



February 24, 2016

VIA FIRST CLASS MAIL

Mr. John A. Barrett., Chairman
Citizen Band of Potawatomi
1601 S. Gordon Cooper Dr.
Shawnee, OK 74801

RE: Amended Gaming Ordinance

Dear Chairman Barrett:

This letter responds to your request for the Chairman of the National Indian Gaming Commission to review and approve the Citizen Band of Potawatomi's (Band) Amended Gaming Ordinance. The Gaming Ordinance was authorized by Resolution #14-04-R&G-14-04-T23 on May 22, 2014. However, the NIGC did not receive a copy of the Gaming Ordinance until December 01, 2015. Under 25 C.F.R. §522.3(a) a Tribe is required to submit any amendment to a gaming ordinance or resolution within 15 days of its adoption. The Band has failed to comply with this requirement for this submission. I strongly caution the Band to timely submit any future amendments to its gaming ordinance.

Thank you for bringing the amended Gaming Ordinance to our attention. The Gaming Ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions, please feel free to contact Staff Attorney Heather McMillan Nakai at (202) 632-7003.

Sincerely,

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

Jonodev O. Chaudhuri
Chairman

Citizen Potawatomi Nation



Ordinance #14-04-R&G-14-04-T23

AN ORDINANCE AMENDING THE GAMING ORDINANCE OF THE CITIZEN POTAWATOMI NATION.

WHEREAS, the Gaming Ordinance of the Citizen Potawatomi Nation requires periodic updates in order to remain responsive to current needs and industry standards;

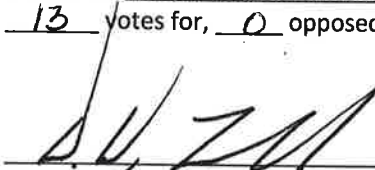
NOW, THEREFORE BE IT ENACTED BY THE LEGISLATURE OF THE CITIZEN POTAWATOMI NATION that an ordinance amending Title 23, Chapter 3 (Gaming Ordinance) of the Citizen Potawatomi Nation Tribal Code as attached **IS HEREBY APPROVED.**

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATURE OF THE CITIZEN POTAWATOMI NATION that the Gaming Ordinance of the Citizen Potawatomi Nation is hereby amended.

EFFECTIVE DATE: This ordinance shall become effective upon adoption by the Legislature of the Citizen Potawatomi Nation.

CERTIFICATION

In his capacity as Secretary-Treasurer of the Citizen Potawatomi Nation, the undersigned hereby certifies that the above and foregoing ordinance is a true and correct copy of Ordinance #14-04-R&G-14-04-T23, as approved on the 22nd day of May, 2014, with 13 votes for, 0 opposed, 3 absent and 0 abstaining.


D. Wayne Trousdale
Secretary-Treasurer

☒ Approved
☐ Disapproved


John A. Barrett
Tribal Chairman

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NATIONAL INDIAN
GAMING COMMISSION
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Citizen Potawatomi Nation
Gaming Ordinance

The following shall be known as

The Gaming Ordinance of the Citizen Potawatomi Nation

SECTION 1: CITATION

This Ordinance shall be known and may be cited as the "Citizen Potawatomi Nation Gaming Ordinance" and shall apply to all forms of gaming conducted within the jurisdiction of the Citizen Potawatomi Nation.

SECTION 2: PURPOSES

The purposes of this Ordinance are to promote the public order, peace, safety and welfare of all persons coming within the jurisdiction of the Citizen Potawatomi Nation, to provide a safe and wholesome means of recreational activity in a community setting, and to provide a source of revenue for the operation of the programs and departments of the Tribal government by ensuring that any gaming activity conducted whether Class I, II, or III is fair, responsible, and consistent with applicable federal law including the regulations and guidelines established by Public Law 100-497, known as "The Indian Gaming Regulatory Act," and/or any Tribal-State Compact to which the Tribe is a party. This Ordinance shall be liberally construed to promote these purposes.

SECTION 3: DEFINITIONS

Unless the context clearly indicates a different meaning, the following words are defined as:

- A. "Citizen Potawatomi Nation Legislature" or "Tribal Legislature" means the legislative body of Citizen Potawatomi Nation formerly known as the Business Committee.
- B. "Class I Gaming" means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of or in connection with Tribal ceremonies or celebrations.
- C. "Class II Gaming" means
 - (1) "Bingo" or lotto (whether or not electronic, computer or other technologic aids are used) when players:
 - a. play for prizes with cards bearing numbers or other designations;
 - b. cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - c. win the game by being the first person to cover a designated pattern on such cards.
 - (2) If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo and other games similar to bingo;

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D. Nonbanking card games that:

- (1) state law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the State of Oklahoma; and
- (2) players play in conformity with state laws and regulations concerning hours, periods of operation and limitations on wagers and pot size;

E. The term "Class II Gaming" does not include:

- (1) any banking card games, including baccarat, chemin de fer or blackjack (21); or
- (2) electronic, electromechanical facsimiles of any game of chance or slot machines of any kind.

F. "Class III Gaming" means all forms of gaming that are not Class I or Class II, including but not limited to:

- (1) any house banking game, including, but not limited to -
 - (a) card games such as baccarat, chemin de fer, blackjack (21), and paigow (if played as house banking games);
 - (b) casino games such as roulette, craps and keno;
- (2) any slot machines as defined in 15 U.S.C. § 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance;
- (3) any sports betting and pari-mutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or
- (4) lotteries

G. "Commission" means the Citizen Potawatomi Nation Gaming Commission and the Gaming Commission staff as established by this Ordinance.

H. "Commissioner" or "Gaming Commissioner" means a member of the Citizen Potawatomi Nation duly appointed by the Executive Branch and confirmed by the Tribal Legislature pursuant to this Ordinance.

I. "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(d).

J. "Complimentary" means a service or item provided at no cost, or a reduced cost, to a customer of the gaming facility.

K. "Court" means the courts of the Citizen Potawatomi Nation.

L. "Executive Director" means the Executive Director of the Citizen Potawatomi Nation Gaming Commission, with delegated authority to run the daily operations of the Gaming Commission.

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- M. "Expenses" means all sums actually expended and reasonable and necessary for the gaming operation including, by example, supplies, equipment, non-cash prizes, facilities, security services, license fees, rent, employees and other personnel services.
- N. "Gaming Commission Board" mean the three (3) members of the Citizen Potawatomi Nation Gaming Commission that have been appointed by the Tribal Legislature to oversee the regulation of gaming in the Citizen Potawatomi Nation jurisdiction.
- O. "Gaming Facility" means the building, buildings or structure wherein gaming is permitted, performed, conducted or operated and associated and adjacent real property owned by the Tribe.
- P. "Gaming Operation" means the definition set forth in 25 C.F.R. § 502.10.
- Q. "Gaming Ordinance" means the Tribal Gaming Ordinance of the Citizen Potawatomi Nation, as amended and any rules promulgated there under.
- R. "Gaming Site" means the tract or tracts of land upon which a Gaming Facility is located.
- S. "Gross Gaming Revenue" means annual total amount of cash wagered on Class II and Class III games and admission fees (including table or card fees), less any amounts paid out as prizes or paid for prizes awarded.
- T. "Guest" means any person, other than an employee, who is on the premises of the gaming facility.
- U. "IGRA" means the Indian Gaming Regulatory Act of 1988, 25.U.S.C. § 2701 etseq, as amended.
- V. "Indian Lands" means:
1. lands within the limits of a Tribe's reservation; or
 2. land over which an Indian Tribe exercises governmental power and that is either –
 - a. held in trust by the United States for the benefit of any Indian Tribe or individual; or
 - b. held by an Indian Tribe or individual subject to restriction by the United States against alienation.
- W. "Key Hourly" means those key employees as defined in any statute or regulation and at a minimum includes a person who performs one or more of the following functions:
1. Bingo Caller
 2. Counting Room Supervisor
 3. Chief of Security
 4. Custodian of gaming supplies or cash
 5. Floor manager
 6. Pit Boss
 7. Dealer

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8. Croupier
 9. Approver of Credit
 10. Custodian of Gaming Devices including person with access to cash and accounting records within such devices
 11. Networking employees with server access
 12. Any and all management within the Casino
 13. Any other person whose total cash compensation exceeds \$50,00 per year
 14. The four most highly compensated persons in the gaming operation
 15. Any other person the Commission deems necessary
- X. "License" means any authorization granted by the Commission, pursuant to the Gaming Ordinance, to any person or facility, which is required for such person or facility to perform certain acts, conduct or engage in certain activities. The issuance of a license shall not create a property or liberty interest in such license for the benefit of the licensee.
- Y. "Licensee" means any person who has been issued a valid and current license pursuant to the provisions of Section 26.
- Z. "Net Revenues" means gross gaming revenues of a gaming operation less-
- a. Amounts paid out as, or paid for, prizes; and
 - b. 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 fees.
- AA. "NIGC" means the National Indian Gaming Commission.
- BB. "Primary Management Official" means the person having management responsibility for a management contract, as well as any person who has the authority to hire and terminate employees or to set up working policy for the gaming operation or the chief financial officer or other person who performs the financial management responsibility.
- CC. "State" means the State of Oklahoma.
- DD. "TMICS" means the Tribal Minimum Internal Control Standards.
- EE. "Tribe" (and any of its derivations) means the Citizen Potawatomi Nation.

SECTION 4: OWNERSHIP OF GAMING

The Citizen Potawatomi Nation shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Gaming Ordinance.

SECTION 5: APPLICATION OF NET REVENUES

In compliance with 25 U.S.C. § 2710(b)(2)(B), net revenues from any Tribal gaming activity, are not to be used for purposes other than:

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- (1) to fund Tribal government operations or programs;
- (2) to provide for the general welfare of the 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.

SECTION 6: GAMING PROHIBITED

Except as provided, no person shall conduct any form of gaming on Tribal Indian Land for which a charge is made, or other consideration is requested or required for participation, or to the winner of which any prize is awarded.

SECTION 7: GAMING ALLOWED

Class I gaming activities are permitted with no need for regulatory oversight. Class II and Class III gaming are authorized to be conducted on the Tribe's Indian lands if the gaming is duly licensed and authorized by the Tribe and subject to the regulations of the Tribal Ordinance, IGRA, the NIGC regulations, the Tribal-State Compact, and any other applicable laws or regulations.

SECTION 8: ADMINISTRATION OF GAMING OPERATIONS

The Executive Branch of the Citizen Potawatomi Nation shall administer the Tribal gaming operations consistent with this Ordinance. The Tribal Chairman, or his designee, shall be the liaison between the General Manager ("GM") of a gaming operation and the Executive Branch. The Gaming Commission regulates and monitors compliance with this Ordinance, any Tribal-State Compacts, and all applicable federal or Tribal laws on behalf of the Tribe.

SECTION 9: MANAGEMENT OF GAMING OPERATIONS

All gaming operations shall be administered by the GM who is employed by and serves at the pleasure of the Executive Branch of the Tribal Government.

SECTION 10: LICENSE FOR FACILITIES, PLACES AND LOCATIONS

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where Class II and/or Class III gaming is conducted under this Ordinance.

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SECTION 11: PUBLIC SAFETY STANDARDS

In compliance with 25 U.S.C. § 2710 (b)(2)(E), the construction and maintenance of any gaming facilities, 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 any applicable Tribal-State Compact and all other applicable health, safety and environmental standards enacted by the Tribe.

The Tribe shall construct, maintain and operate a gaming facility in a manner that adequately protects the environment, and the health and safety of the public.

SECTION 12: QUALIFICATIONS OF GENERAL MANAGER

The General Manager must:

- A. not have been convicted of a felony, gaming offense, or crime involving dishonesty or moral turpitude;
- B. not have been convicted of any offense except traffic violations within two years from the date of employment;
- C. Not be a member of the Tribal Legislature or related to any member of the Tribal Legislature by blood or marriage within the second degree;
- D. Not have had his surety bond forfeited or been criminally convicted of, or found civilly liable for, any breach or fiduciary duty to the Tribe or have been impeached or removed from Tribal office;
- E. Be bondable in the necessary amounts; and
- F. Meet any other applicable qualifications as prescribed in the Indian Gaming Regulatory Act and the NIGC regulations.

SECTION 13: DUTIES OF GENERAL MANAGER

The duties of the General Manager are:

- A. to manage and conduct all forms of gaming and concessions of the Tribal Gaming Operation allowed under this Ordinance;

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- B. to timely submit all reports required by the Executive Branch and any applicable law;
- C. to account for all monies and properties entrusted to him or her; and
- D. to perform any other duties established by Tribal law.

SECTION 14: CONDUCT OF GAMING OPERATIONS

The General Manager shall conduct the gaming operation consistent with the following:

- A. The rules of play and operation of the game as prescribed and approved by the Gaming Commission and the Tribal Legislature.
- B. Each and every player has a fair and equal opportunity to win.
- C. The method of winning and the prize or prizes for each game should be clearly outlined before each game.
- D. The winner or winners of each game shall be verified in a manner that all present may witness.
- E. No person who is conducting or assisting in the gaming operation shall participate directly or indirectly in the play of that game.
- F. No person under eighteen (18) years of age shall be permitted to play for any reason.
- G. He/she shall make a determination as to the validity of a winner or winners at the conclusion of the game at which they were a winner. If the GM's decision is disputed, it will be forwarded to the Gaming Commission for the final resolution.
- H. No alcoholic beverages shall be permitted in the facility during the time that the facility is being used for the gaming operation, unless the Citizen Potawatomi Nation or the State of Oklahoma has issued an Alcoholic Beverage License for on-premises consumption.
- I. No illegal drugs of any kind shall be permitted in the facility.
- J. Persons excessively intoxicated or under the influence of drugs, or in violation of any Tribal Law or Ordinance, shall neither be permitted to engage in any form of gaming nor to remain in the building when gaming is being conducted.

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SECTION 15: GAMING FACILITY EMPLOYEES

The following shall apply to all employees of the gaming facilities:

- A. All persons employed by the gaming operation, particularly key employees and primary management officials, shall be licensed by the Gaming Commission as prescribed by the Indian Gaming Regulatory Act, NIGC regulations or any Tribal-State Compact and this Ordinance.
- B. Each employee will wear his or her license in a visible manner when operating or assisting in the operation of a gaming facility.
- C. No person shall be employed whose prior activity, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or 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.
- D. As necessary, the Tribal Legislature may require the GM or any other key employee to be bonded in an amount not less than \$50,000 payable to the Tribe.
- E. Background investigations will be conducted on the primary management officials and key employees as prescribed in the Indian Gaming Regulatory Act, federal regulations, any Tribal-State Compact, and this Ordinance.
- F. When licenses are issued to key employees or primary management officials, the Gaming Commission will notify the NIGC within 30 days, as described in the Indian Gaming Regulatory Act, NIGC regulations, or any Tribal-State Compact for Class III Gaming.
- G. The GM shall employ qualified Tribal members in preference to other equally qualified applicants for work, but shall not be required to employ or retain in employment unqualified Tribal members.

SECTION 16: GAMING FACILITY RECORDS

The GM shall be responsible for proper storage and maintenance of records concerning all gaming operations. These records shall be audited annually by an independent auditor and the audit reports shall be open for inspection by any Tribal member at the office of the Treasurer.

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SECTION 17: ESTABLISHMENT OF GAMING COMMISSION

The Citizen Potawatomi Nation Gaming Commission ("Gaming Commission"), having been previously established under prior gaming Ordinances, shall continue to act as the regulatory body of the Tribe. The Gaming Commission Board shall consist of three (3) Gaming Commissioners, whom will all be recognized tribal members of the Citizen Potawatomi Nation. These members shall be recommended for appointment by the Executive Branch and confirmed by the Tribal Legislature.

The Commissioners may vet and propose potential candidates for an Executive Director. The Executive Branch shall duly appoint an Executive Director who will also be confirmed by the Tribal Legislature to be in charge of the daily operations of the Commission and establish a professional staff for purposes of investigations, background investigations and licensing, internal auditing, Title 31 compliance, and all other regulatory compliance as deemed necessary and required by law. The Gaming Commission shall report directly to the governing body of the Citizen Potawatomi Nation.

SECTION 18: GAMING COMMISSIONER QUALIFICATIONS

A Gaming Commissioner must:

- A. Not ever have been convicted of a felony, gaming offense or crime involving dishonesty or moral turpitude.
- B. Not have a direct or indirect financial interest in the gaming facility.
- C. Not have been convicted of any offense except traffic violations within two years from the date of employment.
- D. Not be a member of the Tribal Legislature or related to any member of the Tribal Legislature by blood or marriage within the second degree.
- E. Not have had his surety bond forfeited or been criminally convicted of, or found civilly liable for, any breach of fiduciary duty to the Tribe or have been impeached or removed from Tribal office.
- F. Be bondable in the necessary amounts.
- G. Meet any other applicable qualifications as prescribed in the Indian Gaming Regulatory Act.

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SECTION 19: COMPENSATION

The Commissioners shall be compensated for meetings by a per diem in an amount approved by the Executive Branch.

SECTION 20: MEETINGS AND DUTIES

The Gaming Commission shall meet regularly on a bi-monthly basis. These meetings shall take place at a time and place certain and determined by the Commissioners. The Commissioners, in circumstances in which regulatory requirements are deemed necessary, may call special meetings to be held outside of the regular bi-monthly meetings.

The duties of the Gaming Commissioners shall include, but may not be limited to:

- A. Approval of regulatory changes;
- B. Issuance or revocation of gaming licenses;
- C. Additions or changes in regulatory fees;
- D. Reviewing the Gaming Commission budget and approving the budget submission to the Tribal Legislature for final approval;
- E. Reviewing annual audits of the gaming operations; and
- F. Reviewing patron disputes or banishments.

SECTION 21: QUORUM

A quorum will be established if 2 of the 3 Commissioners are present.

SECTION 22: GAMING COMMISSION FUNDING

The Gaming Commission, functioning as an independent, non-profit, regulatory entity, shall be funded as follows:

- A. The Executive Director of the Gaming Commission shall determine licensing fees and gaming fines to adequately operate and regulate the Tribe's gaming facilities, and propose a budget on an annual basis to the Commissioners for approval. The Commissioners shall provide this to the Tribal Legislature for final approval.

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- B. The Gaming Commission shall collect any licensing fees required. Such fees shall become tribal revenues and will be specifically disbursed to the Gaming Commission budget as approved by the Tribal Legislature.

SECTION 23: FUNCTION OF THE GAMING COMMISSION

The Gaming Commission shall have the following powers and duties:

- A. The Gaming Commission shall be recognized as a law enforcement authority for purposes of conducting background investigations and fingerprinting, enforcing this Ordinance and the Tribe's regulations, enforcing gaming fines and investigating incidents of possible cheating, fraud, theft, or collusion.
- B. To interpret and enforce all applicable gaming laws and regulations to ensure that all gaming within the Tribe's jurisdiction is operated in accordance with all applicable laws and regulations including the background checks and licensing of all employees of the gaming operation pursuant to 25 C.F.R. § 558.1 (b).
- C. To conduct background investigations on primary management officials, key Tribal gaming employees and vendors in accordance with IGRA, NIGC regulations, and/or Tribal-State Compact provisions and forward them for NIGC and/or State review.
- D. To issue, deny, review, rescind, put conditions on, suspend or revoke tribal gaming licenses for primary management officials, key Tribal gaming employees, and vendors and their applicable employees.
- E. To promulgate Tribal gaming regulations in accordance with Tribal and Federal law and Tribal-State Compact requirements, as needed.
- F. To establish regulations and procedures for patron dispute hearings, including but not limited to evidence, legal representation, and hearing officers, as described in Section 36(6), and licensing hearings as described in Section 28 of this Ordinance.
- G. To continuously regulate and monitor gaming operations to ensure compliance with Tribal and Federal law and Tribal-State Compact requirements.
- H. To oversee and/or conduct audits of the gaming facilities, including audits of service and supply contracts.

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- I. To conduct investigations of any alleged misconduct, take appropriate enforcement action, and make appropriate referrals to Tribal, State, and Federal law enforcement agencies.
- J. To conduct hearings, take testimony, take disciplinary actions, levy fines, issue closure orders and resolve patron disputes.
- K. To ban, bar or exclude patrons from Citizen Potawatomi Nation Gaming Facilities.
- L. To perform reporting responsibilities to the IRS, as stated in Section 37 of this Ordinance, and ensure proper reporting in accordance with Title 31 of the U.S. Code.
- M. To perform licensing responsibilities and duties assigned in Sections 24 and 29 of this Ordinance.
- N. To Work cooperatively with all applicable Tribal, State, and Federal regulatory and law enforcement agencies.
- O. To conduct internal audits in accordance with Federal, State and Tribal regulations.
- P. To perform reviews and approvals of policy and procedures for all Citizen Potawatomi Nation gaming facilities.

SECTION 24: LICENSING KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS.

The Executive Director of the Gaming Commission 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 facility operated on tribal lands. The Tribal Gaming Commission shall perform background investigations and issue licenses for primary management officials and key employees according to requirements that are at least as stringent as those in 25 C.F.R. § parts 556 & 558.

A. Application Forms

- (1) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant.

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"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 National Indian Gaming Commission 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 the Tribe 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."

(2) Existing key employees and primary management officials shall be notified in writing that they shall either:

- (a) Complete a new application form that contains a Privacy Act notice; or
- (b) Sign a statement that contains the Privacy Act Notice and consent to the routine uses described in that notice.
- (c) All license application forms used one-hundred and eighty (180) days after February 25, 2013, shall comply with this Section.

(3) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

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

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- (4) The Gaming Commission shall notify in writing existing key employees and primary management officials that they shall either:
- (a) Complete a new application form that contains a notice regarding false statements; or
 - (b) Sign a statement that contains the notice regarding false statements.
 - (c) All license application forms used one-hundred and eighty days (180) after February 25, 2013, shall comply with this Section.

B. Background Investigations:

- (1) The Gaming Commission shall conduct a background investigation of each primary management official or key employee, which is sufficient to make an eligibility determination under Subsection e below.
- (2) The Gaming Commission shall conduct background investigations in accordance with the standards and procedures as required by 25 CFR 556 & 558.
- (3) In conducting a background investigation, the Gaming Commission or its agent shall keep confidential the identity of each person interviewed in the course of the investigation.
- (4) The Gaming Commission shall request from each primary management official and key employee applicant all of the following information:
 - (a) Full name, any other names used (oral and/or written), social security number(s), birth date, place of birth, citizenship, gender, and all languages spoken or written;
 - (b) 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.

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- (c) The names and current addresses of at least three personal references, including one personal reference that was acquainted with the applicant during each period of residence listed under Paragraph (4)(b) of this Section;

Current business and residence telephone numbers, and all cell phone numbers
- (d) A description of any existing and previous business relationships with other Tribes, including ownership interests in those businesses.
- (e) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses.
- (f) 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;
- (g) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition;
- (h) For each misdemeanor 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;
- (i) 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 (4)(g) or (4)(h) of this Section, the criminal charge, the name and address of the court involved and the date and disposition;
- (j) 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;
- (k) A current photograph;

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- (l) Any other information the Gaming Commission deems relevant; and
 - (m) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h), which shall be submitted to the NIGC for a check of the criminal history records information maintained by the Federal Bureau of Investigation;
- (5) When a Tribe employs a primary management official or key employee, the Tribe shall maintain a complete file, containing all the information listed in Section 24(b)(4)(a-m).

C. Conducting Background Investigation.

- (1) The Gaming Commission or its agent is responsible for conducting the background investigations and making eligibility determinations for the licensing of key employees, primary management officials and general employees.

a. Organizational Chart.

i. The Executive Director of the Gaming Commission.

1. The Executive Director of the Gaming Commission under this gaming Ordinance, shall be ultimately responsible for conducting and/or causing to be conducted the background investigations of key employees and primary management officials. The Executive Director of the Gaming Commission may conduct the investigations personally or may assign Gaming Commission staff to conduct the background investigations on behalf of the Executive Director of the Gaming Commission. The Executive Director of the Gaming Commission may also designate a Licensing Agent to be responsible for reviewing and approving the investigative work performed. The Executive Director of the Gaming Commission or designee shall make all eligibility determinations concerning the licensing of key employees, primary management officials or general employees. A notice of results of the background investigation, including an eligibility determination, shall be submitted to the NIGC.

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ii. Licensing Agents and Background Investigators.

1. Licensing Agents and Background Investigators may be assigned by the Executive Director of the Gaming Commission to assist in background investigations. Any investigators employed for background investigations will be under the supervision of the Executive Director of the Gaming Commission or designee referred to in Subsection (a)(1) above. All reports of the investigators will be forwarded to the Gaming Commission Board or the Executive Director of the Gaming Commission or designee, who shall use the information from the reports to compile a notice of results, including an eligibility determination, for submission to the NIGC.
2. Persons responsible for the background investigations are granted authority under this Tribal Gaming Ordinance.

D. Investigative Reports.

- (1) Before issuing a license to a primary management official or key employee, the Gaming Commission shall create and maintain an investigative report for each background investigation, which shall include the following information;
 - a. Steps taken in conducting a background investigation;
 - b. Results obtained;
 - c. Conclusions reached; and
 - d. The basis for those conclusions.
- (2) The investigative report shall be retained for no less than 3 years from the date a primary management official or key employee is terminated from employment.

E. Eligibility Determinations.

- (1.) The Gaming Commission shall authorize a Tribal official to make a finding concerning the eligibility of a primary management official or key employee to receiving a gaming license.

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- a. The finding shall be based on the official's review of the information compiled for the background investigation conducted pursuant to this Ordinance, and shall include, but not be limited to a person's;
 1. Prior activities;
 2. Criminal record; and
 3. Reputation, habits and associations.
- b. If the authorized Tribal official, in applying the standards adopted in this Ordinance, determines that granting a gaming license to the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, and methods and/or activities in the conduct of gaming, the Gaming Commission shall not license that person as a primary management official or key employee.

SECTION 25: NOTICE OF RESULTS OF BACKGROUND INVESTIGATIONS.

- A. Before issuing a license to a Primary Management Official or Key Employee, the Tribal Gaming Commission shall submit a notice of results of the applicant's background investigation to the NIGC no later than sixty (60) days after the applicant begins work. The notice shall contain:
 - (1) Applicant's name, date of birth, and social security number;
 - (2) Date on which applicant began work or will begin work as a key employee, primary management official or general employee;
 - (3) A summary of the information presented in the investigative report, which shall, at a minimum, include a listing of:
 - a. Licenses that have been previously denied;
 - b. Gaming licenses that have been revoked, even if subsequently reinstated;
 - c. Every known criminal charge brought against the applicant within the last 10 years of the date of application; and
 - d. Every felony of which the applicant has been convicted or any ongoing prosecution; and
 - (4) A copy of the eligibility determination made under 25 C.F.R. § 556.5.

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SECTION 26: GRANTING GAMING LICENSES.

- A. All primary management officials and key employees of the gaming operation must have a gaming license granted and issued by the Gaming Commission.
- B. The Gaming Commission is responsible for granting and issuing gaming licenses to primary management officials and key employees.
- C. The Gaming Commission may license a primary management official or key employee only after submitting a notice of results of the applicant's background investigation to the NIGC, as required by Section 25.
- D. The Gaming Commission shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days after its issuance.
- E. The gaming Commission shall not employ an individual in a key employee or primary management official position who does not have a license after ninety (90) days of beginning work at a gaming operation.
- F. The Gaming Commission must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within the 30 days of the NIGC receiving a notice of results of the applicant's background investigation.
 - 1. The gaming Commission shall take into account the NIGC's objections when reconsidering a license application.
 - 2. The gaming commission shall make the final decision whether to issue a license to an applicant for a primary management official or key employee position.
- G. If the Gaming Commission has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, the license shall be immediately suspended, and a notice and hearing shall be provided to the licensee, as required by Section 28.

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SECTION 27: DENYING GAMING LICENSES.

- A. If the authorized Tribal official, in applying the standards adopted in the Tribal Ordinance, determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and

activities in the conduct of gaming, the authorized Tribal official shall not license that person in a key employee or primary management official position.

- B. If the Gaming Commission does not license an applicant, it shall;

(1) Notify the NIGC; and

(2) Forward copies of its eligibility determination and notice of results, under 25 C.F.R. § 556.6(b)(2), to the NIGC for inclusion in the Indian Gaming Record System.

SECTION 28: GAMING LICENSE SUSPENSION AND REVOCATION.

- A. If, after a license is issued to a primary management official or key employee, the Tribe receives a notice from the NIGC that the primary management official or key employee is not eligible for employment, the Gaming Commission shall do the following;

(1.) immediately suspend the license;

(2.) provide the licensee with a written notice of the suspension and proposed revocation; and

(3.) provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.

- B. A right to a hearing under this part shall vest only upon receipt of a license granted under an Ordinance approved by the NIGC Chair under 25 C.F.R. §558.4(d).

- C. After a revocation hearing, the Tribe shall notify the NIGC of its decision to revoke or reinstate a gaming license within 45 days of receiving notification from the NIGC, pursuant to paragraph (a) of this Section, that a primary management official or key employee is not eligible for employment.

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SECTION 29: LICENSING NOTIFICATIONS AND SUBMISSIONS TO THE NIGC.

A. Before issuing a license to a primary management official or to a key employee, the Tribe shall:

(1) Create and maintain an investigative report on each background investigation. An investigative report shall include all of the following:

- a. Steps taken in conducting a background investigation;
- b. Results obtained;
- c. Conclusions reached; and
- d. The basis for those conclusions.

(2) Submit a notice of results of the applicant's background investigation to the NIGC no later than sixty (60) days after the applicant begins work. The notice of results shall contain:

- a. Applicant's name, date of birth, and social security number;
- b. Date on which the applicant began or will begin work as a key employee or primary management official;
- c. A summary of the information presented in the investigative report, which shall at a minimum include a listing of :
 - i. Licenses that have previously been denied;
 - ii. Gaming licenses that have been revoked, even if subsequently reinstated;
 - iii. Every known criminal charge brought against the applicant within the last 10 years of the date of application; and
 - iv. Every felony of which the applicant has been convicted or any ongoing prosecution.
- d. A copy of the eligibility determination made under 25 C.F.R. § 556.5.

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- (3) After the Tribe has provided a notice of results of the background investigation to the NIGC, the Tribe may license a primary management official or key employee.
- (4) Within 30 days after the issuance of the license, the Tribe shall notify the NIGC of its issuance.
- (5) A gaming operation shall not employ a key employee or primary management official who does not have a license after ninety days.
- (6) If the Tribe does not license an applicant –
 - a. The Tribe shall notify the NIGC; and
 - b. Shall forward copies of the eligibility determination and notice of results, under 25 C.F.R. § 556.6(b)(2), to the NIGC for inclusion in the Indian Gaming Individuals Record System.

SECTION 30: RECORDS RETENTION.

- A. The Tribe shall retain the following for inspection by the NIGC Chair or his or her designee for no less than three years from the date of a primary management official's or key employee's termination of employment:
 - (1) Applications for licensing;
 - (2) Investigative reports; and
 - (3) Eligibility determinations.
- B. When the Tribe employs a primary management official or a key employee, the Tribe shall maintain a complete application file containing the information listed under 25 C.F.R. § 556.4(a)(1) through (14).
 - (1.) Before issuing a license to a primary management official or to a key employee, the Tribe shall:
 - a. Create and maintain an investigative report on each background investigation. An investigative report shall include all of the following:
 - b. Steps taken in conducting a background investigation;
 - c. Results obtained;

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- d. Conclusions reached, and
- e. The basis for those conclusions.

SECTION 31: ANNUAL AUDIT

The Tribal Legislature will annually provide the NIGC with a copy of that portion of the audit prepared by the Tribe's independent auditor that relates to the gaming. This audit will include, among other matters, all contracts for supplies, services (except legal or accounting) or concessions in excess of \$25,000 annually that relate to the gaming operation.

SECTION 32: GAMING ACCOUNT

By resolution, the Tribe, by the Tribal Legislature, shall designate one banking account as the Tribal "Gaming Account." The account shall be maintained in a financial institution designated by the Tribal Legislature. The Gaming Account shall be subject to the Annual Audit. Gross revenues derived from the conduct of Tribal Gaming operations, excluding any cash payouts made during a Gaming session shall be deposited in the Tribal Gaming Account. No other monies shall be commingled with the Tribal Gaming Account. Except as specifically approved by the Tribal Legislature, disbursements from the Tribal Gaming Account will only be made to pay reasonable and necessary expenses and will only be made on checks endorsed by the Executive Branch. Net revenues are to be transferred monthly to the Tribe's General Fund account to be disbursed solely as authorized by Tribal Legislature appropriation.

SECTION 33: SUPPLIES AND EQUIPMENT

All reasonable and necessary expenses of the gaming operation must be approved by the Executive Branch. Provided further that all contracts for purchases of supplies, concessions, or services (excluding contracts for professional, legal or accounting services) must receive prior approval of the Executive Branch which shall be obtained by the GM by submitting the proper requisition. All purchases of equipment, materials, concessions and food or any other item paid from the Gaming Account shall be the property of the Tribe.

SECTION 34: LOCATION AND SCHEDULE OF GAMING

All gaming sessions authorized herein shall be conducted at a place on Indian Lands within Tribal Gaming Facilities and on such days and times as may be approved by the Tribal Legislature. The location and time for conducting Class III Gaming shall be consistent with any Tribal-State Compact.

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SECTION 35: EXCLUSION AND DISCRIMINATION

Notwithstanding any other provision of this Section, the Tribe's Chief District Judge, a member of the Executive Branch, Gaming Commissioners, the Executive Director, or the General Manager may bar, ban or exclude any person from admittance to any Tribal gaming facility, temporarily or for life, for any or no reason whatsoever. However, no person shall be discriminated against because of his race, color, creed, sex, or natural origin.

Any designated casino management may temporarily ban, bar or exclude any person from admittance to a Tribal gaming facility only under the authority delegated to them by the Gaming Commission or the Executive Branch.

Self-exclusions or voluntary banishments will be accepted whether temporarily or for life and will be subject to a voluntary banishment hearing if rescindment of the banishment is requested.

SECTION 36: PATRON DISPUTE RESOLUTION

In the event of (a) an alleged personal injury or property damage suffered by a patron of the gaming facility, or (b) a dispute between a patron and the gaming enterprise regarding the payment of a bet or the distribution of winnings, the patron may make a claim against the gaming enterprise as follows:

A. Personal Injury or Property Damage.

(1) Making a Claim.

Any patron having a claim against the gaming enterprise for personal injury or property damage shall present a claim to the gaming enterprise for any appropriate relief including the award of money damages. Claims against the gaming enterprise are to be presented within ninety (90) days of the date the injury or loss occurs. In the event a claim is not presented following ninety (90) days after the injury or loss occurs, but within one (1) year, any judgment in a lawsuit arising from the act which is the subject of the claim shall be reduced by ten (10) percent. A claim against the gaming enterprise shall be forever barred unless notice thereof is presented within one (1) year after the injury or the loss occurs. A claim against the gaming enterprise shall be in writing and filed with the Tribal Gaming Commission at the address of the gaming facility. Notices explaining this procedure shall be posted in the gaming facility. Such notices shall explain that this procedure is the exclusive method of making a tort claim. Such notices shall explain that upon denial of a claim redress must be sought exclusively in a competent court of jurisdiction.

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(2) Notice.

The written notice of claims of the gaming enterprise shall state the following:

- (a) Date;
- (b) Time;
- (c) Place;
- (d) Circumstances of the claim;
- (e) the identities of Tribal or gaming employees, and witnesses as applicable,
- (f) the amount of compensation or other relief demanded,
- (g) the name, address and telephone number of the claimant; and
- (h) the name, address and telephone number of any agent authorized to settle the claim.

(3) Denial.

A claim is deemed denied if the gaming enterprise fails to approve the claim in its entirety within ninety (90) days of receipt, unless the interested parties have reached a settlement before the expiration of that period. A person may not initiate suit against the gaming enterprise unless the claim has been denied in whole or in part. The claimant and the gaming enterprise may continue attempts to settle a claim; however, settlement negotiations do not extend the date of denial.

(4) Limitations

No action for any cause arising from personal injury or property damage shall be maintained unless valid notice has been given and the action is commenced in the Citizen Potawatomi Nation Tribal court within 180 days after denial of the claim as set forth herein. Neither the claimant nor the gaming enterprise may extend the time to commence an action by continuing to attempt settlement of the claim.

B. Patron Dispute – Payment of Winnings.

(1) Administrative Process.

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Any person who has any dispute, disagreement or other grievance with the gaming enterprise that involves currency, tokens, coins, or any other thing of value, may seek resolution of such dispute from the following persons and in the following order:

- (a) a member of the staff relevant of the gaming enterprise.
- (b) the supervisor in the area of the relevant gaming enterprise in which the dispute arose.
- (c) the General Manager of the gaming enterprise.

(2) Patron Rights Regarding Disputes.

When a patron brings a dispute for resolution through the administrative process, the complainant shall have the right to explain his or 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. Resolution of any dispute by the personnel of a gaming enterprise shall always involve two or more staff members. All disputes, whether resolved or not, shall be reported in detail by the staff persons involved to their supervisor, the General Manager of the property, and to the Gaming Commission.

(3) Refusal to Pay Winnings.

Whenever the gaming enterprise refuses payment of alleged winnings to a patron and the General Manager of the property and the patron are unable to resolve the dispute to the satisfaction of the patron and the dispute involves:

- (a) At least five hundred Dollars (\$500.00), the General Manager shall immediately notify the Gaming Commission. The Gaming Commission shall conduct whatever investigation it deems necessary and shall determine whether payment should be made; or
- (b) Less than five hundred dollars (\$500.00), the General Manager shall inform the patron of his or her right to request that the Gaming Commission conduct an investigation. Upon request of the patron, the Gaming Commission shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.

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SECTION 37: REPORT OF WINNERS

No prize shall be awarded unless the winner has fairly won without any collusion with the GM or any of his employees or agents. A receipt acknowledging acceptance and receipt of the prize awarded must be signed by any winner if it exceeds the amount

designated by the GM or by law or regulation. The GM has the authority to hold the payment of any winnings indefinitely until the final verification of authentic winning has been determined whether by inquiry or electronic means of validation upon the approval of the Executive Director of the Gaming Commission, Gaming Commission Board or Tribal Chairman or designee.

The Executive Director of the Gaming Commission or designee shall ensure accurate and timely reports are sent to the Internal Revenue Service of any winners at any gaming facility whose prize winnings exceed the minimum limits set by the Internal Revenue Service. When this occurs, acceptable proof of a winner's name, address, and social security number must be presented to the GM or his designee in order to be paid prizes.

SECTION 38: CRIMINAL PENALTIES

Any person or firm violating the provisions of this chapter shall be guilty of an offense and shall, upon conviction thereof, be punished as provided by law. If a person is convicted in Tribal court, he may be punished by confinement in the Tribal jail for a period of not less than ten (10) days and no more than six (6) months or by a fine of not less than \$500 and no more than \$5,000 or by both such fine and imprisonment per occurrence.

Such remedy shall not be exclusive or preclude any civil or other judicial remedy available to the Tribe.

SECTION 39: SERVICE OF PROCESS

All notices or process made pursuant to this Ordinance may be made by directing said notice to:

The Executive Director of the Gaming Commission
Citizen Potawatomi Nation
1601 S. Gordon Cooper Drive
Shawnee, OK 74801

Cc: Tribal Chairman
Citizen Potawatomi Nation
1601 S. Gordon Cooper Drive
Shawnee, OK 74801

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SECTION 40: REPEALER

Any prior gaming ordinances and all other ordinances inconsistent herewith are hereby repealed.

SECTION 41: EFFECTIVE DATE

This Ordinance shall become effective on the date of approval.

CERTIFICATION

The undersigned, in his capacity as Secretary-Treasurer of the Citizen Potawatomi Nation, hereby certifies that the above and foregoing Ordinance is a true and correct copy of the Gaming Ordinance of the Citizen Potawatomi Nation, as amended via Ordinance #14-04-Or-14-04-T23 with approval of the Legislature of the Citizen Potawatomi Nation, on the 22nd day of May, 2014, with 13 voting for, 0 opposed, 3 absent and 0 abstaining.


D. Wayne Trousdale
Secretary-Treasurer

Executive Approval:

☒ Approved
☐ Disapproved


John A. Barrett
Tribal Chairman