



June 24, 2024

***VIA E-MAIL***

Ben Barnes, Chief  
Shawnee Tribe  
P.O. Box 189  
Miami, OK 74354

**Re: Shawnee Tribe Amended and Restated Gaming Act**

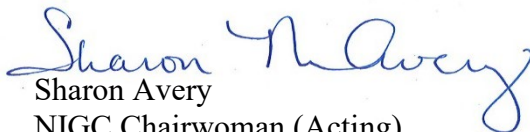
Dear Chief Barnes:

This letter responds to your request for the National Indian Gaming Commission (NIGC) Chair to review and approve the Shawnee Tribe's amended and restated gaming act (Act). The Shawnee Tribe Business Council adopted the Act by Resolution R-06-17-2024-A on June 17, 2024.

Thank you for bringing the Act to our attention and for providing us with a copy. The Act is approved as it is consistent with the Indian Gaming Regulatory Act and NIGC regulations.

If you have any questions or require anything further, please contact NIGC Acting Associate General Counsel Femila Ervin by e-mail at [femila.ervin@nigc.gov](mailto:femila.ervin@nigc.gov), or by phone at 301-751-7700.

Sincerely,

  
Sharon Avery  
NIGC Chairwoman (Acting)

cc: Cassie Harper, Chief of Staff, Shawnee Tribe, [REDACTED]  
Rob Roy Smith, Kilpatrick Townsend & Stockton LLP, [REDACTED]

MAILING ADDRESS: NIGC/DEPARTMENT OF THE INTERIOR 1849 C Street NW, Mail Stop #1621 Washington, DC 20040 Tel: 202.632.7003 Fax: 202.632.7066

REGIONAL OFFICES Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK; Oklahoma City, OK; Rapid City, SD

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## RESOLUTION R-06-17-2024-A

### RESOLUTION WITHDRAWING PRIOR SUBMISSION OF GAMING ACT AND APPROVING SUBMISSION OF REVISED AMENDED GAMING ACT TO NIGC

**WHEREAS**, the Shawnee Tribe is a federally recognized Tribe of Indians pursuant to the Shawnee Tribe Status Act of 2000, Public Law 106-568, Title VII, 25 U.S.C. §1041, et seq., which restored all of the Shawnee Tribe's jurisdiction and sovereignty, including civil and governmental jurisdiction over its lands; and

**WHEREAS**, the Shawnee Tribe is on the list of *Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs* published at 83 Fed. Reg. 4235, 4238 (Jan. 30, 2018); and

**WHEREAS**, the Shawnee Tribe is governed under a Constitution duly ratified by the members of the Shawnee Tribe on September 15, 2001, as amended on September 20, 2003, September 16, 2006, September 17, 2011, March 17, 2018, and March 26, 2022; and

**WHEREAS**, the Constitution of the Shawnee Tribe confers governmental powers on the Shawnee Tribe Business Council, which is empowered to prescribe rules and regulations, to enact laws, and to transact all business on behalf of the Shawnee Tribe, in accordance with Articles IV, VI, and VII of the Constitution; and

**WHEREAS**, the Shawnee Tribe Business Council voted to amend the Gaming Act and submitted an amended Gaming Act to the National Indian Gaming Commission ("NIGC") on March 18, 2024; and

**WHEREAS**, the NIGC advised that certain definitions should be amended in the Gaming Act; and

**NOW THEREFORE BE IT RESOLVED**, the Shawnee Tribe Business Council hereby approves the revised amended Gaming Act; and

**NOW THEREFORE BE IT FINALLY RESOLVED** that the Shawnee Tribe Business Council hereby withdraws the pending submission and resubmits the revised amended Gaming Act to the NIGC for review and approval.

**CERTIFICATION**

The foregoing Resolution R-06-17-2024-A was duly adopted on June 17, 2024, by a vote of the Shawnee Tribe Business Council, resulting in a vote of 9 for, 0 against, 0 abstaining, and 1 absent.

  
\_\_\_\_\_  
Benjamin Barnes, Chief  
Shawnee Tribe



Attest:

  
\_\_\_\_\_  
Carolyn Foster, Secretary  
Shawnee Tribe



**TITLE 4 GAMING ACT**

**4.04 GENERAL PROVISIONS**

**4.08 ADMINISTRATION AND ENFORCEMENT**

**4.12 LICENSING**

**4.16 RULES OF OPERATION AND GENERAL ACCOUNTABILITY**

**4.20 CYBERSECURITY**

**4.24 OTHER PROVISIONS**

**4.04 GENERAL PROVISIONS**

**4.04.010 Title**

**4.04.020 Purpose**

**4.04.030 Definitions**

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**4.04.060 Use of Net Gaming Revenues**

**4.04.070 Per Capita Payments**

**4.04.010 Title**

This enactment shall be known as the "Shawnee Tribe Gaming Act."

**4.04.020 Purpose**

The Business Council of the Shawnee Tribe ("Tribe"), empowered by the Tribe's Constitution to enact ordinances, hereby enacts this Act in order to govern and regulate the operation of gaming operations on the Tribe's Indian lands. The purpose of this Act is to amend and replace the Act adopted pursuant to Resolution No. 2003-43 in order to update Shawnee Tribe Gaming laws in conformance with applicable law. Unless specifically indicated otherwise, all provisions of this Act shall apply to Class II and/or Class III gaming on the Tribe's Indian lands.

**4.04.030 Definitions**

The following terms shall have the same meaning and effect as those same terms as defined in the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. §§ 2701 *et seq.*, and the National Indian Gaming Commission ("NIGC") regulations, 25 C.F.R. §§ 500 *et seq.*, if they are defined in IGRA and the NIGC's regulations.

**A. Class I gaming.**

1. Social games played solely for prizes of minimal value; or
2. Traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.

**B. Class II gaming.**

1. Bingo or lotto (whether or not electronic, computer or other

technologic aids are used) when players:

- a. Play for prizes with cards bearing numbers or other designations;
  - b. Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
  - c. Win the game by being the first person to cover a designated pattern on such cards;
2. Pull-tabs, punch boards, tip jars, instant bingo and other games similar to bingo, if played in the same location as bingo or lotto;
  3. Non-banking card games that:
    - a. State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
    - b. Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes;
  4. Individually owned class II gaming operations –
    - a. That were operating on September 1, 1986;
    - b. That meet the requirements of 25 U.S.C. § 2710(b)(4)(B);
    - c. Where the nature and scope of the game remains as it was on October 17, 1988; and
    - d. Where the ownership interest or interests are the same as on October 17, 1988.
- C. **Class III gaming.** All forms of gaming that are not class I or class II gaming, including, but not limited to:
1. Any house banking game, including but not limited to –
    - a. Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house-banking games); and
    - b. Casino games such as roulette, craps, and keno;
  2. Any slot machines, as defined in 15 U.S.C. § 1711(a)(1), and electronic or electromechanical facsimiles of any game

- of chance;
3. Any sports betting and pari-mutuel wagering, including but not limited to, wagering on horse racing, dog racing or jai alai; or
  4. Lotteries.
- D. **Commission.** The Tribal Gaming Commission established to perform regulatory oversight and to monitor compliance with tribal, federal and applicable state regulations. The Commission consists of the Commissioners, the Executive Director, and staff.
- E. **Commissioner.** A Tribal Gaming Commissioner.
- F. **Directly related to.** A spouse, child, parent, grandparent, grandchild, aunt, uncle, or first cousin.
- G. **Executive Director.** The Executive Director of the Commission.
- H. **Facility License.** A separate license issued by the Commission to each place, facility or location on Indian lands where the Tribe elects to allow class II or III gaming, including any adjoining hotel and resort.
- I. **Gaming Operation.** Each economic entity that is licensed by the Tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by the Tribe directly; by a management contractor; or, under certain conditions, by another person or entity.
- J. **Indian lands.**
1. Land within the limits of an Indian reservation; or
  2. Land over which an Indian tribe exercises governmental power and that is either:
    - a. Held in trust by the United States for the benefit of any Indian tribe or individual; or
    - b. Held by an Indian tribe or individual subject to restriction by the United States against alienation.
- K. **Key Employee.**

1. A person who performs one or more of the following functions:
  - a. Bingo caller;
  - b. Counting room supervisor;
  - c. Chief of Security;
  - d. Floor manager;
  - e. Pit boss
  - f. Dealer;
  - g. Croupier;
  - h. Approver of credit; or
  - i. Custodian of gaming systems as defined in 25 CFR 547.2 and similar class III systems, gaming cash or gaming cash equivalents, gaming supplies or gaming records;
  
2. If not otherwise included, any gaming operation employee authorized by the gaming operation for unescorted access to secured gaming areas designated as secured gaming areas by the Tribal Gaming Regulatory Authority;
  
3. If not otherwise included, the four most highly compensated persons in the gaming operation; or
  
4. Any other person designated by the tribe as a key employee.
  
- L. **Licensee.** A tribally owned class II or class III gaming operation or a person licensed by the Tribal Gaming Commission as a primary management official, key employee or other gaming employee under the provisions of this Act.
  
- M. **Management Contract.** Any contract, subcontract or collateral agreement between an Indian tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.
  
- N. **Net Revenues.** Gross gaming revenues of an Indian gaming operation less:
  1. Amounts paid out as, or paid for, prizes; and
  2. Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as

operating expenses and non- operating expenses consistent with professional accounting pronouncements, excluding management fees.

- O. **Primary Management Official.**
  - 1. The person(s) having management responsibility for a management contract.
  - 2. Any person who has authority:
    - a. To hire and fire employees; or
    - b. To set up working policy for the gaming operation; or
    - c. The chief financial officer or other person who has financial management responsibility;
    - d. The general manager or a position with duties similar to a general manager.
  - 3. Any other person designated by the Tribe as a primary management official.
- P. **Tribal-State Compact.** An agreement between the Tribe and a state about class III gaming under 25 U.S.C. § 2710(d) ("Compact").
- Q. **Tribe.** The Shawnee Tribe.

**4.04.040 Gaming Authorized**

Class II and Class III gaming are authorized to be conducted on the Tribe's Indian lands, if such gaming is conducted in accordance with this Act, the Indian Gaming Regulatory Act, the NIGC's regulations, the Compact and any other applicable laws or regulations.

**4.04.050 Ownership of Gaming**

- A. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Act, except as expressly provided in this Act.
- B. No person or entity, other than the Tribe, shall conduct gaming without obtaining a license from the Commission.

**4.04.060 Use of Net Gaming Revenues**



- A. Net revenues from Tribal gaming shall be used only for the following purposes:
  - 1. To fund Tribal government operations or programs;
  - 2. To provide for the general welfare of the Tribe and its members;
  - 3. To promote Tribal economic development;
  - 4. To donate to charitable organizations; or
  - 5. To help fund operations of local government agencies.

**4.04.070 Per Capita Payments**

- A. Net revenues from any Class II or Class III gaming activities conducted or licensed by the Tribe may be used to make per capita payments to Tribal members if:
  - 1. The Tribe has prepared a plan to allocate revenues to one or more of the five uses authorized by this Act;
  - 2. The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in this Act;
  - 3. The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person; and
  - 4. The per capita payments are subject to Federal taxation and the Tribe notifies its members of such tax liability when payments are made.

**4.08. Administration and Enforcement**

**4.08.010 Gaming Commission**

**4.08.020 Audits**

**4.08.030 Environmental and Public Health and Safety**

**4.08.040 Patron Dispute Resolution**

**4.08.010 Gaming Commission**

- A. The Tribe hereby establishes a Tribal Gaming Commission ("Commission") to regulate the Tribe's gaming operations. The Commission shall consist of no less than three (3) and no more than five (5) Commissioners, including a Chair, Vice-Chair and at least one additional Commissioner.
- B. The Commission will conduct oversight to ensure compliance with Tribal, federal and, if applicable, state laws and regulations. It will serve as the licensing authority for individuals employed in the gaming operation and

will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the gaming operation's internal controls and in tracking gaming revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all of its records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.

- C. Commissioner positions shall be filled by appointment by a nomination from the Chief of the Business Council and confirmed by the Business Council in a resolution.
- D. Commissioners shall serve for a period of two (2) years, with each term ending on September 30. However, for the first appointments, the names shall be placed in a receptacle with the first name drawn serving a term of two (2) years. The second name drawn shall serve a term of one (1) year, and terms shall alternate accordingly with each subsequent name drawn. Vacancies on the Commission shall be filled in the same manner as initial appointments, and shall serve out the remainder of the term.
- E. The following persons are not eligible to serve as Commissioners: Business Council members, while serving as such; current employees of the gaming operation; gaming contractors (including any principal of a management, or other contracting company); persons directly related to, or sharing a residence with, any of the above; and persons ineligible to be key employees or primary management officials. Non-tribal members previously convicted of any felony or misdemeanor offense of embezzlement, theft or any other money-related or honesty-related misdemeanor offense, such as fraud, cannot serve as Commissioner. Tribal members previously convicted of any felony or misdemeanor offense of embezzlement, theft or any other offense related to money or honesty, such as fraud, will only be allowed to serve as a Commissioner if the Business Council specifically finds that a significant amount of time has passed and the person is now of trustworthy character.
- F. The Business Council shall require a criminal history check with appropriate law enforcement agencies for each Commissioner candidate; shall review the candidate's criminal history check results; and shall make an appropriate eligibility determination before appointing an

individual to the position of Commissioner.

- G. The Tribe recognizes the importance of an independent Commission in maintaining a well-regulated gaming operation. The Commission shall be independent of, and act independently and autonomously from, the Business Council in all matters within its purview. No prior, or subsequent, review by Business Council of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Act. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe requires that, at a minimum:
1. No member of the Business Council may serve on the Commission;
  2. No member living with any Business Council member may serve on the Commission;
  3. Members of the Commission are prohibited from gambling in the facility;
  4. Commissioners are prohibited from accepting complimentary items from the gaming operation, excepting food and beverages valued under fifty dollars (\$50.00); and
  5. Commissioners may only be removed from office by the Business Council, prior to the expiration of their respective terms, for neglect of duty, misconduct, malfeasance or other acts that would render a Commissioner unqualified for the position.
- H. Nominees for Commissioner positions must satisfy the eligibility standards set forth for primary management officials and key employees found in this Act. All requisite background investigations shall be performed under the direction of the Commission.
- I. The Commission shall:
1. Conduct background investigations, or cause such investigations to be conducted, for primary management officials and key employees;
  2. Review and approve all investigative work conducted in connection with the background investigations of primary management officials and key employees;
  3. Create and maintain investigative reports based on the background investigations of primary management officials and key employees;

4. Designate a law enforcement agency to obtain and process fingerprints and conduct a criminal history check that shall include a check of criminal history records information maintained by the Federal Bureau of Investigation.;
5. Make licensing eligibility determinations, which shall be signed by the Executive Director or their designee;
6. Submit a notice of results to the NIGC of the background investigations done for each primary management official and key employee applicant;
7. Issue gaming licenses to primary management officials and key employees of the operation, if warranted by the eligibility determination;
8. Establish standards for licensing Tribal gaming facilities;
9. Issue gaming licenses to Tribal gaming facilities;
10. Inspect, examine and monitor all of the Tribe's gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming facilities and operations;
11. Ensure compliance with all Tribal, federal and applicable state laws, rules and regulations regarding Indian gaming;
12. Investigate any suspicion of wrongdoing associated with any gaming activities;
13. Hold hearings on patron complaints, in accordance with procedures established in this Act, other Tribal law and the Tribal gaming regulations;
14. Comply with any and all reporting requirements under IGRA, the NIGC's regulations and any tribal-state compact to which the Tribe is a party, and any other applicable law;
15. Promulgate and issue regulations necessary to comply with applicable internal control standards;
16. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
17. Promulgate and issue regulations on the levying of fines and/or the suspension or revocation of gaming licenses for violations of this Act or any Tribal, federal or applicable state gaming regulations;
18. Establish a list of persons not allowed to game in the Tribe's gaming facilities in order to maintain the integrity of the gaming operation;
19. Establish a list of persons who have voluntarily agreed to be excluded from the Tribal gaming facilities, and create regulations for enforcing the exclusions;

20. Promulgate regulations establishing the particular rules of any given Class II or Class III gaming in order that said gaming will be conducted with fairness and uniformity;
  21. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, federal or state statutes, ordinances, regulations, codes or resolutions;
  22. Create a list of regulatory authorities that conduct background investigations of, and licenses, vendors who are recognized as trustworthy;
  23. Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
  24. Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation; and
  25. Promulgate such regulations and guidelines as deemed appropriate to implement the provisions of this Act, so long as they are in furtherance of, and not in conflict with, any provisions of this Act.
- J. The Commission shall ensure that all records and information obtained as a result of an employee background investigation, including but not limited to, the identity of each person interviewed in the course of an investigation, shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel and/or others employed by the Tribal gaming operation on a need-to-know basis, for actions taken in their official capacities.
- K. The confidentiality requirements in Section 8(J), above, do not apply to requests for such records or information from any Tribal, federal or state law enforcement or regulatory agency, or for the use of such records or information by the Commission and staff in the performance of their official duties.
- L. A majority of the Commissioners shall constitute a quorum. The concurrence of a majority of the Commissioners shall be required for any final determination by the Commission. The Commission may act in its official capacity, even if there are

vacancies on the Commission.

- M. Commissioners shall be compensated at a level determined by the Business Council. In order to ensure the Commission is not improperly influenced, a Commissioner's compensation shall not be based on a percentage of gaming revenue.
- N. The Commission shall keep a written record of all its meetings.
- O. The Commissioners shall appoint an individual to serve as a full-time Executive Director of the Commission to administer its responsibilities on a day-to-day basis and to oversee inspectors appointed by the Commission, as well as such other staff as the Commission may from time to time employ. The Executive Director shall be responsible for coordination of the functions of the Commission with the State Police and the State gaming agency, and with any necessary federal authorities. The Chairperson may request the Executive Director to conduct a preliminary investigation and render a recommendation to the Commission with respect to the grant or denial of any license, the imposition of any penalty, the investigation of any complaint, or any other action within the jurisdiction of the Commission. The Executive Director shall have the power, in the name of the Commission, to conduct any hearing, investigation or inquiry, to compel the production of any information or documents, and to otherwise exercise the investigatory powers of the Commission that the Commission may exercise under this Act; however, the Executive Director may contract outside parties to conduct hearings or use the tribal court as directed by the Commissioners.

**4.08.020 Audits**

- A. The Gaming Commission shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC.
- B. Annual audits shall conform to generally accepted auditing standards.
- C. All gaming-related contracts that result in the purchase of supplies, services or concessions for more than \$25,000 in any year (except contracts for professional legal and

accounting services) shall be specifically included within the scope of the audit conducted under this Act.

- D. Copies of the annual audit of each licensed gaming operation, and each audit for supplies, services or concessions of each gaming operation, shall be furnished to the NIGC within 120 days after the end of each fiscal year of the gaming operation.

**4.08.030 Environment and Public Health and Safety**

- A. Each gaming facility shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public.
- B. The Business Council shall identify and enforce laws, resolutions, codes, policies, standards, or procedures, which are applicable to each gaming place, facility or location, to ensure adequate protection of the environment and the health and safety of the public.

**4.08.040 Patron Dispute Resolution**

Patrons with complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief in accordance with the Tribe's Gaming Patron Claims Act.

**4.12 Licensing**

- 4.12.010 Facility Licenses
- 4.12.020 Agent for Service of Process
- 4.12.030 Tribal Access to Financial Information
- 4.12.040 License Application Forms
- 4.12.050 License Fees
- 4.12.060 Granting Gaming Licenses
- 4.12.070 Denying Gaming Licenses
- 4.12.080 Gaming License Suspensions and Revocations
- 4.12.090 Licenses for Vendors
- 4.12.100 Submission of a Vendor License Application
- 4.12.110 Contents of the Vendor License Application
- 4.12.120 Vendor License Fees
- 4.12.130 Vendors Licensed by Recognized Regulatory Authorities
- 4.12.140 Management Contracts

**4.12.010 Section 12. Facility Licenses**

- A. The Commission shall issue a separate license to each place, facility or location on Indian lands where Class II and/or Class III gaming is conducted under this Act.
- B. The Commission is responsible for issuing new or renewed facility

licenses to each place, facility or location.

- C. The Commission shall require that a facility license application be completed by the chief management official of the gaming facility for each gaming place, facility or location.
- D. The Commission shall identify the environmental, health and public safety standards with which the place, facility or location must comply, and specify the form, conditions and content of a facility license application. The application shall include:
- E. A legal description of the lands upon which the facility is located, and a certification that the site constitutes "Indian lands," as defined in IGRA, the NIGC's regulations, the NIGC Office of General Counsel and DOI Solicitor Offices' Indian lands legal opinions, judicial decisions and any other applicable law.
- F. The Commission shall only issue a facility license if the application includes the required information and documentation, and if the place, facility, or location: (1) Is a sound physical structure with adequate and safe plumbing, electrical, heating and cooling and ventilation systems in place and operational; (2) has been inspected and approved for safety by a building and fire inspector designated by the Commission; (3) is adequate in all respects to accommodate the Gaming and non-Gaming Activities intended to be carried on within the structure; (4) is equipped with security and surveillance equipment meeting or exceeding provisions set forth in regulations established by the Commission; (5) meets all requirements of applicable Tribal and federal laws; and (6) has paid all applicable license fees and costs.
- G. The Tribe or Commission shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Commission. This notice must be submitted at least 120 days before the opening of any new place, facility or location on Indian lands where Class II or Class III gaming will occur.
- H. The Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within 30 days of issuance, along with any other required documentation.
- I. The Tribe shall notify the NIGC Chair within 30 days if a facility license is terminated or expires, or if a gaming place, facility, or location closes or reopens.
- J. Violations of any provision of this Section deemed contrary to the



public health, safety, morals, good order and general welfare of the Tribe and its members shall be deemed grounds for denying a facility license or suspension or revocation of a license.

- K. Any facility license issued must be displayed by the licensee in a conspicuous public place within the gaming establishment or other structure so that it may be viewed by patrons.

**4.12.020 Agent for Service of Process**

The Tribe designates the Executive Director as the agent for service of any official determination, order or notice of violation.

**4.12.030 Tribal Access to Financial Information**

A copy of the Tribal gaming operation's annual audit will be made available for review, upon request, to the Business Council.

**4.12.040 License Application Forms**

- A. The following notice shall be placed on the Tribe's license application form for a key employee or a primary management official before it is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, 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 being unable to license you for 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.

- B. The following additional notice shall be placed on the application

form for a key employee or a primary management official before it is filled out by an applicant:

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. You may also be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

#### **4.12.050 License Fees**

The Tribe may charge a license fee, to be set by the Commission, to cover its expenses in investigating and licensing key employees and primary management officials of the gaming operation.

#### **4.12.060 Granting Gaming Licenses**

- A. All primary management officials and key employees of the gaming operation must have a gaming license issued by the Tribe.
- B. The Commission is responsible for granting and issuing gaming licenses to primary management officials and key employees.
- C. The Commission may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by this Act.
- D. The Commission shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days of issuance.
- E. The Tribe shall not employ an individual in a primary management official or key employee position who does not have a license after 90 days of beginning work at the gaming operation.
- F. The Commission must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within 30 days of the NIGC receiving a notice of results of the applicant's background investigation.
- G. The Commission shall take the NIGC's objections into account when reconsidering a license application.
- H. The Commission will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.

- I. If the Commission has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee, as required by this Act.

**4.12.070 Denying Gaming Licenses**

- A. The Commission shall not license a primary management official or key employee if it determines, in applying the standards for making a license eligibility determination, that licensing the person:
  - 1. Poses a threat to the public interest;
  - 2. Poses a threat to the effective regulation of gaming; or
  - 3. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.
- B. When the Commission does not issue a license to an applicant for a primary management official or key employee position, or revokes a previously issued licenses after reconsideration, it shall:
  - 1. Notify the NIGC; and
  - 2. Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

**4.12.080 Gaming License Suspensions and Revocations**

- A. If, after a license is issued to a primary management official or a key employee, the Commission receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Commission shall do the following:
  - 1. Immediately suspend the license;
  - 2. Provide the licensee with written notice of the suspension and proposed revocation; and
  - 3. Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.
- B. Following a revocation hearing, the Commission shall decide whether to revoke or reinstate the license at issue.

- C. The Commission shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

**4.12.090 Licenses for Vendors**

Vendors of gaming services or supplies, with a value of \$25,000 or more annually, must have a vendor license from the Commission in order to transact business with the Tribal gaming operation. Contracts for professional legal and accounting services are excluded from this requirement.

**4.12.100 Submission of a Vendor License Application**

In order to obtain a gaming vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include those officers, directors, managers, owners, partners, and non-institutional stockholders that either own 10% or more of the business' stock or are the 10 largest stockholders, as well as the on-site supervisors or managers designated in an agreement with the Tribe, if applicable.

**4.12.110 Contents of the Vendor License Application**

- A. Applications for gaming vendor licenses must include the following:
  - 1. Name of business, business address, business telephone number(s), federal tax identification number (or social security number, if a sole proprietorship), main office address (if different from business address), any other names used by the applicant in business, and type of service(s) applicant will provide;
  - 2. Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship or other entity;
  - 3. If the applicant is a corporation, the state of incorporation and the qualification to do business in the State..
  - 4. Trade name, other names ever used and names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
  - 5. General description of the business and its activities;
  - 6. Whether the applicant will be investing in, or loaning money to, the gaming operation, and if so, how much;
  - 7. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
  - 8. A list of Indian tribes with which the vendor has an existing or previous business relationship, including

- ownership, financial or management interests in any non-gaming activity;
9. Names, addresses and telephone numbers of three (3) business references with whom the company has regularly done business for the last five (5) years;
  10. The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
  11. If the business has ever had a license revoked for any reason, the circumstances involved;
  12. A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;
  13. A list of the business' funding sources and any liabilities of \$50,000 or more;
  14. A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles and percentage of ownership in the company; and
  15. Any further information the Tribe deems relevant.

- B. The following notice shall be placed on the application form for a vendor and its principals:

Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Tribe's vendor license.

- C. A vendor may submit to the Commission a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit, in writing, any changes in the information since the other license application was filed, and any information requested by the Tribe not contained in the other application.

**4.12.120 Vendor License Fees**

The Tribe may charge a license fee, to be set by the Commission, to cover its expenses in investigating and licensing vendors of the gaming operation.

**4.12.130 Vendors Licensed by Recognized Regulatory Authorities**

The Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors who have received a license from one of the named regulatory authorities.

**4.12.140 Management Contracts**

The Business Council, on behalf of the Tribe, is authorized to enter into and approve management contracts for the management of any Class II and/or Class III gaming facility owned and operated by the Tribe. Said management contract shall in all respects be in compliance with the IGRA and must be approved by the Chairman of the NIGC. No person holding a management contract with the Tribe for the management of any Class II or Class III gaming facility shall be an elected member of the Tribe, or have been convicted of any felony or gaming offense, or have knowingly or willingly provided any material reporting false statements to the NIGC or Commission pursuant to this Act or the IGRA, or whose prior activities, criminal record, if any, or reputation, habits, and association pose a threat to the effective regulation and control of the gaming activity subject to the management contract, or who has attempted in any way to unduly influence or interfere with the decision process relating to any management contract or license.

#### **4.16 RULES OF OPERATION AND GENERAL ACCOUNTABILITY**

- 4.16.010 Background Investigations
- 4.16.020 Notice of Results of Background Investigations
- 4.16.030 Investigative Reports
- 4.16.040 Eligibility Determinations
- 4.16.050 Records Retention
- 4.16.060 Vendor Background Investigations
- 4.16.070 Vendor Background Investigation Reports
- 4.06.080 Age Limit for All Gaming

#### **4.16.010 Background Investigations**

- A. The Commission shall perform a background investigation for each primary management official and key employee in its gaming operation. The investigation must be sufficient to allow the Commission to make an eligibility determination under this Act.
- B. The Commission is responsible for conducting the background investigations of primary management officials and key employees. The background investigation shall include a check of criminal history records information maintained by the Federal Bureau of Investigations.
- C. The Commission shall request fingerprints from each primary management official and key employee. The Tribe shall use the County Sheriff's Department where the gaming facility is located or the United States Federal Bureau of Investigation to take fingerprints. The Tribe shall perform criminal history check of criminal history information maintained by the Federal Bureau of Investigation or the County Sheriff's Department.
- D. The Commission shall request from each primary management

official and key employee all of the following information:

1. Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender and all languages (spoken and/or written);
2. Currently, and for the previous five (5) years; business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
3. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (D)(2) of this section;
4. Current business and residential telephone numbers, and all cell phone numbers;
5. A description of any existing and previous business relationships with other tribes, including any ownership interests in those businesses;
6. A description of any existing and 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 person 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 of disposition, if any;
9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date of disposition, if any;
10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge

is within 10 years of the date of the application, and is not otherwise listed pursuant to paragraphs (D)(8) or (D)(9) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;

11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
  12. A photograph;
  13. Any other information the Tribe or Commission deems relevant; and
  14. Fingerprints obtained in accordance with procedures adopted by the Commission.
- E. When a primary management official or key employee is employed, a complete application file, containing all of the information listed in Section (D), shall be maintained.
- F. The Commission, and its investigators, shall keep confidential the identity of each person interviewed while conducting a background investigation.

**4.16.020 Notice of Results of Background Investigations**

- A. Before issuing a license to a primary management official or key employee, the Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.
- B. The notice of results must be submitted to the NIGC no later than 60 days after the applicant begins working for the Tribe.
- C. The notice of results shall include the following information:
  1. The applicant's name, date of birth and social security number;
  2. The date on which the applicant began, or will begin, working as a primary management official or key employee;
  3. A summary of the information presented in the investigative report, including:



- a. licenses that have previously been denied;
- b. gaming licenses that have been revoked, even if subsequently reinstated;
- c. every known criminal charge brought against the applicant within the last 10 years of the date of the application; and
- d. every felony offense of which the applicant has been convicted or any ongoing prosecution; and
- e. A copy of the eligibility determination made in accordance with this Act.

**4.16.030 Investigative Reports**

- A. The Commission shall create and maintain an investigative report for each background investigation of a primary management official or key employee.
- B. Investigative reports shall include all of the following information:
  - 1. Steps taken in conducting the investigation;
  - 2. Results obtained;
  - 3. Conclusions reached; and
  - 4. The basis for those conclusions.

**4.16.040 Eligibility Determinations**

- A. Before a license is issued to a primary management official or key employee, the Commission shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations.
- B. If the Commission, in applying the standards adopted in this Act, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, the Commission shall not license that person in a key employee or primary management official position.
- C. Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a primary management official or key employee.

**4.16.050 Records Retention**

The Commission shall retain, for no less than three (3) years from the date a primary management official or key employee is terminated from employment, the following documentation:

- A. Application for licensing;
- B. Investigative Reports; and
- C. Eligibility Determinations.

**4.16.060 Vendor Background Investigations**

The Commission shall employ or otherwise engage an investigator to complete an investigation of a gaming vendor. This investigation shall include, at a minimum, the following steps:

- A. Verification of the vendor's business' incorporation status and qualifications to do business in the state where the gaming operation is located;
- B. Obtaining a business credit report, if available, and conducting a Better Business Bureau check on the vendor;
- C. Conducting a check of the vendor's business' credit history;
- D. Calling and questioning each of the references listed in the vendor application; and
- E. Conducting an investigation of the principals of the vendor's business, including facilitating a criminal history check, obtaining criminal history check results, obtaining a credit report, and interviewing the personal references listed.

**4.16.070 Vendor Background Investigation Reports**

The investigator shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals, and present it to the Commission.

**4.16.080 Age Limit For All Gaming**

No person who is under the age of 18 shall operate or be allowed to participate in any manner in the operation of any Class II or Class III gaming activities. It shall be the responsibility of any manager or licensed agent of the Tribe to ensure compliance with this age limit requirement.

**4.20 CYBERSECURITY**

4.20.010 Definition for Cybersecurity

4.20.020 Ensuring Cybersecurity and Data Security

**4.20.010 Definitions for Cybersecurity**

A “cyber attack” means any act or attempt to gain unauthorized access to an information system for purpose of disrupting, disabling, destroying, or controlling the system or destroying or gaining access to the information contained therein. A cyber attack is not solely an incident resulting in unauthorized access or acquisition of personal information.

“Personally Identifiable Information” means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular patron, individual or household.

**4.20.020 Ensuring Cybersecurity and Data Security**

The Commission shall ensure that all licensees take appropriate steps to secure and protect their information systems, as well as the Personally Identifiable Information of gaming patrons and employees, from the ongoing threat of cyber attacks. The Commission shall ensure that all licensees follow the following procedures:

- A. Complete an initial cyber attack risk assessment.
- B. Develop best practices to protect data and prevent cyber attacks, including but not limited to implementing and maintaining polices and reasonable security measures to protect Personally Identifiable Information, personal data records from unauthorized access, acquisition, destruction, use, modification or disclosure.
- C. In the event of a cyber attack, provide written notice to the Commission immediately after becoming aware of a cyber attack to the licensee’s information system resulting in a material loss of control, compromise, unauthorized disclosure of data or information, or any other similar occurrence.
- D. In the event of a cyber attack, investigate the cyber attack (or engage a third party to do so), prepare a report documenting the results of the investigation, inform the Commission the report is completed, and provide a copy to the Commission upon request. Reports must include, without limit, the root cause of the cyber attack, the extent of the cyber attack, and any actions taken or planned to be taken to prevent similar events in the future.
- E. Perform, at least annually, observations, examinations, and inquiries to verify compliance with cybersecurity best practices and provide an attestation in writing to the Commission that those practices and procedures have been complied with.
- F. Provide copies of all actions taken to comply with this section and the

results thereof, and maintain all such records for a minimum of five years from the date they are created.

- G. Licensees have until December 31, 2024, to fully comply with these assessment and best practice requirements.

#### **4.24 OTHER PROVISIONS**

4.24.010 Inherent Sovereignty of the Tribe

4.24.020 Compliance with Federal Law

4.24.030 Repeal

4.24.040 Effective Date

##### **4.24.010 Inherent Sovereignty of the Tribe**

Nothing in this Act shall be deemed or construed to limit the inherent sovereignty of the Tribe. The sovereign immunity of the Tribe is expressly retained.

##### **4.24.020 Compliance with Federal Law**

The Tribe shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*

##### **4.24.030 Repeal**

Upon approval by NIGC of this Act, all prior Tribal gaming ordinances and Acts are hereby repealed.

##### **4.24.040 Effective Date**

This Act shall take effect immediately upon its approval by the NIGC Chair.