



July 17, 2020

VIA E-MAIL ONLY

Bryan A. Polite, Council of Trustees Chairman
Shinnecock Indian Nation
P.O. Box 5006
Southampton, NY 11969-5006

Re: Shinnecock Indian Nation Gaming Ordinance

Dear Chairman Polite:

This letter is to inform you that the Shinnecock Indian Nation's Gaming Ordinance, enacted by Resolution #2020-011 on April 8, 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.¹ Any ordinance not acted upon at the end of the ninety-day period is considered approved by the Chairman, but only to the extent that it is consistent with IGRA and NIGC regulations.² The NIGC received the Gaming Ordinance on April 17, 2020. The 90-day deadline to approve or disapprove the ordinance is July 16, 2020. Because the Chairman took no action within the ninety-day period, the Nation's gaming ordinance is approved to the extent it is consistent with IGRA and NIGC regulations.

It is the Office of General Counsel's opinion 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 Nation's gaming regulations upon enactment.

Thank you for submitting the Gaming Ordinance. If you have any questions, please contact Senior Attorney Maria Getoff at 703-338-7748.

Sincerely,

A handwritten signature in blue ink that reads "Michael Hoenig". The signature is fluid and cursive.

Michael Hoenig
General Counsel

cc: Greg Smith, HOBBS, STRAUS, DEAN & WALKER, LLP

¹ 25 U.S.C. § 2710(e); 25 C.F.R. § 522.9.

² *Id.*

SHINNECOCK NATION TRIBAL CODE

TITLE X

GAMING

❖ **10-1-1. Purpose**

A. The Council of Trustees of the Shinnecock Indian Nation ("Nation"), empowered by The Tribe's Constitution to enact ordinances hereby enacts this ordinance in order to:

1. promote tribal economic development,
2. self-sufficiency and sovereignty;
3. to shield the operation of gaming from organized crime and other corrupting influences; and
4. to ensure that gaming is conducted fairly and honestly by both the operator and players.

❖ **10-2-1. Applicability**

A. Unless specifically indicated otherwise, all provisions of this ordinance shall apply to class II and class III gaming on The Nation's Indian lands.

❖ **10-3-1. Definitions.**

A. The following terms shall have the same meaning and effect as those same terms as defined in the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. §§ 2701 et seq., and the National Indian Gaming Commission ("NIGC") regulations, 25 C.F.R. §§ 500 et seq., if they are defined in IGRA and the NIGC's regulations.

B. Class I gaming.

1. Social games played solely for prizes of minimal value; or
2. Traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.

C. Class II gaming.

1. Bingo or lotto (whether or not electronic, computer or other technologic aids are used) when players:

2. Play for prizes with cards bearing numbers or other designations;
3. Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
4. Win the game by being the first person to cover a designated pattern on such cards;
5. Pull-tabs, punch boards, tip jars, instant bingo and other games similar to bingo, if played in the same location as bingo or lotto;
6. Non-banking card games that:
 - a) State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
 - b) Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes;

D. Class III gaming.

1. All forms of gaming that are not class I or class II gaming, including, but not limited to:
 - a) Any house banking game, including but not limited to –
 - b) Card games such as baccarat, chemin de fer, blackjack (21), and pai gow
 - c) (if played as house-banking games); and
 - d) Casino games such as roulette, craps, and keno;
2. Any slot machines, as defined in 15 U.S.C. § 1711(a)(1), and electronic or electromechanical facsimiles of any game of chance;
3. Any sports betting and pari-mutuel wagering, including but not limited to, wagering on horse racing, dog racing or jai alai; or
4. Lotteries.

E. Commission.

1. The Shinnecock Nation Gaming Commission (“SNGC”) established to perform regulatory oversight and to monitor compliance with tribal, federal and any applicable state regulations.

F. Commissioner.

1. A Tribal Gaming Commissioner.

- G. Directly related to.
1. A spouse, child (biological, step, or adopted), parent, grandparent, grandchild, aunt, uncle, or first cousin.
- H. Director.
1. A member of the Tribal Gaming Board of Directors.
- I. Facility License.
1. A separate license issued by The Nation to each place, facility or location on Indian lands where The Nation elects to allow class II or III gaming;
- J. Gaming Operation.
1. Each economic entity that is licensed by The Nation, operates the games, receives the revenues, issues the prizes, and pays the expenses.
 2. A gaming operation may be operated by The Nation directly; by a management contractor; or, under certain conditions, by another person or entity.
- K. Indian lands.
1. Land within the limits of an Indian reservation; or
 2. Land over which an Indian tribe exercises governmental power and that is either:
 - a) Held in trust by the United States for the benefit of any Indian tribe or individual; or
 - b) Held by an Indian tribe or individual subject to restriction by the United States against alienation.
- L. Key Employee.
1. A person who performs one or more of the following function:
 - a) Bingo caller;
 - b) Counting room supervisor;
 - c) Chief of Security or Surveillance;

- 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 Nation as a key employee.

M. Licensee.

- 1. A tribally owned class II or class III gaming operation or a person licensed by the Tribal Gaming Commission as a primary management official, key employee or other gaming employee under the provisions of this ordinance.

N. Management Contract.

- 1. Any contract, subcontract or collateral agreement between an Indian tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

O. Net Revenues.

- 1. Gross gaming revenues of an Indian gaming operation less:
 - a) Amounts paid out as, or paid for, prizes; and
 - b) Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

P. Primary Management Official.

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 Nation as a primary management official.

Q. Tribal-State Compact.

- a) An agreement between a tribe and state about class III gaming under 25 U.S.C. § 2710(d).

R. Nation or alternatively the Tribe.

1. The Shinnecock Indian Nation.

❖ **10-4-1. Gaming Authorized**

- A. Class II and class III gaming are authorized to be conducted on The Nation's Indian lands, if such gaming is conducted in accordance with this ordinance, the Indian Gaming Regulatory Act, the NIGC's regulations, and any other applicable laws or regulations.

❖ **10-5-1. Ownership of Gaming**

- A. The Nation shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance.

❖ **10-6-1. Use of Net Gaming Revenues**

- A. Net revenues from Tribal gaming shall be used only for the following purposes:
 1. To fund Tribal government operations or programs;
 2. To provide for the general welfare of The Nation and its members;
 3. To promote Tribal economic development;

4. To donate to charitable organizations; or
5. To help fund operations of local government agencies.

❖ **10-7-1. Per Capita Payments**

A. Net revenues from any class II or class III gaming activities conducted or licensed

by The Nation may be used to make per capita payments to Tribal members if:

1. The Nation has prepared a plan to allocate revenues to one or more of the five uses authorized by this ordinance;
2. The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in section 10-6-1;
3. 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
4. The per capita payments are subject to Federal taxation and The Nation notifies its members of such tax liability when payments are made.

❖ **10-8-1. Gaming Commission**

A. Gaming Commission Composition

1. The Nation hereby establishes a Tribal Gaming Commission ("Commission") to regulate The Nation's gaming operations.
2. The Commission shall consist of three (3) members:
 - a) a Chair,
 - b) Vice-Chair; and
 - c) one additional Commissioner.
3. The Commission will conduct oversight to ensure compliance with Tribal, federal and, if applicable, state laws and regulations.
4. The Commission will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process.

5. The Commission will also have a role in monitoring compliance with the gaming operation's internal controls and in tracking gaming revenues.
6. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all of its records.
7. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.

B. Appointment of Commissioners

1. Commissioner positions shall be filled in the following manner:
 - a) Through appointment by the Shinnecock Nation Board of Trustees and confirmation by simple majority vote of twenty percent (20%) of the General Council.
 - b) It is preferred, but not required, that one Commission have at least ten (10) years of experience in management or ownership within the Gaming industry.

C. Term

1. Terms of office for Commissioners shall be as follows:
 - a) the Chair shall serve an initial term of one (1) year, with subsequent Chairs serving 3-year terms; and
 - b) the Vice-Chair and Commissioner shall serve an initial term of two (2) years, with subsequent Vice-Chairs and Commissioners serving 3-year terms.
2. Duly appointed Commissioners shall remain in their seat until a replacement has been ratified by the General Council.

D. Removal of Commissioners

1. Commissioners may be removed from office with a seventy-five percent (75%) percent vote of the Board of Trustees and ratified by a simple majority vote of twenty percent (20%) of the General Council.

E. Eligibility

1. The following persons are **not** eligible to serve as Commissioners:

- a) Shinnecock Council of Trustees members, while serving as such; current employees of the gaming operation; gaming contractors (including any principal of a management, or other contracting company); persons directly related to, or sharing a residence with, any of the above; and persons ineligible to be key employees or primary management officials.
 - b) Individuals who hold a position, ownership or interest in any business providing services or products to any Shinnecock Nation gaming entity.
 - c) Non-tribal members previously convicted of any felony or misdemeanor offense of embezzlement, theft or any other money-related or honesty-related misdemeanor offense, such as fraud, cannot serve as Commissioner.
 - d) Tribal members previously convicted of any felony or misdemeanor offense of embezzlement, theft or any other offense related to money or honesty, such as fraud, will only be allowed to serve as a Commissioner if the Shinnecock Council specifically finds that a significant amount of time has passed and the person is now of trustworthy character.
2. The Shinnecock Council of Trustees shall require a criminal history check with appropriate law enforcement agencies for each Commissioner candidate; shall review the candidate's criminal history check results; and shall make an appropriate eligibility determination before appointing an individual to the position of Commissioner.

F. Independent Commission

- 1. The Nation recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated gaming operation.
- 2. The Commission shall be independent of, and act independently and autonomously from the Shinnecock Nation Board of Trustees and Shinnecock Nation General Council in all matters within its purview.
- 3. No prior, or subsequent, review by the Shinnecock Nation General Council, or Shinnecock Nation Board of Trustees, of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this ordinance.
- 4. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, The Nation requires that, at a minimum:
 - a) No member of the Shinnecock Council of Trustees or Tribal Gaming Board of Directors may serve on the Tribal Gaming Commission;

- b) No member directly related to, or living with, any Shinnecock Council of Trustees member or Tribal Gaming Board of Directors member may serve on the Tribal Gaming Commission;
 - c) Members of the Commission are prohibited from gambling in the facility;
 - d) Commissioners are prohibited from accepting complimentary items from the gaming operation, excepting food and beverages valued under fifty dollars (\$50.00); and
 - e) Commissioners may only be removed from office by the Shinnecock Board of Trustees, prior to the expiration of their respective terms, for neglect of duty, misconduct, malfeasance or other acts that would render a Commissioner unqualified for the position. Pursuant to Section 10-8-1(D)
5. Nominees for Commissioner positions must satisfy the eligibility standards set forth for primary management officials and key employees found in Section 21 of this ordinance.
6. All requisite background investigations shall be performed under the direction of the Commission.

G. Powers of the Commission.

1. The Tribal Gaming Commission shall:
- a) Conduct background investigations, or cause such investigations to be conducted, for primary management officials and key employees;
 - b) Review and approve all investigative work conducted in connection with the background investigations of primary management officials and key employees;
 - c) Create and maintain investigative reports based on the background investigations of primary management officials and key employees;
 - d) Designate a law enforcement agency to obtain and process fingerprints and conduct a criminal history check that shall include a check of criminal history records information maintained by the Federal Bureau of Investigation;
 - e) Make licensing eligibility determinations, which shall be signed by the Chair of the Commission;
 - f) Submit a notice of results to the NIGC of the background investigations done for each primary management official and key employee applicant;
 - g) Issue gaming licenses to primary management officials and key employees of the operation, if warranted by the eligibility determination;
 - h) Establish standards for licensing Tribal gaming facilities;
 - i) Issue gaming licenses to Tribal gaming facilities;

- j) 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 facilities and operations;
- k) Ensure compliance with all Tribal, federal and applicable state laws, rules and regulations regarding Indian gaming;
- l) Investigate any suspicion of wrongdoing associated with any gaming activities;
- m) Hold hearings on patron complaints, in accordance with procedures established in this ordinance and the Tribal gaming regulations;
- n) 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;
- o) Promulgate and issue regulations necessary to comply with applicable internal control standards;
- p) Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
- q) 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 applicable state gaming regulations;
- r) 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;
- s) Establish a list of persons who have voluntarily agreed to be excluded from the Tribal gaming facilities, and create regulations for enforcing the exclusions;
- t) 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;
- u) Create a list of regulatory authorities that conduct background investigations of, and licenses, vendors who are recognized as trustworthy;
- v) Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
- w) Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation; and
- x) 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.

2. Before adopting, amending and repealing regulations, the Commission shall give notice of any such proposed action to the Shinnecock Nation Board of Trustees, the gaming operation(s) and all other persons whom the Commission has reason to believe have a legitimate interest in the proposed action.

3. The notice shall invite comments and describe the general nature of the proposed action and the manner in which comments on the proposed action shall be received by the Commission.
4. The Commission shall ensure that all records and information obtained as a result of an employee background investigation, including but not limited to, the identity of each person interviewed in the course of an investigation, shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing and employment processes.
5. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel and/or others employed by the Tribal gaming operation on a need-to-know basis, for actions taken in their official capacities.
6. The confidentiality requirements above, do not apply to requests for such records or information from any Tribal, federal or state law enforcement or regulatory agency, or for the use of such records or information by the Commission and staff in the performance of their official duties.
7. A majority of the Commission shall constitute a quorum.
8. The concurrence of a majority of the Commissioners shall be required for any final determination by the Commission.
9. The Commission may act in its official capacity, even if there are vacancies on the Commission.
10. Commissioners shall be compensated at a level determined by the Shinnecock Council of Trustees.
11. In order to ensure the Commission is not improperly influenced, a Commissioner's compensation shall not be based on a percentage of gaming revenue.

H. Record Keeping

1. The Commission shall keep a written record of all its meetings.
2. The Commission shall present to the Board of Trustees quarterly all records.

❖ **10-9-1. Audits**

- A. The Nation shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC.
 - 1. Other independent audits may be conducted at The Nation's discretion and are not required to be submitted to NIGC.
 - 2. Annual audits shall conform to generally accepted auditing standards.
- 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 this ordinance.
- C. Copies of the annual audit of each licensed gaming operation, and each audit for supplies, services or concessions of each gaming operation, shall be furnished to the NIGC within one hundred and twenty (120) days after the end of each fiscal year of the gaming operation.

❖ **10-10-1. Environment and Public Health and Safety**

- A. 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.
- B. The Shinnecock Gaming Commission shall identify and enforce laws, resolutions, codes, policies, standards, or procedures, which are applicable to each gaming place, facility or location, to ensure adequate protection of the environment and the health and safety of the public.

❖ **10-11-1. Patron Dispute Resolution**

- A. Patrons with complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief with the Tribal Gaming Commission. Complaints shall be submitted in writing.
- B. The Commission shall hold a hearing within thirty (30) days of receipt of the petitioner's complaint.
- C. The petitioner may be allowed to present evidence, at the discretion of the Commission.
- D. After the hearing, the Commission shall render a decision in a timely fashion. All such decisions will be final when issued.
- E. Any patron complaint must be submitted to the Commission within thirty (30) days of the incident giving rise to the complaint.
- F. Disputes relating to a patron's entitlement to a game prize shall be limited to the amount of such prize.
- G. The Commission's decision shall constitute the complainant's final remedy.

❖ **10-12-1. Facility Licenses**

- A. The Nation shall issue a separate license to each place, facility or location on Indian lands where class II and/or class III gaming is conducted under this ordinance.
- B. The Tribal Gaming Commission is responsible for issuing new or renewed facility licenses to each place, facility or location.

- C. The Tribal Gaming Commission shall require that a facility license application be completed by the chief management official of the gaming facility for each gaming place, facility or location.
- D. The Tribal Gaming Commission shall identify the environmental, health and public safety standards with which the place, facility or location must comply, and specify the form, conditions and content of a facility license application.
- E. A legal description of the lands upon which the facility is located, and a certification that the site constitutes "Indian lands," as defined in IGRA, the NIGC's regulations, the NIGC Office of General Counsel and DOI Solicitor Offices' Indian lands legal opinions, judicial decisions and any other applicable law.
- F. The Tribal Gaming Commission shall only issue a facility license if the application includes the required information and documentation, and sufficiently satisfies any additional conditions deemed necessary by The Nation.
- G. The Nation or Tribal Gaming Commission shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Tribal Gaming Commission.
 - 1. This notice must be submitted at least one hundred and twenty (120) days before the opening of any new place, facility or location on Indian lands where class II and/or class III gaming will occur.
- H. The Tribal Gaming Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within thirty (30) days of issuance, along with any other required documentation.

- I. The Nation shall notify the NIGC Chair within thirty (30) days if a facility license is terminated or expires, or if a gaming place, facility, or location closes or reopens.

❖ **10-13-1 Agent for Service of Process**

- A. The Nation designates the Administrative Assistant of the Council of Trustees as the agent for service of any official determination, order or notice of violation.

❖ **10-14-1. Access to Financial Information.**

- A. Tribal Member Review

1. A copy of the Nation's gaming operation annual audit will be made available for review to Tribal Members at the Board of Trustee's Offices upon written request to the Administrative Assistant to the Board of Trustees.

- B. Board of Trustee Review

1. Members of the Board of Trustees may inspect financial records of gaming operations during normal business hours with reasonable notice.

❖ **10-15-1. License Application Forms**

- A. The following notice shall be placed on The Nation's license application form for a key employee or a primary management official before it is filled out by an applicant:

1. 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.*
2. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license.
3. 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.

4. 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.
 5. 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.
 6. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.
- B. 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:
1. 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).

❖ **10-16-1. License Fees**

- A. The Nation may charge a license fee, to be set by the Tribal Gaming Commission, to cover its expenses in investigating and licensing key employees and primary management officials of the gaming operation.

❖ **10-17-1. Background Investigations**

- A. The Nation shall perform a background investigation for each primary management official and key employee in its gaming operation.
- B. The investigation must be sufficient to allow the Tribal Gaming Commission to make an eligibility determination under this Ordinance.

- C. The Tribal Gaming Commission is responsible for conducting the background investigations of primary management officials and key employees.
- D. The background investigation shall include a check of criminal history records information maintained by the Federal Bureau of Investigations.
- E. The Nation shall request fingerprints from each primary management official and key employee.
- F. The law enforcement agency designated to take fingerprints is an appropriate New York Police or Sheriff Department until such time as the Shinnecock Indian Nation develops a Public Safety division.
- G. The Tribal Gaming Commission shall request from each primary management official and key employee all of the following information:
 - 1. 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);
 - 2. Currently, and for the previous five (5) years; business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
 - 3. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph this section;
 - 4. Current business and residential telephone numbers, and all cell phone numbers;
 - 5. A description of any existing and previous business relationships with other tribes, including any 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 a conviction, the charge, the name and address of the court involved, and the date of 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 of disposition, if any;
 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 paragraphs in this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;
 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 photograph;
 13. Any other information The Nation deems relevant; and
 14. Fingerprints obtained in accordance with procedures adopted by The Nation.
- H. When a primary management official or key employee is employed by The Nation, a complete application file, containing all of the information listed in this Section, shall be maintained.

- I. The Tribal Gaming Commission, and its investigators, shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.

❖ **10-18-1. Procedures for Conducting Background Investigations**

- A. The Tribal Gaming Commission, or its agent, shall employ or engage an investigator to conduct a background investigation of each applicant for a primary management official or key employee position.
- B. The investigator shall:
 - 1. Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;
 - 2. Contact each personal and business reference provided in the license application, when possible;
 - 3. Conduct a personal credit check;
 - 4. Conduct a civil history check;
 - 5. Conduct a criminal history records check;
 - 6. Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony and/or misdemeanor convictions or ongoing prosecutions within the past 10 years;
 - 7. Inquire into any previous or existing business relationships with the gaming industry, including with any tribes with gaming operations, by contacting the entities or tribes;
 - 8. Verify the applicant's history and current status with any licensing agency by contacting the agency; and
 - 9. Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

❖ **10-19-1. Investigative Reports**

- A. The Nation shall create and maintain an investigative report for each background investigation of a primary management official or key employee.
- B. Investigative reports shall include all of the following information:
 - 1. Steps taken in conducting the investigation;
 - 2. Results obtained;
 - 3. Conclusions reached; and
 - 4. The basis for those conclusions.

❖ **10-20-1. Eligibility Determinations**

- A. Before a license is issued to a primary management official or key employee, an authorized Tribal official 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.
- B. If the authorized Tribal official, 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.

❖ **10-21-1. Notice of Results of Background Investigations**

- A. Before issuing a license to a primary management official or key employee, the Tribal Gaming Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.
- B. The notice of results must be submitted to the NIGC no later than sixty (60) days after the applicant begins working for The Nation.
- C. 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 previously been denied;
 - b) gaming licenses that have been revoked, even if subsequently reinstated;
 - c) every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
 - d) every felony offense of which the applicant has been convicted or any ongoing prosecution; and
 - e) A copy of the eligibility determination made in accordance with Section 21.

❖ **10-22-1. Granting Gaming Licenses**

- A. All primary management officials and key employees of the gaming operation must have a gaming license issued by The Nation.
- B. The Tribal Gaming Commission is responsible for granting and issuing gaming licenses to primary management officials and key employees.
- C. The Tribal 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 Ordinance.

- D. The Tribal 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.
- E. The Nation shall not employ an individual in a primary management official or key employee position who does not have a license after ninety (90) days of beginning work at the gaming operation.
- F. The Tribal 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 thirty (30) days of the NIGC receiving a notice of results of the applicant's background investigation.
- G. The Tribal Gaming Commission shall take the NIGC's objections into account when reconsidering a license application.
- H. The Nation will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.
- I. If the Tribal 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 this Ordinance.

❖ 10-23-1. Denying Gaming Licenses

- A. The tribal Gaming Commission shall not license a primary management official or key employee if an authorized Tribal official determines, in applying the standards in this Ordinance 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 Tribal 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:
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.

❖ **10-24-1. Gaming License Suspensions and Revocations**

- A. If, after a license is issued to a primary management official or a key employee, The Nation receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Tribal Gaming Commission shall do the following:
1. Immediately suspend the license;
 2. Provide the licensee with written notice of the suspension and proposed revocation; and
 3. Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.

- B. Following a revocation hearing, The Nation shall decide whether to revoke or reinstate the license at issue.
- C. The Nation shall notify the NIGC of its decision to revoke or reinstate a license within forty-five (45) days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

❖ **10-25-1. Records Retention**

- A. The Tribal Gaming Commission shall retain, for no less than seven (7) years from the date a primary management official or key employee is terminated from employment with The Nation, the following documentation:
 - 1. Application for licensing;
 - 2. Investigative Reports; and
 - 3. Eligibility Determinations.

❖ **10-26-1. Licenses for Vendors**

- A. Vendors of gaming services or supplies, with a value of \$25,000 or more annually, must have a vendor license from the Tribal Gaming Commission in order to transact business with the Tribal gaming operation. Contracts for professional legal and accounting services are excluded from this Section.

❖ **10-27-1. Submission of a Vendor License Application**

- A. 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.

- B. Principals of a business include those officers, directors, managers, owners, partners, and non-institutional stockholders that either own ten percent (10%) or more of the business' stock or are the ten (10) largest stockholders, as well as the on-site supervisors or managers designated in an agreement with The Nation, if applicable.

❖ **10-28-1. Contents of the 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 corporation, the state of incorporation and the qualification to do business in the State of New York, if the gaming operation is in a different state than the state of incorporation;
 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;

B. 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, but if a vendor has extensive interaction with Indian tribes, the Gaming Commission may limit this list to the ten (10) largest contracts by dollar value.

1. Names, addresses and telephone numbers of three (3) business references with whom the company has regularly done business for the last five (5) years;
2. 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;
3. If the business has ever had a license revoked for any reason, the circumstances involved;
4. 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;
5. A list of the business' funding sources and any liabilities of \$50,000 or more, but the Gaming Commission may set a higher amount for larger or publicly traded companies;
6. A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles and percentage of ownership in the company; and
7. Any further information The Nation deems relevant.

C. The following notice shall be placed on the application form for a vendor and its principals:

1. Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of The Nation's vendor license.

2. A vendor may submit to the Tribal Gaming Commission a copy of a recent license application to another jurisdiction if it contains the information listed above.
3. 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 Nation not contained in the other application.

❖ **10-29-1. Vendor Background Investigations**

- A. The Tribal Gaming Commission shall employ or otherwise engage an investigator to complete an investigation of a gaming vendor.
- B. 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.

❖ **10-30-1. Vendor License Fees**

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

❖ **10-31-1. Vendor Background Investigation Reports**

- A. 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 Tribal Gaming Commission.

❖ **10-32-1. Vendors Licensed by Recognized Regulatory Authorities**

- A. The Tribal 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.

❖ **10-33-1 Immunity and Good Faith**

- A. Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Shinnecock Nation, its departments, agencies, corporations, enterprises, employees, or agents.
- B. Any Nation employee or Commissioner acting under good faith of this Ordinance shall be immune from any civil liability arising out of such actions.

❖ **10-33-1. Compliance with Federal Law**

- A. The Nation shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*

❖ **10-34-1. Repeal**

- A. All prior Shinnecock Nation gaming ordinances and resolutions are hereby repealed and all former commissioners are relieved of their duties.

❖ **10-35-1. Effective Date**

- A. This ordinance shall take effect immediately upon its approval by the NIGC.



CONSTITUTION OF THE SHINNECOCK INDIAN NATION

Version #15a

Dated: February 2, 2013

Voted on by the Tribe: February 26, 2013

Amended by the General Council on April 7th, 2015

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PREAMBLE

Under the guidance of the Creator, in honor of our ancestors, and for the future of our children, we are determined as the people of the Shinnecock Indian Nation, to live and govern with faith, respect, integrity, honesty, common sense, and compassion. We are the caretakers of the land and waters that nourish and heal us; we learn and teach the values and traditions that have been passed down for generations.

It is with this knowledge that we have established guidelines for governance The Nation. Invoking the wisdom, blessings, and guidance of the Creator, we affirm our faith and assert our sovereignty based on our history and cultural heritage from time immemorial. We, the people of the Shinnecock Indian Nation, do ordain and establish this Constitution for the following purposes:

- . To promote our unity;
- . To ensure and promote the well-being of our Nation;
- . To protect our sovereignty;
- . To defend our freedom of self-determination;
- . To preserve our Shinnecock culture, values, traditions, and human rights;
- . To conserve and utilize our tribal lands and resources appropriately; and
- . To advance the common good of the Shinnecock Indian Nation.

CONSTITUTION OF THE SHINNECOCK INDIAN NATION

ARTICLE I. NAME

The name of our Tribe is the Shinnecock Indian Nation as referred to herein as “The Nation.”

ARTICLE II. TERRITORY OF THE NATION

The territory of the Shinnecock Indian Nation extends to all lands belonging to, owned by, and under the present and future jurisdiction of The Nation. The authority of the government established by this Constitution shall extend over all Shinnecock Tribal Citizens and all persons, properties, subjects, activities, intellectual property, cultural resources and territories including land, water, natural resources, airspace and entry interest therein, either now or in the future, owned or held in trust for The Nation. Our Nation is inextricably linked to our ancestral territories and we will continue to respect and protect our lands and waters that will allow us to maintain our relationships with our natural world as land and water based people, including but not limited to our collective rights as fisherman, hunters, harvesters, and gatherers.

ARTICLE III. SOVEREIGNTY OF THE NATION

The Shinnecock Indian Nation is a sovereign nation and has been since time immemorial. The Nation therefore possesses inherent sovereign power, the same as all governments, and shall exercise this inherent sovereign authority with no less rights or privileges than any other state or nation, including the United Nations Declaration on the Rights of Indigenous Peoples. We believe that we have been gifted, by the Creator with specific values and responsibilities as Shinnecock people, and The Nation recognizes itself as such. Additionally, The Nation is recognized first and foremost by other Indigenous Nations throughout Turtle Island and the world, then by pre-colonial, settler-colonial and other governments on a government-to-government basis. No tribal right or sovereign power of any kind shall be weakened, impaired, or surrendered by the adoption of this Constitution.

ARTICLE IV. CITIZENSHIP

The Shinnecock Indian Nation has the inherent right to determine its Citizenship of Tribal Members. Citizenship is determined by proven genealogical descent as direct lineal descendants of the Shinnecock ancestors listed on either the *1900 Federal Census, Schedule No. 1, New York State, Suffolk County Southampton Township, Supervisor's District No. 2, Enumeration District No. 785* or the *1910 Federal New York State Census, Indian Population, Suffolk County, Southampton Township, Shinnecock Indian Reservation, Supervisor's District No. 2, Enumeration District No. 1319* and/or such other criteria as The Nation has set forth for the purpose of listings submitted for *Federal Recognition* in 2010, or as may be changed by a referendum vote of the General Council through Enrollment Ordinance.

ARTICLE V. GOVERNMENT STRUCTURE OF THE NATION

The authority of The Nation exists within the Tribal Government as set forth by the roles, responsibilities, and powers of two (2) governing bodies, the General Council and the Council of Trustees. Further, The Nation internally recognizes two (2) additional bodies, a Council of Elders and a Youth Council, for the purpose of acknowledging our past and future.

This is the document on which the Tribe voted to approve on February 26, 2013. Amended by General Council on April 7th, 2015

ARTICLE VI. GENERAL COUNCIL

Section 1. Composition of the General Council

The General Council shall serve to promote and protect the health, public welfare, safety, education, and cultural and political sovereignty of the citizens of the Shinnecock Indian Nation. The General Council shall consist of the eligible voters of The Nation. Members of the General Council shall consist of all adult citizens, at least twenty-one (21) years of age, who reside on the Shinnecock Indian Reservation for a minimum of at least six (6) months prior to an election or vote, a said member will participate in, or as may be changed by a referendum vote of the General Council through Voting Ordinance. This body of eligible voters shall be referred to herein as the "General Council".

Section 2. Powers of the General Council

The General Council shall retain all authority and powers inherent to The Nation except as to such powers specifically delegated to the Council of Trustees, or such other entities as it may establish. Members of the General Council the rights, responsibilities and powers shall include but not limited to:

- a) To elect from its members, seven (7) Officers that will serve on the Council of Trustees;
- b) To demand timely and accurate reports from the Council of Trustees when further clarification and information is warranted;
- c) To ratify the annual budget of The Nation;
- d) To participate in the development and approval of The Nation's Comprehensive Plan; and,
- e) Through a petition process, the General Council shall have the collective powers of recall, initiative, referendum, and Constitutional amendment.

Section 3. Meetings of the General Council

- a) **Regular Meetings.** There shall be at least twelve (12) regular meetings of the General Council each year, to be held monthly, and shall be facilitated by the Council of Trustees. Regular meetings shall require at least fourteen (14) days notice. In the event of death of a tribal member, severe weather conditions, or dire emergency, a General Council meeting may be postponed and re-scheduled to take place within a ten (10) day period and may not take the place of another regular scheduled meeting.
- b) **Budgetary Meetings.** Two (2) of the aforementioned regular meetings must be held for presentation and recommendation of the annual budget of The Nation. Annually, the first issue of business, upon election of the Council of Trustees, shall be the ratification of the budget, affirmed by the votes of the General Council at a regular meeting. Additionally, prior to an election of the Council of Trustees, a budget proposal for the upcoming year shall be presented to the General Council at a regular meeting, as the responsibility of the outgoing Officers.
- c) **Special Meetings.** The General Council may call a special meeting to respond to pressing matters in need of urgent decision or action. Special meetings of the General Council may be called by the Chairperson of the Council of Trustees or by the General Council through petition,

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signed by at least fifty (50) members of the General Council. A special meeting may be called upon five (5) days notice.

- d) **Notice of Meetings.** Notice for each meeting, stating the time, place, and purpose thereof, shall be provided to the Citizenry of the Nation by email, placed on the Nation's website, posted in all community buildings or public places, and sent via regular mail to members who do not use email. All meetings of the General Council are to be open to all enrolled citizens of the Shinnecock Indian Nation.
- e) **Quorum.** If a vote of General Council members is to occur at a General Council meeting, said vote will not be valid or binding unless a minimum of twenty percent (20%) of the General Council is in attendance. All duly authorized decisions shall be by majority vote of the quorum present. The deemed percentage of the General Council shall be based upon the records of eligible voters according to the previous Council of Trustees General Election.

ARTICLE VII. COUNCIL OF TRUSTEES

Section 1. Composition of the Council of Trustees

The Council of Trustees shall have seven (7) Officers, which shall consist of a Chairperson, Vice-Chairperson, Treasurer, General Council Secretary, Trustee Council Secretary, Sunksqua and a Sachem. Held under the Shinnecock Indian Nation Oath of Office, their duties shall be as follows:

- a) **The Chairperson** of the Council of Trustees shall preside over all meetings, serve as the spokesperson, representing the will of The Nation in external affairs, affix his or her signature to official documents along with Sachem, countersign warrants duly drawn by the Treasurer against the tribal funds. Chairperson shall not vote except in the case of a tie.
- b) **The Vice-Chairperson** shall preside over all meetings of the General Council, shall attest the minutes thereof, shall appoint temporary officers in the absence of the duly elected officers, and shall perform such other duties as are placed upon him/her by this Constitution. The Vice-Chairperson shall preside at meetings and otherwise act in full capacity of the Chairperson in the absence, disability, or at the request of the Chairperson.
- c) **The Treasurer** shall accept, receipt for, and safeguard all funds of The Nation under his or her custody as directed by the Council of Trustees, and keep a complete record of receipts and expenditures. He or she shall be a bonded officer and shall not disburse any funds of The Nation except as duly authorized by the Council of Trustees. He or she shall present a monthly report and account for all business transactions and assets, and transactions involving the disbursement, collection or obligation of Tribal funds to the Council of Trustees. The Treasurer shall make quarterly financial reports, including certified audits not less than thirty (30) days after the completion of the final audit to the General Council. The Treasurer shall also present the Annual Tribal Budget of The Nation at a duly called meeting of the General Council for approval by majority vote of those in attendance.
- d) **The General Council Secretary** shall take minutes, record official actions, and shall serve as custodian of all files and records of the General Council. The General Council Secretary shall also conduct all correspondence and issue public notices of General Council meetings. In the

This is the document on which the Tribe voted to approve on February 26, 2013. Amended by General Council on April 7th, 2015

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absence of the Trustee Council Secretary, it shall be the duty of the General Council Secretary to undertake the secretarial role of duties within the Council of Trustees.

- e) **The Trustee Council Secretary** shall take minutes, record official actions, and shall serve as custodian of all files and records of the Council of Trustees. The Trustee Council Secretary shall also conduct all correspondence and issue public notices of Trustee Council meetings. In the absence of the General Council Secretary, it shall be the duty of the Trustee Council Secretary to undertake the secretarial role of duties within the General Council.
- f) **The Sunksqua** shall be an elder woman, age fifty-five (55) years or older. The Sunksqua shall serve to promote, enhance, and secure the traditions, history, language, cultural values and practices of The Nation. It shall be her duty to remind the Officers of the Council of Trustees and the General Council of the faith, respect, common sense, compassion, togetherness, peace, prosperity and legacies of our ancestors and our territory. The Sunksqua will assume her role as an elder, initiating or delegating the opening prayer of all meetings of the General Council and the Council of Trustees.
- g) **The Sachem** shall be an elder male, age fifty-five (55) years or older. The Sachem shall serve to promote, enhance, and secure the traditions, history, language, cultural values and practices of The Nation. He shall affix his signature to official documents along with the Chairperson. It shall be his duty to remind the Officers of the Council of Trustees and the General Council of the faith, respect, common sense, compassion, togetherness, peace, prosperity and legacies of our ancestors and our territory. The Sachem will assume his role as an elder, initiating or delegating the closing prayer of all meetings of the General Council and Council of Trustees.

Section 2. Duties of the Council of Trustees

The governing body of The Nation shall be the Council of Trustees who shall first and foremost serve as representatives of the people, to preserve and protect this Constitution, and to act as protectors and promoters of our Shinnecock lands, tradition and culture. Subject to limitations imposed by the Constitution of The Nation, the Council of Trustees shall have the following rights, responsibilities and duties:

- a) To represent The Nation and to negotiate with Federal, State and local government. To advise representatives of the Federal and State governments on appropriations, projects, and legislation that affect The Nation.
- b) To manage all affairs of The Nation, including the administration and allotment of tribal lands and other resources, to approve appropriate contracts, leases, permits, and loan or sale agreements and to implement laws, rules and regulations of The Nation.
- c) To appoint committees, commissions, and advisory councils and to delegate authority to said bodies, with approval of the General Council.
- d) To develop, implement, and enforce codes, ordinances, and statutes governing the conduct of all persons and activities within the boundaries of the Shinnecock Indian Territories, providing for the policies and procedure of the Council of Trustees, and being fully vetted.

CONSTITUTION OF THE SHINNECOCK INDIAN NATION

- e) Carrying out any duties herein conferred upon the Council of Trustees as ratified by the General Council.

Section 3. Regular and Special Meetings of the Council of Trustees

- a) **Regular Meetings.** The Council of Trustees shall hold at least four (4) regular meetings each month of the calendar year, at such time and place, as it shall fix. Regular meetings, held on the Shinnecock Indian Reservation shall be open to any enrolled citizens and notice shall be posted at least two (2) days notice prior to meeting, stating the time and place of said meeting.
- b) **Executive Sessions.** The Council of Trustees, whenever necessary, in the judgment of the majority of the Council of Trustees, to protect the confidentiality of sensitive information, may hold private deliberations known as executive sessions. The Council of Trustees shall designate such executive sessions in advance and post that the session will be conducted as such at least two (2) days prior to the executive session. All executive sessions are to be conducted in accordance with the laws of The Nation.
- c) **Special Meetings.** The Council of Trustees may hold special meetings when called by the Chairperson of the Council of Trustees, or by written request of any three (3) Officers, upon at least two (2) days notice to each member of the Council of Trustees. Special meetings shall be open to any enrolled citizens and notice of the special meeting, stating its time, place, and purpose shall be posted at least two (2) days prior.
- d) **Quorum.** At all meetings of the Council of Trustees, whether regular or special, in open or executive session, five (5) members shall constitute a quorum. All duly authorized decisions shall be by majority vote of the quorum present with a minimum of four (4) affirmative votes.

Section 4. Documents, Records, and Minutes

The Council of Trustees shall have custody of its letters, documents, records, and minutes, and shall promulgate procedures for access to those documents and records by enrolled citizens.

ARTICLE VIII. COUNCIL OF ELDERS

The Council of Elders shall serve as the traditional wisdom keepers of The Nation and provide guidance, advisement, and support to the governing body of The Nation in accordance with their policies and procedures. They will serve to provide The Nation with oral remembrances from the experience and education that comes only through years of living.

ARTICLE IX. YOUTH COUNCIL

The Youth Council shall serve to empower the young people of the Shinnecock Nation, and groom them to make the transition from youth leadership to Tribal leadership in accordance with their policies and procedures. They will be fortified with the richness of Eastern Woodland culture and all that is indigenous to the Shinnecock People.

ARTICLE X. ELECTIONS

Section 1. Purpose of Elections

General Elections and Special Elections shall be called for the following purposes:

- a) **Fill Position of Office.** To fill officer positions of the Council of Trustees, including elections to fill vacancies and run-off elections to resolve ties.
- b) **Recall.** To vote on the recall of a Council of Trustees Officer(s).
- c) **Ratify Removal of Officers.** To vote on whether to ratify the Council of Trustees removal of a Council of Trustees Officer(s).
- d) **Initiative and Referendum.** To vote on an initiative or referendum.
- e) **Constitutional Amendment.** To vote on proposed Constitutional amendments.

Section 2. Election of the Council of Trustees

- a) **Date and Time.** All tribal elections occurring for the Officers of the Council of Trustees shall be held on the first Tuesday in April on a biennial basis.
- b) **Terms of Office.** Officers of the Council of Trustees shall hold office for a period of two (2) years, or until their respective successors are elected and take office.
- c) **Election for Office.** Eligible enrolled members must declare their candidacy for election to the Council of Trustees. The General Council shall elect the Council of Trustees by majority vote of those participating in the election in accordance with the Election Ordinance. As provided hereafter in Article XVII, the first election of Officers of the Council of Trustees shall be held not more than ninety (90) days nor less than thirty (30) days after this Constitution is ratified by a majority vote of the General Council.
- d) **Certification of Elections.** The Election Committee and Chairperson of the Council of Elders shall certify the results of all elections of Officers of the Council of Trustees.
- e) **Voting.** Voting in tribal elections shall be by secret ballot. Notice of the time, place, and procedures for tribal elections shall be posted thirty (30) days prior to the election.

ARTICLE XI. OATH OF OFFICE

All Officers of The Nation, elected or appointed shall before entering upon the duties of their respective offices, take and subscribe to an official Oath of Office which will include the disclosure of conflicting interests, and commitment to act within their scope of authority without misrepresentation. Such ceremonies shall be conducted by the Council of Elders.

ARTICLE XII. VACANCIES AND RECALL

Section 1. Recall by General Council

Any Officer(s) of the Council of Trustees may be removed from office by a majority vote of the General Council, upon the filing of a recall petition signed by at least thirty percent (30%) of the General Council, submitted to the Council of Trustees. Such petition shall state clearly the charges against the individual(s) whose recall is sought. Nothing herein shall limit the authority of the Council of Trustees or the General Council to activate a suspension pending investigation. It shall be the duty of the Council of Trustees, when a recall petition is filed in proper form with sufficient signatures, forthwith to call an election of the General Council to vote upon the petition within sixty (60) days. The individual(s) sought to be recalled shall have the right to see the said petition and presented for a public hearing, in accordance with policies and procedures, whereby they can answer the charges made against him or her, at least twenty (20) days before the said election. The recall must receive a minimum of thirty percent (30%) of the entire General Council affirmative votes for the recall to be binding.

Section 2. Recall by Council of Trustees

Whenever, in the majority opinion of the entire Council of Trustees, any member of the Council of Trustees has been found guilty of gross neglect of duty, it shall certify its opinion, together with the findings and reasons, to the General Council. The General Council must ratify the Council of Trustees' action(s) in order to remove said member from office by a majority vote of the General Council for purpose of recall. The member who is accused shall have the right to receive a copy of the charges against him or her and be presented for a public hearing, in accordance with policies and procedures, whereby they can answer the charges made against him or her, at least twenty (20) days in advance of the meeting of the General Council at which the question of removal is to be voted on. . The recall must receive a minimum of thirty percent (30%) of the entire General Council affirmative votes for the recall to be binding.

Section 3. Vacancies

In the event of a successful recall or other unscheduled Officer vacancies of the Council of Trustees, the General Council shall have the power to elect a successor to fill the vacant position by an election called for that purpose within sixty (60) days.

ARTICLE XIII. INITIATIVE AND REFERENDUM

Section 1. Initiative

The General Council shall have the right to propose any legislative measure by a petition signed by at least twenty percent (20%) of the eligible voters of The Nation. Such petition of initiative shall be filed with the Election Committee at least thirty (30) days prior to the regular General Council meeting at which time the proposed measure shall be placed on the ballot. Voting shall be by secret ballot. Notice of the vote must be posted twenty (20) days in advance. If approved by a majority vote of the quorum of those General Council members participating in the election, the legislative measure on said petition shall be effective immediately. A quorum constitutes a minimum of twenty percent (20%) of the General Council.

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Section 2. Referendum

The Council of Trustees, by approval of at least five (5) Officers may refer any legislative measure to the General Council by calling for a special election at least thirty (30) days in advance of when said measure is to be placed on the ballot or by placing the said measure on the ballot at the next annual election. Voting shall be by secret ballot. If approved by a majority vote of the quorum of those General Council members participating in the election, the legislative measure on said petition shall be effective immediately. A quorum constitutes a minimum of twenty percent (20%) of the General Council.

ARTICLE XIV. RATIFICATION OF PRIOR TRIBAL ACTIONS

All actions, including but not limited to ordinances, resolutions, enactments, or any other actions taken on behalf of The Nation by The Nation, adopted prior to the effective date of this Constitution shall continue in effect to the extent that they are consistent with this Constitution. Such actions, ordinances, resolutions and enactments shall be kept on file, categorized by label and date adopted, available to all enrolled citizens upon request as provided in Article VII Section 4.

ARTICLE XV. SAVINGS CLAUSE

Should any Article or Section of this Constitution be found in violation of any applicable tribal ordinance or law adopted by The General Council on behalf of The Nation, it will be addressed separately, and the remainder of this Constitution shall continue in effect to the extent that they are consistent with this Constitution upon ratification.

ARTICLE XVI. JUDICIARY

The General Council may establish by Tribal Ordinance a Judiciary and Peacemaking branch of government, including but not limited to a Tribal Court. The judicial power of The Nation shall be vested in the Tribal Court, which shall have general authority to adjudicate disputes and enunciate principles of law.

ARTICLE XVII. AMENDMENTS

This Constitution may be amended by a majority vote of eligible voters of General Council. An election may be called to amend the Constitution by resolution of the Council of Trustees and/or by a majority vote of the General Council provided that such amendment receives a minimum of thirty percent (30%) of the entire General Council affirmative votes. If initiated by the General Council, the vote will be held, upon the filing of an amendment petition signed by at least thirty percent (30%) of the General Council, submitted to the Council of Trustees. Notice of date, time, and purpose of the vote must be posted twenty (20) days in advance and shall set forth the proposed amendment in full. Unless specified otherwise in the ballot text for the amendment, all amendments approved by the General Council shall take effect thirty (30) days after the certification of the said vote.

CONSTITUTION OF THE SHINNECOCK INDIAN NATION

1. On April 7th, 2015 the General Council approved a constitutional amendment to Article X Section 2 line a). The word **biennial** was amended to **annual**.

ARTICLE XVIII. RATIFICATION

This Constitution shall become effective upon ratification by a majority vote of those eligible voters of the General Council.

**SHINNECOCK INDIAN NATION**

Shinnecock Indian Territory

P.O. Box 5006 Southampton, New York 11969-5006

Phone (631) 283-6143 ext. 2 Fax (631) 283-0751

The oldest self-governing
Tribe of Indians in the United States

Council of Trustees*Bryan A. Polite, Chairman**Launcelot A. Gumbs, Vice Chairman**Seneca Bowen, Treasurer**Daniel Collins Sr., Council of Trustees Secretary**Germain Smith, General Council Secretary**Donald Williams Jr., Sachem**Linda Franklin, Sunksqua*

**Authorization to Approve Gaming Ordinance and
Submit to NIGC for Approval
RESOLUTION #2020-011**

WHEREAS, the Council of Trustees (“Trustees”) is a governing body of the Shinnecock Indian Nation (“Nation”); AND

WHEREAS, the Shinnecock Indian Nation is the oldest self-governing tribe in the State of New York and was formally recognized by the United States federal government as the 565th federally recognized tribe on October 1, 2010; AND

WHEREAS, the Council of Trustees finds that establishing and developing economic opportunities will promote and protect the health, peace, morals, education, political integrity, economic security, general welfare and future prosperity of the Nation and its members; AND

WHEREAS, the Council of Trustees has facilitated several meetings to review the ordinance; AND

WHEREAS, the Council of Trustees intends, consistent with authority under the Nation’s Constitution to preserve and protect the tribe; AND

WHEREAS, 25 C.F.R. part 501-585 requires that the Nation receive Federal approval by the National Indian Gaming Commission for any Gaming Ordinance; AND

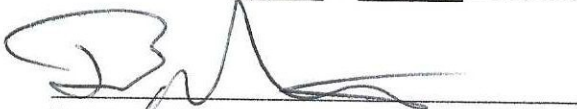
NOW, THEREFORE BE IT RESOLVED, that the Council of Trustees hereby:

- Approves the Gaming Tribal Code attached hereto as Exhibit.
- Authorizes Hobbs Strauss to submit the attached Gaming Ordinance to the National Indian Gaming Commission for approval.

CERTIFICATE

The undersigned, Bryan A. Polite and Donald Williams, Jr., hereby certify that they are the Chairman and Sachem, respectively of the Council of Trustees and Council Secretary Daniel Collins Sr. conducted a polled vote of said Council of Trustees on the 8th day of April 2020, and the following Resolution was regularly moved, seconded, and adopted by a vote of 6 for, 0 against, and 0 abstaining..

DATED this 8th of April 2020 ATTEST:



Bryan A. Polite
Chairman, Council of Trustees



Donald Williams, Jr.
Sachem, Council of Trustees