

Title 16 - Gaming
Chapter 3 – Licenses for Key Employees
and Primary Management Officials

Sec.

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Legislative History

Enacted:

Ordinance 314 (5/2/12); BIA (5/15/12); NIGC (7/30/12).
Ordinance 171 Gaming Ordinance (6/30/03), BIA (7/3/03), NIGC (10/3/03).

Repealed or Superseded:

Ordinance 151 Amending Ordinance 103(4/9/02), BIA (6/7/02), NIGC (7/17/02).
Ordinance 118 Amending Ordinance 103 (5/7/96), BIA (5/23/96), NIGC (not required, 8/15/96).
Ordinance 104 Amending Ordinance 103(11/3/93), BIA (11/8/93), NIGC (11/10/93).
Ordinance 103 Gaming Ordinance Repealing Ordinance 50(10/5/93), BIA (10/14/93), NIGC (11/10/93).

16-03.010 Definitions.

For the purpose of this Chapter, the following definitions apply:

- (A) **“Key Employee”** means
- (1) a person who performs one or more of the following functions:
 - (a) Bingo caller;
 - (b) Count room supervisor;
 - (c) Security manager;
 - (d) Custodian of gaming supplies or cash;

- (e) Floor manager;
 - (f) Pit Supervisor;
 - (g) Dealer;
 - (h) Croupier;
 - (i) Approver of credit; and
 - (j) Custodian of gambling devices including persons with access to cash and accounting records within such devices.
- (2) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
 - (3) If not otherwise included, the four (4) most highly compensated persons in the gaming operation.

(B) **“Primary Management Official”** means:

- (1) The person 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.
- (3) The chief financial officer or other person who has financial management responsibility.

[History] Ord. 314 (5/2/12); Ord. 171 (6/30/03); Ord. 118 (5/7/96); Ord. 104 (11/3/93); Ord. 103 (10/5/93).

16-03.020 Application Forms.

- (A) The following notice shall be placed on the license application form for a key employee or a primary management official before that form 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 to appropriate Federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the 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's 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) Existing key employees and primary management officials shall be notified in writing that they shall either:
 - (1) Complete a new application form that contains a Privacy Act notice; or
 - (2) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.
- (C) The following notice shall be placed on the license application form for a key employee or a primary management official before that form 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. Also, you may be punished by fine or imprisonment. (18 U.S.C. § 1001.)

- (D) The Tribe shall notify in writing existing key employees and primary management officials that they shall either:
 - (1) Complete a new application form that contains a notice regarding false statements; or
 - (2) Sign a statement that contains the notice regarding false statements.

[History] Ord. 314 (5/2/12); Ord. 171 (6/30/03); Ord. 103 (10/5/93).

16-03.030 Background Investigations.

- (A) The Tribe shall request from each primary management official and from each key employee all of the following information:
 - (1) Full name, other names used (spoken or written), social security number(s), date of birth, place of birth, citizenship, gender, all languages (spoken or written);

- (2) Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers 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 Section 16-03.030(A)(2);
- (4) Current business and residence telephone numbers;
- (5) A description of any existing and previous business relationships with Indian tribes, including 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 and disposition, if any;
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;
- (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to Section 16-03.030(A)(8) or (A)(9), the criminal charge, the name and address of the court involved, and the date and disposition;
- (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 current photograph;
- (13) Any other information the Tribe deems relevant; and
- (14) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h).

- (B) The Tribe shall conduct an investigation sufficient to make a determination under Section 16-03.040 below. In conducting a background investigation, the Tribe or its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

[History] Ord. 314 (5/2/12); Ord. 171 (6/30/03); Ord. 103 (10/5/93).

16-03.040 Eligibility Determinations.

The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for granting of a gaming license. If the Tribe, in applying the standards set forth in this Chapter, determines that licensing of 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 and methods and activities in the conduct of gaming, the Tribe shall not license that person in a key employee or primary management official position.

[History] Ord. 314 (5/2/12); Ord. 171 (6/30/03); Ord. 103 (10/5/93).

16-03.050 Procedures.

Procedures for forwarding applications and reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission:

- (A) When a key employee or primary management official begins work at a gaming operation authorized by this Title, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation provided for in Section 16-03.030.
- (B) The Tribe shall forward the report referred to in Section 16-03.060 to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this Title by the Chairman of the National Indian Gaming Commission.
- (C) The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after ninety (90) days.

[History] Ord. 171 (6/30/03); Ord. 151 (4/9/02); Ord. 103 (10/5/93).

16-03.060 Report to the National Indian Gaming Commission.

- (A) Pursuant to the procedures set out in Section 16-03.050, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

- (1) Steps taken in conducting a background investigation;
 - (2) Results obtained;
 - (3) Conclusions reached; and
 - (4) The basis for those conclusions.
- (B) The Tribe shall submit, with the report, a copy of the eligibility determination made under Section 16-03.040 of this Chapter.
- (C) If a license is not issued to an applicant, the Tribe:
- (1) Shall notify the National Indian Gaming Commission; and
 - (2) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.
- (D) With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

[History] Ord. 314 (5/2/12); Ord. 171 (6/30/03); Ord. 104 (11/3/93); Ord. 103 (10/5/93).

16-03.070 Granting a Gaming License.

- (A) If, within a thirty (30) day period after the National Indian Gaming Commission receives an investigative report, the National Indian Gaming Commission notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.
- (B) During the thirty (30) day period described above in Subsection 16-03.070(A), the Chairman of the National Indian Gaming Commission may request additional information from the Tribe concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the thirty (30) day period under Section 16-03.070(A) until the Chairman of the National Indian Gaming Commission receives the additional information.
- (C) If, within that same thirty (30) day period, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the

Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

[History] Ord. 314 (5/2/12); Ord. 171 (6/30/03); Ord. 103 (10/5/93).

16-03.080 License Suspension.

- (A) If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under Section 16-03.040, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and proposed revocation.
- (B) The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- (C) After a revocation hearing, the Tribe shall decide whether to revoke or to reinstate the gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

[History] Ord. 314 (5/2/12); Ord. 171 (6/30/03); Ord. 103 (10/5/93).