



OCT 26 2004

OCT 25 2004

Mr. Greg Paulson  
BlueDog, Olson & Small  
Southgate Office Plaza, Suite 500  
5001 American Boulevard West  
Minneapolis, MN 55437

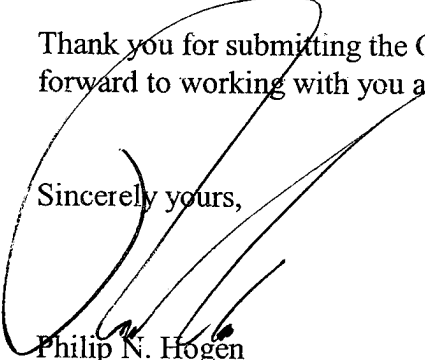
Re: Sisseton-Wahpeton Gaming Ordinance

Dear Mr. Paulson:

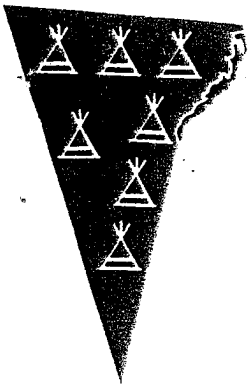
This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve the Sisseton-Wahpeton Oyate Gaming Ordinance. The Ordinance was received in this office on August 16, 2004. The Tribe adopted the Gaming Ordinance by Resolution No. SWO-04-081 on August 5, 2004. This letter constitutes approval of your submission under the Indian Gaming Regulatory Act (IGRA). It is important to note that the Ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction.

Thank you for submitting the Gaming Ordinance for review and approval. The NIGC staff looks forward to working with you and the Tribe on future gaming issues.

Sincerely yours,



Philip N. Hogen  
Chairman



# Sisseton - Wahpeton Sioux Tribe

## LAKE TRAVERSE RESERVATION

OLD AGENCY BOX 509 • AGENCY VILLAGE, SOUTH DAKOTA 57262-0509  
PHONE: (605) 698-3911

### TRIBAL COUNCIL RESOLUTION NO. SWO-04-081

#### Gaming Ordinance Amendments of 2004

**WHEREAS,** The Sisseton-Wahpeton Oyate of the Lake Traverse Reservation is organized under a Constitution and By-laws adopted by the members of the Tribe on August 1-2, 1966 and approved by the Commissioner of Indian Affairs on August 25, 1966; and,

**WHEREAS,** The said Constitution and By-laws mandates at ARTICLE II, Section 1, that the Tribal Council shall have the power: (a) to represent the Tribe in all negotiations with Federal, State and local governments; (d) to make rules governing the relationship of the members of the Tribe, to Tribal property, and to one another as members of the Tribe; (f) to deposit Tribal funds to the credit of the Tribe; (g) to take actions by ordinance, resolution or otherwise which are reasonably necessary to carry into effect the foregoing purposes; (h) to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Tribe; and, (i) to adopt resolutions regulating the procedures of the Tribal Council, its officials and committees in the conduct of Tribal Affairs; and,

**WHEREAS,** In 1993, the Tribal Council enacted the Sisseton-Wahpeton Sioux Tribe Gaming Ordinance as Chapter 58 of the Sisseton-Wahpeton Tribal Code, which has been amended from time to time; and,

**WHEREAS,** The Tribal Council has determined it is necessary to amend and revise the Sisseton-Wahpeton Oyate Gaming Ordinance; and,

**WHEREAS,** The Tribal Council convened a Gaming Task Force to make recommendations pertaining to amendments and other revisions to the Gaming Ordinance, which consisted of members of Tribal Council, the Gaming Commission, Gaming Management and legal counsel; and,

**WHEREAS,** The Gaming Task Force recommends a new Gaming Ordinance that is based substantially upon the National Indian Gaming Commission's model ordinance and the Sisseton-Wahpeton Oyate's regulatory structure and regulatory needs; and,

**WHEREAS,** The Sisseton Wahpeton Oyate's Legal Counsel has been in regular contact with the National Indian Gaming Commission's representatives in order to inform the federal agency of the 2004 Amendments to the Gaming Ordinance; and,

EXHIBIT

1

**WHEREAS,** The National Indian Gaming Commission has conducted an informal review of the 2004 amendments to the Gaming Ordinance and has recommended one minor change, which has been incorporated by the Sisseton-Wahpeton Oyate's Legal Counsel.

**NOW, THEREFORE BE IT RESOLVED,** that the Tribal Council of the Sisseton Wahpeton Oyate hereby authorizes, adopts and enacts the attached Sisseton-Wahpeton Gaming Ordinance; and,

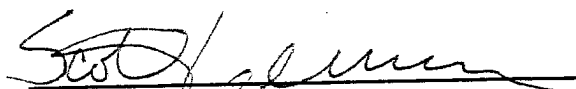
**FURTHER, BE IT RESOLVED,** This Gaming Ordinance shall be in full force and effect on the date of formal approval and adoption by the Tribal Council, and shall remain in effect pending approval from the National Indian Gaming Commission; and,

**FINALLY, BE IT RESOLVED,** That the Tribal Council directs Attorney Greg Paulson of BlueDog, Olson & Small, P.L.L.P. to submit the Gaming Ordinance to the National Indian Gaming Commission, submit the additional documents required by the National Indian Gaming Commission's regulations and request immediate review and approval.

### **CERTIFICATION**

*We, the undersigned duly elected Chairman and Secretary of the Sisseton-Wahpeton Oyate Tribal Council, do hereby certify that the above resolution was duly adopted by the Sisseton-Wahpeton Oyate Tribal Council, which is composed of 10 members (representing a total of 15 Tribal Council weighted votes and two Executive Committee votes for a total of 17 votes) of whom 8 constituting a quorum, were present at a Tribal Council meeting, duly noticed, called, convened and held at the TiWakan Tio Tipi, Agency Village, South Dakota, August 3, 2004, by a vote of 10 for, 0 opposed, 3 abstained, 2 absent from vote, 1 not voting, and that said Resolution has not been rescinded or amended in any way.*

*Dated this 5<sup>th</sup> day of August, 2004.*

  
Scott German, Tribal Vice-Chairman  
Sisseton-Wahpeton Oyate



ATTEST:



Michael Peters, Tribal Secretary  
Sisseton-Wahpeton Oyate

Original copy to NIGC

cc: Legal Council-BlueDog  
Legal Council-Tribal

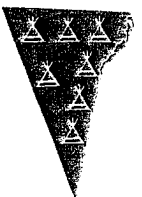
SWGC

DSC

DMC

DCC

CEO



**SISSETON-WAHPETON OYATE  
OF THE LAKE TRAVERSE RESERVATION  
CHAPTER 58 – GAMING ORDINANCE**

AUG 15 2004

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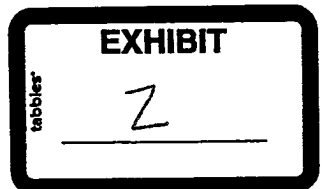
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## TITLE ONE

### GENERAL PROVISIONS

#### **58-01-01 Title.**

This Ordinance shall be known and cited as the Gaming Ordinance of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation (the "Sisseton-Wahpeton Oyate").

#### **58-01-02 Purpose and Policy.**

The purpose of this Gaming Ordinance is to authorize and regulate Class II and Class III gaming within the Sisseton-Wahpeton Oyate's jurisdiction. The Gaming Ordinance shall assist the Sisseton-Wahpeton Oyate in generating revenue for tribal government, promote economic development and self government, shield gaming activities from crime, and ensure that gaming is conducted fairly and honestly by both the gaming operation, the licensees, and the players. It shall be the policy of the Sisseton-Wahpeton Oyate to fully comply with all applicable federal law, including applicable Internal Revenue Code provisions concerning reporting and withholding of taxes with respect to the winnings from gaming, and to comply with all applicable State requirements when established by a Tribal-State Compact.

#### **58-01-03 Effect of Headings.**

Title and section headings are provided for reference purposes only and shall not be deemed to govern, limit, or modify the provisions of this Ordinance.

#### **58-01-04 Liberal Interpretation.**

This Ordinance shall be liberally construed to benefit the welfare of the Sisseton-Wahpeton Oyate in a manner consistent with its overall purpose and the provisions of the Indian Gaming Regulatory Act (the "IGRA") and the Sisseton-Wahpeton Oyate's Gaming Compacts.

#### **58-01-05 Severability.**

The provisions of this Ordinance are severable. Should any provision, or the application of any provision to any person or circumstance, be held invalid, such a holding shall not affect the remainder of its provisions or the application of its provisions to another person or circumstance, and shall not require subsequent re-approval of the Ordinance by the Tribal Council.

**58-01-06 Citation or Use of Language From Other Laws.**

Citation to statutory or administrative language, definitions, procedure, or provisions of Federal or State law in this Ordinance does not establish jurisdiction, which otherwise does not exist, in such Federal or State government. Nothing in this Ordinance may be deemed a waiver of the Sisseton-Wahpeton Oyate's sovereign immunity, and if any Court of competent jurisdiction construes this provision as conflicting with any other provision in this Ordinance, then this express retention of sovereign immunity shall control and prevail.

**58-01-07 Effective Date.**

This Ordinance shall be in full force and effect on the date of formal approval and adoption by the Tribal Council, and shall remain in effect pending approval from the National Indian Gaming Commission (the "NIGC").

**58-01-08 Conflicting Laws.**

Should any Tribal law, Ordinance, Resolution or action conflict with this Ordinance, the provisions of this Ordinance shall control and prevail. On the effective date, all prior Gaming Ordinances are repealed. Should a provision of a Gaming Compact, the IGRA or the NIGC's regulations, conflict with this Ordinance, the provisions of the Compact, the IGRA or the NIGC's regulations, as the case may be, shall control and prevail.

**58-01-09 Agent for Service.**

Unless otherwise designated by Resolution of the Tribal Council, the Chairman shall serve as the agent for service of any official determination, order or notice of violation.

**58-01-10 Use of Gaming Revenue and Per Capita Payments.**

- A. Net revenues from Class II and Class III gaming shall be used only for the following purposes:
  - 1. to fund tribal government operations and programs;
  - 2. provide for the general welfare of the Sisseton-Wahpeton Oyate and its members;
  - 3. promote tribal economic development;
  - 4. donate to charitable organizations; or
  - 5. help fund operations of local government agencies.
  
- B. If the Sisseton-Wahpeton Oyate elects to make per capita payments to its members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior as required by the IGRA.



**58-01-11 Dispute Resolution.**

A gaming operation shall seek to immediately resolve any dispute between any member of the gaming public and the gaming operation or its licensees. Any patron who is dissatisfied with the dispute resolution proposed by a gaming operation may present such dispute for final resolution either to the Tribe's Court or the Regulatory Authority acting within the regulatory jurisdiction conferred by this Ordinance. Provided that any such dispute that involves the Tribe's gaming laws, rules, regulation or gaming compact provision must first be brought to the Regulatory Authority, which is subject to appeal to the Tribe's Court. The Regulatory Authority shall provide the Tribal Council with an annual report of gaming disputes under this Section.

**58-01-12 Ownership of Gaming.**

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

**58-01-13 Individually Owned Gaming.**

No licenses may be issued to allow the operation of individually owned gaming operations.

**58-01-14 Audit and Contracts Exceeding \$25,000.00 Annually.**

- A. The Sisseton-Wahpeton Oyate shall cause to be conducted an annual, independent audit of gaming operations and shall submit the resulting audit reports to the NIGC.
- B. All gaming related contracts that result in the purchase of supplies, services, or concessions for a in excess of \$25,000.00 annually, except contracts for professional legal or accounting services, shall be specifically included within the scope of the annual independent audit.

**58-01-15 No Limitation on the Number of Gaming Operations.**

Nothing in this Ordinance shall limit the number of gaming operations the Regulatory Authority can license to conduct gaming on the Lake Traverse Reservation or lands subject to the governmental control of the Sisseton-Wahpeton Oyate, pursuant to the provisions of this Ordinance and IGRA, but in all cases, each separate facility, place, or location shall require a separate license, issued specifically for that place, facility, or location.

**58-01-16 Protection of the Environment and Public Health and Safety.**

Class II and Class III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and public health and safety.

**TITLE TWO  
DEFINITIONS**

**58-02-01 Purpose and Interpretation.**

Unless specifically defined, words or phrases used in this Ordinance shall be interpreted to give them the meaning they have in common usage, to be consistent with the IGRA, and to give this Ordinance its most reasonable application. The following words and phrases when used in this Ordinance shall have the meanings respectively ascribed to them in this section:

- A. "Applicant" shall mean any person who is required to be licensed by this Ordinance, and who submits a request for the grant or renewal of such license;
- B. "Distributor" shall mean a person or entity that sells, leases, markets or otherwise distributes gambling devices, equipment, games or implements of gambling which are usable in the lawful conduct of gaming under this Ordinance;
- C. "Gaming" shall mean the act of paying money for the opportunity to participate in a game, the outcome of the game is decided by chance or chance is a material element, and the winner of the game is entitled to a pre-determined prize. Gaming does not include games played in private homes or residences, or Class I games;
- D. "Gaming Compact" shall mean any agreement, as amended or renegotiated, concerning Class III Gaming between the Sisseton-Wahpeton Oyate and the State of North Dakota or the State of South Dakota;
- E. "Gaming equipment" shall mean bingo cards or sheets, devices for selecting bingo numbers, pull-tabs, jar tickets, paddlewheels, tipboards, electronic video equipment, slot machines, video games of chance, equipment employed to conduct the game of blackjack, or any other equipment used to operate a game of chance;
- F. "Gaming Operation" shall mean any entity wholly owned by the Sisseton-Wahpeton Oyate which operates Class II or Class III gaming, as those terms are defined in the IGRA;
- G. "Key Employees" shall mean the following persons: (1) bingo caller; (2) counting room supervisor; (3) chief of security; (4) custodian of gaming supplies or cash; (5) floor manager; (6) pit boss; (7) dealer; (8) croupier; (9) approver of credit; (10) custodian of gaming equipment including persons with access to cash and accounting records within such devices; (11) if not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; and (12) if not otherwise included, the four most highly compensated persons in the Gaming Operation;

- H. "License" shall mean the permission of the Regulatory Authority to do an act, which shall be illegal without such license. With respect to real property of the Sisseton-Wahpeton Oyate, a License is a privilege to go on the premises for a certain purpose, but does not operate to confer, vest, or grant any title, interest, or estate in such property;
- I. "Licensee" shall mean a key employee, primary management official or other person granted a License under this Ordinance;
- J. "Person" shall mean any individual, partnership, corporation, association, or public or private organization; and
- K. "Primary Management Officials" shall mean: (1) the person having management responsibility for a management contract; (2) any person who has authority to (a) hire and fire employees, or (b) set up working policy for the Gaming Operation; or (3) the chief financial officer or other person who has financial management responsibility.

**TITLE THREE  
GAMING REGULATORY AUTHORITY**

**58-03-01 Gaming Regulatory Authority.**

The Sisseton-Wahpeton Oyate establishes the Gaming Regulatory Authority (the "Regulatory Authority"), to regulate this Ordinance and the Tribal-State Gaming Compacts as they affect Tribal Gaming Operations. The Regulatory Authority shall consist of a three member Gaming Commission, an Executive Director and their staff. All members of the Regulatory Authority shall be restricted from gaming in a gaming operation, which is subject to this Ordinance. The Tribal Council may require each member of the Gaming Commission and the Executive Director to be bonded. The Tribal Council retains the right to audit the Regulatory Authority.

**58-03-02 Qualification and Restrictions.**

To be considered qualified for appointment as a Gaming Commission member or as the Executive Director, the potential appointee may not be a Tribal Council member, tribal executive, or district officer, nor be engaged in any gambling related business or employed by a tribal gaming operation. No member of the Regulatory Authority, including its staff, shall have been convicted of a felony within 10 years prior to taking office, or convicted of any charge involving theft, fraud or gambling.

**58-03-03 Selection and Composition of the Regulatory Authority.**

The Tribal Council shall appoint the Executive Director and the members of the Gaming Commission. Appointment to the Regulatory Authority does not vest any rights in the appointee. To determine the qualification and suitability of each appointee to serve on the Regulatory

Authority, the potential appointee must successfully complete a background investigation, which is as stringent as that required of a primary management official.

**58-03-04 Other Regulatory Authority Employees.**

The Tribal Council delegates to the Executive Director and the members of the Gaming Commission the power to hire and terminate its own staff. All potential employees must successfully complete a background investigation, which is as stringent as that required of a key employee, prior to working for the Regulatory Authority. The Tribal Council retains the authority to terminate any Regulatory Authority employee for cause.

**58-03-05 Terms and Vacancies.**

Members of the Gaming Commission shall serve a four year term. The Tribal Council may stagger the terms to avoid simultaneous turnover. Upon completion of a term, the Tribal Council may re-appoint such member or appoint a new person. If a member of the Gaming Commission or the Executive Director should die, resign, or be removed, the Tribal Council shall appoint another qualified person to fill the position, provided that the potential appointee successfully completes a background investigation, which is as stringent as that required of a primary management official.

**58-03-06 Removal Procedure.**

The Tribal Council may suspend a member of the Gaming Commission for "cause," as that term is defined below. Within twenty-four hours of such a suspension, the Tribal Council shall provide written notice to the suspended member of the Gaming Commission, which sets forth the reason(s) supporting suspension. Within fifteen days the Tribal Council shall hold a hearing to determine whether the charges serving as the basis for suspension are substantiated, and whether the person should be removed. At the hearing, the Tribal Council shall consider evidence supporting the charges and any evidence offered by the suspended member of the Gaming Commission. The suspended member shall have the opportunity to present evidence, question witnesses and cross-examine adverse witnesses. If the Tribal Council determines the charges are supported by the evidence, the Tribal Council may remove the member of the Gaming Commission.

Cause for removal shall consist of: (1) any gross, Class 1, or Class A misdemeanor or felony conviction, or the discovery of any previous gross, Class 1, or Class A misdemeanor or felony conviction not disclosed at the time of employment; (2) any criminal act involving Tribe funds; (3) misconduct, nonfeasance or negligence during the performance of duties; (4) failure to comply with any tribal gaming law, rule, regulation, Compact requirement, federal law requirement, policy, or direction as may be established from time to time by the Tribal Council; (5) unethical conduct, including, without limitation, self dealing; (6) misconduct that harms the business reputation of Tribe, its services or product; (7) commission of any act of fraud or

dishonesty; or (8) unexcused failure to attend at least three consecutive Commission meetings. A Regulatory Authority member who complies with the provisions of this Ordinance shall not be removed during their term.

**58-03-07 Conflict of Interest and Gift Prohibition.**

No member of the Regulatory Authority or their immediate family may have any financial interest in any business or enterprise providing any gaming equipment, goods or services to a gaming operation or its licensees. Such a financial interest does not include the financial interest resulting solely from their status as a tribal member. No member of the Regulatory Authority may accept any gift or thing of value from a distributor, contractor, vendor or any person providing any gaming equipment, goods or services to a gaming operation or its licensees.

**58-03-08 Powers and Duties of the Regulatory Authority.**

The Regulatory Authority shall have the authority to regulate this Ordinance and to regulate all gambling operations, licensees and applicants governed by this Ordinance. The Regulatory Authority shall have the following specific powers and duties:

- A. To receive, investigate and process all license applications related to the conduct of Class II and Class III gaming activities on lands within the jurisdiction of the Sisseton-Wahpeton Oyate. To conduct the requisite background check. To issue licenses to all qualified gaming operations, persons and distributors who are required to be licensed by this Ordinance. To notify the NIGC that a license has been issued, when required by this Ordinance or federal law;
- B. To limit, condition, suspend, restrict, or revoke any license it may issue and assess fines for violations of this Ordinance or the rules or regulations promulgated by the Regulatory Authority;
- C. To adopt reasonable standards consistent with the size and scope of the gaming operation, including games rules, security and surveillance operations, and the prize and wagering structure. Such standards shall be consistent with the provisions and requirement, if any, of the Sisseton-Wahpeton Gaming Compacts;
- D. To inspect all gaming equipment and supplies in a gaming operation, or stored outside of a gaming operation, which will be used or may have been used in the gaming operation;
- E. To seize, remove and impound equipment and supplies from a gaming operation for the purpose of examination, inspection, evidence, or forfeiture, provided that the Regulatory Authority has reasonable cause to believe that a gaming violation has occurred and that such property is securely held pending a hearing and final determination;

- F. To enter, inspect and examine the gaming operation or licensee's work area to determine compliance with this Ordinance. Provided that the gaming operation or licensee maintains the right to have security personnel accompany the Regulatory Authority for the purpose of witnessing and facilitating such access;
- G. To carry out the audit provisions of Section 58-01-14 of this Ordinance and to select the auditor for such purposes;
- H. To access, inspect, examine, copy and audit all papers, books, and records of applicants, licensees and gaming operations when necessary to enforce this Ordinance;
- I. To require verification of a gaming operation's daily gross revenues and income of any gaming activity;
- J. To seize and impound any patron's winnings, provided the Regulatory Authority has reason to believe such winnings were obtained in violation of this Ordinance or any other applicable law. Such winnings shall be securely held pending the outcome of a civil forfeiture hearing or a criminal proceeding;
- K. To investigate alleged violations of this Ordinance, the Regulatory Authority rules, regulations, orders, or final decisions, any Gaming Compact, and any other applicable laws, and to take appropriate disciplinary actions. Such disciplinary action may include license suspension and/or revocation, the imposition of civil fines against a gaming operation or any licensee, and/or institute appropriate legal action for enforcement;
- L. To hold hearings, and to require licensees or license applicants to appear and testify under oath regarding matters related to this Ordinance. To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent document;
- M. To consult with legal counsel as needed;
- N. To hear and consider a dispute between members of the gaming public and the Sisseton-Wahpeton Oyate with regard to gaming activities licensed under this Ordinance;
- O. To propose an annual budget for the Regulatory Authority to the Tribal Council, including salaries;
- P. To recommend to Tribal Council for approval a schedule of fines to guide the Regulatory Authority's discretion, which includes maximum fine limits;
- Q. The Commission shall adopt and publish such rules and regulations as may be necessary to carry out and assure compliance with the provisions of this Ordinance. Such rules and

regulations may include the responsibilities of the Sisseton-Wahpeton Oyate to comply with any applicable federal law and any Class III Gaming Compact. Such rules and regulations may also include any Tribal Minimum Internal Control Standards that meet the requirements established by the NIGC and/or the Gaming Compacts; the Regulatory Authority shall submit all proposed rules and regulations to the Sisseton-Wahpeton Oyate and all licensed gaming operations for comment at least 30 days prior to adoption. All regulations, standards and fine schedules must be approved by the Tribal Council prior to taking effect; and

- R. To take any other actions as may be reasonable and appropriate to enforce this Ordinance and the Regulatory Authority's rules and regulations.

**58-03-09 Violation.**

No person may violate the provisions of this Ordinance, any rules or regulations promulgated by the Regulatory Authority, an order or determination issued by the Regulatory Authority, the terms of a license, or the terms of any gaming compact. Any person or licensee guilty of such a violation may be subject to license suspension, limitation or revocation, a civil fine and/or any other sanction authorized by this Ordinance or the rules and regulations of the Regulatory Authority.

**58-03-10 Hearings.**

The Regulatory Authority shall afford a licensee or any person(s) subject to this Ordinance, the opportunity for a hearing prior to revoking, suspending, or limiting a license, or the imposition of any other sanctions or fines. Such a hearing shall be conducted according to procedures adopted by the Regulatory Authority.

**TITLE FOUR  
LICENSING**

**58-04-01 License Required for Gaming Operations and Distribution of Gaming Equipment.**

The gaming operation and all licensees shall be required to possess an appropriate and valid gaming license. Any gaming being conducted within the jurisdiction of the Sisseton-Wahpeton Oyate without the appropriate license is prohibited.

**58-04-02 Application Forms for Primary Management Officials and Key Employees.**

- A. The license application form for a primary management official or a key employee shall contain the following statement:

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 prosecution or when pursuant to a requirement by the Sisseton-Wahpeton Tribal Regulatory Authority 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 the Sisseton-Wahpeton Tribal Regulatory Authority or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Sisseton-Wahpeton Oyate 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.

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 in accordance with U.S. Code, Title 18, Section 1001.

- B. Any existing key employees or primary management officials who have not signed application forms with the Privacy Act notice or notice of false statements shall sign a statement that contains the Privacy Act and false statement notices, and consent to the routine uses described in those notices.

#### **58-04-03 Background Investigations.**

The Regulatory Authority will perform background investigations and issues licenses according to requirements at least as stringent as those established by the NIGC. In conducting a background investigation, the Regulatory Authority shall keep confidential the identity of each person interviewed in the course of the investigation. The Regulatory Authority shall conduct an investigation sufficient to make an eligibility determination. The Regulatory Authority shall request the following information from each primary management official and from each key employee:

- A. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);



- B. Currently and for the five previous years: business and employment positions held, ownership interests in those businesses and residence addresses and driver's license numbers;
- C. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the Applicant during each period of residence listed in paragraph B above;
- D. Current telephone numbers for business and residence;
- E. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- F. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- G. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- H. For each felony for which there is any ongoing prosecution or a conviction, the charge, the name and address of the court involved and the date and disposition;
- I. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- J. For each criminal charge (excluding minor traffic violations), whether or not there is a conviction, if such criminal charge is within ten years of the date of the application, and is not otherwise listed pursuant to paragraph H and I above, the criminal charge, the name and address of the court involved and the date and disposition;
- K. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- L. A current photograph;
- M. Any other information the Regulatory Authority deems relevant; and
- N. The Regulatory Authority shall conduct a criminal history check of the state and local records, as well as records and information maintained by the Federal Bureau of Investigation. The Regulatory Authority may take an applicant's fingerprints provided its

designated official has received adequate training from the Sisseton-Wahpeton Tribal Police or the County or State law enforcement agency.

**58-04-04 Eligibility Determination.**

The Regulatory Authority shall review a person's prior activities, any criminal record, and reputation, habits and associations in order to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. The Regulatory Authority will interview a sufficient number of knowledgeable people, such as former employers and personal references of the applicant, to provide a basis for making an eligibility determination. The Regulatory Authority will document all potential problem areas noted and disqualifying information. If the Regulatory Authority determines the 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, such person shall not be employed in a key employee or primary management official position.

**58-04-05 Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the NIGC.**

When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Regulatory Authority shall forward to the NIGC a completed application for employment and conduct the background investigation and make the eligibility determination. The Regulatory Authority shall forward background investigation reports to the NIGC within 60 days after an employee begins work. 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.

**58-04-06. Report to the National Indian Gaming Commission.**

A. The Regulatory Authority shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. The Regulatory Authority shall submit, with the report, a copy of the eligibility determination made in accordance with this Ordinance. An investigative report shall include all of the following:

1. Steps taken in conducting a background investigation;
2. Results obtained;
3. Conclusions reached; and
4. The basis for those conclusions.

B. If a license is not issued to an applicant, the Regulatory Authority shall notify the NIGC and may forward copies of its eligibility determination and investigative report to the NIGC for inclusion into the Indian Gaming Individuals Records System. The Regulatory Authority shall retain key employee and primary management official applications for employment and any background investigation reports for inspection by the Chairman of the NIGC, the Chairman's designee, for no less than three years from the date of termination of employment.

**58-04-07 Granting a Gaming License.**

A. If, within a thirty day period after the NIGC receives a report, the NIGC notifies the Regulatory Authority 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 Regulatory Authority has provided an application and investigative report to the NIGC, the Regulatory Authority may issue a license to the applicant.

B. The Regulatory Authority 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 (A) of this section, until the Chairman of the NIGC receives the additional information.

C. If, within the thirty (30) day period described above, the NIGC provides the Regulatory Authority with a statement itemizing objections to the issuance of a license to a key employee or primary management official for whom the Regulatory Authority has provided an application and investigative report to the NIGC, the Regulatory Authority shall reconsider the application, taking into account the objections itemized by the NIGC. The Regulatory Authority shall make the final decision whether to issue a license to such applicant.

**58-04-08 License Suspension.**

If, after the issuance of a gaming license, the Regulatory Authority receives reliable information through their own investigations or from the NIGC that indicates that a key employee or a primary management official is not eligible for employment under this Ordinance, the Regulatory Authority shall notify the licensee and the affected gaming operation in writing. The Regulatory Authority shall notify the licensee of the time and the place for any hearing on the proposed revocation of the employee's license, as provided in Section 58-03-10 of this Ordinance. After a revocation hearing, the Regulatory Authority shall decide to revoke or to reinstate a gaming license. The Regulatory Authority shall notify the NIGC in writing of its decision.

**58-04-09 Emergency Action, Suspension Without Hearing.**

To respond to, or avoid an emergency, the Regulatory Authority may temporarily suspend a license for up to fifteen days without a hearing when such extraordinary action is essential to protect the public safety or the integrity of gaming conducted on the Lake Traverse Reservation. The Regulatory Authority may extend such a temporary suspension for an additional seven days.

**58-04-10 License Required For Distributors of Gaming Equipment.**

Any person, organization or entity wishing to sell, lease or otherwise distribute gaming equipment must first apply for and obtain a license from the Regulatory Authority. Such person, organization, or entity selling, leasing, or otherwise distributing gambling equipment to the Sisseton-Wahpeton Oyate shall be required to possess and display, or display upon request, an appropriate and valid gaming license. The form of the application and the license fees shall be established by the Regulatory Authority.

**58-04-11 Reimbursement for Costs of License Investigations.**

Any applicant for a license under this Ordinance shall pay the Regulatory Authority a reasonable license fee at the time of application. If additional extraordinary investigation is necessary to determine whether the applicant is properly qualified for a license, the Regulatory Authority may require an additional fee, not to exceed the amount of the original fee.

**58-04-12 Fraud on Application.**

It shall be unlawful for any applicant to provide false information to the Regulatory Authority when applying for a license. The penalty for providing false information is revocation of the license and cost reimbursement.

**58-04-13 License as a Revocable Privilege.**

Every gaming license is a revocable privilege, and no license holder shall be deemed to have a vested interest in the license. The burden of proving qualifications to hold any license rests at all times on the applicant or licensee. Acceptance of a license constitutes agreement on the part of the licensee to be bound by this Ordinance, the rules and regulations and any order or determination of the Regulatory Authority. It is the responsibility of the licensee to be informed of the contents of this Ordinance, the rules and regulations and any order or determination of the Regulatory Authority. Ignorance of such laws, rules, regulations, orders or determination will not excuse any violation.