

Gaming Commission Regulations
Regulation # R400-04:GC-12

Chapter 12. Class I, Class II and Charitable Permitted

Section 1. Purpose; Authority

1-1. *Purpose.* It is the purpose of this regulation to provide authority for Class I and Class II gaming on Tribal lands as well as the licensing and regulation of charitable raffles to be held within the gaming enterprise by non-profit and charitable organizations.

1-2. *Authority.* This regulation is issued under and pursuant to the authority of the Little River Band of Ottawa Indians Gaming Ordinance, Commissions Ordinance, Gaming Commission Ordinance, IGRA, Tribal-State Compact, Constitution of the Little River Band of Ottawa, and 25 USC Section 2703 et seq.

Section 2. Definitions

2-1. *General.* For purposes of this regulation, certain terms are defined in this Section. The word shall is always mandatory and not merely advisory. Unless defined elsewhere, terms defined in the Minimum Internal Control Standards, the Gaming Ordinance and the Gaming Commission Ordinance are defined for the purpose of all Gaming Commission regulations. The definitions in this regulation shall apply to all sections of this part unless otherwise noted.

2-2. *Class I Gaming.* The Term "Class I Gaming" means social games 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 celebrations.

2-3. *Class II Gaming.* The term "Class II Gaming" means—

- a. The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith) –
 - i. which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,
 - ii. in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and
 - iii. 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, and
- b. card games that –
 - i. are explicitly authorized by the laws of the State, or
 - ii. are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.
- c. The term "Class II Gaming" does not include –
 - i. any banking card games, including baccarat, chemin de fer, or blackjack (21), or
 - ii. electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.
- d. Notwithstanding any other provision of this paragraph, the term "Class II Gaming" Includes those card games played in the State of Michigan, the State of North Dakota, the State of South Dakota, or the State of Washington, that were actually operated in

such State *Class I Gaming* by an Indian tribe on or before May 1, 1988, but only to the extent of the nature and scope of the card games that were actually operated by an Indian tribe in such State on or before such date, as determined by the Chairman.
e. The term "Class II Gaming" includes any other games authorized by Federal law or by the Tribal-State Compact.

2-4. *Charitable Raffles*. Charitable Raffles shall mean raffles intended to foster and assist Charitable and Non-Profit organizations and the good works they perform for the community which are organized to assist a charitable purpose. These raffles are not gaming enterprise promotional raffles or lotteries and are not operated or sponsored by the gaming enterprise.

2-5. *Charitable purpose* shall mean one or more of the following causes, deeds, or activities that are beneficial to the general public or a member of the general public:

- (i) Relief of poverty;
- (ii) Advancement of education;
- (iii) Advancement of religion;
- (iv) Protection of health or relief from disease, suffering or distress;
- (v) Advancement of civic, governmental or municipal purposes unless prohibited elsewhere in this Regulation;
- (vi) Protection of the environment and conservation of wildlife;
- (vii) Defense of human rights and the elimination of prejudice and discrimination; and
- (viii) Any other purpose that the Gaming Commission determines to be beneficial to the general public or a member of the general public.

2-6. "*Charitable*" and "*Non-profit*" organizations eligible to obtain a license to hold a raffle shall include, but shall not be limited to entities that exist to pursue one or more charitable purposes as defined above, and that either operate without profit to its members or are exempt from taxation.

2-7. *Raffle*. "Raffle" means an event for which raffle tickets are sold, a winner or winners are determined by randomly selecting stubs from all raffle tickets sold for an event and at which a preannounced prize is awarded. Gross sales from raffle tickets are not subject to Tribal or state retail sales tax.

Section 3. Construction and Application of the Regulations.

3-1. Construction and Amendments.

a. These regulations shall be liberally construed to permit the Gaming Commission to effectively carry out its statutory functions and secure a just and expeditious determination of issues properly presented to the Gaming Commission.

b. These regulations may be amended by the Gaming Commission from time to time in accordance with the provisions of the Gaming Ordinance, Gaming Commission Ordinance and any regulation promulgated by the Gaming Commission.

3-2. Severability and Preemption.

a. If any clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion of these regulations or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of these regulations or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion thereof directly involved in such holding or to the person or circumstances therein involved.

b. The Gaming Commission shall have jurisdiction over all matters delegated to it or within the scope of its powers under the provisions of the Gaming Ordinance, Gaming Commission Ordinance and these regulations.

Section 4. Permitted Class I Gaming.

4-1. *Class I Gaming.* Class I traditional games are permitted to the extent consistent with Tribal customs and practices. The Gaming Commission may prohibit and prevent any conduct which is claimed to be Class I gaming if it finds that such conduct is not in accordance with Tribal customs or practices or violates the IGRA or other applicable gaming law. A decision of the Gaming Commission whether to permit Class I gaming shall be final and may not be appealed. The Gaming Commission reserves the right to inspect the premises where the Class I gaming is held and to obtain and review financial information concerning the game in order to determine whether it meets the definition of Class I gaming. Class I games may be subject to other Tribal ordinances and regulations designed to protect the health and welfare of Tribal members.

Section 5. Permitted Class II Gaming.

5-1. *Class II Gaming.* Class II gaming may be permitted by the Gaming Commission. Any Class II gaming shall conform to all requirements of IGRA and any other Tribal, federal or state gaming rules.

5-2. *License Required.* A license authorizing a Class II game is required. If Class II gaming activity is held at more than one site, a separate license shall be required for each building or location where Class II gaming is conducted.

5-3. *Gross Gaming Revenue.* For card games, tournaments and any other games in which the casino is not a party to a wager, gross gaming revenue shall include all money received as compensation for conducting the game, (i.e., rake, commissions, entry fees and admission fees).

Section 6. Charitable Raffles.

6-1. *Policy.* It is the policy of the Little River Band of Ottawa Indians to foster and assist Charitable and Non-Profit organizations and the good works they perform for the community. To this end, the Gaming Commission may allow Charitable and Non-Profit organizations to use certain forms of gaming raffles to raise money for their charitable purposes. The Gaming Commission shall regulate charitable raffles carried out by an Charitable or Non-Profit organization to assure that such raffles are operated honestly, with high integrity, and in accordance with the highest standards.

6-2. *Permitted Games.* Charitable or Non-Profit organizations may operate raffle drawings.

6-3. *License Required.* Charitable or Non-Profit organizations shall obtain a license from the Gaming Commission in accordance with Section 7 below, and all charitable raffles shall be subject to applicable Tribal laws and rules.

6-4. *Restricted Use of Profits.* Profits from the licensed raffle shall not be used for the benefit of any member or shareholder of the Charitable or Non-Profit Organization except to directly further the lawful charitable purpose of the organization.

Section 7. Licensing

7.1. *No License Required for Class I Gaming.* Class I gaming may be conducted on Indian land without a license. The Gaming Commission may investigate such activity to ensure that it meets all requirements for Class I gaming in accordance with Section 4 above.

7.2. *Licensing of Class II Gaming.*

(1) A separate license shall be required for each place, facility, or location on Indian land at which any Class II gaming is conducted.

(2) The Gaming Commission may license a tribally owned Class II gaming establishment if:

(a) such establishment is located on tribal land;

(b) the State of Michigan continues to permit such gaming for any purpose by any

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person, organization or entity, and such gaming is not otherwise specifically prohibited on Indian land by federal law;

(c) subject to any management contract approved, the Tribe has the sole proprietary interest and responsibility for the conduct of such gaming;

(d) net revenues from such gaming are used in accordance with applicable gaming rules;

(e) such gaming activity is subject to annual outside audits, which may be encompassed within existing independent Tribal audit system;

(f) all contracts for supplies, services or concessions for any aggregated amount in excess of \$25,000 annually relating to such Class II gaming (except contracts for legal or accounting services) are also subject to independent audits;

(g) the construction and maintenance of the gaming facility, and the operation of the gaming, is conducted in a manner which adequately protects the environment and the health and safety of the public;

(h) background investigations are conducted on all Primary Management Officials, Key employees and gaming consultants of the Class II gaming operation in the same manner as for a Class III gaming facilities; and

(i) oversight of Primary Management Officials, Key employees, gaming consultants and their management, is conducted on an ongoing basis;

(j) any license issued shall be non-transferable and may not be assigned.

7.3 *Licensing of Charitable Raffles.*

(1) The Gaming Commission shall draft, approve and implement procedures for licensing Charitable and Non-Profit organizations to hold charitable raffles within the gaming enterprise.

(2) The Gaming Commission may license any Charitable or Non-profit organization that exists to pursue a charitable purpose and that either operates without profit to its members or is exempt from taxation.

(3) The Gaming Commission shall not license any political committee, candidate committee, political party committee, ballot question committee, independent committee or any organization formed for pecuniary profit for its members.