



JAN 28 1997

Honorable Ronald Jackson
Interim Tribal Chief, Saginaw Chippewa
Indian Tribe of Michigan
7070 East Broadway
Mount Pleasant, Michigan 48858

Dear Chief Jackson:

This letter responds to your request to review and approve the amendment to the Saginaw Chippewa Indian Tribe of Michigan's tribal gaming ordinance submitted on November 27, 1996. The amendment was adopted by Resolution No. 96-073 on August 14, 1996. The ordinance was approved by the Chairman of the National Indian Gaming Commission (NIGC) on January 18, 1994. The amendment does not require approval by the NIGC because the amendment addresses issues not raised in the Indian Gaming Regulatory Act (IGRA) or the NIGC's regulations.

Under the IGRA and the regulations of the NIGC, the Chairman is directed to review ordinances and amendments with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval.

Thank you for submitting the Saginaw Chippewa Indian Tribe of Michigan's amendment for review. If you have questions or require further assistance, please contact Ms. Frances Fragua at (202) 632-7003.

Sincerely yours,

A handwritten signature in black ink, appearing to read "T. J. Foley", written over a horizontal line.

Thomas J. Foley
Commissioner

**GAMING CODE
OF THE
SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN**

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**GAMING CODE
OF THE
SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN**

DEC - 2 1997

A law to authorize, license and regulate certain forms of gaming within the jurisdiction of the Saginaw Chippewa Indian Tribe of Michigan.

Section 1. Findings, Purposes and Policy.

1.1 Findings. The Saginaw Chippewa Tribal Council on behalf of the Saginaw Chippewa Tribe finds that:

1.1.1 Tribal regulation and control of gaming activity within the jurisdiction of the Saginaw Chippewa Indian Tribe is essential for the protection of public health and welfare, and the interests of the Tribe and the residents of and visitors to the tribal community.

1.1.2 The Tribe has the legal authority to license and regulate all gaming activity not specifically prohibited by federal law, within the jurisdiction of the Tribe.

1.1.3 Properly licensed and regulated gaming activities conform with announced federal policy promoting Indian self-government and Indian tribal economic self-sufficiency.

1.1.4 It is essential that the Tribe, through the Saginaw Chippewa Gaming Commission regulate gaming in a manner commensurate with applicable federal and tribal law and policy.

1.1.5 The present needs of the Tribe include increased employment, job and skills training, housing, quality health care, improved nutrition, educational opportunities, social services, law and order, public safety and judiciary, and community and economic development; needs that are not adequately addressed by present tribal, federal and state programs.

1.1.6 Tribal operation and licensing of gaming activities on the Reservation are appropriate means of generating revenue to address the needs of the Tribe.

1.1.7 The Tribe is vigorously pursuing its goal of self-sufficiency and self-determination through the development of tribal businesses and enterprises. Because the Isabella Reservation lacks income-generating natural resources and because the Tribe's tax base is almost non-existent, the Tribe must rely on tribal

business development to raise the funds necessary to expand its social, health, and education programs, increase employment and improve its on-reservation economy. This effort has recently become increasingly important as a result of cutbacks in federal and state funding and the increased costs of self-government. It is therefore essential that the Tribe develop new and expanded sources of revenue to support its ever-increasing governmental needs and to provide much needed employment and training for tribal members.

1.1.8 As a result, the adoption of the following new and expanded gaming law is in the best interest of the Saginaw Chippewa Indian Tribe.

1.2 Purposes. The purposes of this Code are to:

1.2.1 Regulate, control, and license the operation of all gaming within the jurisdiction of the Tribe.

1.2.2 Make clear and explicit that a tribal license to operate a gaming activity is a revocable privilege, not a right or property interest.

1.2.3 Ensure that the operation of tribally regulated gaming will continue as a means of generating tribal revenue.

1.2.4 Ensure that tribally regulated gaming is conducted fairly and honestly by both gaming operators and players and that it remain free from corrupt, incompetent, unconscionable and dishonest persons and practices.

1.2.5 Promote and strengthen tribal economic development and self-determination and enhance employment opportunities for its members.

1.2.6 Generate revenue to strengthen and improve tribal self-government and the provision of tribal governmental services.

1.2.7 Ensure that all gaming revenue is used for the benefit of the Tribe and the Reservation community.

1.2.8 Ensure that tribal gaming laws are strictly and fairly enforced against all persons involved in gaming activities within the jurisdiction of the Tribe.

1.2.9 Ensure that the Tribe provide a fair and impartial forum for the resolution of gaming disputes.

1.3 Tribal Policy of Self-Government. The Tribe is firmly committed to the principle of tribal self-government. Consistent with federal policy, tribal government provides a wide range of public services on the Reservation, including general governmental

services, maintenance of peace and good order, establishment of educational systems and programs, and promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

1.4 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 tribal-state gaming compact entered into pursuant to the Indian Gaming Regulatory Act, and that all proceeds of such gaming are used for the benefit of the Tribe as required by the Indian Gaming Regulatory Act and tribal law. When operated in accordance with the provisions of this Code, such gaming will be conducive to the general welfare of all residents of the Reservation.

Section 2. Definitions.

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

2.1 "Adjusted gross proceeds" means gross proceeds less all cash prizes or the aggregate price of merchandise prizes, except in the case of the games of draw poker and stud poker. Regarding games of draw poker and stud poker, "adjusted gross proceeds" means the time buy-ins or tournament fees collected by the gaming operator.

2.2 "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 each 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 (if played in the same location) pull-tabs, lotto, punch boards, tip-jars, instant bingo, and other games similar to bingo.

2.3 "Charitable gaming ticket" means any game piece used in the play of a paper pull tab game, or jar ticket game, or raffle.

2.4 "Cheating" means operating or playing in any game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for oneself or someone in privity with one an advantage over and above the chance of the game.

2.5 "Code" means this Code, the Saginaw Chippewa Gaming Code, as now or hereafter amended.

2.6 "Compact" means a gaming compact between the Tribe and the State of Michigan as authorized by the Indian Gaming Regulatory Act (IGRA), or by tribal or state law.

2.7 "Compensation" means all wages, salaries, bonuses, and all other forms of remuneration for services rendered.

2.8 "Council" or "Tribal Council" means the governing body of the Saginaw Chippewa Indian Tribe.

2.9 "Educational, charitable, patriotic, veteran's, fraternal, religious, civic, or public-spirited uses" are:

2.9.1 Uses benefiting an indefinite number of people by bringing them under the influence of educational or cultural programs.

2.9.2 Uses otherwise lessening the burden of tribal government.

2.9.3 Uses benefiting one or more persons suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense that is uncompensated by insurance.

2.9.4 Uses for community service projects that promote the common good, enhance the social and economic welfare of the community, and benefit an indefinite number of people.

2.10 "Electronic games of chance" means electronic games featuring coin drop and payout as well as printed tabulations, whereby the software of the device predetermined the presence or lack of a winning combination and payout. Electronic games of chance are microprocessor controlled electronic devices which allow a player to play games of chance, which may be affected by an element of skill, activated by the insertion of a coin or currency, or by the use of a credit, and awards game credits, cash, tokens, or replays, or a written statement of the player's accumulated credits, which written statements are redeemable for cash.

2.11 "Eligible organization" means any nonprofit organization operated for educational, charitable, patriotic, veteran's, fraternal, religious, civic, or public-spirited uses, or for the relief of poverty, distress, or other condition on the Isabella Reservation.

2.12 "Equipment for games of chance". See "Gaming Apparatus."

2.13 "Game" or "game of chance" means any activity which falls within the broad definition of gaming or gaming activity.

2.14 "Gaming employee" means any natural person employed in the operation or management of each gaming activity or operation, whether employed by or contracted to the Tribe or by any person or enterprise providing on or off-site services to the Tribe within or without the gaming facility regarding any gaming activity or operation, including, but not

limited to, gaming operation managers and assistant managers; accounting personnel; surveillance personnel; cashier supervisors; dealers or croupiers; box men; floormen; pit bosses; shift bosses; cage personnel; collection personnel; gaming consultants, management companies and their principals; and any other natural person whose employment duties require or authorize access to restricted areas of each gaming activity or operation not otherwise open to the public.

2.15 "Gaming" or "gaming activity" means any activity, operation or game in which valuable consideration is wagered upon the outcome determined in whole or in part by chance, skill, speed, strength, or endurance or any combination of strength or endurance, and in which something of value is awarded to a person or persons so wagering, 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.

2.16 "Gaming apparatus" or "gaming equipment" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gaming activity, whether or not specifically designed for the purpose, but excluding tables and chairs normally used in the occupancy of any gaming facility.

2.17 "Gaming facility" means any location or structure, stationary or movable, where gaming is permitted, promoted, performed, conducted, or operated. Gaming facility does not include the site of a fair, carnival, exposition, or similar occasion.

2.18 "Gaming Operator" means a person who has obtained a gaming license under this Code or who is otherwise permitted by this Code to perform, promote, conduct, or operate any gaming activity on Indian lands.

2.19 "Gross proceeds" means any money collected or received from any gaming activity.

2.20 "Indian Gaming Regulatory Act" or "IGRA" means Public Law 100-497, 102 Stat. 2426, 25 U.S.C. §§2701-2721 (1988), as amended.

2.21 "Immediate Family" means, with respect to the person under consideration, a husband, wife, father, mother, son, daughter, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

2.22 "Indian lands" means:

2.22.1 all lands within the limits of the Isabella Reservation, notwithstanding the issuance of any patent and including rights-of-way running through such lands; and

2.22.2 all lands title to which is either held in trust by the United States for the benefit of the Tribe or individual member of the Tribe or held by the Tribe or individual member of the Tribe subject to restriction by the United States against alienation and over which the Tribe possesses governmental powers; and

2.22.3 all lands within the State of Michigan which may be acquired by the Tribe and which meet the requirements of Section 20 of the IGRA, 25 U.S.C. § 2719.

2.23 "IRS" means the United States Internal Revenue Service.

2.24 "Key employee" means:

2.24.1 Any person involved in gaming under this Code and who comes under one or more of the following descriptions:

2.24.1.1 Bingo caller;

2.24.1.2 Counting room supervisor;

2.24.1.3 Chief of security;

2.24.1.4 Custodian of gaming supplies or cash;

2.24.1.5 Floor manager;

2.24.1.6 Pit boss;

2.24.1.7 Dealer;

2.24.1.8 Croupier;

2.24.1.9 Approver of credit;

2.24.1.10 Custodian of gambling devices including persons with access to cash and accounting records within such devices;

2.24.1.11 Employee or any other person with access to finance or accounting offices; or

2.24.1.12 Any person authorized to make on-site repairs, adjustments or alterations to any piece of gaming equipment.

2.24.2 If not otherwise included, any other person whose total cash compensation derived from gaming subject to this Code is in excess of \$50,000 per year; or,

2.24.3 If not otherwise included, the four most highly compensated persons in any gaming activity subject to this Code; or

2.24.4 any employee whom the Tribal Commission may by written notice classify as a key employee.

2.25 "License" means any official, legal, and revocable permission granted by the Tribal Commission pursuant to this Code to an applicant to conduct any gaming activity on Indian lands.

2.26 "Lotto" means a form of gaming in which all or a part of the proceeds derived from the sale of tickets or chances are pooled and such proceeds are allotted by chance to one or more chance takers or ticket purchasers. The amount of cash prizes or winnings are determined by the gaming operator conducting the "lottery" and a progressive pool is permitted.

2.27 "Net revenues" means gross gaming revenues of the tribal gaming operation less amounts paid out as, or paid for prizes; and total gaming related operating expenses, excluding management fees.

2.28 "Participate" in any gaming activity means to operate, direct, finance, or in any way assist in the establishment or operation of any class of gaming or any site at which such gaming is being conducted, directly or indirectly, whether at the site in person or off the Reservation.

2.29 "Person" means any individual, partnership, joint venture, corporation, joint stock company, company, firm, association, trust, estate, club, business trust, municipal corporation, society, receiver, assignee, trustee in bankruptcy, political entity, and any owner, director, officer, or employee of any such entity, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, the government of the Tribe, any governmental entity of the Tribe, or any of the above listed forms of business entities that are wholly owned or operated by the Tribe; provided, however, that the term does not include the federal government and any agency thereof.

2.30 "Player" means a person participating in any game, but does not include a gaming operator.

2.31 "Primary Management Official" means

2.31.1 The person having management responsibility for a management contract approved by the National Indian Gaming Commission; or

2.31.2 Any person who has authority:

2.31.2.1 To hire and fire gaming employees; or

2.31.2.2 To set up working policy for a gaming enterprise; or

2.31.3 The chief financial officer or other person who has financial management responsibility for a gaming activity.

2.32 "Principal" means with respect to any management contractor: (i) each of its officers and directors; (ii) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager; (iii) each of its owners or partners, if it is an unincorporated business; (iv) each of its shareholders who owns more than ten percent of the shares of the corporation, if a corporation; and (v) each person other than a banking institution who has provided financing for the enterprise constituting more than ten percent of the total financing of the enterprise.

2.33 "Progressive gaming" means any game in which a cash prize not being won by any player during any game is retained and further monetarily enhanced by the gaming operator or eligible organization, and offered as a prize to players in the next game.

2.34 "Pull-tabs, punchboards, and tip jars" means any disposable card, board, ticket, or display which accords the player an opportunity to win something of value by opening, pulling, detaching, or otherwise removing or uncovering tabs or covers from the card, board, ticket, or display to reveal a set of numbers, letters, symbols, configurations, or combinations thereof which have been previously specified as a winning combination.

2.35 "Raffle" means any gaming in which each player buys a ticket for a chance to win a prize, with the winner determined by a random method. "Raffle" does not include slot machines.

2.36 "Reservation" means the Isabella Reservation, including all lands lying within the outer boundaries of the six townships set aside for the Saginaw Chippewa Indian Tribe under the Treaty of August 2, 1855 and confirmed by the Treaty of October 18, 1864, notwithstanding the issuance of any patent and including rights-of-way running through such lands, and all other lands added thereto by Executive Order, Act of Congress, or otherwise under federal law.

For purposes of Class III gaming only, the term "Reservation" shall have the meaning contained in Section (2)(E) of the Class III compact between the Saginaw Chippewa Tribe and the State of Michigan for so long as that subsection is legally applicable by its own terms or under applicable law.

2.37 "State" means the State of Michigan.

2.38 "Tribal Commission" means the Saginaw Chippewa Gaming Commission described in Section 4 of this Code.

2.39 "Tribe" means and "Tribal" refers to the Saginaw Chippewa Indian Tribe of Michigan, a federally recognized Indian tribe acting through the duly elected Tribal Council pursuant to the tribal constitution and bylaws, unless the context clearly indicates a general meaning.

2.40 "Twenty-one", also known as "blackjack," means a card game played by a maximum of seven players and one dealer where each player plays his hand against the dealer's hand with the object of obtaining a higher total card value than the dealer by reaching 21 or as close to 21 as possible without exceeding that count. The cards have the following value:

2.40.1 Aces count either one or 11, at the player's option.

2.40.2 Kings, queens, and jacks each have a count of ten.

2.40.3 All other cards are counted at their face value.

2.41 "Wager" means the bet made or consideration or value given by a player in any game.

Section 3. General Provisions.

3.1 Authority and Sovereign Powers and Responsibilities. This Code is enacted pursuant to the inherent sovereign powers of the Tribe and the powers expressly delegated to the Tribal Council by Article VI of the Tribal Constitution.

3.2 Application of Federal Policy . 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, encouraged tribes to reduce their dependence on federal funds by generating more of their own revenues, and pledged to assist tribes in that endeavor.

In 1988 the federal commitment to promote tribal economic development, tribal self-sufficiency, and strong tribal government was expressly legislated in the Indian Gaming Regulatory Act ("IGRA"), Public Law 100-497, 102 Stat. 2426, 25 U.S.C. §§ 2701, et seq.

(1988), which recognized the inherent sovereign right of tribes to operate and their exclusive right to regulate on Indian lands gaming which is not specifically prohibited by federal law and is conducted within a state which does not, as a matter of criminal law and public policy, prohibit such gaming, and provided a federal statutory basis for operation and regulation of Indian gaming.

3.3 Saginaw 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.

3.4 Title, Repeal of Prior Laws, and Effect of Repeal. This Code may be cited as the Saginaw Chippewa Gaming Code. The Code shall be appropriately inserted in the Saginaw Chippewa Tribal Code.

All ordinances of the Tribe and all titles, chapters, and sections of the Tribal Code that pertain to gaming and are in effect as of the effective date of this Code are hereby repealed, and all other tribal laws or parts thereof inconsistent with the provisions of this Code are hereby repealed.

Repeal of this Code or any portion thereof shall not have the effect of reviving any prior tribal law theretofore repealed or suspended.

3.5 Classes of Gaming. There are three classes of gaming on Indian lands under this Code:

3.5.1 "Class I Gaming" means social gaming solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of or in connection with tribal ceremonies or celebration.

3.5.2 "Class II Gaming" means

3.5.2.1 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 (if played at the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo; and