



January 13, 2017

VIA FACSIMILE AND
FIRST CLASS MAIL

Mr. Kerry Holton, President
Delaware Nation
Post Office Box 825
Anadarko, OK 73005

RE: Amended Gaming Ordinance

Dear President Holton:

This letter responds to your request for the Chairman of the National Indian Gaming Commission to review and approve the Delaware Nation's Amended and Restated Gaming Ordinance. The Gaming Ordinance was authorized by Resolution #2016-073 on September 23, 2016.

The Gaming Ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. I note, however, that although the ordinance was enacted on September 23, 2016, the NIGC did not receive a copy of the Gaming Ordinance until October 25, 2016. Under 25 C.F.R. § 522.3(a) a Tribe is required to submit any amendment to a gaming ordinance or resolution within 15 days of its adoption. The Nation has failed to comply with this requirement for this submission. I caution the Nation to timely submit any future amendments to its gaming ordinance in the future.

Thank you for bringing the amended Gaming Ordinance to our attention. If you have any questions, please feel free to contact Staff Attorney Heather McMillan Nakai at (202) 632-7003.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonodev O. Chaudhuri".

Jonodev O. Chaudhuri
Chairman

Delaware Nation

P.O. Box 825
Anadarko, OK 73005
405 / 247-2448
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Resolution #2016-073

RESOLUTION APPROVING AMENDMENTS TO THE DELAWARE NATION GAMING ORDINANCE

WHEREAS, the Delaware Nation, formerly known as the Delaware Tribe of Western Oklahoma, is a federally-recognized Indian Tribe that operates in accordance with the Constitution adopted by the Nation, as ratified on April 21, 1973 and as amended from time to time, and recognized by the Secretary of Interior; and

WHEREAS, according to the Article VI – Powers of the Constitution, “the Executive Committee shall have specific authority ... to promulgate and enforce ordinances and codes governing law and order to protect the peace, health, safety, and general welfare of Delaware tribal citizens...”, and generally “shall have full authority to act on behalf of the Nation in all other matters upon which the Nation is empowered to act...”; and

WHEREAS, the Delaware Nation’s gaming enterprises are regulated by the Delaware Nation Gaming Ordinance originally approved by the Executive Committee on July 1, 1995, via Resolution 95-33, and approved by the National Indian Gaming Commission (NIGC) on August 10, 1995; and

WHEREAS, the Executive Committee has revised its entire Gaming Ordinance, attached hereto, in order to more efficiently regulate Indian gaming for the Delaware Nation; and

WHEREAS, the Executive Committee wishes to approve the attached Gaming Ordinance and to submit it to the National Indian Gaming Commission for approval.

THEREFORE, BASED ON THE FOREGOING, BE IT NOW THEREFORE RESOLVED that the Delaware Nation Executive Committee hereby approves the attached revised Delaware Nation Gaming Ordinance and submits the same to the National Indian Gaming Commission for final approval for use in regulation of the tribe’s gaming facilities.

CERTIFICATION

The foregoing resolution was adopted by the Delaware Nation Executive Committee on September 23, 2016, 2016, by a vote of 5 For, 0 Against, 0 Abstentions, a quorum being present.

ATTEST:

Sue Stone
Sue Stone, Secretary



APPROVED:

Kerry Holtok
Kerry Holtok, President

DELAWARE NATION GAMING ORDINANCE

Approved by Executive Committee Resolution 2016-073

SECTION 1 – AUTHORITY, FINDINGS, INTENT AND POLICY

1.1 Authority

The Delaware Nation Executive Committee, pursuant to Article VI of the Delaware Nation Constitution, hereby enacts this Gaming Ordinance pursuant to its sovereign powers in order to govern and regulate Class I, Class II, and Class III gaming operations within the jurisdiction of the Delaware Nation as provided in the Delaware Nation Constitution.

1.2 Findings

The Delaware Nation Executive Committee finds as follows:

- (A) Tribal regulation and control of gaming activity within its jurisdiction is essential for the promotion and protection of the public health, safety, welfare and education of Delaware Nation citizens, as well as the best interests of the Tribe, casino customers, and the community as a whole; and
- (B) The Tribe has the legal authority to license and regulate any gaming activity within the jurisdiction of the Delaware Nation that is not specifically prohibited by federal law; and
- (C) Properly licensed and regulated gaming activity conforms with the announced federal policy promoting Indian tribal self-governance and economic self-sufficiency; and
- (D) It is essential for the Tribe, through its appointed Gaming Commissioner, to exercise civil regulatory authority, including the regulation of gaming activities and civil adjudicatory jurisdiction, in a manner commensurate with applicable federal and tribal law and policy; and
- (E) The present needs of the Tribe include increased employment, job and skills training, housing, quality health care, nutrition, educational opportunities, social services, cultural preservation, and community and economic development which are not adequately addressed by present tribal, federal and state programs; and
- (F) Tribal operation and licensing of gaming activities within the tribe's jurisdiction are an appropriate means of generating revenue to address the needs of the Tribe and its members for self-perpetuation and essential governmental services; and
- (G) Adoption of this Gaming Ordinance shall ensure compliance with the provisions of the Indian Gaming Regulatory Act, 15 U.S.C. §2701, et seq.; and
- (H) Approval of this Gaming Ordinance is necessary and in the best interest of the Delaware Nation and its citizens.

1.3 Intent

The intent of this Gaming Ordinance is to:

- (A) Regulate, control, and license the operation of all Class II and Class III gaming within the jurisdiction of the Tribe.
- (B) Make clear and explicit that a tribal license to operate a gaming activity is a revocable privilege, not a right or property interest.

- (C) Ensure that the operation of tribally-regulated gaming will continue as a means of generating tribal revenue, to be distributed pursuant to the tribe's approved Revenue Allocation Plan.
- (D) Ensure that tribally-regulated gaming is conducted fairly and honestly by both gaming operators and players, and that it remains free from corrupt, incompetent, unconscionable and dishonest persons and practices.
- (E) Promote and strengthen tribal economic development and self-determination and to enhance employment opportunities for qualified tribal members.
- (F) Generate revenue to strengthen and improve tribal self-government and the provision of tribal government services for the benefit of tribal citizens.
- (G) Ensure that all tribal gaming laws are strictly and fairly enforced against all persons involved in gaming activities within the jurisdiction of the Tribe.
- (H) Ensure that the Tribe provides a fair and impartial forum for the resolution of gaming disputes.

1.4 Policy and Applicability

It is the declared policy of the Delaware Nation that this Ordinance is necessary for the welfare of the Delaware Nation and its citizens, and shall be liberally construed to affect the purpose and intent of the Ordinance.

Unless specified otherwise, all provisions of this Ordinance shall apply to all Class II and Class III gaming on the Tribe's Indian lands.

1.5 Headings

Section and subsection headings shall not be construed as governing, limiting or modifying in any instance affecting the scope, intent or meaning of its provisions.

1.6 Severability and Repealer

- (A) The provisions of this Ordinance are severable, and if any part or provision hereof shall be held void by appropriate judicial authority, the decision of the court so holding shall not affect or impair any of the remaining parts of provisions of the Ordinance.
- (B) The previous Gaming Ordinance is hereby repealed the date this Ordinance becomes operative by approval of both the Executive Committee and the National Indian Gaming Commission (NIGC).
- (C) Any previously enacted Tribal Gaming Ordinance is hereby repealed with the passage and approval of this revised Tribal Gaming Ordinance, as well as any other sections of tribal code that pertain to gaming. Repealing of this Ordinance shall not act to revive any prior tribal law that has been theretofore suspended or repealed. This revised Ordinance shall be inserted into the Codes of the Delaware Nation.

SECTION 2 – DEFINITIONS

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 (IGRA), 25 U.S.C. Section 2701, *et seq.*, and its regulations, 25 C.F.R. Section 500, *et seq.* Specifically:

(A) For the purposes of this Ordinance:

1. "Commissioner" shall mean the sole Gaming Commissioner of the Delaware Nation, as provided for in this Ordinance;
2. "Constitution" means the Delaware Nation Constitution, ratified on April 21, 1973, and last amended on April 22, 2000, that formally established the government body and structure of the Delaware Nation.
3. "Delaware Nation" shall mean the federally-recognized Indian tribe governed by the Constitution of the Delaware Nation, and all Delaware Nation citizens as defined in such Constitution, or the actual physical nation itself, depending on the reference;
4. "Executive Committee" shall mean the governing body of the Delaware Nation as defined by the Delaware Nation Constitution, and comprised of six elected officials as follows: President, Vice-President, Treasurer, Secretary, and two Committee Persons.;
5. "Gaming Operation" shall mean each economic entity that is licensed by the Office of the Gaming Commission, operates games, receives revenues, issues the prizes, and pays the expenses. A Gaming Operation may be operated by the Tribe directly, by a management contractor or Lenape.
6. "Lenape Entertainment, LLC," also known as Lenape or LE, shall mean wholly-owned tribal limited liability company formed under the laws of the Delaware Nation that is charged with overseeing and/or managing the gaming enterprises of the Nation;
7. "License" shall mean the written approval and document provided by the Commissioner of the Delaware Nation to pursue gaming-related business within the jurisdiction of the Delaware Nation.
8. "Shall" means imposing an obligation to act.

SECTION 3 – GENERAL PROVISIONS

3.1 Gaming Authorized

Class I, Class II, and Class III gaming are hereby authorized within the Tribe's jurisdiction if conducted in accordance with this Gaming Ordinance, the Indian Gaming Regulatory Act and NIGC regulations. Class II gaming is defined by the Indian Gaming Regulatory Act at 25 USC §§2701 *et seq.*, and by the regulations promulgated by the National Indian Gaming Commission at 25 CFR §§ 500 *et seq.* Class III gaming as defined in the Indian Gaming Regulatory Act at 25 USC §§2701 *et seq.*, and by the regulations promulgated by the National Indian Gaming Commission at 25 CFR §§ 500 *et seq.*, is authorized only to the extent allowed by such law and pursuant to an approved tribal/state compact.

3.2 Ownership of Gaming

The Delaware Nation shall have sole proprietary interest in and responsibility for the conduct of any gaming operations authorized by this Ordinance, unless the Tribe elects to allow individually-owned gaming.

3.3 Distribution of Net Gaming Revenue

Distribution of net revenue from gaming shall be done pursuant to the Delaware Nation Revenue Allocation Plan as approved by the Secretary of Interior. Net gaming revenue may only be used for the following purposes: to fund tribal government operations or programs; to provide for the general welfare of the Tribe and its members; to promote tribal economic development; to donate to charitable organizations; or to help fund operations of local government agencies.

3.4 Audit

(A) The Delaware Nation or its designee shall cause to have an independent, outside audit of Gaming Operations on an annual basis. A copy of the audit report shall be submitted to the NIGC and further be made available for review to the Executive Committee and Gaming Commissioner.

(B) All gaming related contracts that result in the purchase of supplies, services or concessions for more than of \$25,000.00 in any year, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit conducted pursuant to section 3.4(A) of this Ordinance.

3.5 Public Health and Safety

Each gaming facility should be constructed, maintained and operated in a manner that adequately protects the environment and the health and safety of the public.

3.6 Licensing of Facility

The Gaming Commission shall issue a separate license annually to each gaming facility located on Indian land where Class II or Class III gaming is conducted pursuant to this Ordinance.

3.7 Applicable Law

All controversies involving contracts relating to gaming entered into under the authority of the Executive Committee or its designee, or any violation(s) of any section of this Ordinance, shall be resolved as appropriate in accordance with:

- (A) The laws of the Tribe;
- (B) The Indian Gaming Regulatory Act;
- (C) NIGC Regulations;
- (D) The laws of the State of Oklahoma, which are incorporated herein by reference.

To the extent that the provisions of the State-Tribal compact entered into by the State of Oklahoma and the Delaware Nation are inconsistent with any provisions in this Ordinance, the provisions of the State-Tribal Compact shall govern as to Class III gaming on Delaware Nation tribal lands.

The Nation may be served notice of process for official determination, order or notice of violation of the Indian Gaming Regulatory Act by the National Indian Gaming Commission or

other federal entity by service upon the Commissioner or upon the Executive Committee. Nothing herein shall be deemed to waive or impair the Delaware Nation's right to sovereign immunity. Nothing herein shall be deemed a grant of jurisdiction or venue for any court to review cases or controversies which such court is not otherwise empowered to review. Furthermore, nothing herein shall alter tribal, state or federal jurisdiction.

SECTION 4 – OFFICE OF THE GAMING COMMISSION

4.1 Establishment

The Delaware Nation hereby creates and establishes the Office of the Gaming Commission. The Gaming Commission's Office shall be maintained on Delaware Nation tribal trust property.

4.2 Appointment by Executive Committee

The Executive Committee shall appoint a Gaming Commissioner who shall take an oath of office identical to that of the Executive Committee members and shall be sworn to service to the Nation. The Commissioner shall serve a term of three (3) years from the date of appointment. The appointee must be able to be licensed under the same standards as a primary management official. The Executive Committee shall set the salary of the Commissioner pursuant to tribal salary guidelines. The Commissioner, if a tribal citizen, must be in good standing with the Delaware Nation, over the age of (18), and not be delinquenty indebted to the Tribe.

At its discretion, the Executive Committee may also appoint a Deputy Gaming Commissioner who shall take an oath of office identical to that of Executive Committee members and shall be sworn to service of the Nation. The Deputy Commissioner shall serve a term of (2) years from date of appointment and shall answer in chain of command to the Gaming Commissioner and then to the Executive Committee. The Deputy Gaming Commissioner must be licensed under the same standard as a primary management official. The Executive Committee shall set the salary of the Deputy Commissioner pursuant to tribal salary guidelines. The Deputy Commissioner, if a tribal citizen, must be in good standing with the Delaware Nation, over the age of (18), and not be delinquenty indebted to the Tribe.

4.3 Interim Commissioner

The Executive Committee may appoint an interim Commissioner at any time a vacancy occurs in order to continue the enforcement of gaming regulations. The interim Commissioner shall fill the position until the Executive Committee selects a new permanent Commissioner and serves by appointment of the Executive Committee. The interim Commissioner shall fulfill the same requirements as the Commissioner as set forth in Section 4.2, above.

4.4 Removal from Office

The Commissioner, Deputy Commissioner and/or interim Commissioner may be removed from office by the Executive Committee prior to the end of any term for serious inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, misconduct in office, or for any conduct which threatens the honesty or integrity of the Office of Gaming Commission or otherwise violates the letter or intent of this Ordinance. If the Executive Committee determines that immediate removal of a Commissioner is necessary to protect the interest of the Tribe, it may immediately remove the Commissioner temporarily, and the question of permanent removal shall be determined at a hearing.

Permanent removal requires a hearing and an opportunity to be heard before the Executive Committee, and then only after the Commissioner has been given written notice of the specific charges at least five (5) days prior to such hearing. At any such hearing, the Commissioner shall have the opportunity to be heard in person or by counsel at the Commissioner's personal expense and to present witnesses on his or her behalf. The decision of the Executive Committee regarding the removal of a Commissioner shall be final and is not subject to appeal.

4.5 Background Investigation

Prior to the Executive Committee's appointment of a Commissioner under Sections 4.2 and 4.3, such person shall have passed a background investigation, examination and check of the same nature of a primary management official of a gaming enterprise. Nothing in this section shall prohibit such person from serving as Interim Commissioner pending the outcome of licensure review.

4.6 Authority and Power

(A) The Commissioner shall be responsible to determine that provisions of this Ordinance, the Indian Gaming Regulatory Act, National Indian Gaming Commission regulations and provisions of the tribal-state compact are followed and may exercise any proper and ethical power and authority necessary to perform the duties of this office. The Commissioner is responsible for regulating the day-to-day gaming activity of the Delaware Nation. The Commissioner shall be responsible to make regulations for approval by the Executive Committee which shall include but are not limited to:

1. Conduct background investigations, or cause such investigations to be conducted, for primary management officials and key employees;
2. Review and approve all investigative work conducted in connection with the background investigations of primary management officials and key employees;
3. Create and maintain investigative reports based on the background investigations of primary management officials and key employees;
4. Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;

5. Make licensing eligibility determinations, which shall be signed by the Commissioner;
6. Submit a notice of results to the NIGC of the background investigations done for each primary management official and key employee applicant;
7. Issue gaming licenses to primary management officials and key employees of the operation, if warranted by the eligibility determination;
8. Establish standards for licensing the Nation's gaming facilities;
9. Issue gaming licenses to the Nation's gaming facilities;
10. Inspect, examine and monitor all of the Nation's gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;
11. Ensure compliance with all tribal, state and federal laws, rules and regulations regarding Indian gaming within the Tribe's jurisdiction;
12. Investigate any suspicion of wrongdoing associated with any gaming activities;
13. Hold hearings on patron complaints, in accordance with procedures established in this ordinance and the Nation's gaming regulations;
14. Comply with any and all reporting requirements under IGRA, the NIGC's regulations and any tribal-state compact to which the Nation is a party, and any other applicable law;
15. Promulgate and issue regulations necessary to comply with applicable internal control standards, IGRA, NIGC regulations, and tribal-state compacts;
16. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
17. Promulgate and issue regulations on the levying of fines and/or the suspension or revocation of gaming licenses for violations of this ordinance or any tribal, federal or state gaming regulations, if applicable;
18. Establish a list of persons not allowed to game in the Nation's gaming facilities in order to maintain the integrity of the gaming operation;
19. Establish a list of persons who have voluntarily agreed to be excluded from the Nation's gaming facility, and create regulations for enforcing the exclusions;
20. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of tribal, federal or state statutes, ordinances, regulations, codes or resolutions;
21. Create a list of regulatory authorities that conduct background investigations of, and license, vendors who are recognized as trustworthy;

22. Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;

23. Perform such other duties the Commissioner deems appropriate for the proper regulation of gaming activity within the Tribe's jurisdiction; and

24. Promulgate such regulations and guidelines as deemed appropriate to implement the provisions of this ordinance, so long as they are in furtherance of, and not in conflict with, any provisions of this ordinance.

(B) The Commissioner may request that the Executive Committee appoint it legal counsel for any specific purpose pursuant to the tribal Constitution. Any cost of the same shall be paid from the Commissioner's budget.

4.7 Recognition as Political Subdivision of the Tribe

The Delaware Nation, on behalf of the Gaming Commission, shall take all necessary steps to acquire recognition of the Office of the Gaming Commission as a political subdivision of the Tribe, recognized by all branches of the United States Government as having been delegated the right to exercise one or more substantial governmental functions of the Delaware Nation.

4.8 Sovereign Immunity of Tribe and Office of Gaming Commission

All inherent sovereign rights of the Delaware Nation as a federally-recognized Indian tribe with respect to the existence and activities of the Office of Gaming Commission are hereby expressly reserved, including sovereign immunity from suit in any state, federal or tribal court.

Additionally, as a governmental subdivision of the Tribe, the Office of Gaming Commission is hereby cloaked with all the privileges and immunities of the Tribe, except as specifically limited by this Title or other tribal law, including sovereign immunity from suit in any state, federal or tribal court.

Except as provided in this section, nothing in this Title nor any action of the Tribe or the Gaming Commissioner shall be deemed or construed to be a waiver of sovereign immunity from suit, or to be a consent of the Tribe or the Gaming Commissioner to the jurisdiction of the United States or of any state or any other tribe with regard to the business or affairs of the Tribe or the Gaming Commissioner to any cause of action; case or controversy, or to the levy of any judgment, lien or attachment upon any property of the Tribe or the Gaming Commissioner, or to be a consent of the Tribe or Gaming Commissioner to suit in respect to any Indian land, or to be a consent of the Tribe or the Gaming Commissioner to the alienation, attachment or encumbrance of any such land.

4.9 Regulatory Authority

(A) Any regulations promulgated by the Commissioner shall have full force and effect from the date of approval by the Executive Committee. The Commissioner may withdraw, replace or amend any regulation that he has made with approval of the Executive Committee.

- (B) In requesting to adopt, amend or repeal any regulations under this Ordinance, the Commissioner shall give a minimum of sixty (60) days-notice of proposed changes to all key employees, primary management officials, the general business manager and the Executive Committee.
- (C) Notice shall be deemed made by hand delivery. A copy of all proposed adopted regulations shall be maintained at the Office of the Gaming Commission and with the Executive Committee.

4.10 Suspension and Hearing Regulations

(A) The Commissioner shall have the right to suspend any license location, licensee, employee or gaming participant for violation of any tribal regulations, tribal compacts, tribal ordinances, federal regulations or federal laws. Such suspension shall be for a period of not more than ninety (90) days for licensees and up to a lifetime debarment for gaming participants. Prior to any such suspension the person reviewed shall:

1. Be given notice of specific facts concerning the violation alleged. Such allegation shall describe in writing the offense and shall be provided ten (10) days prior to any hearing.
2. Such notice of proceedings shall be accomplished by certified mail to the last known address and by publicly posting the same within the affected gaming enterprise facility. Service by mail is not necessary if the Commissioner has no address for the person or entity.
3. At the hearing, the Commissioner shall state his understanding of the facts and allow the person or entity subject to the hearing the opportunity to be heard and to present evidence.
4. At the hearing the subject shall show cause that specific facts alleged are inaccurate or that special conditions exist which should mitigate suspension.
5. Following the hearing, the Commissioner shall issue in writing an order regarding the subject within seven (7) days, or the matter shall be deemed dismissed. If a suspension order is made, it shall state the specific violation of law or regulation of the subject, and the suspension period imposed, stating beginning date and concluding date of suspension.
6. Notice of order shall be accomplished in the same manner as notice of proceedings.

4.11 Suspension and Exclusion

All persons or entities subject to a suspension order shall be excluded from the gaming enterprise facility and all tribal government property during such suspension. The Commissioner shall have the authority to direct the gaming enterprise facility security to enforce the exclusion of any person suspended.

4.12 Depositions, Proper Service

(A) The Commissioner shall have authority upon three (3) days written notice to depose any licensee, tribal gaming employee or gaming participant.

(B) The Nation designates the Gaming Commissioner as the agent for service of any official determination, order or notice of violation.

(C) Any document, affidavit, return or report fee, instrument or payment required to be filed, delivered or served upon the Commissioner pursuant to this Ordinance shall be deemed to be properly filed, delivered or served if it is filed, delivered or served as the case may be upon the Commissioner at the tribal headquarters complex or as the Commissioner may otherwise direct by regulation.

4.13 Annual Budget

The Commissioner shall prepare an operating budget for all Gaming Commission activities and present it to the Executive Committee by a date set by the Executive Committee each year.

SECTION 5 – GAMING LICENSE REGULATION

5.1 Application

This Ordinance governs all persons engaged or employed in gaming within the jurisdiction of the Tribe, and no person shall operate Class II or Class III gaming in such jurisdiction unless the gaming is licensed by the Nation. Any application for license pursuant to this Ordinance or participation in any gaming activity within the jurisdiction of the Tribe shall be deemed to be a consent to the jurisdiction of the Tribe and the Tribal Court in all matters arising from the conduct of such gaming and all matters arising under any of the provisions of this Ordinance or other tribal laws. Further, the Commissioner shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any gaming facility located on tribal lands, as well as to its own staff.

5.2 Definitions

For the purposes of this section, the following definitions apply:

(A) Key employee means a person who performs one or more of the following functions: bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, manager on duty, pit boss, dealer, croupier, approver of credit, surveillance, security guards, human resources personnel, custodian of gambling devices, persons with access to cash and accounting records within gambling devices, and any other person whose total cash compensation is in excess of \$50,000.00 per year and, if not otherwise included, the four most highly-compensated persons in the gaming operation.

(B) Primary management official means the person having management responsibility for a management contract; any person who has authority to hire and fire employees; or to set up

working policy for the gaming operation; or the chief financial officer or other person who has financial management responsibility.

5.3 Application Forms

(A) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant: ‘

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 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 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. Existing key employees and primary management officials shall be notified in writing that they shall either complete a new application form which contains a Privacy Act notice, or sign a statement which contains the Privacy Act notice and consent to the routine uses described in that notice.

(B) The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant:

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment (U.S. Code, Title 18, Section 1001).

(C) The Commissioner shall notify in writing existing key employees and primary management officials that they shall either complete a new application form which contains a notice regarding false statements, or sign a statement which contains the notice regarding false statements.

5.4 Background Investigation

(A) The Commissioner shall request from each primary management official and from each key employee all of the following information to conduct the required background investigation:

1. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
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;
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 paragraph (l)(b) of this section;
4. current business, residence telephone numbers, and all cell phone numbers;
5. a description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
6. a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
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;
8. for each felony for which there is an ongoing prosecution or conviction, the charge, the name and address of the court involved, and the date and disposition if any;
9. for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;
10. for each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph 8 or 9 of this section, the criminal charge, the name and address of the court involved and the date and disposition;
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;
12. a current photograph with notarized affidavit as to date taken and person depicted;
13. any other information the Commissioner deems relevant; and

14. fingerprints consistent with procedures adopted by the Delaware Nation according to 25 CFR §522.2(h).

(B) The Commissioner shall conduct an investigation sufficient to make a determination for eligibility of licensure. In conducting a background investigation, the identity of each person interviewed in the course of the investigation shall be kept confidential.

(C) The Commissioner, deputies and staff of the Commissioner shall meet the same qualifications for licensing as established for key employees and primary management officials. The Commissioner, deputies or staff who cannot meet the minimum requirements for licensing under this Ordinance shall not be employed by the Office of the Gaming Commission in such capacity.

(D) When a primary management official or key employee is employed by the Tribe, a complete application file, containing all of the information collected pursuant to 5.4(A) above, shall be maintained.

5.5 Eligibility Determination.

(A) Before a license is issued to a primary management official or key employee, the Commissioner shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations as contained in the investigative report.

(B) If the Commissioner, in applying the standards adopted in this ordinance, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, he or she shall not license that person in a key employee or primary management official position.

(C) Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a primary management official or key employee.

5.6 Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

(A) When a key employee or primary management official begins work at a gaming operation authorized by this Ordinance, the gaming manager or the tribal official responsible for the day to day operations of that gaming operation shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to 5.5, above.

(B) The Commissioner shall forward the report referred in subsection 6 of this section to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within 60 days of the effective date of this Act.

(C) The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after ninety (90) days.

5.7 Report to the National Indian Gaming Commission

(A) Pursuant to the procedures set out in subsection 5.6 of this section, the Commissioner shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

1. Steps taken in conducting a background investigation;
2. results obtained;
3. conclusions reached; and
4. the bases for those conclusions.

(B) With the report shall be submitted a copy of the eligibility determination made under subsection 4, of this section.

(C) If a license is not issued to an applicant, the Commissioner:

1. Shall notify the National Indian Gaming Commission; and
2. may include copies of the eligibility determination and investigative report (if any).

(D) With respect to key employees and primary management officials, the Office of the Gaming 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 delegate for no less than three years from the date of termination of employment.

(E) Before issuing a license to a primary management official or key employee, the Office of the Gaming Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC. The notice of results must be submitted to the NIGC no later than sixty (60) days after the applicant begins working for the Tribe. The notice of results shall include the following information:

1. the applicant's name, date of birth, and social security number;
2. the date on which the applicant began, or will begin, working as a primary management official or key employee;
3. a summary of the information presented in the investigative report, including (a) licenses that have been previously denied; gaming licenses that have been revoked, even if subsequently reinstated; every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and (d) every felon offense of which the applicant has been convicted or any ongoing prosecution; and

4. a copy of the eligibility determination referenced above.

(F) The Office of the Gaming Commission shall create and maintain an investigative report for each background investigation of a primary management official or key employee.

5.8 Granting a Gaming License

(A) All primary management officials and key employees of the gaming operation must have a gaming license issued by the Office of the Gaming Commission. The Office of the Gaming Commission is responsible for granting and issuing gaming licenses to primary management officials and key employees. The Office of the Gaming Commission may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by this Gaming Ordinance. The Office of the Gaming Commission shall notify the NIGC of the issuance of a license to a primary management official or key employee within thirty (30) days of issuance.

(B) The Tribe shall not employ an individual in a primary management official or key employee position who does not have a license after 90 days of beginning work at the gaming operation.

(C) The Office of the Gaming Commission must reconsider a license application for a primary management official or key employee if its receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within thirty (30) days of the NIGC receiving notice of results of the applicant's background investigation. The Office of the Gaming Commission shall take the NIGC's objections into account when reconsidering a license application.

(D) The Office of the Gaming Commission will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.

(E) If the Office of the Gaming Commission has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee.

5.9 Denial of a Gaming License

(A) The Commissioner shall not license a primary management official or key employee if he or she determines, in applying the standards for making a license eligibility determination, that licensing the person:

1. Poses a threat to the public interest;
2. Poses a threat to the effective regulation of gaming; or
3. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.

(B) When the Commissioner does not issue a license to an applicant for a primary management official or key employee position, or revokes a previously issued license after reconsideration, he shall:

1. Notify the NIGC; and
2. Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

5.10 License Suspension and Revocation

- (A) If, after the issuance of a gaming license, the Commissioner receives information from the National Indian Gaming Commission or under its own investigation that indicates that a key employee or a primary management official is not eligible for employment under Section 4 above, the Commissioner shall suspend such license and notify in writing the licensee and his supervisor of the suspension and the proposed revocation.
- (B) The Commissioner shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- (C) After a revocation hearing, the Commissioner shall decide to revoke or to reinstate a gaming license. The Commissioner shall notify the National Indian Gaming Commission and the Executive Committee of the decision within forty-five (45) days.
- (D) The right to a hearing only vests when a license is granted under an Ordinance approved by the NIGC.

5.11 License Locations

- (A) The Commissioner shall issue a separate license to each place, facility or location where gaming is conducted under this Ordinance.
- (B) Any person to whom a gaming license is issued shall be eligible for employment at any gaming facility location governed by this Ordinance without having to have a separate license issued for each facility.

5.12 Fingerprints

The Commissioner shall perform a background investigation for each primary management official and key employee of the gaming operation. The Tribe shall request fingerprints from each primary management official and key employee. Fingerprints shall be taken by the Office of the Gaming Commission. Fingerprints will then be forwarded to the NIGC for processing through the Federal Bureau of Investigation ("FBI") and the National Criminal Information Center to determine the applicant's criminal history, if any.

5.13 Criminal Background Check

- (A) The Commissioner shall request from the appropriate authority the initial criminal background checks for each application for employment. The Commissioner shall receive the actual printout or a summary of any initial background check which shall identify any

felony, criminal history, or crime of moral turpitude. The Commissioner shall be considered a tribal law enforcement officer for such review.

(B) The Commissioner shall review any background check report and shall share any information revealed by such checks to the manager of gaming facilities which, in the Commissioner's judgment, affects the consideration of an individual for employment.

(C) The Commissioner shall use the results of any background check to perform the lawful duties of Commissioner.

(D) The Commissioner shall request a report from the National Indian Gaming Commission which shall include a check through the Federal Bureau of Investigation's National Criminal Information Center.

(E) Fees charged by the National Indian Gaming Commission for processing such reports shall be paid by the tribe excepting those individuals and organizations that have paid for such reports.

5.14 Requirement for Appropriate Investigation

(A) The Commissioner shall determine that an appropriate investigation has been conducted on key employees and primary management officials. An appropriate investigation shall include as a minimum:

1. Obtaining and processing fingerprints;
2. explanation of job description, fitness of individual to perform job and explanation of how individual was selected for position;
3. credit check;
4. verification of resume;
5. character check regarding prior activities, criminal record, reputation, habits and associations, including but not limited to personal interview summaries with a sufficient number of knowledgeable people such as former employees, personal references and others to form a basis for character suitability determination;
6. document all potential problems and possible disqualification information.

(B) After completion of the background investigation, the Commissioner shall prepare an investigative report setting forth the following:

1. Who conducted various parts of the report, their qualifications and address;
2. an outline of the background investigation process including steps taken in investigation;
3. a description of the information obtained together with conclusions of investigation;

4. statement of basis for conclusion;
5. an organization chart showing the location within the organization of the individual investigated and the positions or people over which the individual investigated may be responsible.

5.15 Records Retention

The Office of the Gaming Commission shall retain, for no less than three years from the date a primary management official or key employee is terminated from employment with the Tribe, all applications for licensure, investigative reports and eligibility determinations.

5.16 Vendor Licensing

Vendors of gaming machines or gaming machine supplies or surveillance, with contracts of a value of \$25,000 or more annually, must have a vendor license from the Office of Gaming Commission in order to transact business with the tribe's gaming operation. Contracts for professional legal and accounting services are excluded from this Section.

5.17 Submission of Vendor License Application

In order to obtain a gaming vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include those officers, directors, managers, owners, partners, and stockholders that either own 10% or more of the business' stock or are the 10 largest stockholders, as well as the on-site supervisors or managers designated in an agreement with the Tribe, if applicable.

5.18 Contents of Vendor License Application

(A) Applications for gaming vendor licenses must include the following:

1. Name of business, business address, business telephone number(s), federal tax identification number (or social security number, if a sole proprietorship), main office address (if different from business address), any other names used by the applicant in business, and type of service(s) applicant will provide;
2. Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship or other entity;
3. If the applicant is a business entity other than a sole proprietorship, the state of incorporation or formation and the qualification to do business in the State of Oklahoma, if the gaming operation is in a different state than the state of incorporation or formation.
4. Trade name, other names ever used and names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
5. General description of the business and its activities;

6. Whether the applicant will be investing in, or loaning money to, the gaming operation, and, if so, how much;
7. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
8. A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial or management interests in any non-gaming activity;
9. Names, addresses and telephone numbers of three (3) business references with whom the company has regularly done business for the last five (5) years;
10. The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
11. If the business has ever had a license revoked for any reason, the circumstances involved;
12. A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;
13. A list the business' funding sources and any liabilities of \$50,000 or more;
14. A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles, and percentage of ownership in the company;
15. An organizational chart demonstrative vertical and horizontal relationships of the applicant; and
16. Any further information the Commissioner deems relevant.

(B) The following notice shall be placed on the application form for a vendor and its principals:

Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of your vendor license.

(C) A vendor may submit to the Gaming Commissioner a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit, in writing, any changes in the information since the other license application was filed, and any information requested by the Commission not contained in the other application.

5.19 Vendor Background Investigations

The Commissioner shall employ or otherwise engage an investigator to complete an investigation of a gaming vendor. This investigation shall include, at a minimum, the following steps:

1. Verification of the vendor's business' incorporation status and qualifications to do business in the state where the gaming operation is located;
2. Obtaining a business credit report, if available, and conducting a Better Business Bureau check on the vendor;
3. Conducting a check of the vendor's business' credit history;
4. Calling and questioning each of the references listed in the vendor application; and
5. Conducting an investigation of the principals of the vendor's business, including facilitating a criminal history check, obtaining criminal history check results, obtaining a credit report, and interviewing the personal references listed.

5.20 Vendor Licensure Fees

The Nation may charge a license fee, to be set by the Gaming Commissioner, to cover its expenses in investigating and licensing vendors of the gaming operation.

5.21 Vendor Background Investigative Reports

The investigator shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals, and present it to the Commissioner for review.

5.22 Exemptions for Vendors Licensed by Recognized Regulatory Authorities

The Office of the Gaming Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors who have received a license from one of the named regulatory authorities.

SECTION 6 – PATRON DISPUTE RESOLUTION WITH TRIBAL GAMING FACILITY

6.1 Filing of a Grievance

Patrons with complaints against any of the Nation's gaming establishments shall have as their sole remedy the right to file a petition for relief in writing with the Office of the Gaming Commission. The Commission shall hold a hearing within 30 days of receipt of the petitioner's complaint pursuant to Section 6.2, below. The petitioner may have counsel present at the hearing. The petitioner may be allowed to present evidence, at the discretion of the Commissioner. After the hearing, the Commissioner shall render a decision in a timely fashion.

All such decisions will be final when issued. Any patron complaint must be submitted to the Commission within thirty (30) days of the incident giving rise to the complaint. All claims by patrons shall be limited to a maximum recovery of the limits of the tribal gaming insurance policy per occurrence, and a cumulative limit per patron the limits of the tribal gaming insurance policy in any 12-month period, except disputes relating to a patron's entitlement to a game prize, which shall be limited to the amount of such prize. The Commissioner's decision shall constitute the complainant's final remedy.

6.2 Hearing Date, Notice Requirements

(A) The Commissioner shall set a date for hearing the grievance within thirty (30) days of the filing of the same.

(B) The Commissioner shall give notice of such hearing together with a copy of the grievance to the manager and management of the gaming enterprise facility involved in the grievance and give notice of the hearing to the person filing the grievance by certified mail posted not less than fourteen (14) days in advance of the hearing.

6.3 Alternative Dispute Resolution Authorized

The Commissioner shall at any time prior to decision of any grievance, have the authority to suspend proceedings and to direct arbitration or mediation of the grievance under such terms as the Commissioner may direct. Such does not constitute a waiver of the gaming facility's sovereign immunity or the Tribe.

SECTION 7 – AUTHORIZED GAMES

Delaware Nation gaming facilities are hereby authorized to offer the following games:

(A) Bingo.

(B) Twenty-one or Blackjack.

(C) Poker.

(D) Craps and related dice games.

(E) Roulette.

(F) Banking card games that are not otherwise treated as Class II gaming in states wherein the Delaware Nation will have gaming pursuant to 25 U.S.C. Section 2703(7)(c), and non-banking card games played by any Indian tribe on or before May 1, 1988.

(G) Electronic games of chance featuring coin drop and pay out as well as printed tabulations, whereby the software of the device predetermines the presence or lack of a winning combination and pay out. Electronic games of chance are defined as a microprocessor-controlled electronic device which allows a player to play games of chance, which may be affected by an element of skill, activated by the insertion of a coin or currency, or by the use of credit, and awards games

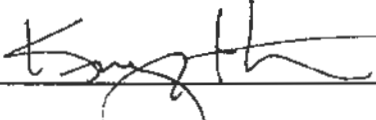
credits, cash, tokens, or replays, or a written statement of the player's accumulated credits, which written statements are redeemable for cash.

(H) Keno.

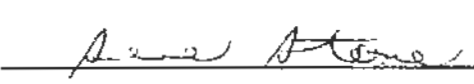
(I) Interactive satellite or telephonic games of chance.

(J) All other games of chance that may be authorized under a Tribal/State Gaming Compact with the State of Oklahoma pursuant to the Indian Gaming Regulatory Act.

SIGNED:



Tribal President Date



Tribal Secretary Date