites, computers or cable television, and any activity in furtherance thereof, including owning, financing, managing, participating in, conducting or assisting in any way in any such activity at the site at which it is being conducted, directly or indirectly, whether at the site in person or off the Reservation.

(8) "Gaming Establishment" means any site on the Reservation at which any gaming activity is conducted, whether by a licensee or not.

(9) "IGRA" means the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2426, 25 USC §§2701 et seq (1988), as amended.

(10) "Indian" means any person who is of Indian descent who is a member of any recognized Indian Tribe under federal jurisdiction at the time of the event under consideration.

(24) "Tribal Court" means either the trial court created, existing and operating under the provisions of Chapter One of Title 9 of this Code, or that one of the Courts of the Tribe to which the reference is intended to apply as determined by the particular section of this Title in which the reference is made, and each and all of the Judges of that Tribal Court acting collectively or individually in that office and capacity.

(25) "Tribe" means the Rosebud Sioux Tribe, recognized by the federal government and operating pursuant to the Constitution and By-laws of the Rosebud Lake Sioux Tribe, and "tribal" means belonging or pertaining to the Tribe.

(26) "Wager" means the initial bet made in any game.

§13-2-102. Sovereign Immunity and Waiver.

(1) **Sovereign Immunity.** The Rosebud Sioux Tribal Gaming Commission created by this Title is hereby clothed with all the privileges and immunities of the Tribe, except as specifically limited by the Tribe, including sovereign immunity from suit in any state or federal court. The Tribe expressly reserves all its inherent sovereign rights as a federally-recognized Indian tribe with respect to the existence and activities of the Commission, including sovereign immunity from suit in any state or federal court.

Nothing in this Chapter shall be deemed or construed to be a waiver of sovereign immunity of the Commission or the Tribe from suit or to be a consent of the Commission or the Tribe to any such waiver of sovereign immunity, which may only be waived pursuant to Subsection (2). Except as provided in Subsection (2), nothing in this Chapter shall be deemed or construed to be a consent of the Commission or the Tribe, to the jurisdiction of the United States or of any state with regard to the business or affairs of the Commission or the Tribe or to any cause of action, case or controversy.

(2) **Waiver of Sovereign Immunity.** Sovereign immunity of the Commission and the Tribe may be waived only by express resolution by a positive vote of two thirds of the entire Council after consultation with its attorneys. All waivers of sovereign immunity must be preserved with the resolutions of the Council and of the Commission of continuing force and effect. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Commission and the Tribe. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Commission or the Tribe subject thereto, court having jurisdiction pursuant thereto and law applicable thereunder.

Neither the power to sue and be sued provided in §13-3-118, nor any activity of the Commission, nor any express waiver of sovereign immunity by resolution of the Council, shall be deemed a consent to the levy of any judgment, lien or attachment upon property of the Commission or the Tribe other than property specifically pledged or assigned, or to be a consent to suit in respect

of any land within the exterior boundaries of the Reservation or a consent to the alienation, attachment or encumbrance of any such land.

(3) **Credit of the Tribe.** Nothing in this Chapter, nor any activity of the Commission, nor any indebtedness incurred by it, shall implicate or in any way involve the credit of the Tribe.

(4) **Credit of the Commission.** Nothing in this Chapter, nor any activity of the Commission, nor any indebtedness incurred by it, shall implicate or in any way involve the credit of the Commission except as provided herein.

(5) **Assets of the Commission.** The Commission shall have only those assets assigned to it by the Council or acquired by it thereafter. No activity of the Commission, nor any indebtedness incurred by it, shall implicate or in any way involve any assets of the Commission other than property specifically pledged or assigned. No activity of the Commission nor any indebtedness incurred by it shall implicate or in any way involve any assets of tribal members or the Tribe not assigned in writing to the Commission.

§13-2-103. Tribal Gaming Commission Account Established.

(1) There is hereby authorized and directed to be established an account in federally-insured financial institution to be known as the Tribal Gaming Commission Account.

(2) The Tribal Gaming Commission Account shall be an interest-bearing account and the funds therein may be invested and reinvested as approved by the Council.

(3) No monies shall be released or expended from the Tribal Gaming Commission Account except upon written resolution of the Council appropriating a specific amount of the monies contained therein for the use of a particular department, agency, or program of the Tribe. Such appropriated amount shall be directly transferred to the account of the receiving department, agency, or program named in the appropriation resolution.

(4) All income, fees, penalties, interest, charges, or other monies collected by the Commission in the administration and enforcement of this Title shall be deposited in the Tribal Gaming Commission Account.

§13-2-104. Allocation and Use of Gaming Revenue.

(1) The Tribe shall receive not less than 60% of the net revenues of any Class II or III gaming on the Reservation or licensed under this Title; provided, however, that all such net revenue of any such gaming operated by a recognized tribal community shall be allocated to and retained by such community exclusively for the uses listed herein.

(2) Revenue from tribal gaming shall be used only for the following purposes:

- (a) To fund tribal government operations or programs;
- (b) To provide for the general welfare of the Tribe and its members;
- (c) To promote tribal economic development;
- (d) To provide donations for charitable organizations;
- (e) To help fund operations of local government agencies.

§13-2-105. **Savings Clause.**

If any section of this Title is invalidated by a court of competent jurisdiction, the remaining sections shall not be affected thereby.

CHAPTER THREE
TRIBAL GAMING COMMISSION

§13-3-101. **Creation of Commission.**

The Tribe hereby creates and establishes, pursuant to this Title, the Tribal Gaming Commission, a governmental agency and subordinate subdivision of the Tribe.

§13-3-102. **Number and Selection of Commissioners.**

The Commission shall comprise five voting members appointed by the Council, all of whom shall be members of the Rosebud Sioux Tribe.

§13-3-103. **Terms of Office.**

Commissioners shall serve three year terms and shall hold office until their successors have been appointed and have qualified: Provided however, the first Commission shall have terms of office as described in §13-3-104.

§13-3-104. **First Commission.**

Two Commissioners appointed to the first Commission shall serve terms of three years. Two Commissioners appointed to the first Commission shall serve terms of two years. The remaining Commissioner appointed to the first Commission shall serve a term of one year.

§13-3-105. **Disqualification of Commissioner.**

No person who has ever been convicted of a federal, state or tribal felony, or who has ever entered a plea of nolo contendere to any felony charge, or who is determined by the Commission to have ever participated in organized crime, unlawful gaming activities, bootlegging or drug trafficking, or who has been convicted of a misdemeanor involving dishonesty or moral turpitude within the past five years, or whose previous activities, reputation, habits or associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices methods, or activities in the conduct of gaming shall be permitted to participate in any gaming activity or operation.

§13-3-106. **Vacancies.**

If any Commissioner shall die, resign, be removed or, for any reason, be unable to serve as a Commissioner, the Council shall declare his position vacant and shall appoint another person to fill the position. Terms of office of all persons appointed to replace the initial Commissioners shall be for the balance of any unexpired term for each such position.

§13-3-107. Resignation.

Any Commissioner may resign by delivering a written resignation to the President of the Commission. Such resignation shall be effective upon receipt, unless otherwise provided by the terms thereof. A Commissioner's resignation under this Section or removal under §13-3-108 shall also terminate that Commissioner's status, if applicable, as a presiding officer of the Commission.

§13-3-108. Removal.

Pursuant to Commission regulations, a Commissioner may be removed by the Council for serious inefficiency or neglect of duty or for malfeasance, misfeasance or nonfeasance or for misconduct in office, but, except as provided below, only after a hearing before the Council, and only after the Commissioner has been given written notice of the specific charges at least ten days prior to such hearing. At any such hearing, the Commissioner shall have the opportunity to be heard in person or by counsel and to present witnesses on his or her behalf. If the Council determines that immediate removal of a Commissioner is necessary to protect the interests of the Tribe, the Commissioner may be temporarily removed immediately, and the question of permanent removal shall be determined pursuant to Commission hearing procedures. A written record of all removal proceedings together with the charges and findings thereon shall be kept by the Tribal Secretary. The decision of the Council upon the removal of a Commissioner shall be final.

§13-3-109. Officers of the Commission.

(1) **President.** The President of the Commission shall be appointed by the Council from among the members of the Commission and shall hold office for a term of one year. No Commissioner may serve as President for two consecutive terms. The President shall preside over all Commission meetings; sign on behalf of the Commission all documents, decisions, orders, notices, or other papers approved for such execution by the Commission; and shall have such other powers and duties as may from time to time be assigned to him by the Commission.

(2) **Vice President.** The Vice President of the Commission shall be appointed by the Council from among the members of the Commission and shall hold office for a term of one year. Whenever the President is unable to preside or fulfill his duties as President, the Vice President shall do so, and when so acting, shall be clothed with all of the powers and duties of the President.

(3) **Secretary/Treasurer.** The Secretary/Treasurer of the Commission shall be elected by and from the Commission membership for a term not to exceed his term of office as Commissioner. His duties shall be those assigned him by the Commission.

§13-3-110. Annual Budget.

The Commission shall prepare an annual operating budget for all Commission activities and present it to the Council by August 15 of each year.

§13-3-111. **Offices of Tribal Gaming Commission.**

The Commission shall be provided with suitable office space, necessary office furniture, stationery, books and maps and supplies, the expense thereof to be included in the annual budget of the Commission and paid from funds appropriated by the Council from the Tribal Gaming Commission Account.

§13-3-112. **Compensation of Commissioners.**

Compensation of Commissioners, if any, shall be determined by the Council, the expense thereof to be included in the annual budget of the Commission and paid from funds appropriated by the Council from the Tribal Gaming Commission Account.

§13-3-113. **Quorum.**

Three Commissioners shall constitute a quorum of the Commission. A majority of those Commissioners present at a meeting at which there is no quorum may by resolution adjourn the meeting from time to time for a period not exceeding ten days in any one instance.

§13-3-114. **Majority Vote.**

All questions arising in connection with the action of the Commission shall be decided by majority vote.

§13-3-115. **Conflict of Interest.**

No Commissioner shall participate in any matter, hearing or proceeding in which he or a member of his immediate family has any pecuniary interest.

§13-3-116. **General Procedures of the Commission.**

The Commission shall in all cases conduct its proceedings in the manner most conducive to the proper dispatch of business and to the ends of justice pursuant to such general rules, adopted by the Council pursuant to §13-3-118, as may be necessary for the orderly regulation of proceedings before it, including forms of notice and the service thereof, which shall conform as nearly as possible to those in use in the Tribal Court. Any party may appear before the Commission and may be heard in person or by attorney. Every vote and official action of the Commission shall be entered into a record and its proceedings shall be published upon the request of any interested person. Every Commissioner shall have the right to administer oaths and affirmations in any proceeding pending before the Commission.

§13-3-117. Tribal Gaming Commission Director.

The Council shall appoint a Tribal Gaming Commission Director who shall be a full time paid employee of the Tribe and shall be subject to the Personnel Policies and Procedures Manual, provided, however, that the expense of the Director's salary shall be included in the annual budget of the Commission and paid from funds appropriated by the Council from the Tribal Gaming Commission Account.

The Director shall have primary responsibility for the day-to-day operation of the Commission, pursuant to delegation of authority by the Commission, including supervision of all Commission employees. The Director shall not be a member of the Commission.

§13-3-118. Powers of the Commission.

In addition to those powers and duties specified in detail elsewhere in this Title, the Commission shall have the following general powers and duties:

- (1) To supervise, inspect and regulate any phase of any gaming activity or operation.
- (2) To investigate the operation and premises of any person who is subject to the provisions of this Title pursuant to §13-3-122.
- (3) To examine the financial books and other records of any person or entity participating in gaming.
- (4) To require by regulation the filing with the Commission of any records, forms, reports and all other information desired by the Commission for implementation of this Title relating to any gaming activity or operation, or any investigation as required by tribal law and the IGRA.
- (5) To prepare and recommend to the Council a schedule of fees to be charged for gaming licenses pursuant to the IGRA.
- (6) To prepare and recommend to the Council a schedule of fees and charges for services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files, and records.
- (7) To process applications for tribal gaming licenses for Class II and Class III gaming pursuant to the IGRA and to recommend to the Council issuance or denial of such licenses.
- (8) To process applications for management contracts for Class II and III gaming pursuant to the IGRA, and to recommend to the Council approval or rejection of such applications.
- (9) To prepare and recommend to the Council an annual operating budget pursuant to §13-3-110.

(10) To establish by regulation tribal gaming licensing criteria and to require that such criteria are at least as restrictive as those required by the IGRA or state law.

(11) To recommend to the Council that the Tribe become self-regulating whenever the Tribe becomes eligible for a certificate of self-regulation under the IGRA.

(12) To advise the Council whenever, in the opinion of the Commission, the State is negotiating upon any IGRA compact in bad faith and to recommend legal action against the State in federal court.

(13) To employ and fix the compensation of such advisors, gaming experts, and other expert help and assistance for carrying out its duties and conducting hearings, investigations, and proceedings relating to gaming activities, subject to Subsections (15), (16) and §13-3-110 as it deems necessary. The expense of any hearings, investigations, and proceedings, and the compensation and actual expenses of any employees of the Commission while engaged in any such hearing, investigation, or proceeding shall, upon appropriate order of the Commission, be paid by any person being investigated or involved in such hearing, investigation or proceeding.

(14) To delegate to an individual Commissioner, or to the Director or other members of the Commission staff or, upon approval by the Council, to Tribal staff such of its functions as may be necessary to administer this Title efficiently, provided, however, that the power to conduct hearings pursuant to §13-3-124 shall not be delegated except to a member of the Commission or to a hearing officer as provided in §13-3-124.

(15) To retain and use the services of only the tribal attorneys or other attorneys designated by the Council upon a contract approved by the Council and the Secretary of the Interior.

(16) To employ and use the services of only the tribal accountants or other accountants designated by the Council upon a contract approved by the Council.

(17) To cooperate with and receive technical and financial assistance from the United States or any state for any purposes relating to gaming laws that deal with matters subject to the jurisdiction of the Commission, and to file any reports and hold any hearing for any such purposes.

(18) To prepare and recommend to the Council regulations pursuant to §13-3-119.

(19) To conduct background investigations of all persons who propose to participate in any gaming activity or operation.

(20) To provide to the Indian Gaming Commission and to the State the results of background checks upon proposed management entities, all owners, directors, officials, and key employees thereof, and all persons proposed for employment as tribal employees in any Class III gaming activity or operation before any such entity or person is employed either by the Tribe or any licensee.

(21) To hold hearings pursuant to §13-3-123 of this Title.

(22) To examine under oath either orally or in writing any person, agent, officer, or employee of any person subject to the provisions of this Title, or any other witness with respect to any enforcement action authorized by this Title.

(23) To discipline any licensee or other person participating in any gaming activity or operation by ordering immediate compliance with this Title or Commission regulations and to issue an order of temporary suspension of any license issued under this Title, whenever the Commission is notified of a violation by any such person of this Title, applicable state law or any IGRA compact.

(24) To issue an order of temporary closure of any gaming activity or operation in the event the Commission determines that immediate closure is necessary to protect assets or activities of the Tribe or any recognized tribal community, pursuant to Commission regulations, or whenever the Commission shall receive information from the Indian Gaming Commission that a management official or employee of such licensee does not meet the standards for being licensed provided in the IGRA.

(25) To compel obedience to its lawful orders by proceedings of mandamus or injunction or other proper proceedings, in the name of the Tribe in the Tribal Court or any other court having jurisdiction of the parties or of the subject matter.

(26) To recommend to the Council whether the Council should file any other court actions in regard to gaming activities or operations.

(27) To name an arbitrator in connection with any arbitration proceeding instituted pursuant to any IGRA compact.

(28) To sue and be sued in any court of competent jurisdiction, subject, however, to the provisions of §13-2-102.

(29) To exercise all other authority delegated to it by law for the implementation of any provisions of this Title.

§13-2-119. **Commission Regulations.**

(1) The Commission shall prepare and recommend to the Council such regulations as are necessary to carry out the orderly performance of all its duties and powers, including but not limited to regulations relating to

(a) Internal operational procedures of the Commission and its staff;

but it shall make no order without affording the affected parties notice and an opportunity for a hearing pursuant to Commission regulations.

§13-3-123. Hearings; Examiner.

Pursuant to regulations, the Commission may hold any hearing it deems to be reasonably required in administration of its powers and duties under this Title. Whenever it shall appear to the satisfaction of the Commission that all of the interested parties involved in any proposed hearing have agreed concerning the matter at hand, the Commission may issue its order without a hearing.

The Commission may designate one of its members to act as examiner for the purpose of holding any such hearing or the Commission may appoint another person to act as examiner under §13-3-124. The Commission shall provide reasonable notice and the right to present oral or written testimony to all persons interested therein as determined by the Commission.

§13-3-124. Appointment of Examiner; Power of Examiner.

The Commission may appoint any person qualified in the law or possessing knowledge or expertise in the subject matter of the hearing to act as examiner for the purpose of holding any hearing which the Commission, or any member thereof, has power or authority to hold. Any such appointment shall constitute a delegation to such examiner of all powers of a Commissioner under this Title with respect to any such hearing.

CHAPTER FOUR
CLASSES OF GAMING

§13-4-101. Classes of Gaming.

Gaming activities shall be classified as follows:

(1) Class I. Class I shall comprise social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as part of, or in connection with, tribal ceremonies or celebrations, which require permission only of the tribal community in which they are conducted. Class I includes raffles for charitable purposes and with prizes of minimal value.

(2) Class II. Class II shall comprise bingo of every kind if played at the same location, whether or not electronic, computer, or other technologic aids are used in connection therewith, pull-tabs, lotto, punch boards, tip jars, instant bingo and other games similar to bingo; also card games, but not banking card games such as baccarat, chemin de fer or blackjack (21), or electronic or electromechanical facsimiles of any game of chance and slot machines of any kind.

(3) Class III. Class III shall comprise all forms of gaming not classified as Class I or Class II.

CHAPTER FIVE
REGULATION OF GAMING

§13-5-101. Gaming Regulated.

All Class I, II and III gaming activities or operations are subject to the provisions of this Title.

§13-5-102. Authority Of The Commission.

The Commission is given exclusive authority to regulate all gaming activities or operations under provisions of this Title.

§13-5-103. License Requirement.

(1) Class I. A tribal license shall not be required for any Class I gaming activity or operation, provided, however, that each Class I gaming activity or operation must have written permission of the Tribal Community in which it is conducted, and such permission must be on file with the Tribal Secretary before any such Class I gaming is conducted.

(2) Class II. A separate tribal license issued by the Commission pursuant to specific authority of the Council shall be required for each Class II gaming activity or operation and for every primary management official and key employee thereof.

(3) Class III. A separate tribal license issued by the Commission pursuant to specific authority of the Council shall be required for each Class III gaming activity or operation and for every management official and employee thereof.

(4) Only gaming stated in the tribal license therefor shall be permitted by any licensee at any gaming establishment.

§13-5-104. Application For License.

Every person seeking a license from the Commission shall file an application which shall contain:

(1) The name of the applicant and all pertinent information required by Commission regulations.

(2) A release authorizing the Commission and, in the case of an application relating to a Class III license, the State, to conduct a background investigation of the applicant. In the latter case the application shall be accompanied by the fee provided in the State Commission on Gaming regulations for such an investigation.

§13-5-105. **Form and Display of License.**

Every license issued by the Commission shall contain the following data:

- (1) The name and address of the authorized licensee of gaming.
- (2) A recital that the licensee is authorized to conduct the type of gaming specified or be employed in the management of or serve as a key employee of any gaming enterprise.
- (3) A statement that all participants in gaming activities or operations conducted pursuant to the license shall be deemed to have consented to the civil jurisdiction of the Tribe and the Tribal Court.
- (4) The signature of the Commission Director.

Such license shall be posted in a conspicuous place on the premises at which the gaming activity authorized thereby is conducted or the premises at which such person manages or serves as a key employee of any gaming enterprise.

§13-5-106. **Financial Reports.**

Every licensee shall furnish to the Commission an annual statement of all sales, revenues, and all other amounts collected and received, all deductions and disbursements made therefrom any all expenses incurred or paid in connection with any gaming activity or operation by such licensee.

§13-5-107. **Audits.**

(1) **Quarterly Audit.** An audit by an independent Certified Public Accountant of the Commission's choice and acceptable to the Commission shall be performed quarterly at the expense of each licensee.

(2) **Additional Audits.** Additional audits as may be deemed necessary by the Commission shall be performed from time to time at the expense of the Commission, provided, however, that such audits shall not be unreasonably performed.

(3) **Supplies, Services and Concessions Audits.** Every contract for supplies, services or concessions in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to the gaming activities or operations of each such licensee shall be subject to an annual audit at the expense of such licensee pursuant to the IGRA.

(4) **Audits Furnished to the Indian Gaming Commission.** The annual audit and each audit for supplies, services or concessions of each licensee and each tribal gaming operation shall be furnished to the Indian Gaming Commission pursuant to the IGRA.

(5) **Audits Furnished to the State.** Copies of every audit required hereby for any Class III licensee shall be made available to the State pursuant to any IGRA compact.

§13-5-108. **Equal Opportunity To Win By Each Player.**

Each gaming activity or operation must be conducted so that each of multiple players has an equal opportunity to win.

§13-5-109. **Determination of Winners.**

All winners shall be determined and all prizes awarded within a time specified by the Commission.

§13-5-110. **Employee Disqualifications.**

No employee of any gaming activity or operation shall be permitted to participate in any game in which he is employed. An employee may participate in any game in which he is not employed after paying an admission fee and any other fee incident thereto.

§13-5-111. **Age Limitation.**

No person under 16 years of age shall be permitted to participate in any Class I or II gaming activity or operation or be an employee thereof, and no person under 21 years of age shall be permitted to participate in any Class III gaming activity or operation or be an employee thereof.

§13-5-112. **Wager Limitation; Notice.**

A player shall not make an initial wager of more than the amount specified in any IGRA compact, and each gaming table in any gaming establishment shall be equipped with a sign that indicates permissible minimum and maximum wagers for it.

§13-5-113. **Credit Restriction.**

All gaming shall be conducted on a cash basis and, except as provided herein, no licensee or gaming establishment shall extend credit for gaming to any person or permit any person to offer such credit for a fee, provided, however, that this restriction shall not apply to credits won by players who activate play on gaming machines after inserting coins or currency into the game, and shall not restrict the right of any person to cash a check or use a bank or credit card for gaming in the same manner as would normally be permitted at any retail business within the Reservation.

§13-5-114. Gaming Location.

Class II or Class III gaming activities or operations shall be conducted only on fee or trust land specifically approved by Council resolution.

§13-5-115. Construction, Maintenance and Operation Standards.

The construction and maintenance of every gaming establishment and the conducting of any gaming activity or operation therein shall be done in a manner which adequately protects the environment and the public health and safety.

§13-5-116. Persons Participating Or Assisting In Gaming Activities or Operations.

(1) No person who has ever been convicted of a federal, state or tribal felony, or who has ever entered a plea of nolo contendere to any felony charge, or who is determined by the Commission to have ever participated in organized crime, unlawful gaming activities, bootlegging or drug trafficking, or who has been convicted of a misdemeanor involving dishonesty or moral turpitude within the past five years, or whose previous activities, reputation, habits or associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices methods, or activities in the conduct of gaming shall be permitted to participate in any gaming activity or operation.

(2) Any person who participates in any gaming activity or operation shall submit to fingerprinting and photographing by the BIA Police and shall agree to any lawful means of testing, including but not limited to drug or polygraph testing, at any time and without prior notice concerning the handling, collection and disbursement of monies in connection with such gaming.

(3) No person shall be eligible to receive a tribal license to own a Class II gaming activity or operation who would not be eligible to receive a state license to conduct such gaming within the jurisdiction of the State.

§13-5-117. Participants In Gaming.

Any person who participates in any gaming activity or operation shall be deemed to consent to the civil jurisdiction of the Tribe and the Tribal Court.

§13-5-118. Prohibition Against Intoxication.

No person shall be permitted to enter premises where gaming activities or operations are being conducted or participate in any gaming activity or operation while such person is or appears to be under the influence of any intoxicating liquor or drugs.

§13-5-119. Regulations To Be Posted.

The Commission shall post regulations relating to the conduct of bingo and any other gaming activity as it deems necessary, in a conspicuous place at the location of such gaming activity.

§13-5-120. Revocation of License.

(1) **Exclusive Tribal Court Jurisdiction.** Except as provided in subsection (4), the Tribal Court shall have exclusive jurisdiction to revoke a license issued under this Title.

(2) **Initiation By Commission.** Revocation proceedings in Tribal Court shall be initiated by the Commission either before or after completion of any hearing conducted by the Commission pursuant to this Title.

(3) **Commission Hearing Record.** In any revocation proceeding in the Tribal Court, no new or additional evidence may be introduced, but the matter shall be heard on the record established before the Commission as certified by the Commission. The Tribal Court shall uphold all factual findings by the Commission unless the Court determines that such findings are not supported by substantial evidence in the record established before the Commission. In reviewing legal conclusions reached by the Commission, the Tribal Court shall give proper weight to the Commission's interpretation of this Title and any regulations promulgated thereunder.

(4) **Revocation By Commission.** Whenever the Commission shall receive information from the Indian Gaming Commission that a management official or employee of such licensee does not meet the standards for being licensed provided in the IGRA, it shall, after hearing, have authority to revoke any license issued under this Title.

§13-5-121. Reserved Power of Council.

The Council reserves the power and authority to delegate to the Commission the operation of gaming on behalf of the Tribe and to restrict to the Tribe the sole proprietary interest in all gaming activity and operations under this Title.

CHAPTER SIX
ENFORCEMENT

§13-6-101. **Jurisdiction.**

Except as provided in this Title and in any IGRA compact, the Tribal Court shall have jurisdiction over all violations of this Title.

§13-6-102. **Prohibited Acts.**

In addition to other civil and criminal offenses provided for in this Code, the following acts are prohibited by this Title and subject the violator to the civil and criminal penalties specified in this Title:

- (1) Participating in any gaming activity or operation which is not authorized by this Title.
- (2) Knowingly making a false statement in an application for employment with any licensee or with the Commission.
- (3) Knowingly making a false statement in connection with any contract to participate in any gaming activity or operation.
- (4) Attempting to bribe any person participating in any gaming activity or operation.
- (5) Offering or accepting a loan, financing or other thing of value between a Commission member or employee and any person participating in any gaming activity or operation.
- (6) Promoting or participating in any gaming activity or operation to win money or other valuable consideration except for the specific gaming authorized at such location pursuant to this Title.
- (7) Failing to keep sufficient books and records to substantiate receipts, disbursements and expenses incurred or paid from any gaming activity or operation authorized pursuant to this Title.
- (8) Falsifying any books or records which relate to any transaction connected with the operation of gaming pursuant to this Title.

∴ §13-6-103. **Criminal Violation of This Title or Commission Order or Regulation.**

Any Indian who violates or fails to comply with any provision of this Title, or who fails, omits, or neglects to obey, observe, or comply with any order, decision, decree, direction, demand, or requirement of the Commission, or any part or provision thereof, shall be guilty of a Class A crime. Each day during which any such violation or failure to comply continues shall constitute a separate violation of this Title.

§13-6-104. Civil Violation of This Title or Commission Order or Regulation.

Any person who is not a tribal member who violates or fails to comply with any provision of this Title, or who fails, omits, or neglects to obey, observe, or comply with any order, decision, decree, direction, demand, or requirement of the Commission, or any part or provision thereof, shall be liable for a civil fine not to exceed \$5,000 for each violation thereof. Each day during which any such violation or failure to comply continues shall constitute a separate violation of this Title. The amount of the civil fine, when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the Tribal Court.

§13-6-105. Cumulative Fines.

All civil fines accruing under this Chapter shall be cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, or judgment, penalty, forfeiture or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution against any officer, director, agent, or employee of any licensee, or any other person.

§13-6-106. Purpose of Civil Penalties.

The civil fines imposed under this Chapter are intended to be remedial and not punitive and are designed to compensate the Tribe for the damage done to the peace, security, economy and general welfare of the Tribe and the Reservation, and to compensate the Tribe for costs incurred by the Tribe in enforcing this Title. The civil fines under this Chapter are also intended to coerce all persons into complying with this Title, Commission regulations and the laws and regulations of the Tribe and not to punish such persons for violation of such laws and regulations.

§13-6-107. Civil Action for Penalties.

In enforcing the civil infraction provisions of this Chapter, the Commission shall proceed, in the name of the Tribe, against a person for violation of such provision by civil complaint pursuant to the provisions of this Code. The Commission in such action shall have the burden of showing by the preponderance of the evidence that such person violated the applicable provision of this Title.

§13-6-108. Seizure of Property.

All property utilized in violation of this Title shall be subject to seizure by order of the Tribal Court.

CHAPTER SEVEN
EFFECTIVE DATE

§13-7-101. Effective Upon Federal Approval.

This Title shall be effective upon the date of its publication in the Federal Register.