

**Contents**

7.2.100 Repeal of Inconsistent Legislation ..... 2

7.2.200 Policy ..... 2

7.2.300 Use of Community Gaming Net Revenues; Individual Per Capita Payments ..... 2

7.2.400 Payments to Minors and Legally Incompetent Persons..... 3

7.2.500 Notice of Federal and State Taxation; Social Welfare Programs; Withholding..... 4

7.2.600 Membership ..... 5

7.2.700 Debts Owed to the Tribe, Emergencies, and Child Support..... 5

7.2.800 Reservation Residency Not Required..... 5

7.2.900 Future Welfare Programs..... 5

7.2.1000 No Retroactivity of Payments to New Members ..... 6

7.2.1100 Adoption of Ordinance ..... 6

7.2.1200 Amendments or Repeal of this Ordinance..... 6

7.2.1300 Severability ..... 6

7.2.1400 Penalties..... 6

7.2.1500 Legality of this Ordinance ..... 6

7.2.1600 Sovereign Immunity ..... 6

7.2.1700 Enforcement and Dispute Resolution..... 6

**Hannahville Indian Community**  
**TITLE VII, Chapter 2**  
**Per Capita Ordinance**

**7.2.100 Repeal of Inconsistent Legislation**

Notwithstanding any previously applicable or inconsistent Tribal resolution or ordinance, which is hereby repealed or rescinded, this ordinance will govern the distribution of available proceeds from the gaming revenues of the Hannahville Indian Community.

**7.2.200 Policy**

It is the policy of the Hannahville Indian Community that all members of the Hannahville Indian Community shall be entitled to rights and privileges as being a member of such community creates and shall be entitled to equal shares of community gaming profits that the Tribal Council allocates to distribute to community members. Further, it is the policy of the Hannahville Indian Community that the terms of this ordinance comply with the Indian Gaming Regulatory Act of 1988 [25 U.S.C. sec. 2701 et seq.] wherein it states that per capita plans must be created to protect the interests of children and legally incompetent persons and that per capita payments are subject to federal taxation.

**7.2.300 Use of Community Gaming Net Revenues; Individual Per Capita Payments**

- (a) Net revenues means gross gaming revenues from an Indian gaming operation less:
  - (1) amounts paid out as or for prizes; and
  - (2) total gaming related operating expenses including debt service, excluding management fees,
  - (3) other expenses, including monies paid to the State of Michigan and local units of government for any reason by way of compact, contract, tax, or fee in lieu of taxation.
  
- (b) Per Capita means equal payments distributed to all members of the Tribe directly from gaming activities. This definition does not apply to funds set aside for social welfare programs, medical programs, education, housing or other similarly identified needs.
  
- (c) The primary purposes of gaming net revenues are as follows, and subject to the following limits of expenditures:
  - (1) up to 80% of gaming net revenues shall fund tribal government operations and programs,
  - (2) up to 60% of gaming net revenues shall fund tribal economic development,
  - (3) up to 50% of gaming net revenues shall fund the general welfare of the Tribe and its members,
  - (4) up to 5% of gaming net revenues shall fund charitable organizations,
  - (5) up to 10% of gaming net revenues shall fund the operations of local government agencies, and
  - (6) up to 49.9% of gaming net revenues shall fund per capita.

The expenditures listed in paragraph (b) and parts (1) - (6) of paragraph (c) of § 7.2.300 must not exceed one hundred percent (100%) of all tribal expenditures of gaming net revenues within the expenditure limits in (c).

- (d) Per capita payments if they are disbursed are to be made to all enrolled members of the Hannahville Indian Community. The amounts are to be determined at a regularly scheduled meeting by a majority vote subject to the expenditure limits in paragraph (c). Any expenditures outside of the expenditure limits in paragraph (c) require Secretary of Interior approval. Payments to minors and legally incompetent persons are distributed under the terms of section four.
  - (1) All per capita payments and amounts are at the discretion of the Tribal Council to be determined by a majority vote at any regularly scheduled meeting.
  - (2) The Tribal Council, upon majority vote, may reallocate per capita funds to primary government operations or programs as needed. A reallocation of funds does not diminish any plan to distribute per capita payments equally or those qualified to receive per capita payments in anyway if per capita payments are resumed at a later date.
    - (A) Any reallocation of funds will either diminish amounts of per capita payments equally or in the event no funds are available for per capita payments, no member shall receive a per capita payment.
    - (B) In the event that a reallocation of funds interrupts a distribution of per capita payments, a debt is not imposed upon the Hannahville Indian Community to later make back payments for missed per capita distributions.
    - (C) The Tribal Council will make its decision to reallocate funds publicly known to the membership. Such information shall be made available to the membership upon request at the administration building.
  - (3) Per capita payments are to be made on a semi-annual basis or as the Tribal Council sets as a payment schedule, upon a majority vote at a regularly scheduled meeting.
  - (4) All per capita payments are to be made by check issued directly to the enrolled recipient unless otherwise provided in this plan.

**7.2.400 Payments to Minors and Legally Incompetent Persons**

- (a) Minors, persons under the age of eighteen, are entitled to per capita payments in a share equal to the share received by other enrolled members.
  - (1) Per capita payments to minors shall be held and administered according to the terms of an interest bearing trust account titled "Irrevocable Trust for Children Enrolled in the Hannahville Indian Community."

- (2) Trust assets shall be prudently invested to insure a safe and reasonable return.
  - (3) The Tribal Council retains the power to pool assets of the trust account to obtain better returns.
  - (4) Trust account funds, principal and interest earned, shall be distributed to the named recipient according to the terms of the "Irrevocable Trust for Children Enrolled in the Hannahville Indian Community."
- (b) Legally incompetent persons are entitled to per capita payments in amounts equal to shares received by all other enrolled members.
- (1) Legally incompetent persons shall have a trust account, approved by the Tribal Council, established for the health, welfare, and education of such persons.
  - (2) The Tribal Council shall oversee, as trustee, the expenditure of trust funds for incompetent persons or delegate such duties in writing, upon a majority vote, to the legal guardian of the incompetent person to use the funds for the health, welfare, or education of such incompetent person.
  - (3) The legal guardian must provide written documentation on a monthly basis to the trustee describing the use of trust funds for the benefit of the incompetent person.
  - (4) The Tribal Council shall not be compelled to release the trust monies of an incompetent person at any specific date.

**7.2.500 Notice of Federal and State Taxation; Social Welfare Programs; Withholding**

- (a) All per capita payments made under §§ 7.2.300 and 7.2.400 shall be accompanied with the following:
- (1) A notice that all per capita payments are subject to federal income taxation.
  - (2) Notice that all members living off the reservation may be subject to state income taxation depending upon applicable state law.
  - (3) Notice to the recipient that the Tribe has not withheld taxes in the distribution.
  - (4) A notice that the receipt of a per capita payment may result in the reduction of any social welfare benefits the recipient currently receives.
- (b) In the event that per capita payments to tribal members exceed the basic standard deduction and the exemption amount as defined in §§ 63(c) and 151(d) of the Internal Revenue Code, the tribe shall:
- (1) deduct and withhold from such payment a tax in the amount equal to such payment's proportional share of the annualized tax in order to comply with 26 U.S.C. sec. 3402(r)(1).

**7.2.600 Membership**

- (a) Eligibility for per capita payments is based upon a membership determination as defined in Article III, sections 1-3 of the Constitution and Bylaws of the Hannahville Indian Community.
- (b) Membership is deemed valid upon the completion of all required paperwork to complete the membership process. Member status is not presumed during any appeal process following a denial of membership.
- (c) Only a member is eligible for a per capita payment.

**7.2.700 Debts Owed to the Tribe, Emergencies, and Child Support**

- (a) The Hannahville Indian Community, at the discretion of the Tribal Council, retains the power to withhold a per capita payment to a member who defaults on a loan from the Tribe, defaults on a loan co-signed by the Tribe, or for any debt owed to the Tribe. The power to withhold a per capita payment survives as long as there is a debt owed to the Tribe.
- (b) The Hannahville Indian Community, at the discretion of the Tribal Council, retains the power to advance a per capita payment before the next distribution date in the case of an emergency, provided there are funds available. The Tribal Council determines which situations constitute an emergency.
- (c) The Hannahville Indian Community, at the discretion of the Tribal Council, retains the power to withhold Hannahville Tribal Court ordered child support, so long as the amount withheld does not interfere with the collection of other Tribal debts as outlined in this § 7.2.700 above. If the Tribal member has debts owed to the Hannahville Indian Community and for child support, then the debts owed to the Hannahville Indian Community are to be given priority over any child support obligations. Said withholdings may be done by voluntary consent of the debtor or by order of the Tribal Court, even if the debtor does not accept the per capita payment or attempts to assign it to someone else. In any event, all funds withheld shall be reported to the appropriate taxing authority as income for purposes of federal taxation. Individuals who have Hannahville Tribal Court child support arrears may not apply for advancement (early disbursement) of otherwise available per capita payment. If there are more than one child support order, then withholding should be apportioned equally among the child support orders.

**7.2.800 Reservation Residency Not Required**

There shall be no requirement that qualified recipients of per capita payments must maintain a residence on the Hannahville Indian Community Reservation to receive per capita payments.

**7.2.900 Future Welfare Programs**

At the discretion of the Tribal Council, future programs that provide for the health, welfare, education, housing or similar programs, which benefit the community and its members, may be established. Per capita payments may be reallocated to such programs following the steps

established in §§ 7.2.300(d)(2)(A-C). A majority of the Tribal Council at any regularly scheduled meeting may enact such programs.

**7.2.1000 No Retroactivity of Payments to New Members**

Any new member of the Hannahville Indian Community shall not be entitled to any back payments of per capita proceeds. Per capita payments began on the first scheduled date after enrollment is granted and ceases upon the death of a member.

**7.2.1100 Adoption of Ordinance**

Adoption of this ordinance by resolution must take place by a majority vote of the Tribal Council at a regularly scheduled meeting. A copy of this approved ordinance and resolution shall be forwarded to the Secretary of Interior or his authorized agent for federal approval. This ordinance shall go into effect upon federal approval.

**7.2.1200 Amendments or Repeal of this Ordinance**

This ordinance or any section, provision, or word may be amended or repealed upon a majority vote of the Tribal Council at any regularly scheduled meeting. All amendments shall be subject to the approval of the Secretary of Interior or his authorized agent before it becomes effective.

**7.2.1300 Severability**

If any section or part of this ordinance is deemed invalid by any court establishing competent jurisdiction or by the Department of Interior, the remainder of this ordinance shall not be effected and remains in force.

**7.2.1400 Penalties**

Any person who violates this ordinance by wrongfully receiving or distributing funds shall be subject to civil penalties of \$ 1,500 or three times the amount received or distributed, whichever is greater. Any person who violates this ordinance may also be subject to criminal prosecution under applicable provisions of the Hannahville Indian Community Criminal Code and applicable federal laws. The Tribe's right to seek administrative remedies shall not be impaired by any ongoing civil or criminal proceedings.

**7.2.1500 Legality of this Ordinance**

Nothing in this ordinance providing for the distribution of per capita payments to members is inconsistent with any provision of the Hannahville Indian Community Constitution, Bylaws, or Corporate Charter. This ordinance complies with the Indian Gaming Regulatory Act, 25 U.S.C. sec. 2701 et seq. (1988).

**7.2.1600 Sovereign Immunity**

Nothing in this ordinance is intended nor shall be construed as a waiver of the sovereign immunity of the Hannahville Indian Community.

**7.2.1700 Enforcement and Dispute Resolution**

The Hannahville Indian Community Tribal Court shall have jurisdiction and authority to review the expenditure of net gaming revenues in accordance with this Ordinance, to enforce this

Ordinance and appropriately remedy any instance of non-conformance, and to resolve any disputes arising from the allocation of net gaming revenue and the distribution of per capita payment.

**Approved on January 8, 2019 by a vote of 10 in support, 0 in opposition, and 0 abstaining.**