



September 23, 2024

***VIA EMAIL***

Jeri Lynn Thompson, Chairperson  
Tolowa Dee-Ni' Nation  
12801 Mouth of Smith River Rd.  
Smith River, CA 95567

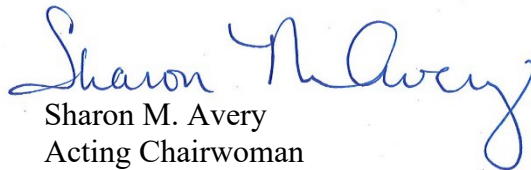
**Re: Tolowa Dee-Ni' Nation Amended Gaming Ordinance**

Dear Chairperson Thompson,

This letter responds to your request of August 29, 2024 on behalf of the Tolowa Dee-Ni' Nation (Nation) for the National Indian Gaming Commission (NIGC) Acting Chairwoman to review and approve an amendment to the Nation's gaming ordinance (Ordinance). The Ordinance was amended by Resolution 2024-37 on August 8, 2024.

Thank you for bringing these amendments to our attention. The Ordinance, as noted above, is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations. If you have any questions or require anything further, please contact Logan Takao Cooper at (503) 318-7524 or [Logan.Takao-Cooper@nigc.gov](mailto:Logan.Takao-Cooper@nigc.gov).

Sincerely,

  
Sharon M. Avery  
Acting Chairwoman

cc: Richard J. Armstrong, counsel for Tolowa Dee-Ni' Nation

MAILING ADDRESS: NIGC/DEPARTMENT OF THE INTERIOR 1849 C Street NW, Mail Stop #1621 Washington, DC 20040 Tel: 202.632.7003 Fax: 202.632.7066

REGIONAL OFFICES Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK; Oklahoma City, OK; Rapid City, SD  
[WWW.NIGC.GOV](http://WWW.NIGC.GOV)



# Tolowa Dee-ni' Nation

12801 Mouth of Smith River Rd. Smith River, CA 95567  
707-487-9255 www.tolowa-nsn.gov



## RESOLUTION 2024-37

### APPROVAL OF THE AMENDMENTS TO THE TOLOWA DEE-NI' NATION TITLE 3 CHAPTER 1 – GAMING CODE

**ADOPTED: August 8<sup>th</sup>, 2024**

**RESOLUTION SUMMARY:** A resolution of the Tolowa Dee-ni' Nation Tribal Council, Smith River, California, approving the amendments to the Title 3 Chapter 1 – Gaming Code.

**Whereas,** The Tolowa Dee-ni' Nation is a federally recognized Indian Nation located in the Pacific Northwest and organized pursuant to the Constitution of the Tolowa Dee-ni' Nation that was duly adopted by the citizens of the Nation; and

**Whereas,** The Tolowa Dee-ni' Nation Tribal Council is the duly elected governing body of the Nation with the Constitutional duties and responsibilities to preserve, protect, and promote the best interests of the Nation; and

**Whereas,** Principles of good governance and regular reviews have identified the need for updating Title 3 Chapter 1 to remove obsolete language and clarify processes for the Gaming Code; and

**Whereas,** The process for amending Tribal Ordinances stated in Title 2 Chapter 5 has been followed; and

**Whereas,** Title 3 Chapter 1 was posted for the 30-day commenting period and that commenting period has closed with comments that have been reviewed, considered, responded to, and incorporated; now, therefore, be it

**Resolved,** That the Tolowa Dee-ni' Nation Tribal Council here by authorizes and approves of the amendments to Tolowa Dee-ni' Nation Title 3 Chapter 1 – Gaming Code; and be it further

**Resolved,** That the implementation of this code is effective upon Tolowa Dee-ni' Nation Tribal Council's approval of the Gaming Commission Code and the National Indian Gaming Commission's approval of the Gaming Code; and be it further

**Resolved,** That the Gaming Code as amended on this date shall be submitted to the National Indian Gaming Commission for review and approval; and be it finally

Jeri Lynn  
Thompson  
*Chairperson*

Scott D.  
Sullivan  
*Vice -  
Chairperson*

Debbie  
Boardman  
*Council  
Secretary*

Jaytuk  
Steinruck  
*Council  
Treasurer*

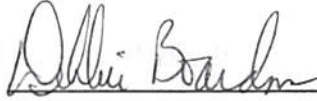
Dr. Joseph  
Giovannetti  
*Council  
Member*

Amanda  
O'Connell  
*Council  
Member*

Dorothy  
Wait  
*Council  
Member*

**Resolved,** That the Tribal Council of the Tolowa Dee-ni' Nation does hereby adopt this resolution, and that the Chairperson and Secretary of the Tolowa Dee-ni' Nation Tribal Council are hereby authorized to sign this resolution and any and all other documents which are necessary to effectuate the intents and purposes of this resolution.

 8-8-24  
Jeri Lynn Thompson                      Date  
Council Chairperson

 8/8/24  
Debbie Boardman                      Date  
Council Secretary

**CERTIFICATION**

I hereby certify that the foregoing resolution was adopted at a duly called and noticed meeting of the Tolowa Dee-ni' Nation Tribal Council held on the 8th day of August 2024 in Smith River, California, at which 5 Tribal Council members were present to constitute a quorum, by a vote of 4 For, 0 Opposed, 1 Abstentions and 2 Absent, and shall remain in full force and effect until rescinded.

 8/8/24  
Debbie Boardman, Council Secretary                      Date

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**TOLOWA DEE-NI' NATION  
GAMING CODE**

**ARTICLE I: GENERAL PROVISIONS**

This Gaming Code, initially enacted by the Tolowa Dee-ni' Nation in 1994 (previously referred to as an "Ordinance"), and thereafter amended on May 30, 1995, February 23, 1999, September 20, 2000, and October 6, 2015, is hereby amended, and restated in its entirety to read as follows:

**§1.0 Purpose**

The Tolowa Dee-ni' Nation, acting through its Tribal Council (hereafter the "Nation"), pursuant to the Nation's inherent authority and the authority identified within the Nation's Constitution to enact ordinances and codes, hereby adopts this Gaming Code for the purpose of establishing the Tolowa Dee-ni' Nation Gaming Commission, who shall be authorized to regulate all Class II and Class III Gaming Activities on the Nation's Indian lands, and establish the requisite standards as required for such a Code in accordance with the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. §§2701 *et seq.*, and the regulations promulgated by the National Indian Gaming Commission ("NIGC"), 25 C.F.R. §§500 *et seq.*

**§2.0 Findings and Declarations**

**2.01** Gaming at the Nation provides economic development opportunities and a source of revenue for the Tolowa Dee-ni' Nation and its citizens that are needed to promote economic self-sufficiency, employment, job training, Tribal Government, and to fund and ensure essential social programs and services;

**2.02** It is in the best interest of the Tolowa Dee-ni' Nation and its citizens to regulate and control gaming in a manner that will protect the environment, the Nation, its citizens, and persons living on or passing through the Nation's reservation; and

**2.03** Therefore, the Tribal Council adopts this Gaming Code to protect and promote the political integrity, economic security, health, safety and welfare of the Nation, its citizens and persons living or passing through the Tolowa Dee-ni' Nation.

**§3.0 Definitions**

Unless specified otherwise, terms used herein shall have the same meaning as in and effect as those same terms are defined in the IGRA and the NIGC Regulations, if they are defined in IGRA and the NIGC's regulations.

**3.01** "Applicable Law" means IGRA and regulations promulgated thereunder, the Compact, this Gaming Code, and all other applicable laws and regulations promulgated under State, Federal, and Tribal law.

**3.02** "Commissioner" means a member of the Tolowa Dee-ni' Nation Gaming Commission ("Gaming Commission").

**3.03** “**Compact**” or “**Tribal-State Compact**” means the Tribal-State Gaming Compact, including amendments thereto, entered into between the Nation and the State of California pursuant to the IGRA to govern the conduct of certain Class III Gaming Activities on Nation Lands, as approved by the Department of Interior and published in the Federal Register in accordance with the IGRA.

**3.04** “**Gaming Activities**” means any Class II, or Class III gaming activity authorized under this Gaming Code or under the jurisdiction of the Nation.

**3.05** “**Gaming Code**” means the Tolowa Dee-ni' Nation Gaming Code, as amended.

**3.06** “**Gaming Operation**” means each economic entity that is licensed by the Nation, operates the games, receives the revenues, issues the prizes, and pays the expenses. A Gaming Operation may be operated by the Nation directly; by a management contractor; or, under certain conditions, by another person or entity.

**3.07** “**IGRA**” means the Indian Gaming Regulatory Act, 25 U.S.C. §2701 *et seq.*

**3.08** “**Indian Lands**” Means those lands as defined as Indian Lands in IGRA at 25 U.S.C. § 2703(4), and the NIGC’s regulations at 25 C.F.R. § 502.12, and includes:

- (1) Land within the limits of an Indian reservation; or
- (2) Land over which an Indian tribe exercises governmental power and that is either:
  - a. Held in trust by the United States for the benefit of any Indian tribe or individual; or
  - b. Held by an Indian tribe or individual subject to restriction by the United States against alienation.

**3.09** “**Key Employee**” means those individuals as defined as Key Employees in the NIGC’s regulations at 25 C.F.R. § 502.14.

**3.10** “**Licensee**” means a Nation owned Class II or Class III Gaming Operation or a person licensed by the Gaming Commission as a Primary Management Official, Key Employee, or other gaming employee under the provisions of this Gaming Code.

**3.11** “**Nation**” means the Tolowa Dee-ni' Nation.

**3.12** “**Nation Lands**” means all lands under the jurisdiction and control of the Nation, including those lands that satisfy the definition of “Indian lands” as set forth in IGRA.

**3.13** “**National Indian Gaming Commission**” or “**NIGC**” means the federal gaming commission established under IGRA.



**3.14** “Net Revenues” as established by the IGRA at 25 U.S.C. § 2703(9) and NIGC Regulations at 25 C.F.R. § 502.16, means the gross gaming revenues of an Indian Gaming Operation, less:

- (1) Amounts paid out as, or paid for, prizes; and
- (2) Total gaming-related operating expenses, including all those expenses of the Gaming Operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

**3.15** “Primary Management Official” means those individuals as defined as Primary Management Officials in the NIGC’s regulations at 25 C.F.R. § 502.19.

**3.16** “Tribal Council” means the Tribal Council of the Tolowa Dee-ni' Nation.

**3.17** “Tribal Court” means any court or forum established by the Nation to hear disputes.

**3.18** “Tolowa Dee-ni' Nation Gaming Commission” or “Gaming Commission” means the governmental gaming regulatory agency established by the Nation under this Gaming Code to regulate Gaming Activities, investigate wrongdoing, conduct background investigations, issue licenses, and perform other duties as required for the effective regulation of gaming on the Indian Lands of the Nation in accordance with this Code and the Tolowa Dee-ni' Nation Gaming Commission Code (“Gaming Commission Code”) established by the Nation.

#### **§4.0 Gaming Authorized**

**4.01** Class II and Class III gaming as defined in the Indian Gaming Regulatory Act, 25 U.S.C. Section 2701 *et seq.* (“IGRA”), and any regulations of the National Indian Gaming Association (“NIGC”) promulgated thereunder, are hereby authorized to be conducted on the Nation’s Indian lands, if such gaming is conducted in accordance with this Gaming Code, the Indian Gaming Regulatory Act, the NIGC’s regulations, any other Applicable Law or regulations, and with respect to Class III gaming, any Tribal-State Gaming Compact between the Nation and the State of California.

**4.02** All other Gaming Activities on Tribal Lands are prohibited except as expressly permitted under this Gaming Code.

#### **§5.0 Ownership of Gaming**

**5.01** The Nation shall have the sole proprietary interest in and responsibility for the conduct of any Gaming Operation facilities and/or enterprise(s) authorized by this Gaming Code.

**5.02** The Nation may, in accordance with IGRA, enter into a management contract for maintenance, operation and management of any Gaming Operation on such terms and under such conditions as the Tribal Council has determined to be fair and reasonable and in the best interest of the Nation.

**5.03** No elected official of the Nation, any Commissioner, or any member of any other committee or Commission of the Nation shall have a financial interest in or management responsibility for any management agreement entered into pursuant to the IGRA. Further, none of the above named individuals shall serve on the board of directors or hold (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of any corporation or ten percent (10%) or more of the beneficial interest in any partnership, trust, or other entity, in any such corporation, partnership, trust or other entity having a financial interest in, or management responsibility for, such contract.

## **§6.0 Use of Net Gaming Revenue**

**6.01 General Use.** Net Revenues from Gaming Activities shall be used only for the following purposes:

- (1) To fund Tribal government operations or programs;
- (2) To provide for the general welfare of the Nation and its citizens;
- (3) To promote tribal economic development;
- (4) To donate to charitable organizations; or
- (5) To help fund operations of local government agencies.

**6.02 Per Capita Payments.** In accordance with 25 U.S.C. § 2710(b)(3) and 25 C.F.R. §§ 522.4(b)(2)(ii) and 522.7(b), Net revenues from any Gaming Activities conducted or licensed by the Nation may be used to make per capita payments to Tribal citizens if:

- (1) The Nation has prepared a plan to allocate revenues to one or more of the five uses authorized by section 6.01 of Article I of this Gaming Code;
- (2) The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in sections 6.01(1) and 6.01(3) of Article I of this Gaming Code;
- (3) The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person; and
- (4) The per capita payments are subject to Federal taxation and the Nation notifies its citizens of such tax liability when payments are made.

## **§7.0 Indian Preference in Contracts**

**7.1** The management of the Gaming Facility, any management and investment gaming contracts or other gaming contracts for the construction and operation of the Gaming Facility or activity must adhere to the provisions of the Nation's Tribal Employment Rights' Ordinance ("TERO").

## **§8.0 Operation of the Gaming Facilities**

**8.01 Protection of the Environment and Public Health and Safety.** All Gaming Facilities shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public.



**8.02 Facility Licensing.** The Nation shall issue a separate facility license to each place, facility, or location on Indian lands where Class II and/or Class III gaming is conducted under this Code.

- (1) The Gaming Commission is responsible for issuing new or renewed facility licenses to each place, facility, or location on behalf of the Nation.
- (2) The Gaming Commission shall identify the environmental, health and public safety standards with which the place, facility or location must comply and verify the gaming facility is in compliance prior to the issuance or renewal of a facility license.
- (3) For any new facility license, the Gaming Commission shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Gaming Commission. This notice must be submitted at least one-hundred and twenty (120) days before the opening of any new place, facility, or location on Indian lands where Class II and/or Class III gaming will occur in accordance with 25 C.F.R. § 559.2(a), and shall contain the items required by 25 C.F.R. § 559.2(b).
- (4) In accordance with 25 C.F.R. § 559.3, the Gaming Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within thirty (30) days of issuance, along with any other required documentation in accordance with 25 C.F.R. § 559.4.
- (5) In accordance with 25 C.F.R. § 559.4, the Gaming Commission shall submit to the Chair with each facility license an attestation certifying that by issuing the facility license, the Nation has determined that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner which adequately protects the environment and the public health and safety in accordance with all laws, resolutions, codes, policies, standards or procedures applicable to each gaming place, facility, or location that protect the environment and the public health and safety, including standards, under a Tribal-State Compact, if any.
- (8) The Nation shall notify the NIGC Chair within thirty (30) days if a facility license is terminated or expires, or if a gaming place, facility, or location closes or reopens, with the exception of seasonal closures or temporary closures with a duration of less than one-hundred and eighty (180) days in accordance with 25 C.F.R. § 559.5.

#### **§9.0 Patron Dispute Resolution**

Patrons who have personal injury or property damage complaints against a Gaming Facility or Gaming Operation (“Patron Tort Claims”) shall have the right to remedies provided in the Nation’s Tort Ordinance. Patrons who have complaints arising from their participation in Gaming Activities at a Gaming Facility (“Patron Gaming Claims”) shall have the right to remedies as provided in the Gaming Commission policies and procedures and the requirements of the Tribal-State Compact, if any.

#### **§10.0 Audits**

**10.01** The Nation shall cause to be conducted independent audits of Gaming Operations annually and shall submit the results of those audits to the NIGC.

**10.02** Annual audits shall conform to generally accepted auditing standards.

**10.03** All gaming-related contracts that result in the purchase of supplies, services, or concessions for more than \$25,000 in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under Section 10.01 of this Article.

**10.04** Copies of the annual audit of each licensed Gaming Operation, and each audit for supplies, services, or concessions of each Gaming Operation, shall be furnished to the NIGC within one-hundred and twenty (120) days after the end of each fiscal year of the Gaming Operation.

## **ARTICLE II: TOLOWA DEE-NI' NATION GAMING COMMISSION**

### **§1.0 Establishment of the Gaming Commission**

The Nation hereby establishes the Tolowa Dee-ni' Nation Gaming Commission ("Gaming Commission"). The Gaming Commission shall function as an independent tribal entity responsible for the regulation of all Gaming Activities within the jurisdiction of the Nation and on behalf of the Nation in accordance with this Gaming Code and the Gaming Commission Code as adopted and amended from time to time by the Nation.

### **§2.0 Authority of the Gaming Commission**

The Commission will conduct oversight to ensure compliance with Tribal, federal and, if applicable, state laws and regulations. It will serve as the licensing authority for individuals employed in the Gaming Operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the Gaming Operation's internal controls and in tracking gaming revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the Gaming Operation and to all of its records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.

### **§3.0 Duties and Responsibilities of the Gaming Commission**

The specific enumerated duties, powers, and responsibilities of the Commission, in addition to those contained in this Code, will be established by the Nation in accordance with the Gaming Commission Code as adopted and amended from time to time by the Nation.

## **ARTICLE III: GAMING LICENSES**

### **§1.0 Licensing Policy and Requirements**

It is the policy of the Nation that all Gaming Activities be licensed and controlled so as to protect the morals, good order and welfare of tribal citizens and other persons on Tribal Lands, and to preserve the honesty, fairness, and integrity of such Gaming Activities. Accordingly, no person or entity shall conduct any Class II or Class III Gaming Activities on Tribal Lands without a valid license issued by the Gaming Commission.

### **§2.0 Licensing Procedure**

The Nation's Gaming Licensing procedure shall be administered through the Gaming Commission. The program shall be an investigative licensing process under which all applicants

for gaming license are evaluated against the standards set forth in, and subject to, the following applicable laws:

- (1) This Gaming Code, and any gaming regulations promulgated thereunder;
- (2) The Indian Gaming Regulatory Act and any applicable regulations published by the National Indian Gaming Commission;
- (3) Applicable Compact requirements, if any; and
- (4) Any other applicable tribal, federal, or state laws.

### **§3.0 Gaming License is a Privilege**

Any gaming license or finding of suitability issued by the Gaming Commission shall be deemed a privilege, and is subject to suspension or revocation at any time. No license or license renewal shall be issued that would place the Nation in violation of any applicable law. A gaming license or finding of suitability is subject to renewal at least every two (2) years.

### **§4.0 Burden on the Applicant**

The burden of proving an applicant's qualifications to receive a license hereunder is at all times on the applicant. Applicants must accept any risk of adverse public notice, embarrassment or other action that may result from the application process and expressly waive any claim for damages as a result thereof.

### **§5.0 License Application Forms**

**5.01** The following Privacy Act notice shall be placed on the Nation's license application form for a Key Employee or a Primary Management Official before it is filled out by an applicant:

*In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Nation or the NIGC to appropriate Federal, Tribal, State, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a Gaming Operation. Failure to consent to the disclosures indicated in this notice will result in a tribe being unable to license you for a Primary Management Official or Key Employee position.*

*The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply an SSN may result in errors in processing your application.*

**5.02** The following additional False Statement notice shall be placed on the application form for a Key Employee or a Primary Management Official before it is filled out by an applicant:

*A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).*

**5.03** Persons applying for a license shall agree to release all information necessary in order for the Gaming Commission and any applicable federal or state entity to complete their suitability determination. Applicants must update all such information promptly on an on-going basis, and to furnish such information as may be required by the State Gaming Agency, or any other governmental agency as may be required by law

#### **§6.0 Gaming License Required**

**6.01** Key Employees and Primary Management Officials and related entities are required to be licensed by the Gaming Commission, and as a basis for issuing a license, the Gaming Commission must conduct, or cause to be conducted, a background investigation, in accordance with the requirements of this Code.

**6.02** Additionally, the following persons and entities shall also be subject to licensing and background investigation by the Gaming Commission, at the level of investigation established by the Gaming Commission which may be less stringent than the background requirements of Key Employees and Primary Management Officials:

- (1) All gaming employee who are not otherwise classified as Key Employees and Primary Management Officials, employed within the Nation's Gaming Enterprise;
- (2) All vendors of the Gaming Operation, unless otherwise exempt as determined by the Gaming Commission;
- (3) Financial Sources, unless otherwise exempt as determined by the Gaming Commission;
- (4) Unions or Labor Organizations, including its management and representatives, seeking to represent any Gaming Employees; and
- (5) Any other person or entity required to be licensed as determined by the Gaming Commission.

#### **§7.0 Background Investigations**

**7.01** The Nation shall perform a background investigation for each Primary Management Official and Key Employee employed in a Gaming Operation. The investigation must be sufficient to allow the Gaming Commission to make an eligibility determination under Section 10 of this Article.

**7.02** The Gaming Commission is responsible for conducting the background investigations of Primary Management Officials and Key Employees. The background investigation shall include a check of criminal history records information maintained by the Federal Bureau of Investigations.

**7.03** The Nation shall request fingerprints from each Primary Management Official and Key Employee. The law enforcement agency designated for the limited purpose of taking fingerprints is the Gaming Commission.

**7.04** The Gaming Commission shall request from each Primary Management Official and Key Employee all of the following information:

- (1) Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender, and all languages (spoken and/or written);
- (2) Currently, and for the previous five (5) years; business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
- (3) 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 (2) of this Section 7.04;
- (4) Current business and residential telephone numbers, and all cell phone numbers;
- (5) A description of any existing and previous business relationships with other tribes, including any ownership interests in those businesses;
- (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (8) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name, and address of the court involved, and the date of disposition, if any;
- (9) For each misdemeanor conviction or ongoing misdemeanor 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 of disposition, if any;
- (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten(10) years of the date of the application, and is not otherwise listed pursuant to paragraphs (8) or (9) of this Section 7.04, the criminal charge, the name, and address of the court involved, and the date of disposition, if any;
- (11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (12) A photograph;
- (13) Any other information the Nation deems relevant; and
- (14) Fingerprints obtained in accordance with procedures adopted by the Nation.

**7.05** When a Primary Management Official or Key Employee is employed by the Nation, a complete application file, containing all of the information listed in Section 7.04, shall be maintained in accordance with this Code.

**7.06** The Gaming Commission, and its investigators, shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.

### **§8.0 Procedures for Conducting Background Investigations**

**8.01** The Gaming Commission may employ all reasonable means, including engaging outside services and investigators and holding hearings, to acquire the information necessary to determine whether or not a license should be issued. Applicants shall agree to release all information

necessary in order for the Gaming Commission to achieve its goals under this Gaming Code and to furnish such information to the NIGC or other agencies as may be required by Applicable Law.

**8.02** The Gaming Commission, or its agent, shall employ or engage an investigator to conduct a background investigation of each applicant for a Primary Management Official or Key Employee position. The investigator shall:

- (1) Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;
- (2) Contact each personal and business reference provided in the license application, when possible;
- (3) Conduct a personal credit check;
- (4) Conduct a civil history check;
- (5) Conduct a criminal history records check, including information maintained by the Federal Bureau of Investigations;
- (6) Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony and/or misdemeanor convictions or ongoing prosecutions within the past ten (10) years;
- (7) Inquire into any previous or existing business relationships with the gaming industry, including with any tribes with gaming operations, by contacting the entities or tribes;
- (8) Verify the applicant's history and current status with any licensing agency by contacting the agency; and
- (9) Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

### **§9.0 Investigative Reports**

**9.01** The Nation shall create and maintain an investigative report for each background investigation of a Primary Management Official or Key Employee.

**9.02** Investigative reports shall include all of the following information:

- (1) Steps taken in conducting the investigation;
- (2) Results obtained;
- (3) Conclusions reached; and
- (4) The basis for those conclusions.

### **§10.0 Eligibility Determinations**

**10.01** Before a license is issued to a Primary Management Official or Key Employee, an authorized Tribal official shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits, and associations.

**10.02** If the authorized Tribal official, in applying the standards adopted in this Code, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods

and/or activities in the conduct of gaming, he or she shall not license that person in a Key Employee or Primary Management Official position.

**10.03** Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a Primary Management Official or Key Employee.

#### **§11.0 Notice of Results of Background Investigations**

**11.01** Before issuing a license to a Primary Management Official or Key Employee, the Gaming Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.

**11.02** The notice of results must be submitted to the NIGC no later than sixty (60) days after the applicant begins working for the Nation.

**11.03** The notice of results shall include the following information:

- (1) The applicant's name, date of birth and social security number;
- (2) The date on which the applicant began, or will begin, working as a Primary Management Official or Key Employee;
- (3) A summary of the information presented in the investigative report, including:
  - a. licenses that have previously been denied;
  - b. gaming licenses that have been revoked, even if subsequently reinstated;
  - c. every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
  - d. every felony offense of which the applicant has been convicted or any ongoing prosecution; and
- (4) A copy of the eligibility determination made in accordance with Section 10 of this Article.

#### **§12.0 Granting Gaming Licenses**

**12.01** All Primary Management Officials and Key Employees of a Gaming Operation must have a separate gaming license issued by the Nation.

**12.02** The Gaming Commission is responsible for granting and issuing gaming licenses to Primary Management Officials and Key Employees.

**12.03** The Gaming Commission may license a Primary Management Official or Key Employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by Section 11 of this Article.

**12.04** The Gaming Commission shall notify the NIGC of the issuance of a license to a Primary Management Official or Key Employee within thirty (30) days of issuance.

**12.05** A Key Employee or Primary Management Official who does not have a license after ninety (90) days shall not be permitted to perform the duties, functions, and/or responsibilities of a Key Employee or Primary Management Official until so licensed.



**12.06** The Gaming Commission must reconsider a license application for a Primary Management Official or Key Employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within thirty (30) days of the NIGC receiving a notice of results of the applicant's background investigation.

**12.07** The Gaming Commission shall take the NIGC's objections into account when reconsidering a license application.

**12.08** The Nation will make the final decision whether to issue a license to an applicant for a Primary Management Official or Key Employee position.

**12.09** If the Gaming Commission has issued a license to a Primary Management Official or Key Employee before receiving the NIGC's statement of objections, with the exception of a temporary license, notice and a hearing shall be provided to the Licensee, as required by Section 14 of this Article.

### **§13.0 Denying Gaming Licenses**

**13.01** The tribal Gaming Commission shall not license a Primary Management Official or Key Employee if an authorized Tribal official determines in applying the standards in Section 10.0 above for making a license eligibility determination, that licensing the person:

- (1) Poses a threat to the public interest;
- (2) Poses a threat to the effective regulation of gaming; or
- (3) Creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and/or activities in the conduct of gaming.

**13.02** When the Gaming Commission does not issue a license to an applicant for a Primary Management Official or Key Employee position, or revokes a previously issued licenses after reconsideration, it shall:

- (1) Notify the NIGC; and
- (2) Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

### **§14.0 Gaming License Suspensions and Revocations upon NIGC Notice**

**14.01** If, after a license is issued to a Primary Management Official or a Key Employee, the Nation receives notice from the NIGC that the Primary Management Official or Key Employee is not eligible for employment, the Gaming Commission shall do the following:

- (1) Immediately suspend the license;
- (2) Provide the Licensee with written notice of the suspension and proposed revocation; and
- (3) Provide the Licensee with notice of a time and place for a hearing on the proposed revocation of the license.

**14.02** Following a revocation hearing, the Nation shall decide whether to revoke or reinstate the license at issue.

**14.03** The Nation shall notify the NIGC of its decision to revoke or reinstate a license within forty-five (45) days of receiving notification from the NIGC that a Primary Management Official or Key Employee is not eligible for employment.

#### **§15.0 Records Retention**

**15.01** The Gaming Commission shall retain, for no less than three (3) years from the date a Primary Management Official or Key Employee is terminated from employment with the Nation, the following documentation:

- (1) Application for licensing;
- (2) Investigative Reports; and
- (3) Eligibility Determinations.

#### **§16.0 Temporary Licenses**

Upon receipt of a completed gaming license application and completion of an initial background investigation that does not indicate the applicant has a criminal history or other information in his or her background that would either automatically disqualify the applicant from obtaining a license or cause a reasonable person to investigate further before issuing a license, or is otherwise unsuitable for a license, the Gaming Commission may issue a temporary license of no more than ninety (90) days duration if, in its sole discretion, it deems such issuance appropriate. Such temporary licenses shall permit the Licensee to engage in such activities pursuant to such terms and conditions as the Gaming Commission may specify. Temporary licenses may be suspended or revoked at any time by the Gaming Commission, and shall expire ninety (90) days from date of issuance, upon issuance of a regular license, or otherwise revoked by the Gaming Commission.

#### **§17.0 License Renewal**

All licenses shall be subject to renewal at least every two (2) years, and more frequently if so required by the Gaming Commission or other applicable law.

#### **§18.0 License Fees**

Unless specifically waived by the Gaming Commission, all persons applying for a license shall be required to pay all applicable license fees and costs when due, including a reasonable deposit for costs that may be incurred in connection with the license application. Estimates of licensing costs will be provided to applicants upon reasonable request. All fees and costs must be received by the Gaming Commission prior to issuance of the license unless the Nation or the Gaming Operation has agreed to reimburse the Gaming Commission directly for all or part of such fees and costs.

#### **§19.0 Hearings**

The Gaming Commission may conduct hearings as needed to make regulatory compliance determinations within the scope of this Gaming Code, and shall conduct such hearings in accordance with any hearing procedures and regulations as may be promulgated by the Gaming Commission.

## **ARTICLE IV: MISCELLANEOUS PROVISIONS**

### **§1.0 National Indian Gaming Commission-Regulations**

Notwithstanding any provision in this Gaming Code or any regulation promulgated thereunder, the Commission is fully empowered to comply with all applicable regulation promulgated by the National Indian Gaming Commission, including, but not limited to, all requirements to report ordinances, contracts, license applications, background checks and other information to the National Indian Gaming Commission.

### **§2.0 National Indian Gaming Commission-Assessment**

Notwithstanding any provision in this Gaming Code or any regulation promulgated thereunder, the Gaming Commission is fully empowered to comply with all assessments authorized by the National Indian Gaming Commission. Such assessments shall be paid from the Treasury of the Tolowa Dee-ni' Nation.

### **§3.0 Sovereign Immunity**

Except as provided herein, nothing in this Gaming Code shall be construed as a waiver of the sovereign immunity of the Nation or any of its officers, employees, or entities.

### **§4.0 Consent to Jurisdiction**

Any person who applies for a gaming license under this Gaming Code, applies for employment in any Gaming Establishment, enters into any contract or agreement related to gaming, or participates in any gaming on the Reservation, shall be deemed to have consented to the civil jurisdiction of the Nation, the Commission, and the Tribal Court. Nothing in this section shall limit the jurisdiction of the Nation, the Commission, or the Tribal Court under any circumstances not explicitly contemplated in this Gaming Code.

### **§5.0 Agent for Service**

The Chairperson of the Tribal Council is hereby appointed as the agent for service of any official determination, order or notice of violation. The Chairperson's address is:

Tolowa Dee-ni' Nation  
Attn: Tribal Chairperson  
12801 Mouth of Smith River Road  
Smith River, CA 95567

### **§6.0 Amendments**

All provisions of this Gaming Code are subject to amendment by the Tribal Council.

### **§7.0 Repeal**

All prior Gaming Ordinances are hereby repealed on the effective date of this Gaming Code.

### **§8.0 Effective Date**

After adoption by the Tribal Council, this Gaming Code and any subsequent amendments thereto shall become effective on the date of approval by the NIGC Chairperson.

**LEGISLATIVE HISTORY**

This Chapter was originally adopted as the Smith River Rancheria Gaming Ordinance on May 30, 1995 (Ordinance No. 94-101). The Gaming Ordinance was amended by the Tribal Council on February 23, 1999, October 20, 2000, and again, on October 6, 2015. The Gaming Ordinance was amended by the Tribal Council on August 8<sup>th</sup>, 2024 and is now known as the Tolowa Dee-ni' Nation Gaming Code.

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|--|--------|--|--------|
| <u>Jeri L. Thompson</u><br>Jeri Lynn Thompson<br>Council Chairperson | Date   | <u>Debbie Boardman</u><br>Debbie Boardman<br>Council Secretary | Date   |
|  | 8-8-24 |  | 8/8/24 |

**CERTIFICATION**

I hereby certify that the foregoing Title 3 Chapter 1 – Gaming Code was adopted at a duly called and noticed meeting of the Tolowa Dee-ni' Nation Tribal Council held on the 8<sup>th</sup> day of August 2024 in Smith River, California, at which 5 Tribal Council members were present to constitute a quorum, by a vote of 4 For, 0 Opposed, 1 Abstentions and 2 Absent, and shall remain in full force and effect until rescinded.

|   |               |
|---|---------------|
| <u>Debbie Boardman</u>                    | <u>8/8/24</u> |
| <b>Debbie Boardman, Council Secretary</b> | <b>Date</b>   |