

## **Title 16 - Gaming**

### **Chapter 5 – Swinomish Gaming Enterprise**

**Sec.**

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#### **Legislative History**

**Enacted:**

Ordinance 304 Amending STC 16, Chapter 5 and Ordinance No. 171 (2/23/12), BIA (2/28/12), NIGC (7/30/12).

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).

Ordinance 151 Amendments to Swinomish Gaming Ordinance (4/9/02), BIA (6/7/02), NIGC (7/17/02) (amending Ord. 103).

Ordinance 103 Swinomish Gaming Ordinance (10/5/93), BIA (10/14/93), NIGC (11/10/93) (repealing Ord. 50).

**Repealed or Superseded:**

Ordinance 118 Amendments to Swinomish Gaming Ordinance (5/7/96), BIA (5/23/96), NIGC (not required, 8/15/96) (amending Ordinance 103).

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

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**16-05.010 Establishment.**

The Swinomish Gaming Enterprise is hereby established as a subordinate economic enterprise and subdivision of the Swinomish Indian Tribal Community tribal government.

[History] Ord. 171 (6/30/03); Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-05.020 Gaming Enterprise Management Board.**

(A) **Establishment.** There is hereby established a Gaming Enterprise Management Board which shall be made up of at least four (4) members who shall be appointed by the Senate. Members of the Senate are eligible for appointment to

the Management Board. The Tribal Chair shall be an ex officio member of the Management Board. The Senate shall select Management Board members so as to ensure that the Board has the requisite skill and experience to manage the Gaming Enterprise. The Senate shall designate one of the members of the Management Board to serve as Chairperson of the Management Board.

- (B) **Quorum.** A majority of the members of the Management Board shall constitute a quorum. No Board action shall be taken by vote of less than a majority vote of the Board members present and voting.
- (C) **Reporting.** The Board shall report to and be responsible directly to the Senate.
- (D) **Term of Office.** The term of office shall be for one year.
- (E) **Removal of Board Member.** The Senate may remove a Management Board member for any reason. The Senate shall promptly appoint a replacement for any Board member removed pursuant to this subsection.
- (F) **Staff.** The General Managers of the Casino and the hotel, the Director of Finance of the Gaming Enterprise, and a representative of the Office of Tribal Attorney shall report to and provide assistance as needed to the Management Board.
- (G) **Scheduling of Meetings.** The Management Board will meet as often as necessary to conduct its business, but no less frequently than monthly. Emergency meetings may be held by telephone or electronically via E-mail, during which business may be transacted, upon prior actual notice to all Board members, provided that not less than a majority of the Board concurs in the proposed action.
- (H) **Records of Meetings.** The Management Board shall keep complete and accurate records of all meetings and actions taken by the Board.

[History] Ord. 304 (2/23/12); Ord. 171 (6/30/03); Ord. 118 (5/7/96).

#### **16-05.025 Powers of Gaming Enterprise Management Board**

The Gaming Enterprise Management Board shall have the following powers and duties:

- (A) **Management.** To manage the Swinomish Gaming Enterprise for the benefit of the Tribe, including:
  - (1) **Operation:** the power to oversee the operation of all activities conducted by the Gaming Enterprise and to perform those actions required of it pursuant to the provisions of the Swinomish Tribal Code;

- (2) **Employ Staff:** the power to employ qualified individuals who shall be Executive Committee members of the Gaming Enterprise and to delegate to such members such powers or duties as the Board shall deem proper;
- (3) **Policies:** the power to propose administrative policies, rules and regulations consistent with the Swinomish Tribal Code, the Compact, and federal law. All proposed rules and regulations shall be submitted to the Senate for approval and formal adoption;
- (4) **Studies:** the power to undertake and carry out studies and analyses of gaming and other needs of the Gaming Enterprise, to prepare business plans and to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof;
- (5) **Budget:** the power to authorize expenditures within the budget approved by the Senate. All other expenditures shall be submitted to the Tribal Budget Committee and the Senate for approval and formal adoption; and
- (6) The power to take such further actions as are commonly engaged in by other similar gaming enterprises and as the Management Board may deem necessary and desirable to effectuate the purposes of the Gaming Enterprise.

(B) **Reports.**

- (1) To prepare and submit regular monthly reports to the Senate on the operation and financial status of each separate activity of the Gaming Enterprise, including any significant problems and accomplishments, plans for the following month, and such other information as the Management Board deems pertinent or as requested by the Senate;
- (2) To prepare and submit to the Senate within 120 days after the close of each fiscal year an annual report, signed by the Chairperson, showing:
  - (a) a summary of the year's activities;
  - (b) the complete financial condition of the Gaming Enterprise and of each of its component businesses;
  - (c) any significant problems and accomplishments;
  - (d) plans for the following year; and
  - (e) such other information as the Management Board deems pertinent or as requested by the Senate.

The fiscal year of the Company shall be the fiscal year of the Tribe.

- (C) **Bank Accounts.** To maintain, under the supervision and subject to the authority of the Tribal Treasurer, a such account or accounts as the Gaming Enterprise sees fit.
- (D) **Records.**
  - (1) To keep written records accounting for all monies received from and expended upon the operation of all activities conducted by the Gaming Enterprise. The Senate may require the Gaming Enterprise to produce these records for inspection without prior notice.
  - (2) To establish and operate an accounting system such that entries are made in conformity with generally accepted accounting principles and provide sufficient transparency to ensure that the assets of the Gaming Enterprise are managed properly. Such accounting system shall insure the availability of information as may be necessary to comply with all applicable federal, state and Tribal regulatory requirements.
  - (3) To cause the accounts and records of the Gaming Enterprise to be audited at the close of each fiscal year.
- (E) **Inspection.** To inspect during business hours all premises at which any activity authorized by this Title takes place including vehicles used in connection therewith.
- (F) **Books.** To inspect, examine, and copy all books and records related to all operations and activities conducted by the Gaming Enterprise. Such inspection may be carried out by a Board member or by an agent, tribal employee, attorney, or independent certified public accountant acting on behalf of the Board or the Tribe.

[History] Ord. 304 (2/23/12); Ord. 171 (6/30/03); Ord. 151 (4/9/02); Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-05.030 Records.**

All official records of the Swinomish Gaming Enterprise and the Gaming Enterprise Management Board shall be kept by the offices of the Gaming Enterprise on behalf of the Swinomish Indian Tribal Community.

[History] Ord. 304 (2/23/12); Ord. 171 (6/30/03); Ord. 118 (5/7/96); Ord. 103 (10/5/93).

**16-05.040 Designation of an agent for service of process.**

Consistent with 25 CFR 522.2(g) and 519.1, the Tribe shall designate an agent for service of any official determination, order, or notice of violation by written notification to the National Indian Gaming Commission.

[History] Ord. 304 (2/23/12);

**16-05.050 Sovereign Immunity.**

The Gaming Enterprise shall not waive the Tribe's sovereign immunity in the absence of Senate authorization.

[History] Ord. 304 (2/23/12);

**16-05.060 Federal and Tribal Law.**

The Gaming Enterprise shall comply with all requirements of tribal and federal laws and the State-Tribal Compact, as amended.

Ord. 304 (2/23/12);

**16-05.070 Repealer.**

[Reserved]

[History] Ord. 304 (2/23/12);

**16-05.080 Severability.**

If any provision of this Charter or its application to any person or circumstance is held invalid, the remainder of this Charter, or the application of the provision to other persons or circumstances shall remain in effect.

[History] Ord. 304 (2/23/12);

**16-05.090 Effective Date.**

This Chapter shall be effective upon approval by the Secretary of the Department of the Interior, or the Secretary's designee, and upon approval by the Chairman of the NIGC, as necessary.

[History] Ord. 304 (2/23/12).