

NATIONAL  
INDIAN  
GAMING  
COMMISSION

AUG 25 1995

FILE COPY

Dr. Rudi L. Mitchell  
Chairman  
Omaha Tribe of Nebraska  
P.O. Box 368  
Macy, Nebraska 68039

Dear Dr. Mitchell:

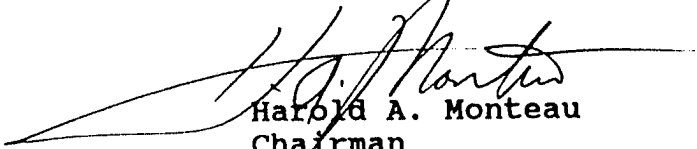
This letter responds to your request to review and approve the Omaha Tribe of Nebraska Gaming Code, Title XII, adopted on June 14, 1995, by the Omaha Tribe of Nebraska (Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances and codes 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. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a Tribe's ordinance or code are not subject to review and approval. Also, such approval does not constitute approval of specific games. It is important to note that the gaming code is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming code, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the gaming code of the Omaha Tribe of Nebraska for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,



Harold A. Monteau  
Chairman

cc: Tom Pogge Esq.  
Joan C. Jackson Esq.

# OMAHA TRIBE OF NEBRASKA

P. O. Box 368  
Macy, Nebraska 68039

## EXECUTIVE OFFICERS

Dr. Rudi L. Mitchell, Chairman  
Mitchell Parker, Vice-Chairman  
L. Amie Harlan, Treasurer  
Nate J. Parker, Sr., Secretary



PH (402) 837-5391  
FAX (402) 837-5308

## MEMBERS

Doran L. Morris, Sr.  
Clyde Tyndall  
Clifford R. Wolfe, Jr.

TRIBAL ADMINISTRATION

## RESOLUTION No. 95-108 OF THE OMAHA TRIBE OF NEBRASKA

Re: Amended and Restated Gaming Code

- WHEREAS, the Omaha Tribe of Nebraska (the "Tribe") is a federally recognized Indian tribe organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. Sec. 984) (25 USC Sec. 476, et seq.) as amended; and
- WHEREAS, pursuant to Article IV, Section 1 (j) of the Constitution of the Tribe, the Tribe has the power to regulate trade, commerce and all manner of criminal and non-criminal conduct on its reservation; and
- WHEREAS, pursuant to the Indian Gaming Regulatory Act, P.L. 100-497, codified at 25 U.S.C. Sec. 2701, et seq., the Tribe may engage in Class III Gaming pursuant to a Compact with a State and so long as such gaming is conducted in accordance with that Compact and a Gaming Code is duly adopted by the Tribe; and
- WHEREAS, on December 30, 1991, the sovereign Indian Nation of the Omaha Tribe of Nebraska and the sovereign State of Iowa entered into a Compact for the conduct of Class III Gaming on the Tribe's lands in the State of Iowa; and
- WHEREAS, pursuant to the terms of the Compact, the Tribe is required to enact and enforce a Gaming Code which meets, or exceeds, the standards set forth in the Compact; and
- WHEREAS, on April 13, 1992, the Tribe adopted the Omaha Tribe of Nebraska Class III Iowa Gaming Code, Title XII (the "Code"); and
- WHEREAS, the National Indian Gaming Commission (the "NIGC") has requested that certain changes be made to the Code in order to bring the Code into

compliance with regulatory requirements and bulletins promulgated by the NIGC; and

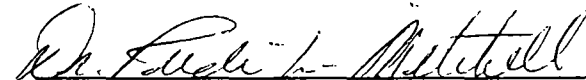
WHEREAS, the Tribal Council has caused the Code to be amended to incorporate the changes requested by the NIGC.

NOW, THEREFORE, BE IT RESOLVED THAT, the attached "Omaha Tribe of Nebraska Amended and Restated Class III Iowa Gaming Code, Title XII" should be, and is hereby, enacted into law and shall be effective the date and time of passage of this Resolution.

### CERTIFICATION

This is to certify that the foregoing Resolution was considered at a meeting of the Tribal Council of the Omaha Tribe of Nebraska, duly called and held on the 14 day of JUNE, 1995, at 12:25 P.m., and was adopted by a vote of 5 for 0 against, and 2 not voting or absent. A quorum of 6 was present with the Chairman not voting.

Dated this 14 day of JUNE, 1995, at 12:25 P. .m.

  
\_\_\_\_\_  
Dr. Rudi L. Mitchell, Chairman

ATTEST:

  
\_\_\_\_\_  
Dale Parker, Sr.

RECEIVED:

\_\_\_\_\_  
Superintendent  
Bureau of Indian Affairs

**AUG - 9 1995**

**OMAHA TRIBE OF NEBRASKA  
AMENDED AND RESTATED  
CLASS III IOWA GAMING CODE  
TITLE XII**

**As Amended as of August 8, 1995**



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### GAMING REGULATIONS

Exhibit A:	Gambling Device Testing and Specifications
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## CLASS III GAMING CODE

Section 1. ***Title; Effective Date; Repealer.*** This shall be known as the Omaha Tribe of Nebraska Class III Iowa Gaming Code ("Code"). This Code is promulgated pursuant to Article IV, Sections 1(h), (j) and (g) of the Constitution, the Bylaws and the inherent powers of the Omaha Tribe of Nebraska (hereinafter "Tribe") as a sovereign Indian Nation and sets forth the terms for Class III Gaming operations on Indian Land (as that term is defined generally at 25 U.S.C. Sec. 2703(4) and more specifically defined herein and Section 1.10 of the Compact). The previous laws of the Tribe governing Class III Gaming, to the extent they apply in the State of Iowa and are inconsistent with this Code, are repealed hereby at the date and time of enactment hereof. This Code shall be effective at the date and time of enactment.

***Source:*** Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 2. ***Findings.*** The Tribal Council of the Tribe finds as follows:

(a) The Tribe has exclusive primary jurisdiction and concurrent secondary jurisdiction with the State of Iowa and the United States of America to regulate Class III Gaming on Indian Lands, as more specifically delineated in Article 17 of the Compact, which provides for a division of jurisdiction pursuant to 25 U.S.C. Sec. 2710(d)(3)(C)(ii).

(b) The Tribe has the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this Code (unless the Tribe elects to allow individually owned gaming) and, by this Code, the Tribe has the authority to operate Class III Gaming activities on Indian Lands. (Class III Gaming is more specifically defined in 25 U.S.C. Sec. 2703(8) and at 25 C.F.R. §502.4.)

(c) The Indian gaming industry is vitally important to the economy of the Tribe and the health and general welfare of its Citizens as well as the economy of the area surrounding the Tribe's reservation and the inhabitants of such surrounding areas.

(d) The continued growth and success of Indian gaming is dependent upon public confidence and trust that Indian gaming is conducted honestly and competitively and that Indian gaming is free from criminal and corrupt elements.

(e) Public confidence and trust can only be maintained by strict and fair regulation of all persons, practices and activities related to the operation of Indian gaming.

(f) It is essential to the health, safety and general welfare of the Citizens of the Tribe that standards and regulations to govern the conduct of Class III Gaming activities be established and promulgated.

(g) Gaming is a socially acceptable method of recreation and a valid and efficient means for enhancing governmental revenue, provided that it is properly, fairly and fully regulated.

(h) This Code is intended to implement the purposes set forth below as well as the terms of any Management Contract referred to in Section 10 hereof or, specifically, the Management Agreement between the Tribe and Larita, Inc. dated August 22, 1991 ("Management Agreement").

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 3. *Purposes.*** This Code was promulgated in order to regulate the conduct of Class III Gaming on Indian Lands located in the State of Iowa and to implement the following purposes:

- (a) To promote tribal economic development;
- (b) To enhance employment opportunities for Tribal Citizens as well as residents of the Tribe's reservation and the surrounding area;
- (c) To strengthen the economy of the Tribe and that of the surrounding areas;
- (d) To generate revenue for use in improving the economic status, health, education and general welfare of Tribal Citizens and create economic opportunities for Tribal Citizens;
- (e) To assure that the Tribe is the primary beneficiary of Class III Gaming and that a minimum of 20% of the profits received by the Tribe from the operation of Class III Gaming are used to promote economic development, education, governmental services, health and the general welfare of the Tribe and its Citizens;
- (f) To develop and implement an effective regulatory scheme for the conduct of Class III Gaming on Indian Lands and to assure that such gaming adequately protects the environment and is clean, well-run and provides safe and fair entertainment for its customers;
- (g) To provide a basis for the operation and regulation of Class III Gaming by the Tribe as a means of promoting Tribal economic development, self-sufficiency and full employment of Tribal Citizens and a strong Tribal government;

(h) To assure that all Class III Gaming activities will be conducted under the exclusive ownership, control and responsibility of the Tribe, subject to the rights of Larita, Inc. under the Management Agreement;

(i) To assure that the Tribe will receive at least 60% of the net revenues of all Class III Gaming activities conducted pursuant to this Code;

(j) To comply with the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2425, codified at 24 U.S.C. Sec. 2701, et seq. (1988) (hereinafter referred to as the "Act"), and the Compact and to set forth the procedure and requirements for investigating, licensing and regulating Class III Gaming on Indian Lands.

(k) To protect the health, welfare and safety of the public;

(l) To assure that the profits derived from Class III Gaming are accurately reported, are transferred to the rightful parties and are used for the purposes intended;

(m) To assure honesty and financial integrity of all Class III Gaming conducted pursuant to this Code and the Compact;

(n) To deter any criminality, or the potential for any criminality to occur, and to shield any Class III Gaming from any involvement with organized crime or other corrupting influences; and

(o) To protect, preserve and enhance the economic and general welfare of the public and the Citizens of both the Tribe and the State of Iowa.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

#### Section 4. *Definitions.*

"*Act*" means the Indian Gaming Regulatory Act, Sections 2-24, Pub. L. 100-497, 102 Stat. 2425 (codified at 25 U.S.C. Sections 2701-2721 and 18 U.S.C. Sections 1166-1168 (1991)).

"*Applicant*" means any person, partnership, corporation or entity applying for a License pursuant to this Code.

"*Chairman*" means the Chairman of the Omaha Tribal Gaming Commission.

"*Class III Gaming*" means all gaming which is not Class I gaming or Class II gaming, as defined herein, in Sections 2703(6) and 2703(7) of the Act, and the regulations promulgated pursuant to those sections of the Act.

**"Class III Gaming Equipment"** means all proprietary devices, machines, and parts used in the manufacture or maintenance of equipment which are used in and are an integral part of the conduct of any Class III Gaming activity authorized pursuant to this Code.

**"Class III Gaming Supplies"** means all tickets, cards, boards, sheets or other supplies which are used in and are an integral part of the conduct of any Class III Gaming activity authorized or regulated under this Code.

**"Commission"** and **"Commissioner"** means the Omaha Tribal Gaming Commission and all members thereof, including the Chairman.

**"Compact"** means the Tribal-State Compact, including the Appendices to the Compact, both as amended from time to time, between the Omaha Tribe and the State of Iowa.

**"DCI"** means the Division of Criminal Investigation of the Iowa Department of Public Safety or the division's designee.

**"Director"** means the Director of the Iowa Department of Inspections and Appeals or the Director's designee.

**"Gambling Device"** means Video Games of Chance, Progressive Slot Machines and Slot Machines.

**"Gaming Code"** and **"Code"** mean the laws, rules and Regulations of the Omaha Tribe, as amended from time to time, which authorize, among other things, Class III Gaming on Indian Lands.

**"Indian Land"** or **"Indian Lands"** means all lands on the Tribe's reservation in Iowa and all lands within the State of Iowa held in trust by the United States for the benefit of the Tribe or held by the Tribe or any individual subject to restriction by the United States against alienation and over which the Tribe exercises governmental power which existed on the date of enactment of the Act, and lands within the State of Iowa which may be acquired by the Tribe in the future and which meet the requirements of Section 20 of the Act, 25 U.S.C. Sec. 2719.

**"Key Employee"** means a natural person who is employed in an executive capacity or is empowered by the Operator to make discretionary decisions or exercise significant influence over decisions which regulate casino operation and any other person designated by the Regulations, including 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. This term shall also include any person whose total cash compensation is in excess of \$50,000 per year or the four most highly compensated persons in the gaming operation.

*"License"* or *"Licensee"* means the authority to operate, regulate or manage Class III Gaming on Tribal Land and the holder of such authority.

*"Lottery"* means a game for which tickets are sold, the winning ticket or tickets being secretly predetermined or later selected in a chance drawing and in which the holders of winning tickets receive money or something of value. The term "chance drawing" includes the identification of winning numbers or symbols by an electronic, mechanical or electromechanical device which makes the selection in a random manner. The term "Lottery" includes keno and the types of games actually being conducted by the Iowa Lottery unless the game is by definition a Video Game of Chance or Slot Machine.

*"Management Contract"* means the complete agreement between the Tribe and a Primary Management Official including all collateral agreements relating to gaming activity.

*"Omaha Tribe"* or *"Tribe"* means the Omaha Tribe of Nebraska, tribal law enforcement authorities and all governmental persons or entities acting under the authority of the Omaha Tribe.

*"Pari-mutuel"* means a betting system in which all persons who bet share in an established prize pool of similar bets.

*"Parlay Cards"* means a form of Sports Betting in which the player must correctly select the winners in a specified minimum number of events in order to win.

*"Parties-in-interest"* or *"Party-in-interest"* shall include all trustees and beneficiaries of a trust and spouses of such trustees or beneficiaries; parties of a partnership and spouses of such partners, whether the partnership is a limited partnership or a general partnership; the members of an association and spouses of such members and; in the case of corporations, those individuals who are members of the board of directors or officers of such corporation and spouses of officers of such corporation and spouses of such members of the board or officers and each of its stockholders and spouses of such stockholders who hold, directly or indirectly, applying the attribution rules of Section 318 of the Internal Revenue Code (1986), 5% or more of its issued and outstanding stock, or warrant or stock options entitling the holder to acquire 5% or more of its issued and outstanding stock at any time; and such other entities or natural persons having a direct financial interest in, or management responsibility for, a Primary Management Official or a Class III Gaming facility and; if any stockholder owning more than 5% of the stock of a corporate Primary Management Official is a corporation or

partnership, every partner of such partnership and of such partners or stockholder and spouses of such stockholders which own more than 5% of the stock of such corporation as well as corporate officers or members of the board of directors of such corporation and spouses of such officers or members as well as those holding warrants or stock options entitling them to acquire at any time 5% or more of the stock; furthermore, such corporation shall also be considered a Party-in-interest to the Primary Management Official. In the event that a proposed Primary Management Official is a publicly held corporation or partnership, whether general or limited, the term Parties-in-interest shall mean all general partners and any limited partners holding greater than 30% of the issued and outstanding partnership units of any class and; with respect to the publicly held corporation, the officers and director plus any person holding greater than 30% of the issued and outstanding stock of any class as well as the spouses of such officers; members of the board of directors and partners, whether general or limited; as well as those individuals holding options or warrants which would entitle them to acquire 30% or more of the outstanding stock of such corporations or units of a partnership, applying the attribution rules of Section 318 of the Internal Revenue Code (1986).

*"Primary Management Official"* means any individual, sole proprietorship, partnership or corporation which manages and operates a Class III Gaming facility on behalf of the Tribe pursuant to a Management Contract submitted for approval or approved by the Bureau of Indian Affairs, the Chairman of the National Indian Gaming Commission or such other federal agency or authority exercising the appropriate jurisdiction under the Act. The Primary Management Official shall have authority to hire and fire employees and set up working policies for the gaming operations, such person may be the chief financial officer or any other person who has financial management responsibility.

*"Progressive Slot Machine"* means a Slot Machine with a payoff which increases as the Slot Machine is played.

*"Regulations"* means the Regulations promulgated by the Commission or the Tribal Council pursuant to this Code.

*"Revoke"* shall mean to permanently void and recall all rights and privileges to hold or obtain a License.

*"Secretary"* means the Secretary of the United State Department of Interior.

*"Simulcasting"* means the closed-circuit television or radio transmission of a horse or dog race at a racetrack to another facility at the same time the race is being conducted.

*"Slot Machine"* means a mechanical or electronic Gambling Device into which a player deposits coins or tokens and from which certain numbers or coins are paid out



when a particular, random configuration of symbols appears on the reels or screen of the device.

*"Sports Betting"* means the placing of bets or wagers on the outcome of any athletic event, sporting event or similar contest, including, but not limited to, the playing of Parlay Cards.

*"Sports Betting Pool"* means a game in which numbers are randomly selected for the participants and winners are determined by whether the numbers selected correspond to numbers relating to an athletic event in the manner prescribed by the rules of the game.

*"State"* means the State of Iowa, including individuals, entities, political subdivisions (including counties), agencies and all others using, claiming or in any manner asserting any right or power under the authority of the State of Iowa.

*"Suspend"* means to cause a temporary interruption of all rights and privileges of a License.

*"Tribal Chairman"* means the duly elected Chairman of the Tribe.

*"Tribal Citizen"* or *"Citizen"* means a person who is an enrolled member of the Tribe or a person under the age of 18 who is eligible for enrollment.

*"Tribal Court"* or *"Court"* means the judicial body of the Tribe.

*"Tribal Council"* or *"Council"* means the Omaha Tribal Council.

*"Tribal Gaming Commission," "Gaming Commission" and "Commission"* means the Omaha Tribal Gaming Commission established by the Tribe pursuant to this Code as required by the Compact.

*"Tribe"* means the Omaha Tribe of Nebraska, a federally recognized Indian tribe organized pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. Sec. 984) (25 USC Sec. 476), as amended by the Act of June 15, 1935 (49 Stat. Sec. 378).

*"Video Game of Chance"* means a game of chance played on microprocessor-controlled devices that simulate games commonly referred to as poker, blackjack, craps, hi-lo, keno, roulette, line-up symbols and numbers or other common gambling forms which are activated by the insertion of a coin, token or currency and which award coins, additional plays or a written or displayed statement of the amount of a prize which is redeemable for cash.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 5. *Games Permitted.***

**5.1. *When Permissible.*** The Tribe may engage in Class III Gaming on Indian Lands provided:

- (a) Such gaming is conducted in accordance with the requirements of the Act;
- (b) Iowa permits such gaming for any purpose by any person, organization or entity; and
- (c) Such gaming is conducted in conformance with the terms of the Compact, the Regulations and this Code.

Any Class III Gaming activity conducted on Indian Land which does not meet these requirements is illegal.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**5.2. *Permissible Class III Gaming.*** The Tribe may conduct under the Act and in compliance with the terms of this Code and the Compact the following Class III Gaming activities:

- (a) Dice games when played in accordance with this Code, the Compact and the game rules described in the Regulations;
- (b) Slot Machines, Progressive Slot Machines and Video Games of Chance when played in accordance with this Code, the Compact and the game rules described in the Regulations;
- (c) Wheel games when played in accordance with this Code, the Compact and the game rules described in the Regulations;
- (d) Simulcasting when conducted in accordance with this Code, the Compact and the game rules described in the Regulations;
- (e) Card games when played in accordance with this Code, the Compact and the game rules described in the Regulations;
- (f) Sports Betting Pools and Sports Betting, including Parlay Cards, when played in accordance with this Code, the Compact and the game rules described in the Regulations;
- (g) Lotteries, including keno, when played in accordance with this Code, the Compact and the keno rules described in the Regulations; and

(h) Parlor games when played in accordance with this Code, the Compact and the game rules described in the Regulations.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

5.3. *Additional Class III Games; Procedure for Approval.* The Commission shall have authority to approve by Regulation such additional Class III Gaming activities as may be lawfully conducted pursuant to the Compact and Section 5.1 of this Code. Prior to implementing any such newly approved Class III Gaming activity, the Commission shall ask the Tribe to comply with Section 2.3 of the Compact and obtain concurrence of the State in the conduct of such gaming. In connection with its request, the Commission shall prepare a written application which shall be submitted to the Tribal Chairman by the Commission. The application shall include any suggested amendments to the Compact, or any appendices thereto, and shall specify the necessity (if any) of any modifications to this Code or the Regulations which would be required by the conduct of such games. Approval in accordance with the terms of the Compact must be received prior to the implementation of such new Class III Gaming activity.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 6. *Tribal Gaming Commission.* The Omaha Tribal Gaming Commission (the "Commission") is hereby established. The purpose of the Commission is to regulate the manner in which Class III gaming is conducted. The Omaha Tribe depends on gaming revenues, in part, to generate revenue to promote economic development, and to protect employment opportunities. In order to help ensure that the gaming revenues continue, the Commission is authorized to develop and implement regulations regarding Class III gaming, take necessary steps to ensure that the gaming facilities comply with the Indian Gaming Regulatory Act, the Tribal Gaming Ordinance and the Compact, and to take steps to deter any and all criminal activity.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.1. *Establishment; Members; Terms; Appointments.* There is established hereby a Commission which will be appointed by the Tribal Council and called the Omaha Tribal Gaming Commission. Commission membership shall be made up of 3 members, consisting of the Chairman, which is a full time position, and a Secretary and a Treasurer which are each considered to be part time positions. In the event that the Commission appoints an Executive Director, the Chairman will be compensated the same as the Secretary and the Treasurer. The three Commissioners must be Tribal Citizens who shall serve staggered three year terms under the direct authority of the Tribal Council. Tribal government officials and employees of the Tribe shall not be eligible to serve on the Commission. All openings on the Commission shall be publicly advertised. Commissioners, as a prerequisite to appointment, shall be at least 25 years of age and not have been an official of the Tribe within the two years preceding their appointment to the Commission. Although not required, each Commissioner should have at a

minimum a four year college degree, comparable work experience or a combination of both. As a group, Commission members should have experience in business management, law enforcement, criminal investigation, accounting and auditing.

6.2. *Commissioners; Compensation.* Both the Secretary and the Treasurer shall receive \$80 per day for each 8-hour day that the Commission is properly convened. Compensation for meetings lasting less than 8 hours shall be on a pro-rata basis. The Commission is required to meet at least one time in each fiscal quarter. The salary for the Chairman shall be determined by the Tribal Council.

6.3. *Commissions; Business Expenses; Reimbursement.* Members of the Commission are hereby authorized to reimburse themselves from Commission funds for all necessary and reasonable travel and other reasonably necessary expenses which may be incurred by them from time to time, in accordance with tribal policies and procedures, as may be in effect from time to time for the Tribe generally. Extraordinary expenses must have the prior approval of the Tribal Council.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.4. *Standards for Proposed Commissioners.* A background check will be performed to determine whether any Commission member (a) has been convicted of any gaming related offense, (b) has any financial interest in, or management responsibility for, any gaming activity, (c) is ineligible for a license under the Ordinance, and (d) has any immediate family members who have a financial interest in the gaming specifically regulated by the Commission other than the financial interest enjoyed equally by all Indians. A positive finding of any of these shall result in that person's ineligibility for Commission membership.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 3, 1992.

6.5. *Commissioners; Background Investigation; Failure To Qualify; Vacancies.* Prior to appointing a permanent Commissioner, the Tribe shall conduct or cause to be conducted a background investigation on the proposed Commissioner, who shall be required to satisfy the requirements for background investigations set forth in Section 11.4 of this Code. The Tribal Council shall approve the background investigations which shall be conducted by the Tribal police or other designee of the Tribal Council. The Tribal Council shall not appoint a permanent Commissioner if the individual does not meet the criteria in Sections 6.1 and 6.4 of this Code. The Tribe may appoint a Commissioner *pro tem* pending the satisfactory completion of the background investigations as determined by the Tribal Council. Should the background check on any proposed appointee be determined negative by the Tribal Council, then that appointee shall not be eligible to further serve on the Commission. The failure of a Commissioner *pro tem* to qualify shall not affect any decision made by such person unless the Tribal Council, following a hearing on the record and issuance of written findings of fact and

conclusions of law, shall otherwise determine. Any such decisions by the Council shall be appealable to the Tribal Court as a contested case under Exhibit G hereof. Such contested case shall be based on the argument that there has been a clearly erroneous standard on the record made before the Council. The failure of a Commissioner *pro tem* to qualify as a permanent Commissioner or to maintain such qualification under this Code, the Compact or other applicable law shall cause the Tribal Council to appoint a successor within 10 business days after notice thereof and, in the event the Tribal Council fails to make such appointment in such 10 day period, the General Counsel to the Tribe shall act as Commissioner *pro tem* until the Council appoints a successor.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.6. *Jurisdiction; Powers of Commission.* The Commission shall have full, complete and perfect jurisdiction over Class III Gaming and shall autonomous authority to regulate and supervise all authorized and unauthorized Class III Gaming. However, the Commission shall not have the power to interfere with a Primary Management Official's decisions regarding expenses of operation which implement a budget approved by the Tribe in accordance with a Management Contract. The Commission shall have and perform duties and powers as prescribed by this Code which include the following duties and powers which shall be exercised consistently with the Act, the Compact, this Code and the Regulations:

(a) To draft, propose and promulgate Regulations with regard to engaging in, licensing and regulating all aspects of Class III Gaming and which have the force of law as may be necessary or desirable in the judgment of the Commission for the effective, fair and efficient regulation of Class III Gaming. Such Regulations shall be consistent with the purposes of this Code, the Act and the Compact under which all Class III Gaming shall be conducted and all Class III Gaming facilities maintained;

(b) To specify by Regulation the wagering structure for Class III Gaming consistent with the following:

(1) Regulations shall include a maximum wager and maximum loss on all authorized gaming conducted by the Tribe except Pari-mutuel wagering on Simulcasting, Lotteries, Sports Betting Pools and Sports Betting, including Parlay Cards. Such maximum wager and loss shall be equal to or less than the maximum wager and maximum loss specified by law for games regulated by Iowa's Excursion Boat Gambling Laws. The maximum wager and maximum loss limits currently applicable to such games shall be in compliance with the Compact;

(2) Pari-mutuel wagering on Simulcasting and Lotteries may be conducted without a wagering or loss limitation;

(3) Sports Betting Pools may be conducted without a loss limitation, but the maximum wager shall not exceed the maximum wager specified in the Regulations; and

(4) Sports Betting, including betting on Parlay Cards, shall be conducted so that no participant wins or loses on Sports Betting more than a total of \$50 at any time during a period of 24 consecutive hours. A person wins the total amount at stake in any game, wager or bet regardless of any amount that person may have contributed to the amount at stake within the limitations specified in the Regulations;

(c) To issue and serve subpoenas for the production of documents, things or persons and to administer oaths or affirmations and to require testimony under oath or affirmation before the Commission in the course of any investigation or hearing conducted under this Code or the Regulations, for which process and notices shall be served in the manner provided by the Tribal Code;

(d) To propound written interrogatories and to appoint hearing examiners to whom may be delegated the power and authority to administer oaths or affirmations, issue subpoenas, propound written interrogatories and require testimony under oath;

(e) To specify the payout from Class III Gaming consistent with the limitations in this Code and the Compact;

(f) To inspect, monitor and examine all premises where gaming is conducted and Gaming Devices, Equipment or Supplies are utilized, sold or distributed;

(g) To enter, inspect, observe or investigate at any time, with or without warrants, notice or warnings, the offices, facilities or other places of business of a Primary Management Official, wherever the same may be located, in order to determine compliance with the Compact, this Code, the Regulations and other applicable laws;

(h) To investigate alleged violations of the Compact, this Code, the Regulations and other applicable laws and to take appropriate disciplinary action or recommend institution of criminal proceedings against a Primary Management Official or a Licensee and other persons for a violation of any of the foregoing or to institute appropriate legal action for enforcement or any of the foregoing;

(i) To conduct investigative hearings concerning the conduct of Class III Gaming and Gaming operations as well as the development and well-being of the industries controlled by the Act, the Compact, this Code and the Regulations;

(j) To determine, assess and collect civil and administrative fines and Revoke or Suspend Licenses for conduct violating the terms of the Compact, this Code, the Regulations or other applicable laws;

(k) To investigate the activities of any person firm or other business entity relating to the conduct of any Class III Gaming activity;

(l) To compel, by order of the Commission, the attendance of witnesses or the production of any books, papers, correspondences, memoranda, documents, agreements or other records which the Commission, in the exercise of its discretion, deems relevant or material to any investigation;

(m) To provide by Regulations for the surveillance and videotaping of all authorized Class III Gaming Activities;

(n) To provide by Regulations for requirements necessary for reasonably adequate security at all facilities in which authorized gaming is conducted;

(o) To confiscate or shut down all Class III Gaming Equipment and Class III Gaming Supplies failing to conform to the standards required under this Code, the Regulations, the Compact or the Act;

(p) To seize, impound, inspect, examine and photocopy all papers, books and records of Applicants and Licensees and require verification of income and expense of Class III Gaming activities and all activities conducted under or in violation of this Code, the Compact or the Regulations;

(q) To collect all license, investigation and registration fees imposed by this Code and the Regulations; to conduct all hearings, pertaining to civil violations of this Code, the Regulations, the Act or the Compact;

(r) To be present through its members and agents at all times during the operation of any casino for the purpose of certifying the revenue thereof and conducting such other investigations into the conduct of Class III Gaming and the maintenance of Class III Gaming Equipment and Supplies as from time to time the Commission may deem necessary and proper;

(s) To review and rule upon any complaint by a gaming Primary Management Official regarding any investigative procedures of the Commission which are unnecessarily disruptive of casino operations. The disruption of a Class III Gaming operation shall be proved by preponderance of the evidence and establish that:

(1) the procedures had no reasonable law enforcement purpose; and

(2) the procedures were so disruptive as to unreasonably inhibit operations of a Class III Gaming facility;

(t) To make changes to and approve operational procedures prepared by Primary Management Officials which govern the specific operation of Class III Gaming facilities, including security, accounting, game rules, cash control, game procedures and other matters, all of which, following approval, will have the force of law pursuant to this Code;

(u) To develop licensing procedures and issue permanent, probationary and temporary Licenses and to oversee, regulate and define the conduct of all Licensees;

(v) To conduct or cause to be conducted background investigations and a review of the prior activities, reputation, habits and associations, as prescribed by law, of all Key Employees and Primary Management Officials, and such other persons as the Commission shall determine to be necessary in the exercise of its discretion, including, but not limited to, Primary Management Officials, Parties-in-interest, Vendors, Class III Gaming Equipment or Supply Vendors;

(w) To forward completed employment applications and completed background reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission (hereinafter "NIGC") prior to issuing a License, pursuant to the Act and to notify the NIGC if, after completing the background investigations on the Key Employee or Primary Management Official, the Tribe does not license the individual;

(x) To ensure that all licensed gaming Primary Management Officials are properly accounting for all revenues and expenses (provided that the Commission shall not interfere with a Primary Management Official's decisions respecting implementation of a budget approved by the Tribe under a Management Contract) and that these revenues and expenses are properly assigned and disbursed in a manner accorded by Tribal and applicable federal law;

(y) To assist other law enforcement agencies in the investigation, enforcement and prosecution of gaming violations of this Code, the Regulations and federal law;

(z) To adopt and approve an operating budget for the Commission;

(aa) To report to the Council and/or Tribal Citizens;

(bb) To appoint, supervise and terminate a staff as necessary and

(1) all costs arising out of such necessary staffing will be paid out of Commission funds and may be paid out of the general revenues of the Tribe, subject to approval of the Council; and



(2) all costs for independent audits, investigations and other independent consultants will be paid out of Commission funds and may be paid out of the general revenues of the Tribe, subject to the approval of the Council provided these services are competitively selected for in advance, and provided that this competitive selection requirement shall not be applicable when the Commission determines that an emergency exists.

(cc) (INTENTIONALLY LEFT BLANK)

(dd) To hear and decide promptly and in reasonable order all License application requests and the issues affecting the granting, Suspension, Revocation or renewal thereof;

(ee) To identify occupations within Class III Gaming operations which require licensing and to adopt by Regulations additional standards for licensing such occupations;

(ff) To deny any License application for cause and to Revoke, cancel or Suspend for cause any License issued by it. Cause for denial of an application and grounds to Revoke, cancel or Suspend any License issued by it shall include instances in which the Licensee, Applicant, Party-in-interest or any person with a substantial interest therein:

(1) Willfully or knowingly violated the provisions, requirements, conditions, limitations or duties imposed by the Compact, this Code, the Act or any Regulations;

(2) Willfully or knowingly caused, aided, abetted or conspired with another to cause any person to violate any of the provisions of the Act, the Compact, this Code or any Regulations;

(3) Has made a false statement of a material fact on the application or in any other information given to the Commission;

(4) Has obtained a License by fraud, misrepresentation or concealment of a material fact;

(5) Has been convicted of, forfeited bond upon or entered a plea of guilty or no contest to a felony within the past 10 years, any gambling-related offense or fraud or misrepresentation or any crime involving moral turpitude, or has willfully failed to make required payments or reports to a governmental agency at any level, whether punishable as a felony or a misdemeanor;

(6) Whose prior activities or criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective

regulation of gaming or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of Class III Gaming;

(7) Has denied the Tribe, the Commission, the State or their authorized representatives access to any place where activity required to be licensed under this Code is being conducted or has failed to produce for inspection or audit any book, record, document or other item;

(8) Has failed to prove by a preponderance of the evidence his, her or its qualifications to be licensed in accordance with the Compact, this Code and the Regulations;

(9) Has failed to pay any taxes and additions to taxes, including penalty and interest lawfully required by Tribe;

(10) Has failed to pay an administrative fine imposed pursuant to this Code or the Regulations;

(11) Has been found guilty of any violation or attempt or conspiracy to violate any law, rule or regulation of gaming in any jurisdiction for which suspension or termination of employment or License might be imposed in such jurisdiction;

(12) Has been Suspended from operating a game of chance or a gambling operation in another jurisdiction or had a License to conduct gaming canceled, Revoked, Suspended or limited for any reason;

(13) Has previously been found unfit for licensing by Nevada, New Jersey, Iowa, South Dakota or Nebraska;

(14) Is a person who is an employee or Key Employee of a gaming establishment, if such person is also a member of the Tribal Council or a spouse or relative of the first degree of such a member and residing in the same household;

(15) Has failed to provide information, documentation or assurances required or requested by the Tribe, the State or the Commission, or has failed to reveal any material fact as to qualification, or the supplying of information which is untrue or misleading as to any material fact pertaining to such qualification criteria;

(16) Has failed to demonstrate financial responsibility sufficient to meet his, her or its requirements (if any) under the License;

(17) Has not disclosed the true ownership of the enterprise proposed;

(18) Has any demonstrated contacts, association or business enterprises with individuals associated with or identified as organized crime;

(19) Has loaned money or other property of value to others for the purpose of permitting a wager on any game of chance unless permitted in that jurisdiction; or

(20) Has any material investigation or prosecution pending in any jurisdiction;

(gg) To issue and cause to be served upon the holder of a License issued by it an order requiring the License holder to cease and desist from violations of the Compact, this Code or any Regulation.

(1) The Order to cease and desist shall give reasonable notice of the rights of the License holder to request an administrative hearing before the Commission and shall state the reason for the entry of the order. Failure to cease and desist upon service of such an order shall be grounds for disciplinary action by the Commission;

(2) A hearing shall be held not later than 10 days after the request for the hearing is received by the Commission and, within 20 days after the date of the hearing, the Commission shall issue an order vacating the cease and desist order or making it permanent, as the facts require. Licensees shall be entitled to a single continuation of not more than five days upon good cause shown. All hearings shall be held in accordance with the Regulations; and

(3) If the License holder to whom a cease and desist order is issued fails to request a hearing within 30 days following the entry of such order or fails to appear at the hearing after being duly notified, the License holder shall be deemed in default and the proceeding may be determined against the License holder upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

(hh) To impose or levy on a Licensee for cause an administrative fine of not more than \$50,000.00 per violation. For purposes of this subsection, "cause" shall include instances in which the Licensee willfully or knowingly violated the provisions, requirements, conditions, limitations or duties imposed by the Compact, this Code or any Regulations.

(1) In determining whether to levy an administrative fine and the amount of the fine, if any such fine is levied, the Commission shall take into

consideration the seriousness of the violation and the extent to which the Licensee derived financial gain as a result of the violation; and

(2) If an administrative fine is levied, such fine shall be remitted by the Licensee to the Commission within 30 days from the date of the order issued by the Commission imposing such fine. Any unpaid administrative fine shall constitute a debt to the Commission, the amount and validity of which can only be reviewed under Exhibit G hereof, which debt may be sued upon and recovered in any proper form of action in the name of the Commission in either the Tribal Court or the United States District Court and in the event such courts do not have subject matter jurisdiction, in any court of competent jurisdiction.

(ii) To require periodic reports of Class III Gaming activity from any person, firm or entity with whom the Tribe has a contractual relationship and any other person, organizations or corporation, as the Commission deems necessary to carry out the provisions of this Code;

(jj) To annually audit, examine or cause to have examined, by any agent or representative designated by the Commission for such purpose, any bank accounts, financial accounts, books, papers, records, bills, contracts for services and supplies totaling over \$25,000 in a year, timesheets, receipts, vouchers, documents, electronic media, database, computer records or memoranda relating in any manner to the conduct of any Class III Gaming activity. Such independent outside audits must be submitted to the NIGC pursuant to the Act;

(kk) To compute, determine, assess and collect accurate amounts required to be paid to the Commission as may be necessary to defray the costs of regulating Class III Gaming incurred by the Commission;

(ll) To prescribe all forms as are necessary to carry out the provisions of this Code and the Regulations;

(mm) To appoint a trustee to operate a Gaming facility in the event the Primary Management Official's License has been Revoked or Suspended pursuant to the terms of the Compact, this Code or the Regulations;

(nn) To take any act which may be necessary or desirable to assure compliance with the terms of any contract (other than that certain Management Agreement between the Tribe and Larita, Inc. dated August 22, 1991) to which the Tribe or its enterprises is a party which relates to any Gaming activity or to which the Tribe is not a party but relates to Class III Gaming activities conducted under this Code or the Regulations; and

(oo) To possess such other powers and authority as may be necessary or desirable to fulfill its obligations under this Code, the Regulations and the Compact.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.7. *Specific Prohibitions.* (a) The Commission shall not become involved in, nor shall any of its members have any input in, any official plans or discussions relative to the disbursement of any Tribal funds derived from the regulated gaming activity.

(b) The Commission may not interfere with casino management's decisions with respect to expenses of the gaming operation because those types of decisions are made pursuant to a budget that has been approved by the Tribal Council.

(c) The Commission is not authorized to be or become involved in any personnel problems or issues, other than those which may arise within the context of the licensing procedure.

6.8. *Causes for Removal of Commissioners.* The following are causes for removal from the Commission:

- (a) Malfeasance in office;
- (b) Neglect of duty;
- (c) Excessive absence from regularly scheduled Commission meetings;
- (d) Conviction of a felony or any gaming related offense (misdemeanor, felony and other certain crimes);
- (e) Noncompliance with this Code, the Regulations or the Compact; and
- (f) Acceptance of bribes.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.9. *Procedure for Removal.* Any Commission member who during the term for which he is selected is charged with committing any of the offenses listed in Section 6.8 may be removed from office by order of the Tribal Court following a hearing on the record.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.10. *Removal of Commissioner.* Action to initiate removal of Commission members shall be initiated by the Council in the form of a resolution, approved by a super-majority of not less than five, stating the charges against the accused, and attaching thereto a copy of a petition to be filed in the Tribal Court seeking removal of the Commissioner. The petition shall contain a short and plain statement of the facts which

constitute the grounds for removal under Section 6.8. The Tribal Council, in its official capacity, shall be listed as the plaintiff in the petition and the accused Commissioner shall be the defendant.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.11. *Notification to the Commission.* A copy of the resolution for removal and the petition shall be provided to the Commission and its members in the manner specified for service of process in civil matters generally.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.12. *Trial and Decision.*

(a) *Trial.* The Tribal Court shall hear the petition for removal on an edited basis and trial shall commence no later than sixty (60) days following service of the petition unless both parties agree to a longer period and the Court approves. The Tribal Council shall bear the burden of proof on a preponderance of the evidence standard. The accused shall enjoy the rights available to him as a civil litigant under Tribal law.

(b) *Written notification of decision.* The Commissioner alleged to be in violation must, following such hearing, be sent a written decision of the Tribal Court, including findings of fact and conclusions of law. Such decision shall be rendered by the Tribal Court within forty-five (45) days following submission of the case.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.13. *Vacancies.* Should a vacancy in the Commission occur for any reason, the Tribal Council shall appoint, by majority vote, a replacement from the citizenship of the Tribe.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.14. *Sovereign Immunity.* The Commission is an entity of and created by the sovereign powers of the Tribe and, as such, shares the sovereign immunity of the Tribe. The Commissioners, except when being removed from office under Sections 6.8 through 6.12, shall also enjoy the sovereign immunity of the Tribe. No waiver of sovereign immunity for acts of the Commission or its members is made or implied hereby in any manner. However, persons aggrieved by the decisions of the Commission may appeal such decisions in contested cases to the Tribal Court, as provided in Exhibit G hereof, and such appeal shall constitute the sole and exclusive method of review. No person, firm, entity or government may institute any suit against the Commission or its members,

excepting appeals in contested cases under Exhibit G of this Code and actions for removal of a Commissioner from office under Sections 6.8 through 6.12, without the written unanimous waiver of sovereign immunity by the Commission and approval of the Tribal Council.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.15. *Interim Authority.* Until the Commission is appointed and organized, all powers vested in the Commission may be exercised by the Tribal Council, acting by majority vote at a regular or special meeting.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.16. *Testimonial Immunity.* The Commission may order any person to answer a question or questions or produce evidence of any kind or bestow immunity, as provided in this section. If, in the course of any investigation or hearing conducted under this Code or the Regulations, a person refuses to answer any question or produce evidence on the grounds that he will be exposed to criminal prosecution thereby, then, in addition to any other remedies or sanctions provided for by this Code, the Commission may, by unanimous resolution and approval of the tribal prosecutor, issue an order to answer or produce evidence with immunity. If, upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answers given by him or such responsive evidence produced by him, or evidence derived therefrom, used to expose him to criminal prosecution by the Tribe, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence, or for contempt for failing to give an answer or produce evidence in accordance with the order of the Commission; provided, however, that no period of incarceration for contempt pursuant to this section shall exceed one year in duration. Any such answer given or evidence produced shall be admissible against him in any investigation, proceeding or trial against him for perjury; in any investigation, proceeding or trial against him for contempt; or in any manner consistent with tribal law and constitutional provisions.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.17. *Reports and Recommendations Concerning Gaming Regulation.* The Commission shall carry on a continuous study of gaming issues, including the operation and administration of gaming laws which may be in effect in other jurisdictions, all the literature on gaming which may from time to time become available, the federal laws which may affect the operation of Class II and Class III Gaming and the reaction of Licensees, Primary Management Officials and Tribal Citizens to existing and potential features of Class III Gaming under this Code. The Commission shall be responsible for ascertaining any defects in this Code or in the Regulations issued hereunder, for formulating recommendations for changes in this Code to prevent abuses thereof, for

guarding against the use of this Code and the Regulations as a cloak for the carrying on of illegal gambling or other criminal activities, and for insuring that this Code and the Regulations shall be in such form and be so administered as to serve the true purposes of this Code. The Commission shall make annual report to the Tribal Council, on or before February 1 of each year, of all revenues, expenses and disbursements, and shall include therein such recommendations for changes in this Code as the Commission deems necessary or desirable. The Commission shall report immediately to the Tribal Council any matters which, in the Commissions' judgment, require immediate changes in the law of the Tribe in order to prevent abuses and evasions of the Compact, this Code or the Regulations. The Commission shall also rectify undesirable conditions in connection with the operation and regulation of Class III Gaming.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

6.18. *Cooperation by Licensees or Applicants.* Each Licensee or Applicant for a License under this Code shall fully and completely cooperate with the Commission in performance of its duties.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

#### Section 7. *Gaming Commission Regulation-Making Authority.*

7.1. *General Authority.* The Commission shall draft and promulgate Regulations for the orderly transaction and conduct of its business and such other substantive Regulations as may be proper and that concern the following: the application for, issuance of, Revocation and Suspension of gaming Licenses, the conduct of Licensees, game rules and operation of the Class III Gaming activities, technical standards for Gambling Devices and Slot Machines, Class III Gaming Equipment, Class III Gaming Supplies, Video Games of Chance, Simulcasting, Sports Betting, Parlay Cards, Sports Betting Pools, Progressive Slot Machines, reserves for prizes, Pari-Mutuel Wagering, Lottery, additional games authorized pursuant to Section 5.3 hereof and the Compact, security requirements, cash control standards and accounting procedures and any other subject the Commission determines necessary or desirable to carry out the purposes of this Code. The Commission shall also promulgate Regulations necessary to resolve complaints which may be received from the public. Exhibits A through E of this Code include such Regulations described herein.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

7.2. *Regulations; Mandatory Subjects.* The Commission may, without limitation on the powers conferred in the preceding section, include within its Regulations the following specific provisions in accordance with the provisions of this Code:



(a) The methods and forms of application which any Applicant shall follow and complete prior to consideration of his application by the Commission;

(b) The manner and procedure of all hearings conducted by the Commission or any hearing examiner, including special rules of evidence applicable thereto and notices thereof;

(c) The manner and method of collection of administrative fines, assessments, fees and penalties;

(d) The rules of authorized games, the odds, and the devices permitted, and the method of operation of such games and devices;

(e) The grounds and procedures for the Revocation or Suspension of Licenses;

(f) The rules governing the manufacture, distribution, sale and servicing of Class III Gaming Equipment and Supplies;

(g) The procedures for approving the forms and methods of management controls, including employee and supervisory tables of organization and responsibility, rotation schedules and minimum security standards, security personnel structure, alarm and other electrical, auditory or visual security measures;

(h) The minimum procedures for the exercise of effective control over the internal fiscal affairs of a Primary Management Official, including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of records and reports of transactions, operations and events, including all such reports to the Commission;

(i) The procedures for approval of accounting methods, procedures, forms and accounting classifications and such other operating procedures as may be necessary to assure consistency, comparability and effective disclosure of all financial information, including calculations of percentages of profit by games, tables and Gambling Devices; and

(j) The required periodic financial reports and the form thereof, which shall include a semi-annual audit prepared by a certified public accountant attesting to the financial condition of a gaming enterprise and disclosing whether the accounts, records and control procedures examined are maintained by the Licensee as required by the Compact, this Code and the Regulations.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 8. *Gaming Commission Meetings.*** The Commission may hold regular and special meetings at such times and places as it may deem convenient, but at least one regular meeting shall be held quarterly. Meetings may be held by telephonic conference call. A majority of the appointed members constitutes a quorum of the Commission. A special meeting may be called by any one Commissioner. Each part-time member of the Commission shall receive a stipend of \$80.00 plus expenses at regular or special meetings at which a quorum is present. The stipend shall be paid from fees and assessments collected by the Commission.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**8.1. *Open Meetings.*** All actions and proceedings of the Commission shall be conducted during meetings open to the public except actions and proceedings which the Commission, by a majority vote, at an open meeting, determines best conducted during an executive session closed to the public for the reasons set forth in Section 8.1 hereof. Any record or document maintained by the Commission shall not be subject to being produced, copied or disclosed in any manner, whether by the discovery process or court order of a court if the Commission determines that the disclosure of such information would be harmful to the effective and fair regulation of gaming, would disclose trade secrets or proprietary information or would impair ongoing investigations.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**8.2. *Purposes for Executive or Closed Meetings.*** The Commission may hold executive sessions or closed meetings for any of the following purposes:

(a) Considering applications for licensing when discussing the background investigations, financial information or personal information of Applicants;

(b) Meeting with the gaming officials of other Indian Tribes or other jurisdictions, including Iowa, or meetings with tribal law enforcement officials, the tribal prosecutor, the United States Attorney General, the Federal Bureau of Investigation, the Office of the Inspector General, the United States Attorney and other law enforcement officials relating to possible criminal violations;

(c) Consulting with the employees and agents of the Commission concerning possible civil or criminal violations of this Code, the Regulations, the Act or the Compact ;

(d) Deliberating to reach a decision after hearing evidence in a contested case;

(e) Discussing business strategies, marketing or pricing strategies of a Licensee or an Applicant for a License, if the Commission determines public

discussion may be harmful to the competitive position of the Licensee or Applicant for License or discussions with a Licensee or an Applicant for a License for the purposes of overseeing gaming contracts; and

- (f) Meeting with attorneys and General Counsel to the Tribe.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 9. *Chairman of the Gaming Commission.* The Chairman is responsible on a full-time basis for the conduct of the Commission's administrative matters. The Chairman and his designees shall have the following powers:

- (a) To issue temporary and probationary Licenses for all Licensees other than Primary Management Official;
- (b) To issue permanent Licenses for all employees of any Class III Gaming facility other than Key Employees and Primary Management Officials;
- (c) To oversee, regulate and define the conduct of Licensees;
- (d) To inspect, monitor and examine all premises where Class III Gaming is conducted, and Class III Gaming Equipment and Supplies are utilized, sold, distributed or serviced; or where any records of such activities are prepared or maintained;
- (e) To inspect all Class III Gaming Equipment and Supplies in, about or upon or around such premises;
- (f) To seize and remove from such premises and impound any Class III Gaming Equipment or Supplies for the purposes of examination and inspection;
- (g) To inspect, examine and audit all books, records and documents pertaining to a Class III Gaming facility;
- (h) To seize, impound or assume physical control of any book, record, ledger, game, device, cash box and its contents, counting room or its equipment, or casino operations;
- (i) To inspect the person and personal effects, present in or on the premises of a Class III Gaming facility licensed pursuant to this Code, of any Licensee while that person is present in the Class III Gaming facility;
- (j) To supervise and direct the actions of all employees of the Commission;
- (k) To conduct or cause to be conducted background investigations;

- (l) To enforce the Act, this Code, the Compact and the Regulations;
- (m) To verify that all licensed gaming Primary Management Officials are properly accounting for all revenues and expenses and that these revenues and expenses are properly assigned and distributed in a manner according to tribal and applicable federal law;
- (n) To assist other law enforcement agencies with the enforcement or prosecution of violations of the Act, this Code, the Regulations and federal law;
- (o) To supervise the day-to-day operations of the Commission;
- (p) To report to the Commission concerning the operations thereof;
- (q) To supervise audits and investigations; and
- (r) To prepare reports and recommendations to the Commission concerning Applicants and Licensees.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 10. *Primary Management Official.*** Primary Management Officials may operate the Tribe's gaming authorized by this Code and the Compact provided that the Management Contract, entered into between the Primary Management Official and the Tribe, does not contain terms contradicting the terms of this Code, the Regulations, the Compact and other applicable laws. The Management Contract must be approved by the Chairman of the National Indian Gaming Commission (the "NIGC") or the Bureau of Indian Affairs (the "BIA") and the Management Contract must prohibit the Primary Management Official from subcontracting, assigning or transferring its rights and duties or any ownership interest under the contract. The Primary Management Official must undergo a background investigation, as more specifically described in Section 11 herein, to be conducted by the Commission, or its designee, and such investigation must be approved by the Director in writing. The Primary Management Official shall be licensed by the Commission, as more specifically described in Section 11 herein, prior to conducting any authorized Class III Gaming activity. A Primary Management Official may not operate the Class III Gaming authorized by this Code and the Compact if the Chairman of the NIGC disapproved the licensing of the Primary Management Official or Parties-in-interest thereto or if the Chairman of the NIGC has disapproved (without suggesting modifications) the Management Contract.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 11. *Occupational Licensing.***

**11.1. *Licenses, Issuance, Qualifications.*** Every person participating in Class III Gaming on Indian Land, especially Key Employees and Primary Management Officials, shall have an occupational license issued by the Commission. All such licensing shall be consistent with the procedures found at 25 C.F.R. §§ 556 and 558. The Commission shall specify by promulgation of Regulations the licensing requirements for each position. Such requirements shall include the following, together with such other requirements as may be necessary for the effective regulation of gaming:

**All Applicants must:**

- (a) Be at least eighteen (18);**
- (b) Not have been convicted, within the last ten (10) years, of a gambling-related offense, an offense involving fraud, misrepresentation or deception, a drug-related offense or any felony. If a conviction for any of these offenses occurred more than ten (10) years prior to the date of the application, the Commission may issue a License if the Commission determines that sufficient evidence of rehabilitation exists. The Commission shall temporarily deny a License and shall Suspend an existing License if charges are pending against an Applicant which, if resulting in a conviction, would disqualify the Applicant from receiving or holding a License;**
- (c) Not have been denied a gaming License by the State of Iowa, or currently have a gaming License which has been Suspended by the State of Iowa or have had a gaming License Revoked by the State of Iowa;**
- (d) Not be employed in any part-time or full-time employment with a government or private employer in any capacity which would create a conflict of interest between the Applicant's employment and the interests and objectives of the licensed employment;**
- (e) Be of good moral character;**
- (f) Be trainable or qualified (by experience or otherwise) to perform the duties required;**
- (g) Agree to comply with the Regulations, this Code, the Compact and with all other applicable laws and submit to the jurisdiction of the Commission and the civil jurisdiction of the Tribal Court;**
- (h) Be eligible to hold a License under the standards set forth in Section 6.6(ff); and**

(i) Agree that the License shall be nontransferable thus prohibiting the Licensee from transferring any of its rights or duties relating to the License either directly or indirectly.

11.2. *Temporary or probationary licenses.* Prior to issuing a permanent License the Commission shall conduct or cause background investigations to be conducted on Applicants to verify the truthfulness of the information provided by the Applicant to the Commission and to ensure that persons and entities licensed by the Commission are eligible for licensure. However, upon payment of the appropriate fees and the completion of such forms as the Commission deems appropriate, temporary Licenses for all occupations may be issued pending completion of background investigations and approval by the NIGC. During the first 180 days following the enactment of this Code, a person or entity which holds a gaming License issued by the states of Iowa, New Jersey, South Dakota or Nevada, upon showing proof of such License, shall be deemed to have a temporary License under this Code.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

11.3. *Revocation, Suspension or Cancellation of License.* The Commission shall Revoke, Suspend or Cancel an existing License upon a violation of this Code, the Compact, the Regulations or the happening of any event which would have made the Licensee ineligible for a License if the event had occurred prior to the issuance of a License.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

11.4. *Licenses for Key Employees and Primary Management Officials.* The Commission shall ensure that the policies and procedures set out in this section are implemented with respect to Key Employees and Primary Management Officials employed at any Class III Gaming enterprise operated on Indian Lands.

(a) *Application Forms.*

(1) The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an Applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be 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 agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or 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) Existing Key Employees and Primary Management Officials shall be notified in writing that they shall either:

- i. Complete a new application form that contains a Privacy Act Notice; or
- ii. Sign a statement that contains the Privacy Act Notice and consent to the routine uses described in that Notice.

(3) The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an Applicant:

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.)

(4) The Commission shall notify in writing existing Key Employees and Primary Management Officials that they shall either:

- i. Complete a new application form that contains a notice regarding false statements; or
- ii. Sign a statement that contains the notice regarding false statements.

(b) *Background Investigations.*

(1) Background investigations for Primary Management Officials and Key Employees performed for the Commission or required by any federal agency must be completed prior to the issuance of a permanent license. Background investigations performed for the Commission may be performed by Tribal law enforcement authorities, provided that such authorities have access to the law enforcement records of the Federal Bureau of Investigation and such authorities are certified graduates of the federal law enforcement academy or the Nebraska or Iowa law enforcement academy, the Federal Bureau of Investigation or another entity mutually agreeable to the Tribe and the Director.

(2) The Commission shall request from each Primary Management Official and from each Key Employee all of the following information:

- i. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- ii. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses and drivers license numbers;
- iii. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the Applicant during each period of residence listed under paragraph (2)(ii) of this section;
- iv. Current business and residence telephone numbers;
- v. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- vi. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- vii. 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;



- viii. 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;
- ix. 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 and disposition;
- x. 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 paragraph (2)(viii) or (2)(ix) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- xi. 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;
- xii. A current photograph;
- xiii. Any other information the Commission deems relevant; and
- xiv. Fingerprints consistent with procedures adopted by the Commission according to 25 C.F.R. § 522.2(h).

(3) In conducting a background investigation, the Commission or its agent will interview a sufficient number of knowledgeable people, such as previous employers, personal references and any other person who may provide the Commission with a knowledgeable basis for making its eligibility determination. The Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

(4) Upon completion of the background investigation and prior to submitting its report to the NIGC, as provided in Subsections (d) and (e) of this Section, the Commission shall review and approve all background investigations performed by Tribal law enforcement authorities, the Federal Bureau of Investigation, DCI and any other entity handling such background investigations.

(5) The results of all background investigations must be documented in a written report that clearly documents all the problems found in the course of the background investigation and the procedures for resolving such problems, if

possible. Such written report will be retained by the Commission. This report as well as the investigative report, which is to be submitted to the NIGC pursuant to Subsections (d) and (e), will provide the Commission with a basis for making its eligibility determination.

(6) The results of all background investigations must also be documented in an investigative report to be submitted to the NIGC, pursuant to Subsection (e) hereof. All problem areas must be clearly documented with procedures for resolving such problems. The inability to resolve such problems shall effect the Commissions eligibility determination as provided below.

(c) *Eligibility Determination.* The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a Key Employee or Primary Management Official for employment in a gaming operation. If the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a Key Employee or Primary Management Official position.

(d) *Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the NIGC.*

(1) When a Key Employee or Primary Management Official begins work at a gaming operation authorized by this Code, the Commission shall forward to the NIGC a completed application for employment and conduct the background investigation and make the determination referred to in Subsections (a), (b) and (c) of this Section.

(2) The Commission shall forward the report referred to in Subsection (e) of this Section to the NIGC within 60 days after an employee begins work or within 60 days of the approval of this Code by the Chairman of the NIGC.

(3) The gaming operation shall not employ as a Key Employee or Primary Management Official a person who does not have a license after 90 days.

(e) *Report to the NIGC.*

(1) Pursuant to the procedures set out in Subsection (d) of this Section, the Commission shall prepare and forward to the NIGC an investigative report on each background investigation. An investigative report shall include all of the following:

- i. Steps taken in conducting a background investigation;
- ii. Results obtained;
- iii. Conclusions reached; and
- iv. The bases for those conclusions.

(2) The Commission shall submit, with the report, a copy of the eligibility determination made under Subsection (c) of this Section.

(3) If a license is not issued to an Applicant, the Commission:

- i. Shall notify the NIGC; and
- ii. May forward copies of its eligibility determination and investigative report, if any, to the NIGC for inclusion in the Indian gaming individuals records system.

(4) With respect to Key Employees and Primary Management Officials, the Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

(f) *Granting a Gaming License.*

(1) If, within a thirty (30) day period after the NIGC receives the report, the NIGC notifies the Commission that it has no objection to the issuance of a license pursuant to a license application filed by a Key Employee or a Primary Management Official for whom the Commission has provided an application and investigative report to the NIGC, the Commission may issue a license to such Applicant.

(2) The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a Key Employee or a Primary Management Official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (f)(1) of this Section until the Chairman of the NIGC receives the additional information.

(3) If, within the thirty (30) day period described above, the NIGC provides the Commission with a statement itemizing objections to the issuance of a license to a Key Employee or to a Primary Management Official for whom the Commission has provided an application and investigative report to the

NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such Applicant.

(g) *Suspension or Revocation of License—Grounds—Reprimand or Administrative Fine Possible.* Any license granted pursuant to this Code may be Suspended or Revoked for any cause which may have prevented its issuance, or for violation by the licensee, or any officer, director, agent, member or employee of the licensee of this Code, or for violation of any Regulations adopted by the Commission or for conviction of a crime of moral turpitude or a felony. Such Suspension or Revocation may occur only after notice to the licensee and an opportunity for a hearing and only upon evidence determined adequate by the Commission. The Commission must notify the NIGC of any Suspension or Revocation. In addition to Revocation or Suspension or in lieu of Revocation or Suspension, the Commission may impose a reprimand or an administrative fine not to exceed the greater of twice the amount of any grand prize awarded or available to be awarded in a gaming activity which is directly associated with the violation, or the following amounts:

(i) If a licensee is an Primary Management Official, the amount of \$50,000 for each violation;

(ii) If a licensee is a Key Employee, the amount of \$5,000 for each violation; and

(iii) If the licensee has any other license, the sum of \$2,500 for each violation.

Any administrative fine received by the Commission shall be deposited in the Gaming Commission fund.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 12. *Approval of Licenses; Submission to Jurisdiction.* The Commission may approve or disapprove any application for license, depending upon whether it deems the Applicant a suitable person to hold the license under this Code and the Regulations and whether it considers the proposed location suitable. All Applicants for licenses and all persons, firms, or entities which have any contractual relationship with the Tribe or contractual relationship relating to any gaming activities conducted pursuant to this Code shall be conclusively deemed to have voluntarily submitted to the jurisdiction of the Tribe, the Commission and the civil jurisdiction of the Tribal Court unless such contract is with the Tribe and contains provisions expressly to the contrary.

*Source:* Regulation No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 13. ***Conflict of Interest.*** No officer, agent or employee of the Commission may hold a license under this Code if the duties of such office, agency or employment have to do with the enforcement of the gaming laws and rules. This prohibition applies to the Commission, all of its employees and all law enforcement officials and officers. No licensee may employ any person in any capacity while that person is in the employment of a law enforcement agency or the Commission except that certified police officers may be employed as security personnel. Members of the Commission and its officers and agent, including its attorneys, and their relatives who reside in the same household, may not have any interest, whether financial or proprietary, direct or indirect, in any gaming activity conducted under this Code, except as a member of the Tribe sharing in the benefits and revenues enjoyed equally by all Tribal Citizens.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 14. ***Application/License Fee; Resident Agent.*** The Commission may establish an application fee which, at the option of the Commission, shall include the cost of the background investigation. The fee may vary with the type of license for which application is made and is nonrefundable. Any person who does not reside on the reservation or any corporation, firm, partnership or other entity that does not have an agent present on the reservation shall appoint the Secretary of the Tribal Council as agent for the service of process and other documents under this Code. The Commission shall maintain a list of all such nonresidents and when serving documents upon the Secretary of the Tribal Council shall also provide the Secretary with an envelope addressed to such nonresident, first-class postage prepaid, and the Secretary shall mail the documents to the nonresident no later than the first business day following receipt. Service upon the Secretary shall be made in the manner specified for civil suits under Tribal law and shall be deemed complete upon such service, regardless of whether the papers or documents are ultimately received by the licensee or Applicant. It is the responsibility of licensees and Applicants to keep their addresses listed with the Commission current.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 15. ***Types of Licenses and Registrations; Issuance and Other Fees.*** Aside from licenses for Primary Management Officials and Key Employees, the Commission, upon receipt of the appropriate application fee, issuance fee and costs of any background investigations and upon satisfaction of the applicable requirements, may issue eleven (11) other types of licenses in a manner consistent with 25 C.F.R. §§ 556 and 558. Such licenses shall include as follows:

15.1. ***Slot Machine Operator.*** The initial issuance fee for such a license is \$2,000 and thereafter an annual fee of \$2,000 renewable each February 1st. This fee shall be levied per license regardless of the number of machines or locations operated. The holder of such a license shall be entitled to operate Slot Machines and Progressive Slot Machines on the Reservation at the licensed premises subject to the codes and the laws and regulations of the Tribe and the Commission. This issuance fee is in addition to the costs of any background investigation and application fee.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

15.2. *Card Game Operator.* The initial issuance fee for such a license is \$2,000 and thereafter an annual fee of \$2,000 renewable each February 1st. This issuance fee shall be levied per license regardless of the number of tables or locations. The holder of such a license shall be entitled to operate card games on the Reservation at the licensed premises subject to the codes and laws and regulations of the Tribe and the Commission. This issuance fee is in addition to the costs of any background investigation and application fee.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

15.3 *Video Game of Chance Operator.* The initial issuance fee for such a license is \$2,000 and thereafter an annual fee of \$2,000 renewable each February 1st. This fee shall be levied per license regardless of the number of machines operated. The holder of such a license shall be entitled to operate Video Games of Chance on the Reservation at the licensed premises subject to the codes and the laws and regulations of the Tribe and the Commission. This issuance fee is in addition to the cost of any background investigation and application fee.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

15.4. *Simulcasting Operator.* The initial issuance fee for such a license is \$2,000 and thereafter an annual fee of \$2,000 renewable each February 1st. This issuance fee shall be levied per license regardless of the number of locations where simulcasting is conducted. The holder of such a license shall be entitled to conduct simulcasting on the Reservation at the licensed premises subject to the codes and the laws and regulations of the Tribe and the Commission. This issuance fee is in addition to costs of any background investigation and application fee.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

15.5. *Sports Betting Operator.* The initial issuance fee for such a license is \$2,000 and thereafter an annual fee of \$2,000 renewable each February 1st. This issuance fee shall be levied per license regardless of the number of locations where Sports Betting is conducted. The holder of such license shall be entitled to conduct Sports Betting on the Reservation at the licensed premises subject to the codes and the laws and regulations of the Tribe and the Commission. This issuance fee is in addition to the costs of any background investigation and application fee.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

15.6. *Sports Betting Pools Operator.* The initial issuance fee for such a license is \$2,000 and thereafter an annual fee of \$2,000 renewable each February 1st. This

issuance fee shall be levied per license regardless of the number of locations where Sports Betting Pools are operated. Such license shall be renewable each February 1st. The holder of such a license shall be entitled to operate Sports Betting Pools on the Reservation at the licensed premises subject to the codes and the laws and regulations of the Tribe and the Commission. This issuance fee is in addition to the costs of any background investigation and application fee.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

15.7. *Party-in-interest License.* Any Party-in-interest must hold such a license. The issuance fee is \$300 and thereafter an annual fee of \$300 renewable February 1st. This issuance fee is in addition to the costs of any background investigation and application fee.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

15.8. *Employee License.* All persons employed to work directly with the gaming portion of a gaming operation must hold an employee license. The issuance fee is \$25 and thereafter an annual fee of \$25 renewable February 1st. This issuance fee is in addition to the costs of any background investigation and application fee.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

15.9. *Class III Gaming Equipment Vendor.* Vendors of Class III Gaming Equipment must, as a condition precedent to any sale of property to any Primary Management Official of a facility licensed pursuant to this Gaming Code, first obtain a license from the Commission. The issuance fee for such a license is \$1,000 and thereafter an annual fee of \$1,000 renewable each February 1st. This issuance fee is in addition to the cost of any background investigation and application fee. Applicants for such a license shall be entitled to the issuance of a temporary license if they have completed the application, filed the application with the Commission and paid the required fees and if the results of the preliminary background checks are acceptable to the Commission and they hold a license for similar activity issued by the States of South Dakota, Iowa, Nevada or New Jersey.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

15.10. *Class III Gaming Supplies Vendor.* Vendors of Class III Gaming Supplies must, as a condition precedent to any sale of property to any Primary Management Official of a facility licensed pursuant to this Code, first obtain a license from the Commission. The issuance fee for such a license is \$300 and thereafter an annual fee of \$300 renewable each February 1st. This issuance fee is in addition to the costs of any background investigation and application fee. Upon the filing of an application required by the Commission and payment of the required fees, the Commission may issue a

temporary Class III Gaming Supplies license, provided that the Vendor holds a license issued by the States of South Dakota, Iowa, New Jersey or Nevada.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

15.11. *Vendor's Registration.* All persons or firms that sell any property to a gaming operation licensed under this Code shall be registered with the Commission.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

## **Section 16. *Licensee Ownership Rights.***

16.1. *License as a Privilege, Nontransferability of License.* Any license that is issued under this Code is a revocable privilege and no person holding a license acquires any vested rights or other property rights in it. Any Applicant for a license has the burden of proof of his, hers or its qualification as regards to his past conduct, as may be required by the Commission. No license issued pursuant to this Code may be transferred.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

16.2. *Notification of Disciplinary Action to Licensees.* A person holding a license shall be notified that disciplinary action of his license is being considered by the Commission. The license holder, may, upon such notice, request an informal hearing before the Commission within 10 days following such notice. Any disciplinary action, including the Suspension or Revocation of a gaming license, shall comply with the appropriate provisions of the Regulations and this Code.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

16.3 *Disciplinary actions; hearings; procedure.* Hearings on Revocations or Suspension of licenses together with appeals from any decision of the Commission shall be conducted in accordance with Exhibit G of this Gaming Code.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 17. *Notice.* Notice, when required by this Code, shall be given by registered or certified mail and shall be considered to be complete upon placing the properly addressed notice in the U.S. mail, postage prepaid, regardless of whether such notice is actually received. The burden shall be on licensees and Applicants to keep the Commission advised of their current mailing address. In all contested cases, papers shall be served in the manner provided for in civil matters under the Tribal Code.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.



**Section 18. *Reimbursement to Commission for Investigations.*** Any Applicant for a license under this Code shall reimburse the Commission for the costs of all investigations to determine if he/she is a suitable licensee under this Code which are over and above the initial license fee charged at the time of application. By signing and filing an application, the Applicant authorizes the Commission to obtain information from other states, Indian Tribes, the United States, and all agencies and instrumentalities of the foregoing, regarding prior professional or gaming licenses, license applications, conduct of the Applicant or such information regarding any of the Applicant's shareholders, partners, agents or employees.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 19. *Minimum Standards for Inspection and Approval of Gambling Devices.***

**19.1. *Devices, Testing, Standards.*** Prior to the installation and use of a Gambling Device, the Commission shall inspect, test and consider the Gambling Device for its approval. The Commission shall not approve a Gambling Device unless the tests conducted indicate that such Gambling Device meets the minimum standards set forth in Exhibit "A" of the Regulations, attached hereto, or unless an identical Gambling Device is currently approved for use by the Iowa Racing and Gaming Commission. If an identical Gambling Device is currently approved for use by the Iowa Racing and Gaming Commission, the Commission may waive the inspection and testing requirements for such Gambling Device. The Director and the Tribe shall agree upon the identity of the gaming test laboratories which can be utilized under this Section 19.1.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**19.2. *Use of Test Results From Other Jurisdictions; Manufacturers' Certifications.*** In the event a particular Gambling Device has not been approved by the Iowa Racing and Gaming Commission but has been approved by a gaming regulatory body of the States of Nevada, South Dakota or New Jersey, and the test results from such jurisdictions show that the Gambling Device meets the standards set forth in Exhibit "A" of the Regulations, then the Gambling Device may be authorized for use by the Commission, provided that a copy of the test results indicating that the device complies with Exhibit "A" of the Regulations is obtained and received by the Commission and the manufacturer of the Gambling Device certifies to the Commission and the Director that each Gambling Device to be shipped complies in all respects with the standards in Exhibit "A" of the Regulations.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 20. *Security and Surveillance.*** The Commission shall require Primary Management Officials to provide and adhere to minimum security and surveillance standards, at least as stringent as those described in Exhibit "B" of the Regulations, attached hereto, as modified from time to time.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 21. *Accounting and Cash Control.*** The Commission shall require all Primary Management Officials to adhere to accounting and cash control procedures as least as stringent as those set forth in Exhibit "C" of the Regulations, attached hereto.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 22. *Operational Procedures and Game Rules.*** All Class III Gaming shall be conducted in conformance with the Compact, this Code and the Regulations, including the operating restrictions set forth in Exhibit "E" of the Regulations and the game rules set forth in Exhibit "D" of the Regulations, attached hereto.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 23. *Audits Inspections and Facility and Records Access.***

**23.1. *Semi-Annual Audits, Procedures.*** The Commission, at the expense of the licensed casino, shall cause an independent certified public accountant approved by the Director to audit the books, records, gaming and cash procedures and equipment of all authorized Class III Gaming activities at least twice in each fiscal year. The Tribe and the Director shall mutually agree on the scope of the audits to be conducted by the auditor. At a minimum, the audits shall include a review of all records necessary to determine whether authorized gaming is being conducted in conformance with this Code, the Compact, the Regulations and other applicable laws. Such audits shall also include a review of Class III Gaming Equipment and Supplies and an audit of casino procedures as necessary to ensure that equipment and casino personnel function as required by this Code, the Compact and the Regulations. At least once each year, an audit shall be conducted on all contracts for supplies, services or concessions for a contract amount in excess of \$25,000.00 annually (except for contracts for professional, legal or accounting services) relating to Class III Gaming. All audits shall be conducted pursuant to the American Institute of Certified Public Accountant ("AICPA") standards for Audits of Casinos when applicable and shall be submitted to the NIGC and kept on file with the Commission. The Director may attend the entrance and exit conference between the Commission and the auditors and shall be provided copies of the audits, including any audit notes, within fifteen (15) days of receipt. In the event that the State has probable cause to believe that there is a violation of this Code, the Compact, the Regulations or other applicable laws, the Director may notify the Tribe and the Commission and may request that the Tribe or the Commission obtain an audit of the books, records, equipment and procedures of any authorized gaming operation, including the records of any Primary Management Official to ensure compliance with the Compact, this Code, the Regulations and other applicable laws. In the event the Tribe or Commission chooses not to procure a requested audit, the State may conduct such an audit and the Tribe and Commission shall cause the foregoing records to be made available to the State during

ordinary business hours. The State's audits may include equipment testing. The Tribe and/or Commission shall, within seventy (70) days from receipt of an itemized statement from the State, reimburse the State for the actual cost of such audit up to twenty-five thousand dollars (\$25,000.00) in any one fiscal year. The State shall provide copies of such audits to the Tribe and Commission provided that disclosure of such audits would not compromise any law enforcement activities.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**23.2. *Conduct of Audits and Inspections by the State.*** Authorities of the State may enter upon the premises of an authorized gaming facility at any time during ordinary business hours for purposes of conducting the audits specified in the Compact and this Code or to conduct routine facility inspections. Routine inspections may include random equipment testing on the premises and casino surveillance. Upon the reasonable request of the State, the Tribe and the Commission shall provide the State with access to all areas of Class III Gaming facilities and their records and shall ensure that all licensees make their records and facilities available to State officials. The Tribe shall ensure that information requested by State is provided by all persons possessing the requested information, and Primary Management Officials shall assure that a suitable office is provided in which the State may review records and other information provided by the Tribe. State officials may copy, remove from the premises and retain copies of materials and documents related to Class III Gaming. A reasonable amount of equipment may be removed from the premises for a reasonable time to facilitate examination and testing.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**23.3. *Maintenance of Records; Time.*** All books and records relating to Class III Gaming activities, including the records of any Primary Management Official, the Tribe and the Commission must be maintained separately from each other in order to facilitate auditing of these books and records to ensure compliance with this Code, the Regulations and the Compact. All records shall be maintained for a period of twelve (12) years pursuant to generally accepted accounting principles and shall be suitable for audit pursuant to the standards of the AICPA.

*Source:* Resolution No. 92-59 with the Omaha Tribal Council, April 13, 1992.

**Section 24. *Documents Provided by the Tribe to the State.*** Within a reasonable time following request, the Tribe shall provide the Director with a copy of any information reasonably related to Class III Gaming on Indian Lands. In addition, the Commission shall routinely provide the Director with a copy of this Code, the Regulations, all subsequent amendments to this Code and the Regulations, a copy of all audit reports, including auditor's notes, a copy of Class III Gaming activities prepared by the Tribe or independent auditors hired by the Tribe or the Commission, a copy of the results of all equipment or program tests, all Management Contracts and all contracts or leases for gaming equipment or services. The

Commission shall routinely provide the DCI with a copy of all background applications and the results of all background investigations, with information concerning any suspected or proven violations of the terms of this Code, the Regulations, the Compact or other applicable laws and with information describing the steps taken by the Tribe or the Commission to remedy such violations. All copies shall be provided by the Tribe and the Commission as soon as is reasonably practical but no later than ten (10) calendar days after the documents are received by the Tribe or the Commission or the Tribe becomes aware of a suspected or proven violation of this Code, the Regulations, the Compact or other applicable laws.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

## **Section 25. *Location of Gaming.***

**25.1. *Gaming Conducted Solely on Indian Lands.*** Except as indicated in Section 25.2, all authorized Class III Gaming shall be conducted solely on Indian Lands. Pursuant to the Act, licenses are required for each place, facility or location on Indian Land where Class III Gaming occurs. Authorized Class III Gaming is conducted solely on Indian Lands only if all consideration wagered is placed by players physically located on Indian Lands at the time the wager is made, all activities performed by the player to participate in the game physically occur on Indian Lands, and all activities related to determining and validating winners occur on Indian Lands. The activities prohibited by this Section, include, without limitation, placing bets or playing games by telephone or by mail unless calls both originate and terminate on Indian Lands and unless correspondence is sent from an address on Indian Lands to an address on Indian Lands. Winners may receive prize winnings outside the boundaries of Indian Lands without violating this provision.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**25.2. *Inter-reservation Gaming; When Permissible.*** Nothing in this Section 25 shall prevent the Tribe from conducting inter-reservation Class III Gaming by means of telecommunications, satellite or technologic or computer enhancement, provided that the inter-reservation gaming conforms with the requirements of federal law, including the Act and the Compact, and conforms with the laws, rules and Regulations of all tribes involved in the gaming and further conforms with any terms of an effective tribal/state compact which governs the gaming activities of each tribe participating in the gaming. Inter-reservation gaming must, however, be conducted solely on "Indian Lands" (as that term is defined herein and in Section 4(4) of the Act, 25 U.S.C. Sec. 2703(4), and as that term is limited by Section 20 of the Act, 25 U.S.C. Sec. 2719) which belongs to one of the participating tribes.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 26. *Jurisdiction.*

26.1. *Division of Criminal and Civil Jurisdiction.* Except for the criminal prosecution of persons who are not Tribal Citizens, the Tribe shall exercise complete, full and perfect civil and criminal jurisdiction over players of authorized gaming, licensees and all other persons or entities whose acts or omissions relate to any authorized or unauthorized Class III Gaming activities on Indian Lands and over all property related to Class III Gaming activities on Indian Land. The Tribe shall be responsible for addressing and solving all law enforcement problems arising from its Class III Gaming activities.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

26.2. *Violations; Investigation.* Whenever the Tribe has reason to believe that any person or entity has violated the Compact, the Regulations, this Code or other laws applicable to a Class III Gaming activity, the Tribe shall request that law enforcement authorities of the Tribe and the United States investigate the violation. The Tribe shall take all reasonable steps to ensure that all violations are detected and appropriately prosecuted by the Tribe or the United States Attorney.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

26.3. *Civil and Criminal Jurisdiction of the State.* Except for the civil and criminal prosecution of Tribal Citizens, the State shall exercise complete, full and perfect civil and criminal jurisdiction over all players of authorized gaming, all licensees and all other persons or entities whose acts or omissions relate to any authorized or unauthorized Class III Gaming activities on Indian Lands, and all property which is related to any authorized or unauthorized Class III Gaming activities on Indian Lands, for the purposes of administering, monitoring, auditing, investigating, enforcing and prosecuting violations of the Compact, the Regulations, this Code and other laws applicable to Class III Gaming activities. In furtherance of its jurisdiction, the State may take any action on Indian Lands which would be lawful elsewhere in the State.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

26.4. *Prosecution of Offenses by the State.* The State shall have jurisdiction to commence prosecutions for violation of any applicable civil or criminal law or regulatory requirement not inconsistent with the Compact arising out of any investigation conducted by the State or any governmental authority of any sovereign, provided that the subject of such prosecution is not a Tribal Citizen.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**26.5. *Prosecution of Offenses by the Tribe.*** The Tribe shall have jurisdiction to commence prosecutions for violation of any applicable civil or criminal law or regulatory requirement not inconsistent with the Compact arising out of any investigation conducted by the Tribe or any governmental authority of any sovereign, provided that the subject of such prosecution is a Tribal Citizen. If the subject is not a Tribal Citizen, the Tribe shall request that the offender be prosecuted by the State or the United States, pursuant to Section 26.4.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**26.6. *Concurrent Jurisdiction.*** If exercised, the Tribe's jurisdiction shall be exercised concurrently with, but independently of, the civil and criminal jurisdiction over such activities, property, persons and entities held by the State and the United States.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**26.7. *Transfer to Appropriate Sovereign.*** Both the Tribe and the State and their respective agencies and instrumentalities shall have the power to arrest on Indian Land in State and to detain any person whatsoever for any suspected violation of the Compact, this Code, or any law, rule or regulation of any governmental authority respecting gaming on Indian Lands. Upon identification of the appropriate authority under the Compact or this Code for the prosecution of such suspected offense, the arresting party shall release such detained person to the custody of the appropriate authority.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 27. *Posting of Rules.*** Specific rules for card games shall be approved by the Commission and clearly posted within plain view of the card table or be available in a pamphlet form.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 28. *Age Limit for Players.*** Any participant in Class III Games of chance shall be eighteen (18) years or older at the time of his/her participation. In the event a person who has not attained the age of eighteen (18) participates in any game of chance and wins a prize, the prize shall not be awarded, but instead shall be forfeited to the Tribe and the consideration wagered shall be returned to the under-age participant.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 29. *Exemption from 15 U.S.C. Sec. 1171.*** Pursuant to Section 2 of an Act of Congress of the United States entitled "An Act to Prohibit Transportation of Gambling Devices in Interstate and Foreign Commerce", approved January 2, 1951, designated 15 U.S.C. Sections 1171 to 1177, inclusive, the Tribe does hereby, and in accordance with and in

compliance with the provisions of Section 2 of the Act of Congress, declare and proclaim that it is exempt from the provisions of Section 2 of that Act of Congress of the United States as above mentioned, as regards gaming devices operated and used within the Reservation. This exemption shall be effective upon adoption of this Code.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 30. *Exemption from 15 U.S.C. Sections 1171 to 1177.*** All shipments of gaming devices, including Slot Machines, onto Indian Land, and the registering, recording, and labeling by the manufacturer or dealer thereof (in accordance with Sections 3 and 4 of an Act of Congress of the United States entitled "An Act to Prohibit Transportation of Gambling Devices in Interstate and Foreign Commerce" and approved January 2, 1951 and designated as 15 U.S.C. Sections 1171 to 1177, inclusive) shall be deemed legal shipments, for use only within the Indian Land. This section shall take effect upon adoption of this Code.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 31. *Illegal Games and Activities.***

**31.1. *Unlawful activities.*** It is unlawful for any person playing or for any licensee conducting any authorized game of chance to:

- (a) Knowingly use bogus or counterfeit chips, gaming billets, tokens, devices or coins, or knowingly to substitute and use cards or dice that have been marked, loaded or tampered with;
- (b) Employ or have on one's person any cheating device to facilitate cheating in any game of chance;
- (c) Use any fraudulent scheme or technique;
- (d) Cheat or attempt to cheat at any game of chance;
- (e) By any trick or slight of hand performance, or by fraud or fraudulent scheme, or with cards, dice or device, for himself or for another, win or attempt to win money or property or reduce a losing wager or attempts to reduce a losing wager in connection with Class III Gaming;
- (f) Knowingly possess or use while on the premises of any Class III Gaming facility any key or device designed for the purpose of or suitable for opening or entering into a Slot Machine, Gambling Device, or Video Game of Chance, or similar Gambling Device or drop box, except that a duly authorized employee of a Class III Gaming facility or employee of the Commission may

possess and use any of the foregoing instruments only in furtherance of his/her employment;

(g) Knowingly conduct, carry on, operate, deal or allow to be conducted, carried on, operated or dealt any cheating or thieving game or device;

(h) Knowingly deal, conduct, carry on, operate or expose for play any game or games played with cards, dice, a Gambling Device or other mechanical, electronic or electromechanical device, or any combination of games or devices, which have been in any manner marked or tampered with, or placed in a condition, or operated in a manner, the result of which tends to deceive the public or tends to alter the normal random selection characteristics or the normal chance of the game which could determine or alter the result of the game;

(i) Knowingly use or possess any marked cards, loaded dice, plugged or tampered with machines or devices;

(j) Operate or participate in gaming on Indian Lands in violation of the provisions of this Code or in violation of the Regulations promulgated pursuant to this Code;

(k) Knowingly make a false statement on an application for employment with a gaming activity or enterprise, or on an application for a license to operate, manage or be employed by, or sell any property to, a gaming activity or enterprise on Indian Lands;

(l) Bribe or attempt to bribe, or unduly influence or attempt to unduly influence, any person who licenses, regulates, operates, conducts, assists, or is otherwise employed in a gaming activity or enterprise located on Indian Lands;

(m) Alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(n) Place, increase or decrease a bet or determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome;

(o) Claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a gambling game, with intent to defraud, without



having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;

- (p) Use, or possess with the intent to use, any device to assist:
  - (i) In projecting the outcome of the game;
  - (ii) In keeping track of the cards played;
  - (ii) In analyzing the probability of the occurrence of an event relating to the game;
  - (iv) In analyzing the strategy for playing or betting to be used in the game;

except as permitted by the Commission.

(q) Manipulate, with the intent to cheat, any component of a Gambling Device in a manner contrary to the design and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a Slot Machine with knowledge that such manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

31.2. *Violations; forfeiture.* Any property used in the commission of a violation of a provision of this Code or the Regulations may be seized and, following a hearing, forfeited to the Tribe and disposed of by the Commission.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

31.3. *Violations; exclusions.* Any person who is not a Tribal Citizen and who violates a provision of this Code or the Regulations, in addition to the imposition of an administrative fine, may be excluded from the Reservation of the Tribe.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

31.4. *Detaining and questioning of person suspected of violating Code; limitations on liability; posting of notice.*

(a) Any Primary Management Official, his/her officers, employees or agents, may question any person in his/her establishment suspected of violating any of the provisions of this Code. No Primary Management Official or any of his/her officers, employees or agents will be held criminally or civilly liable:

(i) As a result of any such questioning; or

(ii) For reporting to the Commission or law enforcement authorities the person suspected of the violation.

(b) Any Primary Management Official or any of his/her officers, employees or agents who have probable cause for believing that there has been a violation of this Code or the Regulations in his/her establishment by any person may take that person into custody and detain him in the establishment in a reasonable manner and for a reasonable length of time. Such a taking into custody and detention does not render the Primary Management Official or his/her officers, employees or agents criminally or civilly liable unless it is established by clear and convincing evidence that the taking into custody and detention are unreasonable under all the circumstances;

(c) No Primary Management Official or his/her officers, employees or agents are entitled to the immunity from liability provided for in Subsections (a) and (b) hereof, unless there is displayed in a conspicuous place in his establishment a notice in bold face type clearly legible and in substantially this form:

Any gaming Primary Management Official or any of his/her officers, employees or agents who has probable cause for believing that any person has violated any provision of the Omaha Tribe of Nebraska Gaming Code or the Regulations may detain that person in the establishment.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 32. *Civil Penalties for Persons or Entities that are not Licensees.***

(a) Any person or entity, other than a licensee, who violates this Code, the Regulations or the Compact, may be assessed an administrative fine by the Commission. Such administrative fine may be assessed only after the person or entity has been given notice and an opportunity to be heard before the Commission. Each day a violation occurs or continues shall be treated separately and may be assessed as a separate violation.

(b) The administrative fine assessed pursuant to Section 32(a) above shall not exceed Fifty Thousand Dollars (\$50,000.00) per violation, or twice the amount of any grand prize awarded or available to win in a gaming activity which is directly associated with the violation, whichever is greater.

(c) The civil penalties provided for in this Section may be imposed in addition to possible criminal penalties provided for under applicable law.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 33. *Use of Gaming Billets and Coins; Alteration of Normal Operation of Gambling Devices.*** It is unlawful for any person playing or using a Gambling Device:

(a) To knowingly use other than a lawful coin or legal tender of the United States of America, or to use a coin not of the same denomination as the coin intended to be used in such Gambling Device, however, it shall be lawful for any person to use gaming billets, tokens or similar objects when approved by the Commission;

(b) To use any cheating or thieving device, including, but not limited to, tools, drills, wires, strings, coins or tokens attached to strings or wires, electronic or magnetic devices, or electromechanical devices, or electromagnetic devices to facilitate the alignment of any winning combination or to assist in the removal from any Gambling Device any money or other contents thereof.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 34. *Enforcement of Administrative Fines.*** If any person or entity fails or refuses to pay an assessment levied pursuant to Sections 31.3 and 32 above, the Commission may take all actions necessary to collect the assessment at any time following 30 days from the date of the assessment by initiating a civil action against the person or entity in Tribal court or in any other court of competent jurisdiction. In such civil action, the validity and amount of the assessment shall not be subject to judicial review. The validity and amount of any administrative fine levied pursuant to this Code is only subject to judicial review as a contested case under Exhibit G hereof, which shall constitute the sole and exclusive means of judicial review. Admission into evidence of a certified copy of the order of the Commission levying such assessment shall establish a prima facie case of the Commission's right to judgment in its favor. The Commission shall be entitled to all remedies in law or in equity.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 35. *Criminal Violations.*** Any violation of this Code or the Regulations by a Tribal Citizen shall constitute a criminal offense under the Tribe's "Law and Order Code" and, upon conviction, carries the penalties of imprisonment of up to one year in the Tribal jail; a fine of up to One Thousand Dollars (\$1,000.00), or both, in addition to any administrative fine levied by the Commission. In addition to such penalties, any property utilized in violating this Code or the Regulations, and any proceeds derived from a violation hereof, shall be subject to seizure and forfeiture to the Tribe upon conviction. Any violation of this Code or the Regulations by a person who is not a Tribal Citizen shall be subject to the Commission's civil and regulatory powers, pursuant to Section 32.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 36. *Procedures for Dispute Resolution.*** In the event of an alleged personal injury or property damage suffered within a gaming facility, or in the event of a dispute between a patron and the gaming facility regarding the payment of a wager or distribution of winnings, the patron may make a claim against the gaming facility as follows:

(a) Any person having a claim against a gaming facility must present that claim to the Commission for appropriate relief. Claims against a gaming facility are to be presented within ninety (90) days of the date that the loss occurred. In the event a claim is not presented within ninety (90) days of the loss but is presented within one year of the date of the loss, any judgement in a lawsuit that arises from such claim shall be reduced by ten (10) percent. A claim against a gaming facility shall be forever barred unless notice thereof is presented within one year after the loss occurs. Claims against a gaming facility must be in writing and filed with the Commission. Notices explaining this procedure shall be posted in the gaming facility. Such notices shall explain that this procedure is the exclusive method of making claim or registering a patrons dispute. Such notices shall also explain that upon denial of a claim by the Commission redress must be sought exclusively in Tribal Court.

(b) The written notice of all claims shall state the date, time, place and circumstances of the claim, the identity of the effected licensees or employees, if known, the amount of compensation or other relief demanded, the name, address and telephone number of the claimant, and the name, address and telephone number of any agent authorized to settle the claim.

(c) A claim is deemed denied if the Commission fails to approve the claim in its entirety within ninety (90) days of receipt, unless the interested parties have reached a settlement before the expiration of that period. A person may not initiate suit against a gaming facility unless the claim has been denied in whole or in part. The claimant and the gaming facility may continue attempts to settle a claim; however, settlement negotiations do not extend the date of denial.

(d) No action for any cause arising from personal injury, property damage or gaming disputes shall be maintained unless valid notice has been given and the action is commenced in Tribal Court within 180 days after denial of the claim as set forth above. Neither the claimant nor the gaming facility may extend the time to commence an action by continuing to attempt settlement of the claim.

**Section 37. *Exclusion or Ejection of Certain Persons From Gaming Establishment.***

**37.1. *Exclusion of persons required for effective regulation.*** The Tribe hereby declares that the exclusion or ejection of certain persons from licensed gaming establishments is necessary to carry out the policies of this Code and to maintain effectively the strict regulation of licensed gaming.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**37.2. *Exclusion list, considerations.*** The Commission may provide each establishment with a list of persons who are to be excluded or ejected from any licensed gaming establishment, including any person whose presence in the establishment is determined to pose a threat to the interest of the Tribe or to licensed gaming. In making the determination for exclusion, the Commission may consider any of the following:

(a) A prior conviction of a felony, a misdemeanor involving moral turpitude or a violation of the gaming laws of any Indian tribe, state, the United States, or any of its possessions, enclaves, or territories;

(b) A violation, attempt to violate or conspiracy to violate the provisions of this Code, the Regulations, including: failure to make required disclosures to the Commission or the intentional evasion of fees or taxes;

(c) A notorious or unsavory reputation that would adversely affect public confidence and impact the trust that the public has regarding the gaming industry as free from criminal or corruptive influences; and

(d) The opinion of the Commission, that the presence of a person in a licensed gaming facility would be harmful to the interest of the Tribe, or Indian gaming generally.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**37.3. *Notice to Excluded Person.*** If the name and description of any person is placed on the exclusion list, the Commission shall, within three (3) business days thereafter, serve notice of that action upon the person by at least one of the following means:

(a) By personal service;

(b) By certified or registered mail to the last known address of the person; or

(c) By publication, at least twice, for two consecutive weeks in a newspaper of general circulation on the Reservation.

A person placed upon the exclusion list may contest that action by filing a written protest with the Commission and the protest shall be heard by the Commission within thirty (30) days after filing, but all such exclusions shall become final and non-reviewable if no protest is filed within forty-five (45) days after such name is placed on the

exclusion list. Failure to provide notice to the excluded person in accordance with this section shall render such exclusion void.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 38. ***Minimum Payback.*** The minimum payback value of one credit played on a Slot Machine shall be at least eighty percent (80%) of the value of the credit.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 39. ***Records of Gaming Commission.*** Information and records of the Commission enumerated by this Section are confidential and may not be disclosed except pursuant to the discretion of the Commission in proceedings before it, as required by the Compact or this Code, or pursuant to a court order of the Tribal Court. No person may use a subpoena, discovery methods or other applicable laws, rules or regulations to obtain such information or records. Information and records considered confidential include:

- (a) Tax returns and financial statements of individual licensees;
- (b) Applications, credit, medical and security reports of Applicants for licenses and other persons seeking or doing business with the Commission;
- (c) Marketing, financial or sales data, the disclosure of which may be harmful to the competitive position of Tribal gaming, licensees or persons seeking or doing business with the Commission;
- (d) Audit work papers, worksheets and auditing procedures used by the Commission, its agents or employees; and
- (e) Results of investigations, work products and other such privileged communications.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 40. ***Communications Between Members of the Commission and its Agents.*** Communications between members of the Commission and its agents or attorneys or any law enforcement authority or regulatory body relating to licensing, disciplining of licensees, or violations by licensees are privileged and confidential if made lawfully and in the course of and in furtherance of the business of the Commission, unless such communications were made pursuant to an order of the Tribal Court after an in-camera review. Any member of the Commission or its agents may claim this privilege.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 41. ***Application Forms.*** Until such time as the Commission exercises its power to prescribe the forms for applications, the Commission shall utilize the forms of the State for similar licenses, together with such other information required by this Code or the Regulations, but not contained in the State's application forms.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 42. ***Calculation of Time.*** In computing any period of time prescribed or allowed by this Code or the Regulations of the Commission, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless the last day is a Saturday, a Sunday or a legal holiday under Tribal law or federal law. If the act to be done is the filing of or providing access to any report or document, and the last day of the period falls on a day in which the weather or other conditions have made the offices in which the report or document is to be filed inaccessible, the designated period shall extend until the end of the next day on which the office is accessible which is not a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays and legal holidays under Tribal law or federal law shall be excluded from the computation period.

Section 43. ***Limitations on Use of Gaming Revenues.*** The net revenues of any tribally licensed Class III Gaming activity shall not be used for purposes other than:

- (a) Funding Tribal government operations or programs;
- (b) Providing for the general welfare of the Tribe and its Citizens;
- (c) Promotion of Tribal economic development;
- (d) Charitable organizations;
- (e) The operation of local government agencies; and
- (f) Other eligible beneficiaries as determined by the Council.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

Section 44. ***Assessment for Commission Operations.*** There is hereby imposed upon Primary Management Officials an assessment, to fund the Commission, of Ten Thousand Dollars (\$10,000.00) per month together with annual increases over the previous year's assessment of seven percent (7%). Such assessment shall be paid monthly by the Primary Management Official and shall commence the first month that a Primary Management Official is open to the public for business and such assessment shall be due and payable to the Commission on or before the 25th day of the month.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.

**Section 45. Penalties.** Any person who knowingly makes a false statement on any application for a license or in any statement attached to the application, or otherwise provides false information to the Commission or fails to disclose facts which are necessary to make the information supplied not misleading, or who fails to keep sufficient or accurate books and records to substantiate the receipts, expenses or uses resulting from Class III Gaming conducted under this Code, or who falsifies any books or records relating to any transaction connected with the holding, operating, and conducting of any Class III Gaming activity, or who violates any of the provisions of this Code, or any Regulations promulgated by the Commission, or procedures prepared by Primary Management Officials and approved by the Commission, or any terms of a license granted under this Code, shall be deemed in violation of this Code. The Tribe recognizes that it may not subject offenders who are not Indians to the criminal jurisdiction of its Tribal Court. This provision is not intended to subject individuals who are not Tribal Citizens to criminal penalties. The penalties, as they relate to those who are not Tribal Citizens, are intended to be administrative in nature.

*Source:* Resolution No. 92-59 of the Omaha Tribal Council, April 13, 1992.