

**THREE AFFILIATED TRIBES TRIBAL BUSINESS
COUNCIL GAMING COMMITTEE POLICY**

1. Statement of Policy.

It is the policy of the Three Affiliated Tribes that tribal gaming operations be free of criminal elements, including employees whose past conduct might pose a threat to the effective and legal operation of gaming on the Fort Berthold Reservation.

It is further the policy of the Three Affiliated Tribes to promote full tribal employment and, where tribal members can demonstrate rehabilitation from criminal conduct, to license tribal members, and permit them to work at tribal gaming operations, notwithstanding a prior criminal history.

2. Scope of Policy.

The following policy and the procedures only shall apply to members of the Three Affiliated Tribes applying for gaming licenses ("Applicants") and members who presently possess gaming licenses ("Licensees").

3. Role of Tribal Gaming Commission.

The Three Affiliated Tribes Gaming Commission (the "Commission") shall consider requests for waivers of tribal members' criminal histories and shall make determinations thereon as is provided herein. The Commission shall report its determinations to the Chairman of Tribal Gaming Committee of the Tribal Business Council on at least a bimonthly basis, and also may report its determinations to the appropriate management personnel at the Tribe's Gaming Operation.

4. Criminal History Defined.

"Criminal history", for which Applicants and Licensees must receive a waiver, shall mean Misdemeanors, Gross Misdemeanors, and Felonies, as defined in the applicable tribal,

state or federal law. Applicants and Licensees shall not be barred from employment, nor required to secure a waiver for convictions, guilty pleas or pleas of no contest to petty misdemeanors, as defined in the applicable tribal or state law.

5. Procedure for Processing an Applicant with a Criminal History.

- a. When the Commission learns that an Applicant has a criminal history, it shall:
 - 1) Cease processing the license application;
 - 2) - Gather the following documents:
 - (a) copy of any local, state, or federal release order;
 - (b) evidence demonstrating the Applicant's compliance with all terms and conditions of probation or parole, and any documents showing completion of probation or parole supervision;
 - (c) reports from the Applicant's probation or parole officer attesting to the Applicant's fitness and character;
 - (d) evidence showing the number of years which have elapsed since the Applicant's release from any correctional facility, and, where relevant, from parole or probation, without subsequent conviction.
- b. Upon receiving all of the relevant documents set forth in 5(a)(2), *supra*, the Commission shall:
 - 1) Meet and rule on eligibility for waiver within seven (7) days of the date on which the Commission is in receipt of all such documents;
 - 2) Make a written determination whether waiver is granted or denied; and,
 - 3) Send a copy of its determination to the Applicant, the Chairman of the Tribal Gaming Committee, and the General Manager of the Tribal Gaming Operation.

6. Procedure for Processing a Licensee With a Criminal History.

When the Commission learns that a Licensee has a criminal history, it shall follow the procedures set out in Sections 5(a) and (b), *supra*. A Commission decision denying waiver of a Licensee's criminal history shall include notice to the Licensee of his or her right to a hearing. If, after a hearing, the Commission determines that a Licensee is not entitled to a waiver of his

or her criminal history, the Commission shall provide such Licensee with notice of his or her right to appeal the determination to the Tribal Gaming Committee as provided in Section 9, *infra*.

The Commission should not suspend or revoke a Licensee's license until it has finally determined, after a hearing or a waiver thereof by the Licensee, that such Licensee is not entitled to a waiver of his or her criminal history, unless the circumstances require otherwise. If the Commission deems that the circumstances require an immediate suspension or revocation of the Licensee's Tribal Gaming License, the Commission shall notify the Licensee, the Chairman of the Tribal Gaming Committee and the General Manager in writing.

7. Guidelines to be Applied by the Commission.

In evaluating whether an Applicant or Licensee is eligible for a waiver of a criminal history, the Commission shall consider the following criteria:

- a. The number of crimes appearing in the criminal history;
- b. The nature and seriousness of the crime(s);
- c. The circumstances of the crime(s), including the age of the person at the time the crime was committed, and any mitigating circumstances;
- d. The length of time which has elapsed since the crime was committed, and the recurrence of same or similar conduct;
- e. The relationship of the crime to the duties and circumstances of the particular job for which application is made; and,
- f. The absence or presence of clear evidence of rehabilitation.

8. Prospective Use of a Waiver Prohibited.

A waiver made pursuant to this policy shall apply retroactively only. Prospective use of such a waiver is prohibited. Nothing contained in this policy shall be construed to allow an Applicant or Licensee to use a waiver with regard to convictions, guilty pleas or pleas of no contest to misdemeanors, gross misdemeanors or felonies occurring after such determination is

made.

9. Licensee's and Applicant's Right to a Hearing.

A Licensee or Applicant may request a hearing before the Commission with regard to a Commission determination denying a waiver. The request for a hearing shall be made within seven days of the date of such determination or the Licensee or Applicant's right to a hearing will be deemed to have been waived.

10. Right of a Licensee to Appeal From an Adverse Determination After Hearing.

A Licensee may appeal a decision of the Commission, after a hearing, denying a waiver. Such an appeal must be requested, in writing, to the Chairman of the Tribal Gaming Committee within seven days of the date of the Commission's determination after hearing.

Upon receiving a request for appeal, the Chairman of the Tribal Gaming Committee shall conduct or cause to be conducted a hearing on the matter within 14 days of the date of the request. At the appeal hearing, the full Committee may take additional evidence which the Licensee contends demonstrates eligibility for a waiver and which has not been presented to the Commission.

No appeal may be taken under this Section until the Licensee first requests a hearing before the Commission. Decisions of the Committee affirming the Commission are final. The Committee may also reverse the Commission decision and/or remand the decision for reconsideration.

**RESOLUTION OF THE GOVERNING BODY OF
THE THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION**

- WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS,** The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and
- WHEREAS,** The Three Affiliated Tribes operate Indian gaming pursuant to the Indian Gaming Regulatory Act (25 U.S.C. §2701 et seq.), a Tribal/State Compact between the Three Affiliated Tribes and the State of North Dakota, and a Tribal Gaming Ordinance approved by the National Indian Gaming Commission on November 17, 1994; and
- WHEREAS,** The Three Affiliated Tribes may not employ, at its gaming operations, individuals whose criminal record includes convictions of or guilty pleas or pleas of no contest to felony crimes; and
- WHEREAS,** It is the policy of the Three Affiliated Tribes that its gaming operations be free of employees who have been convicted of, or plead guilty or no contest to crimes including misdemeanors, gross misdemeanors, and felonies; and
- WHEREAS,** It is further the policy of the Three Affiliated Tribes to promote full Tribal employment and, where Tribal members can demonstrate rehabilitation from criminal conduct, to employ such Tribal members notwithstanding a prior criminal record; and
- WHEREAS,** The authority for determining rehabilitation and waiving Tribal members' prior criminal histories rests with the Tribal Business Council of the Three Affiliated Tribes; and
- WHEREAS,** The Three Affiliated Tribes have established and delegated regulatory authority over gaming on the Fort Berthold Reservation to the Three Affiliated Tribes Gaming Commission;

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of

Resolution #96- 71-DSB

the Three Affiliated hereby delegates to the Three Affiliated Tribes Gaming Commission the authority to make determinations of rehabilitation and to waive Tribal members' prior criminal histories.

BE IT FURTHER RESOLVED, That the Tribal Gaming Commission shall consider requests for waivers of Tribal members' criminal histories and shall make determinations thereon as provided in the attached Three Affiliated Tribes Tribal Business Council Gaming Committee Policy.

BE IT FURTHER RESOLVED, That the Tribal Gaming Commission shall report its determinations on requests for waivers of criminal histories to the Chairman of the Tribal Gaming Committee on a bimonthly basis.

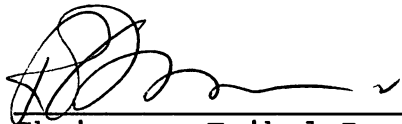
C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 6 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 11th day of April, 1996; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 1 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 11th day of April, 1996.

Daylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:



Chairman, Tribal Business Council