

CHAPTER 2 GAMING AGENCY

ARTICLE I: GENERAL PROVISIONS

§ 1. Purpose

The Smith River Rancheria, acting through its Tribal Council, pursuant to the Tribe's inherent authority and the Tribe's Constitution, hereby enacts this Ordinance in order to establish the Smith River Rancheria Gaming Agency as a non-political and independent unit of tribal government charged with the regulation of class II and class III gaming operations on the Smith River Rancheria.

§ 2. Findings And Declarations

The Smith River Rancheria finds and declares that

- (a) Gaming provides economic development opportunities and a source of revenue for the Smith River Rancheria and its members.
- (b) The regulation of gaming is in the interests of the Smith River Rancheria and its members.

Therefore, the Tribal Council adopts this Ordinance to protect and promote the political integrity, economic security, health, safety and welfare of the Tribe, its members, and all persons living on, or passing through, the Smith River Rancheria.

§ 3. Definitions

- (a) Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as defined in the Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.*) and its regulations (25 C.F.R. § 500 *et seq.*).
- (b) For the purposes of this Ordinance, the following words shall have the following meanings:
 - (1) The term "Commissioner" means a duly appointed member of the Smith River Rancheria Gaming Agency.
 - (2) The term "Compact" means the Tribal-State Compact between the Tribe and the State of California authorizing class III gaming activities, as required by Indian Gaming Regulatory Act, 25 U.S.C. § 2710(d)(1)(C) and amended from time to time.

- (3) The term "Executive Director" means the individual described in Article V of this Ordinance.
- (4) The term "Gaming Agency" means the Smith River Rancheria Gaming Agency established pursuant to this Ordinance.
- (5) The term "gaming facility" means any building in which class II or class III gaming activities are offered by the gaming operation within the boundaries of the Smith River Rancheria.
- (6) The term "IGRA" means the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.* and its regulations, 25 C.F.R. § 500 *et seq.*
- (7) The term "immediate family" means parents, spouse, siblings and offspring.
- (8) The term "NIGC" means the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.
- (9) The term "person" means *any* individual, corporation, firm, partnership, joint venture, association, social club, estate, trust, the United States, Tribe, State, County, City, district or other political subdivision of any state, or any other group or combination acting as a unit.
- (10) The term "Rancheria" means all land, air, and water located within the exterior boundaries of the Smith River Rancheria.
- (11) The term "Tribal Council" means the Tribal Council of the Smith River Rancheria.
- (12) The term "Tribal Court" means the Smith River Rancheria Tribal Court or such other judicial forum as designated by the Tribal Council. Any notices may be filed with the Tribal Court as designated by the Tribal Council, or, in the absence of such designation, with the Tribal Council at the office of the Tribal Council.
- (13) The term "Tribal Member" means any individual who is duly enrolled in the Tribe in accordance with the Tribe's Constitution and any enrollment ordinance that may be enacted by the Tribe, as amended from time to time.
- (14) The term "Tribe" means the Smith River Rancheria, a federally recognized Indian tribe.

ARTICLE II: GAMING AGENCY

§ 1. Establishment

- (a) There is hereby established a Gaming Agency, acting under the authority of the Tribal Council, to be known as the Smith River Rancheria Gaming Agency.
- (b) The Gaming Agency shall be composed of three (3) to five (5) members, if qualified, and appointed by the Tribal Council, as further provided herein.

§ 2. Powers and Duties of the Gaming Agency

- (a) The Gaming Agency shall exercise its regulatory powers in accordance with IGRA and implementing regulations, the Compact and the Tribe's own gaming laws and regulations.
- (b) Without limiting the generality of section (a), above, the Gaming Agency is authorized to:
 - (1) Conduct background investigations of all applicants for a license under the Tribe's Gaming Ordinance;
 - (2) Issue, limit, condition, modify, restrict, suspend, revoke, terminate, renew and deny gaming licenses upon completion of background investigations and review of eligibility in accordance with the Tribe's Gaming Ordinance and any other applicable law;
 - (3) Forward completed applications and investigative reports on each background investigation for primary management officials and key employees to the NIGC prior to issuing a license and notify the NIGC if, after conducting a background investigation on a primary management official or a key employee, the Gaming Agency does not license the individual;
 - (4) Maintain records on licensees and on persons denied licenses, as well as persons otherwise prohibited from engaging in gaming activities within the Tribe's jurisdiction, provided that applications and background investigation reports shall be maintained for at least three (3) years from termination of employment;
 - (5) Issue licenses to each place, facility or location on the Rancheria where the Tribe authorizes gaming, including individually owned gaming;

- (6) Ensure that gaming facilities are constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety;
- (7) Obtain annual independent outside audits and submit these audits to the NIGC;
- (8) Ensure that net revenues from any gaming activities are used for the purposes set forth in the Tribe's Gaming Ordinance;
- (9) Promulgate and administer tribal gaming regulations, standards and procedures including but not limited to regulations addressing the following:
 - (A) Criteria and procedures for licensing:
 - (i) all employees of the gaming operation;
 - (ii) each place, facility or location on the Rancheria where the Tribe authorizes gaming, including individually owned gaming;
 - (iii) persons and entities who do business with the gaming operation, including manufacturers and suppliers of machines, equipment and supplies;
 - (iv) persons who supply financing to the gaming operation;
 - (B) Minimum internal control standards or procedures for the gaming operation, including standards or procedures relating to:
 - (i) the operation's credit policies and procedures for acquiring supplies and equipment;
 - (ii) surveillance;
 - (iii) games and gaming machines;
 - (iv) cage and credit;
 - (v) internal audit;
 - (vi) electronic data processing;
 - (vii) complimentary services or items
- (10) Promulgate rules, regulations, specifications, standards or procedures governing the following:
 - (A) Ensuring the physical safety of gaming operation patrons and employees and any other person while in the gaming facility;
 - (B) The physical safeguarding of assets transported to, within, and from the gaming facility;
 - (C) The prevention of illegal activity from occurring within the gaming facility or with regard to the gaming operation;

- (D) The recording of occurrences within the gaming facility that deviate from normal operating policies and procedures in accordance with Section 8.1.5 of the Compact;
 - (E) Employee procedures designed to permit detection of any irregularities, theft, cheating, fraud, or the like, consistent with industry practice;
 - (F) Customer conduct for patron exclusions;
 - (G) Maintenance of a closed-circuit television surveillance system consistent with industry standards for gaming facilities of the type and scale operated by the Tribe in accordance with Section 8.1.11 of the Compact;
 - (H) Maintenance of a cashier's cage in accordance with industry standards for such facilities;
 - (I) Minimum staff and supervisory requirements for each gaming activity to be conducted;
 - (J) Technical standards and specifications for the operation of gaming devices and other games to be conducted by the Tribe, which technical specifications shall be no less stringent than those approved by a recognized gaming testing laboratory in the gaming industry;
- (11) Maintain a list of persons barred from the gaming facility who, because of their past behavior, criminal history, or association with persons or organization, pose a threat to the integrity of the gaming activities of the Tribe or to the integrity of regulated gaming within the State of California;
- (12) Detain persons who may be involved in illegal acts within a gaming facility or regarding a gaming operation for the purpose of notifying appropriate law enforcement authorities;
- (13) In compliance with Section 8.1.10 of the Compact and other provisions thereof, establish rules of various games and standards for gaming machines and inspect and test games, tables, gaming machines, cards, chips, tokens and other gaming equipment for compliance with these rules and standards;
- (14) Resolve patron disputes;
- (15) Perform audits of business transactions to ensure compliance with regulations and/or policy;
- (16) Monitor gaming activities to ensure compliance with IGRA and implementing regulations, the Compact and the Tribe's laws and regulations;

- (17) Interact with other regulatory and law enforcement agencies regarding the regulation of gaming;
- (18) Conduct investigations of possible violations of this Ordinance, the Tribe's Gaming Ordinance and other tribal laws and regulations and take appropriate enforcement action, including but not limited to the following actions:
 - (A) Impose civil penalties not to exceed twenty-five thousand dollars (\$25,000.00) per each separate count or violation, where each day of violation shall constitute a separate count or violation;
 - (B) Inspect and examine all premises wherein gaming is conducted or gambling devices are used, manufactured, sold or distributed;
 - (C) Inspect all equipment and supplies in, upon or about a gaming operation, or inspect any equipment or supplies, wherever located, which may be, or have been, used in the gaming operation;
 - (D) Summarily seize and remove from a gaming operation (or wherever located) and impound such equipment or supplies for the purposes of examination, inspection, evidence or forfeiture;
 - (E) Demand immediate access to, and inspect, examine and audit all papers, books, and records of applicants and licensees, and require verification of income and all other matters affecting the enforcement of this Ordinance;
 - (F) Seize and impound any patron's winnings which the Gaming Agency has reason to believe may have been won or obtained in violation of this Ordinance pending a civil forfeiture hearing on such seizure;
 - (G) Conduct hearings on possible violations of the Tribe's laws, regulations, policies, standards or customs and traditions and take such testimony and receive such evidence as the Gaming Agency deems relevant;
 - (H) Issue subpoenas and compel the attendance of witnesses for hearings at any place within the Rancheria, to administer oaths and require testimony under oath;
- (19) Provide independent information to the Tribal Council on the status of the Tribe's gaming operations;
- (20) Take testimony and conduct hearings on regulatory matters, including matters related to the revocation of employee licenses;

- (21) Retain a paid staff, legal counsel and other consultants in accordance with any personnel ordinance, policies or procedures adopted by the Tribe, to be paid out of the Gaming Agency's annual budget;
- (22) Establish such policies, procedures, rules and regulations as are needed to carry out the purposes of this Ordinance, the Tribe's Gaming Ordinance, and any other ordinances passed by the Tribe; and
- (23) Delegate the above-mentioned powers to the Executive Director.

§ 3. Budget

- (a) At least ninety (90) days prior to the end of each fiscal year, the Gaming Agency shall prepare a budget for the next year's operation and shall submit the budget to the Tribal Council.
 - (1) In preparing the annual budget, all actual and anticipated surplus funds of the Gaming Agency shall be taken into account.
- (b) The Tribal Council shall adopt, amend or replace the annual budget and, based thereon, shall authorize the transfer of the annual capital the Gaming Agency may need for operation and program purposes.
- (c) Expenditures by the Gaming Agency shall be in accordance with the approved annual budget, except that the Gaming Agency may deviate from the terms of the adopted budget by a margin of not more than ten percent (10%) during the budget year without further approval of the Tribal Council.

§ 4. Appointment of Commissioners

Commissioners shall be appointed by the Tribal Council according to the following procedures:

- (a) All applicants for Commissioner shall complete an application adopted by the Tribal Council and shall submit to a background investigation to be conducted by the Gaming Agency in accordance with the Tribe's Gaming Ordinance and any rules or regulations adopted pursuant thereto.
- (b) At a duly called Tribal Council meeting, the Tribal Council shall vote for candidates who have applied for Commissioner. The Tribal Council shall vote separately to fill each vacancy on the Gaming Agency. The candidate with the highest number of votes cast shall be appointed.

§ 5. Qualifications of Commissioners

- (a) To serve as a Commissioner, an individual must be at least twenty-five (25) years of age, be a U.S. citizen, and have experience in one or more of the following fields: accounting, law, gaming operations; gaming management, gaming regulation, law enforcement or public administration.
- (b) Commissioners must pass a background investigation to be conducted by the Gaming Agency.
- (c) No member of the Tribal Council or their spouses or domestic partners and no employee of any gaming operation may serve concurrently as a Commissioner.
- (d) No more than one member of the same immediate family may serve on the Gaming Agency at the same time.
- (e) Any person who has been convicted of, or is currently being prosecuted for, a felony or a crime of moral turpitude, including, but not limited to, fraud, theft, and embezzlement, is not eligible to serve as a Commissioner.
- (f) Commissioners must submit to and be subject to the drug and alcohol policy of the Tribe.

§ 6. Term of Office

- (a) Commissioners shall serve for a term of three (3) years, with no limitation as to the number of terms served.
- (b) Amendments to the Gaming Ordinance shall not affect the terms of Commissioners already serving on the Gaming Agency.

§ 7. Resignation, Termination for Cause, Disqualification

- (a) Commissioners shall serve until the appointment of their successors, or until resignation, termination for cause, disqualification or death.
- (b) Any Commissioner may resign from office at any time. Resignations shall be made in writing delivered to the Tribal Council.
- (c) Termination for cause shall be ordered only by two-thirds (2/3) majority vote of the Tribal Council after a duly noticed hearing at which the Commissioner facing termination shall have the right to hear and present evidence concerning his/her termination.

- (1) Termination for cause shall include neglect of duty, misconduct, malfeasance, any cause that would disqualify a Commissioner from serving on the Gaming Agency, or any material omission or false statement in applying for appointment to the Gaming Agency.

§ 8. Vacancies

If any vacancy is created on the Gaming Agency by virtue of resignation, death or removal of a Commissioner, the Tribal Council shall appoint a replacement for the remainder of the current term. The appointment shall be made within thirty (30) days of the vacancy's occurrence.

§ 9. Compensation

- (a) Commissioners shall be paid a stipend at a rate to be established by the Gaming Agency's annual budget, which must be approved by the Tribal Council in accordance with this Ordinance.
- (b) Commissioners shall be reimbursed for necessary out-of-pocket expenses incurred in carrying out the duties and responsibilities of their position. Receipts or appropriate documentation shall be submitted for all expenses to be reimbursed.
- (c) In no event shall compensation be based on a percentage of net profits from the Tribe's gaming operations.

§ 10. Protections Against Conflicts of Interest

- (a) Commissioners and their immediate family members may not engage in any gaming activity at the Tribe's gaming operations.
- (b) If a Commissioner or a member of the Commissioner's immediate family has an existing or potential financial interest in any matter over which the Gaming Agency exercises decision-making authority, that Commissioner shall make full disclosure of that interest to the Gaming Agency and shall abstain from voting, or being present during any vote, on the matter. For the purposes of this Ordinance, the receipt of a per-capita distribution of gaming operation profits as paid to all eligible Tribal Members shall not constitute a financial interest in the gaming operation.
- (c) No Commissioner shall use or divulge any confidential information obtained while carrying out the duties and responsibilities of their position for the purpose of benefiting themselves or their immediate family, either directly or indirectly.

- (d) No Commissioner or member of a Commissioner's immediate family may receive personal compensation, gifts, reimbursement or payment of any kind from any person doing or wishing to do business with the Tribe relating to gaming nor with any person wishing to obtain an unfair advantage in any authorized wager on gaming. Any property received in violation of this provision, including cash payments, shall be immediately forfeited to the Tribe and the offending persons shall be prosecuted to the fullest extent possible. The Gaming Agency shall cooperate to the fullest extent possible with any Federal or State law enforcement agency to pursue prosecution under applicable Federal or State law.

§ 11. Reports

- (a) The Gaming Agency shall make at least one report a month to the Tribal Council which shall include a summary of the Gaming Agency's activities, including all licensing and enforcement actions, for the preceding month.
- (b) On or before April 30 of each year, the Gaming Agency shall provide to the Tribal Council an annual report summarizing the Gaming Agency's activities during the prior twelve month period ending on December 31, and accounting for all receipts and disbursements. Such annual report shall include an audited statement of accounting.
 - (1) The Tribal Council shall release a summary of the annual report to Tribal Members within thirty (30) days after receipt.

§ 12. Confidentiality

- (a) Each Commissioner, the Executive Director and any staff employed by the Gaming Agency shall be required to sign a confidentiality agreement and will be responsible for ensuring the strictest standards of confidentiality with respect to all information concerning the gaming operation or the Gaming Agency's business.
- (b) All information provided to or obtained by the Gaming Agency, the Executive Director or any staff employed by the Gaming Agency in performance of their duties shall be kept confidential and shall not be disclosed to any person or organization without the written consent of the Tribal Council.
- (c) The Gaming Agency, the Executive Director and any staff employed by the Gaming Agency may refuse to reveal in *any* court proceeding, the identity of any informant and/or the information obtained from the informant.

§ 13. Public Information

- (a) Public information, including identifiable public records, maintained by the Gaming Agency shall be available to any tribal official or Tribal Member during normal business hours maintained by the Gaming Agency upon reasonable notice and request.
- (b) In fulfilling requests for public information made by a tribal official or Tribal Member, the Gaming Agency shall not disclose confidential records or confidential information, except as required to perform mandated legal duties or comply with applicable legal requirements.

ARTICLE III: MEETINGS OF THE GAMING AGENCY

§ 1. Rules and Regulations

The Gaming Agency may adopt such rules and regulations for the conduct of their meetings and the management of the Gaming Agency as they may deem proper.

§ 2. Place

Meetings of the Gaming Agency shall be held at the Tribe's primary meeting facility on the Smith River Rancheria unless the Gaming Agency deems it appropriate to hold a meeting in another location.

§ 3. Regular Meetings

The Gaming Agency shall establish a regular schedule of meetings, and shall hold no less than two (2) meetings in each thirty-day period.

§ 4. Special Meetings

Special meetings of the Gaming Agency may be called at the request of the Executive Director or by any Commissioner.

§ 5. Quorum and Voting

- (a) A quorum of the Gaming Agency shall consist of two (2) Commissioners if there are three (3) Commissioners total serving on the Gaming Agency. If more than three (3) Commissioners are serving on the Gaming Commission, two-thirds (2/3) of the Commissioners shall constitute a quorum.
- (b) All actions or decisions of the Gaming Commission shall be taken by majority vote. Every act or decision done or made by the Commissioners

present at a meeting duly convened at which a quorum is present shall be regarded as an act of the Gaming Agency, subject to the provisions of this Ordinance and any applicable law.

- (c) In the absence of a quorum, no business shall be conducted other than for the purpose of information sharing only.
- (d) The conduct of Gaming Agency business shall be governed by such rules as the Gaming Agency adopts.

§ 6. Mode of Meeting

The Gaming Agency may conduct regular or special meetings through the use of any means of communication by which all Commissioners may simultaneously hear each other.

§ 7. Notice of Meetings

- (a) The schedule of regular meetings shall be sent to each Commissioner and the Executive Director, and no further notice of regular meetings is required to be given.
- (b) Notice of special meetings shall be given in writing to each Commissioner and the Executive Director at least twenty-four (24) hours prior to the meeting.
 - (1) Notices shall be given either personally, by telephone, by mail or by fax. Such notice shall state the place, date, and hour of the meeting and the general nature of the business to be transacted.
 - (2) In the case of a special meeting, no other business other than that set out in the notice may be transacted at the meeting, unless approved by unanimous vote of the Commissioners.
 - (3) Notice is not required when the requirement is waived by unanimous consent of the Commissioners. Such vote shall be recorded in the minutes of the meeting at which such vote was taken.

ARTICLE IV: OFFICERS

§ 1. Appointment and Term

- (a) At its initial meeting, the Gaming Agency shall select by majority vote from among its members a President, Vice-president, and Secretary-Treasurer.

- (b) Officers shall serve for one (1) year.
- (c) No officer shall serve in more than one office simultaneously.
- (d) The Gaming Agency shall work as a team and will maintain equal status among Commissioners.

§ 2. Duties of Officers

The duties and powers of the officers of the Gaming Agency are those specified in this Ordinance, and shall include any additional duties and powers as may be set by resolution of the Gaming Agency, provided that such duties and powers may not exceed the powers granted to the Gaming Agency by this Ordinance.

§ 3. President

The President shall preside over meetings of the Gaming Agency. The President shall be the principal executive officer of the Gaming Agency.

§ 4. Vice-President

In the absence of the President, the Vice-President shall perform all the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice-President shall have such other powers and perform such other duties as may be prescribed by the President.

§ 5. Secretary-Treasurer

The Secretary-Treasurer shall have the following duties:

- (a) The Secretary -Treasurer shall record in writing the minutes of all Gaming Agency meetings and all official actions taken by the Gaming Agency which shall be maintained in a book of minutes to be maintained at the Gaming Agency's main office. This shall include the time and place of meetings, whether regular or special, and if special, how authorized, the notice given, and the names of those present at such meetings.
- (b) The Secretary shall give, or cause to be given, notice of all meetings of the Gaming Agency required by this Ordinance to be given.
- (c) The Secretary shall keep the seal, if any, of the Gaming Agency in safe custody.
- (d) The Secretary-Treasurer shall monitor the fiscal activities of the bookkeeper and/or accountant retained by the Gaming Agency to maintain the financial records of the Gaming Agency.

§ 6. Vacancies

A vacancy in any office due to death, resignation, removal, disqualification, or any other cause shall be filled by the Gaming Agency within thirty (30) days of the appointment of the replacement Commissioner by the Tribal Council, and the Gaming Agency may at such time reassign as many Commissioners as necessary to new offices.

ARTICLE V: EXECUTIVE DIRECTOR

§ 1. Powers and Duties

- (a) The Executive Director shall be responsible for the day-to-day management of the affairs of the Gaming Agency and overseeing the establishment and operation of all gaming activities for compliance with all applicable Federal, State and Tribal gaming laws and regulations.
- (b) The Executive Director shall perform such duties as may be delegated by resolution of the Gaming Agency from time to time.

§ 2. Description of Position

- (a) The Executive Director shall be hired by the Gaming Agency and report directly and only to the Gaming Agency.
- (b) The Executive Director may be terminated for cause by a two-thirds (2/3) majority vote of the Gaming Agency.

§ 3. Qualifications

- (a) The Executive Director must be at least twenty-five (25) years of age, a U.S. citizen, and have experience in gaming management, gaming regulation, law, law enforcement and/or public administration.
- (b) A detailed background investigation shall be conducted on the Executive Director before his or her hiring.
- (c) Any person who has been convicted of, or is currently being prosecuted for, a felony or a crime of moral turpitude, including, but not limited to, fraud, theft, and embezzlement, is not eligible to serve as Executive Director.

§ 4. Compensation

The Executive Director shall be compensated in accordance with the provisions of his or her employment contract or tribal personnel policies. Compensation shall not be based, in whole or in part, on the profitability of the gaming operation. Compensation shall be paid out of the Gaming Agency's annual budget.

§ 5. Protections Against Conflicts of Interest

The restrictions imposed on Commissioners under Section 10 of Article II of this Ordinance shall apply equally to the Executive Director.

§ 6. Reports

- (a) The Executive Director shall make at least monthly reports to the Gaming Agency within thirty (30) days after the close of the month for which the information is being provided.
- (b) Said report shall, at a minimum, include a full and complete statement of auditing activities, expenses and all other financial transactions of the Executive Director, and summary of all licensing and enforcement actions.

ARTICLE VII: REVIEW

§ 1. Applicability of this Article

- (a) The provisions of this Article shall only apply in the absence of specific provisions relating to review of decisions contained in this Ordinance, another tribal ordinance, a Gaming Agency regulation, rule, standard, specification or policy, or other tribal law.
- (b) The Gaming Agency and the Tribal Court may adopt rules, regulations and procedures to implement this Article. Any such rules, regulations and procedures shall be binding.

§ 2. Executive Director's Decisions

- (a) Any person or entity adversely affected by a decision of the Executive Director, including but not limited to the gaming operation or any employee thereof, may petition the Gaming Agency for review of such decision within fifteen (15) days after receiving notice of the decision.
- (b) Said decision shall only be reversed by a majority vote of the Gaming Agency at a duly held meeting at which such matter has been placed on the agenda at least seven (7) days prior to such meeting.

§ 3. Gaming Agency's Decisions

- (a) Any person or entity adversely affected by a decision of the Gaming Agency, including but not limited to the gaming operation or *any* employee thereof, may petition the Tribal Court for review of such decision within fifteen (15) days after receiving notice of the decision.
- (b) Said decision shall only be reversed by a majority vote of the Tribal Court at a duly held meeting at which such matter has been placed on the agenda at least fifteen (15) days prior to such meeting.

§ 4. Tribal Court Decisions

The decisions of the Tribal Court shall be final and binding upon the petitioner, Executive Director or Gaming Agency and shall not be subject to judicial review, dispute resolution or other legal action.

ARTICLE VIII: MISCELLANEOUS PROVISIONS

§ 5. Indemnification

The Tribal Council shall indemnify any Commissioner or Officer or former Commissioner or Officer of the Gaming Agency, against expenses actually and reasonably incurred in connection with the defense of any action, suit or proceeding, civil or criminal, in which that individual is made a party by reason of being or having been such a Commissioner or Officer, except in relation to matters as to which the Commissioner or Officer or former Commissioner or Officer of the Gaming Agency shall be adjudged in such action, suit or proceeding to be liable for gross negligence, fraud or willful misconduct in the performance of duty to the Gaming Agency or Tribe.

§ 6. Sovereign Immunity

- (a) As an agency of the Tribal government, the Gaming Agency shall enjoy the full benefits of the Tribe's sovereign immunity, and any and all attributes of sovereignty enjoyed by the Tribal government.
- (b) The Gaming Agency has no authority to waive the Tribe's sovereign immunity.
- (c) The sovereign immunity of the Tribe is in no manner waived by this Ordinance or by any action by the Tribal Council, Gaming Agency, Commissioners, Executive Director or staff of the Gaming Agency acting pursuant to this Ordinance.

§ 7. Repeal

This Ordinance supercedes any conflicting or contrary superceding ordinances passed by the Tribe.

§ 8. Severability

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

§ 9. Amendment of Ordinance

This Ordinance may be amended or repealed by unanimous vote of the Tribal Council.

§10. Effective Date

This Ordinance shall take effect immediately upon adoption by a majority vote of the Tribal Council.

§11. Legislative History

This Chapter was adopted on September 20, 2000, as the Smith River Rancheria Ordinance Establishing the Smith River Rancheria Gaming Agency (Ordinance No. 00-05).