

**NATIONAL
INDIAN
GAMING
COMMISSION**

AUG 19 1999

Honorable Thomas Ranfranz
Tribal President, Flandreau Santee Sioux Tribe
Box 283
Flandreau, South Dakota 57028

Dear Mr. Ranfranz:

This letter responds to your request to review and approve the amendment to the Flandreau Santee Sioux Tribe (Tribe) tribal gaming ordinance submitted on June 14, 1999. The amendment to the ordinance was adopted by the Tribe by Resolution No. 99-67 on June 14, 1999. The original ordinance was approved by the Chairman of the National Indian Gaming Commission (NIGC) on August 17, 1994. This letter constitutes approval under the Indian Gaming Regulatory Act (IGRA).

Thank you for submitting the amendment by Resolution 99-67 to the tribal gaming ordinance of the Flandreau Santee Sioux Tribe. The NIGC staff and I continue to look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,



Montie R. Deer
Chairman

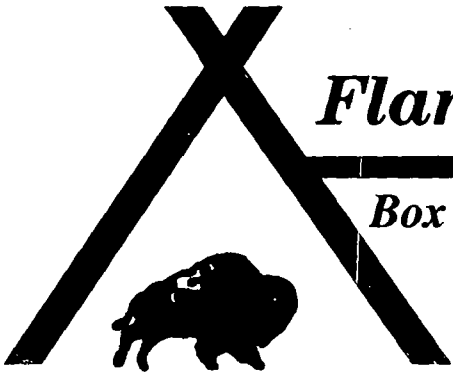
Flandreau Santee Sioux Tribe

605/

Box 283 Flandreau, SD 57028

Phone 997-3891

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JUN 21 1999

RESOLUTION 99-67

WHEREAS, the Flandreau Santee Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act with a Constitution and By-laws approved by the Secretary of Interior and Commissioner of Indian Affairs on April 24th, 1936, and amended February 7th, 1941, and further amended November 16th, 1967, and further amended November 14th, 1984, and further amended May 23rd, 1990, and further amended May 12th, 1997, and

WHEREAS, Article III, Section 1 of said revised Constitution and By-laws provides that the governing body of the Tribe shall be the Executive Committee, and

WHEREAS, pursuant to Article VIII, Section 1 (e) of said revised Constitution and By-laws, the Executive Committee has authority to promulgate ordinances, and

WHEREAS, pursuant to said powers the Executive Committee enacted Title 17-Class III Gaming Ordinance to the Flandreau Santee Sioux law and Order Code on June 27th, 1996, and amended said Ordinance on February 11, 1999, by Resolution 99-24 which enacted Title 17, the 1999 Amended Class III Gaming Ordinance, and

WHEREAS, the Executive Committee submitted Resolution 99-24 and Title 17, 1999 Amended Class III Gaming Ordinance to the National Indian Gaming Commission for approval in accordance with the Indian gaming Regulatory Act and submitted

additional amendments for approval On May 12, 1999, and


WHEREAS, On June 11, 1999, the National Indian Gaming Commission advised that said ordinance and amendments would be approved provided that the definition of net revenue under Section 17-1-3 (15) be amended to be consistent with the definition contained in 25 CFR 502.16 by deleting the language "according to Generally Accepted Accounting Procedures" and adding the language "excluding management fee".

NOW THEREFORE BE IT RESOLVED, that the Executive Committee hereby amends Section 17-1-3 (15) of Title 17, 1999 Amended Class III Gaming Ordinance as set out above and thereby enacts the attached 1999 Amended Class III Gaming Ordinance which is Title 17 of the FSST Law and Order Code and which replaces the same that was previously adopted by the Executive Committee on May 12th, 1999.

BE IT FURTHER RESOLVED, that said Amended Class III Gaming Ordinance shall be submitted to the National Indian Gaming Commission for review and approval and shall become effective upon receipt of such approval.

CERTIFICATION

The foregoing Resolution was duly enacted and adopted on this 14th day of June 1999, by the Executive Committee at which a quorum was present of 4 for 0 against, and 1 not voting. *absent*


Leah Fyten
Tribal Secretary


Thomas Ranfranz
Tribal President

**TITLE 17
1999 AMENDED CLASS III GAMING**

JUN 21 1999

**CHAPTER 1
GENERAL PROVISIONS**

Section 17-1-1. Title. This Ordinance shall be known as the Flandreau Santee Sioux Class III Gaming Ordinance. It is promulgated pursuant to Article VIII, Section 1 (f) of the Flandreau Santee Sioux Tribal Constitution.

Section 17-1-2. Purpose. The purpose of this title is to authorize Class III gaming on the Flandreau Santee Sioux Reservation and provide regulations governing the conduct of such gaming to promote economic development for the Tribe, provide employment opportunities for the Tribe and community, and to provide for the general welfare of the Tribe and its members. (As amended by Resolution 99-24, dated February 11, 1999)

Section 17-1-3. Definitions:

1. **Bet:** A bet is an amount placed as a wager in a game of chance;
2. **Blackjack:** Blackjack is a card game played by a maximum of seven players in which each player bets against the dealer, The object of the game is to draw cards whose value will equal or approach twenty-one without exceeding that amount and win amounts bet, payable by the dealer, if the player holds cards more valuable than the dealer's cards;
3. **Boundaries:** Boundaries mean the boundaries of the Flandreau Santee Sioux Reservation, Moody County, South Dakota;
4. **Class III Gaming:** Means all forms of gaming that are not Class I gaming or Class II gaming, as those terms are defined in the Indian Gaming Regulatory Act, 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);
 2. Casino games such as roulette, craps, and keno;
 - (b) Any slot machines as that term is defined in 15 U.S.C. 1171 (a) (1) and electronic or electromechanical facsimiles of any game of chance;
 - (c) Any sports betting and parimutual wagering including but not limited to wagering on horse racing, dog racing or jai alai; or

(d) Lotteries.

(As amended by Resolution 99-59 , dated May 18, 1999)

5. **Commission:** Commission means the tribal commission on gaming;
6. **Committee:** Committee means the Executive Committee of the Flandreau Santee Sioux Tribe duly elected pursuant to the Constitution of the Flandreau Santee Sioux Tribe;
7. **Gaming:** Gaming is any game or contest of chance whereby one risks money or tokens no matter how conceived or operated and includes, but is not limited to, every game described in this Ordinance;
8. **Gaming Employee:** A Gaming Employee is any person employed by a business hosting gaming to work directly with the gaming portion of that business;
9. **Gaming Equipment:** Gaming Equipment means any gaming equipment that is authorized by this Ordinance and which requires licensing;
10. **Gaming License:** Gaming License means any license issued by the commission pursuant to this Ordinance which authorizes any person to engage in gaming on the Flandreau Santee Sioux Reservation. ;
11. **Key Employee:** Key Employee means:

(A) A person who performs one or more of the following functions:

- (1) Bingo Caller
- (2) Counting room supervisor;
- (3) Chief of security;
- (4) Custodian of gaming supplies or cash;
- (5) Floor manager;
- (6) Pit boss;
- (7) Dealer;
- (8) Croupier;
- (9) Approver of credit; or
- (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices;

(B) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or

(C) If not otherwise included, the four most highly compensated persons in the gaming operation.

12. **Licensed Gaming Establishment.** Licensed Gaming Establishment means any premises licensed pursuant to this Ordinance where gaming is conducted;
13. **Licensee:** A Licensee is any person licensed under this Ordinance;
14. **Licensing Authority:** Licensing Authority means the tribal commission on gaming;
15. **Net Revenues:** Net revenues means gross gaming revenues of a tribal gaming operation less--
 - (A) Amounts paid out as, or paid for, prizes, and
 - (B) Total gaming-related operating expenses, excluding management fees. **(As amended by Resolution 99-67, dated June 14, 1999)**
16. **Poker:** Poker is a class II non-banking card game played by a maximum of ten players who are dealt cards by a non-player dealer. The object of the game is for each player to bet the superiority of his own hand and win the other players' bets by either making a bet no other player is willing to match or proving to hold the most valuable cards after all the betting is over. Poker includes draw, stud or low ball or any combination thereof **(As amended by Resolution 99-24, dated February 11, 1999)**;
17. **Primary Management Official:** A Primary management official is:
 - (A) The person having management responsibility for a management contract;
 - (B) Any person who has authority:
 - (1) To hire and fire employees;
 - (2) To set up working policy for the gaming operation; or
 - (C) The chief financial officer or other person who has financial management responsibility.
18. **Slot Machine: (Repealed by Resolution 99-24, dated February 11, 1999)**

**CHAPTER 2
GAMES PERMITTED**

Section 17-2-1. Games Permitted. Poker, Blackjack, slot machines, and video lottery machines are expressly authorized by this Ordinance and such other Class III gaming as may be approved by legislative act of the State of South Dakota. All gaming authorized by this ordinance may be operated and maintained within the boundaries of the Flandreau Santee Sioux Reservation, subject to the provisions of this ordinance.

**CHAPTER 3
TRIBAL COMMISSION ON GAMING**

Section 17-3-1. Regulation of Gaming. All gaming activity authorized by this ordinance shall be conducted in accordance with the regulations set out in this ordinance. The Tribal Commission on Gaming created by this Chapter shall be responsible for the enforcement of the Class III gaming regulations. **(As amended by Resolution 99-24, dated February 11, 1999)**

Section 17-3-2. Gaming Commission. There is hereby created the Flandreau Santee Sioux Tribal Commission on Gaming.

1. Composition/Qualifications: The Commission shall consist of five (5) members who shall be citizens of South Dakota and who may be members of the Flandreau Santee Sioux Tribe. Persons selected as members of the Commission shall be of good moral character and shall not have been convicted, in any court of competent jurisdiction, of a felony or crime involving moral turpitude, unless the sentence and/or probation for such conviction shall have been completed ten years prior to the date of appointment. The Executive Committee shall be the sole judge of the qualifications of Commission members. **(As amended by Resolution 99-24, dated February 11, 1999)**
2. Appointment: Members of the Commission shall be appointed by the Executive Committee. Commissioners shall be appointed to two-(2) year staggered terms. Three (3) Commissioners shall be appointed every even numbered in July and two (2) Commissioners shall be appointed every odd numbered year in July. The two (2) new Commissioners created by this amendment shall be appointed upon approval of this amendment by the National Indian Gaming Commission. One new Commissioner shall be appointed to the balance of the odd numbered term and the other new Commissioner shall be appointed to the balance of the even numbered term. Thereafter each Commissioner shall serve two year terms. Upon expiration of the term, each Commissioner shall be subject to reappointment. Commission members shall select from among themselves, a Chairperson who shall preside over the meetings of the Commission. **(As amended by Resolution**

99-24, dated February 11, 1999)

3. **Removal:** A Commission member may be removed, for cause, by a majority vote of the Tribal Executive Committee. Removals shall be supported by substantive evidence, which would be admissible in a court of law. Any member whose removal is sought shall be notified in writing not less than (3) three days prior to a vote on removal. The member may request an informal hearing before the Executive Committee.
4. **Prohibitions on gaming:** A Commission member, officer, agent, or employee of the Commission may not participate in any gaming authorized by this Ordinance or any other gaming conducted by the Tribe which the Commission may be required to regulate. **(As added by Resolution 99-24, dated February 11, 1999)**

Section 17-3-3. Gaming Commission Rule-Making Authority. The Commission may promulgate and adopt rules for the orderly transaction and conduct of its business, issuance, suspension and revocation of gaming licenses, review of retail and service contracts, the conduct and operation of all gaming activities, and any other matters necessary to carry out the purposes of this Ordinance. The Commission may also promulgate rules necessary to administer complaints which may be received from the public and conduct such other investigations and inspections into the conduct of the games and the licensees and the maintenance of equipment as the Commission may deem necessary and proper. **(As amended by Resolution 99-24, dated February 11, 1999)**

Section 17-3-4. Posting of Rules. All rules promulgated by the Commission pursuant to Section 17-3-3 shall be posted in the Tribal Office for not less than 90 days prior to final enactment. An interested party who may be affected by a Commission rule may request a hearing before the Commission to object to said rule. An adverse ruling by the Commission regarding such rule may be appealed to the Flandreau Santee Sioux Tribal Court. **(As amended by Resolution 99-24, dated February 11, 1999)**

Section 17-3-4A. Objecting to current Commission rules. Any interested party who may be affected by a current Commission rule may request a hearing before the Commission to object to said rule and offer an alternative rule which would be more efficient to the operation of the gaming establishment provided that the alternative rule offered is at least as stringent as state rules. An adverse ruling by the Commission may be appealed to the Tribal Court. **(As amended by Resolution 99-24, dated February 11, 1999)**

Section 17-3-5. Gaming Commission Records. Information and records of the Commission enumerated by this Section are confidential and may not be disclosed except pursuant to a court order. No person may use a subpoena, discovery or other applicable statutes to obtain such information or records. Information and records considered confidential include the following:

1. Tax returns of individual licensees;
2. Applications; credit, medical and security reports of applicants for licenses and

other persons seeking or doing business with the Commission;

3. Marketing, financial or sales data, the disclosure of which may be harmful to the competitive position of Flandreau Santee Sioux Tribal gaming, its licensees or persons seeking or doing business with the Commission;
4. Audit work papers, worksheets and auditing procedures used by the Commission, its agents or employees.

Section 17-3-6. Gaming Commission Meetings. The Commission may hold regular and special meetings at such times and places as it may deem convenient, but at least one regular meeting shall be held quarterly. A majority of the appointed members shall constitute a quorum of the commission, and a special meeting may be called by any two members. Each member of the commission shall receive a stipend and expenses for each regular meeting. The stipend and expenses shall be paid from fees and assessments collected by the commission.

1. Purposes for Executive or Closed Sessions. The Commission may hold executive or closed meetings for any of the following purposes:
 - (A) Considering applications for licensing when discussing the background investigations or personal information;
 - (B) Meeting with gaming officials of other jurisdictions, the Attorney General, States Attorney or any law enforcement official relating to possible criminal violations;
 - (C) Consulting with the Executive Secretary, employees and agents of the Commission regarding possible criminal violations;
 - (D) Deliberations after hearing evidence on an informal consultation of a contested case necessary to reach a decision; or
 - (E) Discussing business strategies, marketing or pricing strategies of a licensee or an applicant for a license if public discussion may be harmful to the competitive position of the licensee or applicant for license.

Section 17-3-7. Executive Secretary of Gaming Commission. The Commission shall appoint, and may remove, an Executive Secretary. The Executive Secretary shall serve at the pleasure of the Commission and shall be responsible for the conduct of the Commission's administrative matters. The Executive Secretary shall devote full time and attention to the business of his office and may not pursue any other business or occupation. The Commission shall set the annual salary of the Executive Secretary. **(As amended by Resolution 99-24, dated February 11, 1999)**

Section 17-3-8. Gaming Commission Powers. The powers of the Tribal Commission on Gaming shall be as follows:

1. Issue licenses, oversee and define the contract of the licensees;
2. Inspect and examine all premises where gaming is conducted or gaming devices or equipment are sold or distributed;
3. Inspect, examine, and photocopy all papers, books, and records of applicants and licensees pertaining to such application and/or license.
4. Contract for legal counsel as necessary.
5. Suspend or revoke for cause, any gaming license;
6. Require all primary management personnel and key employees to submit to investigation as required by this Ordinance.
7. Promulgate any rules as provided in Section 17-3-3.

Section 17-3-9. Appeal of Gaming Commission Actions. Any action of the Commission is subject to appeal to the Tribal Court of the Flandreau Santee Sioux Tribe. Notice of appeal shall be filed in writing with the Commission and the FSST Clerk of Court, within ten (10) days of receipt of written notice of any action taken by the Commission. Absent such Notice of Appeal, all actions of the Commission are final.

Section 17-3-10. Communication Privilege. Communications between the Commission and the Executive Secretary relating to licensing, discipline of licensees and/or violations by licensees are privileged and confidential if made lawfully and in the course of and in furtherance of the business of the commission on gaming, except pursuant to court order after an in-camera review. The Executive Secretary or any member of the Commission may claim this privilege.

Section 17-3-11. Conflict of Interest. No officer, agent or employee of the Commission may hold a license under this Ordinance if the duties of such office, agency, or employment are in any manner related to the enforcement of gaming rules and regulations. No licensee under this Ordinance may employ any person in any capacity directly related to the licensee's gaming activities while that person is employed by a law enforcement agency or the Commission. **(As amended by Resolution 99-24, dated February 11, 1999)**

Section 17-3-12. External Audit. The financial records of the Commission shall be subject to an external annual audit by the Executive Committee. **(As added by Resolution 99-24, dated February 11, 1999)**

CHAPTER 4
APPLICATION FOR GAMING LICENSE

Section 17-4-1. Application for a Gaming License. The Commission may approve any application for license which is complete and meets all requirements, provided the applicant is deemed to be a suitable person to hold the license and whether the proposed location is deemed suitable.

1. License required. All persons seeking employment in a gaming establishment to work directly with the gaming portion of said establishment must submit an application for a gaming license.
 - (A) No person shall be granted a gaming license unless he/she shall be determined to be suitable by the Commission, is at least 21 years of age, and that he/she is a bona fide resident of the State of South Dakota, or if a partnership or corporation, that a majority of the ownership interest in the partnership or corporation is owned by a bona fide resident of the State of South Dakota.
 - (B) All applications for a gaming license must be accompanied by the appropriate initial application fee, which shall include the cost of investigation. Application fees are non-refundable and the applicant may be required to pay any additional costs which may arise in connection with the investigation.
 - (C) Initial application fees shall vary according to the license type requested and shall be collected as follows:
 - (1) Slot machine operator, one thousand dollars (\$1000.00);
 - (2) Card Game Operator, one thousand dollars (\$1000.00);
 - (3) Video Lottery Operator, one thousand dollars (\$1000.00);
 - (4) Employee, twenty-five dollars (\$25.00);
 - (5) Key employee, one hundred dollars (\$100.00).
2. Untrue statements. The Commission may refuse to grant a license to any applicant who makes deliberate misstatements, deliberate omissions, misrepresentations, or untruths in any part of the application or in the

background investigation. Applications for all gaming licenses, regardless of position applied for, shall contain the following notice:

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. U.S. Code, title18, section 1001.

3. **Background Investigation.** No application for a gaming license shall be deemed complete without a background investigation. Each application submitted shall contain a release, authorizing the conduct of such investigation including fingerprints.
 - (A) Fingerprints of applicants shall be submitted to the South Dakota Gaming Commission and/or the Office of the Attorney General of the State of South Dakota, pursuant to the Compact between the State of South Dakota and the Flandreau Santee Sioux Tribe, to process an investigation into the applicant's criminal history, if any, through the Federal Bureau of Investigation National Criminal Information Center.
 - (B) The State of South Dakota shall provide the Commission with a written report regarding each applicant within 30 days of receipt of the tribe's written request for investigation.
 - (C) All background investigations conducted pursuant to this section shall be conducted according to requirements at least as stringent as those listed in 25 CFR §556, 558.
4. **Application forms.** All application forms, regardless of position applied for, shall contain the following statement regarding the Privacy Act:

NOTICE: All applicants are advised that this personal history information is an official document and misrepresentation or failure to reveal information requested may be deemed to be sufficient cause for the refusal or revocation of a license. Applicant may be subject to fine and/or imprisonment. 18 USC §1001.

All applicants are further advised that an application for a gaming license, finding of suitability or other action may not be withdrawn without the permission of the Executive Secretary of the Flandreau Santee Sioux Tribal Gaming Commission and/or the South Dakota Commission on Gaming.

All applicants are further advised of compliance with the Privacy

Act of 1974. Solicitation of the information on this application is authorized by 25 USC §2701, et. Seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. This information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a Tribe in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or gaming operation. Failure to consent to the disclosures indicated will result in the tribe's being unable to hire you in a primary management official, key employee, or support employee position. The disclosure of a Social Security number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing an application.

Each applicant applying for a gaming license must execute a Flandreau Santee Sioux Tribal Investigation Authorization and Release of Credit Information form. This will authorize the Gaming Commission to obtain a criminal record if such record exists and to obtain any financial information which is available. This form releases, waives, discharges and agrees to hold harmless the Flandreau Santee Sioux Tribe, the Tribal Commission on Gaming and designated persons, from all liability for any claim or damage resulting from the release of this information. All information gathered as a result of this investigation will be held confidential.

Each applicant is instructed that it is necessary to submit a copy of Internal Revenue Service returns for the past three (3) years. Attached is IRS Form 8821, to be completed, with name signed and printed.

5. Submission of completed application. Upon receipt of the written report from the State of South Dakota, the Executive Secretary shall compile the information along with his/her narrative verifying all information submitted by the applicant. When the application is deemed to be complete, the Executive Secretary shall submit said application to the Commission for final approval or disapproval.

Section 17-4-2. Licensing Requirements for Key Employees and Primary Management Officials.

1. Application Requirements. All applicants for licensing as a key employee or management official, in addition to requirements set out on Section 17-4-1, shall

complete an application with the following information:

- (A) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (B) Currently and for the previous 5 years; business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license number(s);
- (C) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph two of this section;
- (D) A current business and residence telephone numbers;
- (E) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (F) A description of any existing and previous business relationships with the gaming industry generally, including ownership interest in those businesses;
- (G) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (H) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (I) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (J) For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph eight or nine of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- (K) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

- (L) A photograph;
 - (M) Any other information the Commission may deem relevant; and
 - (N) Fingerprints pursuant to procedures set out in Section 17-5-1 c (1).
2. Unsuitable persons. No person shall be issued a license under this ordinance if that person's prior activities, criminal record, reputation, habits or associations pose 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 or activities in the conduct of gaming.
 3. Verification of information. The Executive Secretary shall contact each person, agency or business listed in an application for gaming license and shall request verification, in writing, of Applicant's prior activities including criminal record, if any, as well as information regarding his/her reputation, habits and associations.
 4. Executive Secretary to compile information. The Executive Secretary shall keep a file on each individual applicant and shall compile a report to the Commission which shall contain the following information:
 - (A) Employment Application
 - (B) Gaming License Application
 - (C) Criminal History Report
 - (D) A list of potential problems in the application or any report.
 - (E) A report of any disqualifying information.
 - (F) Narratives of all communication with applicant's personal and business references.
 5. Completed applications. The Executive Secretary shall review all reports including the background investigations and shall either approve the reports or return them for further investigation. Upon a determination by the Secretary that the application file is complete, the Secretary shall forward the completed file and all pertinent documentation to the Commission for final determination of suitability for employment.
 6. NIGC approval. Upon a determination by the Commission, that the applicant is suitable for employment, the Commission shall forward the complete report to the National Indian Gaming Commission, pursuant to Title 25, Code of Federal Regulation, section 556.5 for final approval. The investigative report shall include all of the following:
 - (A) Steps taken in conducting a background investigation;
 - (B) Results obtained;
 - (C) Conclusions reached, and
 - (D) The bases for those conclusions.

7. Unsuitable applicants: If the Tribe does not license an applicant, the Secretary shall forward a report to the NIGC stating said decision and may forward copies of its investigative report, if any.

Section 17-4-3. Temporary Licenses. The Commission may issue temporary licenses pending an application for a permanent license. A temporary license may be issued upon application completion of an initial background investigation which shall require verification that the applicant does not have any outstanding warrants and has never been convicted of a felony in any court. A temporary license may be issued for a period not to exceed ninety days. The temporary license shall terminate immediately upon approval of a permanent license or a determination by the Commission that the applicant is unsuitable for a permanent license regardless of whether an appeal of the Commission's determination has been filed. If a person has been determined to be unsuitable for a permanent license by the Commission, he or she shall not be eligible for a temporary license for a period of at least five years from the date of determination of unsuitability. **(As added by Resolution 99-24, dated February 11, 1999)**

CHAPTER 5 LICENSES

Section 17-5-1. License Revocable. Any license issued under this Ordinance is revocable and no person holding a license acquires any vested right in such license.

1. License revocation. A license may be revoked upon a finding by the Commission of a violation of the regulations provided in this ordinance or rule adopted by the Commission. A person holding a license shall be notified that revocation of his license is being considered by the Commission. The license holder may, upon such notice, request an informal hearing before the Commission prior to the revocation of his license. Any disciplinary action, including the suspension or revocation of a gaming license, shall comply with provisions of Chapter 10, *Disciplinary Proceedings*, of the Gaming Commission Rules and Regulations. **(As amended by Resolution 99-24, dated February 11, 1999)**

- (A) Notice. Notice, when required by this Ordinance, shall be given by registered mail and shall be deemed complete when placed in the U.S. Mail, postage prepaid.

Section 17-5-2. License Non-transferable. No license issued pursuant to this Ordinance may be transferred.

Section 17-5-3. Types of Licenses and Applicable Fees. The Commission may issue five (5) license types and the following fees shall be applicable:

1. Slot Machine Operator: An annual fee of one hundred dollars (\$100.00),

renewable on each July 1st, shall entitle the licensee to operate an unspecified number of slot machines on the Flandreau Santee Sioux Reservation on the licensed premises and subject to the ordinances and regulations of the Tribe and the Commission.

2. Card Game Operator: An annual fee of one hundred dollars (\$100.00), renewable on each July 1st, shall entitle the licensee to operate an unspecified number of card tables on the Flandreau Santee Sioux Reservation on the licensed premises and subject to the ordinances and regulations of the Tribe and the Commission.
3. Video Lottery Machine Operator: An annual fee of one hundred dollars (\$100.00), renewable each July 1st, shall entitle the licensee to operate an unspecified number of video lottery machines on the Flandreau Santee Sioux Reservation on the licensed premises and subject to the ordinances and regulations of the Tribe and the Commission.
4. Employee License: An annual fee of twenty-five dollars (\$25.00), renewable each July 1st, shall entitle the licensee to be employed in the gaming portion of a gaming operation conducted on the licensed premises on the Flandreau Santee Sioux Reservation and subject to the ordinances and regulations of the Tribe and the Commission.
5. Key Employee License: An annual fee of one hundred dollars (\$100.00), renewable each July 1st, shall entitle the licensee to perform duties as an executive, employee or agent of a gaming licensee who may exercise significant influence over decisions made regarding any part of the operation of a gaming facility on the Flandreau Santee Sioux Reservation and subject to the ordinances and regulations of the Tribe and the Commission.

Section 17-5-4. Penalties for Violation of License Requirements. Any person who, having been granted a license under this ordinance, fails to keep sufficient books and records to substantiate the receipts, expenses or uses resulting from limited card games and slot machines conducted under this ordinance, or who falsifies any books or records which relate to any transaction connected with the holding, operating, and conducting of any gaming activity, or who violates any of the provisions of this ordinance may be subject to the revocation of said license and/or a fine pursuant to the Rules and Regulations of the Commission.

Section 17-5-5. Licensing facilities. The Commission shall issue a separate operator's license for each place, facility, or location on tribal lands where the Flandreau Santee Sioux Tribe elects to allow Class III gaming. No facility will be granted a license unless such facility is constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

**CHAPTER 6
GAMING REGULATIONS**

Section 17-6-1. General Regulations. The following regulations shall apply to all gaming conducted under this Ordinance:

1. All gaming activities shall be conducted exclusively on the tribal lands of the Flandreau Santee Sioux Tribe.
2. All gaming activities shall be conducted under the exclusive control and responsibility of the Flandreau Santee Sioux Tribe.
3. All proceeds of the gaming activities authorized by this ordinance and received by the Tribe shall be used to promote the health, education and welfare of the Flandreau Santee Sioux Tribe.
4. The Flandreau Santee Sioux Tribe shall receive at least sixty percent (60%) of the net revenues of all gaming activities conducted pursuant to this Ordinance.
5. Annual audits shall be required of all gaming activities. Such audits shall be conducted by an independent auditing firm. Such audits shall be made available to Tribal members upon written request to the Committee.
6. Annual audits shall be required of all businesses or entities that enter into any contract for goods and/or services related to gaming activities where such contract is for \$25,000.00 or more.
7. The Committee may, at its discretion, issue per capita payments of gaming proceeds to tribal members. The Committee shall notify tribal members that such per capita payments are subject to federal income tax.

(As moved and added to this Chapter by Resolution 99-24, dated February 11, 1999)

Section 17-6-2. Requirements for Slot Machines.

1. Security and Audit Specifications: All slot machines operated within the Flandreau Santee Sioux Reservation shall have the following security and audit specifications:
 - A. Microprocessor controlled;
 - B. Compatible to on-line data monitoring;
 - C. Internal locked enclosure for circuit board;

- D. Able to continue game with no data loss after power failure;
 - E. Previous and current game data recall;
 - F. Random selection process that satisfies ninety-five percent (95%) confidence level using standard chi-squared, runs, and serial correlation tests;
 - G. Clearly displays applicable rules of play and payout schedule;
 - H. Displays an accurate set of non-volatile meters, in, out, drop, handle, and jackpot.
2. Minimum Payback: The minimum payback value of one credit played on a slot machine shall be at least eighty percent of the value of the credit. No slot machine may be played by more than one person at a time

Section 17-6-3. Age Limit for Players. Any participant in a card game, slot machine, or electronic gaming machine shall be twenty-one (21) years of age or older at the time of his/her participation.

Section 17-6-4. Illegal Games and Activities. It shall be unlawful for any person playing or conducting any authorized game of chance, conducted by a licensee to:

- 1. Use bogus or counterfeit chips, tokens, devices or coins;
- 2. Employ or have in one's person any cheating device to facilitate cheating in any game of chance;
- 3. Use any fraudulent scheme or technique;
- 4. Have located on the gaming premises, equipment for gaming that is not licensed by the Commission, except equipment exempted by the Commission, this Ordinance or other statutes;

A person violating this section shall be guilty of a Class I misdemeanor unless the amount gained through violating this section is more than five hundred dollars, in which case the offense is a felony. (As added by Resolution 99-24, dated February 11, 1999)

Section 17-6-5. Requirements for Persons Having Interest. Any person, stockholder or officer in any corporation or partner in any partnership who is a manufacturer, operator or retailer who is connected with the conduct of card games, slot machines and/or slot machines shall be:

- 1. A person of good character, honesty and integrity;
- 2. A person whose prior activities, criminal record, reputation, habits and associations do not pose a threat to the public interest of the Tribe or the gaming

industry and do not 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;

3. A person who has not been convicted of a felony in this or any other jurisdiction, unless ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court in each felony, has not been found to have violated the provisions of this Ordinance, and has not knowingly made a false statement of material facts to the Commission or its legal counsel.

Section 17-6-6 Exclusion of Persons from Gaming Establishments. The Commission shall have the authority to eject and/or exclude certain persons from licensed gaming establishments when the presence of said person poses a threat to the interest of the Flandreau Santee Sioux Tribe, the State of South Dakota or to licensed gaming.

1. Criteria for exclusion. In making the determination for ejection or exclusion, the Commission may consider the following:
 - A. Prior conviction of a felony, a misdemeanor involving moral turpitude or a violation of the gaming laws of any tribe, state, the United States or any of its possessions or territories;
 - B. A violation, attempt to violate or conspiracy to violate the provisions of this chapter relating to the failure to disclose an interest in a gaming establishment for which the person must obtain a license or make disclosures to the Commission;
 - C. Intentional evasion of fees or taxes;
 - D. Notorious or unsavory reputation that would adversely affect public confidence and trust that the gaming industry is free from criminal or corruptive influences;
2. Notice to persons excluded. If the name and description of any person are placed on the exclusion list, the Commission shall serve notice of such action upon the person by one of the following means:
 - A. By personal service;
 - B. By mailing a copy of the notice by certified mail to the last known address of the person; or
 - C. By publishing a copy of the notice in an official newspaper in Moody County, South Dakota.

3. Protest of exclusion. A person whose name appears on the exclusion list may contest such action by filing a written protest with the Commission and may request a hearing before the Commission.

Section 17-6-7. No Credit Extended. All gaming under this ordinance shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by the gaming facility operated under this ordinance, and no operation shall permit any person or organization to offer such credit for a fee. This restriction shall not apply to credits won by players who activate play gaming machines after inserting coins or currency into the game, and shall not restrict the right of the Tribe or any other person to offer check cashing or to install or accept bank card or credit card transaction in the same manner as would be normally permitted at any retail business within the state.

(As added by Resolution 99-24, dated February 11, 1999)

This ordinance was adopted as amended by the Flandreau Santee Sioux Executive Committee on February 11, 1999 by Resolution 99-24, dated February 11, 1999, and further amended by Resolution 99-59, dated May 18, 1999, and further amended by Resolution 99-67, dated June 14, 1999, and favorably reviewed and approved by the National Indian Gaming Commission on the ___ day _____, 1999.¹