

NATIONAL  
INDIAN  
GAMING  
COMMISSION

FEB - 3 1995

Russell Hawkins, Tribal Chairman  
Sisseton-Wahpeton Sioux Tribe  
Lake Traverse Reservation  
P.O. Box 509  
Agency Village, South Dakota 57262

Dear Chairman Hawkins:

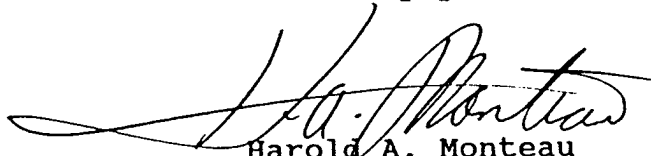
This letter responds to your request to review and approve the tribal gaming ordinance submitted on November 10, 1994, for the Sisseton-Wahpeton Sioux Tribe (the Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances 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 tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

With the Chairman's approval of the Tribe's gaming ordinance, 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 ordinance of the Sisseton-Wahpeton Sioux Tribe 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

# **Sisseton-Wahpeton Sioux Tribe**

## **Lake Traverse Reservation**

**P. O. Box 509**

**Agency Village, South Dakota 57262**

**Phone (605) 698-3911**

### **Tribal Council Resolution No. SWST-94-207**

**WHEREAS,** the Sisseton-Wahpeton Sioux Tribe also known as the Sisseton-Wahpeton Dakota Nation of the Lake Traverse Reservation is organized under a Constitution and Bylaws adopted by the members of the Sisseton-Wahpeton Sioux Tribe also known as the Sisseton-Wahpeton Dakota Nation 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 Tribe shall be governed by the Tribal Council, and at ARTICLE VII, Section 1, that the Tribal Council shall have the power to (a) represent the Tribe in all negotiations with Federal, State and local governments; (b) authorizes the Tribal Council to acquire real property on behalf of the Tribe; (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 any action 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,** the Indian Gaming Regulatory Act of 1988, 25 U.S.C. § 2701 et seq. requires that Indian tribes may engage in or license and regulate class II and class III gaming activities, as those terms are defined in the Act, provided that the governing body of the Tribe adopt an Ordinance providing for the regulation of class II and class III gaming activities in accordance with the Act;

**WHEREAS,** on September 4, 1990, the Tribal Council enacted the Sisseton-Wahpeton Sioux Tribe (also known as the Sisseton-Wahpeton Dakota Nation) Gaming Ordinance as Chapter 58 of the Sisseton-Wahpeton Sioux (also known as the Sisseton-Wahpeton Dakota Nation) Tribal Code;

**WHEREAS,** the Tribal Council has determined it is necessary to amend and revise the Sisseton-Wahpeton Sioux Tribe (also known as the Sisseton-Wahpeton Dakota Nation) Gaming Ordinance;

**NOW THEREFORE BE IT RESOLVED,** that the Tribal Council hereby approves, adopts and enacts the Sisseton-Wahpeton Sioux (also known as the Sisseton-Wahpeton Dakota Nation) Tribal Gaming Ordinance, as amended, to be added to the Tribal Code as Chapter 58.

**BE IT FURTHER RESOLVED,** that the Sisseton-Wahpeton Sioux (also known as the Sisseton-Wahpeton Dakota Nation) Tribal Gaming ordinance shall become effective immediately, as of November 8, 1994, in accordance with the terms and provisions herein, and shall govern all gaming activities now and hereafter conducted on lands owned, presently and in the future, by the Tribe or land owned by the United States on behalf of the Tribe and within the Tribe's jurisdiction.

**BE IT FURTHER RESOLVED,** that the Sisseton-Wahpeton Sioux (also known as the Sisseton-Wahpeton Dakota Nation) Tribal Gaming Ordinance adopted on September 4, 1990, is hereby repealed, together with any other law relating to gaming which conflicts with or is inconsistent with the amended Sisseton-Wahpeton Sioux (also known as the Sisseton-Wahpeton Dakota Nation) Tribal Gaming Ordinance, and in all cases of conflict, the amended Ordinance herein enacted shall be controlling.

**BE IT FURTHER RESOLVED,** that the Tribe submits the Sisseton-Wahpeton Sioux (also known as the Sisseton-Wahpeton Dakota Nation) Tribal Gaming Ordinance, as amended, to the National Indian Gaming Commission and requests immediate review and approval of the amended Sisseton-Wahpeton Sioux (also known as the Sisseton-Wahpeton Dakota Nation) Tribal Gaming Ordinance and the Tribal Council directs the Tribal Chairman and Tribal Attorney Bertram Hirsch to effect the submission of the Sisseton-Wahpeton Sioux (also known as the Sisseton-Wahpeton Dakota Nation) Tribal Gaming Ordinance to the National Indian Gaming Commission.



**CERTIFICATION**

We, the undersigned duly appointed Chairman and appointed Secretary of the Sisseton-Wahpeton Sioux Tribal Council also known as the Sisseton-Wahpeton Dakota Nation do hereby certify that the above resolution was duly adopted by the Sisseton-Wahpeton Sioux Tribal Council also known as the Sisseton-Wahpeton Dakota Nation, which is composed of 18 members, of whom 18 members, constituting a quorum, were present at a Sisseton-Wahpeton Sioux Tribal Council also known as the Sisseton-Wahpeton Dakota Nation meeting duly noticed, called, convened and held at the Tiwakan Tio Tipi, Agency Village, South Dakota on November 8, 1994, by a vote of 17 for, 0 opposed, 0 abstained, 0 absent from vote, 1 not voting, and that said resolution has not been rescinded or amended in any way.

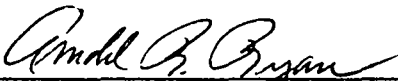
Dated this 8th day of November, 1994.



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Elden Lawrence, Tribal Secretary  
Sisseton-Wahpeton Sioux Tribe also known  
as Sisseton-Wahpeton Dakota Nation

ATTEST:



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Arnold R. Ryan Tribal Chairman  
Sisseton-Wahpeton Sioux Tribal also known  
as Sisseton-Wahpeton Dakota Nation



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 Amendment  
 New Adoption  
 Judicial Approved  
03-30-90  
 Council Adopted  
09-04-90

**TABLE OF CONTENTS**  
**SISSETON-WAHPETON SIOUX TRIBE**  
**CHAPTER 58**  
**TRIBAL GAMING ORDINANCE**

**SUBCHAPTER 1**  
**GENERAL PROVISIONS**

		<i>Page</i>
58-01-01	Title .....	58-1
58-02-01	Policy and intent .....	58-1
58-03-01	Authorization of gaming .....	58-1
58-04-01	Civil jurisdiction; patron dispute resolution .....	58-1
58-05-01	Definitions .....	58-2
58-06-01	Gaming activity ownership .....	58-9
58-07-01	Allocation of gaming net revenues .....	58-9
58-08-01	Gaming facility construction and maintenance; National Environmental Policy Act compliance .....	58-10
58-09-01	Withholding tax on winnings .....	58-10
58-10-01	Federal law and Tribe-State compact compliance .....	58-10
58-11-01	Agent for service .....	58-11
58-12-01	Fees and fines assessed and collected by Commission .....	58-11

S.W.S.T. CODE  
 Amendment  
 New Adoption  
 Judicial Approved  
11-07-94  
 Council Adopted  
11-08-94

**SUBCHAPTER 2  
GAMING COMMISSION**

58-13-01 Commission establishment . . . . . 58-12

58-14-01 Commission membership eligibility; Commissioner and  
Commission employee prohibited activities . . . . . 58-12

58-15-01 Membership investigation . . . . . 58-14

58-16-01 Suspension and removal of Commission members . . . . . 58-14

58-17-01 Vacancies . . . . . 58-15

58-18-01 Bonding . . . . . 58-15

58-19-01 Powers of Commission; authority to regulate . . . . . 58-15

58-20-01 Monthly Commission reports . . . . . 58-21

58-21-01 Duties of the Commission Chairperson, Members of  
Commission . . . . . 58-21

58-22-01 Employee, agent, contractor employment records . . . . . 58-21

58-23-01 Commission records . . . . . 58-22

58-24-01 Commission rules and regulations . . . . . 58-22

58-25-01 Public availability of other information . . . . . 58-23

58-26-01 Methods of service . . . . . 58-23

58-27-01 License hearings . . . . . 58-24

58-28-01 Show cause hearing . . . . . 58-25

58-29-01 Commission determination . . . . . 58-25

58-30-01 Written determination provided . . . . . 58-26

58-31-01 Violation hearings . . . . . 58-27

58-32-01 Right of appeal . . . . . 58-27

Amendment  
 New Adoption  
 Judicial Approved  
11-07-94  
 Council Adopted  
11-08-94

**SUBCHAPTER 3  
LICENSING**

58-33-01	Licensing of gaming operations . . . . .	58-28
58-34-01	Licensing employees, agents, contractors . . . . .	58-28
58-35-01	Management, security, and accounting personnel . . . . .	58-30
58-36-01	Gambling equipment distributors . . . . .	58-31
58-37-01	Minimum standards for inspection and approval of gambling devices and other gaming equipment . . . . .	58-32
58-38-01	License eligibility requirements . . . . .	58-34
58-39-01	Temporary employment without a license . . . . .	58-36
58-40-01	License application requirements . . . . .	58-37
58-41-01	Licensing of distributors and manufacturers; management contractor ineligible; suspension; revocation . . . . .	58-44
58-42-01	Gambling equipment and games acquisition; distributor's notice	58-44
58-43-01	Privacy Act and false statements notices . . . . .	58-45
58-44-01	License application fees . . . . .	58-46
58-45-01	Commission background investigation; federal notification of results; waiver of background investigation . . . . .	58-47
58-46-01	Classes of licenses and fees . . . . .	58-48
58-47-01	Exemptions for non-public gaming operations . . . . .	58-50
58-48-01	Operation license display and content . . . . .	58-51
58-49-01	License certificate display and content . . . . .	58-51
58-50-01	Corrected licenses . . . . .	58-52
58-51-01	License wear and content . . . . .	58-52

S.W.S.T. Code  
 Amendment  
 New Adoption  
 Judicial Approved  
11-07-94  
 Council Adopted  
11-08-94

58-52-01	Legal effect of licensure . . . . .	58-53
58-53-01	Licensee consent to search . . . . .	58-53
58-54-01	License non-transferable . . . . .	58-53
58-55-01	License as revocable privilege . . . . .	58-54
58-56-01	Notice to National Indian Gaming Commission of license issuance or non-issuance; transmittal of primary management official and key employee license application to National Indian Gaming Commission . . . . .	58-54

**SUBCHAPTER 4  
MANAGEMENT CONTRACTS**

58-57-01	Management contract contents; approval . . . . .	58-55
58-58-01	Management contract disapproval; termination . . . . .	58-59
58-59-01	Management contractor application and records . . . . .	58-62
58-60-01	Management contractor bond . . . . .	58-64

**SUBCHAPTER 5  
AUDITING AND ACCOUNTING**

58-61-01	Auditing by the Commission . . . . .	58-65
58-62-01	Accounting requirements . . . . .	58-66
58-63-01	Independent audits of gaming operation . . . . .	58-66
58-64-01	Accounting records . . . . .	58-67
58-65-01	Retention of audit and accounting records and gaming operation records . . . . .	58-69
58-66-01	Gaming operations reports . . . . .	58-69
58-67-01	Retention of enforcement action records . . . . .	58-70

X  
 New Adoption  
 Judicial Approved  
11-07-94  
 Council Adopted  
11-08-94



**SUBCHAPTER 6  
INTERNAL CONTROLS**

58-68-01 Internal control systems . . . . . 58-71

58-69-01 Computer recording requirements and monitoring of slot  
machines or video games of chance . . . . . 58-72

58-70-01 Security and surveillance procedures . . . . . 58-73

58-71-01 Games and game rules; approval and posting . . . . . 58-73

**SUBCHAPTER 7  
UNLAWFUL AND PROHIBITED ACTIVITIES**

58-72-01 Unlawful and prohibited activities . . . . . 58-74

58-73-01 Wagering by minors prohibited . . . . . 58-77

58-74-01 Gambling on credit unlawful; licensee loans unlawful . . . . . 58-77

58-75-01 Possession of firearms and dangerous weapons prohibited . . . 58-78

58-76-01 Alcohol prohibited; exception . . . . . 58-78

58-77-01 Penalties and fines . . . . . 58-79

58-78-01 Forfeiture of property . . . . . 58-80

**SUBCHAPTER 8  
IMPLEMENTATION**

58-79-01 Implementation . . . . . 58-83

58-80-01 Severability . . . . . 58-83

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
08-30-90  
Council Adopted  
09-04-90

**SISSETON-WAHPETON SIOUX TRIBE  
CHAPTER 58  
TRIBAL GAMING ORDINANCE**

**Subchapter 1  
General Provisions**

- 58-01-01** Title. This Ordinance shall be known and may be commonly cited as the Sisseton-Wahpeton Sioux Tribal Gaming Ordinance.
- 58-02-01** Policy and intent.
- 58-02-02** The purpose of this Ordinance is to regulate of class II and class III gaming activities conducted on Indian lands of the Sisseton-Wahpeton Sioux Tribe in order to generate revenue for the operation of tribal government programs and services, promote tribal self-sufficiency and economic development, shield the operation of gaming from organized crime and other corrupting influences, and assure that gaming is conducted fairly and honestly by both the operator and players. This Ordinance, as amended, shall supersede any prior gaming ordinance and, in accordance with the requirements of the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*, shall govern gaming activities of the Tribe in by the State of South Dakota and the State of North Dakota.
- 58-03-01** Authorization of gaming.
- 58-03-02** The Sisseton-Wahpeton Sioux Tribe hereby authorizes class I, class II, and class III gaming activities, as defined in and in accordance with this Ordinance, on Indian land within the jurisdiction of the Sisseton-Wahpeton Sioux Tribe.
- 58-04-01** Civil jurisdiction; patron dispute resolution.
- 58-04-02** The Tribe shall exercise civil jurisdiction over all civil matters involving players of authorized class II or class III gaming, licensees, and other persons and entities and that involve the transaction of any business or the commission of tortious acts on or within Indian land or on or within any other property related to class II or class III gaming on Indian land or that involve a contract, wherever entered into, to supply goods or services on or within such property. The Tribe shall also exercise civil jurisdiction over any person who commits a tortious act outside of Indian land provided that such person regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 1**  
**General Provisions**

or services rendered on Indian land, or expects or should reasonably expect the act to have consequences on Indian land and derives substantial revenue from interstate or international commerce or from commerce with the Tribe.

**58-04-03** The Commission or any class II or class III gaming operation manager of the Tribe may require any person or entity licensed pursuant to this Ordinance or any other person or entity employed by or doing business with the Tribe's gaming operations as a patron or otherwise to contractually or otherwise agree, as a condition of employment or of doing business with the Tribe's gaming operations, that the Tribe shall have exclusive jurisdiction to determine any civil matter within the civil jurisdiction of the Tribe conferred by Section 58-04-02. The absence of any such agreement shall not affect, limit or diminish the Tribe's civil jurisdiction over any person or entity.

**58-04-04** A licensed gaming operation or management contractor shall seek to immediately resolve any dispute between any member of the gaming public and the gaming operation. Any patron who is dissatisfied with the dispute resolution proposed by a gaming operation or management contractor may present such dispute for final resolution either to:

1. The Tribe's courts; or
2. The Commission acting within the regulatory jurisdiction conferred upon it under this Ordinance; or
3. An impartial mediator designated by the Tribal Council; or
4. An impartial arbitrator designated by the Tribal Council.

The Commission shall present to the Tribal Council a summary report of gaming dispute cases. Nothing in this Section shall prohibit the Tribe, in a management contract, from adopting a different and alternative procedure for resolving such disputes.

**58-05-01** **Definitions.** For the purpose of this Ordinance the following will apply to the terms used.

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11-07-94

Council Adopted

11-08-94

**Chapter 58**  
**Subchapter 1**  
**General Provisions**

- 58-05-02** The term "Commission" means the Sisseton-Wahpeton Sioux Tribal Gaming Commission.
- 58-05-03** The term "class I gaming" means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations and includes any games defined in 25 C.F.R. § 502.2.
- 58-05-04** The term "class II gaming" means the game of chance defined in 25 C.F.R. § 502.3 and commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith):
1. which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,
  2. in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and
  3. in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including, if played in the same location, pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and
- 58-05-05** The term "class II card games" means those card games that:
1. are known as blackjack (21) only when played in the State of South Dakota and poker, but only if such card games are played in conformity with 25 U.S.C. § 2703(7)(C), or,
  2. are not prohibited as a matter of criminal law by the States of South Dakota or North Dakota and are legally played at any location in the State of South Dakota or the State of North Dakota, or,
  3. are explicitly authorized by the laws of the States of South Dakota or North Dakota, and,

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 1**  
**General Provisions**

4. unless otherwise authorized pursuant to 25 U.S.C. § 2703(7)(C), are played in conformity with those laws and regulations, if any, of the State of South Dakota or the State of North Dakota regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such game cards.

**58-05-06** Except for blackjack (21) when played in the State of South Dakota, the term "class II gaming" does not include:

1. any banking card games, including baccarat, chemin de fer, or,
2. electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

**58-05-07** The term "class III gaming" means all forms of gaming that are not class I or class II gaming or class II card games and that are defined in 25 C.F.R. § 502.4. This term includes, but is not limited to, gambling devices, dice games, wheel games, card games, pari-mutuel wagering on horses and dogs, lotteries, sports betting pools, and sports betting, including parlay cards.

**58-05-08** The term "distributor" means 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 gambling games pursuant to this Ordinance, to a licensee authorized to conduct gambling games pursuant to this Ordinance.

**58-05-09** The term "gambling device" means:

1. Any so-called "slot machine," "progressive slot machine," or any machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and
  - a. which when operated may deliver, as the result of the application of an element of chance, any money or property, or

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Amendment

New Adoption

Judicial Approved

11-07-94

Council Adopted

11-08-94

**Chapter 58**  
**Subchapter 1**  
**General Provisions**

- b. by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or
- 2. Any other machine or mechanical device (which includes but is not limited to, roulette wheels and similar devices) designed and manufactured primarily for use in connection with gambling, and
  - a. which when operated may deliver, as the result of the application of an element of chance, any money or property, or
  - b. by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;
- 3. Any video game of chance;
- 4. Any subassembly or essential part intended to be used in connection with any such machine or mechanical device, but which is not attached to any such machine or mechanical device as a constituent part.

**58-05-10** The term "gross revenues" means the total sums collected and, when applicable, shall include the total sums collected from non-gambling sales made on the premises of or in connection with the Tribe's gaming operations.

**58-05-11** The term "Indian land" means:

- 1. All lands of the Sisseton-Wahpeton Sioux Tribe as may have Indian reservation status under federal law;
- 2. All lands title to which is held in trust by the United States for the benefit of the Sisseton-Wahpeton Sioux Tribe or any other member of the Tribe and over which the Sisseton-Wahpeton Sioux Tribe exercises governmental power;

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Amendment

New Adoption

Judicial Approved

11-07-94

Council Adopted

11-08-94

**Chapter 58**  
**Subchapter 1**  
**General Provisions**

3. All lands held by the Sisseton-Wahpeton Sioux Tribe or any member of the Tribe subject to a restriction by the United States against alienation and over which the Sisseton-Wahpeton Sioux Tribe exercises governmental power; and
4. All lands which may be acquired by the Sisseton-Wahpeton Sioux Tribe in the future which meet the requirements, if applicable, of 25 U.S.C. § 2719.

**58-05-12** The term "key employee" means any person employed in a supervisory capacity within a gaming operation who is empowered to make discretionary decisions with regard to the gaming operation. Key employees include but are not limited to:

1. Gaming facility managers and assistant managers, bingo callers, counting room supervisors, cashier supervisors, security supervisors, surveillance supervisors, custodians of gaming supplies or cash, floor managers, pit bosses, dealers, croupiers, approvers of credit, and custodians of gambling devices, including persons with access to cash and accounting records within such devices.
2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
3. If not otherwise included, the four most highly compensated persons in the gaming operation.

**58-05-13** The term "lottery" means a game for which chances are sold, the winning chance or chances being secretly predetermined or later selected in a chance drawing and in which the holders of winning chances receive money or something of value. The term "chance drawing" includes the identification of winning numbers or symbols by a mechanical, electronic or electromechanical device which makes the selection in a random manner. The term "lottery" includes keno and the types of lottery games actually being conducted by the States of South Dakota and North Dakota unless the game is by definition a video game of chance or a slot machine.

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11-07-94  
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11-08-94

Chapter 58  
Subchapter 1  
General Provisions

- 58-05-14** The term "management contract" means any contract, subcontract, or collateral agreement between the Tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.
- 58-05-15** The term "management contractor" means any person, partnership, corporation or other entity which is engaged by the Tribe to act as the Tribe's agent in the operation of gaming activities pursuant to a contract or agreement executed by such person, partnership, corporation or other entity and the Tribe and approved pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*
- 58-05-16** The term "manufacturer" means a person or entity that designs, assembles, fabricates, produces, constructs, or who otherwise prepares a product or a component part of a product of any device, equipment, or implement of gambling usable in and necessary to the play of gambling games pursuant to this Ordinance.
- 58-05-17** The term "pari-mutuel" means a betting system in which all persons who bet share in an established prize pool of similar bets.
- 58-05-18** The term "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.
- 58-05-19** The term "person having management responsibility for a management contract" means the person designated by the management contract as having management responsibility for the gaming operation, or a portion thereof.
- 58-05-20** The term "primary management official" means:
1. The person having management responsibility for a management contract; or
  2. Any person appointed or elected to a Gaming Board or other Management Board who has management authority with respect to a tribal gaming operation.

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11-07-94  
Council Adopted  
11-08-94



**Chapter 58**  
**Subchapter 1**  
**General Provisions**

3. Any person or entity which sets up the working policy for a gaming operation or which approves or disapproves the working policy or specific decisions of a gaming operation's general manager or who has authority to hire and fire employees.
4. Any person or entity authorized to obligate funds from any tribal gaming operation for operating expenses or make allocations of net revenues on behalf of the Tribe.
5. A chief financial officer or other person who has financial management responsibility.
6. Any other person defined as a primary management official in 25 C.F.R. § 502.19.

- 58-05-21** The term "progressive slot machine" means a slot machine or bank of slot machines with a payoff which increases as the slot machine is played.
- 58-05-22** The term "slot machine" means a mechanical or electronic gaming device into which a player deposits coins or tokens and from which certain numbers of coins are paid out when a particular, random configuration of symbols appears on the reels or screen of the device.
- 58-05-23** The term "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.
- 58-05-24** The term "sports betting pool" means a game in which numbers are randomly selected by 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.
- 58-05-25** The term "Tribe" means the Sisseton-Wahpeton Sioux Tribe, also known as the Sisseton-Wahpeton Dakota Nation.

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Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 1**  
**General Provisions**

- 58-05-26** The term "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, pulltabs, or other electronic or electromechanical facsimiles of any game of chance 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.
- 58-06-01** Gaming activity ownership.
- 58-06-02** The Tribe shall have the sole proprietary interest in and the sole responsibility for the conduct of any of the Tribe's gaming operations on Indian lands. Unless otherwise specified in a management contract entered into by the Tribe, the Tribe shall have the sole control over any bank accounts holding any financial assets related to the Tribe's gaming operations.
- 58-07-01** Allocation of gaming net revenues.
- 58-07-02** The net revenues from any gaming operations conducted by the Tribe pursuant to this Ordinance shall be allocated only to:
1. fund tribal government operations or programs;
  2. provide for the general welfare of the Tribe and its members;
  3. promote tribal economic development;
  4. donate to charitable organizations; or
  5. help fund operations of local government agencies.
- 58-07-03** Nothing in Section 58-07-02 shall prohibit the Tribe from entering into a management contract providing for a fee, as authorized under 25 U.S.C. § 2711(c)(1) and (2), based on a percentage of the net revenues.

W.S.T. CODE

Amendment

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**Chapter 58**  
**Subchapter 1**  
**General Provisions**

- 58-08-01** Gaming facility construction and maintenance; National Environmental Policy Act compliance.
- 58-08-02** The construction and maintenance of any gaming facility, as well as the operation of any gaming by the Tribe, shall be conducted in a manner which adequately protects the environment and the public health and safety.
- 58-08-03** Whenever a management contract provides for the development and construction of gaming facilities, or parts thereof, any class II or class III gaming operation of the Tribe and any management contractor shall provide such readily available or obtainable environmental information as may be necessary to enable the National Indian Gaming Commission, or such other party as may be authorized by such Commission, to prepare any required environmental assessment or environmental impact statement, as the case may be.
- 58-09-01** Withholding tax on winnings.
- 58-09-02** All winnings received or prizes awarded by a licensed class II or class III gaming operation are Sisseton-Wahpeton Sioux Tribe earned income and are subject to Tribe and federal income tax laws. Any amount deducted from winnings, or from a cash prize awarded to an individual, for payment of a tribal tax shall be remitted to the Tribe on behalf of the individual who won the wager or prize.
- 58-10-01** Federal law and Tribe-State compact compliance.
- 58-10-02** Any provisions of this ordinance or of any rule or regulation issued pursuant thereto notwithstanding, the requirements of any applicable federal law or regulation or of any class III gaming compact between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota shall govern whenever there is an inconsistency between this Ordinance and any rule or regulation issued thereunder and such federal law or regulation or compact.

S. W. S. T. CODE

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Chapter 58  
Subchapter 1  
General Provisions

- 58-11-01** Agent for service.
- 58-11-02** Unless otherwise designated by resolution of the Tribal Council, the Chairman of the Tribe shall be the agent of the Tribe for service of any official determination, order, or notice of violation by the National Indian Gaming Commission.
- 58-12-01** Fees and fines assessed and collected by Commission.
- 58-12-02** Any and all fees and fines assessed and collected by the Commission pursuant to the authority provided for in this Ordinance shall be accounted for and, by the 15th day of each month for the preceding month, shall be remitted to the Treasurer of the Tribe for deposit into the Tribe's general treasury except as provided for in Sections 58-44-02, 58-44-03, and 58-44-04.

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Amendment

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**Chapter 58**  
**Subchapter 2**  
**Gaming Commission**

- 58-13-01**      **Commission establishment.**
- 58-13-02**      To carry out the purposes declared herein, there is hereby established the Sisseton-Wahpeton Sioux Tribal Gaming Commission. The Commission shall consist of three members of the Tribe, all of whom shall be appointed by the Tribal Council for a term as set by the Tribal Council at the time of appointment. The Tribal Council shall designate one of the three commissioners to be the Chairperson of the Commission. The Commission shall appoint its staff, after conducting interviews and providing license suitability notice to the Tribal Council, in accordance with the Commission's budget as approved by the Tribal Council and in accordance with the Tribe's employment policies.
- 58-14-01**      **Commission membership eligibility; Commissioner and Commission employee prohibited activities.**
- 58-14-02**      Commissioners may not hold other tribal positions. Tribal council members, tribal executives, or district officers shall not be eligible to serve on the Commission. Commissioners may not be engaged in any gambling related business.
- 58-14-03**      A background investigation shall be conducted, comparable to a primary management official background investigation, to determine the suitability of each Commissioner to serve on the Commission. Tribal Council appointment to the Commission shall be subject to such investigation. Commissioners may not gamble in an establishment licensed by the Commission and shall have no personal financial interest in any gambling by any patron other than the financial interest shared equally with all other members of the Tribe.
- 58-14-04**      A background investigation shall be conducted, comparable to a key employee background investigation, to determine the suitability for employment of each Commission employee. Commission employees shall have no personal financial interest in any gambling by any patron other than the financial interest shared equally with all other members of the Tribe. Commission employees may not gamble in an establishment licensed by the Commission unless Commission rules and regulations authorize such gambling.

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

Chapter 58  
Subchapter 2  
Gaming Commission

- 58-14-05** No member of the Commission or any Commission employee, directly or indirectly, individually, or as a member of a partnership or other association, or as a shareholder, director, or officer of a corporation shall have an interest in a business which contracts for the operation and management of the Tribe's gaming operations, or any marketing or supplying of equipment and materials in connection therewith.
- 58-14-06** No member of the Commission or any employee of the Commission or a member of their immediate family shall ask for, offer or accept, or receive a gift, gratuity, or other thing of value from a person or entity licensed under this Ordinance or from a person or entity contracting or seeking to contract with the Tribe's gaming operations for the operation and management of such operations or to supply gaming equipment or materials in connection therewith.
- 58-14-07** A person or entity licensed under this Ordinance or a person or entity contracting or seeking to contract with the Tribe's gaming operations for the operation and management of such enterprise or to supply gaming equipment or materials shall not offer a member of the Commission or any employee of the Commission or a member of their immediate family a gift, gratuity, or other thing of value.
- 58-14-08** As used in Sections 58-14-06 and 58-14-07, "member of their immediate family" means a parent, step-parent, parent-in-law, spouse, child, step-child, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, or grandchild of the Commissioner or employee.
- 58-14-09** A Commissioner who, after a hearing before the Tribal Council, is determined to have violated any provision of Section 58-14 shall be immediately removed from the office or position. An employee of the Commission who, after a hearing before the Commission, is determined to have violated any provision of Section 58-14 shall be immediately terminated from employment.
- 58-14-10** A violation of paragraphs 58-14-03 through 58-14-07 is a class one (1) misdemeanor.

W.S.T. CODE

Amendment

New Adoption

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11-07-94

Council Adopted

11-08-94

Chapter 58  
Subchapter 2  
Gaming Commission

**58-15-01**    **Membership investigation.**

**58-15-02**    Each proposed member of the Commission shall be required to agree that his or her name may be submitted by the Tribal Council to appropriate law enforcement officials in order to determine that the proposed member:

1.    Has not committed a felony or any gambling offense in any jurisdiction;
2.    Has no prior activities, reputation, habits, or associations affecting his present conduct which would:
  - a.    pose a threat to the public interest;
  - b.    threaten the effective regulation and control of gambling;  
or
  - c.    enhance the dangers of unsuitable, unfair, or illegal practices, methods or activities in the conduct of gambling.

Should the investigation reveal facts that indicate to the Tribal Council that the proposed Commission member is not eligible for appointment to the Commission under the standards established in Sections 58-14-02 through 58-14-07, the proposed member shall not be eligible to serve on the Commission. The Tribal Council vote on membership of Commission members shall be by resolution. There shall be no right of appeal to any court from a decision of the Tribal Council not to permit a proposed Commission member to serve on the Commission.

**58-16-01**    **Suspension and removal of Commission members.**

**58-16-02**    The Tribal Council may suspend Commission members for cause. "Cause" for the purpose of this Section shall include, but is not limited to, dereliction of duty, failure to follow a directive of the Tribal Council, misappropriation of funds, fraud, falsification of reports, conviction of a felony, conviction of a gaming offense in any jurisdiction or violation of this Ordinance or any of the rules and regulations promulgated thereunder.

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

Chapter 58  
Subchapter 2  
Gaming Commission

- 58-16-03** Upon suspension, the Tribal Council must immediately notify the accused Commission member in writing of the suspension and the reasons for the suspension. The Tribal Council shall hold a hearing on the charges not less than ten (10) nor more than twenty (20) days from the receipt of such notification by the Commission member. At the hearing, evidence supporting the charges shall be heard and the accused Commission member shall have the opportunity to examine witnesses and evidence and offer the same in defense.
- 58-16-04** Upon the conclusion of a suspension hearing, the Tribal Council shall determine whether the charges are supported by the evidence. If the Tribal Council determines that the charges are supported by the evidence, the Tribal Council will immediately remove the Commissioner.
- 58-17-01** Vacancies.
- 58-17-02** Should a Commission member die, resign, or be removed, the Tribal Council may appoint any other qualified person to fill the position, provided that any proposed appointee shall be subject to the qualification requirements of this Ordinance.
- 58-18-01** Bonding. Each Commissioner shall be bonded in the amount of \$50,000.00.
- 58-19-01** Powers of Commission; authority to regulate.
- 58-19-02** The Commission shall have the authority to enforce this Ordinance and to regulate all gambling operations governed by this Ordinance. 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 and the responsibilities of the Tribe under any applicable federal law and any class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota. In adopting, amending, or repealing any regulations, the Commission shall give public notice of the proposed action prior thereto pursuant to Section 58-24-03.

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94



**Chapter 58**  
**Subchapter 2**  
**Gaming Commission**

**58-19-03** The Commission shall have the following specific powers:

1. To receive and process all license applications related to the conduct of Class II and Class III gaming activities on lands within the jurisdiction of the Tribe, and issue licenses to all such gaming operations, persons, individuals, and distributors who are required to be licensed by this Ordinance and who qualify for such licensure, and, when required by federal law or regulation, to notify the National Indian Gaming Commission of the issuance of any license when so required by federal law or regulation;
2. To adopt standards for licensing the occupations within the Tribe's gaming operations;
3. To investigate gaming and non-gaming employee license applicants for gaming operations, determine the eligibility of applicants for a license, and issue gaming licenses to eligible applicants;
4. To review all contracts entered into by a gaming operation to:
  - a. determine whether the transaction documents are a contract; and
  - b. determine whether the contract is or is not related to gaming, and, if related to gaming, whether it is subject to the provisions of this Ordinance; and
  - c. determine whether the non-Tribal party to the contract must be licensed under the provisions of this Ordinance.

Nothing in this subparagraph shall prevent a gaming operation from engaging in transactions which might involve a gaming related contract under the provisions of this Ordinance, or the regulations promulgated hereunder, but it shall be the duty of the gaming operation to notify the Commission of such a transaction and request from the Commission a determination that the transaction involves a distributor or is otherwise a gaming related contract.

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 2**  
**Gaming Commission**

5. To investigate non-management gaming contractors and approve non-management gaming contractor licenses for any person or entity working in or for the Tribe's gaming operations who requires such a license;
6. To license any person, organization or entity selling, leasing, marketing or otherwise distributing gambling devices, equipment, games, or implements of gambling, to the Tribe's gaming operations;
7. To investigate and license any management contractors of the Tribe's gaming operations, or any ancillary contractors of any management contractor, who provide supplies, services, concessions or property to the Tribe's gaming operations or to any management contractor in connection therewith;
8. To limit, condition, suspend, restrict, or revoke any license it may issue and assess fines for violations of this Ordinance or of any rules or regulations promulgated by the Commission as provided for in this Chapter;
9. To adopt reasonable standards consonant with the size and scope of the gaming operation, including game rules, under which all gambling operations shall be held, including regulations concerning security and surveillance operations, and the prize and wagering structure in accordance with the applicable provisions, if any, of any class III gaming compact between the Tribe and the State of South Dakota and the Tribe and the State of North Dakota entered into pursuant to federal law;
10. To inspect and examine all premises wherein gaming is conducted or gambling devices or equipment are manufactured, sold or distributed;
11. To inspect all equipment and supplies in, upon, or about a gaming operation, or inspect any equipment or supplies, wherever located, which may or have been used in the gaming operation;

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58  
Subchapter 2  
Gaming Commission**

12. To summarily seize and remove from a gaming operation and impound equipment and supplies for the purpose of examination, inspection, evidence, or forfeiture in those instances where the Commission has reasonable cause to believe that a violation of this Ordinance has occurred and hold such property pending any final hearing determination of the appropriate disposition of such property;
13. To enter without restriction the offices, facilities, or other places of business of a licensee to determine compliance with this Ordinance provided that the licensee maintains the right to have any member of the Commission entering such locations accompanied by security personnel for the purpose of facilitating the unrestricted access of such member of the Commission;
14. To require, and cause to be conducted annually, outside independent audits of all gaming activity as required by the Indian Gaming Regulatory Act and submitting such audits to the National Indian Gaming Commission pursuant to 25 C.F.R. § 522.4 (b)(3); require, and cause to be conducted annually, outside audits of all contracts related to the conduct of gaming, with the exception of those contracts for professional legal and accounting services, whether those contracts be for supplies, services, or other subject matter which the Commission determines to be related to gaming, and which are for a contract amount in excess of \$25,000;
15. To access upon demand and inspect, examine, copy and audit all papers, books and records of applicants and licensees respecting any revenue or income produced by any gaming operation;
16. To require verification of the daily gross revenues and income of any class II and class III licensed gaming activity, and verification of all other matters affecting the enforcement of the public policy of or any of the provisions of this Ordinance in order to safeguard the integrity of tribal gaming operations;

S. W. S. T. CODE

Amendment

New Adoption

Judicial Approved

11-07-94

Council Adopted

11-08-94

**Chapter 58**  
**Subchapter 2**  
**Gaming Commission**

17. To seize and impound any patron's winnings which the Commission may have reason to believe may have been won or obtained in violation of this Ordinance or any other law pending a civil forfeiture hearing on such seizure and/or a criminal proceeding in connection therewith;
18. To formally suspend, revoke, and ensure the appropriate disposition of a license held by a licensee for a violation committed by a licensee, or an employee of the licensee, of this Ordinance or a Commission rule or regulation or for engaging in a fraudulent practice;
19. To investigate alleged violations of this Ordinance, the Commission rules, regulations, orders or final decisions, any class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota, and any other applicable laws, and to take appropriate disciplinary action, including the imposition of civil fines, against a licensee or any employee of a licensee for the violation, or institute appropriate legal action for enforcement, or both;
20. For the purpose of enforcing the provisions of this Ordinance, to exercise the powers of a peace officer of the Tribe except that members of the Commission and Commission employees have no authority to carry firearms in the performance of their official duties;
21. To hold hearings, and to require licensees or license applicants to appear and testify under oath regarding matters related to the enforcement of the provisions of this Ordinance, complaints received about matters within the purview of the Commission to address, actions by the Commission regarding licenses, or any other matters over which the Commission has authority;
22. To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent documents, and administer oaths and affirmations to the witnesses, when, in the judgment of the Commission, it is necessary to enforce this Ordinance or the rules and regulations of the Commission;

S. W. S. T. CODE

Amendment

New Adoption

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11-07-94

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11-08-94

**Chapter 58**  
**Subchapter 2**  
**Gaming Commission**

23. To assure that the payouts from the gambling games authorized under this Ordinance and the payout percentages for all slot machines and video lottery machines are in accordance with any applicable requirements of the compact between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota governing class III gaming on Indian lands of the Tribe. If there is no such applicable requirement in any compact entered into by the Tribe, the Commission shall adopt by rule maximum and minimum payout percentages subject to the approval of the Tribal Council;
24. Consistent with the terms of any management contract, to oversee and carry out necessary surveillance of all gambling activities conducted at a tribal gaming operation;
25. To consult with the Tribe's legal counsel to advise the Commission as needed;
26. To hear and consider for resolution any dispute between members of the public and the Tribe with regard to gaming activities licensed pursuant to the terms of this Ordinance;
27. To defend this Ordinance in any court with proper jurisdiction or before any federal agency, however, any reference herein to defending this Ordinance shall not be deemed a waiver of the Tribe's sovereign immunity from suit;
28. To propose an annual budget to the Tribal Council to support Commission operations undertaken pursuant to the provisions of this Ordinance; remuneration to or salaries for the Commissioners shall be set by the Tribal Council as part of such annual budget;
29. To take any other actions as may be reasonable and appropriate to enforce this Ordinance and the rules and regulations of the Commission, including the assessment and collection of such fees and fines provided for in this Chapter.

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 2**  
**Gaming Commission**

- 58-20-01**    **Monthly Commission reports.**
- 58-20-02**    The Commission shall monthly make reports to the Tribal Council and otherwise as the Tribal Council may require. The report shall include a summary of all licensing and enforcement actions, audit reports and recommendations, patron dispute cases, such other information as to which the Commission may wish to advise the Council, and information on any other matters requested by the Council.
- 58-21-01**    **Duties of the Commission Chairperson, Members of Commission.**
- 58-21-02**    The Chairperson of the Commission shall have responsibility for calling and presiding over meetings of the Commission, presiding over rulemaking procedures, and presiding over any hearings which the Commission might conduct, as well as overseeing administration of the daily affairs of the Commission including the receipt of complaints concerning gaming or persons associated with gaming, directing activities of persons charged with conducting background investigations and investigations of complaints, keeping all records, whether relating to financial matters, licenses, investigations, or any other aspect of the Commission's duties and responsibilities, and delegating such responsibilities as the Commission deems necessary.
- 58-21-03**    The members of the Commission shall be required to vote in all cases where the Commission is required to make a decision regarding licensing, rule-making, and any hearing determination regarding the imposition of any sanction including but not limited to licensing suspension, revocation, restriction or limitation, civil penalties, or the exclusion or ejection of any person, as well as annual license renewal.
- 58-22-01**    **Employee, agent, contractor employment records.**
- 58-22-02**    The Commission shall retain applications for licensure or other employment in connection with the Tribe's gaming operations, reports of background investigations, and other employee, agent or contractor records for a period no less than three (3) years from the date of termination of such employment as an employee, agent, or contractor.

S.W.S.T. CODE

Amendment

New Adoption

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11-07-94

Council Adopted

11-08-94

58-21

**58-23-01** Commission records.

**58-23-02** Gaming information and records enumerated in this Section are confidential and may not be disclosed except as required by Tribal-State Compact, federal law or regulation, or pursuant to court order of a court of competent jurisdiction. No person may use a subpoena, discovery or other applicable statutes to obtain such information or records. Information and records considered confidential include:

1. Tax returns of individual licenses;
2. License applications, credit, medical and security reports of applicants for licenses and of other persons seeking or doing business with the Commission; and
3. Marketing, financial or sales data, the disclosure of which may be harmful to the competitive position of the Tribe's gaming operations, its licensees or persons seeking or doing business with the Commission; and
4. Audit work papers, worksheets and auditing procedures used by the Commission, its agents or employees; and
5. Information provided by a licensee or license applicant that is privileged or proprietary in nature.

**58-23-03** Nothing in Section 58-23-02 shall be construed to prohibit the Commission from disclosing information and records in accordance with the provisions of any class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota, or pursuant to the Indian Gaming Regulatory Act and regulations promulgated thereunder, or by order of a court of competent jurisdiction.

**58-24-01** Commission rules and regulations.

**58-24-02** All rules and regulations, including game rules, issued or approved by the Commission shall be available to any person making a request for such at a cost of reproduction and other costs as identified by the Commission.

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

Chapter 58  
Subchapter 2  
Gaming Commission

**58-24-03** Those rules and regulations the Commission deems necessary to administer the provisions of this Ordinance shall be promulgated only upon thirty (30) days notice of the proposed rulemaking action, which shall be provided to the Tribal Council, posted at the Tribal offices, and provided in written form to the board of directors/or general manager of any licensed gaming operation.

1. The notice shall specify the purpose of the proposed regulation, the draft language of the proposed regulation, and the factors the Commission has considered in its determination to enact the proposed regulation, and an address at which the Commission shall receive comments pursuant to the provisions of subparagraph 2 of this Section;
2. During the notice period the Commission shall receive comments regarding the proposed regulation at the Commission offices, or at a designated mailing address;
3. The comments received by the Commission shall be considered by the Commission at a meeting open to the public, and the Commission shall make a final determination regarding the need for the proposed regulation, the language of the proposed regulation, and the effective date of the proposed regulation on the basis of all the information available to the Commission. Any final determination of the Commission shall be recorded in writing.

**58-25-01** Public availability of other information.

**58-25-02** Other information, particularly information concerning sensitive operational or contractual information, not published as rules or regulations, shall be released by the Commission only if such release is specifically authorized by the Tribal Council.

**58-26-01** Methods of service.

**58-26-02** Except as otherwise may be provided in a management contract entered into by the Tribe, the Commission shall serve any official determination, order, or notice of violation on licensees, including employees, agents, and contractors doing business at or with the Tribe's gaming operations, and others within the jurisdiction of the Commission, by:

S.W.S.T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94



**Chapter 58**  
**Subchapter 2**  
**Gaming Commission**

1. Delivering a copy to a designated agent;
2. Delivering a copy to the person or entity that is the subject of the official determination, order, or notice of violation;
3. Delivering a copy to the individual who, after reasonable inquiry, appears to be in charge of the gaming operation or such other entity that is the subject of the official determination, order or notice of violation;
4. Mailing to the person or entity that is the subject of the official determination, order, or notice of violation or to his or her or its designated agent at the last known address. Service by mail is complete upon mailing; or
5. Transmitting a facsimile to the person or entity that is the subject of the official determination, order, or notice of violation or to his or her or its designated agent at the last known facsimile number. Service by facsimile is complete upon transmission.

**58-26-03** Delivery of a copy means handing it to the attorney or designated agent (or attorney for either); leaving a copy at the person's, entity's, agent's or attorney's office with a clerk or other person in charge thereof; if there is no one in charge, leaving it in a conspicuous place therein; if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or, if the entity cannot otherwise be served, handing it to or leaving a copy with a principal, officer, board member, or majority stockholder.

**58-27-01** License hearings.

**58-27-02** The Commission shall afford an applicant for a license an opportunity for a show cause hearing prior to a final action denying such application or on the Commission's failure to make a determination on a license application within 120 days from submission thereof and shall afford a licensee or any other person(s), subject to this Ordinance, the opportunity for a show cause hearing prior to taking

W.S.T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 2**  
**Gaming Commission**

final action resulting in terminating, revoking, suspending, or limiting a license or any other adverse action the Commission deems appropriate, provided, that the Commission may summarily suspend temporarily or extend suspension of a license for thirty (30) days in those cases where such action is deemed appropriate by the Commission. In cases where a license is suspended prior to a hearing, an opportunity for a show cause hearing shall be provided.

- 58-27-03** When the suspension involves a key employee or primary management official or any employee, agent or contractor who has access to cash, tokens or chips, machine components or other gaming supplies or who has management, security, or accounting responsibilities, the notice shall include a time and place for a show cause hearing on the proposed license revocation. After a show cause hearing, the Commission shall notify the National Indian Gaming Commission of its decision to revoke or to reinstate the license. The Commission may act to revoke or reinstate the license of any other licensee under such procedures as it may determine appropriate.
- 58-28-01** Show cause hearing.
- 58-28-02** At a show cause hearing it shall be the obligation of the licensee or license applicant to show cause why, as the case may be, the license application in question should not be denied, the license or licenses in question should not be revoked or suspended, the period of suspension should not be extended, special conditions or limitations upon a license should not be imposed, or any other action should not be taken.
- 58-29-01** Commission determination.
- 58-29-02** Following a show cause hearing, the Commission shall, within seven (7) days, determine whether the license in question should be granted, continued, suspended, revoked, conditioned or limited, and whether or not any other action recommended to or by the Commission (including but not limited to, forfeitures or fines) should be taken.

S.W.S.T. CODE

Amendment

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11-08-94

**Chapter 58**  
**Subchapter 2**  
**Gaming Commission**

- 58-29-03** If, after the issuance of a gaming license, the Commission receives reliable information indicating that an employee, agent or contractor is not eligible to have a license for employment to conduct business at a tribal gaming operation, the Commission shall suspend such license and shall notify the licensee in writing of the suspension and proposed revocation. Such licensee shall be afforded the opportunity, pursuant to Sections 58-27 and 58-28, to show cause why the license in question should not be revoked.
- 58-29-04** The Commission shall revoke and refuse to renew an existing license upon the occurrence of any event which would have made the licensee ineligible for a license if the event had occurred prior to the issuance of the license, or if the licensee knowingly made a false statement on the license application, or if the licensee or an agent of the licensee knowingly violates or permits a violation of a provision of this Ordinance or of a rule or regulation adopted by the Commission.
- 58-29-05** A former licensee whose license is revoked is not eligible to receive another license provided that whenever a license is revoked because the licensee is an abuser of alcohol or drugs, a former licensee may be eligible to receive another license upon a determination by the Commission that the former licensee is no longer an abuser of alcohol or drugs.
- 58-30-01** Written determination provided.
- 58-30-02** Within three (3) days following any determination under Section 58-29 the Commission shall inform the license applicant, licensee or former licensee in writing of that determination.

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 2**  
**Gaming Commission**

**58-31-01**    **Violation hearings.**

**58-31-02**    Whenever the Commission determines that any person has failed to comply with the provisions of this Ordinance or any regulation promulgated hereunder, the Commission shall make a certification of specific findings. A copy thereof shall be served upon the subject or subjects of that determination. After five (5) days notice and within ninety (90) days following the Commission's determination, the Commission shall hold a hearing at which the subject shall have an opportunity to be heard and present evidence, if any, in refutation of the Commission's findings. Within five (5) days following a hearing, the Commission shall make a final determination and order on the violation.

**58-32-01**    **Right of appeal.**

**58-32-02**    The Tribal Court shall have jurisdiction to review any adverse determination of the Commission on a license application or affecting a license and any final determination or order on a violation of this Ordinance. A request for such review must be filed with the clerk of the Tribal Court within five (5) days following receipt of the Commission's determination or order. The Tribal Court shall reverse the Commission's determination or order only upon a finding that the Commission determination or order is contrary to a clear preponderance of the evidence presented to it. There shall be no appeal from any final determination of the Tribal Court on a determination or order relating to a license denial or revocation. There shall be a right of appeal from any final determination of the Tribal Court on a determination or order on a violation of this Ordinance.

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

Chapter 58  
Subchapter 3  
Licensing

- 58-33-01** Licensing of gaming operations.
- 58-33-02** Class II and class III gaming activities may be conducted on Indian lands only if licensed.
- 58-33-03** *Licensing class II gaming activities.* The Commission may license and regulate a tribally owned class II gaming activity if the State of South Dakota or the State of North Dakota permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal law).
- 58-33-04** *Licensing class III gaming activities.* The Commission may license and regulate a tribally owned class III gaming activity if the State of South Dakota or the State of North Dakota permits such gaming activity for any purpose by any person, organization or entity and the gaming is conducted in conformance with a Tribal-State compact entered into by the Tribe and the State of South Dakota or the Tribe and the State of North Dakota that is in effect.
- 58-33-05** *Separate licensure for each facility.* The Commission shall issue a separate license for each place, facility, or location on Indian lands at which class II or class III gaming is conducted. The license shall be displayed in a prominent place on the premises where the class II or class III gaming activity is conducted.
- 58-34-01** Licensing employees, agents, contractors.
- 58-34-02** The Commission shall require all persons employed by the Tribe's gaming operations to be licensed pursuant to this Chapter in addition to any other Tribal license required under any other law of the Tribe. The Commission shall also require any person or entity who is a distributor and doing business with the Tribe's gaming operations to be licensed pursuant to this Chapter in addition to any other Tribal license required under any other law of the Tribe.
- 58-34-03** All employees working in or for a tribal gaming operation shall be required to have and display prominently an appropriate valid Commission gaming license. Requirements for the use and wear of contractor licenses shall be prescribed in Commission rules and regulations.

S.W.S.T. CODE

Amendment

New Adoption

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11-10-04

Chapter 58  
Subchapter 3  
Licensing

- 58-34-04** 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.
- 58-34-05** The Commission shall not issue a license to any person or entity determined to be a person or entity whose prior activities, 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 gaming. No licensed gaming operations shall employ such a person in any capacity.
- 58-34-06** The Commission may suspend, deny, or revoke each type of license issued if the Commission determines that the circumstances of an offense giving rise to a conviction make the applicant's presence at the Tribe's gaming operations a hazard to the regulation and conduct of gaming or may reasonably undermine the public confidence in the integrity of the gaming conducted at such operations.
- 58-34-07** The Commission shall not issue a license to any person or entity that has knowingly supplied materially false or misleading information to the Commission or who has omitted required material information from any license application, and may deny a license to any person or entity that has made any false statement in a license application.
- 58-34-08** The Commission shall fine, revoke, suspend, limit or refuse to renew the license of any person or entity upon a determination that such person or entity delayed, maneuvered or took any action, or attempted to delay, maneuver or take any action to unlawfully divert gaming or other proceeds properly belonging to the Tribe.
- 58-34-09** A person who knowingly makes a false, misleading or erroneous statement in a license application or in any statement attached to an application is guilty of a class one (1) misdemeanor.
- 58-34-10** The Commission shall afford a license applicant a hearing as provided in Sections 58-27 and 58-28.

S.W.S.T. CODE

Amendment

New Adoption

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11-07-94

Council Adopted

11-08-94

- 58-35-01** Management, security, and accounting personnel.
- 58-35-02** Any person or entity having management, security or accounting responsibilities shall be required to have and display prominently, or display upon request, an appropriate, valid and current Commission gaming license issued pursuant to Section 58-34.
- 58-35-03** Management, whether tribally owned or under a management contract, is responsible for ensuring that employee license applications are submitted for both gaming and non-gaming licenses and that employee applications are approved prior to the employee's commencement of employment.
- 58-35-04** Each person or entity having a direct financial interest in or management responsibility for a management contract shall be considered to have management responsibilities. Such persons or entities include:
1. Each member of the board of directors and each officer of a management contractor,
  2. The ten persons who have the greatest direct or indirect financial interests in a management contract and/or in an entity that is a party to a management contract,
  3. In the case of a corporation or other entity that is a party to or has a financial interest in a management contract, each shareholder who directly or indirectly owns ten percent or more of the issued and outstanding stock of the corporation, or is one of the ten (10) largest shareholders of such stock, alone or in combination with another stockholder who is a spouse, parent, child or sibling,
  4. In the case of a trust that is a party or has a financial interest in a management contract, each beneficiary or trustee,
  5. In the case of a partnership that is a party to or has a financial interest in a management contract, each partner,

S.W.S.T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 3**  
**Licensing**

6. In the case of an entity, other than a natural person, that has an interest in a trust, partnership or corporation that has an interest in a management contract, all parties of that entity, and
7. Any other person, designated by the Commission, with a direct or indirect financial interest in a management contract.

**58-35-05** The Commission shall fine, revoke, suspend, limit or refuse to renew the license of any person or entity having management responsibilities at a tribal gaming operation upon a determination that such person or entity failed to notify the Commission of any new prospective employee, agent or contractor who, upon employment, is to have access to cash, tokens or chips, machine components or other gaming supplies or who is to have management, security, or accounting responsibilities.

**58-35-06** The Commission shall fine, revoke, suspend, limit or refuse to renew the license of any person or entity having management responsibilities at a tribal gaming operation upon a determination that such person or entity failed to notify the Commission of any proposed or actual ancillary contractors who provide gaming-related supplies, services, concessions, or property in connection with such Tribal gaming operation, or failed to secure the approval of the Commission for the employment of such contractor.

**58-36-01** Gambling equipment distributors.

**58-36-02** Any person, organization or entity selling, leasing, marketing or otherwise distributing gambling equipment, games or implements for gambling to the Tribe's gaming operations shall be required to have and present upon request an appropriate valid tribal business and Commission license to do business at or with the Tribe's gaming operations.

**58-36-03** Any person, organization or entity required to secure a license under Section 58-36-02 in order to conduct business at the Tribe's gaming operations must apply at the Commission's licensing office or with a Commission delegated representative for the appropriate license prior to conducting such business. The application shall be verified.

S. W. S. T. CODE

Amendment

New Adoption

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11-07-94

Council Adopted

11-08-94



Chapter 58  
Subchapter 3  
Licensing

**58-37-01** Minimum standards for inspection and approval of gambling devices and other gaming equipment.

**58-37-02** Prior to installation and use of a gambling device and other gaming equipment, the Commission shall inspect, test and consider the gambling device or other gaming equipment for approval. The Commission shall not approve a gambling device or other gaming equipment unless the tests or inspection conducted indicates that such gambling device or other gaming equipment meets the minimum standards established by the Commission consistent with any applicable provisions of a class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota.

**58-37-03** The Commission may waive the inspection and testing requirements of this Section for any gambling device whenever an identical gambling device is currently approved for use by:

1. the South Dakota Commission of Gaming, or a gaming regulatory body of the State of North Dakota, or
2. a gaming regulatory body of the states of Nevada, New Jersey, or Iowa and the test results from such jurisdictions show that the gambling device meets the standards established pursuant to Section 58-37-02. The test results indicating that the device complies with the applicable standards must be submitted to the Commission and the manufacturer of the gambling device must certify to the Commission and, if required by a class III gaming compact entered into between the Tribe and a State, to the State of South Dakota or the State of North Dakota, as appropriate, that each gambling device to be shipped complies in all respects with such standards.

**58-37-04** The Commission may require a prototype or sample of any model of gambling device or other gaming equipment used in the Tribe's gaming operations to be placed and retained in its custody as a control for comparison purposes.

S.W.S.T. CODE

Amendment

New Adoption

Judicial Approved

11-07-94

Council Adopted

11-08-94

**Chapter 58**  
**Subchapter 3**  
**Licensing**

**58-37-05** Any evidence that gambling devices or other gaming equipment used in the Tribe's gaming operations has been tampered with or altered in any way that would affect the integrity, fairness, honesty or suitability of the device or equipment shall be reported to the Commission.

**58-37-06** The distributor or manufacturer license application of any person or entity entering into such lease or sales agreement shall contain, at a minimum, the following information about the applicant and the machines:

1. Name and address of the applicant with proof of a current and valid distributor or manufacturer license issued by the Tribe and by either the State of Iowa, Mississippi, New Jersey, Nevada, South Dakota or North Dakota;
2. Identification numbers or codes for each slot machine or video game of chance placed in the Tribe's gaming operations, including the manufacturer, the serial number and the model number; and
3. Proof that the slot machine or video game of chance is currently approved for use by the South Dakota Commission on Gaming or by a gaming regulatory agency of the State of North Dakota; or proof that the slot machine or video game of chance has been tested and approved by a gaming regulatory body of the States of Iowa, Mississippi, New Jersey, or Nevada, and that such test shows that the machine meets the standards set forth in a gaming compact between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota; or proof of approval and certification by an approved gaming test laboratory that the slot machine or video game of chance or a prototype thereof meets the standards set forth in a gaming compact between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota or such standards as may be required by the Commission.

S. W. S. T. CODE

Amendment

New Adoption

Judicial Approved

11-07-94

Council Adopted

11-08-94

**Chapter 58**  
**Subchapter 3**  
**Licensing**

**58-38-01 License eligibility requirements.**

**58-38-02** The Commission shall not issue a license to any person or entity that has refused to sign the waiver of confidentiality required under Section 58-40-02.

**58-38-03** In order to be eligible for a license to be employed at a tribal gaming operation, applicants must:

1. In South Dakota, be at least eighteen (18) years old at the time of their employment and licensure at a tribal class III gaming operation not serving liquor and be at least twenty-one (21) at a tribal gaming operation serving liquor;
2. In North Dakota, be at least eighteen (18) years old at the time of their employment and licensure;
3. Be of good repute and moral character;
4. Not have been denied a gaming license by the Tribe, the State of South Dakota or the State of North Dakota or any other gaming licensing jurisdiction, or currently have a gaming license which has been suspended by the Tribe, the State of South Dakota or the State of North Dakota or any other gaming licensing jurisdiction, or have had a gaming license revoked by the Tribe, the State of South Dakota or the State of North Dakota or any other gaming licensing jurisdiction;
5. 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;
6. Not be ineligible for a license under Sections 58-38-02 or 58-38-04;

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-18-94

7. Not be a current user of alcohol or drugs, including legal drugs, or other chemicals in an abusive manner or a current user of any illegal drugs or chemicals.

**58-38-04** The Commission may find an applicant ineligible for a license and deny, suspend, or revoke the license of any applicant who has pled guilty to or has been convicted of any of the offenses listed below.

1. Offenses related to bookkeeping; or
2. Offenses related to gambling; or
3. Offenses related to cheating, theft, or to any fraud or deception while participating in gaming activities or otherwise; or
4. Offenses related to the use of an alias; or
5. Offenses that are felonies and are illicit drug related; or
6. Offenses that are a Class (1) misdemeanor.

**58-38-05** If a conviction occurred within the last five (5) years, the license shall be denied. If conviction occurred within the last ten (10) years, a license may be issued if the Commission determines that sufficient evidence of rehabilitation exists.

**58-38-06** No gaming license for a key employee or primary management official to do business at or with the Tribe's gaming operation shall be issued by the Commission until after the National Indian Gaming Commission has provided the Tribe with:

1. A notice that it has no objection to the issuance of a license to such key employee or primary management official, or
2. A statement itemizing objections to the issuance of a license to such key employee or primary management official and the Commission has reconsidered such person's application taking such objections into account.

S. W. S. T. CODE

Amendment

New Adoption

Judicial Approved

11-07-94

Council Adopted

11-08-94

- 58-39-01** Temporary employment without a license.
- 58-39-02** Any person required to be licensed under Sections 58-33 and 58-34 may be employed by the Tribe's gaming operation without such licensure for a period not to exceed ninety (90) days, except that in the case of any person who is not a key employee or primary management official, the Commission may approve up to an additional thirty (30) days of employment if the completion of the background investigation is pending at the expiration of the ninety (90) day period, provided that prior to the commencement of employment each such person has completed and submitted to the Commission the license application required under this Ordinance.
- 58-39-03** Whenever the gaming operation approves the employment of a key employee or primary management official under Section 58-39-02, no later than the first day that such person commences employment, the gaming operation shall forward such person's completed license application to the National Indian Gaming Commission.
- 58-39-04** Whenever the gaming operation approves the employment of a key employee or primary management official under Section 58-39-02, no later than the first day that such person commenced employment, the Commission shall begin to conduct the background investigation required by Section 58-45-02 to determine the eligibility of such person for continued employment in the gaming operation. Within sixty (60) days after a key employee or primary management official commences employment without a license, the Commission shall forward to the National Indian Gaming Commission the investigative report required by Section 58-45-04.
- 58-39-05** Except as otherwise provided in Section 58-39-02, the employment of any person required to have a license under Sections 58-33 and 58-34 shall automatically terminate if such person is not licensed 90 days following the commencement of employment.
- 58-39-06** It shall be unlawful for any licensed gaming operation to fail to notify the Commission of any new prospective employee, new contractor, or new primary management official. The Commission shall conduct a background investigation and provide license approval or disapproval prior to the permanent employment of all new employees, contractors or primary management officials. Any information received by the Commission shall be confidential.

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**58-40-01 License application requirements.**

**58-40-02** Each license application shall include a waiver of any right of confidentiality and shall allow access to law enforcement and regulatory agency records of the United States, any state, any tribe, and any foreign government, extend to any financial or personnel record wherever maintained, and authorize the Commission to obtain information from other state and tribal gaming jurisdictions regarding license or permit applications or disciplinary actions, or conduct of the applicant or any of its shareholders, partners, agents, or employees in those jurisdictions. The waiver shall also authorize the Tribe to disclose any of the information contained in the application to appropriate federal, tribal, state or foreign law enforcement and regulatory agencies in connection with a background investigation or when relevant to civil criminal or regulatory investigations or prosecutions or investigations of activities associated with a gaming operation.

**58-40-03** *Support Gaming License application.* A license application of any natural person required to have a license in order to qualify for employment at a tribal gaming operation shall contain, at a minimum, the following information about the license applicant:

1. Full name, including other names used (oral or written);
2. Date and birth and place of birth;
3. Social security number(s);
4. Citizenship(s), including tribal affiliation(s);
5. Gender;
6. All languages (spoken or written);
7. Marital status;
8. Physical description;

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

Chapter 58  
Subchapter 3  
Licensing

9. Residence(s) addresses for the previous ten (10) years including the city and state;
10. Drivers license numbers for the previous ten (10) years;
11. Employment history for the previous five (5) years;
12. Current business and residence address and telephone numbers;
13. Criminal history for the previous ten (10) years, including major traffic offenses, and including the date and place of any felony or misdemeanor (excluding minor traffic violations) arrest, the charge, details surrounding any arrest or charges, the name and address of the court involved, the disposition of any charges filed and the date of any prosecution and disposition;
14. 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 on the application.
15. A current photograph and two (2) sets of fingerprints. One set of fingerprints will be on form(s) commonly used by the Federal Bureau of Investigation; the second set will use the appropriate State form(s).
16. A urine sample verified by a Commission appointed testing agent under the rules and regulations relating to employee drug testing. The testing is done prior to hire and during the time of employment as prescribed in Commission rules and regulations.
17. Business and employment positions held, ownership interests in those business, and business addresses, including business addresses for the previous ten (10) years; a description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses.

S. W. S. T. Office  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

18. Whether the applicant has ever held or applied for a professional or occupational license or permit issued by any state, Indian tribe or any other jurisdiction, the jurisdiction in which the license or permit was issued or applied for, the name and address of any licensing or regulatory agency with which the application for an occupational license or permit was filed, the type of license or permit, the license or permit number, and the details surrounding any denial of the license or permit or the withdrawal of the application therefor, the details surrounding any suspension, revocation, or other disciplinary action taken based on the license or permit, and if not current, the reason it is not current;
19. Whether the applicant has ever held or applied for a gambling related license or permit issued by any state, Indian tribe or any other jurisdiction, the jurisdiction in which the license or permit was issued or applied for, the name and address of any licensing or regulatory agency with which the application for a license or permit related to gaming was filed, the type of license or permit, the license or permit number, the details surrounding any denial of the license or permit or the withdrawal of the application therefor, the details surrounding any suspension, revocation, or other disciplinary action taken based on the license or permit, and if not current, the reason it is not current;
20. Other information required by the Commission in order to complete a background investigation of the applicant.

**58-40-04** *Management Contractor, Primary Management Official and Key Employee License application.* In addition to the information required for a support gaming license, the management contractor license application of any natural person, the primary management official license application, and the key employee license application shall include the following:

1. Whether the applicant has ever been an investor in any gaming operation, the exact nature of the investment, the name and address of all other investors holding (directly or indirectly) an interest of ten (10) percent or more in the gaming operation, and the name and address of the gaming operation;

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94



2. Whether the applicant has ever had any experience related to any agreement with any gaming operation, the exact nature of the applicant's role in the operation, the name and address of all parties to the agreement, the place the agreement was performed, and the dates covered by the agreement; and
3. A complete financial statement showing all sources of income for the previous three (3) years, and including assets, liabilities and net worth as of the date of submission of the license application.

**58-40-05** For the purpose of Section 58-40-04, primary management official includes each member of the board of directors and each officer of a management contractor.

**58-40-06** *Management contractor license application.* In addition to the applicable information required under Sections 58-40-03 and 58-40-04, where the applicant for a management contract is an entity, the application shall include the following:

1. Applicant's name and address;
2. Name and address of applicant's parent company, if any;
3. Names and addresses of each person comprising such entity or parent entity who has a direct financial interest in, or management responsibility for, the management contract. For each such person, the application shall include the information required under Section 58-40-03;
4. Names and addresses of each director, officer, stockholders who hold (directly or indirectly) 10 percent or more of the issued and outstanding stock, and other owners who hold (directly or indirectly) 10 percent or more of the ownership interest in such applicant entity and in the applicant's parent company, if any, including the beneficiary or trustee of any trust and any partner. For each such person, the application shall include the information required under Section 58-40-03;
5. Whether the applicant has ever failed to meet a monetary obligation in connection with any gambling enterprise;

S.W.S.T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

Chapter 58  
Subchapter 3  
Licensing

6. Name and address of all proposed or actual ancillary contractors who provide supplies, services, concessions, or property to the Tribe's gaming operations or to the management contractor in connection therewith. If the identity of any such contractor is not known at the time the application is submitted, the management contractor shall have a continuing duty throughout the term of any management contract to provide this information to the Commission;
7. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
8. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
9. Criminal history including the date and place of any felony or misdemeanor charge, details surrounding any arrest or charges, the name and address of the court involved, the disposition of any charges filed and the date of disposition;
10. Whether the entity has ever held or applied for a gambling related license or permit issued by any state, Indian tribe or any other jurisdiction, the jurisdiction in which the license or permit was issued or applied for, the name and address of any licensing or regulatory agency with which the application for a license or permit related to gaming was filed, the type of license or permit, the license or permit number, the details surrounding any denial of the license or permit or the withdrawal of the application therefor, the details surrounding any suspension, revocation, or other disciplinary action taken based on the license or permit, and if not current, the reason it is not current;
11. Copies of documents establishing the existence of the entity, such as the partnership agreement, the trust agreement, or the articles of incorporation;
12. Copies of documents designating the person who is charged with acting on behalf of the entity;

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

13. Copies of bylaws or other documents that provide the day-to-day operating rules for the organization;
14. Complete financial statements showing all sources of income for the previous three (3) fiscal years, and including assets, liabilities, and net worth as of the date of submission; and
15. Submission of the following executed statement:

A false statement knowingly and willfully provided in any of the information pursuant to this section may be grounds for not approving the contract in which we have a financial interest, or for disapproving or voiding such contract after it is approved by the Chairman of the National Indian Gaming Commission. Also, we may be punished by fine or imprisonment under U.S. Code, Title 18, § 1001 and applicable provisions of the Codes of Laws of the Tribe.

**58-40-07** *Non-management Gaming Contractor License application.* The license application of any person, organization or entity for a license to sell, lease, market or otherwise distribute gambling devices, equipment, games, implements, services (other than professional legal or accounting), products, or supplies to the Tribe's gaming operations shall contain, at a minimum, the following information about the applicant:

1. Name(s) and mailing address of the person or entity making the application;
2. Names and addresses of all parties having a direct or indirect financial interest in or with respect to the applicant and their interest in and connection to the applicant;
3. Type of activity to be engaged in under the license;

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

Chapter 58  
Subchapter 3  
Licensing

4. Explicit and detailed disclosure of any criminal record and any delinquent taxes owed to the federal or any state government by the applicant, any person holding a managerial position or ownership interest in the applicant organization, and any party in interest whose name appears on the application;
5. Whether the applicant is licensed by any Indian tribe, the State of South Dakota, the State of North Dakota or any other State to sell, lease or otherwise distribute gambling equipment together with proof that the applicant holds a current and valid distributor or manufacturer license from either the State of Iowa, New Jersey, Nevada, South Dakota, or North Dakota;
6. Whether the applicant has ever had a distributor or manufacturer license revoked or suspended by an Indian tribe or by the state that issued the license and, if so, the circumstances surrounding the Indian tribe's or state's action; and
7. A waiver of confidentiality authorizing the Commission and/or the State of South Dakota or the State of North Dakota to conduct a background investigation of the applicant and any person whose name is required to appear on the application.

**58-40-08** Each entity required to submit information under Section 58-40-06 and 58-40-07 shall sign and submit the following statement:

I understand that a false statement knowingly and willfully made in any of the information submitted to the Commission pursuant to this Section may be grounds for not approving any contract in which the Sisseton-Wahpeton Sioux Tribe, also known as the Sisseton-Wahpeton Dakota Nation, has a financial interest, or for disapproving or voiding such contract after it is approved by the Chairman of the National Indian Gaming Commission. I also understand that such false statements may be punished by fine or imprisonment under U.S. Code, Title 18, § 1001 and applicable provisions of the Tribe's Codes of Laws.

S.D. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

- 58-41-01** Licensing of distributors and manufacturers; management contractor ineligible; suspension; revocation.
- 58-41-02** A manufacturer or distributor of gambling devices, games, implements of gambling or gambling equipment shall annually apply for a license upon a form prescribed by the Commission and shall submit the appropriate license fees.
- 58-41-03** A management contractor or any person or entity licensed for employment in the Tribe's gaming operations shall not be a manufacturer or distributor of gambling games, implements of gambling or gambling equipment.
- 58-41-04** The Commission shall suspend, revoke or refuse to renew the license of any manufacturer or distributor of gambling games, implements of gambling, or gambling equipment if the State of South Dakota or the State of North Dakota or any other state gaming jurisdiction has suspended, revoked or refused to renew the similar license of such manufacturer or distributor.
- 58-41-05** The Commission, in its discretion, may waive the background investigation requirements if the applicant presents proof and the Commission verifies that the applicant holds a current and valid distributor or manufacturer license from either the States of Iowa, Mississippi, New Jersey, Nevada, South Dakota, or North Dakota, provided that such applicant is not the subject of any investigation or other action that could result in the suspension or revocation of such license.
- 58-41-06** The Commission shall afford any license applicant a hearing as provided in Sections 58-27 and 58-28.
- 58-42-01** Gambling equipment and games acquisition; distributor's notice.
- 58-42-02** A licensed class II or class III gaming operation shall acquire all gambling equipment, games or implements of gambling from a manufacturer or distributor licensed pursuant to this Ordinance.
- 58-42-03** Prior to delivery to a gaming operation licensed under this Ordinance, the manufacturer or distributor shall provide the Commission with a copy of the invoice showing the items shipped and a copy of the bill of lading.

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-18-94

**58-43-01 Privacy Act and false statements notices.**

**58-43-02** In compliance with the Privacy Act of 1974, license applications shall contain the following notice:

1. 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.
2. The information will be used by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed 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.
3. Failure to consent to the disclosures indicated in this notice will result in the Tribe or another tribe being unable to hire you in a primary management official or key employee position.
4. This disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

S.W.S.T. CODE  
 Amendment  
 New Adoption  
Judicial Approved

Council Adopted  
02-07-95

**58-43-03** *Notice regarding false statements.* License applications shall state: "A false statement knowingly and willfully made 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 under U.S. Code, Title 18, § 1001 and applicable provisions of the Tribe's Codes of Laws.

S.W.S.T. CODE  
 Amendment  
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Chapter 58  
Subchapter 3  
Licensing

- 58-43-04** The Commission shall notify in writing all existing key employees and primary management officials whose license applications did not include the privacy notice required under Section 58-43-02 that each such employee or official shall sign a statement that contains the Privacy Act notice and that consents to the routine uses described in that notice.
- 58-43-05** The Commission shall notify in writing all existing key employees and primary management officials whose license applications did not include the notice regarding false license application statements that each such employee or official shall sign a statement acknowledging the notice regarding false statements.
- 58-44-01** License application fees.
- 58-44-02** The Commission shall set a fee to defray the costs associated with application processing, the search and classification of fingerprints and background investigations. The Commission shall not authorize the search and classification of fingerprints or begin any background investigation until it receives a deposit from the license applicant to cover the initial costs of the background investigation, including the search and classification of fingerprints.
- 58-44-03** The fees may be periodically adjusted for each application to assure that the administrative and other costs of reviewing and investigating each application are covered by the license applicant. The license applicant shall be billed for the costs of the investigation as it proceeds. The investigation shall be stopped if the unpaid costs exceed the amount of the deposit available. All such fees shall be made payable to the Commission.
- 58-44-04** In the event that any fees paid by the license applicant exceeds the costs of application processing and the background investigation, that remainder will be refunded to the applicant.

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- 58-45-01** Commission background investigation; federal notification of results; waiver of background investigation.
- 58-45-02** Upon receipt of an application for a license to conduct business at or with the Tribe's gaming operations as an employee, agent or contractor, the Commission, prior to the issuance of any license, shall cause a thorough background investigation to be conducted on the applicant suited to the type of license application. The Commission will verify the truthfulness of the information provided by the applicant and ensure that persons and entities licensed by the Commission are eligible for licensure.
- 58-45-03** Background investigations may be conducted by Commission investigative or legal staff, the Federal Bureau of Investigation, by the Division of Criminal Investigation of either the State of South Dakota or the State of North Dakota or by another agency qualified to perform such investigation. The background investigation shall include a criminal history check by a law enforcement agency conducted, at a minimum, by submitting the license applicant's fingerprints, taken by or under the supervision of the Sisseton-Wahpeton Sioux Tribe Police Department, to the Federal Bureau of Investigation for a check of its criminal history records and by checking all other available non-duplicate criminal history data base archives or files.
- 58-45-04** In conducting a background investigation, the identity of each person interviewed in the course of the investigation shall be kept confidential. Upon completion of any background investigation and before the issuance of a license to any employee, agent or contractor, the Commission shall forward to the National Indian Gaming Commission an investigative report on each background investigation, including the steps taken in conducting the background investigation, the results of the investigation, the conclusions reached and the bases for those conclusions, and whether the license applicant was found eligible for licensure and employment in the Tribe's gaming operation.
- 58-45-05** The Commission shall also submit management contractor background investigation results to the State of South Dakota or the State of North Dakota in accordance with the applicable provisions of any class III gaming compact entered into between the Tribe and either State.

S.W.S.T. COUNCIL  
 Amendment  
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**58-45-06** The Commission may waive any background investigation or specific information required to be submitted by a license applicant whenever the Federal Bureau of Investigation, a criminal investigation agency of the State of South Dakota, or the State of North Dakota, or another agency qualified to perform such an investigation has completed a background investigation on the license applicant, within the one year preceding the date of the application, for and on behalf of:

1. a gaming regulatory body of either the State of South Dakota or the State of North Dakota, or
2. a gaming regulatory body of the States of Iowa, Mississippi, Nevada, or New Jersey,

and the results of such background investigation have been provided to the Commission in sufficient detail to assure that the applicant is eligible for licensure. Whenever a full background investigation is waived under this paragraph, the Commission may require that a background investigation be conducted to update and make current the background investigation report received from another gaming jurisdiction.

**58-46-01** Classes of licenses and fees.

**58-46-02** Upon proper application and approval, the Commission shall issue in a timely fashion appropriate licenses, as specified in Sections 58-46-03 to 58-46-09 and 58-46-11, for the Tribe's gaming operations. Licenses shall be for specific positions, locations of employment, or for locations in which to operate or conduct business. Licensees desiring to operate or conduct business or be employed in multiple locations, if any, shall be required to obtain multiple licenses. Licensees shall operate and conduct only those activities authorized under each license.

**58-46-03** *Class A Operation License.* A Class A operation license may be issued to a Sisseton-Wahpeton Sioux Tribal entity for the privilege of conducting class II and class III gaming in a specific location within the original exterior boundaries of the Lake Traverse Reservation.

S. D. S. T. CODE  
 Amendment  
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11-08-94

Chapter 58  
Subchapter 3  
Licensing

- 58-46-04** *Class B Operation License.* A Class B operation license may be issued to any applying Sisseton-Wahpeton Sioux Indian group organized for social and/or charitable purposes at a rate of Ten Dollars (\$10.00) for the privilege of conducting specified class II games during a designated calendar month or as specified at the time of licensure.
- 58-46-05** *Management Contractor License.* A management contractor license may be issued by the Commission after management contract approval by the National Indian Gaming Commission. The holder of such a license shall be entitled to manage and operate the Tribe's class II or class III gaming operations on Indian lands subject to an approved management contract, ordinances and regulations of the Tribe, and the federal regulations promulgated by the National Indian Gaming Commission. Nothing in this section shall prohibit a management contract to authorize a management contractor to simultaneously manage and operate class II and class III gaming operations. The application fee for such a license shall be One Hundred Fifty Thousand Dollars (\$150,000.00) or as otherwise provided pursuant to the terms of a management contract entered into by the Tribe. The license shall be site specific and be valid for a period of one year. Renewal fees will be set by the Commission in published rules and regulations or as otherwise provided pursuant to the terms of a management contract entered into by the Tribe.
- 58-46-06** *Primary Management Official License.* A primary management official license may be issued by the Commission to any primary management official. The license shall be valid for a period of one year in a specified position and shall have a license fee of One Hundred Dollars (\$100.00).
- 58-46-07** *Key Employee License.* A key employee license may be issued by the Commission to any key employee. The license shall be valid for a period of one year with a license fee of Fifty Dollars (\$50.00).
- 58-46-08** *Support Gaming License.* A support gaming license may be issued by the Commission to any person who seeks employment at a tribal gaming operation who is not required to be licensed as a key employee or primary management official. The license shall be valid for a period of one year with a license fee of Twenty-five Dollars (\$25.00).

S. W. S. T. CODE

Amendment

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11-18-94

**58-46-09** *Non-management Gaming Contractor License.* A non-management gaming contractor license may be issued by the Commission to any person, organization or entity for a license to sell, lease, market or otherwise distribute gambling devices, equipment, games, implements, services (other than professional legal or accounting), products, or supplies to the Tribe's gaming operations. The licenses shall be valid for a period of one year and shall have a license fee Four Hundred Dollars (\$400.00).

**58-46-10** *License renewals.* Every licensee intending to continue engaging in a licensed gaming activity within the Lake Traverse Reservation during the next calendar year following initial licensure shall apply for renewal of the license at least thirty (30) days but no more than ninety (90) days prior to the end of the previous license period.

**58-46-11** *Reserved Classes.* All other classes of licenses are reserved for approval and fee designation by the Tribal Council.

**58-47-01** Exemptions for non-public gaming operations.

**58-47-02** The following activities are not public gaming operations under the terms of this Ordinance and, therefore, do not require a license under this Subchapter:

1. Gaming not for Gain: Gaming in which no cash or valuable prizes are won, other than "points" for cumulative ratings or "places" for immediate competitive rankings, is not subject to the provisions of this Ordinance. However, class II gaming for gain conducted by a non-profit organization is subject to the requirements of this Ordinance, including licensure by the Commission, if cash or valuable prizes are awarded. "Valuable Prize" means an object worth One Hundred Dollars (\$100.00) or more in fair market value.
2. Traditional Indian Gaming: Traditional Indian gaming activities, in the nature of hand games, are not subject to the provisions of this Ordinance. The Commission is hereby authorized to determine on a case-by-case basis, upon request, whether a particular traditional gaming activity is exempt from regulation under this Ordinance.

S.W.S.T. CODE  
 Amendment  
 New Adoption  
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Council Adopted  
11-08-94

3. Annual Fund-Raising for Tribal Events: All persons or organizations, who may seek to engage in class II public gaming activities for the purpose of fund-raising to sponsor, for example, tribal events, including but not limited to, the Annual Tribal 4th of July Pow-wow, the Annual Tribal Christmas Party, the April Pow-wow, and the Veterans Day Pow-wow, shall not be required to be licensed under this Ordinance, provided that no compensation or anything of value is paid to any person engaged in the fund-raising activity or in the sponsorship of such event.

**58-47-03** A full final financial report to the Tribal Council and Commission shall be made by the persons or organizations sponsoring an exempt tribal event within fifteen (15) days following such exempt tribal event. Non-reporting is a violation of this Ordinance and the Commission is authorized to assess a maximum fine of \$2,500.00 for such a violation by any person or organization.

**58-48-01** Operation license display and content.

**58-48-02** Every Class A Operation License shall be displayed in a prominent place as evidence of a current and valid Commission license for that location. A Class B Operation License must be immediately available during the conduct of such licensed activity.

**58-48-03** License certificates suitable for mounting and presentation will bear Commission tribal identification, official name of the licensed facility, state the class of licensure with specific class of gaming operation authorized, the effective date, location of the licensed activity, Commission member signature, and gold appearing notary seal affixed with the Commission seal imprinted over it.

**58-49-01** License certificate display and content.

**58-49-02** A license certificate suitable for mounting or presentation to management contractors, primary management officials, or licensed contractors will bear Commission tribal identification, official name of the licensed facility, state the class of licensure, the effective date, location of the licensed activity, Commission member signature, and gold appearing notary seal affixed with the Commission seal imprinted over it.

S.W.S.T. CODE  
 Amendment  
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11-08-94

Chapter 58  
Subchapter 3  
Licensing

**58-50-01** Corrected licenses.

**58-50-02** Corrected licenses are required upon change of location of public gaming for a Class A or Class B license, upon changing tribal gaming employer, an official name change of an employee, or upon verification of administrative error. During a license period, fees for corrected licenses are limited to the cost of generating a new license certificate or tag.

**58-51-01** License wear and content.

**58-51-02** Employee licenses must be worn as part of a uniform or business attire with front side bearing the employee number clearly visible during that employee's working or shift hours.

**58-51-03** Contractor licenses may be required for presentation upon demand or as stated in Commission rules or regulations. A maximum number of ten (10) license certificates suitable for wear will be issued to licensed non-management contractors without restriction or extra charge.

**58-51-04** The front of each employee license suitable for wear shall bear a Commission seal over the Tribe's identification and the facility or location for which licensed activities are authorized, a single identifying name of choice of the licensee, four digit employee number, and a picture bearing the licensee's likeness.

**58-51-05** The back of each employee license suitable for wear shall bear a full typewritten name, social security number, Commission member title, signature, and date signed, and the license period stating the effective date and expiration date of the license.

**58-51-06** The front of each contractor license suitable for wear shall bear a Commission seal over the Tribe's identification, state the class of license issued, a four digit employer number, and the abbreviated or common name and place of business of the person or entity licensed, the date of issue, and Commission member title, signature and date signed.

S.W.S.T. CODE  
 Amendment  
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**Chapter 58**  
**Subchapter 3**  
**Licensing**

- 58-51-07** The back of each contractor license suitable for wear shall bear a full entity and primary owner(s) name, social security number, show the facility or facilities authorized by the Commission to be serviced by the licensee, and the license period stating the effective date and expiration date of the license.
- 58-52-01** Legal effect of licensure.
- 58-52-02** Any person or entity who accepts a license or the renewal thereof pursuant to the provisions of this Ordinance shall be deemed to have agreed to be bound by the provisions of this Ordinance, any rules and regulations issued in accordance therewith, the provisions of any class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota, and any amendments to such Ordinance, rules or regulations and compact. It is the responsibility of the licensee to be informed regarding the provisions of this Ordinance, the rules and regulations issued pursuant thereto and any class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota. Ignorance of such provisions will not excuse violations.
- 58-53-01** Licensee consent to search.
- 58-53-02** Each licensee shall be required to execute a consent authorizing the employees or agents of the Commission to search without a warrant the licensee's person, personal property and effects, and premises located within a tribal gaming operation or adjacent facilities to inspect for or investigate violations of this Ordinance, the rules or regulations adopted by the Commission, or other laws of the Tribe.
- 58-54-01** License non-transferable.
- 58-54-02** Any license issued by the Commission authorizing any person, organization, or entity to conduct business at the Tribe's gaming operations shall be non-transferable and shall prohibit the licensee from transferring, subcontracting, or assigning to any other person, organization or entity any of its rights or duties relating to the license either directly or indirectly or, in the case of a management contractor, any ownership interest in the management contract.

S. W. S. T. CODE  
 Amendment  
 New Adoption  
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11-08-94

- 58-55-01** License as revocable privilege.
- 58-55-02** Any license issued by the Commission to any person, organization or entity for the conduct of business at a tribal gaming operation is a revocable privilege. No holder thereof shall be deemed to have a part in any vested rights therein or thereunder. The burden of proving that a person, organization or entity is qualified to hold any license issued by the Commission rests at all times with the licensees. The Commission is responsible for assuring that licenses are not held by unqualified or disqualified persons or by any qualified person or persons whose operations are conducted in an unsuitable manner.
- 58-56-01** Notice to National Indian Gaming Commission of license issuance or non-issuance; transmittal of primary management official and key employee license application to National Indian Gaming Commission.
- 58-56-02** The Commission shall notify the National Indian Gaming Commission of the issuance of any management contract license, primary management official license, and key employee license to any person, organization or entity to conduct business at any tribal gaming operation.
- 58-56-03** Whenever the Commission does not license a licensed applicant, the Commission shall notify the National Indian Gaming Commission of such action. If the non-issuance of a license is based on a determination that the license applicant is ineligible for licensure, the Commission shall forward copies of its eligibility determination and investigative report, if any, to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Record System.
- 58-56-04** Whenever the Tribe employs a primary management official or a key employee, the Commission shall forward to the National Indian Gaming Commission a copy of such official's or employee's complete license application.

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Amendment

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11-08-94

**Chapter 58**  
**Subchapter 4**  
**Management Contracts**

**58-57-01** Management contract contents; approval.

**58-57-02** The Tribal Council may approve and, on behalf of the Tribe, enter into any management contract if it determines that such contract provides at least for compliance with this Ordinance and the Indian Gaming Regulatory Act in the conduct of all gaming covered by the contract.

**58-57-03** The contract term will not exceed five (5) years, provided that the Tribal Council may request the National Indian Gaming Commission to authorize a contract term that exceeds five (5) years but does not exceed seven (7) years if the Council determines that the capital investment required, and the income projections, for the particular gaming operation require the additional time, and provided further that the term of the management contract begins running no later than the beginning date of the gaming activities authorized by an approved management contract. Such contract shall not be effective unless and until it is approved by the Chairman of the National Indian Gaming Commission, the date of signature of the Tribe and the management contractor notwithstanding.

**58-57-04** The contract terms must:

1. Provide for grounds and a mechanism to modify or terminate such contract;
2. State the mechanisms for resolving disputes between the management contractor and customers consistent with the procedures in Section 58-04-04 of this Ordinance and between the management contractor and the Tribe or its gaming operation employees;
3. Provide preference to members of the Tribe in the hiring of employees for the gaming operation;
4. Detail the method of compensation and reimbursement of the management contractor;

S. W. S. T. CODE

Amendment

New Adoption

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11-07-94

Council Adopted

11-08-94



**Chapter 58**  
**Subchapter 4**  
**Management Contracts**

5. Assure that any fee based upon a percentage of the net revenues of the Tribal gaming activity is reasonable in light of surrounding circumstances and, in no event shall exceed 30 percent of the net revenues, provided that the Tribal Council may request the National Indian Gaming Commission to approve a fee not to exceed 40 percent of the net revenues if the Council determines that the capital investment required, and the income projections, for such tribal gaming operation require the additional fee;
6. State that the management contractor cannot transfer, subcontract or assign any of its rights and duties under the contract or, without advance approval of the Tribe, any ownership interest in the contract;
7. Provide that the service of any official determination, order, or notice of violation by the Commission shall be made upon the same agent designated by the management contractor for service of any official determination, order, or notice of violation issued by the National Indian Gaming Commission;
8. Assure that no interest in land or other real property is transferred or conveyed unless specific statutory authority exists and unless clearly specified in writing in the contract;
9. Include a representation that the contract is the entirety of the agreement between the Tribe and the management contractor;
10. Provide for verifiable financial reports, that are prepared by or for the Tribal Council on a monthly basis, or for the contractor to provide the Tribe with all information necessary to prepare such reports whenever the contractor is responsible for the preparation of such reports or for maintaining such information as may be necessary to prepare such reports;
11. Allow for immediate access to the daily operations of the gaming operation, including its books and records whenever these are maintained by the contractor, by the Commission and other appropriate tribal officials who shall also have the right to verify the daily gross revenues and income from any tribal gaming activity and access to any other gaming facility-related information the Tribe deems appropriate;

S.W. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 4**  
**Management Contracts**

12. For a minimum monthly guaranteed payment to the Tribe in a sum certain that has preference over the retirement of development and construction costs;
13. For an agreed upon maximum dollar amount for the recoument of development and construction costs.

**58-57-05** A management contract must enumerate the responsibilities of each of the parties for each identifiable function, including:

1. Maintaining and improving the gaming facility;
2. Providing operating capital;
3. Establishing operating days and hours;
4. Hiring, firing, training and promoting employees;
5. Maintaining the gaming operation's books and records;
6. Preparing the gaming operation's financial statements and reports;
7. Paying for the services of the independent auditor engaged;
8. Hiring and supervising security personnel;
9. Providing fire protection services;
10. Setting the advertising budget and placing advertising;
11. Paying bills and expenses;
12. Establishing and administering employment practices;
13. Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage;

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Amendment  
New Adoption  
Council Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 4**  
**Management Contracts**

14. Complying with all applicable provisions of the Internal Revenue Code;
15. Paying the cost of any increased public safety services;
16. If applicable, supplying the National Indian Gaming Commission with all information necessary for the Commission to comply with the regulations of such Commission issued pursuant to the National Environmental Policy Act; and
17. Providing for day to day management responsibilities.

**58-57-06** Whenever the contractor is responsible for the establishment or maintenance of accounting systems and procedures, the contractor shall establish and maintain satisfactory accounting systems and procedures which shall, at a minimum:

1. Include an adequate system of internal accounting controls consistent with the Commission's rules and regulations;
2. Permit the preparation of financial statements in accordance with generally accepted accounting principles and accounting principles adapted to casino operations;
3. Be susceptible to audit;
4. Allow the Commission, the Tribe, and the National Indian Gaming Commission to calculate any annual fees under 25 C.F.R. § 514.1;
5. Permit the calculation and payment of the manager's fees; and
6. Provide for the allocation of operating expenses or overhead expenses among the Tribe, the Tribe's gaming operation, the management contractor, and any other user of shared facilities and services.

S.W.S.T. CODE  
 Amendment  
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11-08-94

**Chapter 58**  
**Subchapter 4**  
**Management Contracts**

**58-58-01** Management contract disapproval; termination.

**58-58-02** The Tribal Council shall not approve and shall terminate any management contract if it determines that any principal, director, agent or employee of a management contractor or any person having a direct or indirect financial or ownership interest in or having management responsibility for a management contract is an elected member of the Tribal Council. Whenever the circumstances described in this Section are covered by the termination provisions of a management contract, any termination of such contract shall be governed thereby.

**58-58-03** A management contract will be denied or terminated by the Tribal Council if any principal, director or agent of a management contract, or of any parent company of a management contractor, any primary management official or key employee of a management contractor, any person having a direct or indirect financial or ownership interest in or having management responsibility for a management contract has been convicted of any felony or gaming offense or if the background investigation of the management contractor warrants disapproval or termination of the management contract. Whenever the circumstances described in this Section are covered by the termination provisions of a management contract, any termination of such contract shall be governed thereby.

**58-58-04** A management contract will be denied or terminated by the Tribal Council if any principal, agent, employee, or (directly or indirectly) a ten (10) percent or more shareholder of a management contractor or of any parent company of a management contractor, or any person having a direct or indirect financial ownership interest in, or having management responsibility for a management contract has been determined by the Commission to be a person whose prior activities, criminal record, reputation, habits, or associations pose a threat to the public interest or to the effective regulation and control of gaming, or either creates or enhances the danger of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or in the carrying on of regulated business and financial arrangements. Whenever the circumstances described in this Section are covered by the termination provisions of a management contract, any termination of such contract shall be governed thereby.

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New Adoption  
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11-07-94  
Council Adopted  
11-08-94

Chapter 58  
Subchapter 4  
Management Contracts

**58-58-05** A management contract will be denied or terminated by the Tribal Council if the management contractor or its parent company, if any, has or has attempted, to unduly interfere with or influence for its gain or advantage any decision or process of tribal government relating to the Tribe's gaming operation.

**58-58-06** A management contract will be denied or terminated, in accordance with the terms of the management contract, by the Tribal Council if any agent of the management contractor or its parent company, if any, has or has attempted, to unduly interfere with or influence for its gain or advantage any decision or process of tribal government relating to the Tribe's gaming operation. Whenever the circumstances described in this Section are covered by the termination provisions of a management contract, any termination of such contract shall be governed thereby.

**58-58-07** A management contract will be denied by the Tribal Council if a trustee, exercising the skill and diligence to which a trustee is commonly held, would not approve the contract.

**58-58-08** A management contract will be denied or terminated by the Tribal Council if the management contractor or its parent company, if any, has itself or by its agents deliberately or substantially failed to comply with the terms of the management contract, the provisions of this Ordinance, any rules or regulations adopted pursuant to this Ordinance, any applicable federal law, or any rules or regulations of the National Indian Gaming Commission, or any of the requirements of a Tribal-State compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota governing gaming on Indian lands. Whenever the circumstances described in this Section are covered by the termination provisions of a management contract, any termination of such contract shall be governed thereby.

**58-58-09** A management contract will be denied or terminated by the Tribal Council if changes in persons with a financial interest in or management responsibility for a management contract have occurred without notice to and subsequent licensing of the Commission or the National Indian Gaming Commission in accordance to the requirements of this Ordinance and federal law and regulations promulgated thereunder.

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Amendment

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11-08-94

**Chapter 58**  
**Subchapter 4**  
**Management Contracts**

**58-58-10** A management contract will be denied or, if not appropriately modified, terminated by the Tribal Council if the management contract is inconsistent with any of the requirements of a Tribal-State compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota governing gaming on Indian lands.

**58-58-11** A management contract will be denied or terminated by the Tribal Council if any principal, agent, employee, or (directly or indirectly) a ten (10) percent or more shareholder of a management contractor or of any parent company of a management contractor, or any person having a direct or indirect financial or ownership interest in or having management responsibility for, a management contract entity or its parent company, if any, has provided materially false statements or information to the Commission or other tribal officials, pertaining to matters where a provision of this Ordinance or of any rules or regulations promulgated by the Commission requires the submission of information to the Tribe or an agency thereof, or has refused to respond to questions by the Commission or other tribal officials propounded for the purpose of carrying out their duties and responsibilities under this Ordinance or the rules and regulations promulgated thereunder. Whenever the circumstances described in this Section are covered by the termination provisions of a management contract, any termination of such contract shall be governed thereby.

**58-58-12** A management contract will be denied or terminated by the Tribal Council if any principal, agent, employee, or (directly or indirectly) a ten (10) percent or more shareholder of a management contractor or of any parent company of a management contractor, or any person having a direct or indirect financial or ownership interest in or having management responsibility for, a management contract entity or its parent company, if any, has provided materially false statements or information to the National Indian Gaming Commission pertaining to matters where a provision of any federal law or regulation requires the submission of information to such Commission, or has refused to respond to questions by such Commission propounded for the purpose of carrying out its duties and responsibilities under such federal laws and regulations. Whenever the circumstances described in this Section are covered by the termination provisions of a management contract, any termination of such contract shall be governed thereby.

S. D. S. T. CODE  
 Amendment  
 New Adoption  
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Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 4**  
**Management Contracts**

**58-59-01** Management contractor application and records.

**58-59-02** Management contractor license applications shall be made upon forms provided by the Commission. A copy will be forwarded to the National Indian Gaming Commission for approval and the original of the application with original pictures and fingerprint cards will be retained by the Commission for background investigation and licensing purposes.

**58-59-03** Copies of the following documents must be provided to the Commission as part of a management contractor application:

1. Copies of documents establishing the existence of the entity, such as the partnership agreement, the trust agreement, or the articles of incorporation with any amendments thereto both for itself and any parent corporation;
2. Copies of documents designating the person who is charged with acting on behalf of the entity;
3. Copies of bylaws and any amendments thereto or other documents, both for itself and any parent corporation, that provide the day-to-day operating rules for the organization; and
4. Complete financial statements showing all sources of income for the previous three (3) fiscal years, and including assets, liabilities, and net worth as of the date of submission.

**58-59-04** In addition to other records and information required for licensing by this Ordinance or by any rules or regulations of the Commission, a licensed management contractor shall maintain the following records if a corporation:

1. A current list of officers and directors both for itself and any parent corporation.
2. Minutes of all meetings of stockholders and directors both for itself, and, whenever the Tribe's gaming operations is the subject of discussion, for any parent corporation.
3. A current list of all stockholders and stockholders affiliates, including their names and the names of beneficial owners of shares.

S.T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 4**  
**Management Contracts**

4. A complete record of all transfers of stock.
5. A record of amounts paid to the corporation for issuance of stock and other capital contributions and dates thereof.
6. A record, by stockholder, of all dividends distributed by the corporation.
7. A record of all salaries, wages, and other remuneration (including perquisites), direct and indirect, paid during the calendar or fiscal year, by the corporation, to all officers, directors, and stockholders with an ownership interest at any time during the calendar or fiscal year, equal to or greater than five (5) percent of the outstanding stock of any class of stock.

**58-59-05** In addition to other records and information required by this Ordinance or by any rules or regulations of the Commission, a licensed management contractor shall maintain the following records if a partnership:

1. A schedule showing the amounts and dates of capital contributions, the names and addresses of the contributors, the percentage of interest in net assets, profits and losses held by each.
2. A record of the withdrawals of partnership funds or assets.
3. A record of salaries, wages, and other remuneration (including perquisites), direct and indirect, paid to each partner during the calendar or fiscal year.
4. A copy of the partnership agreement and certificate of limited partnership, if any.

**58-59-06** In addition to other records and information required by this Ordinance or by any rules or regulations of the Commission, a licensed management contractor shall maintain the following records if a sole proprietorship:

1. A schedule showing the name and address of the proprietor and the amount and date of their original investment.

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 Amendment  
 New Adoption  
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**Chapter 58**  
**Subchapter 4**  
**Management Contracts**

2. A record of dates and amounts of subsequent additions to the original investments and withdrawals therefrom.
3. A record of salaries, wages, and other remuneration (including perquisites), direct or indirect, paid to the proprietor during the calendar or fiscal year.
4. Federal and state tax returns showing income and losses in connection with the Tribe's gaming operations.

**58-59-07** All records maintained pursuant to Sections 58-59-04, 58-59-05 and 58-59-06 shall be produced pursuant to an order of a court of competent jurisdiction or a lawful subpoena issued by the Commission.

**58-60-01** Management contractor bond.

**58-60-02** A management contractor shall post a bond to the Tribe before the effective date of any such contract in a sum as the Commission or the Tribal Council shall fix with sureties to be approved by the Commission or Council. The bond shall be used to guarantee that the management contractor shall faithfully execute the management contract, keep its books and records, make reports, and conduct all gaming operations in conformity with this Ordinance, any rules and regulations adopted by the Commission, the provisions of any compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota, and applicable federal law. The bond shall not be cancelled by a surety on less than 30 days notice in writing to the Commission or Council. If a bond is cancelled and the management contractor fails to file a new bond in the required amount on or before the effective date of cancellation, the management contract may be terminated by the Tribe. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond. This section shall not apply to any management contract approved by the National Indian Gaming Commission that was entered into by the Tribe prior to August 1, 1994.

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Chapter 58  
Subchapter 5  
Auditing and Accounting

**58-61-01 Auditing by the Commission.**

**58-61-02** The books of account, records, and documents pertaining to the Tribe's gaming operations and of any management contractor or other person or entity licensed in connection therewith shall be made available to the Commission. Such books of account, records, and documents, shall also be made available for inspection and audit at reasonable times and with 24 hours advance notice to a tribal gaming operation to other agencies of the Tribe as authorized by the Tribal Council, or any authorized agency of the federal government as required by federal law or regulation, or the State of South Dakota or the State of North Dakota as required by any compact between the Tribe and the State of South Dakota and the State of North Dakota. Such books of account, records and documents shall be organized and indexed in such a manner to provide immediate accessibility to authorized agencies.

**58-61-03** A failure to permit inspection or any falsification of any books or records related to any transaction connected with the holding, operating, and conducting of any gaming activity is a class one (1) misdemeanor.

**58-61-04** The Commission shall also have access to any bank records pertaining to the Tribe's gaming operations showing deposits received from or withdrawals of monies in connection with a tribal gaming operation.

**58-61-05** The Tribe shall perform such additional audits of the books, records, equipment and procedures of any licensed class III gaming operations and of any management contractor thereof as the Commission may deem necessary or as may be required under the terms of any class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota.

**58-61-06** The Commission may employ an auditor, to assist in the performance of auditing tribal gaming operations, recommending specific internal controls to the Commission, assuring gaming operation accountability, storing permanent records, assisting independent auditors, and conducting accounting investigations for the Commission.

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11-08-94

**Chapter 58**  
**Subchapter 5**  
**Auditing and Accounting**

- 58-62-01**     **Accounting requirements.**
- 58-62-02**     The gross revenues and adjusted gross revenues from gambling shall be separately handled and accounted for from all other moneys received from operation of a tribal gaming operation.
- 58-62-03**     In no event shall the books, records, and documents pertaining to any authorized class II and class III gaming activities be removed from the premises of the Tribe's gaming operations prior to independent audit.
- 58-62-04**     Whenever the annual or any other audit indicates a material weakness in the internal accounting control procedures or other internal control systems, or non-conformance with this Ordinance, applicable laws and regulations, and any compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota governing class III gaming, the Commission shall provide the chairperson of the management board of the tribal gaming operation notice of the audit report and of such non-conformance and material weaknesses. Within 90 days from receipt of notice of the audit report, the manager of the tribal gaming operation shall report in writing to the Commission the corrective actions taken to address any such non-conformance or material weakness indicated in the audit report.
- 58-63-01**     **Independent audits of gaming operation.**
- 58-63-02**     A tribal gaming operation's financial statements, books, and records shall be audited annually by an independent auditor employed by the Commission who is a certified public accountant. The annual independent audit will include an audit of gaming related contracts for supplies, services, or concessions for a contract amount in excess of \$25,000.00 (except contracts for professional legal or accounting services).
- 58-63-03**     The independent audit will also include an audit of gaming and cash procedures and equipment and an audit of conformance with this Ordinance, applicable laws and regulations, and any compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota governing class III gaming.

S. D. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 5**  
**Auditing and Accounting**

- 58-63-04** All audits shall be conducted pursuant to the AICPA Standards for Audits of Casinos when applicable and in accordance with otherwise generally accepted accounting principles and auditing standards. A copy of the report(s) and management letter(s) setting forth the results of each annual audit will be submitted to the National Indian Gaming Commission within 120 days after the end of each fiscal year of the gaming operation.
- 58-63-05** The annual financial statements and the quarterly fee assessment reports, if any, submitted by the Tribe to the National Indian Gaming Commission in relation to any class II gaming operation shall be reconciled by the independent auditor. Upon request, the reconciliation shall be provided to the National Indian Gaming Commission or its authorized representative.
- 58-64-01** **Accounting records.**
- 58-64-02** Throughout the term of any class III gaming compact between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota, all books, records and documents pertaining to any authorized class III gaming activities, including the records of any management contractor and the Tribe, shall be separately maintained pursuant to generally accepted accounting principles under standards of the AICPA in order to facilitate auditing to ensure compact compliance.
- 58-64-03** For the purpose of subchapter 5, "books, records, and documents" shall be defined as any book, record, or document pertaining to, prepared or generated by a tribal gaming operation or any licensee thereof including, but not limited to, all forms, reports, accounting records, ledgers, subsidiary records, computer-generated data, internal audit records, correspondence, and personnel records.
- 58-64-04** All original books, records and documents may be copied and stored on a microfilm, microfiche, or other suitable media system approved by the Commission.

W. S. CODE  
 Amendment  
 New Adoption  
Council Approved  
11-07-94  
Council Adopted  
11-08-94

Chapter 58  
Subchapter 5  
Auditing and Accounting

**58-64-05** No original book, record, or document may be destroyed by a tribal gaming operation or any licensee thereof without the prior approval of the Commission, unless the particular book, record, or document has first been copied and stored on microfilm, microfiche, or other suitable media in accordance with Section 58-64-04.

**58-64-06** Each licensed class II or class III tribal gaming operation shall permanently maintain complete and accurate books of account and records, including inventory records of gaming supplies sufficient to establish the amount of gross and net income, deductions and expenses, receipts and disbursements, and other information required in any financial statement, report or other accounting prepared pursuant to this Ordinance, any regulations issued thereunder, the Indian Gaming Regulatory Act, or any regulations of the National Indian Gaming Commission, and to enable any class II gaming operation, the Tribe or the National Indian Gaming Commission to determine the amount of any fees required under 25 C.F.R. § 514.1.

**58-64-07** The books of account and records shall also show, in addition to any other information required by the Commission or the Tribal Council, gross revenues and the amount of any taxes collected or accrued in connection with any gambling activities, all expenses, charges, fees and other deductions, the cash amounts or the cost to the gambling operations of goods or other noncash valuables distributed to participants in the licensed activity, and evidences of indebtedness.

**58-64-08** General accounting records shall be maintained on a double entry system of accounting with transactions recorded on an accrual basis.

**58-64-09** Detailed, supporting, and subsidiary records shall be maintained. These records include, but are not necessarily limited to:

1. Statistical game records to reflect drop (amount of cash wagered by patrons) and win (amount of cash won by the gaming operations) amounts for each type of game on a daily basis.

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 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 5**  
**Auditing and Accounting**

2. Records of all investments, advances, loans and receivable balances, due to the licensed class II and class III gaming operations or any management contractor thereof.
3. Records related to investments in property and equipment.
4. Records which identify the handle, payout, win amounts and percentages, theoretical win amounts and percentages, and differences between theoretical and actual win amounts and percentages, for each slot machine or video game of change on at least a week-to-date, month-to-date, and year-to-date basis.
5. Records of all loans and other amounts payable by the licensed class II or class III gaming operations.
6. Records which identify the purchase, receipt and destruction of gaming chips and tokens.
7. Other records required by the Commission.

**58-65-01** Retention of audit and accounting records and gaming operation records.

**58-65-02** A licensed class II or class III gaming operation of the Tribe shall retain all books of account, records, reports and other documents required by this Subchapter or any rules and regulations of the Commission for no less than five (5) years. In the event that the gaming operation terminates, these books, records, reports and other documents shall be retained in the custody of the Tribal Council.

**58-66-01** Gaming operations reports.

**58-66-02** A licensed class II or class III gaming operation of the Tribe shall file monthly reports with the Commission indicating adjusted gross revenues from gambling games and from other related activities conducted on the premises of the Tribe's gaming operations. These reports will be by calendar month and will be filed within 15 days following the end of each month.

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 Amendment  
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11-08-94

**Chapter 58**  
**Subchapter 5**  
**Auditing and Accounting**

- 58-66-03** A licensed class II or class III gaming operation of the Tribe shall file an annual financial statement with the Commission covering all financial activities of the Tribe's gaming operations. This statement shall be filed within 90 calendar days following the end of the fiscal year.
- 58-66-04** Any adjustments resulting from the annual audit shall be recorded in the accounting records of the year to which the adjustment relates. In the event the adjustments were not reflected in the annual report of the Tribe's gaming operations and the Commission concludes the adjustments are significant, the Commission may require a revised annual report to be filed within 30 calendar days following notification.
- 58-66-05** Required financial statements shall include a footnote reconciling and explaining any differences between the financial statements included in the annual report of the Tribe's gaming operations and the audited financial statements. Such footnote shall disclose the effect of such adjustments on:
1. Casino revenues;
  2. Revenue net of complimentary services;
  3. Total costs and expenses;
  4. Income before extraordinary items; and
  5. Net income.
- 58-67-01** Retention of enforcement action records.
- 58-67-02** A licensed class II or class III gaming operation of the Tribe shall maintain copies of all enforcement actions that the Tribe, the State of South Dakota, the State of North Dakota, the National Indian Gaming Commission, or any other agency of the United States has taken against the operation, noting the final disposition of each case.

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**Chapter 58**  
**Subchapter 6**  
**Internal Controls**

**58-68-01 Internal control systems.**

**58-68-02** A licensed class II or class III gaming operation of the Tribe shall operate all gaming under a system of adequate and effective internal controls. Internal control systems and any changes therein shall be approved or, if required by the terms of a management contract, certified for approval, by the Commission before any gaming operation may be commenced by a licensed class II or class III gaming operation. Once approved, no system of internal controls may be altered until the Commission has approved the changes.

**58-68-03** At a minimum, internal control systems shall include procedures or standards for:

1. Training personnel to understand prescribed procedures;
2. Segregating incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of their duties;
3. Accounting systems for the gaming operation;
4. Each department to account for gaming and other tribal enterprise monies;
5. Use of drop boxes and drop buckets;
6. Transportation of drop boxes to and from gaming tables;
7. Storage of drop boxes;
8. Accepting cash or prepaid vouchers at gaming tables;
9. Distributing gaming chips to gaming tables;
10. Removing gaming chips from gaming tables;
11. Closing gaming tables;

S.W. S.T. CODE

Amendment

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Council Adopted

11-08-94



**Chapter 58**  
**Subchapter 6**  
**Internal Controls**

12. Count room security;
13. Opening, counting and recording contents of slot machines and video games of chance drop boxes;
14. Slot machine or video game of chance identifying and non-identifying features and capabilities;
15. Jackpot payouts;
16. Filling payout reserve containers of slot machines or video games of chance;
17. Security with respect to the transportation and deposit of monies in an approved financial institution; and

**58-69-01** Computer recording requirements and monitoring of slot machines or video games of chance.

**58-69-02** A licensed class III gaming operation will have a computer connected to slot machines or video games of chance to record and monitor the activities of such machine. The computer will be designed and operated to automatically perform the function relating to slot machines to video game of chance meters as follows:

1. Record the number and total value of coins or tokens placed in the slot machine or video game of chance for the purpose of activating play;
2. Record the number and total value of coins or tokens in the drop bucket of the slot machines or video games of chance; and
3. Record the number and total value of slot tokens, cash or chips to be paid manually as the result of a jackpot.

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 Amendment  
 New Adoption  
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11-08-94

Chapter 58  
Subchapter 6  
Internal Controls

- 58-69-03** The computer shall store in machine-readable form all information required under this Section 58-69 and such stored data shall not be susceptible to change or removal by any personnel prior to submission to the Commission.
- 58-70-01** Security and surveillance procedures.
- 58-70-02** The Commission shall approve security procedures and establish surveillance procedures and equipment standards consistent with any applicable security and surveillance requirements of a class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota. At a minimum, security procedures shall include the employment of a reasonably adequate security force and provide for a certified peace officer with the power to arrest all persons committing gaming violations to be present at all times when gambling is being conducted.
- 58-71-01** Games and game rules; approval and posting.
- 58-71-02** The Commission will approve all games and game rules. Before any game may be played in the Tribe's gaming operations, the game must be authorized by the Commission and the game rules must be publicly posted in the gaming facility at such conspicuous locations, near where such gaming activity is conducted, so as to make them readily available and accessible to the public. The Commission shall not have the authority to disapprove or withhold authorization for class II gaming activities or any class III gaming activities permitted by the terms of any compact entered into by the Tribe with the State of South Dakota and by the Tribe with the State of North Dakota.

S.W.S.T. CODE

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**Chapter 58**  
**Subchapter 7**  
**Unlawful and Prohibited Activities**

**58-72-01** Unlawful and prohibited activities.

**58-72-02** A person or entity is guilty of a class 1 misdemeanor for engaging in any class II gaming, or in class III gaming where wagering is used or to be used, without a license issued by the Commission.

**58-72-03** A person or entity knowingly permitting a person under the age of twenty-one (21) years to make a wager is guilty of a class 1 misdemeanor.

**58-72-04** A person or entity commits a class 1 misdemeanor if the person or entity, either alone or in concert with others, does any of the following:

1. Offers, promises, or gives anything of value or benefit to a person who is connected to a gaming operation owned by the Tribe including, but not limited to, an officer or employee of the Tribe, an officer or employee of a management contractor, pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the Commission.
2. Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with a gaming operation owned by the Tribe including, but not limited to, an officer or employee of the Tribe, an officer or employee of a management contractor, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom such promise or gift was made in order to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the Commission.
3. Uses a device, including any calculator, computer, or other electronic, electrical or mechanical device to assist in any of the following:

S. W. S. T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 7**  
**Unlawful and Prohibited Activities**

- a. In projecting the outcome of a game;
  - b. In keeping track of the cards played;
  - c. In analyzing or changing the probability of the occurrence of an event relating to the gambling game;
  - d. In analyzing or changing the strategy for playing or betting to be used in the game except as permitted by the Commission.
4. Cheats at a gambling game.
  5. Manufactures, sells, or distributes any cards, chips, dice, game or device which is intended to be used to violate any provision of this Ordinance.
  6. Instructs a person in cheating or in the use of a device for that purpose with the knowledge or intent that the information or use conveyed may be employed to violate any provision of this Ordinance.
  7. Alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before it is revealed to the players.
  8. Places, increases, decreases or cancels a bet after acquiring knowledge, not available to all players, of the outcome of the gambling game which is the subject of the bet or to aid a person in acquiring such knowledge for the purpose of placing, increasing, decreasing or canceling a bet contingent on that outcome.
  9. Claims, collects, or takes, or attempts to claim, collect, or take, money or anything of value in or from the gambling games, with intent to defraud, without having made a wager contingent on winning a gambling game, or claims, collects, or takes an amount of money or thing of value of greater value than the amount won.

S. W. S. T. CODE

Amendment

New Adoption

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11-07-94

Council Adopted

11-08-94

**Chapter 58**  
**Subchapter 7**  
**Unlawful and Prohibited Activities**

10. Knowingly entices or induces a person to go to any place where a gambling game is being conducted or operated in violation of the provisions of this Ordinance with the intent that the other person plays or participates in that gambling game.
11. Uses counterfeit chips, tokens, coins or other currency in a gambling game.
12. Knowingly uses other than chips, tokens, coins, currency or other methods of credit approved by the Commission or uses coins not of the denomination as the coins intended to be used in the gambling games.
13. Has in the person's possession any device intended to be used to violate a provision of this Ordinance.
14. Has in the person's possession, except a licensee or employee of a licensee acting in furtherance of the employee's employment at a licensed gaming operation, any key or device designed for the purpose of opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or mechanical device connected with the gambling game or for removing coins, token, chips or other contents of a gambling game.
15. Uses any fraudulent scheme or technique.
16. Has located on the premises of a tribal gaming operation any gaming equipment or implements of gaming not authorized under this Ordinance or by the Commission.
17. Manipulates with intent to cheat (whether with or without a device), any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

W.S.T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 7**  
**Unlawful and Prohibited Activities**

18. Commits any offense defined in Chapter 25 of the Tribal Codes of Laws.

The possession of more than one of the devices described in subparagraphs 3, 5, 13, or 14 of this Section permits a rebuttable inference that the possessor intended to use the devices for cheating.

**58-73-01 Wagering by minors prohibited.**

**58-73-02** At any gaming operation of the Tribe in South Dakota, a person under the age of twenty-one years shall not make a wager on any gambling activity conducted at a tribal gaming operation and shall not be allowed in the area of such operation where gambling is being conducted. If any person below the age of twenty-one plays and otherwise qualifies to win any prize, the prize shall not be paid and the estimated amount wagered during the course of the game shall be returned to the player.

**58-73-03** At any gaming operation of the Tribe in North Dakota, a person under the age of eighteen years shall not make a wager on any gambling activity conducted at a tribal gaming operation and shall not be allowed in the area of such operation where gambling is being conducted. If any person below the age of twenty-one plays and otherwise qualifies to win any prize, the prize shall not be paid and the estimated amount wagered during the course of the game shall be returned to the player.

**58-74-01 Gambling on credit unlawful; licensee loans unlawful.**

**58-74-02** Any class II or class III gaming operation shall be operated for cash only. A person who, in connection with the Tribe's gambling operations, tenders and a person who receives any promise, agreement, note, bill, bond, contract, mortgage or other security, or any negotiable instrument, as consideration for any wager or bet commits a class one (1) misdemeanor.

**58-74-03** Any licensee or any employee of any licensee who loans to any person money or any other thing of value for the purpose of permitting that person to place any wager or bet at the Tribe's gaming

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 Amendment  
 New Adoption  
Judicial Approved  
11-87-94  
Council Adopted  
11-18-94

**Chapter 58**  
**Subchapter 7**  
**Unlawful and Prohibited Activities**

operations commits a class one (1) misdemeanor. However, a bingo participant may make payment by personal check for any entry or participation fee assessed by the Tribe.

- 58-74-04** Any licensee or any employee of any licensee who engages in pawnbroking or who takes goods or materials in hock from any person for the purpose of permitting that person to place any wager or bet at the Tribe's gaming operations commits a class one (1) misdemeanor.
- 58-74-05** Nothing in this Section shall be construed to prohibit the Tribe or a management contractor from offering check cashing and credit card transactions as routinely offered by other businesses. Credit card transactions may be consummated only through a bona fide credit card company whose services are offered to other businesses located within the Tribe's jurisdiction or within the State of South Dakota or the State of North Dakota.
- 58-74-06** Nothing in this Section shall apply to credits won by players who activate play on slot machines or video games or chance after inserting coins, currency, or tokens into the game.
- 58-74-07** Personal checks accepted by a tribal gaming operation must be deposited into a financial institution on the next banking day following the receipt of such check.
- 58-75-01** Possession of firearms and dangerous weapons prohibited.
- 58-75-02** The possession of firearms or other dangerous weapons shall be prohibited at all times within the gambling area of a tribal gaming operation and within adjacent facilities except for certified tribal, State of South Dakota, State of North Dakota, county, or federal law enforcement officers carrying such weapons in the course of their official duties and authorized to be on the premises of a tribal gaming operation.
- 58-76-01** Alcohol prohibited; exception.
- 58-76-02** The sale or possession of alcohol including, but not limited to, beer, liquor or any other beverage containing alcohol, on the premises of a

Amendment

New Adoption

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11-07-94

Council Adopted

11-18-94

Chapter 58  
Subchapter 7  
Unlawful and Prohibited Activities

tribal gaming operation or adjacent facilities is a class one (1) misdemeanor.

**58-76-03** The sale or possession of alcoholic beverages may be permitted on the premises of a tribal gaming operation and adjacent facilities only if authorized under a liquor ordinance approved by the Tribal Council and the Secretary of the Interior in accordance with applicable federal law.

**58-77-01** Penalties and fines.

**58-77-02** Whenever a person or entity within the civil jurisdiction of the Tribe violates any provision of this Ordinance, any rule or regulations of the Commission, any provision of any class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota, or engages in any activity proscribed under such Ordinance, rules or regulations or compact, such person or entity shall be subject to a civil fine or license suspension or license revocation or both a civil fine and license suspension or revocation.

**58-77-03** The Commission shall establish, enforce, and impose such schedule of civil fines as may be necessary to assure compliance with the provisions of this Ordinance, the rules and regulations of the Commission, and any class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota.

**58-77-04** Upon determining that a person or entity may be the subject of a civil fine, the Commission or its agents or employees may immediately attach the personal property of such person or entity of a value sufficient to satisfy the applicable fine, and hold such property until a final determination is made on whether such person or entity shall be required to pay a civil fine. Nothing in any schedule of fines established by the Commission shall be deemed to limit the amount of any civil fine that may be imposed by a tribal court or by the Commission upon a finding that a person or entity has violated any provision of this Ordinance, any rule or regulation of the Commission, or any provision of any class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota.

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 Amendment  
 New Adoption  
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11-07-94  
Council Adopted  
11-08-94



**Chapter 58**  
**Subchapter 7**  
**Unlawful and Prohibited Activities**

- 58-77-05** A violator shall be required to pay court costs or Commission costs, as the case may be, storage fees and auction or sales fees.
- 58-77-06** No fine shall be assessed or any action taken for any violation of this Ordinance, any rule or regulation issued pursuant thereto, or any provision of a class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota unless a charge or complaint is filed with the Commission or a tribal court, as the case may be, within three years of the commission of the violation.
- 58-77-07** The Commission shall review each notice of violation to determine whether a civil fine will be assessed, the amount of the fine, and in the case of continuing violations, whether each daily illegal act or omission will be deemed a separate violation for purposes of the total civil fine assessed.
- 58-78-01** Forfeiture of property.
- 58-78-02** Anything of value, including all traceable proceeds, including but not limited to, real and personal property, moneys, negotiable instruments, securities, and conveyances belonging to any person or entity, is subject to forfeiture to the Tribe if the item was used for any of the following:
1. In exchange for a bribe intended to affect the outcome of a gambling game.
  2. In exchange for, to facilitate, or in connection with a violation of this Ordinance, any rule or regulation of the Commission, any provision of any class III gaming compact entered into between the Tribe and the State of South Dakota or the Tribe and the State of North Dakota, or in taking any action proscribed under such Ordinance, rules or regulations or compact.
  3. In exchange for, to facilitate, or in connection with a violation of any management contract with the Tribe.
- 58-78-03** All moneys, coin, and currency found in close proximity of wagers, subject to forfeiture, or of records of such wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.

Amendment

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**Chapter 58**  
**Subchapter 7**  
**Unlawful and Prohibited Activities**

- 58-78-04** Sections 58-78-02 and 58-78-03 do not apply if the act or omission which would give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.
- 58-78-05** Winnings found to have been received in violation of this Ordinance are subject to forfeiture.
- 58-78-06** Upon determining that the property of a person or entity may be subject to forfeiture, the Commission or its agent or employees may immediately seize such personal property of the person or entity as may be subject to forfeiture, and hold such property until a final determination is made on whether such property is to be forfeited to the Tribe.
- 58-78-07** Within five (5) days following the seizure of any property that may be subject to forfeiture, the Commission shall notify the person or entity from whom such property was seized and, if different, the owner of such property, if known, of a hearing before the Commission to determine whether the property was used for any of the purposes described in Section 58-78-02. The hearing shall be held no later than fifteen (15) days following the date of seizure of the property, provided that the Commission may extend this time for not more than an additional fifteen (15) days if an investigation into the circumstances of the use of the property has not been completed.
1. At any hearing, the person or entity from whom the property was seized and, if different, the owner of the property shall have an opportunity to be heard, including an opportunity to present oral and documentary evidence, cross-examine witnesses and present oral arguments within limits established by the Commission.
  2. When holding a hearing under this Section, the Chairman of the Commission or any presiding Commissioner may administer oaths and affirmations, issue subpoenas to compel the attendance of witnesses or procure the production of documents, and take such other action as may be necessary to conduct the hearing in a manner most likely to result in a fair disposition.

W.S.T. CODE  
 Amendment  
 New Adoption  
Judicial Approved  
11-07-94  
Council Adopted  
11-08-94

**Chapter 58**  
**Subchapter 7**  
**Unlawful and Prohibited Activities**

3. Whenever a preponderance of the evidence introduced at a hearing supports the conclusion that seized property was used for any of the purposes described in Section 58-78-02, the Commission shall issue an order forfeiting such property to the Tribe.

**58-78-08** Upon receipt of forfeited property, the Tribe shall permit an owner or lienholder of record having a nonforfeitable property interest in the property the opportunity to purchase the property interest forfeited. If the owner or lienholder does not exercise the option under this Section within thirty (30) days the option is terminated, unless the time for exercising the option is extended by the Tribe.

**58-78-09** A person having a valid, recorded lien or property interest in forfeited property which has not been purchased pursuant to Section 58-78-08 shall either be reimbursed to the extent of the nonforfeitable interest or to the extent that the sale of the item produces sufficient revenue to do so, whichever amount is less. The sale of the forfeited property should be conducted in a manner which is commercially reasonable and calculated to provide a sufficient return to cover the costs of the sale and reimburse any nonforfeitable interest. The validity of a lien or property interest is determined as of the date upon which property becomes forfeitable.

**58-78-10** This Section 58-78 does not preclude a civil suit by an owner of an interest in forfeited property against the party who, by using the property for any of the purposes described in Section 58-78-02, caused the property to become forfeited to the Tribe.

S.T. CODE  
 Amendment  
New Adoption  
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11-08-94

Chapter 58  
Subchapter 8  
Implementation

58-79-01 Implementation.

58-79-02 Upon enactment this Ordinance shall immediately take effect.

58-80-01 Severability.

58-80-02 If any clause, sentence, paragraph, section or part of this Chapter shall, for any reason, be adjudicated by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

S. W. S. T. CODE

Amendment

New Adoption

Judicial Approved

11-07-94

Council Adopted

11-08-94