

**NATIONAL
INDIAN
GAMING
COMMISSION**

APR 22 1997

Jesse Taken Alive
Chairman
Standing Rock Sioux Tribe
P.O. Box D
Fort Yates, ND 58538

Dear Chairman Taken Alive:

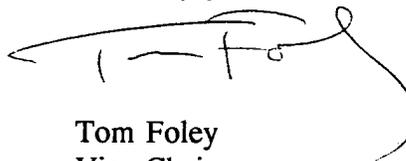
This letter responds to your request to review and approve the amendment to the tribal gaming ordinance of the Standing Rock Sioux Tribe (Tribe). The amendment to the ordinance was adopted by the Tribe by Resolution No. 323-96 on November 8, 1996. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review amendments to ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations.

One of the Tribe's amendments adds per capita payments to tribal members as a potential use of net revenues. Please note that in order for the Tribe to begin such payments, it must first submit a revenue allocation plan to the Secretary of the Interior and obtain his approval of the plan. 25 U.S.C. § 2710(b)(3); 25 C.F.R. § 522.4(b)(2)(ii).

Thank you for submitting the amendment to the tribal gaming ordinance of the Standing Rock Sioux Tribe. The NIGC staff and I continue to look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,



Tom Foley
Vice Chairman

ORDINANCE NO. 166

FEB 26 1997

BE IT RESOLVED, that Title XXIII, Licensing and Regulation of Bingo and Other Games of Chance, of the Code of Justice of the Standing Rock Sioux Tribe, be and the same is hereby repealed and replaced with the attached new Title XXIII, Licensing and Regulation of Bingo and Other Games of Chance.

ATTACHED PAGES
i-v and XXIII-1 through XXIII-35

RESOLUTION NO. 323-96

BE IT RESOLVED, that pursuant to the power vested in the Standing Rock Sioux Tribal Council under the Constitution of the Standing Rock Sioux Tribe, the foregoing Ordinance No. 166 repealing Title XXIII, Licensing and Regulation of Bingo and Other Games of Chance of the Code of Justice of the Standing Rock Sioux Tribe and replaced with the attached new Title XXIII be and the same is hereby approved.

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council be authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

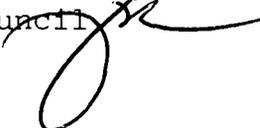
CERTIFICATION

We, the undersigned Chairman and Secretary of the Standing Rock Sioux Tribal Council, do hereby certify that the Tribal Council is composed of 17 members, of whom 14 constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened and held on the 8th day of November, 1996, and that the foregoing resolution was duly adopted by the affirmative vote of 8 members, with 4 opposing, and with 2 not voting. The Chairman's vote is not required except in case of a tie.

Dated this 24th day of February, 1997.


Jesse Taken Alive, Chairman
Standing Rock Sioux Tribal Council

ATTEST:


Elaine McLaughlin, Secretary
Standing Rock Sioux Tribal Council


(Official Seal)

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**Title XXIII. Licensing and Regulation of Bingo and Other Games of Chance
With Amendments Through November 8, 1996**

Chapter I. Findings

FEB 20 1997

23-101. The Tribal Council Finds.

- (a) That operation of bingo and other games of chance by the Tribe and tribal subdivisions is a valid means of promoting tribal economic development and the health and welfare of tribal members;
- (b) That, under the principles established by the United States Supreme Court in California v. Cabazon Band of Mission Indians 94 L.Ed2d 244 (1987), Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the activity is not specifically prohibited by federal law and is conducted within a state which does not criminally prohibit the activity;
- (c) That the United States Congress has enacted the Indian Gaming Regulatory Act, 25 U.S.C. §2701 et seq., providing for certain federal regulation of Indian gaming;
- (d) That tribal regulation of gaming activity on the Reservation is vital to the protection of trust land on the Reservation and to the protection of the interests of the Tribe and its members;
- (e) That the Tribe has entered into tribal-state compacts with the State of North Dakota and the State of South Dakota which provide for the operation of Class III gaming.

Chapter 2. Definitions

23-201. Class I Gaming.

"Class I Gaming" Means:

- (a) Social games played solely for prizes of minimal value.
- (b) Traditional forms of Indian gaming engaged in as a part of tribal ceremonies, celebrations, or pow-wows.

23-202. Class II Gaming.

The Term "Class II Gaming" Means:

- (a) Bingo: The game of chance which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which

the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards. Electronic, computer or technological aides such as computer generated number sequences can be used in connection with Class II bingo, so long as all players are playing against each other to achieve the same sequence.

- (b) Other games of chance: Games similar to bingo, including, if played at the same location as bingo, pull-tabs, lotto, punch boards, tip jars of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, and non-banking card games.

23-203. Class III Gaming.

Class III gaming means all forms of gaming that are not Class I or Class II gaming, including:

- (a) Electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.
- (b) All banking card games; that is, card games played against the house, including baccarat, chemin de fer, and blackjack.

23-204. Traditional Forms of Indian Gaming.

Traditional Forms of Indian Gaming Means:

- (a) Gaming activities such as "stick" or "bone" games played as part of tribal ceremonies, celebrations, or pow-wows.
- (b) Games such as rodeos or horse races, including those for which purses or prizes are awarded, that are played as part of tribal ceremonies, celebrations, or pow-wows. This does not include games operated prior to a ceremony, celebration, or pow-wow for the purpose of raising funds for the ceremony, celebration, or pow-wow; these are considered Class II games unless they meet the definition set forth in Section 205, below.

23-205. Social Games for Prizes of Minimal Value.

Social games for prizes of minimal value means games in which the total value of prizes awarded during the calendar year does not exceed \$10,000.

23-206. Tribal Subdivision.

Tribal Subdivision Means:

- (a) The districts, as set forth in Article III, Section 2 of the Constitution of the Standing Rock Sioux Tribe.
- (b) Nonprofit entities organized to raise funds and operate programs to promote the health and welfare of tribal members and/or to organize and operate ceremonies, celebrations, and pow-wows.
- (c) Tribal school boards.

23-207. Net Revenues.

Net revenues means gross revenues of a gaming activity less (i) amounts paid out as, or paid for, prizes and (ii) total operating expenses, except that management fees shall not be deducted to determine net revenues.

23-208. Primary Management Official.

Primary management official means (1) any person having management responsibility for a management contract; (2) any person who has authority to hire and fire employees or to set up working policy for a gaming operation; or (3) the chief financial officer or other person who has financial management responsibility.

23-209. Key Employee.

Key employee means (1) a person who performs one or more of the following functions: bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, pit boss, dealer, croupier, approver of credit or custodian of gambling devices including persons with access to cash and accounting records within such devices; or (2) if not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or (3) if not otherwise included, the four most highly compensated persons in a gaming operation.

23-210. North Dakota Compact.

North Dakota Compact means the document entitled "Tribal State Compact for Control of Class III Games of Chance, Standing Rock Sioux in North Dakota," entered into between the Standing Rock Sioux Tribe and the State of North Dakota.

23-211. South Dakota Compact.

South Dakota Compact means the document entitled "Gaming Compact Between the Standing Rock Sioux Tribe and the State of South Dakota," entered into between the Standing Rock Sioux Tribe and the State of South Dakota.

23-212. Act.

Act means the Indian Gaming Regulatory Act, 25 U.S.C. §2701.

23-213. North Dakota Portion of the Reservation.

North Dakota portion of the Reservation means that portion of the Standing Rock Sioux Reservation which lies within the boundaries of the State of North Dakota.

23-214. South Dakota Portion of the Reservation.

South Dakota portion of the Reservation means that portion of the Standing Rock Sioux Reservation which lies within the boundaries of the State of South Dakota.

23-215. Commission.

Commission means the Standing Rock Gaming Commission established pursuant to Chapter 3 of this Ordinance.

23-216. National Indian Gaming Commission.

National Indian Gaming Commission means the National Indian Gaming Commission established pursuant to 25 U.S.C. §2704.

23-217. Tribe.

Tribe means the Standing Rock Sioux Tribe.

Chapter 3. Tribal Gaming Commission and Professional Staff

23-301. Establishment.

There is hereby established the Standing Rock Gaming Commission ("Commission"), an agency of the Tribe, consisting of a Chairman-Executive Secretary and eight member commissioners, an Office Manager and three Gaming Inspectors. There shall be an Executive Committee Member to work with the Prairie Knights Casino and Lodge and a Tribal Liaison Officer to work with the Grand River Casino and Resort gaming enterprises. The Commissioners and the aforementioned staff shall be subject to a background investigation under the same procedures applicable to prospective Class III primary management officials or key employees in the State in which said commissioners and respective staff resides under Section 23-502 for a determination whether such commissioner or staff meets the licensing standard set forth in Section 23-503. Such information shall be forwarded to the Chairman of the Standing Rock Sioux Tribe who shall with the assistance of Legal Counsel advise the Tribal Council whether said commissioners and staff meet the licensing standard set forth in Section 23-503.

23-302. Function.

The Commission shall have the following powers and duties:

- (a) The Commission shall have primary responsibility for regulatory functions relating to tribal gaming operations authorized under this Ordinance;
- (b) The Commission shall review all license applications and determine whether the application is complete and in compliance with the Ordinance, and whether such license should be issued, and shall further determine if any license so issued shall be revoked, suspended or renewed, as appropriate;
- (c) The Commission shall collect any fees required to be paid under this Ordinance. Such fees shall become tribal gaming revenues, shall be subject to tribal financial policies and procedures, and shall be disbursed as directed by the Tribal Council;
- (d) The Commission may bring any civil action or criminal complaint in any Court of competent jurisdiction to enforce the provisions of this Ordinance or to enjoin or otherwise prevent any violation of this Ordinance, the Act, the North Dakota Compact or South Dakota Compact, occurring or threatened to occur;
- (e) The Commission shall propose an annual operating budget which shall be subject to review by the Chairman-Executive Secretary and to the approval of the Standing Rock Sioux Tribal Council. The Commission may in accordance with such budget employ such staff from time to time as it deems necessary to fulfill its responsibilities under this Ordinance, and may retain professional services including investigative services to assist the Commission with respect to any issues over which the Commission exercises jurisdiction;
- (f) The Commission shall, subject to approval by the Tribal Council, promulgate such regulations as it deems necessary in order to implement and enforce the provisions of this Ordinance.
- (g) The Commission shall act in accordance with the By-Laws as adopted by the Standing Rock Sioux Tribal Council in a manner consistent with this Ordinance.

23-303. Appointment of Members.

Each District shall recommend persons to serve as Commission member from that District. The Chairman-Executive Secretary and members of the Commission shall each be appointed by majority vote of the Tribal Council. The Chairman-Executive Secretary of the Commission may reside anywhere on the Reservation.

23-304. Terms.

The initial members of the Commission shall serve as follows:

- (a) Four members shall serve through January 1, 1995.
- (b) Four members shall serve through January 1, 1996.
- (c) The Chairman-Executive Secretary shall serve a continuous term consistent with the Standing Rock Sioux Tribe Personnel Policies and Procedures and the provisions of this Ordinance as an appointed official, subject to the supervision of the Standing Rock Sioux Tribal Administration.

Thereafter all terms shall be for two years and until a successor is appointed and qualified. If a vacancy occurs during a term, the Council may appoint a successor for the unexpired portion of the term, with recommendations from the District in which the vacancy arose.

23-305. Qualifications.

To be eligible to serve as Chairman-Executive Secretary or a member of the Commission, a person shall:

- (a) Be of high moral character and reputation to promote public confidence in gaming by the Tribe;
- (b) Have sufficient education and work experience to be able to fulfill the functions of the Commission.
- (c) Have no financial stake in any gaming operated under the Ordinance nor participate as a player in any gaming operated under this Ordinance. A person has a "financial stake in any gaming operated under the Ordinance" if that person, or that person's spouse, brother, sister, mother, father, grandmother, grandfather, son, daughter, grandson, granddaughter or first cousin has invested in, has a direct or indirect financial interest in, has a management contract in, or has any other pecuniary interest whatever in gaming operated under this Ordinance. Membership in the Tribe does not, in itself, create a "financial stake in any gaming operated under this Ordinance." Employment at a tribally licensed gaming facility, other than as a primary management official, by a person's spouse, brother, sister, mother, father, grandmother, grandfather, son, daughter, grandson, granddaughter or first cousin does not create in such person a "financial stake in any gaming operated under this Ordinance";
- (d) Never have been convicted of a tribal, federal or state felony, or any

crime involving fraud, misrepresentation, moral turpitude or gambling;

- (e) Not participate as a player in any gaming facility on the Reservation during the time such person is serving as Chairman-Executive Secretary or member of the Commission;
- (f) Submit to a background investigation under the same procedure applicable to prospective Class III primary management officials or key employees in the State in which the prospective Commissioner resides under Section 23-502. The Tribal Chairman with the assistance of legal counsel, in accordance with official background investigative reports submitted by investigative agencies, advise the Tribal Council whether the prospective Commission member meets the licensing standard set forth in Section 23-503;
- (g) Not be delinquent on a debt to the Tribe, any agency of the Tribe, or corporation owned or controlled by the Tribe;
- (h) Not be a member of the Tribal Council, or a local District officer.
- (i) The Chairman-Executive Secretary of the Commission shall be selected as advertised with an added Position Description detailing duties and responsibilities as authorized by the Tribal Council.

23-306. Removal and Vacancies.

Members, including the Chairman-Executive Secretary, may be removed by a two-thirds vote of the Tribal Council, at a meeting at which a quorum is present. Members, including the Chairman-Executive Secretary, may be removed for cause, including malfeasance, neglect of duty, unexcused failure to attend two successive Commission meetings, conviction of a felony or failure to comply with the Constitution or laws of the Tribe. Any Commissioner being considered for removal shall be provided with notice from the Tribal Chairman or Tribal Secretary stating the grounds for removal, specifying a date, time, and place for a hearing to be held by the Tribal Council within 20 days of receipt of such notice. At the hearing, the Commissioner shall be entitled to appear, present testimony and other evidence, and be represented by an attorney at the Commissioner's own expense. Vacancies shall be filled by majority vote of the Council, with recommendations provided by the Districts from which the vacancies arose.

23-307. Meetings.

The Commission shall meet as scheduled to fulfill its duties and obligations under this Ordinance, but in no event less frequently than once per month. Meetings may be called by the Chairman-Executive Secretary, or by any three members of the Commission, upon at least three days written notice to all members. If the Chairman-Executive Secretary or any three members certify in writing that a meeting must be

held on less than three days notice, a meeting may be held as necessary, provided that best efforts must be made to provide the Chairman-Executive Secretary and all members with as much advance notice of such meeting as possible. Five members, or four members and the Chairman-Executive Secretary, shall constitute a quorum for the transaction of business. The vote of a majority of the members present at a meeting at which a quorum is present shall be the act of the Commission.

23-308. Compensation.

Members of the Commission shall be compensated in accordance with By-Laws for performing Commission duties in accordance with a budget approved by the Tribal Council.

23-309. Monthly Reports.

The Commission shall make a report to the Tribal Council at least once each month, or more as requested. Each report shall include a summary of all licensing and enforcement activities, a summary of meeting and travel activities and dates, and any additional information requested by the Tribal Council or the Judicial Committee.

23-310. Notice of Commission Decisions.

The Commission shall provide written notice to any applicant and any other interested party of any decision or order. Notice shall be by personal service, or certified mail, to the person's last known address, or to such person's registered agent or attorney.

23-311. Appeals.

- (a) An applicant for a license, or any other aggrieved party, may appeal from any final order or decision of the Tribal Gaming Commission by filing a notice of appeal with the Tribal Gaming Commission within 30 days of receipt of notice of the final order or decision.
- (b) If a motion for reconsideration of a Tribal Gaming Commission final order or decision is filed with the Commission within 20 days of issuance of such order, the time for appeal shall not begin to run until the motion for reconsideration is ruled upon by the Commission.
- (c) The Commission shall certify the hearing record within 30 days of receipt of a notice of appeal.
- (d) Review by the Tribal Court shall be based on the record. A decision or order of the Commission shall be affirmed unless arbitrary and capricious, or contrary to law.

- (e) The Tribal Court shall have no jurisdiction to award money damages against the Commission or any member of the Commission for any action appealed under this section.
- (f) The Tribal Court shall require parties to exhaust administrative remedies provided by this Ordinance prior to judicial review, absent an express finding of futility or other good cause to the contrary.

23-312. Law Trained Judges.

Any party to an appeal taken under Section 23-312, including the Commission, shall have a right, upon timely request, to have a licensed attorney serve as Tribal Judge with respect to such appeal. A request for a licensed attorney to serve as Judge shall be timely under this Section if the party submits such a request to the Tribal Court at the time of the filing of the notice of appeal, or, in the event an order is issued without notice against a party by a Judge who is not a licensed attorney, within 10 days of notice of such order. If no licensed attorney, Chief Judge or Associate Judge of the Tribal Court is available to hear the case, because of disqualification or otherwise, the Chief Judge shall appoint a Special Judge to hear such case, upon timely request of a party. The Clerk of Court shall maintain a list of qualified persons who can serve as Special Judge for such cases.

23-313. Tribal Gaming Commission Chairman-Executive Secretary.

- (a) There is hereby created a Tribal Gaming Commission Chairman-Executive Secretary position who shall be responsible for the oversight of gaming activities as set forth in this Ordinance.
- (b) The Chairman-Executive Secretary of the Tribal Gaming Commission shall have primary responsibility for the functions of the Commission, and shall supervise all Commission Professional Staff.
- (c) The Chairman-Executive Secretary shall be a full-time employee, shall be subject to the Tribe's personnel policies and procedures, and shall be under the supervision of the Tribal Chairman.
- (d) To be eligible for the position of Chairman-Executive Secretary, an individual must have a bachelor's degree. Experience in administration, business, gaming or related fields is preferred. The Chairman-Executive Secretary shall not be a Tribal Council Member or District Officer.
- (e) The Chairman-Executive Secretary shall develop an annual budget for the Gaming Commission, subject to approval by the Tribal Council.
- (f) The Tribal Gaming Commission Chairman-Executive Secretary shall have the following duties:

- (i) To oversee all functions relating to the Tribe's regulation of gaming operations, including all financial aspects of such gaming;
- (ii) To assist in fulfilling the Tribe's duties under any Class III management agreement;
- (iii) To secure public input and to recommend through the Judicial Committee to the Tribal Council a budget regarding the expenditure of tribal gaming revenues;
- (iv) To provide supervision on personnel matters to tribal gaming inspectors;
- (v) To determine whether prospective Tribal Gaming Commission members meet the background investigation requirements set forth in Section 23-305;
- (vi) To secure audits as required by this Ordinance; and
- (vii) To fulfill such other duties as may be delegated by the Tribal Council.

23-314. Gaming Inspectors.

- (a) The Tribe shall employ tribal gaming inspectors who shall have primary responsibility for monitoring ongoing Class II and Class III gaming operations authorized by this Ordinance.
- (b) Tribal gaming inspectors shall be full time tribal employees and shall be subject to tribal personnel policies and procedures. The Gaming Commission Chairman-Executive Secretary shall supervise the tribal gaming inspectors with respect to compliance with personnel policies and procedures. The budget for the Tribal Gaming Commission shall include the costs associated with tribal gaming inspectors.
- (c) Tribal gaming inspectors shall report any violations of this Ordinance, the Act, the North Dakota Compact or South Dakota Compact to the Tribal Gaming Commission.

23-315. Executive Committee Member and Tribal Liaison Officer.

There shall be established an Executive Committee Officer position who shall be responsible for the oversight of the Standing Rock Sioux Tribe's proprietary interests in the Prairie Knights Casino and Lodge enterprise located on the Standing Rock Sioux Reservation.

There shall be established a Tribal Liaison Officer position who shall be

responsible for the oversight for the Tribe's proprietary interests in the Grand River Casino and Resort enterprise located on the Standing Rock Sioux Reservation.

The Executive Committee Member officer and the Tribal Liaison Officer shall operate in accordance with the position description as adopted by the Standing Rock Sioux Tribe detailing their duties and responsibilities which shall include:

- (a) Meeting with casino management on a regular basis on casino operations.
- (b) Submission of written reports on the status of casino operations.
- (c) Preparing with casino management the gaming activities license application (facilities).
- (d) Assure compliance with management contracts and or employee agreements of the Tribe's gaming enterprises (Class III).
- (e) Submission of financial reports to the Tribal Council of the Tribe's gaming enterprises (Class III).
- (f) Assure the Tribe's gaming enterprises are operating according to generally accepted gaming industry standards.
- (g) Assure that Indian Preference remains a priority in the recruitment, hiring, training, promotions, and career opportunities with the Tribe's gaming enterprises.

23-316. Tribal Immunity.

Nothing in this Ordinance shall be construed to waive the immunity from suit of the Tribe, the Tribal Gaming Commission or Professional Staff; provided that judicial review of actions of the Tribal Gaming Commission shall be available as set forth in this Ordinance. In no event shall this Ordinance be construed as consent to any money judgment, lien or attachment of any property of the Tribe, Commission or Professional Staff. No money damages shall be awarded against a Commission member, Professional Staff, or other Tribal official acting in good faith within the scope of their official duties under this Ordinance.

Chapter 4. Compliance With The Act

23-401. Applicability.

All gaming on the Reservation shall be conducted according to the provisions of this Ordinance and in compliance with the Indian Gaming Regulatory Act.

23-402. Sole Proprietary Interest.

In compliance with 25 U.S.C. §2710(b)(2)(A), the Tribe or a tribal subdivision shall have the sole proprietary interest and responsibility for the conduct of any gaming activity on the Reservation. Ownership of any Class II or III game by any other entity or individual is prohibited.

23-403. Use of Revenue.

In compliance with 25 U.S.C. §2710(b)(2)(B), net revenues from any gaming activity are not to be used for any purposes other than:

- (a) To fund tribal government operations or programs;
- (b) To provide for the general welfare of the Indian tribe and its members;
- (c) To promote tribal economic development;
- (d) To donate to charitable organizations;
- (e) To help fund operations of local government agencies of the State and its political subdivisions; or
- (f) To provide per capita payments to Standing Rock Sioux Tribe enrollees in accordance with the Indian Gaming Regulatory Act.

23-404. Audits.

In compliance with 25 U.S.C. §2710(b)(2)(C) and (D), all gaming activities shall be subject to an audit by independent certified accountants, not less than annually. The audit shall include all contracts for supplies, services or concessions for a contract amount in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to Class II or Class III gaming. The audit shall be arranged by the licensee conducting the gaming, who shall provide a copy of the audit to the Tribal Gaming Commission Chairman-Executive Secretary upon completion. The Commission Chairman-Executive Secretary shall thereafter forward the audit report to the Tribal Council, Tribal Gaming Commission, and the National Indian Gaming Commission.

23-405. Environmental and Public Health and Safety Standards.

In compliance with 25 U.S.C. §2710(b)(2)(E), the construction and maintenance of any gaming facility, and the operation of gaming activities, shall be conducted in a manner which adequately protects the environment and the public health and safety, and for that purpose shall comply with all applicable health, safety and environmental standards enacted by the Tribe. Those standards generally imposed by the laws and regulations of the State of North

Dakota relating to public facilities with regard to building, sanitary, and health standards and fire safety shall be deemed to be incorporated by this Ordinance as the laws of the Tribe applicable to gaming facilities of the Tribe on the North Dakota portion of the Reservation, provided however that such state laws have no force or effect on the Reservation other than by incorporation into this Ordinance, and provided further that if an approved management agreement stipulates that national building, electric and fire codes apply, then those standards shall be used. Those standards generally imposed by the laws and regulations of the State of South Dakota relating to public facilities with regard to building, sanitary, and health standards and fire safety shall be deemed to be incorporated by this Ordinance as the laws of the Tribe applicable to gaming facilities of the Tribe on the South Dakota portion of the Reservation, provided however, that such state laws have no force or effect on the Reservation other than by incorporation into this Ordinance.

23-406. Status as a Tribal Subdivision.

Each entity seeking designation as a tribal subdivision for the purpose of this Ordinance shall file an application with the Tribal Council. The application shall provide information on the nature and purpose of the entity and the programs it operates, and shall demonstrate that the uses to which it puts its funds conform to Section 23-403. The Districts shall be designated as tribal subdivisions effective on enactment of this Ordinance by the Council, provided that any District seeking a license under this Code must specify, in writing, the members of the District entity responsible for gaming by that District. The decision of the Council on any application shall be final. Tribal subdivisions shall be eligible for Class II gaming only.

23-407. Licenses for Gaming Activities.

The Commission shall issue a license for each place, facility, or location where gaming is conducted. For each location licensed, a sworn application must be filed by the Tribe or the sponsoring organization that contains a full and complete showing of the following:

- (a) Satisfactory proof that the sponsoring organization (if other than the Tribe) is of good character and reputation among the people of the Reservation, with particular reference to the Indian people, and that it is financially responsible.
- (b) A description of the premises in which the game is to be held, and proof that the applicant is the owner of such premises, or lessee of such premises, for at least the term of the license.
- (c) Agreement by the applicant to accept and abide by all applicable provisions of this Ordinance and all conditions of the tribal license.

- (d) Satisfactory proof that no primary management officials or key employees of the applicant has ever been convicted of a felony. Non-primary management officials or non-key employees hereinafter referred to as "support staff" shall not have any felony conviction within ten (10) years prior to the commencement of their employment and shall have demonstrated rehabilitative status which shall mean no criminal convictions other than minor traffic offenses or minor crimes which did not result in incarceration or imprisonment. Support staff who have a felony conviction shall not be allowed to assume any primary management official or key employee positions or duties and responsibilities.
- (e) Satisfactory proof that notice of the application has been posted in a prominent, noticeable place in the Tribal Office and on the premises where the game is to be held for at least 30 days prior to consideration by the Commission, and published at least twice in a local newspaper serving the Reservation. The notice shall state the date, time and place when the application shall be considered by the Tribal Gaming Commission

23-408. License Fees and Duration of License.

- (a) Each application for a license under this Section shall be accompanied by an application fee of \$50, provided however that the Tribe shall not be required to pay any such fee. In addition, each licensee, other than the Tribe, shall pay to the Tribal Finance Office a fee according to the following schedule:

5% of the first \$100,000 of net revenues;

2% of the net revenues between \$100,000 and \$250,000; and

1% of the net revenues above \$250,000.

Such fees shall be paid to the Commission by the last day of each month for the previous month's net revenues.

- (b) Where the Tribe is the licensee, and the Tribe retains a management contractor pursuant to Chapter 6 of this Ordinance, the management contractor shall pay an annual license fee of \$10,000.00. The first such license fee shall be due prior to the contractor operating any Class III games. Thereafter, such license fees shall be due on December 31 of each year for the following calendar year.
- (c) Each license shall expire on December 31 of the calendar year in which it is issued, and may be renewed by the Commission upon proper application.

23-409. Hearing on Application for a License.

- (a) All applications for a gaming license shall be considered by the Gaming Commission in open session at which the applicant, his attorney and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application. After the hearing, the Commission shall determine whether to grant or deny the application, based on the Commission's determination of the best interests of the Tribe. The decision of the Gaming Commission shall be final.
- (b) Existing licensees shall have no vested right to have their licenses renewed or extended, and compliance with this Ordinance does not guarantee an existing licensee a renewal or extension. In each case, the Commission shall, in the exercise of its discretion, make its determination based on all the evidence presented to it, provided that, with respect to Class III gaming operated under a management contract, the Commission shall not revise or fail to renew a license except on grounds permissible under such management contract.

23-410. Conditions of the Tribal License.

Any tribal license issued under this Ordinance shall be subject to such reasonable conditions as the Gaming Commission shall fix, including, but not limited to the following:

- (a) The licensee shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises.
- (b) The licensed premises shall be subject to patrol by the Tribal and BIA police force, for the purpose of enforcing tribal law, and the licensees shall cooperate at all times with such police and law officers.
- (c) The licensed premises shall be open to inspection by duly authorized tribal officials and officials of the National Indian Gaming Commission at all times during the regular business hours.
- (d) There shall be no discrimination in the operations under a tribal license by reason of race, color or creed, age, sex, or national origin, provided, however, that a licensee shall give a preference in employment to Indians.
- (e) Management shall not allow a person who manages or receives any compensation, directly or indirectly, for the operation of any Class II game of chance conducted by the operator to play in that game or other game of chance while on duty. Management shall not allow any person who, without payment, assists in the operation of any Class II

or Class III game of chance conducted by the management, to play in any game conducted by the operator within 24 hours after the time said person did so assist. Management shall not allow any person who receives any compensation, directly or indirectly, for the operation of a Class III game, to play any Class III game conducted by the management.

- (f) No beverage containing alcohol, including but not limited to, beer or liquor, shall be offered or awarded as a prize or in lieu of a prize for winning at any of the activities authorized by this Ordinance.
- (g) No firearms, air guns which are capable of discharging dangerous projectiles, including but not limited to b.b.'s or CO2 guns, rifles, shotguns, pistols, or revolvers; shall be offered or awarded as a prize or in lieu of a prize for winning at any of the activities authorized by this Ordinance.
- (h) No person involved in the operation of any activity authorized by the Ordinance shall, directly or indirectly, in the course of such operation, employ any device, scheme, or artifice to defraud, make any untrue statement of a fact, or omit to state a consideration of the circumstances under which such statement was made, or engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any person.
- (i) All licensees shall comply with all applicable requirements of the Federal Internal Revenue Code.

23-411. Assignment or Transfer.

No license issued under this Ordinance shall be assigned or transferred without the written approval of the Commission and the Tribal Council, both expressed by formal resolution.

23-412. Cancellation and Suspension.

The licensee must have, and exercise, complete control over the premises being used for gaming at all times said games are being played. The licensee, the manager, and the employees shall be legally responsible for any violation of the Ordinance. Any license issued hereunder may be canceled by the Commission for the breach of any of the provisions of this Ordinance or of the tribal license, upon hearing before the Commission, after 10 days notice of the claimed breach to the licensee. If the Tribe is the licensee, notice shall be served on the manager of the tribal operation. The time and place of the hearing shall be posted in the Tribal Office, and if time permits, in a local newspaper serving the Reservation. The licensee, manager, their attorney and any person affected by the license shall have the right to be present and to offer sworn oral or documentary evidence relevant to the breach charged. A license may be suspended during the 10 day

period by a majority vote of the Commission at a meeting at which a quorum is present. The decision of the Commission shall be final.

23-413. Report to the Commission.

Each licensee shall submit to the Tribal Gaming Commission, on a quarterly basis, a financial report for the previous quarter's operations. Such reports shall be signed, under oath, by an official or representative of the licensee, who in the case of a tribal operation shall be the operation's manager. The reports shall document:

- (a) Gross receipts for each month.
- (b) Names of each employee and the salary or other compensation paid to each.
- (c) All expenses in the operation of the facility, specifying all payments to vendors and contractors.
- (d) The amount paid in prizes each month.
- (e) All bank deposits made from proceeds of the facility operations, including any interest received on such deposits.
- (f) All bank withdrawals, and the purpose of each.
- (g) All expenditures of net proceeds including the amount, person or organization paid, date, and purpose of such expenditures.
- (h) That each licensee will submit copies of all IRS required forms.

Chapter 5. Background Investigations and Licensing of Key Employees and Primary Management Personnel

23-501. License Required.

All primary management officials and key employees of any gaming facility on the Reservation or licensed under this Ordinance shall be required to obtain a gaming employment license from the Commission prior to the commencement of employment.

23-502. Background Investigation.

As part of the licensing process, each prospective primary management official and key employee shall be subject to a background investigation prior to hiring. For Class III gaming conducted in North Dakota, the investigation shall be conducted by the State of North Dakota. For Class III gaming conducted in South

Dakota, the investigation shall be conducted by the State of South Dakota. Any costs of such investigations shall be paid by the applicant. In addition, the Commission may conduct its own investigation on any applicant for such license, with the costs paid by the applicant. For Class II gaming conducted on the Reservation, the investigation shall be conducted by the licensee or, at its discretion, by the Commission. Each applicant for a license regarding Class II or Class III employment shall execute a release permitting the appropriate State or the Commission to conduct such investigation, and shall provide his or her full name, address and social security number.

23-503. Licensing Standard.

No person or entity shall be issued a license under this Chapter if that person or entity (or a principal of such entity) (1) has been convicted of a federal, state or tribal felony or (2) released from parole or probation or incarcerated within five years of the application date, (3) has been convicted of a felony or misdemeanor involving fraud, misrepresentation or gambling, (4) has been found to be not a person of good character, honesty and integrity or a person or entity whose prior activities, criminal record, reputation, habits and associations pose a threat to the public interest of the Tribe or the State of North Dakota or the State of South Dakota or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental to the conduct of gaming, or (5) has been found to have participated in organized crime or unlawful gambling.

23-504. Application for License.

- (a) Each primary management official and key employee shall, at the time of their hiring but prior to commencing employment, fill out an application for a tribal license to be provided by the Commission. Each such application shall have printed on it the following notices:

I. Privacy Notice:

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 employed in a gaming operation. The information will be used by 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 to appropriate Federal, Tribal, State, local or foreign law enforcement and regulatory investigations and prosecutions or when pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the hiring and firing of an employee, the issuance 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's being unable to hire you in a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

2. Notice regarding false statements:

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

(b) The applicant will provide the following information:

1. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
2. For the previous five years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver license numbers;
3. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed in Subparagraph 2;
4. Current business and residence telephone numbers;
5. A description of any current or previous business relationships with Indian Tribes, including ownership interests in those businesses;
6. A description of any current or 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 applicant 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 and disposition, if any;

9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years from the date of the application, the name and address of the Court involved and the date and disposition;
10. For each criminal charge (excluding minor traffic charge) within 10 years of the date of application, other than those listed in response to Sections 23-504(b)(8) or (b)(9) of this Ordinance, the charge, the name and address of the Court involved, and the date and disposition of the charge;
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. Fingerprints; and
14. Any other information which, in a particular case, the Commission deems relevant.

23-505. Determination of Eligibility.

On the basis of the information received under Subparagraph (b) of Section 23-504, and the background investigation conducted by the appropriate State, the Commission shall consider the applicant for a license. Upon a vote of a majority of its members, including the Chairman-Executive Secretary, the Commission shall make a determination of the applicant's eligibility for a license, pursuant to the standards set forth in Section 23-503. The Commission shall make its determination of eligibility within 30 days of receipt of the information under Section 23-504(b), the result of the background investigation of the appropriate State, and the results of the additional background investigation, if any, conducted by the Commission. Notwithstanding any other provision, any person who supplies materially false or misleading information, or who has omitted material information in connection with the requirement of this Chapter, shall be denied a license.

23-506. Issuance of License.

When the Commission determines that an applicant is eligible for a license, it shall promptly forward its determination and the results of its investigation to the National Indian Gaming Commission. The information forwarded to the Commission shall include the notices set forth in Section 23-504(a)(1) and (a)(2), the information provided under 23-504(b), and a report of the background investigation under 23-502. If, at the conclusion of the 30-day period beginning when the National Indian Gaming Commission receives the report submitted pursuant to this subparagraph, the National Indian Gaming Commission has not notified the Tribal Commission that

it has any objections, the Tribal Commission may issue the license to the applicant. If the National Indian Gaming Commission informs the Tribal Commission that it objects to issuance of the license, the Tribal Commission shall reconsider the application in light of the National Indian Gaming Commission's objections. The Tribal Commission shall make the final decision on whether to issue such license.

23-507. Duration of License.

Each license shall be effective for a period of one year. Prior to expiration of the license, the licensee shall update the information produced during the original investigation. The Commission shall conduct a review to determine that each licensee continues to meet the standards of Section 23-503. If the Commission finds that the licensee continues to meet the standards, it shall renew the license for an additional year. Notice of any such renewals shall be forwarded to the National Indian Gaming Commission.

23-508. Effect of License Denial.

No person denied a license under this Chapter shall be employed in any capacity at a tribally authorized gaming facility, provided that such person shall be eligible to reapply for a license one year or more after the license denial.

23-509. Hearings.

Any person who applies for a license under this Chapter may request a hearing before the Commission on its license application. The Commission may grant such a request for a hearing in its sole discretion, provided that, if the hearing is requested by a person or entity whose application under this Chapter has been denied by the Commission and such request is made in writing within 30 days of the denial, such request for a hearing shall be granted. At any hearing under this section, the applicant shall have the right to be present, be represented by counsel at the applicant's own expense, to review all evidence before the Commission on the application, and to present additional oral or documentary evidence in support of the application. The decision of the Commission shall be in writing, and shall be rendered within three days of the hearing.

23-510. License Suspension.

- (a) If, after issuance of a license under this Chapter, the Commission receives reliable information that a key employee or primary management official is not eligible for employment under this Chapter, the Commission shall suspend the license and notify the licensee in writing of the suspension and proposed revocation. Such suspension shall not extend beyond 7 days without a hearing.
- (b) The Commission shall notify the licensee of the time and place of the hearing. At the hearing, the licensee shall be entitled to the rights

specified in Section 23-509.

- (c) After a revocation hearing, the Commission shall determine, based on the evidence presented at the hearing, whether to revoke or reinstate the license. If the licensee continues to meet the standards of Section 23-503, the license shall be reinstated. If not, the license shall be revoked.

Chapter 6. Management Contractors

23-601. Management Contracts Allowed.

Subject to the approval of the Tribal Commission and the National Indian Gaming Commission, a licensee may enter a management contract for the operation and management of gaming activities.

23-602. Standard for Approval.

The Commission shall not approve any management contract unless its terms include:

- (a) Adequate accounting procedures to be maintained by the contractor and verifiable financial reports submitted to the licensee and the Commission on a monthly basis.
- (b) Access to the daily operation of the gaming facility for appropriate officials of the licensee and the Commission, who shall also have the right to verify the daily gross revenues and income made from the gaming activity.
- (c) A minimum guaranteed payment to the licensee that has preference over the retirement of development and construction costs.
- (d) A contract term not to exceed seven years.
- (e) A management fee not to exceed 40 percent of the net revenues of the gaming activity.
- (f) Grounds and mechanisms for terminating the contract.

23-603. Submission to the National Indian Gaming Commission.

The Tribe shall submit to the National Indian Gaming Commission for approval any management contract for the operation of a Class II or Class III game. The Tribe shall submit with the contract all information required by the National Indian Gaming Commission for its review of the contract.

23-604. Licenses Required.

All persons or entities (1) with a financial interest in or having a management responsibility for a Class III management contract, or (2) which are vendors to a Class III gaming operation under this Ordinance shall be required to obtain a license from the Commission. For each person or entity with a financial interest in or having a management responsibility for a Class III management contract, the initial license fee shall be \$1,000, and the renewal license fee shall be \$500. For each vendor to a Class III gaming operation, the annual license fee shall be \$2,500.

23-605. Background Investigation.

As part of the licensing process, each person or entity having a financial interest in or having a management responsibility for a management contract and each vendor shall be subject to a background investigation. For Class III gaming conducted in North Dakota, the investigation shall be conducted by the State of North Dakota. For Class III gaming conducted in South Dakota, the investigation shall be conducted in South Dakota. Any costs of such investigation shall be paid by the applicant. In addition, the Commission may conduct its own investigation on any such person or entity, with the costs paid by the applicant. Each applicant for a license shall execute a release permitting the appropriate State or the Commission to conduct such investigation, and shall provide his or her full name, address and social security number.

23-606. Licensing Standard.

No person or entity shall be issued a license under this Chapter if that person or entity (or a principal of such entity) (1) has been convicted of a federal, state or tribal felony or (2) released from parole or probation or incarcerated within five years of the application date, (3) has been convicted of a felony or misdemeanor involving fraud, misrepresentation or gambling, (4) has been found to be not a person of good character, honesty and integrity or a person or entity whose prior activities, criminal record, reputation, habits and associations pose a threat to the public interest of the Tribe or the State of North Dakota or the State of South Dakota or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental to the conduct of gaming, or (5) has been found to have participated in organized crime or unlawful gambling.

23-607. Application for License.

- (a) Each applicant with a financial interest in or having a management responsibility for a Class III management agreement shall fill out an application for a tribal license to be provided by the Commission.

Each such applicant shall sign and submit the following statements:

I. Privacy notice:

Solicitation of the information in this section is authorized by 25 U.S.C. §2701 et seq. The purpose of the requested information is to determine the suitability of individuals with a financial interest in, or having management responsibility for, a management contract. The information will be used by the National Indian Gaming Commission members and staff and Indian tribal officials who have need for the information in the performance of their official duties. The information may be disclosed to appropriate federal, tribal, state, or foreign law enforcement and regulatory agencies in connection with a background investigation or when relevant to civil, criminal or regulatory investigations or prosecutions or investigations of activities while associated with a gaming operation. Failure to consent to the disclosures indicated in this statement will mean that the Chairman of the National Indian Gaming Commission will be unable to approve the contract in which the person has a financial interest or management responsibility.

The disclosure of a personal Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing the information provided.

2. Notice regarding false statements:

(a) Applicant shall sign and submit the following statement:

A false statement knowingly and willfully provided in any of the information pursuant to this section may be grounds for not approving the contract in which I have a financial interest or management responsibility, or for the disapproving or voiding such contract after it is approved by the Chairman of the National Indian Gaming Commission. Also, I may be punished by fine or imprisonment (U.S. Code, Title 18, Section 1001).

(b) Each person seeking a license under this Chapter shall provide the following information:

1. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, and gender;
2. A current driver's license and a list of all languages spoken or written;
3. For the previous ten years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and the city, state and country of

- residence from age 18 to the present;
4. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant at each different residence location over the past five years;
 5. Current business and residence telephone numbers;
 6. A description of any previous business relationships with Indian Tribes, including ownership interests in those businesses;
 7. The name and address of any licensing or regulatory agency with which the applicant has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
 8. For each gaming offense and 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 the charge and of the disposition;
 9. For each misdemeanor or other conviction or ongoing *misdemeanor or other prosecution (excluding minor traffic violations)* within 10 years from the date of the application, the name and address of the Court involved and the dates of prosecution and of the disposition;
 10. 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;
 11. A photograph;
 12. Fingerprints;
 13. A complete and current financial statement showing all sources of income for the previous three (3) years, and costs, liabilities, and net worth as of the date of the submission;
 14. Any other information which, in a particular case, the Commission deems relevant.

23-608. Determination of Eligibility.

On the basis of the information received under subparagraph (b) of Section 23-607, and the background investigation conducted by the appropriate State, the Commission shall consider the application for a license. Upon a vote of a majority of its members, including the Chairman-Executive Secretary, the Commission shall make a determination of the applicant's eligibility for a license, pursuant to the standards set forth in Section 23-606. Notwithstanding any other provision, any person or entity which supplies materially false or misleading information, or who has omitted material information in connection with the requirements of this Chapter, shall be denied a license.

23-609. Issuance of License.

When the Commission determines that a person or entity with a financial interest in or having a management responsibility for a Class III management agreement is eligible for a license, it shall promptly forward its determination and the results of its investigation to the National Indian Gaming Commission. If, at the conclusion of the 30-day period beginning when the National Indian Gaming Commission receives the report submitted pursuant to this subparagraph, the National Indian Gaming Commission has not notified the Tribal Commission that it has any objections, the Tribal Commission may issue the license to the applicant.

23-610. Duration of License.

Each license under this Chapter shall be effective for a period of one year. Prior to the expiration of the license, the licensee shall update the information produced during the original investigation. The Commission shall conduct a review to determine that each license continues to meet the standards of Section 23-606. If the Commission finds that the licensee continues to meet the standards, it shall renew the license for an additional year. Notice of any such renewals shall be forwarded to the National Indian Gaming Commission.

23-611. Hearings.

Any person or entity which applies for a license under this Chapter may request a hearing before the Commission on its license application. The Commission may grant such a request for a hearing in its sole discretion, provided that, if the hearing is requested by a person or entity whose application under this Chapter has been denied by the Commission and such request is made in writing within 30 days of the denial, such request for a hearing shall be granted. At any hearing under this section, the applicant shall have the right to be present, be represented by counsel at the applicant's own expense, to review all evidence before the Commission on the application, and to present additional oral or documentary evidence in support of the application. The decision of the Commission shall be in writing, and shall be rendered within three days of the hearing.

23-612. License Suspension.

- (a) If, after issuance of a license under this Chapter, the Commission receives reliable information that such person or entity is not eligible for a license under this Chapter, the Gaming Commission shall suspend the license and notify the licensee in writing of the suspension and proposed revocation. Such suspension shall not extend beyond 7 days without a hearing.
- (b) The Gaming Commission shall notify the licensee of the time and place of the hearing. At the hearing, the licensee shall be entitled to the rights specified in Section 23-611.
- (c) After a revocation hearing, the Commission shall determine, based on the evidence presented at the hearing, whether to revoke or reinstate the license. If the licensee continues to meet the standards of Section 23-609, the license shall be reinstated. If not, the license shall be revoked.

23-613. Definitions.

- (a) For purposes of this Chapter, the term "persons or entities with a financial interest in, or having management responsibility for, a management contract" means:
 - 1. Each person with management responsibility for a management contract;
 - 2. Each person who is a director of a corporation that is a party to a management contract;
 - 3. The ten (10) persons who have the greatest direct or indirect financial interest in a management contract;
 - 4. Any entity with a financial interest in a management contract;
 - 5. Any other person with a direct or indirect financial interest in a management contract.
- (b) For purposes of this Chapter, "vendor" means: (i) any person or entity providing Class III gaming equipment to a gaming operator under this Ordinance in a total amount exceeding \$50,000.00 in a twelve-month period, or (ii) any other person or entity which provides goods or services (other than accounting or legal services) to a gaming operator, provided that, notwithstanding any other provision of this Ordinance, a vendor as defined under this Subsection (ii) shall be required to obtain a license under Section 23-604 only if the Commission, in its discretion, specifically so requires.

Chapter 7. Class II Gaming

23-701. Conditions.

The following conditions and restrictions shall apply to the conduct of Class II gaming, including bingo:

- (a) No person who is under the age of 16 shall participate or play in any Class II game of chance. No person under the age of 16 shall be allowed on premises where Class II games are being conducted unless that person is accompanied by a member of his immediate family or guardian who is not younger than 18 years of age. It shall be the responsibility of the licensee and of those persons physically operating the games to determine that no unauthorized person is allowed to play in or participate in any manner in the operation of any bingo game.
- (b) All Class II licensees shall impose a uniform charge on all players for the bingo cards to be used in each bingo game. The rate to be charged players for cards shall be fixed by each licensee and posted conspicuously on the premises. No person shall be allowed to play in a game without first paying this uniform charge. Each person paying for the opportunity to participate in a bingo game shall be given a bingo card which shall be numbered and can be readily identified as belonging to that licensee. Each card issued shall represent a specific amount of money which has been paid to the licensee. The amount of prize money represented by each card issued shall be clearly made known to all players prior to anyone paying to participate in the activity.
- (c) Bingo cards shall be sold and paid for, only in advance for use in a specified game or games. All sales of bingo cards shall take place upon the premises and upon the occasion that the bingo games for which the card is being sold are conducted. No cards may be sold on credit or as a gift or loan of any kind whatever.
- (d) Each numbered ball, or other device, used in a bingo game for the selection of numbers to be called in play shall be the same weight as each of the other balls or devices used for the purpose in that game. Immediately following the calling of each number in a bingo game, the caller shall turn the portion of the ball or other device used to determine which number is called which shows the number and letter to the participants in the game so that participants may know that the proper number has been called out. Nothing in this section shall prohibit the use of electronic, computer or other technological aids in games of bingo or other games of chance provided that such aids are used properly and fairly.

Chapter 8. Class III Gaming

23-801. Applicability.

In addition to the forms of Class II gaming authorized pursuant to Chapter 7, the Tribe shall be authorized to conduct certain specified forms of Class III gaming. This chapter imposes conditions and regulations on Class III gaming in addition to the conditions in Chapter 4 which are applicable to all gaming on the Reservation.

Subchapter A. Gaming in North Dakota.

23-802. Applicability.

This subchapter applies to Class III gaming, as defined in Section 23-203 of this Ordinance and in the Indian Gaming Regulatory Act at 25 U.S.C. §2703(8), that occurs on lands within the State of North Dakota which are on the Standing Rock Sioux Reservation, held in trust by the United States for the Tribe or individual Indians or are otherwise subject to the jurisdiction of the Standing Rock Sioux Tribe.

23-803. Governing Law.

Class III gaming under this subchapter shall be governed by and conducted in conformity with the laws of the Standing Rock Sioux Tribe, the North Dakota Compact and the laws of the United States.

23-804. Adoption of Compact.

The North Dakota Compact is hereby incorporated within and enacted as an integral part of this Ordinance with respect to all forms of Class III gaming, and the Compact is appended to and made a part of this Ordinance as if set forth in full herein; provided however, that nothing in the adoption of the North Dakota Compact herein shall be deemed to affect the operation by the Tribe of Class III gaming on the South Dakota portion of the Reservation, or the operation by the Tribe of Class II gaming on any portion of the Reservation, or to confer upon the State of North Dakota any jurisdiction over Class II gaming conducted by the Tribe on the Reservation.

23-805. Types of Class III Games Authorized.

The following Class III games are authorized to be operated and played on the North Dakota Portion of the Reservation.

- a. Video games of chance and electronic slot machines utilizing a central computer system.
- b. Paddle wheel.

- c. Blackjack.
- d. Poker, including pai gai poker and Caribbean poker.
- e. Keno.
- f. Sports and calcutta pools as defined under North Dakota law.
- g. Parimutuel and simulcast betting if an agreement governing such betting is reached between the Tribe and North Dakota.

23-806. Bet Limits.

The following bet limits shall apply to the following games:

Blackjack	\$50.00 maximum
Any Machine	5.00 maximum
Poker	25.00 maximum (single bet) 50.00 maximum (overall bet)
Paddle Wheel	25.00 maximum (single bet) 50.00 maximum (overall bet)

23-807. Minimum Age Requirement.

No person under the age of 18 shall be allowed to play any Class III gaming on the North Dakota portion of the Reservation. If any person below the age of 18 plays and qualifies to win any Class III game, the prize shall not be paid, and the amount wagered during the course of the game shall be forfeited by the minor.

23-808. Record Keeping Requirement.

Each location which contains video games of chance shall have an interconnected one-way reporting system which shall provide, for each machine, periodic analytic reports that record coins in and coins out, calculate actual hold, and compare actual hold to theoretical percentages. Reports shall be prepared on at least a monthly basis and shall be made available for inspection by agents of the State of North Dakota. The reports shall be maintained by the Tribe for a minimum of three years.

23-809. Inspection.

Gaming Agents of the Tribe or the State of North Dakota shall have the right to gain access, without notice during normal hours of operation, to all premises used for the operation of Class III games of chance on the North Dakota

portion of the Reservation, or for the storage of such games and equipment related thereto, and may inspect all premises, equipment, daily records, documents or items related to the operation of Class III games of chance.

23-810. Technical Standards.

The provisions of Section 6 of the North Dakota Compact, "Technical Standards for Class III Video Games of Chance," are hereby adopted and incorporated into this Ordinance.

Subchapter B. Gaming in South Dakota.

23-811. Applicability.

This subchapter applies to Class III gaming, as defined in Section 23-203 of this Ordinance and in the Indian Gaming Regulatory Act at 25 U.S.C. §2703(8), that occurs on lands within the State of South Dakota which are on the Standing Rock Sioux Reservation, held in trust by the United States for the Tribe or individual Indians or are otherwise subject to the jurisdiction of the Standing Rock Sioux Tribe.

23-812. Governing Law.

Class III gaming under this subchapter shall be governed by and conducted in conformity with the laws of the Standing Rock Sioux Tribe, the South Dakota Compact and the laws of the United States.

23-813. Adoption of Compact.

The South Dakota Compact is hereby incorporated within and enacted as an integral part of this Ordinance with respect to all forms of Class III gaming, and the Compact is appended to and made a part of this Ordinance as if set forth in full herein; provided however, that nothing in the adoption of the South Dakota Compact herein shall be deemed to affect the operation by the Tribe of Class III gaming on the North Dakota portion of the Reservation, or the operation by the Tribe of Class II gaming on any portion of the Reservation, or to confer upon the State of South Dakota any jurisdiction over Class II gaming conducted by the Tribe on the Reservation.

23-814. Types of Class III Games Authorized.

The following Class III games are authorized to be operated and played on the South Dakota portion of the Reservation:

- a. Blackjack, as that term is defined in South Dakota Codified Laws 42-7B-4(3);
- b. Poker, as that term is defined in South Dakota Codified Laws

42-7B-4(18);

- c. Slot machines, as that term is defined in South Dakota Codified Laws 42-7B4(21).

23-815. Bet Limits.

Class III gaming operations on the South Dakota portion of the Reservation may offer the highest bet limits on any game consistent with the laws of the State of South Dakota and the regulations of the South Dakota Gaming Commission.

23-816. Accounting Standards.

The accounting standards of Chapter 20:18:22 of the South Dakota Rules and Regulations for Limited Gaming are hereby adopted and incorporated into this Ordinance.

23-817. Minimum Age Requirement.

No person under the age of 21 shall play or be allowed to play any Class III gaming device in the South Dakota portion of the Reservation. If any person below the age of 21 plays and qualifies to win any Class III game, the prize shall not be paid, and the amount wagered during the course of the game shall be forfeited by the minor.

23-818. Technical Standards for Gaming Machines.

The hardware and software specifications set forth by the South Dakota Gaming Commission and SDCL 42-7B-43 are hereby adopted and incorporated into this Ordinance. All Class III gaming machines on the South Dakota portion of the Reservation shall meet or exceed these standards.

23-819. Number of Gaming Devices.

The Tribe shall be authorized to operate up to 180 gaming devices on the South Dakota portion of the Reservation, or such greater amount as may be authorized under the South Dakota compact, provided however, that any increase or decrease in the gaming device limitation contained in the laws of the State of South Dakota will result in a proportional increase or decrease in the limit of 180 devices permitted under this Ordinance.

Chapter 9. No Credit Extended

23-901. No Credit Extended.

All Class III gaming shall be conducted on a cash basis. No person shall be extended credit for gaming and no licensee shall be permitted to offer credit for

gaming for a fee; provided however that this section shall not apply to credits won by players who activate play after inserting coins or currency into the game, and provided further that this section shall not restrict the right of the Tribe or any other person to offer check cashing or to install or accept bank or credit card transaction in the same manner as would be normally permitted at a retail business.

Chapter 10. Jurisdiction Over Class III Gaming

23-1001. Civil Jurisdiction in South Dakota.

The Standing Rock Tribal Court shall have civil jurisdiction exclusive of the State of South Dakota over all transactions or disputes related to or arising from gaming conducted on the South Dakota portion of the Reservation, and all disputes related to or arising from this Ordinance on the South Dakota portion of the Reservation, provided however, that any such case involving one or more persons who are not tribal members shall be heard in the courts of the State of South Dakota, unless all parties stipulate the action may be heard in Tribal Court. This provision shall not be construed as a waiver of sovereign immunity by the Tribe.

23-1002. Civil Jurisdiction in North Dakota.

The Standing Rock Sioux Tribal Court shall have civil jurisdiction exclusive of the State of North Dakota over all transactions or disputes related to or arising from gaming conducted on the Reservation or in North Dakota under this Ordinance.

23-1003. Criminal Jurisdiction in South Dakota.

The Standing Rock Sioux Tribal Court shall have criminal jurisdiction exclusive of the State of South Dakota over all persons who are members of the Tribe in any criminal proceeding related to or arising from gaming conducted on the Reservation in South Dakota. The courts of the State of South Dakota shall have jurisdiction over persons who are non-members of the Tribe in a criminal proceeding related to or arising from gaming conducted on the South Dakota portion of the Reservation, to the extent set forth in the South Dakota Compact.

23-1004. Criminal Jurisdiction in North Dakota.

The Standing Rock Sioux Tribal Court shall have criminal jurisdiction exclusive of the State of North Dakota over all persons as to whom the Tribe has criminal jurisdiction generally, in any criminal proceeding related to or arising from gaming conducted on the Reservation in North Dakota. The courts of the State of North Dakota shall have jurisdiction over persons who are nonIndians in a criminal proceeding related to or arising from gaming in North Dakota.

23-1005. Federal Jurisdiction.

Nothing herein shall be construed to limit or deprive the federal courts of

any civil or criminal jurisdiction which they might otherwise have.

Chapter II. Penalties

23-II01. Criminal Penalties.

Violation of this Ordinance shall constitute a Class A misdemeanor.

23-II02. Civil Penalties.

Notwithstanding criminal penalties which may be imposed, any individual who violates any provision of this Ordinance shall be subject to civil penalties including exclusion from employment by any Tribal gaming enterprise, exclusion from attendance at any Tribal gaming facility, or exclusion from the Reservation if a non-member of the Tribe. The Tribal Court shall have the jurisdiction to impose any such civil penalty on any person within the jurisdiction of the Tribe to impose such penalty.

Chapter 12. Customer Disputes

23-I201. Customer Disputes.

Any person who has any dispute, disagreement or other grievance that involves currency, tokens, coins or any other thing of value and is between the customer or player and a tribally licensed gaming facility, may raise such dispute with the following persons and in the following order: (a) a member of the staff of the facility, (b) the supervisor in the area in which the dispute arose, (c) a managerial level supervisor of the facility, and (d) the Tribal Gaming Commission.

23-I202. Customer Rights Regarding Disputes.

At each level, the complainant has the right to explain his side of the dispute, and to present witnesses in connection with any factual allegation. At each level, if the dispute remains unresolved, the complainant shall be informed of this right to take the dispute to the next higher level as set forth in Section 23-I201. Resolution of any dispute by staff of the facility shall always involve two or more staff members. All disputes, whether resolved or not, shall be the subject of a detailed report by all staff involved to their supervisors, or, in the case of the senior staff member handling a dispute, to the Tribal Gaming Commission.

23-I203. Commission Action on Customer Disputes.

All disputes which are submitted to the Tribal Gaming Commission shall be decided by the Commission based on information provided by the complainant, any witnesses for or documents provided by the complainant, or by the licensee or manager of the facility or any other person who has relevant information to provide. The decision of the Commission shall be in writing, shall be issued within 14 days of

submission of the matter to the Commission, and shall be provided to the licensee or manager of the facility and the complainant.

Chapter 13. Miscellaneous

23-1301. Severability.

In the event that any section or provision of this Ordinance is held invalid, the remaining sections or provisions shall continue in full force and effect.