



October 25, 2010

By First Class Mail

Douglas G. Rhodd Sr., Chairman  
Ponca Tribe of Oklahoma  
20 White Eagle Drive  
Ponca City, OK 74601

Re: Ponca Tribe of Oklahoma gaming ordinance amendment

Dear Chairman Rhodd:

This letter responds to your request to review and approve amendments to the Tribe's gaming ordinance. The amendments were enacted by Resolutions No. 142-07232010 and 157-09172010 on July 23 and September 17, 2010, and submitted to NIGC on July 29 and September 30, 2010. The amendments rescind the NIGC's authority over the Tribal Internal Control Standards for Class III gaming and update the Privacy Act and False Statement language on the Tribe's licensing forms.

The ordinance satisfies the requirements of IGRA and NIGC regulations. Accordingly, this letter constitutes my approval. Thank you for submitting the amended ordinance for review and approval. The NIGC staff and I look forward to working with you and the Tribe on future gaming issues. If you have any questions or require assistance, please contact Dorinda Strmiska, Staff Attorney, at (202) 632-7003.

Sincerely,

A handwritten signature in cursive script, appearing to read "T Stevens".

Tracie L. Stevens  
Chairwoman

## **CHAPTER I**

### **General Provisions**

#### **Section 101 Authority**

The Ponca Tribal Business Committee, empowered by the Tribe's Constitution to enact ordinances, hereby enacts this ordinance in order to govern Class I, Class II, and Class III Gaming Operations on the Tribe's Indian lands.

#### **Section 102 Definitions**

Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as defined in the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 *et seq.*, and its regulations, 25 C.F.R. § 500 *et seq.* Specifically:

- A. "Business Committee"** means the regulatory body of the Ponca Tribe of Oklahoma consisting of elected Tribal members.
- B. "Class I Gaming"** shall have the same meaning as defined in the Indian Gaming Regulatory Act and any regulations promulgated there under.
- C. "Class II Gaming"** shall have the same meaning as defined in the Indian Gaming Regulatory Act and any regulations promulgated there under.
- D. "Class III Gaming"** shall have the same meaning as defined in the Indian Gaming Regulatory Act and any regulations promulgated there under, provided that any Class III Gaming Shall be operated pursuant to an approved Tribal-State compact as required by the Indian Gaming Regulatory Act.
- E. "Commission"** means the Ponca Tribal Gaming Commission" established by this Ordinance to perform regulatory oversight and to monitor compliance with Tribal, Federal, and applicable State regulations.
- F. "Commissioner"** means a Ponca Tribal Gaming Commissioner.
- G. "Compact"** means the Tribal-State Compact concerning Class III gaming approved by the Secretary of the Interior and published in the Federal Register pursuant to 25 U.S.C. § 2710.
- H. "Complimentary"** means a service or item provided at no cost or at a reduced cost to an individual.
- I. "Directly related to"** means a spouse, child, parent, grandparent, grandchild, aunt, uncle, or first cousin.

**J. “Employee Manager”** is a manager other than a “Management Contractor” employed by the Tribe to manage a tribal Gaming Establishment/Facility.

**K. “Gaming Establishment/Facility”** means any location or structure, wherein gaming is licensed, promoted, performed, conducted, or operated.

**L. “Gaming Operation”** means any business enterprise owned by the Tribe, the revenues of which are primarily derived from gaming or from any Gaming Establishment/Facility.

**M. “Gaming Ordinance”** means this Tribal Gaming Ordinance of the Ponca Tribe of Oklahoma, as amended from time to time, and any rules promulgated there under.

**N. “IGRA”** means the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et.seq.*

**O. “Indian Tribe”** means the Ponca Tribe of Oklahoma.

**P. “Key Employee”** means:

1. A person who performs one or more of the following functions:
  - (a) Bingo caller;
  - (b) Counting room supervisor;
  - (c) Chief of Security;
  - (d) Custodian of gaming supplies or cash;
  - (e) Floor manager;
  - (f) Pit boss;
  - (g) Dealer;
  - (h) Croupier;
  - (i) Approver of credit; or
  - (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 most highly compensated persons in the gaming operation.
4. The Gaming Commission may designate any other employee or class of employees as Key Employees for licensing or any other purpose.

**Q. “Net Revenues”** means gross gaming revenues of an Indian gaming operation less:

1. amounts paid out as, or paid for, prizes;

2. and total gaming-related operating expenses, excluding management fees.

**R. “Primary Management Official” means:**

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.

**Section 103 Designated Agent for Service of Process**

For any legal correspondence between the National Indian Gaming Commission and the Ponca Tribe of Oklahoma, the designated agent shall be the Chairman of the Ponca Tribal Business Committee, #20 White Eagle Drive, Ponca City, OK 74601.

**Section 104 Gaming Authorized**

Class I, Class II, and Class III gaming are hereby authorized.

**Section 105 Ownership of Gaming**

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

**Section 105 Use of Gaming Revenue**

Net revenues from Tribal gaming shall be used only for the following purposes:

- A. to fund Tribal government operations and programs;
- B. to provide for the general welfare of the Tribe and its members;
- C. to promote Tribal economic development;
- D. to donate to charitable organizations; or
- E. to help fund operations of local government agencies.

### **Section 107 Audit**

- A. The Tribe shall cause an annual outside independent audit of Gaming Operations to be conducted, and shall submit the resulting audit reports to the NIGC.
- B. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection (A) above.

### **Section 108 Tribal Access to Financial Information**

A copy of the Tribal Gaming Operation annual audit will be made available for review, upon request, to:

- A. the Tribe's Business Committee, and
- B. the Tribe's Gaming Commission

### **Section 109 Environment and Public Health and Safety**

- A. Gaming Establishments/Facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.
- B. The Ponca Tribal Gaming Commission shall adopt standards that assure adequate protection of the environment and the public health and safety.

### **Section 110 Gaming Establishment/Facility Licenses**

- A. The Commission shall issue a separate license, annually, to each place, facility, or location on Indian lands where Class II or Class III gaming is conducted under this Ordinance.
- B. A current license for a gaming operation must be displayed at the facility.

### **Section 111 Standards for Issuing Gaming Establishment/Facility Licenses**

The Commission shall issue a facility license to a Gaming Establishment/Facility, if the Gaming Establishment/Facility:

- A. Is a sound physical structure with adequate and safe plumbing, electrical, heating, cooling and ventilation systems in place and operational;
- B. Has been inspected and approved for safety by a building and fire inspector designated by the Commission;
- C. Is adequate in all respects to accommodate the gaming intended to be carried on within the structure;
- D. Is equipped with security and surveillance equipment meeting or exceeding provisions set forth in regulations established by the NIGC;
- E. Meets all requirements of applicable Federal, Tribal and State law; and
- F. Has paid all applicable license fees and costs.

**Section 112 Tribal Internal Control Standards (TICS)**

- A. The gaming commission shall comply with 25 CFR 542 by formally adopting and making applicable to the Tribe's gaming operation(s) internal control standards that:
  - 1. provide a level of control that equals or exceeds those set forth in 25 CFR part 542 as published or as revised by mutual agreement between the NIGC and the Tribe; and
  - 2. contain standards for currency transaction reporting that comply with 31 CFR part 103; and
  - 3. establish internal control standards for Class II and Class III games that are not addressed in the MICS, if any.
- B. The gaming commission and the NIGC shall monitor and enforce compliance with the internal control standards adopted pursuant to paragraph A, in the manner provided for in 25 CFR 542.3(g). In addition, the NIGC shall, for the purpose of enforcing compliance with the internal control standards, have the power to:
  - 1. Monitor all Class II gaming on a continuing basis;
  - 2. Inspect and examine all premises on which Class II gaming is conducted;
  - 3. Inspect, examine, photocopy, and audit all papers, books, and records respecting gross revenue of all Class II gaming on a continuing basis or any other matters necessary to ensure and enforce compliance with the MICS.

**Section 113 Applicable Law**

- A. All controversies involving contracts relating to gaming entered into under the authority of the Tribal Business Committee, or violation(s) of any section of the Ordinance, shall be resolved, as appropriate in accordance with:
1. the laws of the Tribe;
  2. the Indian Gaming Regulatory Act;
  3. NIGC Regulations; and
  4. the laws of the State of Oklahoma, which are incorporated herein by reference.
- B. To the extent that the provisions of any State-Tribal compact entered into by the Ponca Tribe of Oklahoma and the State of Oklahoma are inconsistent with any provisions of this Ordinance; the provisions of the Tribal-State Compact shall govern Class III gaming on Ponca Indian Lands.

**Section 114 Certification of Gaming Devices**

All gaming devices operated under the authority and rights granted by and within the Tribal-State Compact must meet the technical standards pursuant to Part 4 Paragraph B of said compact. The Commission shall maintain a complete list of all gaming devices (whether or not such devices are in use) located at any Gaming Establishment/Facility.

## **CHAPTER II Organization**

### **Section 201 Gaming Commission Establishment**

The Tribe hereby establishes a Tribal Gaming Commission whose duty it is to regulate Tribal Gaming Operations. The Ponca Tribal Gaming Commission shall consist of three (3) Commissioners, one of whom shall be designated by the Chairman of the Ponca Tribal Business Committee as the Chairperson. Gaming Commissioners shall be appointed by the Chairman of the Ponca Tribal Business Committee, with the advice, consent, and confirmation of the Ponca Tribal Business Committee.

### **Section 202 Gaming Commission Composition**

The Ponca Tribal Gaming Commission shall maintain an administrative office and staff Personnel. The Gaming Commission staff will consist of Compliance Officers, Background Investigators, Vendor License Investigators, Auditors, Information Technology Technicians, Fingerprint Technicians, Office support personnel and any other personnel to properly operate the Gaming Commission Office. Such office shall serve as the Commission's main business office and shall be the site at which the Commission's records and documents are maintained and stored on a permanent basis.

### **Section 203 Gaming Commission Purposes**

The purpose of the Commission is regulatory, not managerial. The Commission shall conduct oversight to ensure compliance with Tribal, Federal, and State laws and regulations. The Commission shall serve as the licensing authority for individuals employed in the Gaming Operation and shall administer background investigations as part of the licensing process. The Commission shall also have a role in monitoring compliance with the internal controls for the Gaming Operation and in tracking 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 records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license when appropriate.

### **Section 204 Gaming Commission Suitability Standards**

Nominees for positions of Tribal Gaming Commissioner must satisfy the suitability standards set forth for Key Employees and Primary Management Officials, found in Section 503 of this Ordinance. Such background investigations shall be performed under the direction of the Tribal Business Committee or duly appointed agent.

## **Section 205 Gaming Commission Powers and Duties**

The Ponca Tribal Gaming Commission shall:

1. Administer, monitor and enforce all provisions of the Gaming Ordinance.
2. Conduct or cause to be conducted background investigations, at a minimum, on primary management officials, key employees and any or all other employees as necessary;
3. Review and approve all investigative work conducted;
4. Report results of background investigations to the NIGC;
5. Obtain and process fingerprints;
6. Determine the eligibility of persons to be licensed, have licenses renewed, suspended, conditioned, revoked, or denied;
7. Determine departmental budget;
8. Assess and collect fees;
9. Make licensing Suitability Determinations, which shall be signed by the Chairman of the Gaming Commission;
10. Issue and review gaming licenses to management officials and employees of the operation, consistent with the Suitability Determination;
11. Issue Gaming Establishment/Facility licenses to Tribal Gaming Operations;
12. Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the Gaming Establishment/Facility;
13. Ensure compliance with all Tribal, State, and Federal laws, rules, and regulations regarding Indian gaming;
14. Investigate any suspicion of wrongdoing associated with any gaming activities;

15. Review Patron complaints, in compliance with procedures established in the Gaming Ordinance and other Tribal gaming regulations;
16. Comply with any and all reporting requirements under the Indian Gaming Regulatory Act, Tribal-State Compact to which the Tribe is a party, and any other applicable law;
17. Promulgate and issue regulations necessary to comply with applicable Tribal internal control standards and the MICS of the NIGC;
18. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
19. Promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the Gaming Ordinance, or any other Federal, Tribal or State gaming regulations;
20. Establish a list of persons not allowed to gamble in Tribal Gaming Establishments/Facilities in order to maintain the integrity of gaming;
21. Establish a list of persons who have voluntarily asked to be excluded from Tribal Gaming Establishments/Facilities and create regulations for enforcing this exclusion;
22. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, Federal, or State statutes, Ordinances, or resolutions; and
23. Perform such other duties the Commission deems appropriate to fully perform its duties for the proper regulation of the Tribal Gaming Operation.

#### **Section 206 Gaming Commission Records**

- A. The Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation may only be disclosed to members of management, human resource personnel or others employed by the Tribal Gaming Operation on a need-to-know basis for actions taken in their official capacities.
- B. This Section does not apply to requests for such information or records from any Tribal, Federal or State law enforcement or regulatory agency, or for the use of such information or records by the Commission and staff in the performance of their official duties.

- C. The Commission shall keep a written record of all its meetings.
- D. The Commission shall maintain an administrative office. No individual except a Commissioner or other authorized employee or agent of the Commission may possess a key to or may enter any Commission office without the permission of the Commission. No person may access such records except a Commissioner, a person duly authorized by the Commission or an attorney for the Commission.

### **Section 207 Ethics**

- A. The Tribe recognizes that the duties of the Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Commission shall be held to extremely high ethical standards. Prior to taking their positions on the Commission (members and staff), the members and staff shall agree to be bound by the following principles:
  - 1. Members and staff shall not hold financial interests that conflict with the conscientious performance of their duties as managers and regulators.
  - 2. Members and staff shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest.
  - 3. Members and staff shall not solicit or accept any gift or other item of monetary value, including complimentary items or services from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the member's organization, or whose interests may be substantially affected by the performance or nonperformance of the member's duties.
  - 4. Members and staff shall make no unauthorized commitments or promises of any kind purporting to bind the Tribe.
  - 5. Members and staff shall not use their positions for private gain.
  - 6. Members and staff shall act impartially, in accordance with all relevant Tribal, Federal, and State laws, and shall not give preferential treatment to any private organization or individual, including any persons related to members and staff.
  - 7. Members and staff shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.

8. Members and staff shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.
9. Members and staff shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
10. Members and staff shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.
11. Members and staff shall disclose any real or apparent financial or personal conflicts. If there is a real conflict or the appearance of one, the member shall not take part in any decision related to the conflict.
12. Members and staff may not game in a facility operated by the Ponca Tribe.

### **Section 208 Removal of Commissioners**

Once confirmed, a Gaming Commissioner of the Ponca Tribe may be removed by a two-third (2/3) majority vote of the Business Committee and only upon the following listed grounds:

1. conviction or guilty plea entered to a felony involving theft, embezzlement, misappropriations of funds, robbery, burglary or other violations based primarily on the wrongful taking or withholding of the property of another.
2. conviction or guilty plea entered to a charge of destruction of property, assault or battery upon another person, or
3. conviction or guilty plea entered to a drug or alcohol related charge.
  - a. This provision shall not apply to any such person as may have been convicted of any charge in this section 208 part 3 where said offense is so remote (over ten years) from the date of their appointment and whereas such charge was not a felony conviction.
4. Falsifying information on application for employment or licenses issued pursuant to this ordinance.
5. Failure to properly perform the duties of the office of the Gaming Commission and to enforce and uphold the Ponca Tribal Gaming Ordinance.
6. Any violation of Section 207 of this Ordinance.

**CHAPTER III**  
**Prize and Tort Claims/Patron Disputes**

**Section 301 Prize and Tort Claims/Patron Disputes**

- A. Any Patron who has any dispute, disagreement or other grievance with the Gaming Operation in connection with his or her play of any covered game, the amount of any prize which has been awarded in connection with any covered game, the failure to be awarded a prize in connection with any covered game, or the right to receive a refund or other compensation in connection with any covered game, hereinafter “prize claim”, must seek resolution of such dispute as identified and outlined within the Tribal-State Compact (ENR. S. B. No. 1252, Part 6 B and C “Prize Claim”).
- B. Patrons having a tort claim for personal injury or property damage against the Gaming Operation arising out of incidents occurring at a Gaming Establishment/Facility or Gaming Operation, hereinafter “tort claim”, shall be afforded due process in seeking and receiving just and reasonable compensation as outlined within the Tribal-State Compact (ENR. S.B. No. 1252, Part 6 A “Tort Claims”).
- C. Any Patron who has any dispute, disagreement or other grievance with any area of the Gaming Establishment/Facility or Gaming Operation not related to Section 301 A and B (as stated above) may seek resolution of such dispute from the following persons and in the following order:
  - 1. a member of the staff in the relevant area of the Gaming Operation;
  - 2. the supervisor in the relevant area of the Gaming Operation in which the dispute arose;
  - 3. the manager of the relevant Gaming Operation;
- D. Resolutions of any dispute by the personnel of a Gaming Operation and the Patron shall always involve two or more staff members.
- E. All disputes, whether resolved or not, shall be reported in detail by the staff persons involved to their supervisor, or, in the case of the General Manager of the Gaming Operation, to the Ponca Tribal Gaming Commission.

- F. Patron complaints must be filed within (10) ten days of the occurrence or event that has brought about the dispute.

**Section 302 Patron Rights Regarding Disputes**

When a Patron brings a dispute for resolution to the Gaming Operation pursuant to Section 301 C, the complainant has the right to explain his/her side of the dispute, and to present witnesses in connection with any factual allegations. At each level, if the dispute remains unresolved, the complainant shall be informed of the right to take the dispute to the next higher level. For disputes that are unresolved upon the completion of steps 1, 2, and 3 of Section 301 C, the Gaming Operation shall forward all documentation indicating the efforts to resolve the dispute to the Ponca Tribal Gaming Commission.

**Section 303 Gaming Commission Action of Patron Disputes**

All unresolved disputes which are submitted to the Ponca Tribal Gaming Commission shall be decided by the Gaming Commission based on documented information provided by both the Gaming Operation and the complainant. The decision of the Gaming Commission shall be in writing, shall be issued within thirty days (30) of submission of the matter to the Gaming Commission, and shall be provided to the General Manager of the Gaming Operation and to the complainant. All decisions of the Ponca Tribal Gaming Commission are final.

## **CHAPTER IV**

### **Violations**

#### **Section 401 Violations**

- A. No Person shall operate or conduct any gaming activity in a Gaming Operation within the exterior boundaries of Tribal lands without a gaming license issued by the Ponca Tribal Gaming Commission as required by this Ordinance.
- B. No Person shall knowingly submit false or misleading information to the Commission or the Tribe.
- C. No Management Contractor shall fail to account fully for all monies received or collected in connection with gaming activities or to file any report required by the management contract.
- D. No Minor shall be employed by a Gaming Operation or shall otherwise be permitted entry into the Gaming Establishment/Facility or to participate in any gaming activities. Minors may be allowed entry into casino restaurants for dining purposes. If no alcoholic beverages are served or allowed in the Gaming Establishment/Facility, a minor is defined as anyone under the age of 18 years. Gaming Establishment/Facilities who serve alcoholic beverages must determine the definition of a minor based on applicable State Law.
- E. No Person shall engage in cheating in any gaming activity or engage in any fraudulent conduct affecting either the Tribe or a Patron or a Gaming Operation.
- F. No Person, other than an officer of the Ponca Tribal Law Enforcement, or Cross-Commissioned Law Enforcement Agencies, or Ponca Security Personnel, may enter or remain in a Gaming Establishment/Facility licensed under this Ordinance while in the possession of a firearm or other weapon (s).
- G. Any Person who is In Privity With a person who violates this Ordinance shall be deemed to be in violation of the Ordinance to the same extent as the violator, and shall be treated accordingly.
- H. Where applicable, the Management Contractor is responsible for ensuring that all primary management officials and key employees assisting in the operation of any gaming activity on the Management Contractor's behalf comply with this Ordinance. A violation by any such official(s) or employees, unless otherwise provided in a approved management contract, shall be deemed a violation by the Management Contractor and shall subject the contractor to civil enforcement

action. It shall not be a defense that the Management Contractor was unaware of the violation.

- I. No person, whether playing or conducting any gaming activity authorized under this Ordinance, shall:
  - 1. use bogus or counterfeit cards, or substitute or use any game cards that have been tampered with;
  - 2. employ or have on one's Person any cheating device to facilitate cheating in any gaming activity; or
  - 3. knowingly cause, aid, abet, or conspire with another Person or cause any Person to violate any provision in the Ordinance or any rule adopted under this Ordinance.
  
- J. A Gaming Operation's establishment shall be constructed, maintained, and operated in a manner that does not threaten the environment or the public health and safety.

**Section 402 Ejection of Patrons**

- A. The following improper conduct shall result in ejection of a Patron from any Gaming Establishment/Facility:
  - 1. Cheating;
  - 2. possession of weapons in the gaming establishment
  - 3. possession of alcohol that has been brought by a Patron in to the Gaming Establishment/Facility or onto Tribal property;
  - 4. possession of a controlled substance in the Gaming Establishment/Facility or on Tribal property;
  - 5. disorderly conduct, including the willful, or wanton disregard for the rights of others; i.e. theft of any type, fighting, disturbing the peace, indecent language or gestures;
  - 6. failure to comply with staff instructions or house rules or any other act which is disruptive to the Gaming Operation; or
  - 7. is visibly under the influence of liquor, a drug or other intoxicating substance.
  
- B. Failure by a Patron to provide legal proof of age (i.e. State or Governmental issued ID, driver's license, etc.) when requested by Gaming Operation personnel shall result in ejection of the Patron from the premises.

- C. Ejection of a Patron shall be accomplished by Security Personnel or the Ponca Tribal Law Enforcement or Cross-Commissioned Law Enforcement Agencies, upon committing violations(s) as identified within this Ordinance, or at the request of the Gaming Operation.
- D. Either the employee manager or Management Contractor of the Gaming Operation or an alternate designated by either shall be present at all times to resolve complaints by Patrons involving the operation of Class I, Class II, or Class III games at the establishment.

**Section 403 Right to Exclude or Remove**

If the Commission deems it in the best interest of the Tribe, the Commission may exclude or remove any Persons from the premises of any Gaming Operation. The employee manager or Management Contractor of the Gaming Operation shall also have the authority to exclude or remove any Person from the Gaming Establishment/Facility, and all such actions shall be reported to the Commission within 24 hours of the taking of such action.

## **CHAPTER V**

### **Employee Licensing**

#### **Section 501 Requirement of Gaming Licenses**

A tribal gaming license is required of the following individuals:

1. Primary Management Officials;
2. Management Contractors;
3. Key Employees;
4. all other employees of any Gaming Operation; and
5. all Commissioners and employees of the Gaming Commission.

#### **Section 502 Standards for Employee Licenses**

**A.** Licenses issued hereunder to Primary Management Officials, Management Contractors, and Key Employees shall be issued according to requirements at least as stringent as those set forth in 25 CFR §§556 and 558, and any amendments thereto.

**B.** Recognizing the need for an established procedure for the licensing/permitting of the Ponca Tribal gaming facility employees, the following is hereby declared to be a policy of the Ponca Tribal Gaming Commission. Pursuant to federal law (P.L. 100-497) regarding gaming on Indian lands, each gaming Tribe shall ensure that there exists a standard whereby any Person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment. Therefore, the purpose of the Regulation shall be construed to protect the Ponca Tribal Gaming Operation from potentially detrimental influences.

#### **Section 503 Licensing for Key Employees and Primary Management Officials**

- A.** The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to Key Employees and Primary Management Officials employed at any gaming enterprise operated on Indian lands. The Tribe will issue

licenses and perform background investigations according to requirements at least as stringent as 25 C.F.R. Parts 556 and 558, and part ten of the Tribal-State Compact. No Person shall be employed as a Primary Management Official, Key Employee or as an employee of any Gaming Operation within the jurisdiction of the Ponca Tribe of Oklahoma, unless such a Person has received and holds a valid license as required pursuant to this Ordinance.

- B. As a condition of receiving a Key Employee license or Primary Management Official license, the holder thereof must acknowledge in writing that they understand the terms, including but not limited to, all provisions of this Gaming Ordinance, and conditions or receiving said license and agree to abide by the terms and conditions.

#### **Section 504 License Application Forms**

- A. The following notice shall be placed on the application form for a Key Employee or a Primary Management Official:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information of 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 National Indian Gaming Commission members and staff who have a 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 necessary pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigation 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 hire you in 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:

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

### **Section 505 Non-transferability of License**

A license may not be assigned or transferred and is valid only for use by the person in whose name it is issued and at the Gaming Establishment/Facility for which it is issued.

### **Section 506 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.

### **Section 507 Fingerprints**

- A. Each applicant for a Key Employee or Primary Management Official shall be required to have fingerprints taken as part of the license application procedure.
- B. Fingerprints shall be taken by the Ponca Tribal Gaming Commission. Fingerprints of Key Employee and Primary Management Official applicants will then be forwarded to the NIGC for processing through the FBI to determine the applicant's criminal history, if any.

### **Section 508 Background Investigation**

- A. The Commission is responsible for conducting background investigations and suitability determinations.
- B. The Commission shall request from each Primary Management Official and from each Key Employee all of the following information:
  - 1. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written):
  - 2. Currently and for the previous five years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
  - 3. 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 (B)(2) of this section:

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 the address of the court involved, and the date and disposition if any;
9. For each conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten 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 years of the date of the application and is not otherwise listed pursuant to paragraph (B) (8) or (B) (9) of this section, 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 recent photograph;
13. Military service history; and
14. Any other information the Commission deems relevant.

#### **Section 509 Procedures for Conducting a Background Check on Applicants**

- A. As part of its review procedure, the Commission or its agent shall employ or engage an investigator to conduct a background investigation on each applicant sufficient to allow the Commission to make an eligibility determination. The investigator shall:

1. Verify the applicant's identity through items such as a social security card, driver's license, birth certificate, or passport;
  2. Contact each personal and business reference provided in the license application, when possible;
  3. Obtain a personal credit check
  4. Conduct a criminal history check via the submission of the applicant's fingerprints to the NIGC, and further obtain information from the appropriate court regarding past felony and/or misdemeanor convictions and criminal charges within the last ten years.
  5. Inquire into any previous or existing business relationships with the gaming industry and Indian tribes by contacting the entities or Tribes;
  6. Verify the applicant's history and status with any licensing agency by contacting the agency; and
  7. Take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted.
- B. The Investigator shall create an investigative report noting the steps taken, information gained, potential problem areas, and disqualifying information.
- C. The Commission shall promise to keep confidential the identity of each Person interviewed in the course of the investigation, other than disclosure as required under Federal, Tribal, or State law.

### **Section 510 Eligibility Determination**

The Commission 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 employment in a gaming operation. If the Commission determines that employment of the Person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that Person in Key Employee or Primary Management Official position.

### **Section 511 Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to NIGC**

- A. When a Key Employee or Primary Management Official is employed to work at a Gaming Operation authorized by this Ordinance, the Commission shall forward to

the NIGC a completed application for employment that contains the notices and information listed in 25 CFR 556.2, 556.3, 556.4 and 556.5.

- B. The Gaming Operation shall not employ as a Key Employee or Primary Management Official a Person who does not have a license after 90 days.

**Section 512 Report to NIGC**

- A. When a Key Employee or Primary Management Official is employed to work at a gaming operation authorized by this Ordinance, the Commission shall prepare and forward a report on each background investigation to the NIGC. 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 Commission shall forward the completed investigative report to the NIGC within sixty days after an employee begins work.
- C. The Commission shall submit, with the investigative report, a copy of the Eligibility Determination, unless the NIGC shall have advised the Tribe that the submission of the Eligibility Determination is not necessary. This Determination shall include a statement describing how the information submitted by the applicant was verified; a statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; a statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Commission to make a finding concerning the eligibility for licensing required for employment in a Gaming Operation; and a statement documenting the disposition of all potential problem areas noted and disqualifying information obtained.
- D. If a license is not issued to an applicant, the Commission:
  - 1. Shall notify the NIGC; and
  - 2. Shall forward copies of its Eligibility Determination and Investigative Report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

- E. With respect to all employees, and in particular Key Employees and Primary Management Officials, the Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three years from the date of termination of employment.

### **Section 513 Granting a Gaming License**

- A. If, within a thirty (30) day period after the NIGC receives a report, the NIGC 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 NIGC, the Commission, acting for the Tribe, may issue a license to such applicant.
- B. Such license shall be valid for two years upon which the employee will re-apply for a renewal license.
- C. The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a Key Employee or a Primary Management Official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (a) of this section until the Chairman of the NIGC receives the additional information.
- D. If, within the thirty (30) day period described above, the NIGC 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 Commission has provided an application and Investigative Report to the NIGC, the Tribe shall reconsider the application, taking into account the objections itemized by the NIGC. The Tribe shall make the final decision whether to issue a license to such applicant.
- E. No applicant has an absolute right to a gaming license. A gaming license is a revocable privilege and no holder acquires any vested rights therein or there under.

### **Section 514 License Suspension**

- A. If, after issuance of a gaming license, the Commission receives reliable information indicating that a Key Employee or a Primary Management Official is not eligible for employment, the Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
- B. The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license by written letter. The licensee shall have ten

days in which to reply to the notice of suspension and proposed revocation for a licensing hearing. The hearing shall convene within ten days of notification.

- C. After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision.

### **Section 515 Board of Review for Licensing Disputes**

The Tribe has determined that, in order to adhere to this Ordinance and all gaming regulations, there shall be established a Tribal Gaming Board of Review (Board of Review). The Board of Review shall serve as the final review body for licensing disputes. The Board of Review shall consist of the three Commissioners.

## **CHAPTER VI**

### **Vendor Licensing**

#### **Section 601 Licensing for Vendors**

- A. 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 pursuant to the Tribal-State Gaming Compact. Contracts for professional legal and accounting services are excluded from this section.
  
- B. Gaming vendors are entities who provide gaming supplies and services, including cash-related services.
  
- C. Non-gaming vendors provide services that do not have the ability to impact the integrity of the Tribal Gaming Operations, such as media advertising, facility maintenance workers, linen and laundry services, and food and beverage suppliers. The Commission shall create a regulation detailing which vendors fall into this category and shall maintain a register of the non-gaming vendors that it licenses. The Commission may exempt from licensing requirements non-gaming vendors who:
  - 1. are a Tribal, Local, State, or Federal government agency;
  - 2. are regulated by the State of Oklahoma or the Tribe; or
  - 3. will provide goods of insubstantial or insignificant amounts or quantities if the Commission determines that licensing of the vendor is not necessary to protect the tribal and public interest.

#### **Section 602 Submission of a Vendor License Application**

In order to obtain a Vendor License, the business must complete a vendor application and submit to background checks of the business and its principals. Principals of a business include the officers, directors, management, owners, partners, non-institutional stockholders that either own at least 5% of the stock or are the ten largest stockholders, the on-sit supervisor or manager under the agreement with the Tribe, if applicable, and employees of the company conducting business on gaming property.

## **Section 603 Contents of the Vendor License Application**

A. Applications for Vendor Licenses must include the following:

1. Name of business, business address, business phone, federal tax ID number (or SSN if a sole proprietorship), main office address if different from business address, any other names the applicant has done business under, and the type of service 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;
4. Trade name, other names ever used, 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. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
7. A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial, or management interests in non-gaming activities;
8. Names, addresses, and phone numbers of three business references (two businesses and one bank), with whom the company had regularly done business.
9. 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;
10. If the business has ever had a license revoked for any reason, the circumstances involved;
11. A list of lawsuits to which the business has been or is involved, including the name and address of the court involved, and the date and disposition if any;

12. List of the principals of the business, their social security numbers, addresses and telephone numbers, title, and percentage of ownership in the company; and

13. 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 Vendor License.

C. The vendor shall be required to submit in writing any changes in the information since the original license application was filed and any information requested by the Tribe not contained in the original application.

#### **Section 604 Vendor Background Investigation**

To complete an investigation of the gaming vendor this investigation shall contain, at a minimum, the following steps:

- A. Verification of the business' incorporation status.
- B. Obtain a business credit report, if available, and conduct a Better Business Bureau check on the vendor;
- C. Conduct a check of the business' credit history
- D. Call each of the references listed in the vendor application; and
- E. Conduct an investigation of the principals and any other employees the Ponca Tribal Gaming Commission deems necessary of the business, including a criminal history check and a credit report.

#### **Section 605 Vendor License Fee**

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.

#### **Section 606 Vendor Background Investigation Report**

The Ponca Tribal Gaming Commission, or its agents, shall employ or engage an investigator to conduct vendor background investigations. The investigator(s) 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.

**Section 607 Licenses for Non-Gaming Vendors**

For non-gaming vendors, the Commission is authorized to create a less stringent vendor licensing process, including a due diligence check rather than a full background investigation as described in Section 604. The Commission may investigate such vendors when appropriate and may conduct audits in addition to monitoring Tribal purchases.

## **CHAPTER VII**

### **Miscellaneous Provisions**

#### **Section 701 Sovereign Immunity**

The Ponca Tribe of Oklahoma, acting through the Ponca Tribal Business Committee, confers on the Commission all of the Tribe's rights, privileges, immunities and sovereign immunity from suit, to the same extent that the Tribe would have such rights, privileges, if it engaged in the activities undertaken by the Commission.

#### **Section 702 Compliance with Alcoholic Beverage Laws**

The Tribe shall comply will all applicable Tribal, State, Local and Federal regulations pertaining to the sale of alcoholic beverages at Tribally owned or operated Gaming Establishments/Facilities.

#### **Section 703 Compliance with Federal Law**

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

#### **Section 704 Compliance with State-Tribal Gaming Act**

The Tribe shall comply with all applicable standards as identified in the State-Tribal Gaming Act ENR. S. B. No. 1252.

#### **Section 705 Severability**

The provisions of this gaming Ordinance are severable. If any provision of this Gaming Ordinance or any portion of any provision of this Gaming Ordinance is held invalid by a court of competent jurisdiction, the invalidity shall not effect any other provision of this Gaming Ordinance. The remainder of this Gaming Ordinance shall remain valid and in full effect.

#### **Section 706 Amendment**

All provisions of this Gaming Ordinance are subject to amendment by the Business Committee of the Ponca Tribe of Oklahoma. Any such amendment to this Gaming Ordinance shall be submitted to the NIGC for approval within fifteen (15) days of adoption.

#### **Section 707 Effective Date**

This Gaming Ordinance shall be effective on the date of approval by the NIGC Chairman.