

CHAPTER 17
GAMING COMMISSION

17-1 TITLE

17-1.01 This chapter shall be cited as the Kootenai Tribal Gaming Commission Ordinance.

17-2 PURPOSE

17-2.01 This chapter is enacted to establish a Commission within the tribal organization to oversee and regulate gaming consistent with this chapter and in compliance with federal law and all laws and regulations established by the Kootenai Tribal Council.

17-3 KOOTENAI TRIBAL GAMING COMMISSION ESTABLISHED

17-3.01 A commission known as the Kootenai Tribal Gaming Commission is hereby established consisting of five persons to be appointed by the Kootenai Council, three of whom are enrolled members of the Kootenai Tribe of Idaho, and two of whom are members of the community at large. The length of each appointment shall be determined by the Kootenai Tribal Council at the time of the appointment. The Kootenai Tribal Council shall appoint a new Commissioner to fill any vacancy within thirty days of the date the vacancy occurs.

17-3.02 The Secretary of the Kootenai Tribe shall be responsible for maintaining a list of potential commissioners, whose names shall be obtained upon the recommendation of local business and civic leaders, Bureau of Indian Affairs personnel, tribal council members or any other persons of good reputation.

17-3.03 The Commission shall choose from among its members a chair, vice chair and recorder. The chair shall preside over all meetings and shall be responsible for ensuring the Commission addresses its responsibilities under this chapter and all applicable laws, regulations and procedures. In the absence of the chair, the vice chair shall perform the chair's duties. The recorder shall record all proceedings of the Commission. In the absence of the recorder, the chair shall appoint a substitute to perform the duties of the recorder.

17-4 POWERS AND DUTIES OF THE COMMISSION

17-4.01 The Commission shall have authority and responsibility to take action and conduct gaming operations, including authority and responsibility to:

(1) Oversee and regulate the gaming activities authorized by this chapter and all other applicable laws and regulations.

(2) Safeguard the morals of the Kootenai people and keep community peace by regulating by civil fines and/or civil prosecution of violations of this chapter.

(3) Issue licenses when such are required by this chapter or other applicable law, regulation or procedure, and to deny or revoke such licenses when it is deemed to be in the public interest.

(4) Insure the proper record keeping regarding gaming of all, namely licensees, persons, associations, organizations and the Kootenai Tribe of Idaho.

(5) Cause an annual review of all the records of all employees and licensees.

(6) Cause annual outside audits of all gaming activities on the Kootenai Reservation to be conducted and submitted to the National Indian Gaming Commission specifically including all contracts for supplies, services or concessions having a contract amount in excess of \$25,000.00, except auditing and legal fees,

(7) Insure that facilities where gaming occurs are properly constructed and maintained and that the operation of the game is conducted in a manner which adequately protects the environment and the public health and safety.

(8) Hear all disputes arising from gaming activities involving gaming participants and management or gaming participants and the Tribe or Commission. Such power shall include the power to provide a hearing to disputing parties, such hearing to be conducted under principles of due process, or to refer matters to the Tribal Council or the Tribal Court. The Commission shall refer all

disputes involving alleged bodily injury or harm to the Tribal Court for appropriate proceedings.

17-4.02 In conducting gaming operations, the Commission shall:

(1) Subject all tribal gaming operations to monitoring and inspection by the Commission or agents of the Commission.

(2) Strive to obtain a Certificate of Self-Regulation from the National Indian Gaming Commission as established by Public Law 100-497, 25 U.S.C. Section 2704, 102 Stat. 2469 et seq. and conduct the tribal gaming operations in a manner consistent with all applicable laws and regulations.

17-4.03 The Commission shall issue regulations, subject to the approval of the Tribal Council, which shall include regulation of the following:

(1) The possession of firearms by operators or employees. No other firearms or weapons of any kind shall be allowed on gaming premises.

(2) Security requirements for the operations.

(3) Limitations, if any, on the amount offered as prizes.

(4) Conduct of the games.

(5) Any other regulations controlling the operation which is deemed necessary by the Commission or the Council.

17-4.04 The Commission shall determine whether or not to issue the license to any applicant for employment or management as required by law within 30 days of its receipt of the investigator's report on the background check required by law. The Commission may charge a fee not in excess of \$200.00 for each application or renewal.

17-4.05 The Commission shall prepare and submit a budget annually. Pursuant to the budget, the members of the Commission shall be reimbursed for out of pocket expenses and shall be allowed per diem under rates established by the Kootenai Tribal Council. The Kootenai Tribal Council may approve salaries for Commission members, provided such payments shall be made only out of the license fees

or the net proceeds of the gaming activities of the Kootenai Tribe of Idaho.

17-4.06 Members of the Gaming Commission are prohibited from participating in gaming conducted on the Kootenai Reservation.

17-5 APPEAL FROM DECISIONS OF THE COMMISSION

17-5.01 If the Commission denies a license, or if the Commission revokes or suspends a license which was previously granted, the Commission shall do so in writing, explaining the reasons for such decision. Notice of the revocation or suspension shall be provided to the license holder in writing, who shall have three (3) working days in which to request a hearing before the Commission. Failure to request a hearing within the time specified shall be deemed a waiver of the right to a hearing. All hearings before the Commission shall be conducted in conformity with standards of due process under the Indian Civil Rights Act, including the right to confront witnesses and to be represented by counsel at the license holders expense. An appeal may be taken to the Kootenai Tribal Court based on a failure to provide due process but for no other reason within ten (10) days of the date of written denial, suspension or revocation. The only relief the Court may grant is the right to a new hearing before the Commission and only on a finding by clear and convincing proof that the Commission failed to provide due process.

17-6 INSPECTION OF PREMISES

17-6.01 The premises where authorized gaming activities are being held and all records, books and accounts of the gaming operation shall be subject to inspection and audit at any reasonable time by persons designated by the Commission or the Council, with or without notice as follows:

(1) If the items or records to be inspected or audited are located anywhere upon a premises any portion of which is regularly open to the public or members and guests, then at any time when the premises are so open, or at which they are usually open; or

(2) If the items or records to be inspected or audited are not located upon a premises set out in subsection (1) above, then any time between the hours of 8:00 a.m. and 9:00 p.m., Monday through

Friday, except holidays observed by the Kootenai Tribe of Idaho.

17-6.02 At such reasonable intervals as the Commission shall determine, the Commission shall be provided by the Gaming Manager with a report, under oath, detailing all receipts and disbursements in connection with such gaming activities together with such other reasonable information as required in order to determine whether such activities comply with the applicable laws and regulations.

17-6.03 Any person who is excluded from gaming by an operator pursuant to this section may petition the Commission for an order lifting the exclusion. The Commission shall have full discretion in determining whether to hear any such petition and shall have the authority to enact such rules as may be necessary regarding the procedures for acting upon any such petition. The Commission shall further have discretion to impose such conditions as they deem appropriate in issuing any order lifting an exclusion.

17-7 DISPENSATION OF FOOD AND BEVERAGES

17-7.01 Subject to approval by the Tribal Council, the Commission may promulgate reasonable regulations governing the sale of beverages, spirituous or otherwise, and the serving of food at gaming premises.

17-8 SEVERABILITY

17-8.01 If any clause, provision or section of this chapter shall be ruled invalid or unenforceable by any court of competent jurisdiction by final order after all appellate jurisdiction is exhausted, such holding shall not invalidate or render unenforceable any other remaining provisions of this chapter. Until such final order is entered and review exhausted, the questioned provisions shall, absent an enforceable injunction to the contrary, be in full force and effect.

17-9 AMENDMENT

17-9.01 All powers of amendment are retained by the Kootenai Tribal Council.

17-10 REPEALER

17-10.01 Any code, ordinance, or resolution of the Kootenai Tribe of Idaho which conflicts with the provisions of this chapter is hereby repealed to the extent that it is inconsistent with or is contrary to the spirit or purpose of this chapter.

17-11 SOVEREIGNTY

17-11.01 Nothing in this ordinance is intended to be construed as the waiver, express or implied of the sovereign immunity of the Kootenai Tribe of Idaho.