



OCT 10 2003

Honorable Charles W. Murphy
Chairman, Standing Rock Sioux Tribe
P.O. Box D
Fort Yates, North Dakota 58538

RE: Standing Rock Sioux Tribe Amended Ordinance No. 198A

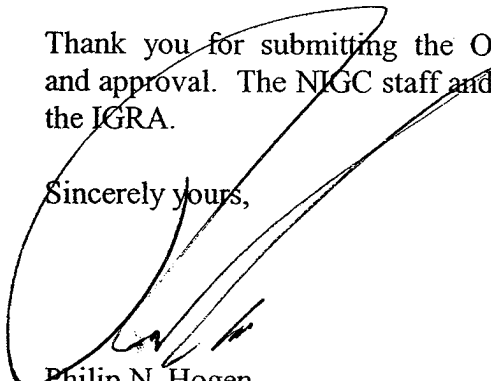
Dear Chairman Murphy:

This letter responds to your request to the National Indian Gaming Commission (NIGC) to review and approve the Standing Rock Sioux Tribe's (Tribe) Ordinance No. 198A (Ordinance) adopted by the Tribal Council by Resolution # 145-03 on June 3, 2003. The Ordinance was received by the NIGC on July 21, 2003. Under the Indian Gaming Regulatory Act (IGRA) and the regulations promulgated by the NIGC, the Chairman has 90 days to review and ordinance and either approve or disapprove it. 25 C.F.R. § 522.4.

The Ordinance is a revision of a prior ordinance submitted by the Tribe on January 6, 2003, and disapproved by the Chairman on April 1, 2003. In our disapproval letter, we advised the Tribe of the deficiencies which resulted in the disapproval. The Tribe has corrected those deficiencies. Therefore, this letter constitutes approval of the revised Ordinance submission under the IGRA. It is important to note that the Ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe exercises jurisdiction.

Thank you for submitting the Ordinance of the Standing Rock Sioux Tribe for review and approval. The NIGC staff and I look forward to working with the Tribe in implementing the IGRA.

Sincerely yours,



Philip N. Hogen
Chairman

ORDINANCE NO. 198

BE IT FURTHER RESOLVED, that the **TITLE XXIII, LICENSING AND REGULATION OF BINGO AND OTHER GAMES OF CHANCE**, of the Code of Justice of the Standing Rock Sioux Tribe, be and the same is hereby amended and replace with the attached and new **TITLE XXIII, LICENSING AND REGULATION OF BINGO AND OTHER GAMES OF CHANCE**.

ATTACHED PAGES

Title XXIII, i - vi

XXIII - 1 through XXIII - 51

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RESOLUTION NO. 145-03

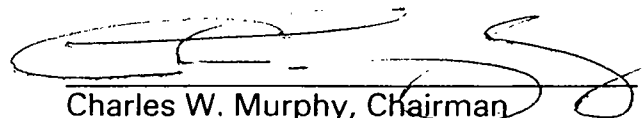
BE IT FURTHER RESOLVED, that pursuant to the power vested in the Standing Rock Sioux Tribal Council under the Constitution of the Standing Rock Sioux Tribe, the foregoing Ordinance No. 185A amending **TITLE XXIII, LICENSING AND REGULATION OF BINGO AND OTHER GAMES OF CHANCE**, of the Code of Justice of the Standing Rock Sioux Tribe and replaced with the attached **TITLE XXIII, LICENSING AND REGULATION OF BINGO AND OTHER GAMES OF CHANCE**, be and the same is hereby approved; and


CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of **[17]** members of whom 16 constituting a quorum, were present at a meeting thereof, duly and regularly, called, noticed, convened and held on the 3rd day of **JUNE, 2003**, and that the foregoing resolution was duly adopted by the affirmative vote of 13 members, and 2 opposing, and with 1 not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.**

DATED THIS 3rd DAY OF JUNE, 2003.

ATTEST:


Charles W. Murphy, Chairman
Standing Rock Sioux Tribe


Sharon Two Bears, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

TITLE XXIII

LICENSING AND REGULATION OF BINGO AND OTHER GAMES OF CHANCE (With Amendments through September May 1, 2002 2000)

CHAPTER 1. FINDINGS

23-101. The Tribal Council Finds:

- (a) That, under the principles established by the United States Supreme Court in California v. Cabazon Band of Mission Indians 94 L.Ed.2d 244 (1987), Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the activity is not specifically prohibited by federal law and is conducted within a state which does not criminally prohibit the activity;
- (b) That the United States Congress has enacted the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., providing for certain federal regulation of Indian gaming;
- (c) That tribal regulation of gaming activity on the Reservation is vital to the protection of trust land on the Reservation and to the protection of the interests of the Tribe and its members;
- (d) That to protect the integrity and self-regulation, the Tribe agrees to adopt a gaming ordinance and regulations which are at least as stringent as those statutes and administrative rules adopted by the states of North and South Dakota;
- (e) That the Tribe has entered into tribal-state compacts with the State of North Dakota and the State of South Dakota which provide for the operation of Class III gaming;
- (f) That in order to insure the public's perception of gaming on the Standing Rock reservation, the integrity and self-regulation of gaming must be protected;
- (g) That operation of bingo and other games of chance by the Tribe and tribal subdivisions is a valid means of promoting tribal economic development and the health and welfare of tribal members.

TABLE OF CONTENTS

TITLE XXIII. LICENSING AND REGULATION OF BINGO AND OTHER GAMES OF CHANCE (With Amendments Through July 1, 2002)

	Page
Chapter I. Findings	XXIII-1
Chapter 2. Definitions	XXIII-2
23-201. Class I Gaming	XXIII-2
23-202. Class II Gaming	XXIII-2
23-203. Class III Gaming	XXIII-2
23-204. Social Games for Prizes of Minimal Value	XXIII-3
23-205. Tribal Subdivision	XXIII-3
23-206. Net Revenues	XXIII-3
23-207. Primary Management Official	XXIII-3
23-208. Key Employee	XXIII-4
23-209. Non-Gaming Staff	XXIII-4
23-210. North Dakota Compact	XXIII-4
23-211. South Dakota Compact	XXIII-4
23-212. Act	XXIII-4
23-213. North Dakota Portion of the Reservation	XXIII-4
23-214. South Dakota Portion of the Reservation	XXIII-4

TABLE OF CONTENTS – TITLE XXIII (cont'd)	Page
23-215. Commission and Professional Staff	XXIII-5
23-216. National Indian Gaming Commission	XXIII-5
23-217. Tribe	XXIII-5
Chapter 3. Tribal Gaming Commission and Professional Staff	XXIII-5
23-301. Establishment	XXIII-5
23-302. Function	XXIII-6
23-303. Appointment of Members	XXIII-6
23-304. Terms	XXIII-6
23-305. Qualifications	XXIII-7
23-306. Removal and Vacancies	XXIII-8
23-307. Meetings	XXIII-9
23-308. Compensation	XXIII-9
23-309. Monthly Reports	XXIII-9
23-310. Notice of Commission Decisions	XXIII-9
23-311. Tribal Gaming Commission Chairman-Executive Secretary	XXIII-9
23-312. Gaming Inspectors	XXIII-10
23-313. Executive Committee Member and Tribal Liaison Officer	XXIII-11
23-314. Tribal Immunity	XXIII-11
Chapter 4. Compliance with the Act	XXIII-12
23-401. Applicability	XXIII-12

23-402. Sole Proprietary Interest	XXIII-12
TABLE OF CONTENTS – TITLE XXIII. (cont'd)	Page
23-403. Use of Revenues	XXIII-12
23-404. Audits	XXIII-12
23-405. Environmental and Public Health and Safety Standards	XXIII-13
23-406. Status as a Tribal Subdivision	XXIII-13
23-407. Licenses for Gaming Activities	XXIII-13
23-408. License Fees and Duration of License	XXIII-14
23-409. Hearing on Application for a License	XXIII-15
23-410. Conditions of the Tribal License	XXIII-15
23-411. Assignment or Transfer	XXIII-16
23-412. Cancellation and Suspension	XXIII-16
23-413. Report to the Commission	XXIII-17
Chapter 5. Background Investigations and Licensing of Key Employees and Primary Management Personnel	XXIII-17
23-501. License Required	XXIII-17
23-502. Background Investigation	XXIII-18
23-503. Licensing Standard	XXIII-18
23-504. Application for License	XXIII-19
23-505. Determination of Eligibility	XXIII-21
23-506. Issuance of License	XXIII-22
23-507. Duration of License	XXIII-22

23-508. Effect of License Denial	XXIII-22
TABLE OF CONTENTS – TITLE XXIII. (cont'd)	Page
23-509. Hearings	XXIII-22
23-510. License Suspension	XXIII-23
23-511. Appeals	XXIII-23
23-512. Law Trained Judges	XXIII-24
Chapter 6. Management Contractors	XXIII-24
23-601. Management Contracts Allowed	XXIII-24
23-602. Standard for Approval	XXIII-24
23-603. Submission to the National Indian Gaming Commission	XXIII-25
23-604. Licenses Required	XXIII-25
23-605. Background Investigation	XXIII-25
23-606. Licensing Standard	XXIII-25
23-607. Application for License	XXIII-26
23-608. Determination of Eligibility	XXIII-27
23-609. Issuance of License	XXIII-28
23-610. Duration of License	XXIII-28
23-611. Hearings	XXIII-28
23-612. License Suspension	XXIII-28
23-613. Definitions	XXIII-29
Chapter 7. Class II Gaming	XXIII-29
23-701. Conditions	XXIII-29

TABLE OF CONTENTS – TITLE XXIII. (cont'd)

Page

Chapter 8. Class III Gaming

XXIII-30

23-801. Applicability

XXIII-30

Subchapter A. Gaming in North Dakota

XXIII-30

23-802. Applicability

XXIII-30

23-803. Governing Law

XXIII-31

23-804. Adoption of Compact

XXIII-31

23-805. Types of Class III Games Authorized

XXIII-31

23-806. Bet Limits

XXIII-32

23-807. Minimum Age Requirement

XXIII-33

23-808. Record Keeping Requirement

XXIII-33

23-809. Inspection

XXIII-33

23-810. Technical Standards

XXIII-33

Subchapter B. Gaming in South Dakota

XXIII-33

23-811. Applicability

XXIII-33

23-812. Governing Law

XXIII-34

23-813. Adoption of Compact

XXIII-34

23-814. Types of Class III Games Authorized

XXIII-34

23-815. Bet Limits

XXIII-34

23-816. Accounting Standards

XXIII-34

23-817. Minimum Age Requirement

XXIII-34

23-818. Technical Standards for Gaming Machines	XXIII-35
TABLE OF CONTENTS – TITLE XXIII. (cont'd)	Page
23-819. Number of Gaming Devices	XXIII-35
Chapter 9. No Credit Extended	XXIII-35
23-901. No Credit Extended	XXIII-35
Chapter 10. Jurisdiction Over Class III Gaming	XXIII-35
23-1001. Civil Jurisdiction in South Dakota	XXIII-35
23-1002. Civil Jurisdiction in North Dakota	XXIII-35
23-1003. Criminal Jurisdiction in South Dakota	XXIII-36
23-1004. Criminal Jurisdiction in North Dakota	XXIII-36
23-1005. Federal Jurisdiction	XXIII-36
Chapter 11. Penalties	XXIII-36
23-1101. Criminal Penalties	XXIII-36
23-1102. Civil Penalties	XXIII-36
Chapter 12. Customer Disputes	XXIII-37
23-1201. Customer Disputes	XXIII-37
23-1202. Customer Rights Regarding Disputes	XXIII-37
23-1203. Commission Action on Customer Disputes	XXIII-37
Chapter 13. Miscellaneous	XXIII-37
23-1301. Severability	XXIII-37

CHAPTER 2. DEFINITIONS

23-201. Class I Gaming.

"Class I Gaming" Means:

- (a) Social games played solely for prizes of minimal value of less than Five One Hundred Dollars (\$100.00); (\$500.00)
- (b) Traditional forms of Indian gaming engaged in as a part of tribal ceremonies, celebrations, or pow-wows such as "stick" or "bone" games.
- (c) Games such as rodeos or horse races, including those for which purses or prizes are awarded, that are played as part of tribal ceremonies, celebrations, or pow-wows. ~~This does not include~~ games operated prior to a ceremony, celebration, or pow-wow for the purpose of raising funds for the ceremony, celebration, or pow-wow.
- (d) Raffles
- (e) Other games of chance which are allowed by the States of North Dakota and South Dakota, such as pools and Calcutta, provided they are operated on a non-profit basis.

23-202. Class II Gaming.

The Term "Class II Gaming" Means:

- (a) Bingo: The game of chance which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards.
- (b) Electronic, computer or technological aides can be used in connection with Class II bingo, so long as all players are playing against each other to achieve the same sequence.
- (c) Other games of chance: Games similar to bingo, including, if played at the same location as bingo, pull-tabs, lotto, punch boards, tip jars and instant bingo.
- (d) ~~Charitable Bingo operations will not be considered Class II gaming Operations, provided that:~~

~~(1) All proceeds are for the benefit of a charitable organization;~~

~~(2) The Tribe permits the charitable organization to be exempt from this part; The charitable bingo operation does not allow any person under 21 years of age to participate in any technologically aided bingo or other technologically aided game of chance.~~

~~(3) The charitable bingo operation is operated wholly by the charitable organization's employees or volunteers;~~

~~(4) The annual gross gaming revenue of the charitable Organization does not exceed \$100,000; and~~

~~(5) The Tribe establishes and the charitable bingo operation complies with minimum standards which shall protect the integrity of the game and safeguard the monies used in connection with the game.~~

~~(6) Nothing in this section shall exempt bingo operations conducted by independent operators for the benefit of a charitable operation.~~

23-203. Class III Gaming.

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

- (a) Any house banking game, including but not limited to –
 - (1) Card games such as baccarat, chemin de fer, blackjack (21 and pai gow (if played as house banking games) or other games as set forth in 23-805 of this Ordinance;
 - (2) Casino games such as roulette, craps and keno;
- (b) Any slot machines as defined in 15 U.S.C. § 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance;
- (c) Any sports betting and pari-mutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or
- (d) Lotteries

23-204. Social Games for Prizes of Minimal Value.

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

23-205. Tribal Subdivision.

“Tribal subdivision” means:

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

23-206. Net Revenues.

“Net revenues” shall be determined pursuant to the definition set forth within Section 4(9) of the Indian Gaming Regulatory Act according to Generally Accepted Accounting Principles (GAAP) as recognized by the American Institute of Certified Public Accountants.

23-207. Primary Management Official.

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

23-208. Key Employee.

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

23-209. Non-Gaming Staff.

Non-Gaming Staff means a person of a gaming operation or a gaming operation of which there are persons who are employees thereof who do not have access to money, gaming revenues or other items of value including chips, credits, coins or bills of legal tender value of gaming, wagering, or gaming devices or in general money, bank drafts, checks, credit or any other bank cards for procuring money from financial institutions or

does not have access to sensitive areas.

23-210. North Dakota Compact.

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

23-211. South Dakota Compact.

"South Dakota Compact" means the document entitled "Gaming Compact Between the Standing Rock Sioux Tribe and the State of South Dakota," entered into between the Standing Rock Sioux Tribe and the State of South Dakota, dated July 14, 1992 and the Amendments to the Class III Gaming Compact, dated August 30, 2001.

23-212. Act.

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

23-213. North Dakota Portion of the Reservation.

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

23-214. South Dakota Portion of the Reservation.

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

23-215. Commission And Professional Staff

"Commission" means the Standing Rock Gaming Commission established pursuant to Chapter 3 of this Ordinance. Professional staff shall mean the Chairman in the exercise of Executive Secretary functions and responsibilities; an Office Manager; Gaming Inspectors; a Licensing Assistant; a Tribal Liaison Officer to work with Grand River Casino and Resort; an Executive Committee member to work with the Prairie Knights Casino & Resort. Lodge and the Seven Circle Resorts, Inc.

23-216. National Indian Gaming Commission.

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

23-217. Tribe.

"Tribe" means the Standing Rock Sioux Tribe.

CHAPTER 3

TRIBAL GAMING COMMISSION AND TRIBAL GAMING DEPARTMENT

23-301. Establishment.

"There is hereby established the Standing Rock Gaming Commission ("Commission"), the regulatory body of the Tribe, consisting of a Chairman-Executive Secretary and eight (8) commission members. There shall be established a Professional Staff of which the Officer Manager, Gaming Inspectors, a Licensing Assistant, or any other professional agents for purposes of counsel, auditing, consultation, training and investigations. The monthly Tribal Inspector reports of the Gaming Office shall be directed to and under the supervision of the Chairman-Executive Secretary. The Tribal Liaison Officer and Executive Member shall be appointed by and reports to the Standing Rock Sioux Tribal Council.

The Commissioners, Professional Staff, or any other professional agents for purposes of legal counsel, auditing, consultation, training or investigations shall not be allowed to participate as a player in any gaming under the regulatory jurisdiction of the Standing Rock Sioux Tribe. Participation as a player shall mean any act of inserting currency or tokens in any machine, banking card or table game, or pushing, activating the spin button or arm, whether done alone or in concert with others. Violation of this paragraph will result in removal of the commissioner, termination of professional staff and termination of any professional contract or relationship. The gaming establishment is hereby authorized to have the individual offender removed from the premises and forfeit any winnings.

No Commissioner, Professional staff or professional agents shall violate an oath of confidentiality, which must be signed prior to commencement of employment. Infraction of confidentiality shall result in removal from office or termination of employment. Violation of oath of confidentiality after leaving office or employment may result in civil suit for invasion of privacy, which may include injunctive relief and/or possible criminal prosecution.

23-302. Function.

The Commission shall have the following powers and duties:

- (a) The Commission shall have primary responsibility for regulatory functions relating to tribal gaming operations authorized under this ordinance and shall be responsible for ensuring the requirements of this Ordinance, the Act, the Compacts are complied with. The By-Laws of the Commission are hereby rescinded and repealed. The Commission shall be bound by and follow the laws of the Tribe, this Ordinance, the Act and the Compacts;
- (b) The Commission shall review all license applications and determine

whether the application is complete and in compliance with the Ordinance, and whether such license should be issued, denied, revoked, suspended or renewed, as appropriate;

- (c) The Commission shall collect any fees required to be paid under this Ordinance. Such fees shall become tribal revenues and will be specifically disbursed to the gaming department budget as approved by the Tribal Council;
- (d) The Commission may, subject to the approval by the Tribal Council, bring any civil action or criminal complaint in any court of competent jurisdiction to enforce the provisions of this Ordinance, the Act, the North Dakota Compact or South Dakota Compact or to enjoin or otherwise prevent any violation of this Ordinance, the Act, the North Dakota Compact or South Dakota Compact, occurring or threatened to occur. The Chairman of the Tribe shall be authorized to approve litigation requests brought by the Commission between sessions of the Tribal Council, subject to the ratification of Tribal Council at their next regular or special session;
- (e) The Commission shall, subject to approval by the Tribal Council:
 - (i) promulgate such regulations as it deems necessary in order to implement and enforce the provisions of this Ordinance;
 - (ii) recommend to the Tribal Council the selection of an independent auditor to audit the Casinos, as required by the Act; and
 - (iii) engage the services of legal counsel to the Commission.
 - (iv) issue all gaming Licenses, required by this Ordinance, to ensure compliance with the Ordinance, the Act and the Compact and any other applicable laws or regulations.
- ~~(f) The Commission shall act in accordance with the bylaws as adopted by the Standing Rock Sioux Tribal Council in a manner consistent with this ordinance.~~
- (f) Each Commission member shall make monthly reports to the local district at a regularly scheduled district meeting.
- (g) The Commission shall have the authority to conduct investigations into suspected Class II and Class III gaming violations.
- (h) The Commission shall have the authority to insure that, the surveillance

departments of Class II and Class III establishments operate independently, with no outside influence from management.

23-303. Appointment Of Members.

One Commission member must be a resident of each District of the Reservation. Each District shall recommend persons to serve as Commission member from that District. The members of the Commission shall be appointed by majority vote of the Tribal Council, at a meeting at which a quorum is present. The Chairman of the Commission may reside anywhere on the Reservation.

23-304. Terms.

~~The initial members of the Commission shall serve as follows:~~

~~(a) Four members shall serve through December 31, 1999.~~

~~(b) Four members shall serve through December 31, 2000.~~

(a) (c) The Chairman shall serve a continuous term consistent with the Standing Rock Sioux Tribe Personnel Policies and Procedures and with the provisions of this Ordinance as an appointed official subject to the supervision of the Standing Rock Sioux Tribal Chairman Administration.

Thereafter, (b) A all terms shall be for four years and until a successor is appointed and qualified. The Districts of Cannonball, Bear Soldier, Running Antelope and Rock Creek shall serve until December 31, 2004. The Districts of Porcupine, Fort Yates, Kenel and Wakpala shall serve until December 31, 2005. If a vacancy occurs during a term, the Council may appoint a successor for the unexpired portion of the term, with recommendations from the District in which the vacancy arose, and provided the successor meets the qualifications set forth in Section 23-305, below.

23-305. Qualifications.

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

- (a) Be of high moral character and reputation to promote public confidence in gaming by the Tribe;
- (b) Have sufficient education and work experience to be able to fulfill the functions of the Commission;
- (c) Have no financial stake in any gaming operated under the Ordinance nor participate as a player in any gaming operated under this Ordinance. A person has a "financial stake in any gaming operated under the Ordinance" if that person, or that person's spouse, brother,

sister, mother, father, grandmother, grandfather, son, daughter, grandson, granddaughter or first cousin has invested in, has a direct or indirect financial interest in, has a management contract in, or has any other pecuniary interest whatever in gaming operated under this Ordinance. Membership in the Tribe does not, in itself, create a "financial stake in any gaming operated under this Ordinance." Employment at a tribally licensed gaming facility, other than as a primary management official, by a person's spouse, brother, sister, mother, father, grandmother, grandfather, son, daughter, grandson, granddaughter or first cousin does not create in such person a "financial stake in any gaming operated under this Ordinance";

- (d) Never have been convicted of a tribal, federal or state felony and not have an outstanding, active bench or arrest warrant or on probation or parole for a violation of the foregoing;
- (e) Not participate as a player in any Class II or Class III game of chance conducted by a facility or operator licensed under this Ordinance.
- (f) Submit to a background investigation on an annual basis under the same procedures applicable to prospective Class III primary management officials or key employees in the State in which the prospective Commissioner resides under Section 23-503 502. The Tribal Gaming Chairman-Executive Secretary shall determine whether the prospective Commission member meets the licensing standard set forth in Section 23-504 503;
- (g) Not be a member of the Tribal Council, or a local District officer, nor sit as a member or advise a local organization that operates or conducts Class II or Class III gaming activities.
- (h) Not be delinquent on a debt to the Tribe, any agency of the Tribe, or corporation owned or controlled by the Tribe, as defined in Title XV, Elections, Section 15-201(g).
- (i) The Chairman-Executive Secretary of the Commission shall be selected as advertised with the added Position Description detailing duties and responsibilities as authorized by the Tribal Council.
- (j) Not have been dishonorably discharged from the armed services.
- (k) Not have been convicted of a petty theft offense within one (1) year from the date of application.
- (l) Not have been convicted of a misdemeanor involving fraud, misrepresentation, theft or gambling in the past five (5) years from the date of application.

23-306. Removal and Vacancies.

Members, including the Chairman, may be removed by a two-thirds vote of the Tribal Council, at a meeting at which a quorum is present. Members, including the Chairman, may be removed for cause, including delinquency on a debt to the Tribe, malfeasance, neglect of duty, unexcused failure to attend three successive Commission meetings, conviction of a felony, conviction of a misdemeanor involving fraud, misrepresentation, theft or gambling or petty theft, failure to disclose a conviction, or failure to comply with the Constitution or laws of the Tribe. Any Commissioner being considered for removal shall be provided with notice from the Tribal Chairman or Tribal Secretary stating the grounds for removal, specifying a date, time, and place for a hearing to be held by the Tribal Council within 20 days of receipt of such notice. At the hearing, the Commissioner shall be entitled to appear, present testimony and other evidence, and be represented by an attorney at the Commissioner's own expense. Vacancies shall be filled by majority vote of the Council, at a meeting at which a quorum is present, for the unexpired term, with recommendations provided by the Districts from which the vacancies arose and provided that the successor meets the qualifications set forth in Section 23-305.

Additionally, the Chairman-Executive Secretary may removed in accordance with Title XVIII, of the Tribe's Code of Justice.

23-307. Meetings.

The Commission shall meet as necessary to fulfill its duties and obligations under this Ordinance, but in no event less frequently than once per month. Meetings may be called by the Chairman, or by any three members of the Commission, upon at least three days written notice to all members. If the Chairman or any three members certify in writing that a meeting must be held on less than three days notice, a meeting may be held as necessary, provided that best efforts must be made to provide the Chairman and all members with as much advance notice of such meeting as possible. Five members, or four members and the Chairman, shall constitute a quorum for the transaction of business. The vote of a majority of the members present at a meeting at which a quorum is present shall be the act of the Commission. The Chairman-Executive Secretary shall not vote, unless in case of a tie.

23-308. Compensation.

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

23-309. Monthly Reports.

The Chairman-Executive Secretary shall make a report to the Tribal Council at least once each month, or more as requested. Each report shall include a summary of all licensing and enforcement activities, a summary of meeting and travel activities and dates,

and any additional information requested by the Tribal Council or the Judicial Committee.

23-310. Notice Of Commission Decisions.

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

23-311. Tribal Gaming Commission Chairman-Executive Secretary

- (a) There is hereby created a Tribal Gaming Commission Chairman-Executive Secretary who shall be responsible for oversight of gaming activities, as set forth in this Ordinance.
- (b) The Chairman-Executive Secretary shall have primary responsibility for the functions of the Commission, and shall supervise all Commission professional Staff.
- (c) The Chairman-Executive Secretary shall be a full-time employee, shall be subject to the Tribe's personnel policies and procedures, and shall be under the supervision of the Tribal Chairman.
- (d) To be eligible for the position of Chairman-Executive Secretary, an individual must have a bachelor's degree. Experience in administration, business, gaming or related fields is preferred. The Chairman-Executive Secretary shall not be a Tribal Council member, or District Officer.
- (e) The Chairman-Executive Secretary shall develop an annual budget in consultation with the Gaming Commission, subject to approval by the Tribal Council.
- (f) The Chairman-Executive Secretary shall have the following duties:
 - (i) Oversee all functions relating to the Tribe's regulation of gaming operations, including Minimum Internal Control Standards (MICS), all financial aspects of such gaming;
 - (ii) Assist in fulfilling the Tribe's duties under any Class III management agreement and the Compacts of North and South Dakota;
 - (iii) To provide supervision on personnel matters to tribal gaming inspectors and other professional gaming staff.
 - (iv) To determine whether prospective Tribal Gaming Commission members meet the background investigation requirements set forth in Section 23-305;

- (v) To secure audits as required by this Ordinance; and
 - (vi) To initiate and/or conduct investigations of violations of this Title, the Tribe's Code of Justice, the United States Code, the Act, or the Compacts of North Dakota and South Dakota;
 - (vii) To serve as presenting officer in license suspension or revocation hearings or as presiding officer in customer disputes; and
 - ~~(vii)~~ (viii) To fulfill such other duties as may be delegated by the Tribal Council.
- (g) The Chairman-Executive Secretary shall maintain and protect the confidentiality of records and proceeding that come before the Gaming Commission and Department.

23-312. Gaming Inspectors.

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

23-313. Executive Committee Member And Tribal Liaison Officer.

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

There shall be established a Tribal Liaison Officer position who shall be responsible for the oversight for the Tribe's proprietary interests in the Grand River Casino and Resort enterprise located on the Standing Rock Sioux Reservation, in South Dakota.

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

include:

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

23-314. Tribal Immunity.

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

23-315. Confidentiality of Records.

All records in the possession of the Commission are deemed to be confidential and cannot be released to the general public. For purposes of this Section, records in the possession of the Commission are all documents of any kind, that come into the possession of the Commission upon request of the Commission or as required by this Ordinance, the Act or the Compact. Records or documents that are required by Court Order to be released or required to be shared with the Tribal Council or be viewed during license suspension or revocation hearings can be released by the Commission.

CHAPTER 4.
COMPLIANCE WITH THE ACT

23-401. Applicability.

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

23-402. Sole Proprietary Interest.

In compliance with 25 U.S.C. 2710(b)(2)(A), the Tribe ~~or a tribal subdivision~~ shall have the sole proprietary interest and responsibility for the conduct of any gaming activity on the Reservation. The Tribe may delegate to tribal subdivisions the sole proprietary interest in any class II gaming operations, so long as revenue use is consistent with 25 U.S.C. 2710(b)(2)(B). Ownership of any Class II or III game by any other entity or individual is prohibited.

23-403. Use Of Revenue.

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

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

23-404. Audits.

In compliance with 25 U.S.C. §2710(b)(2)(C) and (D), all gaming activities shall be subject to an audit by independent certified accountants, not less than annually. The audit

shall include all contracts for supplies, services or concessions for a contract amount in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to Class II or Class III gaming. The audit shall be arranged by the licensee conducting the gaming, who shall provide a copy of the audit to the Tribal Gaming Department upon completion. The Department shall thereafter forward the audit report to the Tribal Council, Tribal Gaming Commission, the National Indian Gaming Commission, and any other entity or agency as provided for in the compacts with North Dakota and South Dakota. Additionally, all Class III gaming establishments must provide proof of compliance with the Minimum Internal Control Standards (MICS), as required by federal law.

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

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

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

Those standards generally imposed by the laws and regulations of the State of South Dakota relating to public facilities with regard to building, sanitary, and health standards and fire safety shall be deemed to be incorporated by this Ordinance as the laws of the Tribe applicable to gaming facilities of the Tribe on the South Dakota portion of the Reservation, provided however, that such state laws have no force or effect on the Reservation other than by incorporation into this Ordinance. The Gaming Commission shall arrange to have quarterly or such other inspections as may be necessary to fulfill the obligations imposed by this Section.

23-406. Status As A Tribal Subdivision.

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

23-407. Licenses For Gaming Activities.

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

- (a) Satisfactory proof that the sponsoring organization (if other than the Tribe) is of good character and reputation among the people of the Reservation, with particular reference to the Indian people, and that it is financially responsible.
- (b) A description of the premises in which the game is to be held, and proof that the applicant is the owner of such premises, or lessee of such premises, for at least the term of the license.
- (c) Agreement by the applicant to accept and abide by all applicable provisions of this Ordinance and all conditions of the tribal license.
- (d) Satisfactory proof that no primary management officials or key employees of the applicant has ever been convicted of a felony. Non-Gaming staff shall not have any felony conviction within five (5) ten (10) years prior to the commencement of their employment and shall have demonstrated rehabilitative status which shall mean no criminal convictions other than minor traffic offenses or minor crimes which did not result in incarceration or imprisonment. Non-gaming staff who have felony conviction shall not be allowed to assume any primary management official or key employee positions or duties and responsibilities.
- (e) Satisfactory proof that notice of the application has been posted in a prominent, noticeable place in the Tribal Office and on the premises where the game is to be held for at least 30 days prior to consideration by the Commission, and published at least twice in a local newspaper serving the Reservation. The notice shall state the date, time and place when the application shall be considered by the Tribal Gaming Commission.
- (f) Assurance that the facility will comply with Tribal liquor laws and all other laws of the Tribe.

23-408. License Fees And Duration Of License.

- (a) Each application for a Class II gaming license under this Section shall be accompanied by an application fee of \$50, provided however that the Tribe shall not be required to pay any such fee.
- (b) Where the Tribe is the licensee, and the Tribe retains a management contractor pursuant to Chapter 6 of this Ordinance, the management

contractor shall pay an annual license fee of \$10,000.00, per facility. The first such license fee shall be due prior to the contractor operating any Class III games. Thereafter, such license fees shall be due on December 31 of each year for the following calendar year, and the notice provisions of Section 23-407 (e) shall apply.

- (c) Each license shall expire on December 31 of the calendar year in which it is issued, and may be renewed by the Commission upon proper application, 30 days prior to its expiration. Any management contractor who terminates operations within the calendar year shall be entitled to a prorated refund of the fees paid.

23-409. Hearing on Application for a License.

- (a) All applications for a Class II or Class III gaming facility license shall be considered by the Gaming Commission in open session at which the applicant, his attorney and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application. The applicant shall be entitled to review any documentation in possession of the Commission and which is intended to be utilized in support or denial of the facility license, prior to the hearing. After the hearing, the Commission shall determine whether to grant or deny the application, based on the Commission's determination of the best interests of the Tribe. The decision of the Gaming Commission shall be final.
- (b) Existing licensees shall have no vested right to have their licenses renewed or extended, and compliance with this Ordinance does not guarantee an existing licensee a renewal or extension. In each case, the Commission shall, in the exercise of its discretion, make its determination based on all the evidence presented to it, provided that, with respect to Class III gaming operated under a management contract, the Commission shall not revise or fail to renew a license except on grounds permissible under such management contract, this Section or Section 23-407 405.

23-410. Conditions of the Tribal License.

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

- (a) The licensee shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises.
- (b) The licensed premises shall be subject to patrol by the tribal and BIA law enforcement officers, for the purpose of enforcing tribal law, and the licensees shall cooperate at all times with such law enforcement

officers.

- (c) The licensed premises shall be open to inspection by duly authorized tribal officials and officials of the National Indian Gaming Commission at all times during the regular business hours.
- (d) There shall be no discrimination in the operations under a tribal license by reason of race, color or creed, age, sex, or national origin, provided, however, that a licensee shall give a preference in employment to Indians,
- (e) Management at a gaming facility shall not allow a person who manages or receives any compensation, directly or indirectly, for the operation of any Class II Class III game of chance to play in that game or other game of chance while on duty. Management shall not allow any person who, without payment, assists in the operation of any Class II and Class III game of chance conducted by the operator, to play in any game conducted by the operator within 24 hours after the time said person did so assist.
- (f) Management shall not allow any person who receives any compensation, directly or indirectly, for the operation of a Class II and Class III game, to play, participate as a player or make/place a wager in any Class II and Class III game conducted by the operator.
- (g) No beverage containing alcohol, including but not limited to, beer or liquor, shall be offered or awarded as a prize or in lieu of a prize for winning at any of the activities authorized by this Ordinance.
- (h) No firearms, air guns which are capable of discharging dangerous projectiles, including but not limited to b.b.'s or CO2 guns, rifles, shotguns, pistols, or revolvers; shall be offered or awarded as a prize or in lieu of a prize for winning at any of the activities authorized by this Ordinance.
- (i) No person involved in the operation of any activity authorized by the Ordinance shall, directly or indirectly, in the course of such operation, employ any device, scheme, or artifice to defraud, make any untrue statement of a fact, or omit to state a consideration of the circumstances under which such statement was made, or engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any person.
- (j) All licensees shall comply with all applicable requirements of the federal Internal Revenue Code.
- (k) All licensees must comply with Tribal liquor law for underage drinking and curfew laws.

23-411. Assignment or Transfer.

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

23-412. Cancellation and Suspension.

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

23-413. Report to the Commission.

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

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

- (i) The stated dollar value of complimentary services or items as set forth in §542.17 of the NIGC, MICS.

CHAPTER 5.

BACKGROUND INVESTIGATIONS AND LICENSING OF KEY EMPLOYEES PRIMARY MANAGEMENT PERSONNEL AND NON-GAMING STAFF

23-501. License Required.

All primary management officials, ~~and~~ key employees and non-gaming staff of any gaming facility on the Reservation or licensed under this Ordinance shall be required to obtain a gaming employment license from the Commission prior to the commencement of employment. The Gaming Commission shall not conduct a background investigation Unless the prospective official or employee has been offered employment.

Upon a request from the gaming establishment and pending the results of the background investigation, the Commission may issue a Temporary Gaming License to any key or non-gaming employee not to exceed thirty (30) days. An official or employee shall be terminated ~~The issuance of a temporary gaming license may be revoked if the~~ background investigation reveals an impediment to the hiring of a primary management official, key employee or non-gaming employee, with no right of appeal, and the applicant must meet one the following conditions to receive a temporary gaming license:

- (a) The applicant has a current state or out of state gaming license.
- (b) The applicant has prior employment at Grand River Casino or Prairie Knights Casino within the past year and departed in good standing.
- (c) The applicant has only lived in, either North Dakota or South Dakota.

No temporary gaming license shall be issued to any surveillance staff or key Management personnel, unless the applicant has a current state or out of state gaming license. An out of state gaming license may be a license issued by another Tribe that conducts and regulates Class III gaming operations. A temporary gaming license may only be issued three (3) times or ninety (90) days, for any one applicant.

23-502. Assignment or Transfer.

A key license or non-gaming license issued under this Ordinance, may be transferred with the written approval of the Commission and provided that the individual holding the key license or non-gaming license meets the qualifications for obtaining the license into the jurisdiction into which the license is transferred. A key licensee who seeks to transfer the license, shall make an application for a license as set forth in 23-505 and the transfer must meet the conditions of the applicable Compact.

23-503 502. Background Investigation.

As part of the licensing process, each prospective primary management official and key employee shall be subject to a background investigation prior to hiring. For Class III gaming conducted in North Dakota, the investigation shall be conducted by the State of North Dakota, the Federal Bureau of Investigations (FBI) and the Tribe. For Class III gaming conducted in South Dakota, the investigation shall be conducted by the State of South Dakota, the Federal Bureau of Investigations (FBI) and the Tribe. Any costs of such investigations shall be paid by the applicant or the gaming establishment and are non refundable. In addition, the Commission may conduct its own investigation on any applicant for such license, with the costs paid by the applicant. Each applicant for a license regarding Class II or Class III employment shall execute a release of information permitting the appropriate State or the Commission to conduct such investigation, and shall provide his or her full name or other names used, address and social security number for the past ten (10) years.

For Class II gaming conducted on the Reservation, the investigation shall be conducted in the same manner as set forth above. The Tribe's Law Enforcement Agency shall take the fingerprints to begin the background investigation.

23-504 503. Licensing Standard.

(a) No primary management official or key employee, or entity shall be issued a license to serve as a primary management official or key employee if he or she:

- (1) Has been convicted of a federal, state or tribal felony;
- (2) Has been released from parole or probation or incarcerated within five years of the commencement of his or her employment with the Tribe;
- (3) Has been convicted of a misdemeanor involving fraud, misrepresentation, or gambling or has been convicted of a misdemeanor or other crime involving theft (or a related crime however denominated), in the past five (5) years from the date of application;
- (4) Has been found to be not a person of good character, honesty and integrity or a person whose prior activities, criminal record, reputation, habits, and associations pose a threat to the public interest of the Tribe or the State of North Dakota or the State of South Dakota or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental to the conduct of gaming, or ~~(4)~~ has been found to have participated in organized crime or unlawful gambling; or
- (5) Has an active and outstanding bench or arrest warrant issued by a state or Tribe;
- ~~(6) Has been convicted of a petty theft offense within one (1) year from the~~

date of application;

(6) ~~(7)~~ Has been dishonorably discharged from the armed services.

During the period the background investigation is being conducted for a primary management official or key employee, the Commission may issue a thirty (30) day temporary Gaming license, with the understanding that the employee is a temporary, probationary employee, whose employment is initially conditioned upon a successful background investigation. If the results of the background investigation reveal an impediment to the issuance of a gaming license, the employee shall be immediately terminated, with no right of appeal. If the background investigation reveals no criminal history, the employee may be granted a gaming license. A temporary gaming license may only be issued three (3) times or ninety (90) days for any one applicant.

- (b) Non-gaming staff as defined in Section 23-209 240 shall be required to submit to a background investigation and shall not have any felony conviction within five (5) ten (10) years prior to the commencement of their employment and shall have no criminal convictions other than minor traffic offenses or misdemeanors which did not result in incarceration, probation, parole or imprisonment, within one (1) year from the date of application for employment. The Commission shall be authorized to waive the no felony conviction for five (5) years requirement, provided the applicant for employment is an enrolled member of the Tribe and has not had any criminal conviction, other than minor traffic offenses or misdemeanors which did not result in incarceration, probation, parole or imprisonment, within one (1) year from the date of application for employment. An applicant who is otherwise ineligible must request a waiver and supply proof of enrollment and request a hearing before the Commission on the license application.

Non-gaming staff with a felony conviction shall not be allowed to assume any primary management official or key employee positions or duties and responsibilities at any time. Any change of status from non-gaming to key or primary, or from key to primary shall be subjected to the licensing process in Section 23-505 504 or Section 23-502, prior to obtaining such license(s).

- (c) During the period the background investigation is being conducted for Non-Gaming staff, the Commission may issue a thirty (30) day temporary non-gaming license, with the understanding that the employee is a temporary, probationary employee, whose employment is initially conditioned upon a successful background investigation. If the results of the background investigation reveal an impediment to the issuance of a gaming license, the employee shall be immediately terminated, with no right of appeal. If the background investigation reveals no criminal history, the employee may be granted a gaming license. A temporary gaming license may only be issued three (3) times or ninety (90) days for any one applicant.
- (d) Non-gaming staff shall have no active outstanding bench or arrest warrant(s).

(e) No primary management official, key employee or non-gaming employee shall be allowed to play, participate as a player or make/place a wager in the Class III facility here the primary management official, key employee or non-gaming employee is licensed.

23-505 504. Application for License.

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

1. Privacy Notice:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local or foreign law enforcement and regulatory investigations and prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring and firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

2. Notice regarding false statements:

A false statement or failure to disclose on any part of this application may be grounds for not hiring or license suspension or revocation ~~for firing~~ after work begins. Also, this may be punished by fine or imprisonment (U.S. Code, title 18, Section 1001).

(b) The applicant will provide the following information:

1. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
2. For the previous five years: business and employment positions

held, ownership interests in those businesses, business and residence addresses, and driver license numbers;

3. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed in Subparagraph 2;
4. Current business and residence telephone numbers;
5. A description of any current or previous business relationships with Indian tribes, including ownership interests in those businesses;
6. A description of any current or previous business relationships with the gaming industry generally, including ownership interests in those businesses;
7. The name and address of any licensing or regulatory agency with which the applicant has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition, if any;
9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years from the date of the application, the charge, the name and address of the court involved and the date and disposition;

~~10. For each criminal charge (excluding minor traffic charge) within 10 years of the date of application, other than those listed in response to Sections 23-505, 504(b)(8) or (b)(9) of this Ordinance, the charge, the name and address of the Court involved, and the date and disposition of the charge.~~

~~10. 11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;~~

10. For Primary management officials and key employees, for each criminal charge (excluding minor traffic charges) within 10 years of the date of application, the charge, the name and address of the Court involved, and the date and disposition of the charge.

11. 12. A photograph;

REV. 21 2003

12. ~~13.~~ Fingerprints; and

13. ~~14.~~ Any other information which, in a particular case, the Commission deems relevant.

23-506 505. Determination of Eligibility.

On the basis of the information received under Subparagraph (b) of Section 23-505 504, and the background investigation conducted by the appropriate State, the Commission shall consider the applicant for a license. Upon a vote of a majority of its members, The Commission shall make a determination of the applicant's eligibility for a license, pursuant to the standards set forth in Section 23-505 503. The Commission shall make its determination of eligibility within 30 days of receipt of the information under Section 23-505 504(b). The result of the background investigation of the appropriate state, and the results of the additional background investigation, if any, conducted by the Commission. Notwithstanding any other provision, any person who supplies materially false or misleading information, who has omitted material information in connection with the requirement of this Chapter, or has failed to disclose a recent conviction shall be denied a license and not entitled to a hearing.

23-507 506. Issuance of License.

When the Commission determines that an applicant is eligible for a license, it shall promptly forward its determination and the results of its investigation to the National Indian Gaming Commission. The information forwarded to the Commission shall include the notices set forth in Section 23-505 504(a)(1) and (a)(2), the information provided under 23-505 504(b), and a report of the background investigation under 23-503 502. If, at the conclusion of the 30-day period beginning when the National Indian Gaming Commission receives the report submitted pursuant to this subparagraph, the National Indian Gaming Commission has not notified the Tribal Commission that it has any objections, the Tribal Commission may issue the license to the applicant. If the National Indian Gaming Commission informs the Tribal Commission that it objects to issuance of the license, the Tribal Commission shall reconsider the application in light of the National Indian Gaming Commission's objections. The Tribal Gaming Commission shall make the final decision on whether to issue such license.

23-508 507. Duration of License and Renewal.

Each license shall be effective for a period of one year, from the date of issuance. Prior to expiration of the license, the licensee shall update the information produced during the original investigation as required by Section 23-505 504(b). The Commission shall conduct a review to determine that each licensee continues to meet the standards of Section 23-504 503 and shall make its determination within 30 days of receipt of the renewal sheet. If the Commission finds that the licensee continues to meet the standards, it shall renew the license for an additional year. If the Commission finds that the applicant does not meet the standards, the license renewal request shall be denied.

No license renewal request shall be "tabled" by the Commission. Notice of any such renewals shall be forwarded to the National Indian Gaming Commission. Any licenses issued under this Section are for a period of one year and create no right or expectation of a right to receive a license renewal. All applicants for renewal cannot have been convicted of

a petty theft offense within one (1) year from the date of application for renewal.

23-509 508. Effect of License Denial.

No person denied a license under this Chapter shall be employed in any capacity at a tribally authorized gaming facility, provided that such person shall be eligible to reapply for a license one year or more after the license denial. Provided however, that an applicant who is denied a key license or primary management official license, may apply for a non-gaming license, if they meet the qualifications for a non-gaming license.

23-510 509. Hearings.

Any person who applies for a license under this Chapter may request a hearing before the Commission on its license application. The Commission may grant such a request for a hearing in its sole discretion, provided that, if the hearing is requested by a person or entity whose application under this Chapter has been denied by the Commission and such request is made in writing within 30 days of the denial, such request for a hearing shall be granted. At any hearing under this section, the applicant shall have the right:

- (a) to be present, be represented by counsel at the applicant's own expense,
- (b) to review all evidence before the Commission on the application, and
- (c) to present additional sworn oral or documentary evidence in support of the application.

The decision of the Commission shall be in writing, and shall be rendered within three days of the hearing. The Commission shall have full powers to subpoena documents and summons witnesses.

23-511 510. License Suspension.

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

The Commission may also suspend the license of any primary management official or key employee who is found to have failed to report suspected violations of this Ordinance, the Act or the Compact to the Commission, twice during the calendar year.

- (b) The Commission shall notify the licensee of the time and place of the hearing. At the hearing, the licensee shall be entitled to the rights specified in Section 23-510 509.
- (c) After a revocation hearing, the Commission shall determine, based on

the evidence presented at the hearing, whether to revoke or reinstate the license. If the licensee continues to meet the standards of Section 23-504 503, the license shall be reinstated. If not, the license shall be revoked. The Commission shall forward the results of any license revoked to the National Indian Gaming Commission.

- (d) Any person convicted of a crime of theft (or a related crime, however denominated), which arose in connection with a casino of the Tribe, shall immediately have his or her license suspended. If, following a revocation hearing, the Commission determines that the person has been convicted of theft (or a related crime, however denominated) by a court of competent jurisdiction, such person shall have his or her license revoked.

23-512 511. Appeals.

- (a) An applicant for a license, or any other aggrieved party, may appeal from any final order or decision of the Tribal Gaming Commission by filing a Complaint and Notice of Appeal with the Tribal Court and providing Notice to the Tribal Gaming Commission within 30 days of receipt of notice of the final order or decision.
- (b) The Commission shall certify the hearing record within 30 days of receipt of a notice of appeal.
- (c) Review by the Tribal Court shall be based on the record. A decision or order of the Commission shall be affirmed unless arbitrary and capricious, or contrary to law.
- (d) The Tribal Court shall have no jurisdiction to award money damages against the Commission or any member of the Commission for any action appealed under this section.

23-513 512. Law Trained Judges.

Any party to an appeal taken under section 23-512 312, including the Commission, shall have a right, upon timely request, to have a licensed attorney serve as Tribal Judge with respect to such appeal. A request for a licensed attorney to serve as Judge shall be timely under this section if the party submits such a request to the Tribal Court at the time of the filing of the notice of appeal, or, in the event an order is issued without notice against a party by a Judge who is not a licensed attorney, within 10 days of notice of such order. If no licensed attorney Chief Judge or Associate Judge of the Tribal Court is available to hear the case, because of disqualification or otherwise, the Chief Judge shall appoint a Special Judge to hear such case, upon timely request of a party. The Clerk of Court shall maintain a list of qualified persons who can serve as Special Judge for such cases.

CHAPTER 6.

MANAGEMENT CONTRACTORS
AND VENDORS

23-601. Management Contracts Allowed.

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

23-602. Standard for Approval.

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

- (a) Adequate accounting procedures to be maintained by the contractor and verifiable financial reports submitted to the licensee and the Tribe on a monthly basis.
- (b) Access to the daily operation of the gaming for appropriate officials of the licensee, the Commission and the Tribe who shall also have the right to verify the daily gross revenues and income made from the gaming activity.
- (c) A minimum guaranteed payment to the licensee that has preference over the retirement of development and construction costs.
- (d) A contract term not to exceed seven years.
- (e) A management fee not to exceed 25 percent of the net revenues of the gaming activity.
- (f) Grounds and mechanisms for terminating the contract.

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

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

23-604. Licenses Required.

All persons or entities (4) with a financial interest in or having a management responsibility for a Class III management contract, shall be required to obtain a license from the Commission. For each person or entity with a financial interest in or having a management responsibility for a Class III management contract, the initial license fee shall be \$1,000, and the renewal license fee shall be \$500.

23-605. Vendor License Required.

All person or entities or (2) which are vendors to a Class II and Class III gaming operation under this Ordinance shall be required to obtain a license from the Commission. For each vendor to a Class II and Class III gaming operation per Class II or Class III facility, the annual license fee shall be:

- (a) \$500.00 for vendors who have not supplied gaming equipment to a Class II or Class III gaming establishment on the reservation. First time applicants shall receive the license, which shall be in effect for one year. Thereafter, the vendor license fee shall be based according to sales.
- (b) \$500.00 for sales under \$25,000.00;
- (c) \$1,000.00 for sales under \$50,000.00 in the preceding year;
- (d) \$2,500.00 for sales of \$50,000.00 and over for the preceding year; and
- (e) \$5,000.00 for sales in excess of \$100,000 for the preceding year.

The fees collected under this Section shall be non-refundable and shall become gaming commission revenue. The license shall be for one year from the date of issuance.

23-606. 605. Background Investigation.

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

23-607. 606. Licensing Standard.

No person or entity shall be issued a license under this Chapter if that person or entity (or a principal of such entity) (1) has been convicted of a federal, state or tribal felony (2) or released from parole or probation or incarcerated within five years of the application date, (3) has been convicted of a misdemeanor involving fraud, misrepresentation, theft or gambling, within the past five (5) years from the date of application (4) has been found to be not a person of good character, honesty and integrity or a person or entity whose prior activities, criminal record, reputation, habits, and association pose a threat to the public interest of the Tribe or the State of North Dakota or the State of South Dakota or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental to the conduct of gaming, (5) has been found to have participated in organized crime or unlawful gambling (6) Any person convicted of a crime of theft (or related crime, however denominated), which arose in connection with a casino of the Tribe, shall immediately have his or her license suspended. If, following a revocation hearing, the Commission determines that the person has been

convicted of theft (or a related crime, however denominated) by a court of competent jurisdiction, such person shall have his or her license revoked. (7) or has been convicted of a petty theft offense within one (1) year from the date of application or (8) has an active or outstanding bench or arrest warrant.

No primary management official or key employee shall be allowed to play, participate as a player or make/place a wager in the Class III facility where the primary management official or key employee is licensed.

23-608. 607. Application for License.

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

1. Privacy notice:

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

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

2. Notice regarding false statements or failure to disclose:

Applicant shall sign and submit the following statement:

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

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

1. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, and gender;
2. A current photograph, driver's license number, and a list of all languages spoken or written;
3. For the previous ten years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver license numbers, and the city, state and country of residence from age 18 to the present;
4. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant at each different residence location over the past five years;
5. Current business and residence telephone numbers;
6. A description of any previous business relationships with Indian tribes, including ownership interests in those businesses;
7. The name and address of any licensing or regulatory agency with which the applicant has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
8. For each gaming offense and each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date of the charge and of the disposition;
9. For each misdemeanor or other conviction or ongoing misdemeanor or other prosecution (excluding minor traffic violations) within 10 years from the date of the application, the name and address of the court involved and the dates of prosecution and of the disposition;
10. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
11. A photograph;
12. Fingerprints;
13. A complete and current financial statement showing all sources of income for the previous three (3) years, and costs, liabilities, and net worth as of the date of the submission;
14. Any other information which, in a particular case, the Commission deems relevant.

23-609. 608. Determination of Eligibility.

On the basis of the information received under subparagraph (b) of Section 23-608 ~~607~~, and the background investigation conducted by the appropriate State, the Commission shall consider the application for a license. Upon a vote of a majority of its members, the Commission shall make a determination of the applicant's eligibility for a license, pursuant to the standards set forth in Section 23-607 ~~606~~. Notwithstanding any other provision, any person or entity which supplies materially false or misleading information, or who has omitted material information in connection with the requirements of this Chapter, shall be denied a license.

23-610. 609. Issuance of License.

When the Commission determines that a person or entity with a financial interest in or having a management responsibility for a Class III management agreement is eligible for a license, it shall promptly forward its determination and the results of its investigation to the National Indian Gaming Commission. This shall include, but not be limited to, the licensee providing to the Commission, a complete and current financial statement, consistent with the requirements of section 23-608(b)(13), covering the most recent period before the date of the proposed license renewal. If, at the conclusion of the 30-day period beginning when the National Indian Gaming Commission receives the report submitted pursuant to this subparagraph, the National Indian Gaming Commission has not notified the Tribal Commission that it has any objections, the Tribal Commission may issue the license to the applicant.

23-611. 610. Duration of License.

Each license under this Chapter shall be effective for a period of one year, from the date of issuance. Prior to the expiration of the license, the licensee shall update the information produced during the original investigation. The Commission shall conduct a review to determine that each license continues to meet the standards of Section 23-607 ~~606~~. If the Commission finds that the licensee continues to meet the standards, it shall renew the license for an additional year. Notice of any such renewals shall be forwarded to the National Indian Gaming Commission.

23-612. 611. Hearings.

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

and shall be rendered within three days of the hearing.

23-613. 642. License Suspension.

- (a) If, after issuance of a license under this Chapter, the Commission receives reliable information that such person or entity is not eligible for a license under this Chapter, the Tribe shall suspend the license and notify the licensee in writing of the suspension and proposed revocation. Such suspension shall not extend beyond 7 days without a hearing.
- (b) The Tribe shall notify the licensee of the time and place of the hearing. At the hearing, the licensee shall be entitled to the rights specified in Section 23-612 644.
- (c) After a revocation hearing, the Commission shall determine, based on the evidence presented at the hearing, whether to revoke or reinstate the license. If the licensee continues to meet the standards of Section 23-610 609, the license shall be reinstated. If not, the license shall be revoked.
- (d) Any person convicted of a crime of theft (or related crime, however denominated), which arose in connection with a casino of the Tribe, shall immediately have his or her license suspended. If, following a revocation hearing, the Commission determines that the person has been convicted of theft (or a related crime, however denominated) by a court of competent jurisdiction, such person shall have his or her license revoked.

If the license is revoked, the grievant may appeal the revocation to the Tribal Court, utilizing the procedures set forth in Section 23-512 of this Ordinance.

23-614. 643. Definitions.

- (a) For purposes of this Chapter, the term "persons or entities with a financial interest in, or having management responsibility for, a management contract" means:
 - (1) Each person with management responsibility for a management contract;
 - (2) Each person who is a director of a corporation that is a party to a management contract;
 - (3) The ten (10) persons who have the greatest direct or indirect financial interest in a management contract;
 - (4) Any entity with a financial interest in a management contract;
 - (5) Any other person with a direct or indirect financial interest in a management contract.

(b) For purposes of this Chapter "vendor" means:

- i) any person or entity providing Class III gaming equipment to a gaming operator; ~~under this Ordinance in a total amount exceeding \$50,000.00 in a twelve-month period, or~~
- ii) any other person or entity which provides goods or services (other than accounting or legal services) to a gaming operator; ~~provided that, notwithstanding any other provision of this Ordinance, a vendor as defined under this Subsection ii) shall be required to obtain a license under Section 23-604 only if the Commission, in its discretion, specifically so requires.~~

23-615 Conflicts of Interests

- (a) Except as provided in subsection (b) of this section, no tribal council person, no gaming commission member and no person or entity with a financial interest in, or having management responsibility for, a management contract shall have a financial interest in any entity (other than the entity holding the management contract) that provides goods or services to any casino of the tribe. Any violation of this section shall be grounds for suspension or revocation of the license of both the vendor and the management contractor and such other entity that provides goods or services to a casino of the tribe.
- (b) Subsection (a) shall not apply with respect to any contract for goods and services which has been presented to the Tribal Council in advance of execution, where the relationship between the vendor and the tribal council member, gaming commission member or management contractor has been fully disclosed, and the Tribal Council has expressly approved of such contract.

CHAPTER 7.

CLASS II GAMING

23-701. Conditions.

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

- ~~_____ (a) No person who is under the age of 16 shall participate or play in any Class II game of chance. No person under the age of 16 shall be allowed on _____ premises where Class II games are being conducted unless that person is _____ accompanied by a member of his immediate family or guardian who is not _____ younger than 18 years of age. It shall be the responsibility of the licensee _____ and of those persons physically operating the games to determine that no _____ unauthorized person is allowed to play in or participate in any manner in _____ the operation of any bingo game.~~

~~(b) All Class II licensees shall impose a uniform charge on all players for the bingo cards to be used in each bingo game. The rate to be charged players for cards shall be fixed by each licensee and posted conspicuously on the premises. No person shall be allowed to play in a game without first paying this uniform charge. Each person paying for the opportunity to participate in a bingo game shall be given a bingo card which shall be numbered and can be readily identified as belonging to that licensee. Each card is used shall represent a specific amount of money which has been paid to the licensee. The amount of prize money represented by each card issued shall be clearly made known to all players prior to anyone paying to participate in the activity.~~

~~(c) Bingo cards shall be sold and paid for, only in advance for use in a specified game or games. All sales of bingo cards shall take place upon the premises and upon the occasion that the bingo games for which the card is being sold are conducted. No cards may be sold on credit or as a gift or loan of any kind whatever.~~

~~(d) Each numbered ball, or other device, used in a bingo game for the selection of numbers to be called in play shall be the same weight as each of the other balls or devices used for the purpose in that game. Immediately following the calling of each number in a bingo game, the caller shall turn the portion of the ball or other device used to determine which number is called which shows the number and letter to the participants in the game so that participants may know that the proper number has been called out. Nothing in this section shall prohibit the use of electronic, computer or other technological aids in games of bingo or other games of chance provided that such aids are used properly and fairly.~~

23-702. Purpose.

These regulations establish a process for the Standing Rock Tribal Gaming Commission (hereinafter "Commission") of the Standing Rock Sioux Tribe to determine whether a technologically aided bingo or other game of chance played under the Indian Gaming Regulatory Act constitutes a Class II or Class III game as defined in that Act, hereafter "IGRA." They are intended to identify which technologically aided bingo or other game of chance games are Class II and to assure that tribal gaming operations do not operate Class III games except under a tribal-state compact or Class III gaming procedures issued by the Secretary of the Interior.

Under 25 U.S.C. Sec. 2703(7) Class II games may utilize "electronic, computer or other technologic aids." At the same time ther is a strict prohibition against the use of "electronic or electromechanical facsimiles of any game of chance" with out a tribal-state compact or Secretarial Procedures. There has been a great deal of confusion about the meaning and interrelationship of these provisions.

Recent court decisions make clear that the technology used in a Class II game is permitted as an "electronic" or "technologic aid" if it (1) broadens the potential participation levels in a common game, and (2) is readily distinguishable from a "facsimile" through which a single participant can play the game only with or against a self-contained device rather than with or against other players. Determinations made under these regulations will apply this distinction. Any technologically assisted game of chance that is not determined, by the Commission, to be a Class II device, may be operated on the lands of the Standing Rock Sioux Tribe only pursuant to the terms of a tribal state compact or Class III gaming procedures issued by the Secretary of the Interior.

23-703. Definitions.

(a) Bingo — A game that meets the requirements set forth in 23-202 (a) & (b) of Title XXIII Licensing and Regulation of Bingo and Other Games of Chance.

(b) Bingo Ball — A typical (but not required) form for the numbered or designated objects that are drawn or determined.

(c) Bonanza Type Bingo — A Bingo game in which some or all of the symbols have been drawn or electronically determined prior to the distribution of Cards to players.

(d) Card — An array of numbers or other designations that may be presented in paper or electronic form.

(e) Claim — Declare right to a prize under the rules of a game.

(f) Consideration — Player payment to participate or to continue participating in a game.

(g) Daubing — The process of matching or covering the numbers or designations on a paper or electronic card that corresponds to drawn or electronically determined numbers or designations.

(h) Deal — A finite set of Pull tabs that contains a predetermined number of winning and losing Pull tabs.

(i) Deck — The collection of all cards available for play in a particular game of bingo.

(j) Draw — A physical or electronic determination of numbers or other

~~_____ designations selected from a defined set of numbers or other
_____ designations.~~

~~(k) Electronic or Technologic Aid — A device, such as a player terminal or
_____ station, used to aid in the play of a Class II game that satisfies the
_____ criteria set forth in Section 23-713. Possible uses of such a device
_____ include, but are not limited to:~~

~~(1) assisting players to play increased numbers of cards in a game
and /or to rapidly play games, (2) linking players and/or facilities for
participation in common games, (3) tracking the ball draw, (4)
daubing cards, (5) identifying winning patterns, (6) claiming prizes
and (7) presenting the game cards, game play, and game results
through entertaining graphical enhancements.~~

~~(l) Game Ending Pattern — A specific array of numbers or designations on
_____ a card that when daubed on a player's Card, or on more than one
_____ player's Cards, and claimed by a player, concludes a game.~~

~~(m) Game Winning Card — A Card on which a Game Ending Pattern has
_____ been achieved. There may be more than one Gaming Winning Card in
_____ any bingo game, so long as they are achieved within the same round
_____ of play.~~

~~(n) Tribal Gaming Facility Operator (TGFO) — The entity authorized to
_____ operate a gaming facility on the Indian Lands of the Standing Rock
_____ Sioux Tribe.~~

~~(o) Outcome — The predetermined result (win or lose) of each pull tab
_____ ticket, which may be displayed on the ticket as numbers, symbols or
_____ other designations.~~

~~(p) Pattern — An array of two or more numbers or designations on a card.~~

~~(q) Player Terminals — Electronic computer terminals housed in cabinets
_____ with input devices and video screens through which players may
_____ participate in Class II games.~~

~~(r) Prize — Any Value, including monetary, that is awarded to a player
_____ under the rules of the game.~~

~~(s) Prize Winning Bingo/Card — a card on which a player may, by daubing
_____ numbers or designations, or by an absence of matching numbers or
_____ designations claim a primary or an interim or consolation prize under the
_____ rules of a game. There may be more than one Prize Winning Card in
_____ any Bingo Game.~~

- ~~(t) Pull Tab — A predetermined winning or losing outcome in paper or electronic form that represents a chance from among a finite deal of chances. The player must uncover the outcome either physically or electronically to determine if he/she has won or lost.~~
- ~~(u) Random Number Generator ("RNG") — A computerized system for determining outcomes in a gaming of chance that must meet the applicable standards for randomness established by this commission.~~
- ~~(v) Rules of Play — The specific rules controlling the play and outcome of the subject game.~~
- ~~(w) Tribal Gaming Facility — Any gaming operation on the Indian lands of the Standing Rock Sioux Tribe operated pursuant to the Tribal gaming ordinance. As used in these Regulations, "Facility" includes any and all facilities located on the Indian lands of the Standing Rock Sioux Tribe.~~
- ~~(x) Uncover — The revealing of the Outcome of a paper or electronic Pull-Tab, which is concealed from and unknown to the player at the time that he/she purchases the Pull Tab.~~
- ~~(y) Verification — Confirmation that a game winning or prize winning card or pull-tab ticket has been identified under the rules of a game.~~

23-704. Application for Determination.

~~The Tribal Gaming Facility Operator (Hereinafter "TGFO") or its designated representative may apply for a determination under these regulations, so long as the Gaming Facility has an approved Class II gaming license and meets the requirements of the Class II stipulations under this gaming ordinance.~~

~~An application is required because technologically aided games of Bingo or Pull-Tabs may not be operated on the Indian Lands of the Standing Rock Sioux Tribe without a determination by the Gaming Commission that concludes that the game is a Class II game.~~

23-705. When Required.

- ~~(a) If the TGFO wishes to continue playing a technologically aided game of Bingo or Pull Tabs that, as of the effective date of this ordinance, the Commission has not previously determined to be a lawful Class II game; or~~
- ~~(b) If the TGFO wants to introduce, as a class II game, a new~~

technologically aided game of Bingo or Pull-Tabs that the Commission has not previously determined to be Class II.

~~23-706. The Operator of a Tribal Gaming Facility will be required to discontinue an existing game that the Commission has not previously determined to be a lawful Class II game.~~

~~The Operator of a Tribal Gaming Facility will be required to discontinue play of an existing technologically aided game of Bingo or Pull-Tabs that the Commission has not previously determined to be a lawful Class II game if (1) the TGFO fails to submit or cause to be submitted a completed application for a determination within six months of the effective date of these regulations, (2) the TGFO fails to pursue diligently a determination by providing all required information; or (3) the commission determines that a game that was reported to be previously approved, in fact has not been previously approved.~~

~~23-707. Classification Procedures~~

~~(a) The TGFO must submit the following information required in an application form promulgated by the Commission:~~

- ~~(1) Applicant's certification and documentation establishing that the game meets all standards in these regulations pertaining to a Class II bingo or pull tab device.~~
- ~~(2) Designation of an agent authorized to provide additional information if required;~~
- ~~(3) Request for a Commission determination;~~
- ~~(4) Designation of whether and where the game is already in play;~~
- ~~(5) Complete description of the game including the operational characteristics and rules of the game;~~
- ~~(6) Complete description of the method used for betting, paying winners, paying the house, banking or non-banking characteristics or the game and funding of jackpots;~~
- ~~(7) Copy of any sales or promotional literature~~
- ~~(8) For games already in play at the facilities, a complete list of the serial numbers or other identifiers of each machine or device used in the play of the game(s);~~
- ~~(9) Videotape depicting the play of the entire game;~~
- ~~(10) Report of laboratory test(s) which were conducted that validate that the game meets the requirements of sub-sections 23-707 (a)(1);~~

~~(a)(5), (a)(6), (a)(10) and (a)(11) of this section;~~

~~(11) An example of each of the memory storage chips (EPROM) or devices used to control the game play in the machine, the source code of the program contained on each chip or device, and sufficient programmer's notes to facilitate rapid analysis of the code. At the request of the Commission, the applicant shall provide these materials to an independent testing laboratory designated by the Commission; that laboratory shall be bound to maintain the confidentiality of such information;~~

~~(12) Certification by the vendor of the proposed game that the machines to be placed in the Tribal Gaming Facility comply in all respects with the specifications and standards set forth in the application;~~

~~(13) Payment of a vendor fee as set forth in Section 23-605; and~~

~~(14) Payment of a regulatory test fee not to exceed \$2,500.00, which shall be an expense of the vendor seeking to introduce the machine.~~

~~(b) All information submitted by the TGFO is subject to check by field tests conducted by the Commission or its appointees.~~

~~(c) No technologically aided game will be deemed to be Class II unless and until the Commission has notified the TGFO in writing that it has made such a determination.~~

~~(d) Once a technologically aided game has been determined to be Class II, the TGFO shall provide a serial number and description of each machine on which the approved game is played and shall certify that the operation of each such machine is identical in every material respect to the operation of the game that was determined by the Commission to be a lawful Class II game.~~

~~(e) All submissions of proprietary information so designated by the TGFO under this section or sub-section 23-707 shall be confidential and shall not be disclosed to any person without the TGFO's consent.~~

~~(f) All technically aided Bingo and Pull Tab games shall comply with the provisions of the TGFO's internal control standards.~~

~~**23-708. Additional Information.**~~

~~Upon request of the Commission, the applicant may be required to provide:~~

~~(a) A live demonstration of the game;~~

- ~~(b) A prototype of any game that uses the subject technologic aid;~~
- ~~(c) Descriptions of any new models or variations of an approved game;~~
- ~~(d) A record of any determinations that have been made by any other authority on the status of the game as a Class II gaming activity; and~~
- ~~(e) Any further information or clarification the Commission determines it requires.~~

~~**23-709. Field Tests.**~~

- ~~(a) The Commission may choose to temporarily suspend some or all of the submission requirements set forth in Sections 23-707(a)(8) (10) of these regulations to allow a field test of the proposed device. If such decision is made, the Operator of a Tribal Gaming Facility may be permitted to operate one or more of the technologically aided Bingo or Pull-Tab games at a licensed gaming operation for no more than 30 days under such terms and conditions as the Commission may approve or require.~~
- ~~(b) The Commission may order a termination of the test period at any time, if it determines, in its sole and absolute discretion, that this applicant TGFO, or the manufacturer or developer of the game has not complied with the terms and conditions of the testing period or if it determines that the game is not Class II.~~

~~**23-710. Modification of a Game.**~~

~~The TGFO shall submit a request for a review of a game that is to be modified by providing a detailed description of the modification and how the modification affects the game. A request for a new determination shall not be required if the modification does not result in a material change to the operation of the game. Such non-material changes include, but are not limited to: (a) changes to the external appearance of the game hardware (such as the game cabinet), (b) changes to the type of bill and/or coin acceptor used, (c) changes to any smart card or PIN system(s) used with the game, (d) substitution of new game icons, and (e) changes to the prize structure of the game.~~

~~**23-711. Classification Decisions.**~~

~~The decision of the Commission shall be final and no appeal shall be taken. The Commission may, in its discretion, allow a request for reconsideration upon a showing of new factual evidence or legal support.~~

~~A Commission game classification decision is binding on all TGFO and any gaming operation conducted within the exterior boundaries of the Standing Rock Sioux Tribe.~~

~~**23-712. Tests to Determine Classification.**~~

The Tribe has determined that technology utilized in a proposed Class II game is a permissible "electronic" or "technological aid" if:

- (a) It operates to broaden the potential participation levels in a common game, and
- (b) It is readily distinguishable from a facsimile where a single participant can play against a self-contained device rather than with or against other players.

The Tribe has determined that a game is a prohibited "facsimile" if:

It is a game of chance played with a self-contained electronic or electromechanical device, duplicating the appearance of a Class II or Class III game, in which a single participant can play the game only with or against the device rather than with or against other players.

23-713. Technologically Aided Games that will be Determined to Qualify as "Bingo" under the Indian Gaming Regulatory Act.

The Indian Gaming Regulatory Act, 25 U.S.C. 2703(7)(A) defines "bingo" as:

The term "class II gaming" means:

- (a) The game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith)
 - (i) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,
 - (ii) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and
 - (iii) in which the game is won by the first person covering a precisely 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.

If a technologically assisted game meets these attributes, it is Class II Bingo. A game generally will be considered to meet these attributes if it is operated in the following manner:

- (a) The game must consist of:

- (i) a set quantity of draw numbers or determinations (hereinafter referred to as "symbols")
 - (ii) a set of number of cards bearing an array or layout of symbols (hereinafter referred to as a deck),
 - (iii) a predetermined game ending pattern(s) of symbols, and
 - (iv) specified prizes, including a game winning prize and optional interim and consolidation prizes, defined under the rules of the game.
- (b) The number of drawn or electronically determined symbols is not fixed. The maximum number is not limited but is selected by design based of the number of play cards in the game and length of time desired to play the game. Symbols may be displayed, without limitation, as numbers, letters, icons, any other graphic or other enhancement or any combination of these.
- (c) The Draw can be physical or mechanical, or can be determined electronically using a computerized random number generator ("RNG"), provided that the RNG meets the applicable standards for randomness established by the Commission. The draw can also be based on a non-random methodology, provided the results of the method are not known or disclosed to the players until such time as the card sales are closed.
- (d) A game may include any number of Cards. The Card can be multi-dimensional. Each Card must have an array or layout of symbols and contain at least two of the draw symbols. Game Ending Patterns and interim and consolation patterns can be any configuration of matched symbols on the play card. Interim and consolation prizes also can be awarded for the absence of matched symbols.
- (e) When playing a "Bonanza" type game, a draw of a fixed number of symbols takes place before cards are distributed to players. Players then compete in a given game by purchasing game cards and then revealing the designations on purchased cards, so that the pre-drawn symbols may be daubed. Subsequent draws may take place to assure that a Game Ending Pattern is achieved.
- (f) Actual prize values must be defined before a prize can be awarded, but need not be defined before the start of a game. Multiple prizes can be specified in a game based on, but not necessarily limited to, different patterns or the number of drawn symbols required to achieve a specified pattern. There may be multiple winners, on multiple cards. Prize levels can also vary for the same pattern as a function of what the player pays for the Card and/or how far the Draw has progressed. Prizes may include bonus prizes where the prize is based on the specific order in which the numbers are

selected. Jackpot prizes may also be awarded based on specified criteria reflecting sequence or specific characteristics of the symbols daubed by the player.

- (g) A game must be available to a minimum of two players. A player can play more than one game card.

23-714. Pull-Tabs:

The Commission will determine any game to qualify as Pull Tabs if it is a game of chance that consists of a finite deal of two ply cards or their equivalent (in paper or electronic form) with a pre-determined number of winners and losers that must be uncovered by the player to reveal the outcome in order to win.

A game generally will be considered to meet these attributes if it is operated in the following manner:

- (a) Each Pull Tab game (deal) must consist of a finite set of predetermined chances and the deal cannot be altered after the game (the sale of Pull-Tabs from that deal) begins;
- (b) No element of chance can be added to the game by the terminal after the deal of Pull Tabs has been created;
- (c) In the case of paper Pull-Tabs, the Pull Tab must be physically uncovered before payment of any amount won through play of the paper tab;
- (d) In the case of electronic Pull Tabs, the results of each Pull Tab must be concealed until after the player purchases the Pull Tab and causes the player terminal to reveal the predetermined outcome of that Pull Tab on a video screen or other visual medium;
- (e) Paper Pull Tabs may be utilized in conjunction with electronic aids or displayed by (1) the use of pre-printed Pull Tabs (e.g., Lucky Tab II and Magical Irish), (2) the printing of a covered paper Pull Tab at the time of sale; or (3) making any individual Pull Tab available for purchase in either paper or electronic form;
- (f) The player must claim any Pull Tab prize from either a cashier or the player terminal;
- (g) In the case of paper Pull-Tabs, the Pull Tab, when uncovered, must show the outcome through numbers, symbols, or other designations; and
- (h) Although not strictly required, it is recommended that the deals be created by a system that is physically separate from the player

terminal.

23-715. Other Games

The Tribal Gaming Commission reserves the right to approve other technological aided games "similar to bingo" in addition to the Pull-Tab games described in 23-714 on a case by case basis. In each instance that such a game is proposed for a determination, the applicant must present evidence satisfactory to the Tribal Gaming Commission that the game satisfies the requirements of 23-712, so that it involves the use of technology to (1) broaden the potential participation in a common game, and (2) is readily distinguishable from a "facsimile" where a single participant can only play with or against a machine rather than with or against other players. The applicant for determination by the Tribal Gaming Commission that a game or device is Class II must certify that the applicant will indemnify and hold the Tribe harmless for any and all costs (including fines, fees, or attorney's fees) to the tribe and the Tribal Gaming Commission in the event the Class II status of the game or device is challenged in any administrative or judicial forum. The Tribal Gaming Commission reserves the right to seek review and/or approval from the National Indian Gaming Commission prior to certification that a game or device is Class II.

CHAPTER 8.

CLASS III GAMING

23-801. Applicability.

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

Subchapter A. Gaming in North Dakota

23-802. Applicability.

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

23-803. Governing Law.

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

23-804. Adoption of Compact.

The North Dakota Compact is hereby incorporated within and enacted as an integral part of this Ordinance with respect to all forms of Class III gaming, and the Compact is appended to and made a part of this Ordinance as if set forth in full herein; provided however, that nothing in the adoption of the North Dakota Compact herein shall be deemed to affect the operation by the Tribe of Class III gaming on the South Dakota portion of the Reservation, or the operation by the Tribe of Class ~~II~~ 44 gaming on any portion of the Reservation, or to confer upon the State of North Dakota any jurisdiction over Class ~~II~~ 44 gaming conducted by the Tribe on the Reservation.

23-805. Types of Class III Games Authorized.

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

- a. Electronic games of chance with video facsimile displays. Machines featuring coin drop and payout, and machines featuring printed tabulations shall both be permitted.
- b. Electronic games of chance with mechanical rotating reels whereby the software of the device predetermines the stop positions and the presence or lack thereof, of a winning combination and pay out, if any. Machines featuring coin drop and payout, and machines featuring printed tabulations shall both be permitted.
- c. Paddle wheel.
- d. Blackjack; and similar banking games;
- e. Poker, including pai gai poker and Caribbean poker.
- f. Keno.
- g. Sports and calcutta pools on professional sporting events as defined by North Dakota law, except that play may be conducted utilizing electronic projections or reproductions of a sports pool board;
- h. Pari-mutuel and simulcast betting if an agreement governing such betting is reached between the Tribe and North Dakota.
- i. Sports Book except as prohibited by the professional and Amateur Sports Protection Act, P.L. 102-558; 28 U.S.C. Chap. 178, Pt. VI;

- j. Pull-tabs or break-open tickets when not played at the same location where bingo is being played, subject to Section 3.4 of the Compact;
- ~~k. Raffles;~~
- l. k. Punchboards and jars;
- m. l. Craps and Indian Dice;
- n. m. All games of chance and/or skill, other than those subject to Section 3.3 of the Compact, authorized to be conducted by any group or individual under any circumstances within the State of North Dakota, rules of play to be negotiated in good faith by the parties;
- o. n. Roulette, and similar games, whether played conventionally or electronically;
And
- p. o. Slot Tournaments, whether or not a fee is charged, in which players use designated electronic games of chance machines and as more fully set forth in the Compact.

23-806. Bet Limits.

The following bet limits shall apply to the following games:

Blackjack	\$100.00 maximum, except the Tribe may Designate no more than two (2) tables on which Wagers may not exceed Two hundred Fifty Dollars (\$250.00)
Any machine	\$25.00 maximum
Poker	\$50.00 maximum (single bet) Three raise maximum per round
Paddle wheel	\$50.00 maximum
Roulette	\$50.00
Craps	\$60.00 per bet, however, a player may lay true Odds on don't bets.
Indian Dice	\$100.00 multiplied by the number of player.

23-807. Minimum Age Requirement.

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

23-808. Record Keeping Requirement.

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

23-809. Inspection.

Agents of the Commission or the State of North Dakota shall have the right to gain access, without notice during normal hours of operation, to all premises used for the operation of Class III games of chance on the North Dakota portion of the Reservation, or for the storage of such games and equipment related thereto, and may inspect all premises, equipment, daily records, documents or items related to the operation of Class III games of chance.

23-810. Technical Standards.

The provisions of Section 20 of the North Dakota Compact, "Regulation and Play of an Electronic Game" are hereby adopted and incorporated into this Ordinance.

Subchapter B. Gaming in South Dakota

23-811. Applicability.

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

23-812. Governing Law.

Class III gaming under this subchapter shall be governed by and conducted in

conformity with the laws of the Standing Rock Sioux Tribe, the South Dakota Compact and the laws of the United States.

23-813. Adoption of Compact.

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

23-814. Types of Class III Games Authorized.

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

- a. ~~Blackjack, as that term is defined in South Dakota Codified Laws 42-7B-4(3);~~
- b. ~~Poker, as that term is defined in South Dakota Codified Laws 42-7B-4(18);~~
- b. Pari-Mutuel Wagering, as defined in the South Dakota Compact, Section 4.1; and
- c. Slot machines, as that term is defined in South Dakota Codified Laws 42-7B4(21).

23-815. Bet Limits.

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

23-816. Accounting Standards.

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

23-817. Minimum Age Requirement.

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

23-818. Technical Standards for Gaming Machines.

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

23-819. Number of Gaming Devices.

~~The Tribe shall be authorized to operate 250 slot machines up to 180 gaming devices on the South Dakota portion the Reservation. The Tribe shall be entitled to have up to ten (10) gaming devices in reserve as replacements for devices which are out of service as a result of mechanical problems. These additional devices are only to be used in such an event And shall meet the requirements of the Technical Standards, as set forth in the South Dakota Compact, or such greater amount as may be authorized under the South Dakota compact, provided however, that any increase or decrease in the gaming device limitation contained in the laws of the State of South Dakota will result in a proportional increase or decrease in the limit of 180 devices permitted under this Ordinance.~~

CHAPTER 9.

NO CREDIT EXTENDED

23-901. No Credit Extended.

All Class III gaming shall be conducted on a cash basis. No person shall be extended credit for gaming and no licensee shall be permitted to offer credit for gaming for a fee; provided however that this section shall not apply to credits won by players who activate play after inserting coins or currency into the game, and provided further that this section shall not restrict the right of the Tribe or any other person to offer check cashing or to install or accept bank or credit card transaction in the same manner as would be normally permitted at a retail business.

CHAPTER 10.

JURISDICTION OVER CLASS III GAMING

23-1001. Civil Jurisdiction in South Dakota.

All civil matters arising from or related to Class III gaming shall be dealt with according to applicable Tribal, State, or Federal law. Nothing in this Compact shall deprive the Courts of the Tribe, the United States, or the State of South Dakota of such civil jurisdiction as each may enjoy under applicable law. Nothing in this provision shall be construed to be a waiver of the sovereign immunity of the Standing Rock Sioux Tribe.

~~The Standing Rock Tribal Court shall have civil jurisdiction exclusive of the State of South Dakota over all transactions or disputes related to or arising from gaming conducted on the South Dakota portion of the Reservation, and all disputes related to or arising from this Ordinance on the South Dakota portion of the Reservation, provided however, that any such case involving one or more persons who are not tribal members~~

~~shall be heard in the courts of the State of South Dakota, unless all parties stipulate the action may be heard in Tribal Court. This provision shall not be construed as a waiver of sovereign immunity by the Tribe.~~

23-1002. Civil Jurisdiction in North Dakota.

Nothing in this ordinance or the amended Compact shall deprive the Courts of the Tribe, the United States, or the State of North Dakota of such civil jurisdiction as each may enjoy under applicable law. Nothing in this ordinance or the amended Compact shall be interpreted as extending the civil jurisdiction of the Tribe or state.

23-1003. Criminal Jurisdiction in South Dakota.

All criminal matters arising from or related to Class III gaming shall be dealt with according to applicable Tribal, State or Federal law. Nothing shall deprive the Courts of the Tribe, the United States, or the State of South Dakota of such criminal jurisdiction as each may enjoy under applicable law.

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

23-1004. Criminal jurisdiction in North Dakota.

Nothing in this Ordinance or the North Dakota Compact shall deprive the Courts of the Tribe, the United States, or the State of North Dakota of such criminal jurisdiction as each may enjoy under applicable law. Nothing in this Ordinance or the North Dakota Compact shall be interpreted as extending the criminal jurisdiction of the State of North Dakota or the Tribe.

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

23-1005. Federal Jurisdiction.

Nothing herein shall be construed to limit or deprive the federal courts of any civil or criminal jurisdiction which they might otherwise have.

PENALTIES

23-1101. Criminal Penalties.

Violation of this Ordinance shall constitute a Class A misdemeanor, as defined by Title IV of the Tribe's Code of Justice.

23-1102. Civil Penalties.

Notwithstanding criminal penalties which may be imposed, any individual who violates any provision of this Ordinance, the Act or the Compact shall be subject to civil penalties including:

- (a) exclusion from employment by any Tribal gaming enterprise;
- (b) exclusion from attendance at any Tribal gaming facility; ~~or~~
- (c) exclusion from the Reservation if a non-member of the Tribe;
- (d) a civil penalty of up to \$1,000.00 per violation for any primary management official or key employee who with knowledge, fails to report violations of this Ordinance, the Act or Compact, to the Commission.

Two or more civil penalties imposed by the Commission against a primary management official or key employee, in a calendar year, may also be grounds for license suspension, as set forth in Section 23-511.

~~The Tribal Court shall have the jurisdiction to impose any such civil penalty on any person within the jurisdiction of the Tribe to impose such penalty.~~

CHAPTER 12.

CUSTOMER DISPUTES

23-1201. Customer Disputes.

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

23-1202. Customer Rights Regarding Disputes.

At each level, the complainant has the right to explain his side of the dispute, and to present witnesses in connection with any factual allegation. At each level, if the dispute remains unresolved, the complainant shall be informed of this right to take the dispute to the next higher level as set forth in Section 23-1201. Resolution of any dispute by staff of the facility shall always involve two or more staff members. All disputes, whether resolved or not, shall be the subject of a detailed report by all staff involved to their supervisors, or, in the case of the senior staff member handling a dispute, to the Tribal Gaming Commission.

23-1203. Commission Action on Customer Disputes.

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

The decision of the Commission shall be final and cannot be appealed to the Tribal Court by either the customer or the facility.

CHAPTER 13.

MISCELLANEOUS

23-1301. Severability.

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