

## **Title 16 – Gaming**

### **Chapter 1 – General Provisions**

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#### **Legislative History**

**Enacted:**

Ordinance 323 Rescinding Ordinance 322 and Amending Ordinance No. 118 (Currently Codified as STC 16-01.070 and 16-08.060), (2/5/13), BIA (2/13/13), NIGC (3/5/13).

Ordinance 171 Regulating Gaming and Repealing and Superseding Ordinance Nos. 103, 104, 118, 130 and 151 (6/30/03), BIA (7/3/03), NIGC (10/3/03).

**Repealed or Superseded:**

Ordinance 322 Amending Ordinance No. 118 (Currently Codified as STC 16-01.070 and 16-08.060), (1/8/13), BIA (xx/xx/xx), NIGC (xx/xx/xx).

Ordinance 151 Amendments to Swinomish Gaming Ordinance (4/9/02), BIA (6/7/02), NIGC (7/17/02).

Ordinance 118 Amendments to Swinomish Gaming Ordinance (5/7/96), BIA (5/23/96), NIGC (not required, 8/15/96).

Ordinance 104 Amendments to Swinomish Gaming Ordinance (11/3/93), BIA (11/8/93), NIGC (11/10/93) (amending Ord. 103).

Ordinance 103 Swinomish Gaming Ordinance (10/5/93), BIA (10/14/93), NIGC (11/10/93).

Ordinance 50 Gaming Ordinance (3/5/85) (Enacting Res. 85-3-13), BIA (3/25/85).

[Ed. Note. The Indian Gaming Regulatory Act provides that the Chairman of the National Indian Gaming Commission shall approve tribal ordinances and resolutions concerning Class II and Class III gaming. 25 USCA § 2710. The Chairman's approval of Ordinance 103 and Ordinance 104 was published in the Federal Register on December 14, 1993 as is required under 25 CFR § 522.8. 58 Fed. Reg. 65406. On August 15, 1996, the NIGC Chairman determined that the amendments in Ordinance 118 did not require NIGC approval. That decision notwithstanding, the Chairman published his approval of Ordinance 118 in the Federal Register on June 21, 1996. 61 Fed. Reg. 31963-02. The Chairman's approval of Ordinance 151 was published in the Federal Register on August 26, 2002. 67 Fed. Reg. 54823-03. The Chairman's approval of Ordinance 171 was not published in the Federal Register, but was approved by the Chairman on October 3, 2003. The Chairman's approval of Ordinance 323 was published in the Federal Register on March 5, 2013. 78 Fed. Reg. 14352-55.]

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**16-01.010 Title.**

This Title shall be referred to as the “Gaming Code.”

[History] Ord. 171 (6/30/03).

**16-01.020 Authority.**

This Title is hereby adopted pursuant to Article VI (Powers of the Senate), Sections 1(a), (k), (l), (m) and (s) of the Swinomish Constitution.

[History] Ord. 171 (6/30/03); Ord. 103 (10/5/93).

**16-01.030 Purpose and Scope.**

The purposes of this Title are found to be as follows:

- (A) To provide a new and continuous source of income and revenues to the Tribe in order to provide social, cultural, and law enforcement services to members and other residents of the Swinomish Indian Reservation.
- (B) To create a control mechanism to insure the proper regulation of Class II and Class III authorized gaming activities.
- (C) To provide members and guests an opportunity to participate in social games as provided herein.
- (D) To provide for the social welfare and protection of tribal members and all others who reside within or pass through the Swinomish Indian Reservation.
- (E) Except as specifically provided herein, the Swinomish Indian Tribal Community by enactment of this Title does not intend to authorize any form of gaming, gambling or other wagering activity within the Swinomish Indian Reservation.

[History] Ord. 171 (6/30/03); Ord. 103 (10/5/93).

**16-01.040 Policy.**

It is the policy of the Swinomish Indian Tribal Community to regulate and oversee the operation of authorized gaming activities to the end that the Tribe is better able to provide its members with community and social services; while at the same time, to insure that widespread gaming is not allowed within the Swinomish Indian Reservation, and safeguard the public against the influx of organized crime and undesirable persons.

[History] Ord. 171 (6/30/03); Ord. 103 (10/5/93).

**16-01.050 Findings.**

The Senate makes the following findings:

- (A) The Tribe is in need of developing ways and means of increasing tribal income and revenue in order to promote the public welfare, provide for public protection through Law Enforcement, and provide needed social, health and educational services to protect the general welfare of its members;
- (B) The generation of revenues through gaming activities for the promotion of tribal governmental and social programs is in the Tribe's interest as is participation in such activities and social pastimes as are hereinafter authorized;
- (C) Tribally owned and regulated Class II and Class III authorized gaming activities operated under the direction of the Tribe will not lead to a proliferation of undesired gaming, or to the influx of organized crime or other undesirable persons, but will serve the economic needs of the Tribe; and
- (D) The exercise of tribal power through this Title 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.

[History] Ord. 171 (6/30/03); Ord. 103 (10/5/93).

**16-01.060 Rules of Construction.**

Unless otherwise specifically provided;

- (A) The masculine includes the feminine;
- (B) The singular includes the plural;
- (C) "Includes" and "including" are not limiting; and
- (D) "Or" is not exclusive.

[History] Ord. 171 (6/30/03); Ord. 103 (10/5/93).

**16-01.070 Definitions.**

For purposes of this Title, unless otherwise expressly provided, the following definitions shall apply:

- (A) "**Act**" means the Indian Gaming Regulatory Act, Pub. L. 100-497, 25 U.S.C. § 2701 et seq.

- (B) "**Class II Gaming**" means Class II gaming as defined in accordance with the Act, 25 U.S.C. § 2703(7)(A).
- (C) "**Class III Gaming**" means Class III gaming as defined in accordance with the Act, 25 U.S.C. § 2703(8).
- (D) "**Commission**" means the Swinomish Gaming Commission.
- (E) "**Compact**" means the Tribal - State Compact for Class III Gaming between the Swinomish Indian Tribal Community and the State of Washington, entered into on December 21, 1992, and approved by the Secretary of the Interior on February 11, 1993, in accordance with the Act, and any duly approved amendments to such Compact.
- (F) "**Gaming**" means any activity where the player stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his or her control or influence, upon an agreement or understanding that he or she or someone else will receive something of value in the event of a certain outcome, but shall not include bona fide business transactions valid under the law of contracts such as contracts for the purchase of commodities or other items at a future date or contracts for insurance, indemnity or guarantee to compensate unforeseeable loss, nor include traditional Indian games played by tribal members and their guests.
- (G) "**Gaming Enterprise Management Board**" means the body, established pursuant to Section 16-05.020 of this Title, with responsibility for the management of the Gaming Enterprise.
- (H) "**Gaming Enterprise**" means the Swinomish Gaming Enterprise established by the Tribe to conduct gaming operations of the Tribe on the Swinomish Indian Reservation.
- (I) "**Gaming Facilities**" means any room or rooms in which Class II or Class III gaming is conducted on the Swinomish Indian Reservation.
- (J) "**National Indian Gaming Commission**" means the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.
- (K) "**Net Revenues**" means gross revenues of a gaming activity less amounts paid out as, or paid for, prizes and total operating expenses including debt service but excluding management fees paid to a management contractor within the meaning of 25 U.S.C. § 2711 (c).
- (L) "**Reservation**" means the Swinomish Indian Reservation including all Indian lands as defined in 25 U.S.C. § 2703(4)(B).
- (M) "**Senate**" or "**Tribal Senate**" means the Swinomish Indian Senate, the governing body of the Swinomish Indian Tribal Community.

- (N) **"State"** means the State of Washington.
- (O) **"State Gaming Agency"** means the Washington State Gambling Commission or such other agency as the State may establish to carry out the regulatory responsibilities of the State under the Compact.
- (P) **"Title"** means the Swinomish Indian Tribal Community Gaming Title.
- (Q) **"Tribe"** means the Swinomish Indian Tribal Community, a federally recognized Indian Tribe organized pursuant to Section Sixteen of the Indian Reorganization Act of 1934 (25 U.S.C. § 476).

[History] Ord. 323 (2/5/13); Ord. 171 (6/30/03); Ord. 151 (4/9/02); Ord. 118 (5/7/96); Ord. 104 (11/3/93); Ord. 103 (10/5/93).