



## **Summary of Provisions of the Commission's Phase 2 Regulations and Modifications to Phase 1 Regulations That May be Important to Host and Potential Surrounding Communities**

### **Host Community Agreement**

- An applicant must execute an agreement with the host community, which shall be posted on the community's web site within 7 days of execution. Note: neither the Expanded Gaming Act nor the Commission's regulations attempt to specify which municipal body or bodies have the authority to execute a host community agreement. The Commission has stated that communities will need to make such a determination in accordance with local law.
- A summary of the agreement shall also be made available on the community's Web site and must be publicized in a periodical of general circulation within 7 days of execution of the host community agreement.
- The applicant shall send both the agreement and the summary to the Commission for posting on its Web site.
- The Commission's posting shall outline the process by which any community may request that it be added to a list of prospective surrounding communities to that gaming establishment.

### **Host Community Elections**

- No community may host a gaming application referendum until the Commission determines the applicant to be suitable. However, communities may move forward with the referendum prior to the determination of suitability upon a vote of the community's governing body and after a public education campaign, including a mailing sent to likely voters informing them about the suitability process.
- The polls for the referendum shall be kept open for at least thirteen hours, shall not be closed before 8 p.m., may be open as early as fifteen minutes before 6 a.m. and shall be open no later than 7 a.m.
- The applicant shall send to the Commission a copy of the applicant's request for the scheduling of the referendum.
- The governing body of a community shall send a letter to the applicant acknowledging receipt of the request and shall forward a copy of the letter to the Commission.

### **Determination of Surrounding Communities and Execution of Mitigation Agreements**

- A community can become designated a surrounding community by the Commission in three ways: (1) the applicant designates the community in its RFA-2 application as a surrounding community and the community assents to the designation in writing, (2) the applicant and the community execute a surrounding community agreement that is submitted as part of the applicant's RFA-2 application, or (3) the community petitions the Commission for designation as a surrounding community no later than 10 days after the RFA-2 application is submitted.
- Note: neither the Expanded Gaming Act nor the Commission's regulations attempt to specify which municipal body or bodies have the authority to execute a surrounding community agreement. The Commission has stated that communities will need to make such a determination in accordance with local law.
- The petitioning community shall send a copy of any surrounding community petition to the applicant, which has 10 days to provide a response to the Commission.
- The Commission will then make a determination on the petition at an open meeting, at which time it may allow presentations or information from the community and the applicant.
- The Commission will consider numerous factors, including geographic proximity to the host community and the gaming facility, and projected impacts from the facility in determining whether a community is a surrounding community.

### **Commission Required Negotiation and Arbitration of Surrounding Community Agreements**

- If the Commission determines that a community is a surrounding community, the Commission will require the applicant and the community to negotiate a surrounding community agreement for up to 30 days.
- In the event the community and the applicant do not reach agreement in the 30 days, the Commission will require the parties to participate in binding arbitration.
- Within 5 days after the 30 day negotiation period, the community and the applicant shall choose an arbitrator or arbitrators and shall file with the Commission a best and final offer for a surrounding community agreement.
- Within 20 days of the submission of the best and final offers, the arbitrator(s) shall conclude the arbitration proceedings and shall file a report with the Commission which shall specify which best and final offer selected by the arbitrator.
- No later than 5 days after the arbitrator's report, the parties shall execute a surrounding community agreement and file it with the Commission.

## **Community Disbursements**

- The Commission's Phase 1 regulations allow for the disbursement of funds to a community to study potential impacts and for the negotiation of a host or surrounding community upon the authorization by the applicant.
- The Phase 2 regulations provide for so-called involuntary disbursements; that is, without the assent of the applicant.
- Communities may file a petition with the Commission to require applicants to provide such funding beginning 21 days after the execution of host community agreement by the applicant.
- The 21 day waiting period does not apply if the date of an involuntary disbursements petition is within 90 days of the Category 1 application deadline for Category 1 applicants or 60 days of the Category 1 application deadline for Category 2 applicants.
- Communities petitioning the Commission for involuntary disbursements must demonstrate a likelihood that they will be designated as a surrounding community, must demonstrate that the risk that the community will not be able to properly determine the impacts of a proposed gaming establishment without the funds outweighs the burden of the actual financial assistance cost that will be borne by the applicant, and must demonstrate that they previously requested the funding and were rejected by the applicant.