

**MARCH 6TH, 2013 SPECIAL SESSION OF THE CROW TRIBAL
LEGISLATURE**

CLB No. 13-03

Introduced by the Mighty Few (Wyola) District

A Bill Titled:

**An Act to Amend Title 23 of the Crow Law and Order Code by Revising the
Crow Tribal Gaming Ordinance**

Legislative Findings:

WHEREAS, the Crow Tribal Legislature (hereinafter “Legislature”) is vested with the power and duty pursuant to Article V, Section 2(a) of the Crow Tribal Constitution to promulgate and adopt laws, resolutions, ordinances, codes, regulations, and guidelines in accordance with the Constitution and federal laws; and

WHEREAS, the Crow Tribal Executive Branch is vested with the power and responsibility pursuant to Article IV, Section 3(g) of the Crow Tribal Constitution to enforce all laws, ordinances, resolutions, regulations or guidelines passed by the Legislature providing for the levying of taxes and licensing of members and non-members for various purposes; and

WHEREAS, according to the federal Indian Gaming Regulatory Act, the Crow Tribe is authorized to operate, license, and regulate Class II and III gaming on the Crow Indian Reservation, provided the Crow Tribe operates Class III gaming consistent with a compact lawfully entered into with the State of Montana or otherwise pursuant to applicable federal law; and

WHEREAS, the Crow Tribal General Council enacted a tribal gaming ordinance in 1994, which was approved by the National Indian Gaming Commission pursuant to IGRA and which is codified in Title 23 of the Crow Law and Order Code; and

WHEREAS, it is essential to the economic security and the health, safety, and general welfare of the Crow Tribe and the visitors to the Crow Indian Reservation that revisions to the standards and regulations be made to govern the conduct of gaming activities on the Crow Indian Reservation in order to properly reflect the new constitutional form of Crow tribal government and to enhance accountability to the Crow Tribe and due process for regulated entities.

**NOW, THEREFORE, BE IT ENACTED AS CROW TRIBAL LAW BY THE CROW
TRIBAL LEGISLATURE IN SPECIAL SESSION:**

Section 1. The Crow Tribal Gaming Ordinance, codified at Title 23 of the 2005 Crow Law and Order Code, is hereby amended to reflect the changes made as a result of enactment of the Crow Tribal Gaming Ordinance of 2013 as contained in this Act.

Section 2. The Crow Tribal Gaming Ordinance of 2013 shall be included as an attachment to this Act.

Section 3. The Crow Tribal Gaming Ordinance of 2013 shall have full force and effect upon passage as law and approval by the Chairperson of the National Indian Gaming Commission and publication in the Federal Register.

CERTIFICATION

I hereby certify that this bill titled **An Act to Amend Title 23 of the Crow Law and Order Code by Revising the Crow Tribal Gaming Ordinance** was duly enacted by a quorum of the Crow Tribal Legislature in Special Session by a vote of 15 in favor and 0 opposed with 0 abstentions and that a quorum was present on this 6th day of March, 2013.


Senator Kenneth Shane
Speaker of the House

Attest:


Senator R. Knute Old Crow
Secretary of the Legislature



EXECUTIVE ACTION

I hereby:

☒ approve
☐ veto

This bill entitled **An Act to Amend Title 23 of the Crow Law and Order Code by Revising the Crow Tribal Gaming Ordinance** pursuant to the authority vested in the Chairman of the Executive Branch of the Crow Tribe by Article V, Section 8 of the Constitution and Bylaws of the Crow Tribe of Indians, on this 12 day of March, 2013.


Darrin Old Coyote, Chairman
Crow Tribal Executive Branch

A BILL TITLED: AN ACT TO AMEND TITLE 23 OF THE CROW LAW AND ORDER CODE BY REVISING THE CROW TRIBAL GAMING ORDINANCE.

Bill or Resolution: CLB13-03 **Introduced by:** Mighty Few District **Date of Vote:** 3/6/2013
Number

<u>Representative:</u>	Yes	No	Abstained
H. Two Leggins	_____	_____	_____
V. Pretty Paint	<u> X </u>	_____	_____
C. J. Stewart	<u> X </u>	_____	_____
L. Other Medicine	<u> X </u>	_____	_____
A. Coyote-Runs, Sr.	<u> X </u>	_____	_____
L. Not Afraid.	_____	_____	_____
M. Covers Up, Sr.	<u> X </u>	_____	_____
P. Alden, Jr.	<u> X </u>	_____	_____
M. Not Afraid	<u> X </u>	_____	_____
V. Crooked Arm	<u> X </u>	_____	_____
L. DeCrane	<u> X </u>	_____	_____
C. Goes Ahead	<u> X </u>	_____	_____
B. Hugs	<u> X </u>	_____	_____
G. Real Bird, Jr.	<u> X </u>	_____	_____
M. Backbone	_____	_____	_____
G. Stewart	<u> X </u>	_____	_____
R. K. Old Crow, Sr. <i>Secretary of the House</i>	<u> X </u>	_____	_____
K. Shane <i>Speaker of the House</i>	<u> X </u>	_____	_____
Totals:	<u> 15 </u>	<u> 0 </u>	<u> 0 </u>

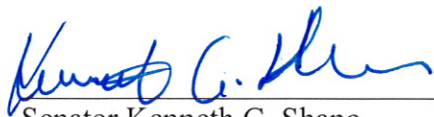
Result of Vote:

Passed

Not Passed

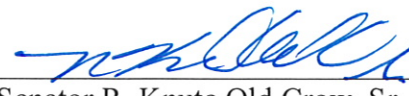
Tabled

Veto-Override



Senator Kenneth G. Shane
 Speaker of the House

Date



Senator R. Knute Old Crow, Sr.
 Secretary of the House

Date

3/7/13

Crow Tribal Gaming Ordinance of 2013

Section 1. SHORT TITLE.

This Ordinance may be referred to as the “Crow Tribal Gaming Ordinance of 2013” or any short title derived from therein.

Section 2. STATEMENT OF POLICY.

The Crow Tribe seeks to establish absolute accountability and lawfulness in all Class II and Class III gaming operations conducted on the Crow Indian Reservation and to ensure the professionalism and economic productivity of all such gaming. The Crow Tribe also seeks to protect the integrity of all Class I gaming activities on the Crow Indian Reservation.

Section 3. PURPOSES.

The purposes of the Crow Tribal Gaming Ordinance are to provide lawful standards and regulations governing the conduct of gaming activities on the Crow Reservation; to promote Crow tribal economic development and self-sufficiency; to enhance employment opportunities for Crow tribal members; to generate revenue for use in improving the health, education and general welfare of Crow tribal members; to ensure fairness in the operation of gaming on the Crow Reservation; and to increase accountability for any gaming operations on the Crow Reservation to the Crow tribal government and the Crow Tribal General Council.

Section 4. DEFINITIONS.

“Banking Card Game” means any card game in which the house is a participant in the game, takes on all players, collects from all losers, pays all winners and in which the house can win.

“Bingo” means a game of chance (whether or not electronic, computer, or other technological aids are used in connection therewith) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations and 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. “Bingo” includes, if played at the same location, pull tabs, lotto, punch boards, tip jars, and other games similar to bingo.

“Class I Gaming” means social games played solely for prizes of minimal value or traditional forms of Crow Indian gaming engaged in by individuals as a part of, or in connection with, Crow Tribal ceremonies, events, or celebrations.

“Class II Gaming” means all forms of gaming which are defined as “Class II Gaming” in the Indian Gaming Regulatory Act and shall include but not be limited to the following forms of gaming: bingo, lotto, pull-tabs and punch boards, tip jars and non-banking card games, when played in conformity with applicable federal law.

“Class III Gaming” means all forms of gaming that are not Class I Gaming or Class II Gaming, as defined in the Indian Gaming Regulatory Act.

“Compact” means the currently existing Class III gaming compact, and any amendments thereto, between the Crow Tribe and the State of Montana setting forth an agreement for operations of Class III gaming on the Crow Reservation within the State of Montana in accordance with the Indian Gaming Regulatory Act.

“Crow Indian land” means all lands and waters subject to the jurisdiction of the Crow Tribe, including but not limited to all lands within the exterior boundaries of the Crow Reservation, all Crow tribally-owned lands outside the exterior boundaries, and any other lands held in trust by the United States on behalf of the Crow Tribe or individual Indians.

“Crow Reservation” means all lands designated by treaty or Congressional act as the Crow Reservation.

“Crow Tribal Court” or “Tribal Court” means the trial court of general tribal jurisdiction contained in the Crow Tribal Judicial Branch and established by the Crow Law and Order Code.

“Crow Tribal Executive Branch” or “Executive Branch Officials” means the Chairman, Vice-Chairman, Secretary, and Vice-Secretary of the Executive Branch of the Crow Tribe.

“Crow tribal government” means the Executive and Legislative Branches of the Crow Tribal government, acting under the delegation of authority from the Crow Tribal General Council pursuant to the 2001 Crow Tribal Constitution.

“Crow Tribe” means the Crow Tribe of Indians, also known as the Apsaalooke Nation, as recognized by the United States in treaty and statute and having inherent sovereign authority and all associated rights, privileges, and immunities as a self-governing tribal nation.

“Crow tribal member” has the same meaning as defined in the 2001 Crow Tribal Constitution.

“Entity” means any organization, including any division, department or other unit therein and includes, but shall not be limited to, a public or private corporation, partnership, limited liability company, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, commission, bureau, department of governmental agency except that “entity” shall not include the Crow tribal government.

“Equipment” means any article, device, or other item, employed in gaming activity including but not limited to bingo cards, lottery tickets, any electronically operated blower machine, computer, electronic selection machine, gambling machines, gaming tables, associated paraphernalia, chips tokens, dice and any other items employed in gaming activity.

“Gambling machine” means a mechanical, electrical, electronic or other gambling device or machine that, upon insertion of a coin, dollar bill, token, or other similar object, or redemption of a credit or upon payment of any valuable consideration, is available to play or operate, play or

operation of which, whether by reason of skill or chance or both may deliver or entitle the player to receive a prize whether the payoff is made automatically from the machine or in any other manner. The term does not include pinball machines.

“Gaming Commission” or “Crow Tribal Gaming Commission” means the Crow Tribal Gaming Commission created by this Ordinance.

“Gaming enterprise” or “gaming operator” means an entity engaged in Class II or Class III gaming on the Crow Reservation.

“Gross receipts” means the total annual, quarterly, or monthly gaming revenue from gaming activities on the Crow Reservation received by an authorized gaming operator.

“Gaming revenue” means all money and other funds received by a gaming operator from any commercial enterprise which is subject to regulation under this Ordinance.

“Indian gaming regulatory law” means the federal Indian Gaming Regulatory Act of 1988, as amended, all lawful administrative regulations promulgated under its authority, and all authoritative federal court decisions interpreting its meaning and application.

“Key employee” means any person who performs as their primary duty one or more of the following functions: bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, pit boss, dealer, croupier, approver of credit, custodian of gambling devices, including persons with access to cash and accounting records within such devices; or, if not otherwise included, any other person whose total monthly compensation as received or projected represents a value in excess of fifty-thousand dollars (\$50,000); or, if not otherwise included, the four most highly compensated persons in the gaming operation; this definition shall apply to any contractors, consultants, or other vendors.

“Legislature” means the Crow Tribal Legislative Branch of Government.

“License” means a Crow tribal gaming license issued by the Gaming Commission.

“Lottery” means any systematic process for the disposal or distribution of property, by chance, among persons who have paid or provided any valuable consideration for the chance of obtaining such property, or a portion of it, or for any share or any interest in such property upon any agreement, understanding or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle or gift enterprise, or by whatever name the same may be known.

“National Indian Gaming Commission” or “NIGC” means the National Indian Gaming Commission created by the Indian Gaming Regulatory Act.

“Non-banking card games” means any card game in which two or more players play against each other and the players do not wager against the house. Non-banking card games played in

conformity with Montana law regulating hours of play, wage, and pot limits are Class II gaming. All other non-banking card games are considered Class III games.

“Ordinance” means this Act, the Crow Tribal Gaming Ordinance.

“Person” means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, church or church organization, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual cooperative, fraternal or nonprofit doing business on the Crow Reservation. The Crow tribal government is not within the definition of person.

“Pinball Machine” means a video, mechanical, electrical or electronic machine which upon insertion of a coin, token, dollar bill, or upon redemption of a credit, is available for play which, by reason of skill, chance or a combination of both, may entitle a player to an automatic, immediate free replay or replays, which cannot be redeemed for anything of value.

“Player” means any person participating in a gaming activity, who is participating with the reasonable expectation of, or for the chance of, receiving a prize of some value.

“Primary management official” means:

- (1) The person having management responsibility for a management contract;
- (2) Any person who has authority;
 - (A) to hire and fire employees of a gaming operation; or
 - (B) to establish working policy for the gaming operation.
- (3) The chief financial officer or other person who has financial management responsibility.

“Profit” or “profits” means the total gross revenue earned by a gaming operation, less all reasonable sums actually expended for conducting said games, gaming supplies and equipment, prizes, facilities, janitorial services, security services, rent, debt repayment, outstanding bills, employees, criminal investigation and prosecutions, or other reasonable operating expenses except that management fees shall not be deducted to determine profits.

“Prize” means any U.S. currency, cash, or other property or thing of value awarded to a player or players, or received by a player or players as a result of their participation in a gaming activity.

“Tribal General Council” means the Crow Tribal General Council as recognized under the 2001 Crow Tribal Constitution.

“Tribal gaming facility” or “gaming facility” means any location where Class II or Class III gaming is conducted.

“Tribally-regulated gaming operation” means any Class II or Class III gaming operation conducted on eligible Crow Indian land.

“Tribal revenue” means all funds delivered to the Crow tribal government and which are derived from gaming operations conducted pursuant to Crow tribal law.

Section 5. GAMING AUTHORIZED AND APPLICABLE LAW.

(a) Class I gaming authorization.

Class I gaming may be conducted by any Crow tribal member any other Indians participating in conjunction with an established Crow tribal game. Class I gaming shall not otherwise be regulated by this Ordinance.

(b) Class II gaming authorization.

Class II gaming shall be regulated by the Gaming Commission and is considered duly authorized and lawful only when operated consistent with all applicable provisions of this Ordinance, the Compact, and Indian gaming regulatory law. Provided that, any business enterprise owned by the Crow Tribe shall not be required to seek or obtain any license under this Ordinance as a precedent to conducting Class II gaming.

(c) Class III gaming authorization.

Class III gaming shall be regulated by the Gaming Commission and is considered duly authorized and lawful only when operated consistent with all applicable provisions of this Ordinance, the Compact, and Indian gaming regulatory law.

Section 6. REVENUES FROM CLASS II AND CLASS III GAMING.

(a) Reporting to Crow tribal government.

All gaming revenues received by a licensed gaming operator shall be recorded and reported to the following individuals or entities on a quarterly basis on or about the first day of January, April, July, and October of each year:

(1) the Chairman, Vice-Chairman, Secretary, and Vice-Secretary of the Crow Tribal Executive Branch;

(2) the Crow Tribal Comptroller;

(3) the Chairman and Secretary of the Gaming Committee of the Crow Tribal Legislature;

(4) the Crow Tribal Gaming Commission; and

(5) the Crow Tribal General Council, in a manner determined by the Tribal Secretary.

(b) All such reports described in this section shall include a notarized and dated signature from authorized representative of the gaming operation attesting to the accuracy of the report.

(c) Expenditures authorized.

Tribal revenues from gaming operations are authorized for the following uses:

(1) To fund Crow tribal government operations or programs;

(2) To provide for the safety and general welfare of the Crow Reservation community and its members;

(3) To promote economic development within the Crow Reservation through business loans and grants to Crow Tribal members;

(4) Fund local government operations for the established Districts of the Crow Reservation, provided that any such funding be distributed on an equal basis notwithstanding geographic size or population of the respective districts; and

(5) Donate to charitable organizations with a valid non-profit charter under federal or Crow tribal law.

Provided that, all such expenditures described above are only considered authorized when made in accordance with a duly-enacted tribal budget, approved by the Legislature and Secretary of the Interior.

Section 7. GAMING FACILITIES.

(a) To ensure that the environment and the public safety and welfare are adequately protected, each gaming facility shall be constructed and maintained in compliance with applicable tribal and federal laws, including but not limited to fire codes, safety codes and building codes.

(b) In accordance with Crow tribal law, the International Building Code shall be the applicable binding standard for gaming facilities constructed on Crow Indian lands.

(c) In the absence of an applicable comprehensive tribal or federal fire safety code, the International Fire Code shall be the applicable binding standard for operation of any new construction in which Class II and Class III gaming takes place on Crow lands.

(d) In the event that provisions of either the International Building Code or the International Fire Code are asserted to be inapplicable to gaming facility construction or gaming facility operation on Crow Indian lands, the Crow Tribal Gaming Commission shall be notified. The Gaming Commission shall meet within three (3) days of receiving such notice to determine the applicability of the International Building Code and International Fire Code to gaming facility

construction and operation on Crow Indian lands. In the event that the standards adopted herein are determined not to apply, an alternate standard and/or required course of action must be provided to ensure the protection of public health and safety.

(e) Each gaming facility shall be subject to inspection by the Gaming Commission Chairman and/or his authorized agents to ensure compliance with all applicable tribal and federal laws.

Section 8. MINORS, EMPLOYEES PROHIBITED.

(a) Age requirement for players.

No person under the age of 18 years shall be permitted to play any Class II or Class III game.

(b) Employees prohibited from playing while on duty.

No person who is employed at a Class II or Class III gaming facility shall be allowed to play any game conducted therein while on duty.

Section 9. PRIZES: ASSIGNMENT AND FORFEITURE.

(a) Prizes not assignable, exception.

The right of any person to a prize shall not be assignable except that payment of any prize may be made to the estate of a deceased prize winner or to a person pursuant to an order of the Crow Tribal Court.

(b) Unclaimed prizes, forfeiture for unlawful winnings.

(1) Any unclaimed prize of a Class II or Class III gaming activity shall be retained by gaming operator in the gaming facility for thirty (30) days after the prize is available to be claimed. Any person who fails to claim a prize during such time shall forfeit all rights to the prize, and the amount of the prize shall be awarded to the Gaming Commission.

(2) Any Class II or Class III gaming prize won by a person under the age of eighteen (18) or otherwise in an unlawful manner shall be forfeited as a violation of this Ordinance. Any such prize shall be awarded to the Gaming Commission. Provided that, if the unlawful prize is won by a minor, the approximate consideration paid by the minor shall be refunded to the minor.

Section 10. CROW TRIBAL GAMING COMMISSION.

(a) Establishment, composition, appointment and qualifications.

(1) There is hereby established a Crow Tribal Gaming Commission, which shall replace the Crow Tribal Gaming Commission established previously under Crow tribal law. The Gaming Commission shall be comprised of a Gaming Commission Chairman and six (6)

Commissioners, one of whom shall be designated as the Commission Vice-Chairman and shall exercise the authority of the Chairman in his absence. There shall be one Commissioner from each of the six legislative districts, who shall each be nominated by the Tribal Chairman with the advice and consent of the Legislature. Such advice and consent shall include a concurrence from a majority of the legislators from each district before a nominee is submitted to the Legislature for final approval through a majority vote.

(2) Upon the effective date of this Ordinance or upon the event any Commission seat becomes vacant, the Tribal Chairman shall have thirty (30) days to submit a nomination. Upon submission of a nomination, the Legislature shall make a decision within 15 days. In the event the nominee is denied, the Chairman shall submit another name within fifteen (15) days of the decision. Failure of the Chairman to make a nomination shall vest the authority in the Legislature to make an appointment by majority vote. Failure of the Legislature to make an appointment within thirty (30) days shall vest the authority in the Crow Tribal Gaming Commission, who shall make a selection by a majority vote of a quorum of the Commission.

(3) The Gaming Commission Chairman shall be nominated by the Tribal Chairman and confirmed by a two-thirds vote of the Legislature. Upon the effective date of this Ordinance or upon the event the position of Commission Chairman becomes vacant, the appointment process shall be the same as that for Gaming Commissioners.

(4) No nominee to the Crow Tribal Gaming Commission shall exercise any authority under this Ordinance until duly confirmed under this Ordinance.

(5) All Crow Tribal Gaming Commissioners and the Commission Chairman shall be members of the Crow Tribal General Council and must be registered to vote in the districts they represent at the time of their confirmation.

(6) The Chairman of the Commission and each Commissioner shall demonstrate knowledge and familiarity with the following:

(A) the Indian gaming industry, generally;

(B) this Ordinance and Indian gaming regulatory law;

(C) administrative law and administrative procedure;

(D) the structure of Crow Tribal government and the 2001 Crow Tribal Constitution.

(7) Membership in the Gaming Commission shall not constitute a position of full-time employment with the Crow Tribe.

(b) Terms.

Appointments shall be for a period of four (4) years, except that of the initial members from the Lodge Grass, Black Lodge, and Arrow Creek Districts shall be for two years, which will result in staggered appointment and provide continuity within the Commission. The Chairman of the Commission and all Commissioners may be re-appointed for successive terms under the same process as the initial appointment.

(c) Conflict of interest, prohibited.

(1) The Chairman of the Gaming Commission and all Commissioners shall not at any time while serving on the Commission have any private interest in any gaming activity, including but not limited to employment or consultation, and shall not be involved in any activity which may have direct interests in conflict with gaming operations on the Crow Reservation.

(2) The Chairman of the Gaming Commission and all Commissioners are absolutely prohibited from engaging in gaming on the Crow Reservation as players.

(3) No Commissioner may hold elected office with the Crow Tribe while serving on the Gaming Commission.

(d) Removal.

(1) The Chairman of the Gaming Commission and all Commissioners may be removed for good cause, or by a majority of the Crow Tribal Legislature upon referral by a majority vote of a quorum of the remaining Commission, or in accordance with the process set forth in Article VIII, Section 3 of the 2001 Crow Constitution. Good cause shall exist when any condition occurs or is discovered which would exclude a person from appointment or demonstrate a willingness to disobey the requirements of this Ordinance, including but not limited to conflicts of interest, or Indian gaming regulatory law.

(2) Good cause removal shall take place upon a majority vote of a quorum of the remaining Commission and shall be reviewable in Crow Tribal Court. Such judicial review shall consider all facts with a clear error standard and shall uphold the Gaming Commission decision unless found to be arbitrary, capricious, an abuse of authority, or otherwise unlawful. Provided that, all good cause removals shall be conducted in accordance with the process established in subsection (g) of this section.

(e) Duties and rule-making authority.

(1) The Gaming Commission is delegated with the authority and duty to administer and enforce all applicable provisions of this Ordinance. The Commission shall by majority vote of a quorum have the following authorities:

(A) to promulgate rules and regulations which are necessary and proper for the just implementation of this Ordinance, provided that no administrative rule or regulation shall be valid and enforceable until ratified by a joint action resolution of the Executive Branch and Legislature;

(B) to establish rules of play for each Class II and Class III game permitted, which shall be posted in an area available for open public viewing in all gaming facilities;

(C) to exercise exclusive authority to license all Class II and Class III gaming activities and persons employed in gaming activities conducted within the Crow Reservation;

(D) to conduct background investigations of key employee and primary management official applicants;

(E) to carry on a continuous study and investigation of Class II and Class III gaming on the Crow Reservation for the purpose of:

(I) finding any defects in or abuses of the standards and regulations promulgated in accordance to this Ordinance;

(II) formulating recommendations for changes in the standards and regulations in this Ordinance and any and all applicable rules and regulations promulgated in accordance thereof;

(III) preventing abuses and evasions of the standards and regulations prescribed by this Ordinance and applicable rules and regulations promulgated in accordance thereof;

Provided that, on or before the 31st of December of each year, the Commission shall submit an annual written report to the Executive Branch and Legislature containing all information gathered which is relevant to items I, II, and III above.

(F) to immediately report to the Executive Branch and the Legislature on any matters related to gaming which are deemed by the Commission to constitute an emergency requiring immediate legislative action;

(G) to employ through commissions of authority such officers as are necessary and proper to provide assistance in carrying out the specific and general powers and duties of the Gaming Commission;

(H) to employ independent legal counsel, who shall be admitted to the Crow Tribal Bar and who shall not advise the Commission Chairman in the event there is an action taken by the Chairman under subsection (f) of this section. The

Commission Chairman may seek outside counsel in such circumstances. Provided that, it shall be considered a conflict of interest for any attorney employed by the Crow tribal government to provide legal counsel to the Gaming Commission or Commission Chairman.

(2) The Commission Chairman shall have the authority to call the Commission into session by giving each Commissioner notice at least seven (7) days before the first day of a scheduled session.

(3) A rule-making quorum of the Commission shall be at least five Commissioners.

(4) The Commission Chairman shall not have a vote when the Commission votes to enact, amend, or rescind a rule or regulation unless to break a tie.

(f) Enforcement and adjudication.

(1) In order to enforce the provisions of this Ordinance and any applicable administrative regulations promulgated in furtherance therein, the Gaming Commission Chairman shall have the following authorities:

(A) to issue a written civil charge to any suspected violator, which shall contain a brief explanation of the type of activity giving rise to the violation and the alleged date of such activities, the provision of this Ordinance or the administrative regulation violated, the civil penalty sought by the Commission Chairman, and notice that the suspected violator has a right to contest the suspected violation before the Commission within fifteen (15) days of the delivery of the civil complaint.

Provided that, upon the filing of a contest by a person or entity alleged to be in violation of this Ordinance or an administrative regulation, the Commission shall notify the person of an administrative hearing on the matter which shall be scheduled within 30 days of the filing of the contest;

Provided further, that failure of a suspected violator to respond to the notice described in Part (A) above will result in a default finding of the charge being substantiated as true.

(B) to issue a written denial to a license applicant or by written order to suspend the validity of a current license with any such written denial or order containing the following:

(I) a clear explanation of the reason why the Commission has taken such action;

(II) the provision of this Ordinance or the administrative regulation which the applicant or licensee has violated or showed a deficiency regarding;

(III) the effective date of the action;

(IV) the civil penalties sought, if any;

(V) notice that the suspected violator has a right to appeal the license denial before the Commission within fifteen (15) days of the delivery of the notice to the licensee or applicant.

Provided that, upon the filing of an appeal by a licensee or license applicant, the Commission Chairman shall notify the person of an administrative review hearing which shall be scheduled within thirty (30) days of the filing of an appeal.

(g) Review hearings.

(1) On appeal from any charge, license denial, license suspension or revocation, or other administrative action affecting a gaming operator or gaming employee, the person or persons shall have a right to appeal such action to the Commission in accordance with this subsection.

(2) The following shall be required for any lawful review hearing under this section:

(A) all review hearings shall be conducted by a quorum of the Commission, which shall consist of at least five (5) Commissioners;

(B) all review hearings shall be on the record and open to the public;

(C) all review hearings shall be conducted on the Crow Reservation;

(D) the person or persons subject to a review hearing shall have the right to submit a written explanation or argument on their behalf, shall have a right to counsel, which must be admitted to the Crow Tribal Bar, and shall have a reasonable amount of time to present their case during their hearing before the Commission;

(E) public notice shall be given to the General Council and Crow tribal government at least fourteen (14) days before any review hearing is conducted. Such notice shall contain the cases or subjects to be discussed, the location and time scheduled, and any other information relevant to ensuring public knowledge of the proceedings;

(F) all review hearing decisions by the Commission must be by a majority vote of a quorum of the Commission. The Commission Chairman shall not be entitled to vote in a review hearing. In the event of a tie vote, the Commission action shall be considered stayed pending further review, which shall require further

deliberation and a final vote within three (3) days. In the event the vote remains tied, the action is dismissed with prejudice;

(G) upon the entry of a majority vote and decision by the Commission in a review hearing, a written opinion shall be made by a Commissioner as determined by a majority of the Commission. Such opinion shall be considered a final agency action and must include a finding of facts and a determination of law. The opinion shall be immediately delivered to the person subject to the Commission action and shall be considered a public document and shall be permanently maintained as a public record by Commission and the Tribal Secretary, along with any subsequent court records;

(H) all final agency actions under this section are reviewable in the Crow Tribal Court under a de novo review of any questions of law and a clear error standard of review of all findings of fact.

Provided that, any appeal for judicial review must be filed in the Crow Tribal Court and Gaming Commission within fifteen (15) days of the time notice was provided to the petitioner of the Commission's action.

(3) In the event the Commission Chairman or Commission do not meet any of the procedural requirements contained in this section, the party subject to the Commission Chairman or Commission's action may file for injunctive relief in Crow Tribal Court and may seek a dismissal of the action.

(h) Compensation.

The Gaming Commission Chairman, Commissioners, and employees shall be reasonably compensated, as determined by the Executive Branch Officials. The compensation shall be paid from the Crow tribal general fund and from tribal revenue from gaming activities.

Section 11. TRIBAL GAMING LICENSES.

(a) Types of licenses to be issued.

(1) The Crow Tribal Gaming Commission shall issue the following licenses for Class II and Class III gaming:

(A) Manager License

(B) Class II Owner License

(C) Operator License

(D) Contractor License

- (E) Primary Management Official License
- (F) Key Employee License
- (G) General Employee License
- (H) Facility License
- (I) Manufacturer's and Distributor's License
- (J) Vendor's License
- (K) all other licenses established under administrative regulation

(2) Licenses shall indicate the type and class of license on the face of the license. A combined Class II and Class III license may be issued if appropriate.

(b) License fees.

(1) Any person applying for a gaming license pursuant to this Ordinance shall submit his or her application and all required forms and information, as set forth by the Gaming Commission regulations, together with an application fee as follows:

(A) Class II License Fees:

- I. Manager License: \$500.00
- II. Owner License: \$1,500.00
- III. Operator License: \$1,000.00
- IV. Contractor License: \$2,500.00
- V. Primary Management Official License: \$1,500.00
- VI. Key Employee License: \$1,500.00
- VII. General Employee License: \$15.00
- VIII. Facility License: \$100.00

(B) Class III License fees:

- I. Manager License: \$1,500.00
- II. Contractor License: \$7,500.00

III. Primary Management Official License: \$4,500.00

IV. Key Employee License: \$4,500.00

V. General Employee License: \$45.00

(C) General License Fees:

I. Manufacturer and Distributor's License: \$6,000.00

II. Vendor's License: \$3,000.00

(b) License fee waiver.

The Tribal Gaming Commission may waive fees under the following circumstances:

- (1) where a licensee or license applicant is unable to pay fees due to a demonstrated financial exigency; or
- (2) where the license applicant is a non-profit entity chartered under federal or tribal law and the intended purpose of the gaming is for a charitable fund-raiser.

(c) License renewal.

A licensee shall, at least thirty (30) days prior to the expiration of their license submit an application for renewal and any required forms and information together with a renewal fee equivalent to 75% of the applicable license fee.

Section 12. TRIBAL GAMING LICENSE VALIDITY: EFFECTIVE PERIOD AND LOCATION.

(a) Period.

Gaming licenses shall be valid and effective for a period of one (1) calendar year from the date of issuance, unless the license is suspended or revoked for cause after notice and hearing pursuant to this Ordinance. The effective date and period of the license shall be stated on the face of the license.

(b) Location.

- (1) A gaming license shall be valid for one (1) facility or location only, and the location shall be identified on the face of the license.
- (2) If a person or entity desires to be employed with more than one gaming operation, a separate gaming license must be obtained for each separate gaming operation.

(c) Facility licenses.

Each gaming facility must be separately licensed and such licenses shall be displayed prominently in an area of public viewing in the gaming facility.

Section 13. TRIBAL GAMING LICENSES: QUALIFICATIONS AND REQUIREMENT.

(a) Generally.

(1) An application to receive a license or to be found suitable to receive a license shall not be granted unless the Gaming Commission is satisfied, after review of a background investigation that such applicant is:

(A) a person of good character, honesty and integrity;

(B) a person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of the Crow Tribe or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conducting of gaming or the carrying on of the business and financial arrangements incidental thereto; and

(C) in all other respects is qualified to be licensed or found suitable consistent with the declared policy of the Crow Tribe under this Ordinance.

(2) An application to receive a license or to be found suitable constitutes a request for a determination of the applicant's general character, integrity and ability to participate or engage in, or be associated with gaming on the Crow Reservation. Any written or oral statement made in the course of an official proceeding of the Gaming Commission or the National Indian Gaming Commission by any member thereof or any witness testifying under oath which is relevant to the purpose of the proceeding is absolutely privileged and does not impose liability or defamation constituting a ground for recovery in any civil action.

(b) Primary management officials; key and other employees; requirements.

(1) No person shall be employed by a gaming enterprise operated on the Crow Reservation who:

(A) has been convicted of or who has pled guilty or nolo contendere to any felony, gambling offense, or other offense involving moral turpitude except that misdemeanors committed before such person's 18th birthday shall not act to bar his or her employment; or

(B) is under the age of 18 and, further, no person shall be employed as a primary

management official or key employee who is under the age of 21.

(2) No person shall be employed as a primary management official or key employee in a Class II or Class III gaming activity who:

(A) has not first applied for and obtained a gaming license, pursuant to this Ordinance;

(B) is ineligible for fidelity bonding or similar insurance covering employee dishonesty.

(3) Every person employed at a gaming facility operated on the Crow Reservation shall wear an identification badge which conspicuously states the place of employment, the full name of the person and their position of employment.

(c) Primary management officials and key employees; license applications, notices.

(1) The Gaming Commission shall require all primary management officials and key employees to submit an application as specified by the Commission.

(2) All applications shall include, at a minimum, the following information:

(A) the applicant's full legal name, any other names used currently or previously, a current photograph, social security number, date of birth, citizenship, drivers license number, all languages spoken or written;

(B) all business and employment positions held currently and for the past five years;

(C) any ownership interests in any business and, if applicable, the business address and contact information;

(D) the names, addresses, and contact information for at least three (3) personal references;

(E) a description of any and all current and previous business relationships with any Indian tribe;

(F) a description of any and all current and previous business relationship with any gaming operation in any jurisdiction;

(G) the name and address of any licensing or regulatory agency, with which the applicant has filed an application for any license permit, regardless of whether the license or permit was granted;

(H) a description of all felony charges from any jurisdiction and the name and address of the court and disposition of the charge;

(I) a description of all misdemeanor charges from any jurisdiction within the past ten (10) years with the name and address of the court and the disposition of the charge;

(J) fingerprints taken by a Crow tribal, federal, or state law enforcement agency in accordance with guidelines established by federal protocol and which shall be sent directly to the National Indian Gaming Commission by the law enforcement agency taking the fingerprints; and

(K) any other information the Commission deems relevant.

(3) The application form shall include the following notices:

(A) that the application must meet and shall be reviewed in compliance with the federal Privacy Act of 1974;

(B) that the purpose of requesting the information contained in the application is to determine the eligibility of the person to be employed in a gaming operation;

(C) that the information will be used by National Indian Gaming Commission staff for their official duties and that the information may be disclosed to appropriate federal, state, and local law enforcement agencies where relevant to an investigation; and

(D) that failure to consent to the disclosure notices will result in an inability to be hired as a primary management official or key employee.

(4) Any false statements made by an applicant under this subsection is grounds for not hiring the applicant or dismissal and may subject the applicant or employee to punishment under federal law.

(5) The requirements established by the National Indian Gaming Commission through enactment of 25 C.F.R. 558, as updated in 2013, shall govern the conduct of the Gaming Commission in the implementation and enforcement of licensure pursuant to this section.

(d) Primary management officials and key employees: background investigations; report.

(1) The Gaming Commission shall conduct, or cause to be conducted by an appointed investigator, a background investigation for each primary management official and key employee. The investigation shall include, at a minimum:

(A) verification of all information on the application;

(B) interviews of current and prior employers and immediate supervisors for the preceding five (5) years;

(C) interviews of selected personal references;

(D) obtaining a complete record of criminal history; and

(E) an interview with the applicant.

(2) Where an investigator is appointed by the Gaming Commission, the investigator shall be required to make a written report of the investigation to the Commission, which shall include the steps taken in accordance with the investigation and the names, addresses, and relationship to the applicant of all persons interviewed and a summary and opinion regarding all such communications. The Commission shall review the report and incorporate it as part of the record used in consideration of issuing a license.

(3) Where no investigator has been appointed, the Gaming Commission shall produce a written report in the same manner as described in part (2) above, which shall be written by the Commission Chairman.

(4) The Gaming Commission shall not issue a license to any applicant who is not eligible or does not meet the requirement for employment as a primary management official or key employee.

(5) Following the Gaming Commission's determination as to an application under this subsection, the Gaming Commission Chairman shall notify the National Indian Gaming Commission and the applicant of its decision, and shall provide both the National Indian Gaming Commission and the applicant with a copy of the investigative report.

(6) The requirements established by the National Indian Gaming Commission through enactment of 25 C.F.R. 556, as updated in 2013, shall govern the conduct of the Gaming Commission in the implementation and enforcement of background checks pursuant to this section.

Section 14. LICENSE SUSPENSION AND REVOCATION.

(a) Suspension and revocation.

(1) Any license issued by the Gaming Commission shall be suspended, without prior notice, if the National Indian Gaming Commission indicates to the Crow Tribal Gaming Commission that a primary management official, operator, or key employee does not meet the standards established under Indian gaming regulatory law. After notice and a hearing are provided to a suspended licensee, the license may be revoked by the Gaming Commission.

(2) The Gaming Commission Chairman shall immediately suspend and, after notice and hearing is provided, the Gaming Commission may revoke the license of any owner, primary management official, or key employee of a Class II or Class III gaming operation if the Commission determines that the owner, primary management official, or key employee is in violation of this Ordinance or Indian gaming regulatory law.

(b) Suspension and revocation notices.

All license suspension and revocation notices shall be provided to the licensee in accordance with the procedure established in Section 10 of this Ordinance and any regulations promulgated by the Gaming Commission. A copy of any revocation notice shall be sent to the National Indian Gaming Commission.

(c) Application for relicensing.

No person or entity whose Class II or Class III gaming license has been revoked shall be eligible for a new license until twelve (12) months after the effective date of the license revocation.

Section 15. CLASS II GAMING.

(a) License required.

(1) No person or entity shall own an interest in or operate a Class II gaming activity on the Crow Reservation unless that person or entity has first received a license to conduct Class II gaming from the Gaming Commission. The Crow Tribe may enter into a management contract for the operation of a Class II gaming enterprise so long as the contract is in accordance with all Crow tribal laws and Indian gaming regulatory law.

(2) The Gaming Commission may license a Class II gaming activity owned in whole or part by a person or entity other than the Crow Tribe so long as the licensing standards for any such Class II gaming are at least as restrictive as Montana state law governing similar gaming within the state. Provided that no such license shall be issued unless the person or entity has expressly agreed in writing to be subject to Crow tribal law, and that the person or entity is determined to otherwise be eligible to conduct the same gaming under Montana state law outside the Crow Reservation, that no less than sixty percent (60%) of the net revenues from the gaming activity shall be delivered to the Crow Tribe as tribal revenue, and to pay an appropriate assessment to the National Indian Gaming Commission as may be required under Indian gaming regulatory law.

(3) No business association of any type may be granted a license to conduct Class II gaming unless all such owners or managers are individually qualified under this Ordinance and any applicable regulations promulgated in pursuance therein.

(b) Rule-making authority.

The Gaming Commission shall promulgate necessary and proper regulations governing the issuance of Class II licenses in accordance with this Ordinance. Provided that preference shall always be given by the Gaming Commission to any gaming enterprise owned and operated by the Crow Tribe.

(c) Class II rules, generally.

(1) Licensed Class II gaming may be conducted twenty-four (24) hours a day, seven (7) days a week, subject to approval by the Gaming Commission.

(2) Prior to operation of Class II gaming or any change in hours of operation, the operator shall notify the Gaming Commission of the proposed hours and days its facility will be open, and the hours and days gaming will be conducted. The Commission Chairman may object to the proposed schedule and must provide notice to the operator of any such objection, and the reasons therefore, within fifteen (15) days. The operator may submit an alternative schedule or may request a review hearing, which shall be conducted under the procedure set forth in Section 10 of this Ordinance.

(3) No person may enter into a room or area in which a bingo game is being played unless the person is a player, facility employee, or a person present by authority of the Gaming Commission.

(4) The number of people permitted to play any bingo game shall not exceed the number of seats available in the room or area in which the game is being played.

Section 16. CLASS III GAMING.

(a) Exclusive ownership by the tribe.

All Class III gaming on the Crow Reservation shall be owned exclusively by lawfully-established gaming enterprises of the Crow Tribe, and no license to own or operate any Class III gaming shall be issued to any other person or entity.

(b) Plan of operation; approval by the gaming commission.

All Class III gaming must be conducted pursuant to a Class III gaming plan of operation. The Gaming Commission shall approve any Class III gaming plan of operation submitted by a gaming enterprise owned by the Crow Tribe so long as the proposed operation is in compliance with the facility safety requirements of Crow tribal law, the proposed Class III gaming is consistent with the Compact, and the proposed Class III gaming complies with all other applicable Crow tribal law and Indian gaming regulatory law. Any such plan of operation must detail each of these requirements.

(c) Management contracts.

The Crow Tribe, by Crow tribal joint action resolution, may enter into a management contract for the operation and management of any or all tribally-owned Class III gaming activities provided that any such contract must fully comply with the provisions of this Ordinance, the Compact, and all other applicable provisions of Crow tribal law and Indian gaming regulatory law.

(d) Regulation and inspection.

(1) All Class III gaming shall be regulated by the Gaming Commission, which shall adopt all necessary and proper regulations in order regulate such gaming. Such regulations shall include game rules and rules of conduct, requirements for public display of rules at gaming facilities, facility requirements, permitted games specifications and requirements, background investigations, application and release forms.

(2) All Class III facilities may be inspected by the Gaming Commission at all usual business hours.

(e) Hours of operation.

Class III gaming may be conducted twenty-four (24) hours a day, seven (7) days a week unless the Commission declares by order that such hours pose a risk to the health, safety, or welfare of the public.

Section 17. RECORDS AND AUDITS.

(a) Records.

(1) Every gaming operation on the Crow Reservation shall maintain accurate and current records for each gaming activity conducted at each gaming facility. All such records must include the following information:

- (A) all financial transactions;
- (B) all gaming machine testing, malfunctions, maintenance and repairs;
- (C) current personnel;
- (D) complaints of patrons
- (E) internal investigations of any kind;
- (F) any incidents or accidents causing physical harm or injury of any sort;
- (G) any actions by any facility employee against players or facility visitors; and
- (H) any actions by management against or in reprimand of facility employees.

(b) Audits.

(1) The Gaming Commission shall order an annual audit on all Class II and Class III gaming activities on the Crow Reservation. All such audits shall be conducted by an independent, licensed auditing firm selected by the Gaming Commission.

(2) All contracts for supplies, services, or concessions with an amount in excess of \$50,000 annually except contracts for legal or accounting services, and which related to Class II or Class III gaming shall be subject to the independent audit required by part (1) of this subsection.

(3) A verified copy of all such audits commissioned under this subsection shall be furnished to the National Indian Gaming Commission.

Section 18. PENALTIES.

(a) Criminal penalties.

(1) It shall be a felony crime for any person or entity to:

(A) knowingly operate or participate in gaming on the Crow Reservation in violation of the provisions of this Ordinance or any regulations promulgated in pursuance therein;

(B) knowingly make a false statement in an application for employment with a gaming operation or in an application for a license to operate a gaming activity; or

(C) bribe or attempt to bribe or unduly influence or attempt to unduly influence any person who licenses, operates, conducts, assists, or is otherwise employed in a gaming activity or operation located on the Crow Reservation.

(2) Any Indian who violates a provision of this Ordinance or other Crow tribal law relating to gaming activities may be fined up to one-thousand dollars (\$1,000) per count and/or imprisoned for up to one (1) year per count. A separate count occurs each day a violation arises or continues.

(3) Any non-Indian who violates a provision of this Ordinance or other Crow tribal law relating to gaming activities may be excluded from the Crow Reservation.

(4) Any property used in the commission of a criminal violation of this Ordinance or other Crow tribal law relating to gaming may be seized by the Gaming Commission or their duly-authorized officers, in accordance with applicable Crow tribal law governing seizures of property.

(b) Civil penalties.

(1) Any person or entity who violates any provision of this Ordinance or who violates any term or condition of any tribal gaming license issued pursuant to this Ordinance or any provision of a management contract may be assessed a civil penalty by the Gaming Commission, which shall not exceed one-thousand dollars (\$1,000) per violation. Each individual violation shall be treated separately and shall be assessed as a separate violation.

(2) All such civil penalties must be imposed in accordance with the procedures set forth in Section 10 of this Ordinance and, where applicable, the Crow Rules of Civil Procedure.

(3) Civil penalties provided for in this section may be imposed in addition to the criminal penalties provided for subsection (a).

Section 19. APSAALOOKE GAMING CORPORATION ARTICLES OF INCORPORATION. [Reserved for future enactment by Crow tribal joint action resolution]

Section 20. EFFECTIVE DATE, CODIFICATION, SEVERABILITY.

(a) Effective date.

This Ordinance shall take effect upon being duly adopted by the Crow tribal government and approved by the Chairperson of the National Indian Gaming Commission and any other requirements under federal law.

(b) Codification.

This Ordinance shall be codified in Title 23 of the Crow Law and Order Code.

(c) Severability.

If the Judicial Branch of the Crow Tribe declares any provision of this Ordinance inconsistent with the Crow Tribal Constitution, the remaining provisions shall continue in full force and effect so long as the portion stricken does not materially affect the just application of this Ordinance.