



June 26, 2026

Chairman Mark N. Fox
Three Affiliated Tribes of the Fort Berthold Indian Reservation
307 5th Ave
New Town, ND 58763

Re: Submission of Code of Laws, Chapter 27, Resolution No. 26-031-FWF

Dear Chairman Fox:

This letter serves to inform you that the Code of Laws of the Three Affiliated Tribes of The Fort Berthold Reservation, Chapter 27 (Ordinance), approved for submission via Resolution No. 26-031-FWF by the Tribal Business Council of the Mandan Hidatsa and Arikara Nation, also known as Three Affiliated Tribes (Nation), and received by the NIGC on March 3, 2026, is approved by operation of law.

Pursuant to the Indian Gaming Regulatory Act (IGRA), the NIGC Chair has 90 days from the date of submission to either approve or disapprove a gaming ordinance.¹ Any ordinance not acted upon at the end of the 90-day period is considered to have been approved by the Chair, but only to the extent it is consistent with IGRA and NIGC regulations.² The Chair position is currently vacant. Therefore, the Nation's Ordinance is considered approved by operation of law as of June 2, 2026, but only to the extent that it is consistent with IGRA and NIGC regulations.

It is the opinion of the Office of General Counsel that the Ordinance as amended is consistent with IGRA and NIGC regulations. However, I note that the inclusion of the IGRA definition of Indian lands within the definition of "Reservation" in the Ordinance could potentially pose³ issues. Generally, IGRA defines Indian lands as: (1) reservation lands; and (2) trust lands or lands subject to restriction against alienation over which the tribe exercises governmental power. In implementing the definition of Indian lands as defined in the Ordinance, please keep in mind that reservation lands are treated differently under IGRA than other types of

¹ 25 U.S.C. § 2710(e).

² *Id.*

³ Ordinance § 1.2.17.

Letter to Chairman Mark N. Fox

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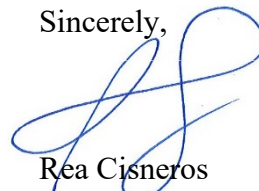
Indian lands. For example, gaming is generally prohibited on trust land acquired after 1988, but permitted if the land is within the reservation. To avoid any unintentional gaming on ineligible lands, please keep in mind IGRA's prohibition on gaming on after-acquired trust lands.⁵

I also note that the Ordinance authorizes individually-owned gaming. Games operated by an entity other than the Nation, including games operated by charitable organizations and local tribal districts as well as for-profit and other non-tribal operations are considered individually owned gaming and the individually-owned gaming requirements specified in the Ordinance⁴ apply. Please see Bulletin No. 1998-1 for additional information.

As a reminder, IGRA authorizes gaming only on Indian lands as they are defined in the Act.⁵

If you have any questions, please feel free to contact me or Jennifer Lawson, NIGC Senior Attorney at 202-418-9814.

Sincerely,



Rea Cisneros
Acting General Counsel

⁴ Ordinance § 3.2.

⁵ 25 U.S.C. § 2703(4).



**RESOLUTION OF THE GOVERNING BODY OF THE
THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD INDIAN RESERVATION**

A Resolution entitled, "Approving Amendment to the Tribal Gaming Ordinance"

WHEREAS, The Mandan Hidatsa and Arikara Nation (the "Nation"), also known as the Three Affiliated Tribes, having accepted the Indian Reorganization Act of June 18, 1934, the authority under said Act, and having adopted a Constitution and By-laws (the "Constitution") under said Act, and

WHEREAS, Pursuant to Article III, Section 1 of the Constitution, the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, Pursuant to Article VI, Section 5(1) of the Constitution, the Tribal Business Council has the power to adopt Resolutions regulating the procedures of the Tribal Council, its Agencies and Officials; and

WHEREAS, Article IX, Sections 1 and 3 of the Constitution, provides that the Tribal Business Council has the authority to manage and lease or otherwise deal with tribal lands and resources; and

WHEREAS, Article VI, Section 5(c) of the Constitution specifically authorizes and empowers the Tribal Business Council to administer funds within the exclusive control of the Nation and to make expenditures from available Tribal funds for public purposes for the Nation; and

WHEREAS, The Indian Gaming Regulatory Act has undergone updates to its regulation; and

WHEREAS, The Tribe's Gaming Ordinance ("Ordinance") requires updates to comply with the updated IGRA regulations; and

WHEREAS, The Tribe wishes to allow for Class II gaming by charitable organizations and at bingo and powwow events.

NOW THEREFORE BE IT RESOLVED, that the Gaming Ordinance shall be amended as shown in **Attachment A** which illustrates the changes through redline.

BE IT FURTHER RESOLVED, pursuant to Resolution No. 08-9560MP the Tribal Business Council waives the reading and requirement for amendment of the Gaming Ordinance.



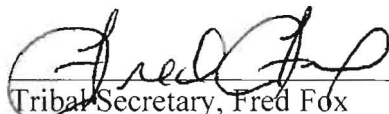
BE IT FINALLY RESOLVED, that the Tribal Chairman is hereby authorized to take such further action as are deemed necessary to carry out the terms and intent of this Resolution.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 9th day of February, 2026, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 members opposed, 1 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman ☒ Voting. ☐ Not Voting.

Dated this 9th day of February, 2026



Tribal Secretary, Fred Fox
Tribal Business Council
Three Affiliated Tribes



Tribal Chairman, Mark N. Fox
Tribal Business Council
Three Affiliated Tribes

GAMING
CHAPTER 27

CODE OF LAWS OF THE THREE
AFFILIATED TRIBES OF THE FORT
BERTHOLD RESERVATION

An Ordinance to authorize, license and regulate
gaming on lands of the Three Affiliated Tribes.

SECTION 1. DECLARATION OF POLICY AND DEFINITIONS

- 1.1 It is the declared policy of the Three Affiliated Tribes:
 - 1.1.1 That gaming conducted on Indian lands of the Three Affiliated Tribes shall be regulated by the Council for the protection of the public health, welfare and morals of all residents, employees and persons who visit the reservation for gaming purposes from the adverse affects which may flow from unregulated gaming;
 - 1.1.2 That is the objective of the Tribe (i) to achieve the maximum potential for Tribal revenue from gaming and (ii) to sustain the highest achievable levels of tribal revenue from gaming; and
 - 1.1.3 That the conduct of gaming activities provided for by this Ordinance within lands of the Three Affiliated Tribes and regulation thereof shall be in conformance with the Indian Gaming Regulatory Act, 102 Stat. 2467, 25 U.S.C. § 2701 et seq. (IGRA)
- 1.2 As used in this Ordinance, unless the context requires otherwise:
 - 1.2.1 Adjusted gross revenues mean gross revenues less cash prizes or the cost of merchandise prizes;
 - 1.2.2 Cheating means operating or playing in a game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for himself/herself or someone in privity with him/her an advantage over and above the chance of the game;
 - 1.2.3 Class I gaming means that gaming defined in 25 U.S.C. § 2703(6), and by the regulations promulgated by the National Indian Gaming Commission (NIGC) at 25 CFR § 502.2.
 - 1.2.4 Class II gaming means that gaming defined in 25 U.S.C. § 2703(7), and by the regulations promulgated by the NIGC at 25 C.F.R. § 502.3;
 - 1.2.5 Class III gaming means that gaming defined in 25 U.S.C. § 2703(8), and by the regulations promulgated by the NIGC at 25

C.F.R. § 502.4;

- 1.2.6 Commission means the Tribal Gaming Commission as established pursuant to section 2 of this Ordinance.
- 1.2.7 Council means the Tribal Business Council as described in the Tribal Constitution;
- 1.2.8 Gaming means risking any money or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gaming apparatus, or the happening or outcome of an event over which the person taking the risk has no control;
- 1.2.9 Gaming establishment means any location or structure, wherein gaming is licensed, promoted, performed, conducted, or operated;
- 1.2.10 Gross revenues means all moneys collected or received from a gaming operation and admissions thereto;
- 1.2.11 In privity with means one who acts jointly with another or as an accessory before the fact to an act committed by the other or as a co-conspirator with the other;
- 1.2.12 Key employee means:
 - 1.2.12.1 A person who performs one or more of the following functions for the gaming operation:
 - (i) Bingo caller;
 - (ii) Counting room supervisor;
 - (iii) Chief of security;
 - (iv) Custodian of gaming supplies or cash;
 - (v) Floor manager;
 - (vi) Pit boss;
 - (vii) Dealer;
 - (viii) Croupier;
 - (ix) Approver of credit;
 - (x) Custodian of gaming systems as defined in 25 CFR 547.2 and similar Class III systems, gaming cash or gaming cash equivalents, gaming supplies or gaming system records;
 - (xi) Custodian of surveillance systems or surveillance system records.
 - 1.2.12.2 Any gaming operation employee authorized by the gaming operation for unescorted access to secured gaming areas as designated as secured gaming areas by the Commission
 - 1.2.12.3 If not otherwise included, the four most highly compensated persons in the gaming operation; or
 - 1.2.12.4 Any other employee of the gaming enterprise the

Commission documents as a key employee

- 1.2.13 Net revenues means gross gaming revenues of any gaming operation less:
- 1.2.13.1 Amounts paid out as, or paid for, prizes; and
 - 1.2.13.2 Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements but excluding management fees.
- 1.2.14 Persons means any individual, firm, partnership, corporation, corporation, company or association;
- 1.2.15 Player means a person participating in a game with the hope of winning money or other benefit but does not include a licensee, or any assistant of a licensee;
- 1.2.16 Primary management official means:
- 1.2.16.1 Any person having management responsibility for a management contract;
 - 1.2.16.2 Any person who has authority:
 - (i) To hire and fire employees of the gaming operation; or
 - (ii) To establish policy for the gaming operation;
 - 1.2.16.3 The chief financial officer or a position with duties similar to a chief financial officer;
 - 1.2.16.4 The general manager or a position with duties similar to a general manager;
 - 1.2.16.5 Any other employed management official of the gaming enterprise as documented by the Tribe as a primary management official;
- 1.2.17 Reservation means the Fort Berthold Indian Reservation specifically including all lands, whether title thereto is held in trust or in fee, situated within the exterior boundaries thereof, as such boundaries were established by the Act of March 3, 1891, 26 Stat.1032, and such other Indian lands as provided in 25 U.S.C. § 2703(4);§
- 1.2.18 Indian Lands means all lands within the limits of the Reservation and any lands title to which is either held in trust by the United States for the benefit of the Tribe or individual or held by the Tribe or individual subject to restriction by the United States against alienation and over which the Tribe exercises governmental power

1.2.19 Tribe means the Three Affiliated Tribes.

SECTION 2. TRIBAL GAMING COMMISSION

- 2.1 There is hereby established a gaming Commission which shall be called the Three Affiliated Tribes' Tribal Gaming Commission. The Commission shall have ~~five~~ seven (7) members ~~and one alternate member~~ all of whom shall be appointed by the Tribal Business Council. The Commission shall be filled by selecting from the adult enrolled members of the Three Affiliated Tribes resident on the Reservation. The members ~~and alternate member~~ of the Commission shall serve terms of four (4) years. Successor Commission members shall be designated not sooner than sixty (60) days nor later than thirty (30) days before the terms of the members expire. A Commission member may be removed during his or her term for cause upon a two-thirds vote of the members voting of the Council. Vacancies which occur by death, disability, resignation or removal shall be filled by the Council within thirty (30) days after the vacancy occurs, and such replacement shall serve the remainder of the terms of the former member.
 - 2.1.1 The Commission shall be funded in accordance with a budget prepared by the Commission and as approved by the Council.
- 2.2 No member ~~or alternate member~~ of the Commission shall engage in any business which is subject to regulation by the provisions of this Ordinance.
- 2.3 The Commission shall act by majority vote of a quorum present and each member of the Commission shall be entitled to one vote ~~except that the alternate member shall only be entitled to vote in place of an absent member~~. A quorum shall consist of ~~three members, or two members and the alternate member~~ five (5) members.
- 2.4 The Tribal Business Council shall appoint the members ~~and alternate member~~ of the Commission as soon as possible after the effective date of the Ordinance. Such members ~~and alternate members~~ shall assume their offices immediately upon appointment, and shall serve until their successors are appointed.
- 2.5 The Commission shall elect from among its members a Chairman, ~~a Comptroller,~~ and such other officers as the Commission may deem appropriate. ~~The Comptroller shall be bonded, and shall be responsible for all money collected by the Commission.~~
- 2.6 Gaming Commissioners may be compensated for services at an amount determined by the Tribal Business Council of the Three Affiliated Tribes.
- 2.7 The Gaming Commission may be staffed by personnel who shall assist the Commission with its regulatory functions, according to a budget and staffing plan developed by the Commission and approved by the Tribal Business Council. Gaming Commission personnel shall be recruited and selected by the Tribal Business Council but be under the immediate and direct supervision of the Commission.

SECTION 3. GAMING AUTHORIZED

- 3.1 The Tribe, except as provided for in Section 3.2 of this Ordinance and 25 C.F.R. § 522.11, shall have sole proprietary interest in all gaming authorized by this section. .
- 3.2 Individual gaming is authorized so long as it complies with the following requirements
 - 3.2.1 The gaming operation is licensed and regulated under this Ordinance;
 - 3.2.2 That income to the tribe from an individually owned gaming operation be used only to fund tribal government operations or programs, to provide for the general welfare of the tribe and its members (and if the Tribe elects to make a per capita distribution the plan must be approved by the Secretary of the Interior pursuant to 25 U.S.C. §2710(b)(3), to promote tribal economic development, to donate to charitable organizations, or to help fund operations of local government agencies;
 - 3.2.3 That not less than 60 percent of the net revenues be income to the Tribe;
 - 3.2.4 That the owner pay an assessment to the National Indian Gaming Commission as required by 25 C.F.R. §514.1;
 - 3.2.5 That the licensing standard are at least as restrictive as those established by the State of North Dakota governing similar gaming; and
 - 3.2.6 A license will be denied to any person or entity that would not be eligible to receive a State of North Dakota license to conduct the same activity within the State of North Dakota and that North Dakota standards shall apply with respect to purpose, entity, pot limits, and hours of operation.
- 3.3 The following Class I games may be licensed for conduct on the Reservation or Indian Land: Social games played solely for prizes of minimal value; traditional forms of Indian gaming engaged in as a part of tribal ceremonies, celebrations or pow wows, including but not limited to rodeos or horse races and “stick” or “bone” games; and as further defined in 25 C.F.R. § 502.2.
- 3.4 Class II games as follows may be licensed for conduct on the Reservation or Indian Land: bingo (whether or not electronic, computer, or other technologic-aids are used in connection therewith) including, if played in the same location, pull-tabs, lotto, punchboards, tip jars, instant bingo, and other games similar to bingo and as may be further defined in 25 C.F.R. § 502.3.
- 3.5 Class III games as follows may be licensed for conduct on the Reservation or Indian Land: gaming to the full extent authorized by and in accordance with the procedures of the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., and as further defined in 25 CFR § 502.4 and the currently in effect gaming compact with the State of North Dakota which includes the ability to implement and use mobile gaming pursuant to 3.2 of the 2022 Gaming Compact.

SECTION 4. TRIBAL GAMING COMMISSION AUTHORITY

- 4.1 The Tribal Gaming Commission shall have the authority and responsibility to:
- 4.1.1 receive applications to license and conduct Class I gaming activities on the Reservation or Indian Land.
 - 4.1.2 receive applications to license and conduct Class II gaming activities on the Reservation or Indian Land.
 - 4.1.3 receive applications to license and conduct Class III gaming activities on the Reservation or Indian Land upon such terms and conditions which may be provided for in any compact entered into between the Three Affiliated Tribes and the State of North Dakota.
 - 4.1.4 enforce and administer the provisions of this Ordinance, the IGRA, and the Tribal/State Compacts;
 - 4.1.5 upon application issue and renew gaming licenses and permits as provided in this Ordinance and in regulations promulgated by the Commission;
 - 4.1.6 grant, revoke, suspend, or condition a license or deny an application for a license for a violation of this Ordinance or federal laws and regulations governing the conduct of gaming;
 - 4.1.7 promulgate regulations governing the procedures of the Commission implementing this Ordinance;
 - 4.1.8 collect fees and interest as provided in this Ordinance and the IGRA;
 - 4.1.9 levy and collect penalties as provided in this Ordinance;
 - 4.1.10 increase the respective amounts of the annual license and permit fees, provided that such fees shall not be increased retroactively;
 - 4.1.11 audit expenditures, receipts, and reports;
 - 4.1.12 review, on demand, such books and records and inspect the premises and operations of applicants and licensees as it deems necessary for the enforcement of this Ordinance;
 - 4.1.13 issue such forms as it deems necessary;
 - 4.1.14 institute such legal proceedings in a court of competent jurisdiction as it deems necessary for the enforcement of this Ordinance. Such action taken, however, shall not be deemed an express or implied waiver of sovereign immunity of the Commission or the Tribe;
 - 4.1.15 conduct hearings on matters involving the application for any license required by this Ordinance and as may otherwise be required in this Ordinance.
 - 4.1.16 deposit all fees, penalties, interest and civil fines collected under authority of this Ordinance into an account designated by the Council;

- 4.1.17 maintain a correct and full accounting of all fees, penalties, interest, and civil fines received under authority of this Ordinance, and provide a monthly record of that accounting to the Council upon its request;
- 4.1.18 take all actions and issue orders necessary to perform properly and fully its duties and responsibilities under this Ordinance with all protection otherwise afforded to members of the Tribal Business Council and its employees including but not limited to sovereign immunity from any legal action taken against the Commissioners, its staff, contractors and employees.
- 4.1.19 resolve disputes and complaints of the gaming public;
- 4.1.20 prepare a budget sufficient to carry out the duties of the Commission under this Ordinance; and
- ~~4.1.21 employ such staff as necessary to administer and enforce this Ordinance.~~

SECTION 5. GAMING LICENSE REQUIRED

- 5.1 A tribal gaming license shall be required for each person having a management contract, each primary management official and key employee, and such other employees as designated by the Commission in its rules.
- 5.2 Each gaming establishment shall be separately licensed by the gaming Commission. No gaming shall be conducted at any place, location or facility without a duly issued license.

SECTION 6. APPLICATION FOR LICENSES

- 6.1 Application for an initial license or renewal of an existing gaming license shall be made for each gaming establishment in the form prescribed by the Commission and shall set forth the name under which the applicant transacts or intends to transact business on the Reservation or Indian Land, and the location of the gaming establishment for which the initial issuance or renewal of a gaming license is sought. The application shall be signed by the applicant if a natural person; or, in the case of an association or partnership, by a member or partner thereof, or in the case of a corporation, by an executive officer thereof; or, by some other person specifically authorized by the corporation to sign the application, in which case written evidence of the signatory authority shall be attached. In addition, the applicant shall provide evidence of authority of the signatory or any other representative to act for and bind the applicant. If any change is made in that authority, the Commission shall immediately be informed in writing and until that information is filed with the Commission any action of the representative shall be presumed to be that of the applicant.
- 6.2 Prior to issuing a license to a key employee or management official, the Commission shall **conduct a background investigation which at a minimum shall be consistent with 25 C.F.R. Part 556 pursuant to 25 C.F.R. § 522.5(b)(5), as**

amended and ensure that such employee or official has properly completed the “Personal History Statement for Key Employees and Primary Management Officials” attached hereto as Appendix 1. Unless they have previously completed the Appendix 1 form or another form which contains the information required by 25 C.F.R. § 556.4 (including the notices specified herein), the Commission shall notify existing key employees or management officials that they must sign both a statement containing a notice regarding false statements and a statement containing a Privacy Act notice and consent to routine uses.

6.2.1 The Privacy Act Notice must use the following language: In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701 *et seq.* The purpose of the requested information is to determine the eligibility of the individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe being unable to license you for a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

6.2.2 The false statements notice shall use the following language: A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (18 U.S.C. § 1001).

- 6.3 Each applicant shall be accompanied by payment of the appropriate annual license fee and evidence of compliance with applicable ordinances of the Tribe, including the Tribal Employment Rights Ordinance (TERO).
- 6.4 The Commission shall conduct an investigation sufficient to make a determination under Section 7 below. In conducting a background investigation, the Commission or its agent shall keep confidential the identity of each person interviewed in the course of the investigation. Fingerprints taken by the Commission or on behalf of the Commission by the North Dakota Bureau of Criminal Investigation shall be submitted through the National Indian Gaming Commission or the State of North Dakota to the Federal Bureau of Investigation for the fingerprint check. In addition, for Class III gaming, the Commission shall conduct an investigation as required by the Tribal/State Compact. The Commission may by regulation establish a schedule of fees applicable to background investigations.
- 6.5 A background investigation pursuant to 6.4 shall request at a minimum the following information of the applicant:

- 6.5.1. The full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages spoken or written;
 - 6.5.2 Currently and for the previous five years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
 - 6.5.3 The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under 6.5.2;
 - 6.5.4 Current business and residence telephone numbers;
 - 6.5.5 A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
 - 6.5.6 A description of any existing and previous business relationships with the gaming industry generally, including any ownership interest in those businesses;
 - 6.5.7 The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
 - 6.5.8 For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
 - 6.5.9 For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
 - 6.5.10 For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to 6.5.8 or 6.5.9, the criminal charge, the name and address of the court involved and the date and disposition;
 - 6.5.11 The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
 - 6.5.12 A photograph;
 - 6.5.13 Any other information deemed relevant by the Commission; and
 - 6.5.14 Fingerprints which shall be processed in accordance with 6.4. above.
- 6.6 The Commission shall maintain an individual's complete application file. That file shall include the background investigation information required by Section 6.5 above and any other information the Commission deems necessary.

SECTION 7. ISSUANCE OF LICENSES

- 7.1 Upon receipt of a complete application, the Commission shall review an applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or

primary management official for employment and licensing in a gaming operation. If the Commission determines that employment or licensing of the applicant poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the applicant shall not be employed or licensed.

- 7.2 The Commission may issue or renew a gaming license to an applicant who submits a proper and completed application and pays the appropriate annual fee, provided that no license shall be issued to or renewed for an applicant:
 - 7.2.1 who is not a person of good character, honesty, and integrity;
 - 7.2.2 whose prior activities, criminal record, reputation, habits, and association pose a threat to the public interest of the Reservation or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods, and activities in the conduct of gaming, or the carrying on of the business and financial arrangements incidental to the conduct of gaming;
 - 7.2.3 who has had, or who is in privity with anyone who has had, a gaming license revoked for cause in any jurisdiction;
 - 7.2.4 who is delinquent in the payment of any obligation owed to the Tribe pursuant to this Ordinance or a management contract;
 - 7.2.5 who has failed to comply with this Ordinance or any resolution adopted by the Council;
 - 7.2.6 who occupies a competing position within a five hundred mile radius of the tribal gaming enterprise.
- 7.3 Each license shall be valid for one-year following issuance.
- 7.4 A license may not be assigned or transferred and is valid only for use by the person in whose name it is issued and at the gaming establishment for which it is issued. A license issued to a gaming organization or individual licensee shall be conspicuously displayed at all times. The Commission shall only provide individual licenses in three circumstances and only on a limited basis. First, for bingo events and second for games provided at powwows, and third for charitable organizations. Individual licenses shall comply with the rules and requirements of this Ordinance. Licenses issued for these matters are restricted to Class II gaming.
- 7.5 Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission:
 - 7.5.1 When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Commission shall forward to the National Indian Gaming Commission a complete application for employment and conduct the background investigation and make the determination referred to in Section 7.1;
 - 7.5.2 The Commission shall forward the report referred to in Section 7.6 to the National Indian Gaming Commission within sixty (60) days after

an employee begins work or within sixty (60) days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission;

7.5.3 A key employee or primary management official who does not have a license after ninety (90) days shall not be permitted to perform the duties, functions, and/or responsibilities of a key employee or primary management official until so licensed;

7.5.4 With respect to key employees and primary management officials, the Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment. The file shall contain:

7.5.4.1 The information required by 25 CFR 556.4(a)(1)-14;

7.5.4.2 Investigative reports, if any, as defined by 25 CFR 556.6(b);

7.5.4.3 The eligibility determination made under this Section 7; and

7.5.4.4 Privacy Act Notice as defined by 25 CFR 556.2.

7.6 Investigative Report:

7.6.1.1 The Commission shall maintain an investigative report on each background investigation. The investigative report shall include all of the following: (1) steps taken in conducting a background investigation, (2) the results of obtained, (3) conclusions reached, and (4) the basis for those conclusions.

7.6.2 The Commission shall submit a notice of results of an applicant's background investigation to the NIGC no later than sixty (60) days after the applicant begins work. The notice of results shall contain:

7.6.2.1 Applicant's name, date of birth, and social security number;

7.6.2.2 Date on which applicant began or will begin work as key employee or primary management official;

7.6.2.3 Summary of the information presented in the investigative report, which shall include a minimum of listing

7.6.2.3.1 Licenses that have been previously denied,

7.6.2.3.2 Gaming Licenses that have been revoked, even if subsequently reinstated,

7.6.2.3.3 Every known criminal charge brought against the

applicant within the last 10 years of the date of application, and
7.6.2.3.4 Every felony of which the applicant has been convicted
or any ongoing prosecution.

7.6.2.4 A copy of the eligibility determination made under this Section 7.

7.6.3 If a license is not issued to an applicant, the Commission:

7.6.3.1 Shall notify the National Indian Gaming Commission;
and

7.6.3.2 Shall forward copies of its eligibility determination and
investigative report (if any) to the National Indian
Gaming Commission for inclusion in the Indian
Gaming Individuals Record System.

7.7 Granting a gaming license:

7.7.1 The Commission shall inform the Commission of the issuance of
license within 30 days of its issuance.

7.7.2 If, within a thirty (30) day period after the National Indian Gaming
Commission receives a report, the National Indian Gaming
Commission notifies the Commission that it has no objection to the
issuance of a license pursuant to a license application filed by a key
employee or a primary management official for whom the
Commission has provided an application and investigative report to
the National Indian Gaming Commission, the Commission may issue
a license to such applicant.

7.7.3 The Commission shall respond to a request for additional information
from the Chairman of the National Indian Gaming Commission
concerning a key employee or a primary management official who is
the subject of a report. Such a request shall suspend the thirty (30)
day period under Section 7.8.1 until the Chairman of the National
Indian Gaming Commission receives the additional information.

7.7.4 If, within the thirty (30) day period described above, the National
Indian Gaming Commission provides the Commission with a
statement itemizing objections to the issuance of a license to a key
employee or to a primary management official for whom the
Commission has provided an application and investigative report to
the National Indian Gaming Commission, the Commission shall
reconsider the application, taking into account the objections
itemized by the National Indian Gaming Commission. The
Commission shall make the final decision whether to issue a license
to such applicant.

7.8 The Commission may license a primary management official or key employee after
providing the notice of results of background investigations to the NIGC.

7.9 License Suspension:

- 7.9.1 If, after the issuance of a gaming license, the Commission receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under Section 7.1 above, the Commission shall immediately suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation;
- 7.9.2 The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license;
- 7.9.3 After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the National Indian Gaming Commission of its decision within forty-five (45) days. The Commission shall forward copies of the decision to revoke the license for inclusion in the Indian Gaming Individuals Records System. The revocation shall be effective at the time of submission.
- 7.10 Until authorized by a tribal-state compact, no license shall be issued for any Class III gaming establishment, primary management official, key employee or any other employee or person as may be required by the Commission from time to time.
- 7.11 Conditions of the Tribal License. Any tribal license issued under this Ordinance shall be the subject to such reasonable conditions as the Commission may establish, including, but not limited to the following:
 - 7.11.1 The license shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises.
 - 7.11.2 The licensed premises shall be opened to inspection by duly authorized tribal officials and officials of the National Indian Gaming Commission and officials of the Commission at all times upon demand;
 - 7.11.3 There shall be no discrimination in the operations under the tribal license by reason of race, color or creed, provided, however, that the licensee shall give a preference in employment to qualified Indians. In observing Indian preference, the licensee shall grant preference to qualified members of the Three Affiliated Tribes.
 - 7.11.4 No person who is under the age of 19 shall participate nor shall be allowed to participate in any manner in the operation of any game. No person who is under the age of 19 shall play in any game of chance. No person under the age of 19 shall be allowed to premises where games are being conducted. It shall be the responsibility of the licensee to assure that no unauthorized person is allowed to play in or participate in any manner in the operation of any game.
 - 7.11.5 A licensee shall continuously provide information that impacts, or may reasonably be expected to impact their status as licensee. No person involved in the operation of any activity authorized by this Ordinance shall, directly or indirectly, in the course of such operation employ any device, scheme, or artifice to defraud; make any untrue

statement of fact, or omit to state a fact necessary in order to make a statement not misleading in consideration of the circumstances under which such statement was made; engage in any act, practice, or course of operation as would operate as fraud or deceit under any person;

- 7.11.6 The Commission may issue such regulations, at such time, and in such a manner as it shall choose to govern the conduct of gaming as defined under this Ordinance and to insure its operation for lawful purposes.

SECTION 8. GAMING LICENSE FEES

- 8.1 The Commission may establish the amount of the annual fee, provided that any increase shall take effect only on the ensuing January 1.
- 8.2 The annual license fee shall be paid in advance of the initial issuance or renewal of a license.
- 8.3 The annual license fee shall be prorated in the case of each initially issued license.

SECTION 9. RECORDS AND REPORTS

- 9.1 Each licensee responsible for the gaming organization shall keep and maintain sufficient books and records substantiate the receipts, expenses, and uses of revenues relating to the conduct of gaming activities authorized under a license. The records shall include but is not limited to session summary sheets, operational budgets and projections and tour/bus attendance and compensation.
- 9.2 No later than the first and fifteenth day of each month, each gaming organization shall provide, in a report form prescribed by the Commission, a statement of gross revenues and adjusted gross revenues received or collected at each gaming organization during immediately preceding period.
- 9.3 No license shall falsify any books or records relating to any transaction connected with the conduct of gaming activities authorized under a license.
- 9.4 All books and records of a gaming organization relating to licensed gaming activities shall be subject to review by the Commission or a person designated by the Commission at any time during reasonable hours;
- 9.5 The Commission shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC. All gaming related contracts that result in purchases of supplies, services, or concession for more than \$25,000 in any year (except contracts for professional legal or accounting services) shall be specifically included within the scope of the audit conducted under this provision.
- 9.6 The Commission shall submit the results of an audit performed pursuant to Section 9.5 to the National Indian Gaming Commission.
- 9.7 A tribal or charitable gaming operation that has gross gaming revenues of less than \$50,000 during the prior fiscal year shall have its annual audit requirements of 9.5 met if it satisfies the requirement of 25 C.F.R. § 571.12(f)(1).
- 9.8 A copy of all insurance policies covering a gaming organization or any part thereof shall

be filed with the Commission.

SECTION 10. REVENUES

- 10.1 The gross revenues derived from operations of a tribally-owned and licensed gaming enterprises are tribal funds and may be expended by a manager only upon authority delegated by the Tribal Council.
- 10.2 All monies collected or received at a gaming establishment from the conduct of gaming activities and admissions thereto, except any winnings or cash prize of one hundred dollars (\$100.00) or less paid immediately, shall be deposited by the licensee daily in a separate bank account designated by the Tribal Treasurer, which account will contain only such monies. Cash prizes of more than one hundred dollars (\$100.00), the purchase prices of merchandise prizes and all expenses for such gaming activities shall be withdrawn from such account by consecutively numbered checks duly signed by a specified officer of officers of a licensee and payable to a specific person or organization. There shall also be written on the check the nature of the expense or prize for which the check is drawn. No check shall be drawn to cash or a fictitious payee.

SECTION 11. VIOLATIONS

- 11.1 No person shall operate or conduct any gaming activity in a gaming establishment on the Reservation or Indian Land without a gaming license issued by the Commission, as required by this Ordinance, or in violation of this Ordinance, IGRA, or Tribal/State Compact.
- 11.2 No licensee or license applicant shall provide false information in connection with any document or proceeding under this Ordinance.
- 11.3 No licensee shall fail to account fully for all monies received or collected in connection with gaming activities.
- 11.4 No person ~~under the age of eighteen (18)~~ **under the age of nineteen (19), except those with a valid military identification** shall be permitted to participate in any gaming activities.
- 11.5 No person shall engage in cheating (as that term is defined in Section 1.2.2 of this Ordinance) in any gaming activity.
- 11.6 No person, other than a law enforcement officer, may enter or remain in a gaming establishment licensed under this Ordinance while in the possession of a firearm or other weapon.
- 11.7 No person shall intentionally violate any of the regulatory provisions of the other sections of this Ordinance, nor any rule, regulation or order of the Commission.
- 11.8 Any person who is in privity with a violator shall be deemed to be in violation of this Ordinance to the same extent as the violator.
- 11.9 The licensee who employs persons in a gaming establishment is responsible to ensure that all primary management officials and key employees assisting in operating any gaming activity on the licensee's behalf comply with the Ordinance. A violation by any such

official or any employees shall be deemed a violation by the licensee, subjecting such licensee to civil enforcement action, and it shall not be a defense that a licensee was unaware of the violation.

11.10 No person, playing in or conducting any gaming activity authorized under this Ordinance, shall:

- 11.10.1 use bogus or counterfeit cards, or substitutes or use any game cards that have been tampered with;
- 11.10.2 employ or have on one's person any cheating device to facilitate cheating in any gaming activity;
- 11.10.3 use any fraudulent scheme or technique, including when an operator or player of games of charitable gaming tickets directly or indirectly solicits, provides, or receives inside information of the status of a game for the benefit of either person;
- 11.10.4 cause, aid, abet, or conspire with another person or cause any person to violate any provision of this Ordinance or any rule adopted under this Ordinance.

SECTION 12 CIVIL ENFORCEMENT

12.1 The Commission may take any one or a combination of the following actions with respect to any person who violates any provision of this Ordinance:

- 12.1.1 Impose a civil penalty not to exceed five hundred dollars (\$500.00) for each violation, and if such violation is a continuing one, for each day of such violation, a penalty of one hundred dollars (\$100.00) per day for failure to file any report when due and one thousand dollars (\$1,000.00) per day for failure to file such report after notice and demand;
- 12.1.2 Suspend, revoke or condition any gaming license or deny an application for the issuance or renewal of a license issued by the Commission;
- 12.1.3 Following a final decision of the Commission with respect to the suspension, revocation, or conditioning of a license, the Commission may bring an action in the Tribal Court for imposition of one or more of the following sanctions.
 - 12.1.3.1 Seizure of any gaming apparatus, proceeds, or other property of a licensee or connected with the gaming activities engaged in by the licensee;
 - 12.1.3.2 in case of any nonmember of the Tribes, expulsion from the Indian lands;
 - 12.1.3.3 collection of any unpaid fees, interest, and penalties unpaid after thirty (30) days;
 - 12.1.3.4 execution on any nonexempt property on a violator located within the exterior boundaries of the Indian lands; and
 - 12.1.3.5 such other relief as necessary to enforce its decision.

- 12.2 Any court of competent jurisdiction shall have jurisdiction over any civil action brought by the Commission under this Ordinance and any court of competent jurisdiction shall have authority to impose any and all sanctions provided for herein.
- 12.3 Before taking any action authorized in Section 12.1, the Commission shall use its best efforts to notify the alleged violator, in person or by letter delivered to his/her last known address, of the charges against him/her, and allow the alleged violator an opportunity for a prompt hearing. If the alleged violator fails to respond, or cannot be found, the Commission may proceed with a hearing notwithstanding, and take such action as it deems appropriate.
- 12.4 Every person who applies for a gaming license and accepts such license thereby acknowledges the civil enforcement jurisdiction and authority of the Commission and a court of competent jurisdiction under this Ordinance to order an execution on his/her nonexempt property, the suspension or termination of his/her further conduct of gaming activities and the seizure of his/her gaming equipment or proceeds or other property, upon a proper finding of the Commission or the court that the person has violated a provision of this Ordinance, despite lack of actual notice, provided that the Commission has used its best efforts to notify the accused personally or by letter delivered to his/her last known address.
- 12.5 Any licensee paying a penalty for late filing or failing to file a report for which there is an acceptable excuse may petition the Commission for a credit. The petition shall be filed within thirty (30) days after the petitioner knew or should have known that the payment was excusable, but not more than six (6) months after payment in any case.
- 12.6 Any person aggrieved by a decision made or action taken by the Commission without notice and opportunity for hearing, may petition the Commission for a hearing and reconsideration. The petition shall be filed within (30) days after the petitioner knew or should have known of the decision or action. The Commission shall grant a prompt hearing upon receiving such a petition, and shall reconsider its decision or action in light of what is presented at a hearing.
- 12.7 Any person aggrieved by a decision made or action taken by the Commission after notice and opportunity for hearing may petition any court of competent jurisdiction for review. Such petition shall specifically set forth the reasons for aggrievement, and be filed with the court no later than sixty (60) days after the Commission decision or action. The court shall set the matter for hearing no later than thirty (30) days after receipt of the petition, and may, upon establishing that it has jurisdiction, affirm, modify or set aside the Commission's order. The reviewing court shall modify or set aside Commission action, findings, and conclusions found to be arbitrary or capricious, not in accordance with law, or without observance of procedure required by law.

SECTION 13. USE OF GAMING REVENUES

- 13.1 Net revenues from gaming conducted under this Ordinance shall not be used for purposes other than:

- 13.1.1 to fund tribal government operations or programs;
- 13.1.2 to provide for the general welfare of The Three Affiliated Tribes and its members;
- 13.1.3 to promote tribal economic development;
- 13.1.4 to donate to charitable organizations;
- 13.1.5 to help fund operations of local government agencies,
- 13.1.6 per capita distributions under a plan approved by the Secretary of the Interior under 25 U.S.C. § 2710(b)(3).

SECTION 14. PROTECTION OF ENVIRONMENTAL AND PUBLIC HEALTH AND SAFETY

- 14.1 Gaming establishments on the Reservation or Indian Land shall be constructed, maintained and operated so as to protect the natural environment and the public health and safety.

SECTION 15. CLASS III GAMING COMPACT

Operation of any Class III games within the Reservation or on Indian Land by the Tribe shall not be permitted unless the games are authorized by a Tribe/State Compact approved by the Secretary. Any such compact shall conform to the requirements set forth in Public Law 100-497, 25 U.S.C. § 2701, et seq. for such compacts, and shall also conform to the terms of this Ordinance, unless any provision of this Ordinance is specifically modified by the Compact.

- 15.1 This Ordinance hereby incorporates the provisions of the Gaming Compact between the Three Affiliated Tribes and the State of North Dakota for the operation of Class III gaming on the Fort Berthold Reservation dated December 19, 2022.
- 15.2 This Ordinance hereby incorporates the provisions of the Parimutuel Racing Addendum to the Gaming Compact between the Three Affiliated Tribes and the State of North Dakota, which said Addendum is dated April 14, 1993, and provides for the operation of parimutuel racing within the Fort Berthold Reservation.

SECTION 16. AGENT FOR SERVICE OF PROCESS

The Tribe designates the Executive Director of the Tribe's Gaming Commission as the agent for service of any official determination, order or notice of violation.

SECTION 17. APPLICABLE LAW

- 16.1 All controversies involving contracts related to gaming entered under the authority of the Three Affiliated Tribes on its Indian lands shall be resolved, as appropriate, in accordance with (i) Indian Gaming Regulatory Act, (ii) the law of the Tribe and (iii) if no tribal law exists, the Commission or a court may, as its discretion, adopt state laws as tribal law.

SECTION 18. SAVINGS PROVISIONS

- 17.1 If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not effect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end the provisions of this Ordinance are severable.

SECTION 19. EFFECTIVE DATE

- 18.1 This Ordinance shall be effective immediately.

SECTION 20. DISPUTE RESOLUTION

- 19.1 Disputes involving members of the public and a gaming enterprise operated by the Tribe shall be submitted first in writing to the Manager of the gaming enterprise, who shall render a decision on the dispute in writing, stating reasons thereof. If thereafter the member of the public is unsatisfied, a written statement of the dispute and reasons for dissatisfaction may be submitted to the gaming Commission, which may in its discretion request additional information from the disputant and/or the Manager, and which shall render its decision on the dispute in writing.