



May 22, 2020

**VIA E-MAIL**

Chief William Harris  
Catawba Indian Nation  
996 Avenue of the Nations  
Rock Hill, SC 29730

**Re: Catawba Indian Nation Gaming Ordinance**

Dear Chief Harris:

This letter is to inform you that the Catawba Indian Nation's Gaming Ordinance, enacted by Resolution 20200201A on February 1, 2020, is approved by operation of law.

Pursuant to the Indian Gaming Regulatory Act and NIGC regulations, the Chairman has ninety days from the date of submission to either approve or disapprove a gaming ordinance.<sup>1</sup> Any ordinance not acted upon at the end of the ninety day period is considered to have been approved by the Chairman but only to the extent that such ordinance is consistent with IGRA and NIGC regulations.<sup>2</sup> The gaming ordinance was received by the NIGC on February 21, 2020. The 90-day deadline to approve or disapprove the ordinance was May 21, 2020. Because no action was taken by the Chairman within the ninety-day period, the Nation's gaming ordinance is considered approved to the extent it is consistent with IGRA and NIGC regulations.

It is the opinion of the Office of General Counsel that while the Nation's Gaming Ordinance is substantially compliant with IGRA, the Nation did not submit copies of all tribal gaming regulations. Please submit a copy of the Tribe's gaming regulations upon enactment.

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<sup>1</sup> 25 U.S.C. § 2710(e); 25 C.F.R. § 522.9.

<sup>2</sup> *Id.*

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Re: Catawba Indian Nation Gaming Ordinance  
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Thank you for bringing the gaming ordinance to our attention and for providing us with a copy. If you have any questions, please contact Senior Attorney Esther Dittler at 202-853-7511.

Sincerely,

A handwritten signature in blue ink that reads "Michael Hoenig". The signature is fluid and cursive, with a large, stylized "H" and a long, sweeping underline.

Michael Hoenig  
General Counsel

cc: William R. Norman, HOBBS, STRAUS, DEAN & WALKER, LLP  
Christopher Z. Cantrell, HOBBS, STRAUS, DEAN & WALKER, LLP

# **GAMING ORDINANCE OF THE CATAWBA INDIAN NATION**

## **TITLE I** **GENERAL PROVISIONS**

### **Section 101. Short Title**

This Ordinance shall be known and may be cited as the "Catawba Indian Nation Gaming Ordinance."

### **Section 102. Purpose and Findings**

The Catawba Indian Nation General Council, empowered by the Constitution of the Catawba Indian Nation, Article IV, hereby enacts this Ordinance to:

- A. Authorize and regulate tribal gaming activities on lands of the Catawba Indian Nation;
- B. Provide revenue generated by tribal gaming activities to fund tribal government operations and programs and to promote the general welfare of the Catawba Indian Nation; and
- C. Ensure that tribal gaming activities are conducted fairly and honestly and are free from organized crime and other corrupting influences.

The Catawba Indian Nation General Council finds that it is of vital interest to the public health, safety, and welfare of the Catawba Indian Nation and its members that the Nation promote and regulate tribal gaming activities in a manner consistent with this Ordinance.

### **Section 103. Definitions**

- A. "Class II gaming" shall mean all gaming as defined as Class II gaming in IGRA.
- B. "Class III gaming" shall mean all gaming as defined as Class III gaming in IGRA.
- C. "Compact" shall mean any tribal-state gaming compact concerning the operation of Class III gaming between the Catawba Indian Nation and any state that is entered into and approved pursuant to IGRA.
- D. "Constitution" shall mean the Constitution of the Catawba Indian Nation.
- E. "Executive Committee" shall mean the Executive Committee of the Catawba Indian Nation.

- F. "Gaming Commission" shall mean the Catawba Indian Nation Gaming Commission.
- G. "Gaming Facility" shall mean any premises on which a gaming operation is licensed to operate.
- H. "Gaming Operation" shall mean any commercial business owned by the Catawba Indian Nation for the conduct of Class II or Class III gaming pursuant to this Ordinance. A gaming operation may be operated by the Catawba Indian Nation directly or by a management contractor.
- I. "General Council" shall mean the General Council of the Catawba Indian Nation.
- J. "IGRA" shall mean the Indian Gaming Regulatory Act, adopted by the United States Congress on October 17, 1988, as Public Law 100-597, 102 Stat. 2467, codified at 25 U.S.C. § 2701, *et seq.*
- K. "Indian lands" shall mean "Indian lands" as defined in IGRA.
- L. "Key Employee" shall mean:
  - 1. A person who performs one or more of the following functions:
    - a. Bingo caller;
    - b. Counting room supervisor;
    - c. Chief of security;
    - d. Custodian of gaming supplies or cash;
    - e. Floor manager;
    - f. Pit boss;
    - g. Dealer;
    - h. Croupier;
    - i. Approver of credit; or
    - j. Custodian of gambling devices, including persons with access to cash and accounting records within such devices;
  - 2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year;

3. If not otherwise included, the four most highly compensated persons in the gaming operation; or
  4. Any other person designated by the Gaming Commission as a key employee.
- M. "Licensee" shall mean any person, entity, or organization granted a license pursuant to this Ordinance.
- N. "Nation" shall mean the Catawba Indian Nation.
- O. "NIGC" shall mean the National Indian Gaming Commission.
- P. "Non-Key Employee" shall mean any employee of a gaming operation who is not included in the definition of "Primary Management Official" or "Key Employee."
- Q. "Person" shall mean an individual, business entity, government or governmental agency, nonprofit organization, estate, association or any other legal entity or manager, agent, officer, owner, or employee thereof.
- R. "Primary Management Official" shall mean:
1. The person(s) having management responsibility for a management contract.
  2. Any person who has authority:
    - a. To hire and fire employees; or
    - b. To set up working policy for the gaming operation; or
    - c. The chief financial officer or other person who has financial management responsibility.
  3. Any other person designated by the Gaming Commission as a primary management official.
- S. "Vendor" shall mean any person who supplies any gaming related goods or services to a gaming operation. "Vendor" shall not include attorneys or certified public accountants.
- T. "TICS" shall mean Tribal Internal Control Standards, which are detailed procedural controls designed to protect the assets of the gaming operation, ensure the accuracy and reliability of accounting methods, and to protect the integrity of gaming.

#### **Section 104. Interpretation**

The provisions of this Ordinance, being necessary for the welfare of the Nation and its members, shall be construed liberally to effect the purposes and objectives hereof.

#### **Section 105. Severability**

The provisions of this Ordinance are severable, and if any part or provision hereof shall be held void by any court or government agency, the decision of the court or agency so holding shall not affect or impair any of the remaining provisions of this Ordinance.

#### **Section 106. Gaming Authorized**

- A. Class II gaming is hereby authorized and may be conducted on the Nation's Indian lands in accordance with this Ordinance, IGRA, NIGC regulations, rules and regulations of the Gaming Commission, and the TICS.
- B. Class III gaming is hereby authorized and may be conducted on the Nation's Indian lands in accordance with this Ordinance, IGRA, NIGC regulations, rules and regulations of the Gaming Commission, the TICS, the Compact, and, if applicable, Secretarial procedures approved by the Secretary of the Interior.

#### **Section 107. Ownership of Gaming**

The Nation shall have the sole proprietary interest in and ownership of any gaming operation authorized by this Ordinance, and shall be responsible for the conduct of any such gaming operation.

#### **Section 108. Use of Net Gaming Revenues**

Net revenues from Class II and Class III gaming shall be used only for the following purposes:

- A. To fund tribal government operations or programs;
- B. To provide for the general welfare of the Nation and its members;
- C. To promote tribal economic development;
- D. To donate to charitable organizations; or
- E. To help fund operations of local government agencies.

#### **Section 109. Per Capita Payments**

Net revenues from Class II and Class III gaming may be used to make per capita payments to

members of the Nation if:

- A. The Nation has prepared a plan to allocate revenues to one or more of the five uses authorized by Section 108 of this Ordinance;
- B. The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in Sections 108(A) and 108(C) of this Ordinance;
- C. The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person; and
- D. The per capita payments are subject to federal taxation and the Nation notifies its members of such tax liability when payments are made.

#### **Section 110. Environment and Public Health and Safety**

Each gaming facility shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public. Each gaming facility shall conform to Nation, federal or otherwise applicable environmental and public health and safety standards.

#### **Section 111. Audits**

- A. The Nation shall cause to be conducted independent audits of gaming operations annually which shall comply with applicable law and submit the results of those audits to the NIGC.
- B. All gaming-related contracts that result in the purchase of supplies, services, or concessions for more than \$25,000 in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under Section 111(A) of this Ordinance.

#### **Section 112. Penalty Provisions**

- A. It shall be a civil violation of the laws of the Nation to violate any provisions of this Ordinance, any rules and regulations of the Gaming Commission, or any proper order issued under the authority of this Ordinance. Any person or licensee so violating such may be punished by being fined, or by suspension of their license for a period not to exceed one year, or by revocation of their license, or by both such fine and license suspension or revocation.
- B. Any person violating the provisions of this Ordinance, any rules and regulations of the Gaming Commission, or any proper order issued under the authority of this

Ordinance may also be punished and prosecuted under applicable criminal law.

- C. Each day a violation continues may be considered a separate violation for purposes of imposing fines.
- D. Nothing in this Ordinance shall be construed to limit the ability of the Nation to assert civil or criminal penalties pursuant to other applicable Nation law.

### **Section 113. Agent for Service of Process**

The Nation designates the Chief of the Nation as agent for service of process or for any official determination, order, or notice of violation.

### **Section 114. Repealer**

Any and all prior gaming ordinances of the Nation are hereby repealed.

### **Section 115. Construction**

This Ordinance shall be liberally construed to carry out its purpose. The effectiveness and enforceability of this Ordinance shall not be dependent upon the adoption of any regulations unless otherwise required by law. Nothing contained in this Ordinance or regulations promulgated hereunder shall be construed to diminish, limit or otherwise adversely affect any right or remedy held or available to the Nation.

### **Section 116. Effective Date**

This Ordinance shall be effective on the date of its approval by the General Council.

## **TITLE II** **GAMING COMMISSION**

### **Section 201. Gaming Commission**

- A. In order to provide for the orderly development, administration, and regulation of tribal gaming, the Gaming Commission is hereby empowered and established to exercise its authority as the duly authorized body of the Nation to regulate gaming activities in accordance with this Ordinance and applicable law.
- B. The Gaming Commission shall consist of at least three members who are to be nominated by the Chief and confirmed by the Executive Committee by written resolution. Each member's term shall begin on the date of such resolution. Gaming Commission members shall initially serve for one, two and three-year terms. Thereafter, each Gaming Commission member shall serve for a three-year term. There shall be at least one Catawba citizen appointed to the initial Gaming Commission, who shall serve for the initial three-year term. After the expiration



of the initial one-year term, a Catawba citizen shall be appointed to fill that position. After the expiration of the initial two-year term, a Catawba citizen shall be appointed to fill that position. Thereafter, only Catawba citizens shall be eligible to serve as members of the Gaming Commission. In the event of a vacancy, the Chief may nominate any other qualified person to fill the vacancy, provided that any nominee shall be subject to confirmation by the Executive Committee as provided in this Section 201(B). The Chairman of the Gaming Commission shall be nominated and elected by a majority vote of the Gaming Commission members, subject to approval by the Chief. Gaming Commission members serving on the date of approval of this Ordinance shall serve for the remainder of such Gaming Commission members' terms.

- C. All Gaming Commission members shall meet the eligibility standards for primary management officials and key employees set forth in this Ordinance. All requisite background investigations for Gaming Commission members shall be performed under the direction of the Chief.
- D. The following persons are not eligible to serve as Gaming Commission members:
  - 1. Any member of the Nation's Executive Committee, while serving as such;
  - 2. Current employees of any gaming operation;
  - 3. Gaming contractors; or
  - 4. Any person who has been convicted of, plead guilty to, or plead no contest to a felony within the last ten years unless pardoned, any gambling related offense, or a crime of moral turpitude.
- E. Any Gaming Commission member may be removed by a majority plus one vote of the Executive Committee for neglect of duty, misconduct, malfeasance, or other acts that would render a Gaming Commission member unqualified for the position.
- F. A majority of the Gaming Commission shall constitute a quorum. The concurrence of a majority of the Gaming Commission members shall be required for any final determination by the Gaming Commission. The Gaming Commission may act in its official capacity, even if there are vacancies on the Gaming Commission.
- G. Gaming Commission members shall be compensated at a level determined by the Executive Committee, as set forth in the Nation's annual budget.
- H. The Gaming Commission shall keep a written record of all its meetings.
- I. Regular and special meetings of the Gaming Commission may be held, at the

discretion of the Gaming Commission, at such times and places as may be convenient.

## **Section 202. Gaming Commission Powers and Duties**

- A. The Gaming Commission shall be charged with the responsibility of administering and enforcing the provisions of this Ordinance.
- B. The Gaming Commission shall be empowered to:
  - 1. Conduct background investigations, or cause such investigations to be conducted, for all applicants and licensees;
  - 2. Review and approve all investigative work conducted in connection with the background investigations of applicants and licensees;
  - 3. Create and maintain investigative reports based on the background investigations of applicants and licensees;
  - 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 Chairman of the Gaming Commission;
  - 6. Submit a notice of results to the NIGC of the background investigations done for each primary management official and key employee applicant;
  - 7. Determine, establish, and collect fees for licensing and background investigations for applicants;
  - 8. Promulgate rules, regulations, and TICS governing the licensing, conduct, and operation of tribal gaming, as are consistent with this Ordinance;
  - 9. Issue licenses to gaming facilities;
  - 10. Investigate, inspect, examine, and monitor all of the Nation's gaming activities, and have immediate and unrestricted access to review, inspect, examine, photocopy, and audit all records of each gaming operation;
  - 11. Enforce this Ordinance, rules and regulations of the Gaming Commission, and TICS;
  - 12. Levy fines and to condition, suspend, restrict, or revoke any license issued by the Gaming Commission;

13. Investigate and hold hearings on patron complaints, in accordance with procedures established in this Ordinance;
14. Investigate and hold hearings on applicant and licensee matters;
15. Comply with any and all reporting requirements under IGRA, the NIGC's regulations, the Compact and any other applicable law;
16. 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;
17. Establish a list of persons who have voluntarily agreed to be excluded from the Nation's gaming facilities;
18. Provide referrals and information to appropriate law enforcement officials when such information indicates a violation of applicable Nation, federal or state law;
19. Ensure that an annual independent audit of all gaming operations is conducted and submitted to the NIGC;
20. Propose an annual budget for the Gaming Commission;
21. Review any contracts entered into by a gaming enterprise to ensure compliance with all applicable rules and regulations;
22. Employ legal counsel;
23. Defend this Ordinance in any court or before federal agencies; and
24. Perform such other duties and exercise such other incidental powers as may be necessary for the proper regulation of the tribal gaming.

**Section 203. Gaming Commission Staff**

- A. Gaming Commission staff shall be hired in accordance with the Nation's personnel policies, provided the Executive Committee may authorize the Gaming Commission to establish its own personnel policies.
- B. Gaming Commission staff shall meet the eligibility requirements for primary management officials and key employees set forth in this Ordinance.
- C. Gaming Commission staff shall implement such regulatory functions as delegated by the Gaming Commission.

#### **Section 204. Conflict of Interest**

- A. No Gaming Commission member or Gaming Commission staff shall participate in any gaming activities in any gaming facility licensed pursuant to this Ordinance.
- B. No Gaming Commission member or Gaming Commission staff may have a financial interest in any gaming operation or any entity licensed pursuant to this Ordinance. However, nothing in this Section shall prohibit any Gaming Commission member or Gaming Commission staff from having a financial interest in any gaming operation licensed pursuant to this Ordinance as would any member of the Nation, if entitled to such interest as a Nation member, including any per capita payments derived from revenues of any gaming operation licensed pursuant to this Ordinance.
- C. No Gaming Commission member or Gaming Commission staff shall accept any gift or other thing of value from any gaming operation or any vendor licensed pursuant to this Ordinance, except for non-monetary gifts of insignificant value received in the ordinary course of business or food and refreshments customarily made available in the ordinary course of meetings.

### **TITLE III** **LICENSING**

#### **Section 301. License Requirement**

No person, who pursuant to this Ordinance is required to be licensed by the Gaming Commission, shall be employed by or contract with any gaming operation without obtaining and maintaining an appropriate license issued by the Gaming Commission. The Gaming Commission shall determine the class of license required for each applicant based on the applicant's functions and responsibilities, and shall publish license application forms for each class of license. The Gaming Commission shall, by regulation, establish initial and renewal fees for each class of license and may establish, by regulation, sub-classes for any class of license authorized pursuant to this Ordinance.

#### **Section 302. Classes of Licenses**

Upon proper application, approval and payment of all required fees, the following types of licenses shall be issued by the Gaming Commission:

- A. Class A License. A Class A license is required for each gaming facility that conducts Class II or Class III gaming. The license shall be site specific and valid for a period of one year or such longer period as may be established by the Gaming Commission. A Class A license may be renewed upon the filing and approval of an application for renewal.

- B. Class B License. A Class B license is required for each primary management official of a gaming operation and shall be valid for a period of one year or such longer period as may be established by the Gaming Commission. A Class B license may be renewed upon the filing and approval of an application for renewal.
- C. Class C License. A Class C license is required for each key employee of a gaming operation and shall be valid for a period of one year or such longer period as may be established by the Gaming Commission. A Class C license may be renewed upon the filing and approval of an application for renewal.

### **Section 303. Gaming Facility Licenses**

- A. The Gaming Commission shall issue a separate license to each place, facility or location on the Nation's Indian lands where Class II and/or Class III gaming is conducted under this Ordinance. Nothing in this Ordinance shall be construed to limit the number of gaming facilities operated by the Nation.
- B. The Gaming Commission shall specify the form, conditions, and content of a facility license application.
- C. The Gaming Commission shall only issue a facility license if the application includes information and documentation required by the Gaming Commission and sufficiently satisfies any additional conditions deemed necessary by the Gaming Commission.
- D. The Gaming Commission shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Gaming Commission. This notice must be submitted at least 120 days, or as otherwise permitted by applicable law, before the opening of any new place, facility or location on the Nation's Indian lands where Class II and/or Class III gaming will occur.
- E. The Gaming Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within 30 days of issuance, along with any other required documentation.
- F. The Gaming Commission shall notify the NIGC Chair within 30 days if a facility license is terminated or expires, or if a gaming place, facility, or location closes or reopens, unless the closure is a seasonal or temporary closure lasting less than 180 days.

### **Section 304. Primary Management Official and Key Employee Licenses**

The Gaming Commission shall issue licenses and perform background investigations for primary management officials and key employees according to requirements at least as stringent as 25 C.F.R. Parts 556 and 558.

A. License Application Forms

1. The following notice shall be placed on the license application form for a key employee or a primary management official before it 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 Nation 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."

2. The following additional notice shall be placed on the application form for a key employee or a primary management official before it is filled out by an applicant:

"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 (U.S. Code, title 18, section 1001)."

B. Fingerprints

The Gaming Commission shall request fingerprints from each primary management official and key employee. Fingerprints shall be taken by the Gaming Commission. Fingerprints will then be forwarded to the NIGC for processing through the Federal Bureau of Investigation and the National Criminal Information Center to determine the applicant's criminal history, if any.

C. Background Investigations

1. The Gaming Commission shall perform a background investigation for

each primary management official and key employee of a gaming operation. The Gaming Commission shall obtain from each primary management official and key employee all of the following information:

- a. Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender, and all languages spoken and/or written;
- b. Currently, and for the previous five years, business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
- c. 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 C(1)(b) of this Section;
- d. Current business and residential telephone numbers, and all current cell phone numbers;
- e. A description of any existing and previous business relationships with other tribes, including any ownership interests in the businesses;
- f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in the businesses;
- g. 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;
- h. 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 of disposition, if any;
- i. 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 of disposition, if any;
- j. 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 paragraphs C(1)(h) or C(1)(i) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;

- k. 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;
  - l. A current photograph;
  - m. Any other information the Gaming Commission deems relevant; and
  - n. Fingerprints obtained in accordance with procedures adopted by the Nation pursuant to 25 C.F.R. § 522.2(h);
- 2. In conducting a background investigation, the Gaming Commission shall keep confidential the identity of each person interviewed in the course of the investigation.
  - 3. When a primary management official or key employee is employed by the Nation, a complete application file, containing all of the information listed in Section 304(C) of this Ordinance, shall be maintained.
  - 4. The investigation of a primary management official or key employee must be sufficient to allow the Gaming Commission to make an eligibility determination under Section 304(E) of this Ordinance.

D. Investigative Reports

- 1. Before issuing a license to a primary management official or key employee, the Gaming Commission shall create and maintain an investigative report for each background investigation of a primary management official or key employee.
- 2. Investigative reports shall include all of the following information:
  - a. Steps taken in conducting the investigation;
  - b. Results obtained;
  - c. Conclusions reached; and
  - d. The basis for those conclusions.



E. Eligibility Determinations

1. Before issuing a license to a primary management official or key employee, the Gaming Commission 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.
2. If the Gaming Commission, 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, the Gaming Commission shall not license that person in a key employee or primary management official position.
3. 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.

F. Notice of Results of Background Investigations

1. Before issuing a license to a primary management official or key employee, 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 60 days after the applicant begins work at a gaming operation.
2. The notice of results shall include the following information:
  - a. The applicant's name, date of birth, and social security number;
  - b. The date on which the applicant began, or will begin, working as a primary management official or key employee;
  - c. A summary of the information presented in the investigative report, including:
    - i. licenses that have previously been denied;
    - ii. gaming licenses that have been revoked, even if subsequently reinstated;
    - iii. every known criminal charge brought against the applicant within the last 10 years of the date of the application; and
    - iv. every felony offense of which the applicant has been

convicted or any ongoing prosecution; and

- d. A copy of the eligibility determination made in accordance with Section 304(E) of this Ordinance.

G. Granting Licenses

1. 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 Section 304(F) of this Ordinance.
2. The Gaming Commission shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days of issuance.
3. No gaming operation shall 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 a gaming operation.
4. The Gaming Commission must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within 30 days of the NIGC receiving a notice of results of the applicant's background investigation.
5. The Gaming Commission shall take the NIGC's objections into account when reconsidering a license application.
6. The Gaming Commission shall make the final decision whether to issue a license to an applicant for a primary management official or key employee position.
7. If 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, as required by Section 304(I) of this Ordinance.

H. Denying Licenses

1. The Gaming Commission shall not license a primary management official or key employee if the Gaming Commission determines, in applying the standards in Section 304(E) of this Ordinance for making a license eligibility determination, that licensing the person:
  - a. Poses a threat to the public interest;

- b. Poses a threat to the effective regulation of gaming; or
  - c. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.
- 2. When the Gaming Commission 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, it shall:
  - a. Notify the NIGC; and
  - b. 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.

I. License Suspensions and Revocations

- 1. If, after a license is issued to a primary management official or a key employee, the Gaming Commission receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Gaming Commission shall do the following:
  - a. Immediately suspend the license;
  - b. Provide the licensee with written notice of the suspension and proposed revocation; and
  - c. Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.
- 2. The right to a revocation hearing vests only when a license is granted under this Ordinance, as approved by the NIGC Chair.
- 3. Following a revocation hearing, the Gaming Commission shall decide whether to revoke or reinstate the license at issue.
- 4. The Gaming Commission shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

J. Records Retention

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 a gaming operation, the following documentation:

1. Applications for licensing;
2. Investigative reports; and
3. Eligibility determinations.

### **Section 305. Licenses for Non-Key Employees**

The Gaming Commission may, by regulation, establish procedures for the application, investigation and issuance of non-key employee licenses, as deemed necessary by the Gaming Commission and as are consistent with this Ordinance.

### **Section 306. Licenses for Vendors**

The Gaming Commission may, by regulation, establish procedures for the application, investigation and issuance of vendor licenses, as deemed necessary by the Gaming Commission and as are consistent with this Ordinance.

### **Section 307. Temporary Licenses**

Temporary licenses may be issued by the Gaming Commission for a maximum of 90 days with respect to all licenses authorized by this Ordinance.

### **Section 308. License Renewal**

Each licensee intending to continue engaging in tribal gaming after expiration of the licensee's license, shall apply for renewal of the license at least 30 days prior to the expiration of the then current license.

### **Section 309. License Display**

Each gaming operation shall display in a prominent place in the gaming facility a current and valid gaming facility license issued by the Gaming Commission for that location.

### **Section 310. Requirements to Maintain a License**

- A. It shall be unlawful for a gaming operation to change the location of a gaming facility or begin operation of a new gaming facility without first submitting written notification to the Gaming Commission and obtaining approval from the Gaming Commission for an amended or new gaming facility license.
- B. It shall be unlawful for a gaming operation to employ any person in a position requiring a primary management official, key employee, or other applicable license without the prior issuance of a license or temporary license from the

Gaming Commission, or to purchase goods or services from a vendor, if required to be licensed, without the prior issuance of a license or temporary license from the Gaming Commission.

- C. It shall be unlawful for any person, except law enforcement officials, casino security officers providing security at a gaming facility, and armored car service personnel, to possess a firearm or dangerous weapon on the premises of a gaming facility.
- D. Gaming operations are required during normal business hours to maintain the premises open for inspection by the Gaming Commission and its agents or any authorized government agency and to keep its books and records open for similar inspection.
- E. Gaming operations must produce at a player's request losing tickets, copies of cancelled checks, or other evidence of loss acceptable to the Internal Revenue Service if requested by the player or contestant at the time the player or contestant buys a ticket or chance or otherwise enters the game.

### **Section 311. Non-Transferability of Licenses**

Any license issued pursuant to this Ordinance is valid only for the person shown on the face thereof, and it is not assignable or otherwise transferable.

### **Section 312. License as a Revocable Privilege**

Each license issued pursuant to this Ordinance is a revocable privilege and no holder thereof shall be deemed to have an interest in any vested rights in such license. The burden of proving qualification to hold any license rests at all times on the licensee. The Gaming Commission is charged by law with the duty of continually observing the conduct of all licensees to the end that licenses shall not be held by unsuitable persons or persons whose operations are conducted in an unsuitable manner.

### **Section 313. Violations**

- A. Violation of any provision of this Ordinance or any of the rules and regulations of the Gaming Commission shall:
  - 1. Be deemed contrary to the public health, safety, morals, good order, and general welfare of the Nation and its members;
  - 2. Be grounds for refusing to grant or renew a license or for suspension or revocation of a license;
  - 3. Be grounds for the filing of criminal charges and/or a civil action in a court of competent jurisdiction on behalf of the Gaming Commission and

the Nation; and

4. Be grounds for immediate revocation of a license in the case of a licensee convicted of a felony.
- B. Acceptance of a license or renewal thereof or a condition imposed thereon by a licensee constitutes agreement on the part of the licensee to be bound by all the rules and regulations of the Gaming Commission, TICS, and by the provisions of this Ordinance as the same are now or may hereafter be amended or promulgated. It is the responsibility of each licensee to be informed of the contents of all such Ordinance provisions, rules and regulations and TICS.
- C. Any license granted pursuant to this Ordinance may be suspended or revoked for any cause which would have prevented its issuance.
- D. It shall be unlawful for any applicant to lie or willfully deceive the Gaming Commission in the submission of a license application. Any such act shall be deemed a violation of this Ordinance and shall be grounds for the refusal to grant or renew a license, suspend or revoke a license, and filing criminal charges and/or a civil action in a court of competent jurisdiction on behalf of the Gaming Commission and the Nation.

#### **Section 314. License Disqualification**

The Gaming Commission shall deny a primary management official or key employee license to any applicant who is disqualified for licensure on the basis of any of the following criteria:

- A. Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this Ordinance;
- B. Failure of the applicant to provide information, documentation, waivers, or assurances required by this Ordinance or requested by the Gaming Commission;
- C. Failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria; or
- D. Conviction of the applicant of any of the following:
  1. Any felony; or
  2. Any gaming related offense.

#### **Section 315. Confidentiality**

Communications, documents, records, and other information obtained by the Gaming

Commission and Gaming Commission staff relating to licensing matters are confidential and shall not be disclosed except in furtherance of the duties of the Gaming Commission and Gaming Commission staff or pursuant to a court order. This Section does not apply to requests for such information for investigatory or law enforcement purposes from tribal, federal, or state law enforcement agencies.

#### **Section 316. Hearings**

- A. The Gaming Commission shall provide an applicant for a license an opportunity for a hearing prior to a final action denying such application and shall provide a licensee, or any other person subject to this Ordinance, the opportunity for a hearing prior to taking final action resulting in the revocation, suspension, or limitation of a license or any other adverse action, provided that the Gaming Commission may summarily suspend temporarily or extend suspension of a license for 30 days in those cases where such action is deemed appropriate by the Gaming Commission. In cases where a license is suspended prior to a hearing, an opportunity for a hearing shall be provided.
- B. Whenever upon specific factual finding, the Gaming Commission determines to take any final action described in Section 316(A) of this Ordinance, the Gaming Commission shall make a certification of findings and provide a copy thereof and a notice of hearing to the subject of that determination prior to a hearing. The Gaming Commission shall hold the hearing within 30 days of provision of the certification of findings and notice of hearing to the subject.
- C. At the hearing, it shall be the obligation of the subject to show cause why the Gaming Commission's determination to take final action should not be upheld. At the hearing, the subject shall be afforded access to evidence upon which any determination to take final action is based, to present the subject's own evidence and to confront witnesses.
- D. Within 30 days of the hearing, the Gaming Commission shall provide the subject written notice of its determination.

### **TITLE IV** **GAMING OPERATIONS**

#### **Section 401. Rules for Gaming Activities**

- A. The Gaming Commission may promulgate rules and regulations for the conduct of specific games in the determination of the Gaming Commission.
- B. Each gaming operation shall prominently display in writing all rules and regulations pertaining to specific games near the location where such gaming activity is conducted, or shall make available a written copy of such rules and regulations to any person making a request for such.

- C. Each gaming operation shall conduct all gaming activities in compliance with this Ordinance, Gaming Commission rules and regulations, TICS, the Compact, and other applicable federal law.

#### **Section 402. Restrictions for Gaming Operations**

Each gaming operation must at all times observe the following restrictions:

- A. No person under the age of 18 shall be permitted to participate in any gaming activity at any gaming facility licensed pursuant to this Ordinance. If any person under the age of 18 plays and otherwise qualifies to win any prize, the prize shall not be paid, and the estimated amount wagered during the course of the game shall be returned to the player.
- B. No gaming operation shall allow to be sold or otherwise make available any beverage containing alcohol, including but not limited to beer or liquor, at any gaming facility, except in strict compliance with Nation and federal law and upon the approval by the Gaming Commission.

#### **Section 403. Patron disputes**

All disputes between patrons and a gaming operation shall initially be addressed by the gaming operation's general manager. If such disputes are not resolved by the general manager to the satisfaction of the patron, the patron may appeal to the Gaming Commission for resolution of the dispute. The Gaming Commission's determination regarding the dispute shall be final.



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**RESOLUTION  
OF THE  
GENERAL COUNCIL OF THE  
CATAWBA INDIAN NATION**

February 1, 2020

Resolution Number: 20200201A

**Resolution Approving Catawba Indian Nation Gaming Ordinance and its Submission to  
the National Indian Gaming Commission for Review**

**WHEREAS**, the Catawba Indian Nation ("the Nation") was restored to its Federal Status on October 23, 1993 (Public Law 103-116); and

**WHEREAS**, the General Council is the governing body of the Nation pursuant to Article 3 Section 1 of the Catawba Indian Nation Constitution; and

**WHEREAS**, the Executive Committee has the duty to act on behalf of the General Council when not in session and has the charge of all routine matters which shall arise pursuant to Article 1 Section 3 of the Catawba Constitution By-laws;

**WHEREAS**, the Nation is seeking to promote the economic and social welfare of the Catawba People and surrounding communities through the conduct of gaming operations and related services on the Nation's lands in accordance with applicable law; and

**WHEREAS**, the Indian Gaming Regulatory Act, 25 U.S.C. § 2710, requires a tribal nation to enact a gaming ordinance that is approved by the National Indian Gaming Commission before gaming activities can commence on tribal land; and

**WHEREAS**, the Nation, in accordance with the requirements of the Indian Gaming Regulatory Act, therefore desires to establish a legal and regulatory framework for the operation of gaming on its lands in a manner that is transparent, accountable, and closely regulated.

**NOW, THEREFORE BE IT RESOLVED**, that the General Council does hereby adopt and enact the Catawba Indian Nation Gaming Ordinance, which shall govern all rules and regulations with respect to the operation of gaming on the lands of the Nation; and

**THEREFORE BE IT FURTHER RESOLVED**, that the General Council hereby expressly authorizes the Executive Committee, acting through the Chief, to submit the aforesaid Gaming Ordinance to the National Indian Gaming Commission for review; and

**THEREFORE BE IT FURTHER RESOLVED**, that the General Council hereby expressly authorizes the Executive Committee, acting through the Chief, to amend, as necessary, the

provisions of the aforesaid Gaming Ordinance without the need for further review or approval by the General Council to address issues raised by the National Indian Gaming Commission during the course of its review that are needed in order secure the Ordinance's approval, and such amendments shall be binding upon the Nation in accordance with their terms; and

**BE IT FINALLY RESOLVED**, that the Executive Committee shall thereafter inform the General Council of all substantive amendments, if any, incorporated into the Catawba Indian Nation Gaming Ordinance on its final approval by the National Indian Gaming Commission.

Whereas, this motion was made by:

Alex Osborn

The Motion was seconded by:

Mik. Steiniger

Votes, Yes: 93

Votes, No: 3

Abstentions: 1

Certified by Chief William Harris and Secretary/Treasurer Roderick Beck on behalf of the General Council:

William Harris

Roderick Beck

On this date of:

February 1, 2020