



April 30, 2018

**BY FIRST-CLASS MAIL**

John R. Shotton, Chairman  
Otoe-Missouria Tribe of Oklahoma  
8151 Highway 177  
Red Rock, OK 74651-0348

**Re: Amended Tribal Gaming Ordinance of the  
Otoe-Missouria Tribe of Oklahoma**

Dear Chairman Shotton:

This letter responds to your request on behalf of the Otoe-Missouria Tribe of Oklahoma for the National Indian Gaming Commission to review and approve the Tribe's amended gaming ordinance.

The amended *Gaming Ordinance of the Otoe-Missouria Tribe of Oklahoma* was adopted on March 1, 2018, by Resolution OMTTC# 030118 FY 2018 ("*A Resolution Approving and Adopting the Amended Otoe-Missouria Gaming Ordinance for the Otoe-Missouria Tribe of Indians*"). Because the Tribe's existing gaming ordinance was approved in March 2009, and changes were made to the NIGC regulatory requirements in the interim, the ordinance was amended to comply with those regulations.

Thank you for submitting the amended gaming ordinance for review and approval. As it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations, the amended gaming ordinance is approved. If you have any questions, please feel free to contact Armando Acosta, Senior Attorney, at 202-632-7003.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonodev O. Chaudhuri".

Jonodev O. Chaudhuri  
Chairman

cc: Stuart D. Campbell, Esq. (via email only: <[scampbell@dsda.com](mailto:scampbell@dsda.com)>)



# OTOE-MISSOURIA TRIBE OF INDIANS

8151 HIGHWAY 177  
RED ROCK, OK 74651-0348

## RESOLUTION

OMTC# 030118 FY 2018

### **A RESOLUTION APPROVING AND ADOPTING THE AMENDED OTOE-MISSOURIA GAMING ORDINANCE FOR THE OTOE-MISSOURIA TRIBE OF INDIANS**

WHEREAS, the Otoe-Missouria Tribal Council, the governing body of the Otoe-Missouria Tribe of Indians, in accordance with the Tribal Constitution, Article VIII-Powers, Section 1, duly convened to discuss, review, and approve tribal business; and

WHEREAS, the Constitution and By-Laws of the Otoe-Missouria Tribe of Indians provides that the Otoe-Missouria Tribal Council shall have the power to act on behalf of the Tribe in all matters on which the Tribe is empowered to act; and

WHEREAS, the Otoe-Missouria Tribal Council is the supreme governing body of the Otoe-Missouria Tribe of Oklahoma with the authority to enact laws and ordinances; and

WHEREAS, the Otoe-Missouria Tribal Council has reviewed the original Otoe-Missouria Gaming Ordinance and has determined that the present Gaming Ordinance needs to be amended; and

WHEREAS, the Otoe-Missouria Tribal Council has received, reviewed and participated in the amendment to the Gaming Ordinance and hereby approves the attached Amended Gaming Ordinance and finds it adequate for Tribal Gaming.

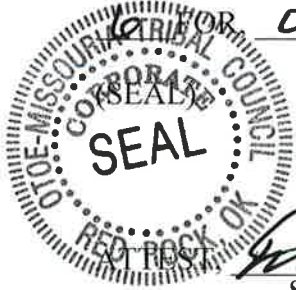
THEREFORE, BE IT RESOLVED, that the Otoe-Missouria Tribal Council hereby approves and adopts this Resolution accepting the Amended Otoe-Missouria Tribal Gaming Ordinance.

BE IT FURTHER RESOLVED, that the approval of this Resolution will supersede the original Resolution for the Otoe-Missouria Tribal Gaming Ordinance of 1988 as amended in 2008.

## CERTIFICATION

We, the undersigned, Chairman and Secretary of the Otoe-Missouria Tribal Council, do hereby certify by signature, that the above foregoing Resolution was given due consideration on this 1 day of MARCH, 2018 with a quorum present and a vote of:

0 FOR, 0 AGAINST, 0 ABSENT, and 1 ABSTAINING



Donald Kilgus  
Secretary

[Signature]  
Chairman

**GAMING ORDINANCE  
OF THE OTOE-MISSOURIA TRIBE OF OKLAHOMA**

**SECTION 1**

**GENERAL PROVISION**

**1.1 Authority**

The Otoe-Missouria Tribal Council, which is the supreme governing body of the Otoe-Missouria Tribe (hereinafter, the "Tribe") as empowered by the Otoe-Missouria Constitution, hereby amends, adopts and implements this Gaming Ordinance of the Otoe-Missouria Tribe of Oklahoma in order to govern and regulate Class II and Class III gaming operations on the Tribe's Indian Lands (hereinafter, the "Ordinance").

**1.2 Interpretation; Implementation**

This Ordinance supersedes any and all ordinances or laws regarding its subject matter, save and except the Otoe-Missouria Development Act, provided that this Ordinance shall not be implemented until it is approved by the National Indian Gaming Commission (hereinafter, the "NIGC") in accordance with the Indian Gaming Regulatory Act of 1988, 25 U.S.C § 2701 *et seq.* (hereinafter, the "IGRA") and the regulations implementing IGRA, 25 C.F.R. Part 501 *et seq.*

**1.3 Sovereign Immunity Unaffected**

The Tribe specifically retains all governmental immunities associated with its sovereign status. The Tribe's subsidiaries, employees and agents, including but not limited to the Otoe-Missouria Gaming Commission, shall share in its sovereign immunity from suit. The Tribe, by adoption of this Ordinance, does not waive its sovereign immunity in any respect and this Ordinance shall not be construed as such waiver.

**1.4 Compliance with Applicable Law**

The management and operation of any Class II gaming facility shall be subject to all applicable provisions of the IGRA. The IGRA and its implementing regulations, as same may change from time to time, hereby are adopted and incorporated by reference. The management and operation of any Class III gaming facility shall be subject to all applicable provisions of the Tribal-State Compact, as same may change from time to time, which hereby is incorporated by reference.

## **1.5 Purpose; Scope**

A. The purpose of this Ordinance is to:

1. Regulate the conduct of gaming at facilities owned and operated by the Tribe or its officially licensed agents, on Indian lands of the Tribe in compliance with the IGRA and Tribal-State compact;
2. Promote tribal economic development, self-sufficiency and self-governance; and
3. Provide a basis under tribal law for the regulation of gaming by the Tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Tribe is the primary beneficiary of the gaming operations, that the regulatory functions of the Gaming Commission are carried out independently of the gaming enterprise and that gaming is conducted fairly and honestly by the Otoe-Missouria Tribe, its agents and players.

B. This Ordinance applies to all Class II and Class III gaming activities conducted on Indian lands within the jurisdiction of the Otoe-Missouria Tribe and such lands as the Tribe may hereafter acquire.

## **1.6 Definitions**

The following terms shall have the same meaning and effect as those same terms are defined in the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. § § 2701 et seq., and the National Indian Gaming Commission ("NIGC") regulations, 25 C.F.R. § § 500 et seq., if they are defined in IGRA and the NIGC's regulations.

A. "Bingo" means a game of chance (whether or not electronic, computer and/or other technologic aids used in connection therewith):

1. Which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
2. In which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
3. In which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull tabs, lotto, punchboards, tip jars, instant bingo, and other games similar to bingo.

B. "Chairman" means the Chairman of the NIGC, or his or her designee.

C. "Cheating" means operating or playing a game in violation of the written or commonly understood rules of the game, with the intent to create for himself/herself or someone in privity with him/her an advantage over and above the chance of the game.

- D. "Class I gaming" means that gaming defined in 25 U.S.C § 2703(6): 25 C.F.R. 502.2
- E. "Class II gaming" means that gaming defined in 25 U.S.C. § 2703(7) and 25 C.F.R. § 502.3.
- F. "Class III gaming" means that gaming defined in 25 U.S.C. § 2703(8) and 25 C.F.R. § 502.4.
- G. "Gross revenues" means all monies collected or received by a gaming operation, including admission fees.
- H. "Key Employee" means:
1. Any 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 within such devices.
  2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000.00 per year; or
  3. If not otherwise included, the four most highly compensated persons in the gaming operation.
  4. Any other person designated by the Tribe as a Key Employee.
- I. "Management Contract" means any contract, subcontract, or collateral agreement between the Tribe and a contractor or between a contractor and a subcontractor within the meaning of 25 U.S.C. § 2710(d)(9) or § 2711.
- J. "Management contractor" means the person or entity holding a contract entered into pursuant to 25 U.S.C § 2710(d)(9) or § 2711.
- K. "Net revenues" means gross gaming revenues of a gaming operations less—
1. Amounts paid out as, or paid for, prizes; and
  2. Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fee.

- L. "Patron" means a person participating in a game with the hope of winning money or other benefit, but does not include a licensee or any assistant of a licensee.
- M. "Person" means any individual, firm, partnership, corporation, company or association.
- N. "Primary Management Official" means:
1. The person having management responsibility for a management contract;
  2. Any person who has authority to hire and fire employees or to set up working policy for the gaming operation; or
  3. The Chief Financial Officer or other person who has financial management responsibility.
  4. Any other person designated by the Tribe as a primary management official.
- O. "Tribal-State Compact" means the Agreement between the Tribe and the State of Oklahoma concerning Class III gaming negotiated pursuant to 25 U.S.C § 2710(d).
- P. "Commissioner". A Tribal Gaming Commissioner.
- Q. "Directly related to". A spouse, child, parent, grandparent, grandchild, aunt, uncle, brother, sister, of first cousin.
- R. Tribe. "Tribe" means the Otoe-Missouria Tribe.
- S. Licensee. A tribally owned class II or class III gaming operations or a person licensed by the Tribal Gaming Commission as a primary management official, key employee or other gaming employee under the provisions of this ordinance.

## **SECTION 2      GAMING AUTHORIZED; CLASSES OF GAMING**

### **2.1      General Provisions**

There shall be three (3) different classes of gaming, each characterized by its separate requirements and fees. The IGRA classifications set forth at 25 U.S.C. § 2703 and 25 C.F.R § 502, as same may change from time to time, hereby are adopted and incorporated by reference.

## **2.2 Classes of Gaming**

- A. Class I Gaming. Social games played solely for prizes of minimal value; or traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations. Class I games hereby authorized without any licensing requirements on Tribal lands, or regulation.
- B. Class II Gaming. Class II games hereby are authorized and may be licensed for conduct on Tribal lands, in accordance with IGRA and its implementing regulations.
- C. Class III Gaming. Class III games hereby are authorized and may be licensed for conduct on Tribal lands, in accordance with the Tribal-State Compact.
- D. The Tribe shall issue a separate license to each place, facility or location on Indian Lands where Class II and Class III gaming is conducted under this ordinance.
- E. Gaming Operation. Each economic entity that is licensed by the Tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by the Tribe directly; by a management contractor; or, under certain conditions by another person or entity.
- F. The Tribal Gaming Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within 30 days of issuance, along with any other required documentation.
- G. The Tribe shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Tribal Gaming Commission. This notice must be submitted at least 120 days before the opening of any new place, facility or location on Indian lands where Class II and/or Class III gaming will occur. The Tribe may also request an expedited review of 60 days from the NIGC Chair if expedited circumstances are necessary.
- H. The Tribe shall notify the NIGC Chair within 30 days if a facility license is terminated or expires, or if a gaming place, facility, or location closes or reopens.

## **SECTION 3 OTOE-MISSOURIA TRIBAL GAMING COMMISSION**

### **3.1 Establishment; General Provisions**

- A. Establishment; Purpose. The Tribe hereby establishes the Otoe-Missouria Tribal Gaming Commission (hereinafter, "Commission") as the public body solely responsible for the regulation of the Tribe's gaming operations. The purpose of the Commission is regulatory, not managerial. 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.



- B. Composition. The Commission shall constitute not less than three (3) or more than (5) members to be appointed by majority vote of the Otoe-Missouria Tribal Council. Duly enrolled members of the Otoe-Missouria Tribe, who are also at least 21 years of age and who have sufficient knowledge of gaming regulation, business, finance or law to carry out the duties prescribed by this Ordinance, are eligible to serve as members of the Gaming Commission, provided that employees of any gaming enterprise, management contractor or vendor are not eligible to serve on the Commission and further provided that no more than two (2) members of the Commission may serve simultaneously as a member or officer of the Otoe-Missouria Tribal Council or be directly related to another gaming commissioner. Nominees for the Commission must satisfy the suitability standards applicable to Key Employees and Primary Management Officials of the gaming operation
- C. Term of Office. Commission members shall serve for a period of two (2) years from the date of appointment and until a successor is duly appointed and installed. The Commission shall elect from among its members a Chairperson.
- D. Removal. To maintain the Commission's independence, Commissioners may be removed from office prior to the expiration of their respective terms for neglect of duty, misconduct, malfeasance, or other acts that would render a Commissioner unqualified for his/her position by a two-thirds (2/3) vote of the Tribal Council members then in office. Any allegations of neglect of duty, misconduct, malfeasance, or other acts that would render a Commissioner unsuitable for his/her position must be substantiated by a preponderance of the evidence. Commissioners subject to removal shall be given an opportunity to provide evidence rebutting the grounds for their proposed removal before the removal is considered. A vote of the Tribal Council on the validity of the removal shall be final and not subject to further appeal.
- E. Conflict of Interest. No member of the Commission may engage in any business which is subject to regulation by the provisions of this Ordinance. Commissioners may not participate as a player at any gaming facility of the tribe, nor participate in any gaming promotion(s), or receive complementary services from any gaming facility.
- F. Duties. The Commission shall:
1. Ensure compliance with applicable tribal, state and federal laws and regulations regarding Indian gaming;
  2. Develop and distribute application forms for initial and renewal licenses;
  3. Supervise the collection of all fees prescribed by this Ordinance;
  4. Establish license eligibility criteria;
  5. Process and review all license applications and make license eligibility determinations;
  6. Conduct or cause background investigations to be conducted on, at a minimum, Primary Management Officials and Key Employees; obtain and process fingerprints;

7. Issue gaming licenses to management officials and employees of the operation, consistent with the suitability determination rendered by the Commission;
8. Report results of background investigations to the NIGC;
9. Establish standards for licensing tribal gaming operations;
10. Issue facility gaming licenses to tribal gaming operations;
11. Inspect, examine, and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy, and audit all records of the gaming operation;
12. Determine applicable license fees;
13. Secure appropriate financial audits;
14. Review all records, documents and any other matter necessary and pertinent to the financial accountability of licenses;
15. Propose fines and penalties as needed;
16. Investigate any suspicion of wrongdoing associated with any gaming activities;
17. Prepare and monitor a plan for the protection of public safety and the physical security of patrons;
18. Review and approve floor plans and surveillance systems for each gaming facility;
19. Maintain a list of persons barred from the gaming facilities to maintain the integrity of the gaming operation;
20. Maintain a list of persons who have voluntarily asked to be excluded from the tribal gaming facility and create regulations to enforce such exclusion;
21. Approve the rules of each game of chance operated pursuant to this Ordinance;
22. Develop and issue regulations necessary to comply with applicable internal control standards;
23. Commence any civil or criminal action necessary to enforce the provisions of this Ordinance;
24. Enjoin or restrain illegal activities;
25. Prepare and submit to the Tribal Council an annual operating budget;
26. Comply with any and all reporting requirements under the IGRA, Tribal-State Compact and any other applicable law;
27. Establish policy regarding matters within its jurisdiction; and
28. Perform such other functions and take such other actions as are necessary to carry out the purposes and provisions of this Ordinance.
29. Hold hearings on patron complaints, in accordance with procedures established in this ordinance and the Tribal gaming regulations;
30. Comply with any and all reporting requirements under IGRA, the NIGC's regulations and any tribal-state compact to which the Tribe is a party, and any other applicable law.
31. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, Federal or State statutes, ordinances, regulations, codes or resolutions.
32. Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operations

33. Review and approve casino gaming vendor contract(s) to protect the interest of the Tribe in accordance with industry standard(s) to shield the Tribe from corrupting influences and/or unconscionable contracts.

G. Powers. In order to adequately perform its duties, the Commission may:

1. Investigate on its own initiative any aspect of the gaming operations in order to protect the public interest in the integrity of the gaming activities and to prevent improper or unlawful conduct in said gaming activities;
2. Retain legal counsel and enter into agreements for other professional services, including investigative services, to assist the Commission with respect to any of the issues over which the Commission exercises jurisdiction;
3. Hire appropriate support staff;
4. Compel any person employed by or doing business with any gaming operation of the Tribe to appear before it under oath and to provide such information, documents or other material as required in writing by the Commission;
5. Impose penalties and sanctions for violations of the Ordinance, any applicable compact, or other rules of procedure adopted by the Commission; and
6. Establish policy and take all actions necessary to carry out the provisions of this Ordinance in compliance with IGRA.

### **3.2 Employees**

- A. Executive Director. The Commission shall appoint an individual to serve as a full time Executive Director of the Commission to administer its responsibilities on a day to day basis and to oversee auditors appointed by the Commission as well as such other staff as the Commission may from time to time employ. The Executive Director shall be responsible for coordination of the functions of the Commission with other governmental authorities, as necessary. The Chairperson may request the Executive Director to conduct a preliminary investigation and render a recommendation to the Commission with respect to the grant or denial of any license, the imposition of any penalty, the investigation of any complaint, or any other action within the jurisdiction of the Commission. The Executive Director shall have the power, in the name of the Commission, to conduct any hearing, investigation or inquiry, compel the production of any information or documents, and otherwise exercise the investigatory powers of the Commission.
- B. Auditors. The Commission shall employ non-uniformed, licensed auditors who shall be available in all gaming facilities during all hours of operation. Such auditors shall be responsible solely to the Commission and not to any management employees of the gaming operations. Such auditors shall have unfettered access to all areas of the gaming facility at all times, including locked and secured areas.

### **3.3 Meetings**

- A. Notice. Regular meetings of the Commission may be held upon such notice, or without notice, and at such time and place as may from time to time be fixed by the Commission. Unless otherwise specified by the Commission, no notice of such regular meetings shall be necessary.
- B. Quorum. At any meeting of the Commission, a majority of the members then in office shall constitute a quorum for the transaction of business. The vote of a majority of the members present at a meeting at which a quorum is present shall be the act of the Commission. The Chairperson shall preside at all meetings of the Commission unless the Chairperson designates another member to preside in his/her absence.
- C. Waiver of Meeting. Any action required or permitted to be taken at a meeting of the Commission may be taken without a meeting if all of the members sign written consents setting forth the action taken or to be taken, at any time before or after the intended effective date of such action. Such consents shall be filed with the minutes of the Commission, and shall have the same effect as a unanimous vote or resolution of the Commission at a legal meeting thereof. Any such action taken by unanimous written consent may, but need not be, set forth in such consents in the form of resolutions or votes. Members of the Commission may participate in a meeting of the Commission by means of conference telephone or similar communications equipment, provided that all persons participating in the meeting can hear each other, and participation in such a meeting by any member who does not object at the beginning of such meeting shall constitute presence in person at such meeting.
- D. Special Meetings. Special meetings of the Commission may be called by the Chairperson or the Executive Director. The person or persons calling the special meeting shall fix the time and place thereof. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Commission is required to be specified in the notice of the meeting.
- E. The Commission shall keep written record of all meetings.
- F. Commissioners shall be compensated at a level determined by the Tribal Council. In order to ensure the Commission is not improperly influenced, a Commissioner's compensation shall not be based on a percentage of gaming revenue.

### **3.4 Delegation of Rulemaking Authority**

- A. General Delegation. The Gaming Commission hereby is authorized and empowered to make any useful or necessary rule or regulation, not inconsistent with any other provision of this Ordinance, the IGRA or other applicable law, to carry out the purposes of this Ordinance. Specifically, the Gaming Commission shall address by regulation matters including, but not limited to, the following:

1. The rules of any and all Class II or Class III gaming activity to ensure that such gaming is conducted fairly and uniformly;
  2. Minimum suitability standards applicable to any and all licenses, management contractors and gaming vendors; and
  3. The annual fees applicable to any and all licenses, management contractors and gaming vendors.
- B. Notice to Tribe. A copy of every rule or regulation enacted by the Tribal Gaming Commission shall be filed of record in the office of the Secretary of the Tribe.
- C. Non-Gaming Vendors. Any non-gaming vendors performing work on or around gaming facilities or contracting with such gaming facility shall not be required to hold gaming licenses.

## **SECTION FOUR                      LICENSES**

### **4.1      License Requirement**

- A. Any individual or entity conducting public gaming operations for the benefit of the Tribe on Indian lands of the Tribe (including vendors doing business with the gaming operations of the Tribe) shall be required to have and display prominently an appropriate, valid and current public gaming license issued pursuant to the provisions of this Ordinance. Any form of public gaming operation conducted within the jurisdiction of the Tribe without the lawful written approval of the Tribal Gaming Commission is prohibited. Furthermore, it shall be unlawful for any person to conduct gaming activities on Indian lands of the Tribe which are not licensed by and for the benefit of the Tribe or which mislead the general public in believing the gaming operation is owned or operated by the Tribe.
- B. 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.
- C. A separate license shall be required for each place, facility or location on Indian lands at which gaming is conducted pursuant to this Ordinance.
- D. Federally or state-regulated lending institutions, government agencies, and institutional investors who, alone or in conjunction with others, lend money through publicly or commercially traded bonds or other commercially traded instruments, shall be exempt from the licensing requirements of this section.

### **4.2      Application Forms**

- A. Privacy Act Notice. The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is completed by the 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 (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC 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 NIGC in connection with 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.

The Gaming Commission shall notify in writing existing key employees and primary management officials 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.
3. All license application forms used one-hundred eighty (180) days after February 25, 2013 shall comply with this section.

- B. Notice Regarding False Statements. The following additional notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is completed by the 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 (U.S Code, title 18 §,section 1001).

C. Ratification of Notice Provisions by Existing Key Employees and Primary Management Officials. Existing Key Employees and Primary Management Officials shall be notified in writing that they must either:

1. Complete a new application form that contains the notices set forth in Section 4.2(A) and 4.2 (B); or
2. Sign a statement that contains the notices set forth in Section 4.2(A) and 4.2(B), above, and consent to be bound by such notices.

#### **4.3 Background Investigation**

A. General Provisions. The Commission shall conduct an investigation of each Key Employee and Primary Management Official sufficient to make a determination under Subsection 4.4, below. In conducting a background investigation, the Commission or any agent acting on its behalf shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

B. Information Subject to Investigation. The Commission shall request from each Primary Management Official and Key Employee information including, but not limited to, the following:

1. Full name, other names used (oral and written), social security number(s), birth date, place of birth, citizenship, gender, and all languages in which the Applicant is proficient (spoken or written);
2. Currently and for the previous 5 years: employment positions held, ownership interests in any businesses, business and residential addresses, and driver's license numbers;
3. The names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph two (2) of this section;
4. Current business and residential telephone numbers;
5. A description of any existing and previous relationships with Indian tribes, including ownership interests in those businesses;
6. A description of any existing and previous relationships with the gaming industry generally, including ownership interest 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 conviction or ongoing prosecution: the charge, the name and address of the court involved, and the date and disposition of the matter, if any;
9. For each misdemeanor conviction or ongoing misdemeanor prosecution, the name and address of the court involved, and the date and disposition, if any;
10. For each criminal or traffic charge whether or not there was a conviction, and is not otherwise listed pursuant to paragraph eight (8) or nine (9) of this section: the

criminal charge, the name and address of the court involved, and the date and disposition, if any;

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. Fingerprints; and
14. Any other information the Tribe deems relevant.

C. Procedures for Conducting the Background Investigation. In order to provide a basis for the Commission's eligibility finding pursuant to Section 4.4, below, the Commission or its authorized investigative agents 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 civil history check;
5. Conduct a search of records maintained in the state of Oklahoma, search criminal records maintained by the Courts of the County wherein the applicant resides and cause a criminal check to be conducted with the records maintained by the FBI.
6. Inquire into any previous or existing business relationships with the gaming industry and Indian tribes by contacting the entities or tribes;
7. Verify the applicant's history and status with any licensing agency by contacting the agency;
8. Take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted; and
9. Create a written report noting the steps taken, information gained, potential problem areas, and disqualifying information, in any.

The investigation must be sufficient to allow the Tribal Gaming Commission to make an eligibility determination under the licensing section of this Ordinance. Investigative reports shall include all of the following information:

- Steps taken in conducting the investigation
- Results obtained
- Conclusions reached; and
- The basis for those conclusions

D. Fingerprints. Each applicant for a Key Employee or Primary Management Official position shall be required to have fingerprints taken as part of the license application procedure. Fingerprints shall be collected by the Gaming Commission Licensing



Department. Fingerprints will then be submitted electronically to the NIGC for processing through the FBI and the National Criminal Information Center to determine the applicant's criminal history, if any.

- E. A primary management official or key employee's complete application file, containing all of the information listed in Section 4.3(B) shall be maintained.

#### **4.4 Eligibility Determination**

A. The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make finding concerning that person's eligibility for employment as a Key Employee or Primary Management Official.

B. 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 the danger of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming, a management contractor or tribal gaming operation shall not employ that person in a Key Employee or Primary Management Official position.

#### **4.5 Reports to the NIGC**

When a Key Employee or Primary Management Official is employed to work at a gaming operation of the Tribe, a background investigation will be conducted and a determination will be made referred to in sub-section 4.4, above.

- A. Within sixty (60) days after an employee begins work, the Tribal Gaming Commission shall prepare and forward a Determination of Eligibility/Suitability & Notification of Results to the NIGC. Notification of Results should include:

- Applicant's name, date of birth, and SSN;
- date on which the applicant began or will be work as a PMO or key employee; position;
- a summary of the information presented in the criminal history (if any)
- every known criminal charge brought against the applicant;
- license(s) that have previously been issued, denied, revoked, even if subsequently reinstated;
- every felony of which the applicant has been convicted or any ongoing prosecution.

- B. If a license is not issued to an Applicant for a Key Employee or Primary Management Official position, the Tribal Gaming Commission shall:

1. Notify the NIGC; and
2. Forward copies of its Determination of Eligibility/Suitability & Notification of Results to the NIGC for inclusion in the Indian Gaming Individuals Records System.

#### **4.6 Notifications from NIGC of requests and objections**

- A. The Tribal Gaming 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 thirty (30) day period section until the Chairman NIGC receives the additional information
- B. 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 Tribal Gaming Commission has provided a Determination of Eligibility/Suitability & Notifications of Results 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.

#### **4.7 Granting a Gaming License**

- A. If, within a thirty (30) day period after the NIGC a Determination of Eligibility/Suitability & Notification of Results the NIGC notifies the Tribe that it has no objection to the issuance of a license to the Key Employee or Primary Management Official who is the subject of such report, the Tribal Gaming Commission, acting for the Tribe, may issue a license to such applicant.
- B. Tribal Gaming Commission shall notify the NIGC of the issuance of a license to a PMO or key employee within 30 days of issuance.

#### **4.8 License Suspension**

If after the issuance of a gaming license, the Tribal Gaming Commission receives from the NIGC reliable information indicating that a Key Employee or a Primary Management Official is no longer eligible for employment, the Tribal Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation, as well as the appeal rights set forth in Subsection 4.9, below. The Tribe shall notify the NIGC of its decision to revoke or reinstate a license within (45) days of receiving notification from the NIGC that a primary management official of key employee is not eligible for employment.

#### **4.9 Appeal of Licensing Determination**

- A. Procedure for Hearing. The Commission shall hold a hearing for an Applicant, licensee or any other person or entity subject to an adverse determination by the Commission. The hearing shall be within thirty (30) days of the date of such determination.
- B. Hearing. The Commission shall notify the Complainant of the time and place for hearing the appeal. At such hearing, it shall be the obligation of the Complainant to show cause why the determination is incorrect, why the license in question should not be revoked or suspended, why the period of suspension should not be extended, why special conditions or limitations upon a license should not be imposed, or why any other action regarding any other person or entity subject to any action should not be taken.
- C. Determination Subsequent to Hearing. Following such hearing, the Commission shall, within thirty (30) days (15 days when dealing with a notice received in regards to 4.8 above), reach a final determination concerning the accuracy of the preliminary certification of facts, and whether the license in question should be granted, continued, suspended, revoked, conditioned, or limited and whether or not any other action recommended to or by the Commission (including but not limited to forfeitures or fines) should be taken. The action of the Commission shall be the final action of the Otoe-Missouria Tribe. Within (30) days following this determination, the Executive Director shall inform the subject in writing of that determination. The Commission shall inform the NIGC of any proceeding resulting in the revocation or reinstatement of a gaming license.
- D. Summary Process. The Commission immediately may enjoin and strain illegal activities without observing the due process set forth in this Section if the Commission, in its sole discretion, finds that such activity poses an imminent threat to the employees or patrons of the gaming operation or to the Tribe. The Executive Director, in his or her sole discretion, may summarily suspend or extend suspension of licenses for a period not to exceed sixty (60) days. In any case where a license is suspended prior to hearing, an opportunity for a hearing shall be provided as soon as is practical under the circumstances.

#### **SECTION FIVE**

#### **MANAGEMENT CONTRACTS**

The Otoe-Missouria Tribal Council, on behalf of the Otoe-Missouria Tribe, hereby is authorized to enter into and approve management contracts for the management of any gaming facility owned and operated by the Tribe. Said management contracts shall comply in all respects with the IGRA. All management contracts shall be approved by the Chairman of the NIGC or as designated by IGRA. No person holding a management contract with the Tribe for the management of any Class II or Class III gaming facility shall be an elected official of the

Tribe, or have been convicted of any felony or gaming offense, or have knowingly or willingly provided any false statements to the NIGC or Otoe-Missouria Tribal Gaming Commission or whose prior activities, criminal record, if any, or reputation, habits, and association(s) pose a threat to the effective regulation and control of the gaming activity subject to the management contract or who has attempted in any way to unduly influence or interfere with the decision process relating to any management contract or license.

## **SECTION SIX: GENERAL ACCOUNTABILITY; ENVIRONMENTAL STANDARDS**

### **6.1 Ownership; Use of Revenue**

- A. Ownership of Gaming. The Otoe-Missouria Tribe shall have the sole proprietary interest and responsibility for the conduct of any gaming activity pursuant to this Ordinance.
- B. Use of Revenue. Net revenues from any gaming conducted pursuant to this Ordinance shall be used for tribal purposes including:
  - 1. To fund Tribal government operations or programs;
  - 2. To provide for the general welfare of the Otoe-Missouria Tribe and its members;
  - 3. To promote Tribal economic development;
  - 4. To donate to charitable organizations; or
  - 5. To help fund operations of local government agencies; and,
  - 6. any other purpose permitted under the IGRA.

The Revenue Allocation Plan ("RAP") of the Tribe, as same may change from time to time, hereby is adopted and incorporated by reference.

#### **C. Per Capita Payments**

- a. Net revenues from any Class II and Class III gaming activities conducted or licensed by the Tribe may be used to make Per Capita payments to Tribal members if –
  - 1. The Tribe has prepared a plan to allocate revenues to one or more of the five uses authorized by section 6.1 (B) of this ordinance;
  - 2. The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in section 6.1 (B)(1) and (3) of this ordinance;
  - 3. The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and the per capita disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for

the health, education, or welfare of the minor or other legally incompetent person; and

4. The per capita payments are subject to Federal taxation and the Tribe notifies its members of such tax liability.

## **6.2 Records, Returns and Audits**

- A. Report to Tribal Council. The Commission shall provide an annual comprehensive report to the Otoe-Missouria Tribe Tribal Council.
- B. Financial Audits. The Tribe shall cause an annual outside independent audit of gaming operations to be conducted, and shall submit the resulting audit reports to the National Indian Gaming Commission. All gaming-related contracts of \$25,000,00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of such audit.
- C. Access to Financial Records of Vendors and other Licensees. The Otoe-Missouria Tribal Gaming Commission shall promulgate regulations establishing proper accounting procedures and methods of operations for all licensees of Class II and Class III gaming activities so that all monies or things of value received and paid out may be properly monitored and accounted for. All gaming vendors shall maintain an accounting system which shall comply with, but not be limited to, all applicable provisions of this Ordinance or regulations of the Commission. Said accounting system shall reflect all Tribal and financial transactions involved or connected in any manner with the operation and conduct of activities authorized by this Ordinance.
- D. Records Retention. With respect to all employees, and in particular Key Employees and Primary Management Officials, the Tribal Gaming Commission shall retain applications for employment, eligibility determinations and reports (if any) of background investigations for inspections by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

## **6.3 Environment and Public Health and Safety**

The construction and maintenance of any gaming facility, and the operation of gaming activities, shall be conducted in a manner which adequately protects the environment and the public health and safety and, for that purpose, shall comply with the requirements of the Tribal-State Gaming Compact and all other applicable health, safety and environmental standards enacted by the Tribe.

## **SECTION SEVEN ENFORCEMENT; SANCTIONS**

### **7.1 Issuance of Emergency Orders; Injunctive Relief**

The Chairperson or any other member of the Commission acting in the absence of the Chairperson may, whenever he/she deems it necessary to protect the public interest in the integrity of the Tribe's gaming operations, issue in the name of the Commission, any Order which the Commission has the power to issue, to the gaming operations or to any employee or contractor thereof or to any person within the jurisdiction of the Tribe, to take any action or to cease and desist from taking any action as may be required to protect the public interest; provided, that any such Order shall be subject to subsequent review by the Commission at its earliest opportunity, whereupon said Order may be confirmed or vacated by the Commission.

### **7.3 Subpoena Power**

The Commission shall have the right to subpoena records or to secure a court order to seize records for property not surrendered. No applicant, agent or employee of any gaming vendor shall neglect or refuse to produce records or evidence or to give information upon proper and lawful demand by the Commission, or shall otherwise interfere or attempt to interfere, with any proper and lawful efforts by the Executive Director or the Commission to produce such information. The Commission may conduct such hearings as deemed necessary to ensure compliance with the provisions of this Ordinance and accountability for all monies received and spent. Failure to comply with provisions of this Ordinance shall constitute grounds for complaint with the NIGC and summary suspension or revocation of any license or management contract.

### **7.4 Civil Fines; Forfeiture**

Any person who engages in activities on property subject to the provisions of this Ordinance, without a license, in violation of the license or terms imposed thereon, in violation of terms of suspension, or in violation of any other provision of this Ordinance, the Tribal-State Compact, the IGRA, regulations promulgated there under or amendments thereto, shall be in violation of this Ordinance. Separate violations shall be prosecuted as separate offenses. Each day of violation shall constitute a separate count or violation of this Ordinance. Each violation shall carry a potential fine of Five Hundred Dollars (\$500.00) to Five Thousand Dollars (\$5000.00) to be determined at the discretion of the Commission. Any property used in the furtherance of any violation of this Ordinance are subject to seizure and forfeiture and become the property of the Tribe. All winnings found to have been received in violation of this Ordinance are subject to seizure and forfeiture and become property of the Tribe.

## **SECTION EIGHT. AUDITS**

### **8.1 Audits**

- A. The Tribe shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC.

1. Annual audits shall conform to generally accepted auditing standards.

- B. All Gaming-related contracts that result in the purchase of supplies, services or concessions for more than \$25,000 in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under section 8 (A) of this ordinance.
- C. Copies of the annual audit of each licensed gaming operation, and each audit for supplies, services or concessions of each gaming operation, shall be furnished to the NIGC within 120 days after the end of each fiscal year of the gaming operation.

## SECTION NINE. PATRON DISPUTE RESOLUTION

### 9.1 Patron Disputes/Prize Claims

Casino Management shall ensure that patrons are afforded due process in seeking and receiving just and reasonable compensation arising from a patron's dispute in connection with his or her play, the amount of any prize which has been awarded, the failure to be awarded a prize, or the right to receive a refund or other compensation and the maximum amount of any prize claim shall be the amount of the prize which the claimant establishes he or she was entitled to be awarded.

- A. Class II Gaming; Any patron having a dispute/prize claim shall file a written claim notice within (5) days of the event by delivering to the casino or gaming commission, shall contain the date, time, place and circumstances of the incident, identify persons involved, witnesses, the amount demanded and the basis for said amount. The written claim shall include the claimants name, telephone number, address and any representative authorized to act or settle the claim on behalf of the claimant and specified relief being sought after by the claimant. **(Failure to file the prize claim notice during such period of time shall forever bar such prize claim)**
  - 1. The casino shall promptly review, investigate and make a determination regarding the prize claim. Claimants shall cooperate in providing information, including personal sworn statements and agreeing to be interviewed, as the casino shall reasonably request. The claimant is permitted to have counsel present during any such interview.
  - 2. Casino Management will notify the claimant and gaming commission the results of the investigation and prize claim decision or settlement between the Casino Management and Claimant.
  - 3. Patrons with unresolved disputes/prize claims against the gaming establishment shall have as their sole remedy for Class II gaming disputes, the right to file a petition for relief with the Tribal Gaming Commission. Petitions shall be filed in writing within 10 days of the casino managements decision and a hearing will be held within (30) days of the received notice from the patron.
    - 1. The patron may have council present and submit evidence for the commissioners review

2. After the hearing, the Commission shall render a decision in a timely fashion and in writing to the patron and casino management.
3. All such decisions are final when issued.

**B. Class III Patron Disputes/Prize Claims and Tort Claims.**

The process for Class III covered games; Disputes, Prize Claims, and Tort Claims are outlined in the Tribal-State Compact shall remain in full force and effect until the sooner of expiration of the term or until the compact is terminated by mutual consent of the Tribe or State.

**SECTION TEN. DESIGNATION OF AGENT**

The Tribe hereby designates the Chairman of the Otoe-Missouria Tribe of Oklahoma as the official agent for service of any official determination, order of notice of violation(s) by the National Indian Gaming Commission, "NIGC".

**SECTION ELEVEN. COMPLIANCE WITH FEDERAL LAW**

The Tribe shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C §5331 et seq.

**SECTION TWELVE. EFFECTIVE DATE**

This ordinance shall take effect immediately upon its approval by the NIGC Chair.

**CERTIFICATION**

I, John Shotton, Chairman of the Otoe-Missouria Tribal Council do hereby certify, by signature that the above and foregoing Gaming Ordinance was adopted by Resolution and approved by the Otoe-Missouria Tribal Council.



Resolution: # 030118

  
\_\_\_\_\_  
John R Shotton, Tribal Chairman

2/1/18  
Date