



December 15, 2014

VIA FIRST CLASS MAIL

President John Yellowbird Steele
Oglala Sioux Tribe
P.O. Box 2070
Pine Ridge, South Dakota 57770

Re: Oglala Sioux Tribe Amended Gaming Ordinance;
Ordinance No. 14-41

Dear President Yellowbird Steele:

I am writing with respect to the Oglala Sioux Tribe's Gaming Ordinance, Ordinance No. 14-41 ("the Ordinance"), which was received by the National Indian Gaming Commission ("NIGC") for our review and approval on December 2, 2014. On November 25, 2014, the Oglala Sioux Tribal Council unanimously approved a new gaming ordinance. The Gaming Ordinance specifically repeals all previous gaming ordinances and resolutions.

I commend the Tribe on amending its existing ordinance to meet the evolving regulatory needs of its gaming operations and to reflect recent regulatory changes required by the NIGC. In addition to technical corrections, the ordinance updates the Tribe's background and licensing procedures so that they comply with the provisions of parts 556 and 558. The Gaming Ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations.

If you have any questions concerning this letter or the ordinance review process, please contact John Hay at (202) 632-7003.

Sincerely,

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

Jonodev O. Chaudhuri
Chairman (Acting)

cc: Rhonda Two Eagle, Secretary

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL
OF THE OGLALA SIOUX TRIBE
(An Unincorporated Tribe)

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL OF THE OGLALA SIOUX TRIBE TO ENACT THE TRIBAL GAMING REGULATORY ORDINANCE OF THE OGLALA SIOUX TRIBE TO AUTHORIZE, GOVERN AND REGULATE THE OPERATION OF CLASS II GAMING AND CLASS III GAMING, CONSISTENT WITH THE TRIBAL-STATE COMPACT WITH THE STATE OF SOUTH DAKOTA, ON THE TRIBE'S INDIAN LANDS IN COMPLIANCE WITH THE INDIAN GAMING REGULATORY ACT, 25 U.S.C. SECTIONS 2701 ET SEQ.

WHEREAS, the Oglala Sioux Tribe has adopted its Constitution and By-Laws by referendum vote on December 14, 1935, in accordance with Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. § 476), and under Article III of the Constitution, the Oglala Sioux Tribal Council is the governing body of the Oglala Sioux Tribe, and

WHEREAS, the Tribal Council has power to protect and promote the health and general welfare of the Oglala Sioux Tribe and its membership, pursuant to Article IV, Section 1(w), of the Tribal Constitution, and

WHEREAS, the Tribal Council has the power to manage the economic affairs of the Tribe and to regulate the conduct of trade and the use and disposition of property on the Pine Ridge Indian Reservation, pursuant to Article IV, Sections 1(t) and 1(m), of the Tribal Constitution, and

WHEREAS, the Tribal Council has power over the use, disposition, sale, lease, or encumbrance of tribal lands, pursuant to Article IV, Section 1(c), and Article X of the Tribal Constitution, and

WHEREAS, the Tribal Council of the Oglala Sioux Tribe desires to enact the Tribal Gaming Regulatory Ordinance Of The Oglala Sioux Tribe to authorize, govern and regulate the operation of Class II Gaming And Class III Gaming, consistent with the Tribal-State Compact With the State of South Dakota, on the tribe's Indian lands in compliance with the Indian Gaming Regulatory Act, 25 U.S.C. Sections 2701 et seq., now

THEREFORE BE IT RESOLVED, that the Tribal Council of the Oglala Sioux Tribe enacts the attached Tribal Gaming Regulatory Ordinance Of The Oglala Sioux Tribe to authorize, govern and regulate the operation of Class II Gaming And Class III Gaming, consistent with the Tribal-State Compact With the State of South Dakota, on the tribe's Indian lands in compliance with the Indian Gaming Regulatory Act, 25 U.S.C. Sections 2701 et seq.

ORDINANCE NO. 14-41

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C-E-R-T-I-F-I-C-A-T-I-O-N

I, as the undersigned Secretary of the Oglala Sioux Tribal Council of the Oglala Sioux Tribe, hereby certify that this Ordinance was adopted by a vote of: 13 For; 0 Against; 0 Abstain; and 1 Not Voting; during a REGULAR SESSION held on the 25TH day of NOVEMBER, 2014.


RHONDA TWO EAGLE

Secretary
Oglala Sioux Tribe

A-T-T-E-S-T:


for BRYAN V. BREWER
President
Oglala Sioux Tribe



OGLALA SIOUX TRIBE GAMING ORDINANCE

Section 1. Purpose.

The Oglala Sioux Tribe is a Federally recognized Indian tribe vested with inherent sovereign authority over its members and territory, and with its right of self-government guaranteed and Indian lands reserved as a "permanent home" by the 1868 Sioux Nation Treaty and the 1851 Fort Laramie Treaty with the Sioux.

The Oglala Sioux Tribe adopted our Constitution and By-Laws pursuant to the Indian Reorganization Act of 1934, 25 U.S.C. Section 476, establishing the Tribal Council as the governing body of the Tribe, with authority to promote tribal general welfare, to manage economic affairs, to regulate the use of Indian lands and to enact legislation in furtherance of its sovereign authority.

The Tribal Council of the Oglala Sioux Tribe, empowered by our Constitution and By-Laws to enact ordinances, hereby enacts this ordinance to promote tribal economic development, self-sufficiency and sovereignty; to shield the operation of gaming from organized crime and corrupting influences; and to ensure that gaming is conducted fairly and honestly by both the operator and players.

Section 2. Title and Applicability.

This ordinance shall be known as, "The Oglala Sioux Tribe Gaming Ordinance." Ordinance provisions concerning the application of the Tribal-State Class III Gaming Compact (and any state laws and regulations applicable pursuant to the Compact) shall apply only to Class III gaming. All other provisions of this ordinance shall apply to both Class II and Class III Indian gaming, unless specifically indicated otherwise.

Section 3. Definitions; Liberal Interpretation; Severability.

The terms used in the Oglala Sioux Tribe Gaming Ordinance shall have the same meaning as those terms used in the NIGC Bulletin No. 2014-2, Revised Model Gaming Ordinance (May 5, 2014) as adapted and made applicable to the Oglala Sioux Tribe. See Appendix A, Revised Model Gaming Ordinance.

The terms "Class I, Class II and Class III gaming" shall be defined as those terms are defined in the Indian Gaming Regulatory Act and the National Indian Gaming Commission ("NIGC") Regulations. See 25 U.S.C. §§ 2703(6), (7), and (8).

More generally, the terms used in this ordinance shall be construed according to their plain meaning and by reference to the Indian Gaming Regulatory Act, the Tribal-State Compact, and NIGC Regulations.

This Gaming Ordinance shall be liberally construed to benefit the welfare of the Oglala Sioux Tribe in a manner consistent with the Indian Gaming Regulatory Act, tribal law, and the Oglala Sioux Tribal-State Compact. The Gaming Ordinance shall be construed in a manner to preserve the inherent sovereign authority of the Oglala Sioux Tribe. The provisions of this Ordinance are severable, and should any provision (or any application of any provision be deemed invalid) the balance of the Ordinance shall remain in force and effect.

Prior Gaming Regulatory Ordinances and Resolutions of the Oglala Sioux Tribe are repealed, including No. 93-17 and No. 94-01.

Section 4. Gaming Authorized.

Class II and Class III gaming are authorized to be conducted on the Tribe's Indian lands, provided such gaming is conducted in accordance with this ordinance, the Indian Gaming Regulatory Act, the NIGC's regulations, any other applicable laws and regulations, and in regard to Class III gaming, the Tribal-State Compact.

Section 5. Compliance with Federal Law

It shall be the policy of the Oglala Sioux Tribe to comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*, and the Tribe shall establish appropriate regulatory rules, regulations, and procedures to ensure such compliance.

Section 6. Agent for Service of Process; Secretary of the Tribe.

The Oglala Sioux Tribe designates the Secretary of the Tribe located at Secretary, Oglala Sioux Tribe, P.O. Box 2070, Pine Ridge, SD 57770, phone (605) 867-5821 as the agent for service of any official determination, order or notice of violation issued by the National Indian Gaming Commission or the United States.

Section 7. Ownership of Gaming.

The Oglala Sioux Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

Section 8. Use of Net Gaming Revenues.

A. Net revenues generated by the Oglala Sioux Tribe through Class II and Class III Indian 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 Tribe 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.

Section 9. Annual Audits; Audit Report to the NIGC.

- A. The Oglala Sioux Tribe, acting through the Tribal Treasurer in consultation with the Gaming Operations and Gaming Commission, shall cause to be conducted annual independent audits of gaming operations and shall submit the results of those audits to the NIGC.
- B. Annual audits shall be performed by a qualified CPA firm, with experience in Indian gaming and shall conform to generally accepted accounting and auditing standards.
- C. 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 9(A) of this ordinance.
- D. 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 120 days after the end of each fiscal year of the gaming operation.
- E. A copy of the Tribal gaming operation's annual audit will be made available upon request to the Tribal President, Tribal Council, and Tribal Treasurer.

Section 10. Protection of the 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. In coordination with other tribal government agencies, the Gaming Commission and Tribal Public Safety Department 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.

Section 11. Patron Dispute Resolution.

A gaming operation shall seek to immediately resolve any dispute between any member of the gaming public and the gaming operation or its licensees. Any patron who is dissatisfied with the dispute resolution proposed by the gaming operation may present such dispute for final resolution by either the Gaming Commission or the Tribal Court, provided that any dispute involving the Gaming Ordinance, gaming laws, rules or regulations or the Compact, must first be brought to the Gaming

Commission for review subject to an appeal to the Tribal Court. The patron must file a claim within 30 days of the incident in dispute. The Gaming Commission shall hold a hearing within 30 days of the receipt of the petitioner's complaint. The petitioner may have counsel present at the hearing. The petitioner may be allowed to present relevant evidence. After the hearing, the Commission shall render a decision in a timely fashion. All such decisions will be final when issued. When the dispute involves a prize, the petitioner's recovery shall be limited to the amount of the prize in dispute. When the dispute involves a tort claim, petitioner's case shall be governed by the Oglala Sioux Tribe Tort Claim Ordinance and any recovery shall be limited in accordance with that ordinance. The decisions of the Gaming Commission may be appealed to the Tribal Courts, provided that the Tribal Court shall give due deference to the administrative record of the Gaming Commission and shall require full administrative exhaustion of remedies prior to hearing a case. The Gaming Commission shall submit a quarterly report to the Tribal Council concerning patron disputes and resolutions.

Section 12. Gaming Commission Established.

- A. The Tribe hereby establishes a Tribal Gaming Commission ("Commission") to regulate the Tribe's gaming operations. The Commission shall consist of three (3) members, including a Chair, Vice-Chair, and Associate Commissioner.
- B. The Commission will conduct oversight to ensure compliance with Tribal, federal and, in regard to Class III gaming, the Tribal-State Compact and state laws and regulations applicable thereunder. It will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the gaming operation's internal controls and in tracking gaming revenues. 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, provided that the Commission shall establish procedures to ensure the integrity and soundness of the gaming operation, its records and activities as the Commission acts to fulfill its duties. The Commission shall have authority to take regulatory enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.
- C. Commissioner positions shall be filled in the following manner:
 - 1. The Initial Commission to serve under this Ordinance shall be appointed for a period of two (2) years by the Tribal Council, and the Tribal Council shall make the initial appointments for Chairman, Vice-Chairman and Associate Member; the Initial Commissioner may be designated to serve full-time by the President in accordance with the pay scale for a GS-11;

2. Thereafter, at its first election, the Commission shall be filled by election at large by the Tribe's general membership through its primary and general election process to serve staggered 2, 4 and 6 year terms with the highest vote getter serving 6 years, the next serving 4 years, and the next serving 2 years;
3. At each subsequent election, one Commissioner shall be elected at large by the Tribe's general membership to serve for a term of 6 years to fill the expiring Commissioner's seat; and
4. After the initial appointments, the Commission shall elect a Chair, Vice-Chair and Associate Member from among the Commission Members.

Section 13. Additional Qualifications of Commissioners; Independence.

- A. The following persons are not eligible to serve as Commissioners: Tribal Council members, while serving as such; current employees of the gaming operation, while serving as such; 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. 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 a Commissioner. Tribal members previously convicted of any felony and Tribal members previously convicted of any 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 ten or more years has passed (which the Tribal Council finds to be a significant amount of time) provided that the person is determined by the Election Board to now be of trustworthy character. The Tribal Election Board shall require a criminal history check to be conducted by appropriate law enforcement agencies for each Commissioner candidate prior to each election; shall review the candidate's criminal history check results; and shall make an appropriate eligibility determination before certifying an individual to be placed upon the ballot for the position of Commissioner.
- B. The Tribe recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated gaming operation. The Commission shall be independent of, and act independently and autonomously from, the Tribal Council in all regulatory matters within its purview. With the exception of general policy matters, no prior, or subsequent, review by the Tribal Council of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this ordinance. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe requires that:

1. No member of the Tribal Council may serve on the Gaming Commission, and no Gaming operation management official may serve on the Gaming Commission, unless he or she first takes a leave of absence from said management position;
 2. No member directly related to, or living with, any Tribal Council member or Tribal Gaming Board of Directors member may serve on the Tribal Gaming Commission;
 3. Members of the Commission are prohibited from gambling in the facility;
 4. Commissioners are prohibited from accepting complimentary items from the gaming operation, excepting food and beverages valued under \$20.00; and
 5. Commissioners may only be removed from office by the Tribal Council, 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.
- C. Nominees for Commissioner positions must be certified as trustworthy after a background check reviewed by the Election Board, must have at least an Associate of Arts, Science, Business college degree or comparable degree, and at least three years prior experience in gaming regulation, operations, or law enforcement.

Section 14. Duties of the Commission.

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 I investigations of primary management officials and key employees;
- D. Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
- 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 Tribe's gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;
- K. Ensure compliance with all Tribal, state and federal 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 Tribe 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 state gaming regulations, if applicable;
- R. Establish a list of persons not allowed to game in the Tribe'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 facility, and create regulations for enforcing the exclusions;

- T. Provide referrals and information to the appropriate tribal or BIA law enforcement officials when such information indicates a criminal violation of Tribal, federal or applicable state statutes, ordinances, regulations, codes or resolutions;
- U. Create a list of regulatory authorities that conduct background investigations of, and license, 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;
- 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;
- Y. The Commission shall establish for the Commission a financial accounting system, personnel, operating, administrative rules and hearing procedures, subject to the approval of the Tribal President; and the Commission may contract with an arm of the tribal government to provide administrative, human resources, and financial accounting services, subject to the review, oversight and approval of the Tribal Treasurer; and
- Z. Before adopting, amending and repealing regulations, the Commission shall give notice of any such proposed action to the Tribal Council, the gaming operation(s) and all other persons whom the Commission has reason to believe have a legitimate interest in the proposed action. 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. The Tribal Council shall pass a resolution affirming the adoption, amendment, or repeal of regulations prior to such agency action taking legal effect.

Section 15. Confidentiality of Background Investigation Records; Quorum; Meetings

- A. The Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing and employment processes. The Commission, and its investigators, shall keep confidential the identity of each person interviewed in the course of conducting a background investigation, unless disclosure is required by

Tribal, federal and/or applicable state law. 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 and only when necessary for actions taken in their official capacities.

- B. The confidentiality requirements in Section 15(A), 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.
- C. A majority of the Commission shall constitute a quorum. The concurrence of a majority of the Commissioners shall be required for any final determination by the Commission. The Commission may act in its official capacity, even if there is a vacancy on the Commission.
- D. Commissioners shall be compensated at a level determined by the Tribal Council. A Commissioner's compensation shall not be based on a percentage of gaming revenue.
- E. The Commission shall keep a written record of all its meetings.

Section 16. Facility Licenses

- A. The Tribe shall issue a separate license to each place, facility or location on Indian lands where Class II 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. The application shall include: 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, NIGC Office of General Counsel and DOI Solicitor Offices' Indian lands legal opinions, judicial decisions and any other applicable law.

- E. 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 Tribe.
- F. The 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. This notice must be submitted at least 120 days before the opening of any new place, facility or location on Indian lands where Class II or Class III Indian gaming will occur.
- G. The Tribal 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.
- H. The Tribe 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.

Section 17. License Application Forms

- A. The following notice shall be placed on the Tribe's license application form for 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 Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe being unable to license you for a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.
- 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: A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license.

Also, you may be punished by fine or imprisonment (18 U.S.C. § 1001).

Section 18. License Fees; Fingerprints

The Tribe 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.

The Tribe shall perform a background investigation for each primary management official and key employee of the gaming operation. The Tribe shall request fingerprints from each primary management official and key employee.

Fingerprints shall be taken by the Oglala Sioux Public Safety Department. Fingerprints will then be forwarded to the NIGC for processing through the Federal Bureau of Investigation ("FBI") and the National Criminal Information Center to determine the applicant's criminal history, if any.

Section 19. Background Investigations

- A. The Tribe shall perform a background investigation for each primary management official and key employee in its gaming operation.
- B. The Tribal Gaming Commission is responsible for conducting the background investigations of primary management officials and key employees.
- C. The Tribal Gaming Commission shall obtain 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 (C)(2) of this section;
 - 4. Current business and residential telephone numbers, and all cell phone numbers, and a current photograph;
 - 5. A description of any existing and previous business relationships with

other tribes, including any ownership interests in the businesses;

6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in the 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 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 10 years of the date of the application, and is not otherwise listed pursuant to paragraphs (C)(8) or (C)(9) of 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. Any other information the Tribe deems relevant; and
13. Fingerprints obtained in accordance with procedures adopted by the Tribe pursuant to 25 C.F.R. § 522.2(h).

D. When a primary management official or key employee is employed by the Tribe, a complete application file, containing all of the information listed in Section 19(c), shall be maintained.

Section 20. 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. The investigation must be sufficient to allow the Tribal Gaming Commission to make a required eligibility determination under this ordinance. 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 for past or outstanding judgments, current liens, past or pending lawsuits, and any other information deemed to be relevant;
5. Conduct a criminal history records check by submitting the applicant's fingerprints to the NIGC or to another law enforcement agency for forwarding to the FBI to perform a criminal history records check utilizing the FBI's data base;
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.

Section 21. Investigative Reports.

- A. The Tribe 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.

Section 22. Primary Management and Key Employee 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

Section 23. 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.
 1. The notice of results must be submitted to the NIGC no later than 60 days after the applicant begins working for the Tribe.
- B. 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

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
- 4. A copy of the eligibility determination made in accordance with Section 21.

Section 24. Primary Management and Key Employee Gaming Licenses

Granting Gaming Licenses

- A. All primary management officials and key employees of the gaming operation must have a gaming license issued by the Tribe. The Tribal Gaming Commission²⁴ is responsible for granting and issuing gaming licenses to primary management officials and key employees.
- B. 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 Section 22.
- C. The Tribal 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.
- D. The Tribe shall not employ an individual in a primary management official or key employee position who does not have a license after 90 days of beginning work at the gaming operation.

Notice from NIGC Concerning NIGC Objections to License

- E. 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 30 days of the NIGC receiving a notice of results of the applicant's background investigation.
- F. The Tribal Gaming Commission shall take the NIGC's objections into account when reconsidering a license application.
- G. The Tribe will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.
- H. 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 under this ordinance.

Section 25. 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 above 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.

Section 26. Gaming License Suspensions and Revocations

- A. If, after a license is issued to a primary management official or a key employee, the Tribe 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. The right to a revocation hearing vests only when a license is granted under an ordinance approved by the NIGC Chair.

- C. Following a revocation hearing, the Tribe shall decide whether to revoke or reinstate the license at issue.
- D. The Tribe 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.

Section 27. Records Retention

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

Section 28. Licenses for Vendors

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.

Submission of a Vendor License Application

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

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 South Dakota 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;
8. A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial or management interests in any non-gaming activity;
9. Names, addresses and telephone numbers of three (3) business references with whom the company has regularly done business for the last five (5) years;
10. The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
11. If the business has ever had a license revoked for any reason, the circumstances involved;
12. A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;
13. A list the business' funding sources and any liabilities of \$50,000 or more;
14. A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles, and percentage of ownership in the company; and
15. Any further information the Tribe deems relevant.

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

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

- C. 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. 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 Tribe not contained in the other application.

Section 29. Vendor Background Investigations

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

- A. Verification of the vendor's business' incorporation status and qualifications to do business in the state where the gaming operation is located;
- B. Obtaining a business credit report, if available, and conducting a Better Business Bureau check on the vendor;
- C. Conducting a check of the vendor's business' credit history;
- D. Calling and questioning each of the references listed in the vendor application; and
- E. 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.

Section 30. Vendor License Fees

The Tribe 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.

Section 31. Vendor Background Investigation Reports

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

Section 32. Exemption for Vendors Licensed by Recognized Regulatory

Authorities

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.

Section 33. Effective Date

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