

DEVILS LAKE SIOUX LAW AND ORDER CODE

TITLE 8: CHARITABLE GAMES

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DEVILS LAKE SIOUX LAW AND ORDER CODE

TITLE 8: CHARITABLE GAMES

CHAPTER ONE LEGISLATIVE FINDINGS AND PURPOSE

§8-1-101. Sovereign Powers and Responsibilities.

This Title is enacted pursuant to the inherent sovereign tribal powers delegated to the Tribal Council in Article VI, Sections 3, 9 and 10 of the Tribal Constitution, which authorizes the Tribal Council to regulate and license business and professional activities conducted upon the Devils Lake Sioux Reservation, to manage tribal lands and resources, and to engage in any business that will further the economic well being of members of the Devils Lake Sioux Tribe.

§8-1-102. Federal Policy of Tribal Self-Determination.

In 1970, President Nixon announced the policy of the United States government to promote self-determination for Indian tribes. At the heart of this policy is a commitment by the federal government to foster and encourage Tribal self-government. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act, Public Law 93-638, 88 Stat. 2203, 25 U.S.C. §§450-450n. In 1983, President Reagan recently reaffirmed that commitment in his Indian policy statement and encouraged tribes to reduce their dependence on federal funds by generating more of their own revenues and he pledged to assist tribes in that endeavor.

§8-1-103. Devils Lake Sioux Tribal Policy of Self-Government.

The Tribe is firmly committed to the principal of tribal self-government. Consistent with federal policy, tribal government provides a wide range of public services on the Reservation, including general governmental services, the maintenance of peace and good order, the establishment of educational systems and programs, and the promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

§8-1-104. Tribal Alcohol Rehabilitation Program.

Among the governmental services provided by Tribal government is its alcohol rehabilitation program. Increasingly dependent upon tribal funding, this program combats the most serious medical and social problem on the Reservation and is essential to the health and welfare of the Tribe.

§8-1-105. Land Consolidation Program.

As recognized by Congress in the Act of January 25, 1983, Public Law 94-459, Title I, the continued existence of the Reservation as a permanent homeland for the Tribe and as a necessary foundation for continued self-determination requires that the Tribe consolidate and increase its trust land base in the Reservation and prevent further loss of trust land. Accordingly, the Tribe has established a Land Consolidation Program which is dependent upon Tribal funding.

§8-1-106. Tribal Need for Governmental Revenue and Additional Economic Development.

The Tribe is vigorously pursuing its goal of self-determination through the development of manufacturing and farming enterprises. The tribal farm enterprise requires a vastly expanded land base for increased efficiency and productivity, expansion of its programs and increased employment and training of tribal members.

Because of the modest income level of the Tribe and because of cutbacks in federal funding and increasing costs of self-government, it is essential that the Tribe develop additional economic activities on the Reservation to support general governmental programs, the Alcohol Rehabilitation Program and the Land Consolidation Program and to provide employment for Tribal members.

§8-1-107. Games of Chance Tribal Policy.

The establishment of a charitable tribal enterprise to promote and operate games of chance on the Reservation is necessary and desirable, provided that such games are operated exclusively by and controlled by the Tribe and that the proceeds of such games are devoted exclusively to charitable purposes of the tribal government. Games of chance are authorized by the State of North Dakota, operated throughout the State, and were previously prohibited on the Reservation by Section 925 of Chapter IX of the Tribal Law and Order Code (rev. Dec. 30, 1980, effective Jan. 8, 1981). When operated in accordance with the provisions of this Title exclusively, such games will be conducive to the general welfare of all residents of the Reservation.

CHAPTER TWO
DEVILS LAKE SIOUX CHARITABLE GAMES FOUNDATION

§8-2-101. Establishment.

The Tribal Council shall establish and charter the Devils Lake Sioux Charitable Games Foundation pursuant to this Title.

§8-2-102. Status of the Foundation.

The Devils Lake Sioux Charitable Games Foundation shall be a wholly-owned, subordinate tribal enterprise of the Tribe and shall partake of all immunities from suit and other proceedings and from federal, state and local governmental authority possessed by the Tribe, except to the extent that such immunities are waived pursuant to express resolution of the Tribal Council and the provisions of the Charter.

§8-2-103. Games Commission.

The business and affairs of the Foundation shall be managed by a Games Commission in accordance with the following provisions:

- (1) **Number and Selection.** The Commission shall consist of six Commission members, who shall be the members of the Tribal Council. In the event that the size of the Tribal Council is increased or diminished by amendment to the Tribal Constitution, the size of the Commission shall be increased or diminished accordingly. If any member of the Tribal Council is not qualified to serve under Subsection (3) below, or is removed under Subsection (4) below, a replacement shall be selected by the remaining members of the Commission.
- (2) **Terms of Office.** Each Commission member shall serve a term co-extensive with his term as a member of the Tribal Council. A replacement Commission member shall serve as long as the Commission member he replaced remains on the Tribal Council.
- (3) **Qualifications.** No person shall be a Commission member who has been convicted of a felony or who is determined by the Chairman of the Tribal Council to have participated in organized crime or unlawful gambling activities.
- (4) **Removal.** Any Commission member may be removed for just cause by a majority of the Commission.
- (5) **Charter Provisions.** The Charter shall contain provisions governing the activities of the Commission, including provisions for meetings, quorum, voting, record keeping, committees, officers of the Commission, powers and duties of officers, operations of the Commission, accounting, contracting, management and supervision of games of chance and such other matters as the Tribal Council shall deem necessary.
- (6) **Compensation.** Commission members shall receive compensation of \$100.00 per month, provided that a Commission member shall receive no compensation for a month

in which he does not attend both regular meetings of the Commission. Compensation for all Commission members shall be paid from Foundation funds.

§8-2-104. Powers and Limitations of the Foundation.

The Foundation shall possess only those powers arising under the Charter or applicable law, and shall not be authorized to amend the Charter, waive any right or immunity of the Tribe, release any obligation owed to the Tribe, or expressly or impliedly subject the Tribe to obligations or liabilities arising from contract, tort, regulation, licensing, taxation, or any other matter.

CHAPTER THREE GENERAL PROVISIONS

§8-3-101. Definitions.

In addition to the definitions contained elsewhere in this Law and Order Code, the following definitions shall apply to this Chapter 8-3:

- (1) "Bingo game" means the activity commonly known as "Bingo" wherein participants pay a sum of money for the use of one or more cards. When the game commences, numbers are drawn by chance, one by one, and announced and players cover or mark those numbers on their cards. When a player receives a given order of numbers in sequence that has been pre-announced for that particular game, he calls out "Bingo" and is declared the winner of a pre-determined prize.
- (2) "Commission" means the Devils Lake Sioux Charitable Games Commission, the governing body of the Foundation.
- (3) "Commission Member" means a member of the Commission.
- (4) "Charitable Purposes" means educational, religious and other public purposes, including:
 - (a) the funding of tribal programs benefiting an indefinite number of persons either by providing educational opportunities to them, or by relieving them of disease, suffering or constraint;
 - (b) the funding of tribal programs to increase comprehension of and devoting to tribal culture and history;
 - (c) the funding of tribal programs designed to promote economic activities and generate employment on the Reservation and to provide revenues to the tribal government;
 - (d) the funding of tribal programs designed to promote economic activities and generate employment on the Reservation and to provide revenues to the tribal government;
 - (e) the funding of other tribal governmental programs;
 - (f) the funding of purchase of land and improvements, and interests in land and buildings, inside the Reservation for and in the name of the Tribe and the placing of such property in trust for the Tribe; and
 - (g) the funding of purchase of land and improvements, and interests in land and buildings, outside the Reservation for and in the name of the Foundation or in the name of the Tribe.

- (5) "Charter" means the Charter of the Devils Lake Sioux Charitable Games Foundation.
- (6) "Foundation" means the Devils Lake Sioux Charitable Games Foundation.
- (7) "Games Commissioner" means the employee of the Foundation employed full time with primary responsibility for day-to-day management and control of the Foundation and its activities.
- (8) "Game of Chance" means any contest, game, gaming scheme, or gaming device authorized by the State of North Dakota but regulated by this Chapter, in which the outcome depends in a material degree upon an element of chance, notwithstanding that the skill of the contestants may also be a factor therein.
- (9) "Officer" means an officer of the Foundation, including the Chairman, Vice Chairman, Secretary or Treasurer.
- (10) "Operation of games of chance" shall include the holding, managing and conducting of such games.
- (11) "Persons who operate or assist in the operation of games of chance" shall include supervisors, managers, dealers, security officials, and others directly involved in the operation of games of chance, including the Commission members and officers of the Foundation and the Games Commissioner.
- (12) "Twenty-One" means the card game commonly known as Twenty-One or Blackjack when played according to the rules set forth in this Chapter.

§8-3-102. Exclusive Authorization to Conduct Gaming.

The Devils Lake Sioux Charitable Games Foundation is hereby given exclusive authority to conduct games of chance on the Reservation under the provisions of this Chapter. The entire net proceeds of such games of chance are to be devoted to charitable purposes for the benefit of the Tribe.

§8-3-103. Location.

Games of chance may be conducted only on trust land inside the Reservation at locations approved by resolution of the Tribal Council. The premises where any such game is being held, operated, or conducted, or where it is intended that such game will be held, shall be open to inspection by the Chairman of the Tribal Council, representatives appointed by resolution of the Tribal Council, and officers of the Devils Lake Sioux Tribal Police Department.

§8-3-104. Persons Operating or Assisting in the Operation of Games of Chance.

- (1) No person convicted of a felony or determined by the Chairman of the Tribal Council to have participated in organized crime or unlawful gambling activities shall be permitted to operate or assist in the operation of games of chance authorized under this Chapter.

- (2) Any person who operates or assists in the operation of games of chance under the provisions of this Chapter shall be deemed to consent to the civil and criminal jurisdiction of the Tribe including this Law and Order Code, and consents to the jurisdiction of the Tribal Court. The Foundation shall provide written notice of the provisions of this Section to all persons it employs or with whom it contracts to operate or assist in the operation of such games.
- (3) Any person who operates or assists in the operation of games of chance under the provisions of this Chapter shall submit to fingerprinting and photographing by the Tribal Police Department and shall agree to any lawful means of testing, including but not limited to polygraph testing at any time and without prior notice concerning the handling, collection and disbursement of money in connection with such games. A processing fee in the amount of \$50.00 shall be paid to the Tribal Police Department to cover the costs of fingerprinting and photographing.
- (4) It shall be the responsibility and duty of the Tribal Police Department to establish the necessary procedures to implement and administer the provisions of this Section.
- (5) The information received by the Tribal Police Department pursuant to the provisions of this Section shall be treated as confidential and shall be accessible only to the Tribal Chief of Police and the Tribal Chairman as well as such other persons or agencies that they shall determine should be informed.
- (6) The Tribal Chairman is authorized to consult with state and federal law enforcement agencies, including the Attorney General of the State of North Dakota, for the purpose of determining whether any person has been convicted of a felony or has participated in organized crime or unlawful gambling activities.

§8-3-105. Participants.

- (1) Any person who participates in a game of chance authorized by this Chapter shall be deemed to consent to the civil and criminal jurisdiction of the Tribe including this Law and Order Code, and consents to the jurisdiction of the Tribal Court.
- (2) No person shall participate in a game of chance authorized by this Title while such person appears to be, or is, under the influence of intoxicating liquor or drugs. The Foundation shall not permit any such person to enter the premises where games of chance are being played or to play in such games.
- (3) No person under the age of 21 shall participate in a game of chance authorized by this Chapter and the Foundation shall not permit any such person to participate.

§8-3-106. Rules of Play of Twenty-One.

The game of Twenty-One shall be played according to the following rules:

- (1) No money shall be allowed on the table.

- (2) The Foundation shall provide playing chips of various denominations to the participants.
- (3) The chips shall be redeemed by the Foundation for their full value.
- (4) The maximum limit per wager shall be \$100.00 and no player may play more than two hands.
- (5) Only the player actually playing a hand shall place a wager on any hand.
- (6) In addition to the dealer, there shall be a maximum of 7 players in any one game.
- (7) All players shall play their hands against the dealer's hand.
- (8) No side bets shall be permitted.
- (9) In order to remain in the hand being dealt, neither the player nor the dealer shall play a hand with a count greater than twenty-one.
- (10) A count of twenty-one obtained with two cards shall be termed a natural twenty-one and shall be entitled to an automatic payout.
- (11) In the case of matching or tie count between the player and the dealer, no winner is declared and each person keeps his wager.

§8-3-107. Rules to be Posted.

The Foundation shall post rules relating to the conduct of the game in a conspicuous location near where the game is played.

§8-3-108. Form and Display of Certificate.

The Foundation shall prepare a certificate containing:

- (1) a statement of the name and address of the Foundation;
- (2) a recital that the Foundation is authorized to conduct games of chance under the provisions of this Chapter;
- (3) a statement that all participants in games of chance authorized pursuant to this Title shall be deemed to have consented to the civil and criminal jurisdiction of the Tribe including this Law and Order Code and consents to the jurisdiction of the Tribal Court; and
- (4) the signature of the Tribal Chairman. A copy of the certificate shall be conspicuously displayed at every location at which games of chance are to be conducted by the Foundation at all times during any games of chance.

§8-3-109. Statement of Receipts--Expenses.

- (1) Gross proceeds from the operation of games of chance shall be deposited in a special Individual Indian Money Account with the Bureau of Indian Affairs, in the name of the Foundation, which shall contain only such proceeds.
- (2) Expense payments deductible from gross proceeds shall be made only for the following purposes:
 - (a) The rental or purchase of necessary goods, equipment, wares, merchandise and supplies;
 - (b) The securing of services reasonably necessary for promoting or operating games of chance authorized by this Chapter;
 - (c) The rental or purchase of premises necessary for the promotion or operation of games of chance authorized by this Chapter;
 - (d) For accountants' and attorneys' fees; and
 - (e) Compensation of the Commission members and the Games Commissioner of the Foundation, in accordance with the specific provisions of the Charter.
- (3) No item of expense incurred in connection with promoting or operating any games of chance pursuant to this Chapter shall be deducted from gross proceeds, except bona fide expenses of a reasonable amount actually and necessarily incurred and directly attributable only to the promotion or operation of games of chance. Total expenses for games of chance shall not exceed 35% of gross proceeds in any fiscal year.
- (4) The Foundation may establish a reserve fund within the IIM Account provided in Subsection (1) above, and deposit therein at the end of any quarter that portion of net earnings it deems necessary and appropriate to perpetuate operations, meet obligations, maintain property, provide for expansion and meet contingencies.
- (5) With the exception of funds deposited in the reserve fund, the entire net proceeds ["Surplus Funds"] derived from the holding of games of chance in any quarter must be paid into the General Fund of the Tribe within 30 days from close of the quarter.

§8-3-110. Dedication of Surplus Funds.

Surplus funds paid into the General Fund of the Tribe pursuant to §8-3-109(5) are hereby dedicated exclusively to charitable purposes. Such funds shall be allocated to those tribal programs which are of paramount importance to tribal self-determination and the improvement of the health and welfare of tribal members. Accordingly, 50% of such funds shall be used for the Tribe's land consolidation program and an additional 10% shall be used for the Tribe's alcohol rehabilitation program. The remaining 40% shall be used as the Tribal Council shall direct in conformity with the provisions of this Chapter.

§8-3-111. Tax Based on Gross Proceeds.

A tax of 5% of the total gross proceeds received by the Foundation from the conduct of games of chance shall be paid to the Tribe for deposit in the Devils Lake Sioux Tax Fund Account pursuant to §7-2-104 of this Code on a quarterly basis in such manner and upon such form as shall be prescribed by the Tribal Tax Commission. The amount of this tax shall be paid from gross proceeds and not charged against the percentage limitation of expenses.

§8-3-112. Examination of Books and Records.

The Tribal Chairman and representatives appointed by resolution of the Tribal Council shall have the power to examine or cause to be examined the books and records of the Foundation to the extent such books and records relate to any transaction connected with the promotion or operation of games of chance.

§8-3-113. Prohibited Acts.

- (1) No person shall promote, operate, assist in the operation of, or participate in any games of chance to win money or other valuable consideration while on the Reservation, except for games authorized by the provisions of this Chapter. A civil fine of \$500 per violation shall be assessed against any person who operates, assists in the operation of, or participates in prohibited games, or who does any other act prohibited by this Title, including acts prohibited by Subsection (2) below.
- (2) Any person who knowingly makes a false statement in connection with any contract to operate or assist in the operation of games of chance or with any application for employment with the Foundation, or who fails to keep sufficient books and records to substantiate the receipts, expenses, or uses resulting from games of chance authorized by this Chapter, or who falsifies any books or records so far as they relate to any transaction connected with the operation of any game of chance, or who attempts to bribe any person operating or assisting in the operations of such games, or who violates any of the provisions of this Title, shall be guilty of a criminal offense punishable by a fine of not more than \$500 or by imprisonment in the tribal jail for not more than six months, or both.
- (3) The Tribal Court shall have jurisdiction over all violations of this Chapter and over all persons who operate, assist in operating or participate in games of chance authorized by this Chapter, and may, in addition to the fines and penalties described in Subsections (1) and (2) above, grant such other relief as is necessary and proper for the enforcement of this Chapter, including, but not limited to injunctive relief against acts in violation thereof. Nothing, however, in this Chapter shall be construed to authorize criminal trial and punishment of non-Indians except to the extent allowed by federal law.