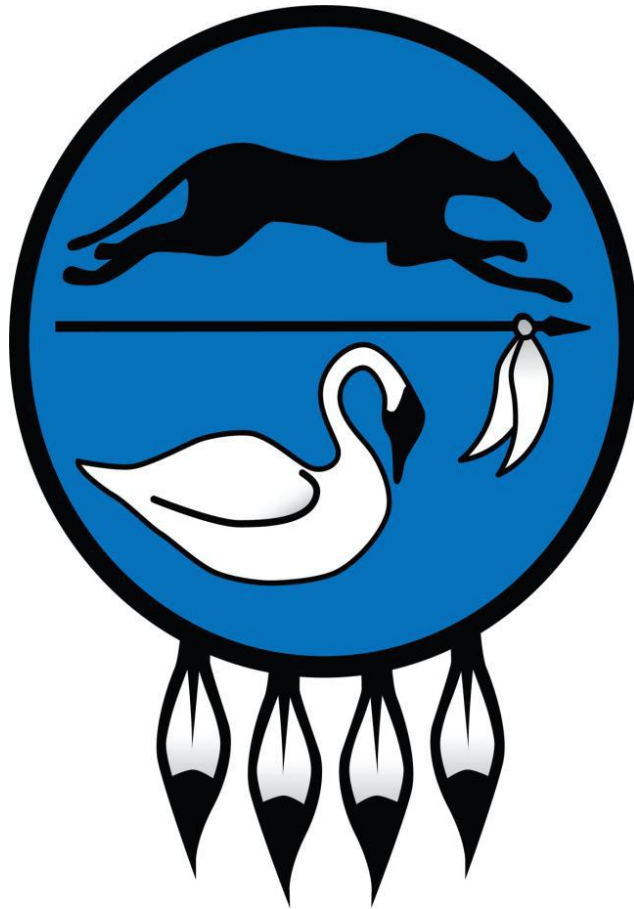


# Gaming Ordinance



Eastern Shawnee Tribe of  
Oklahoma

# EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE

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# EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE

## Section 1.00 Title

This ordinance shall be known and may be cited as the Eastern Shawnee Tribe of Oklahoma Gaming Ordinance.

## Section 1.01 Purpose

The Business Committee of the Eastern Shawnee Tribe of Oklahoma (Tribe), empowered by the Tribe's Constitution to enact ordinances, hereby enacts this ordinance in order to govern Class II and Class III gaming operations on Tribal lands.

## Section 1.02 Liberal Interpretation/Severability

The provisions of this Ordinance, being necessary for the welfare of the Tribe and its members, shall be construed liberally to affect the purpose and objective contained herein. Section and subsection headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions, of any section or subsection of this Ordinance.

The provisions of the Ordinance are severable and if any part or provision hereof shall be held void by appropriate judicial authority, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of the Ordinance.

## Section 1.03 Definitions

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

Specifically:

- (a) **Business Committee** means the Tribal Business Committee as described in the Constitution of the Eastern Shawnee Tribe of Oklahoma.
- (b) **Class II Gaming** means that gaming defined in 25 U.S.C. §2703(7) and 25 C.F.R. §502.3.
- (c) **Class III Gaming** means that gaming defined in 25 U.S.C. §2703(8) and 25 C.F.R. §502.4.
- (d) **Ordinance** means the Eastern Shawnee Tribal Gaming Ordinance.
- (e) **Commission** means the Eastern Shawnee Tribal Gaming Commission established to perform regulatory oversight and to monitor compliance with Tribal, Federal, and applicable State regulations.
- (f) **Commissioner** means The Eastern Shawnee Tribal Gaming Commissioner or Deputy Gaming Commissioner. Also known as member of the Eastern Shawnee Tribal Gaming Commission.
- (g) **Compact** means an agreement between the Tribe and the State of Oklahoma concerning Class III gaming negotiated pursuant to 25 U.S.C. §2710(d).

## EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE

- (h) **Complimentary** shall have the meaning as set forth in 25 C.F.R. §542.2(a).
- (i) **Directly related to** means a spouse, child, parent, grandparent, grandchild, aunt or uncle.
- (j) **IGRA** means the Indian Gaming Regulatory Act of 1988, 102 Stat. 2467, codified at 25 U.S.C. §§2701 *et seq.*
- (k) **Key Employee** means:
  - (1) A person who performs one or more of the following functions:
    - (i) bingo caller;
    - (ii) counting room supervisor;
    - (iii) security personnel;
    - (iv) custodian of gaming supplies or cash;
    - (v) floor manager;
    - (vi) pit boss;
    - (vii) dealer;
    - (viii) croupier;
    - (ix) approver of credit; or
    - (x) custodian of gambling devices, including persons with access to cash and accounting records within such device;
  - (2) if not otherwise included, any other person whose total cash compensation is in excess of Fifty Thousand Dollars (\$50,000) per year; or
  - (3) if not otherwise included, the four most highly compensated person in a Gaming Operation or Gaming Facility.
- (l) **Net Revenues** means gross gaming revenues of an gaming operation, less:
  - (1) Amounts paid out as, or paid for, prizes; and
  - (2) Total gaming-related operating expenses, excluding management fees.
- (m) **NIGC** means National Indian Gaming Commission.
- (n) **Primary Management Official** means:
  - (1) The person(s) having management responsibility for a management contract;
  - (2) Any person who has authority:
    - (i) To hire and fire employees; or
    - (ii) To set up working policy for the gaming operation; or
    - (iii) The chief financial officer or other person who has financial management responsibility.
- (o) **TICS** means Tribal Internal Control Standards.
- (p) **Tribal lands** means:
  - (1) All lands within the limits of any Tribe's reservation;
  - (2) Any lands title to which is either held in trust by the United States for the benefit of the Tribe or individual or held by the Tribe or individual subject to restriction by the United States against alienation and over which the Indian Tribe exercises governmental power; and
  - (3) For all lands acquired into trust for the benefit of an Indian Tribe after October 17, 1988, the lands meet the requirements set forth in 25 U.S.C. §2719.

## **EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE**

- (q) **Tribe/Indian Tribe** means the Eastern Shawnee Tribe of Oklahoma, a federally recognized Indian Tribe organized pursuant to the sovereign powers of the Eastern Shawnee people.

### **Section 1.04 Gaming Authorized**

Class II and Class III gaming are hereby authorized.

### **Section 1.05 Ownership of Gaming**

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

### **Section 1.06 Use of Gaming Revenue**

- (a) Net revenues from tribal gaming shall be used only for the following purposes:
- (1) to fund tribal government operations and 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 1.07 Per Capita Payments**

No per capita payments to Tribal members shall be made from Tribal gaming revenues unless pursuant to 25 U.S.C. §2710(b)(3) and applicable Ordinance of Federal Regulations provisions.

### **Section 1.08 Gaming Commission**

- (a) The Tribe hereby establishes the Eastern Shawnee Tribal Gaming Commission whose duty it is to regulate tribal gaming operations. There shall be a Gaming Commissioner and two Deputy Gaming Commissioners.
- (1) The minimum requirements for appointment as a member of the Commission shall be two of the following:
- (i) Bachelor's Degree in Business Administration, Accounting, Marketing, or an equivalent field;
  - (ii) Minimum five (5) years experience in tribal gaming;
  - (iii) Minimum five (5) years experience in casino management;
  - (iv) Demonstrated knowledge of federal Indian law, the Indian Gaming Regulatory Act, and related statutes and regulations.
- (b) The purpose of the Commission is regulatory, not managerial. The Commission will conduct oversight to ensure compliance with Tribal, Federal and State laws and regulations. The Commission will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the internal controls for the gaming operation

## EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE

and in tracking revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all records. The Commission shall have authority to take enforcement actions, including but not limited to suspension or revocation of an individual gaming license when appropriate.

- (c) The Tribe recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated gaming operation. The Commission shall be and act independently and autonomously from the Business Committee in all matters within its purview. No prior or subsequent review by the Business Committee of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Ordinance. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe hereby finds that, at a minimum:
- (1) No member of the Business Committee or the Chief of the Tribe may serve on the Gaming Commission;
  - (2) Any individual who is directly related to or living with a Business Committee member or the Chief of the Tribe shall not be eligible for nomination or confirmation to serve as a member of the Gaming Commission or be considered for employment by the Gaming Commission, unless they were serving as a member or employed by the Gaming Commission prior to the election of the Business Committee Member or Chief of the Tribe;
  - (3) Members and employees of the Gaming Commission are prohibited from gambling in the facility; and
  - (4) Members and employees of the Gaming Commission are prohibited from accepting complimentary items from the gaming operation, except food and beverages.
  - (5) Being a member or employee of the Gaming Commission and directly related to any Business Committee member shall be considered a Conflict of Interest. For Conflicts of Interest, the Constitution of the Eastern Shawnee Tribe of Oklahoma Article VIII Section 8 shall apply.
- (d) The Gaming Commissioner and Deputy Gaming Commissioner positions shall be filled by nomination of the Chief and confirmation by the Business Committee. After written nomination by the Chief, the Secretary of the Business Committee shall put the appointment upon the agenda of the next regular or special called Business Committee meeting, whichever comes first, and address the selection at such meeting. The Business Committee shall have ten (10) days from written nomination to confirm the appointment. Should the Business Committee fail to confirm the nomination by the Chief within the prescribed time period, the nominee will be considered confirmed.
- (e) Nominees for positions of the Gaming Commissioner and Deputy Gaming Commissioner shall be subject to the same background requirements as key employees and primary management officials. To be eligible to serve as Gaming Commissioner or Deputy Gaming Commissioner, a person must be at least twenty-five (25) years of age.
- (f) The Commission shall:

## **EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE**

- (1) Conduct or cause background investigations to be conducted on, at a minimum, primary management officials and key employees;
- (2) Review and approve all investigative work conducted;
- (3) Reports results of background investigations to the NIGC;
- (4) Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
- (5) Make licensing suitability determinations, which shall be signed by the Gaming Commissioner or Deputy Gaming Commissioner;
- (6) Issue gaming licenses to management officials and employees of the operation, consistent with the suitability determination;
- (7) Establish standards for licensing Tribal gaming operations;
- (8) Issue facility gaming licenses to Tribal gaming operations;
- (9) Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;
- (10) Ensure compliance with all Tribal, State, and Federal laws, rules, and regulations regarding Indian gaming;
- (11) Investigate any suspicion of wrongdoing associated with any gaming activities;
- (12) Hold hearings on patron complaints, in compliance with procedures established in the gaming Ordinance and other Tribal gaming regulations;
- (13) Comply with any and all reporting requirements under the IGRA, Tribal-State compact to which the Tribe is a party, and any other applicable law;
- (14) Promulgate and issue regulations necessary to comply with applicable internal control standards;
- (15) Promulgate and issue regulation on the levying of fee and/or taxes associated with gaming license applications.
- (16) Promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming Ordinance, or any other Tribal, Federal, or State, if applicable, gaming regulations;
- (17) Establish a list of persons not allowed to game in Tribal gaming facilities in order to maintain the integrity of the gaming;
- (18) Establish a list of persons who have voluntarily asked to be excluded from the Tribal gaming facility and create regulations for enforcing this exclusion;
- (19) Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, Federal, or State statutes, ordinances, or resolutions;
- (20) Create a list of regulatory authorities that conduct vendor background investigations and licensing which the Commission recognizes as trustworthy;
- (21) Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
- (22) Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation.



## EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE

- (23) Promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Ordinance.
- (g) The Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel or others employed by the tribal gaming operation on a need-to-know basis for actions taken in their official capacities.
- (h) Terms of Office for the Gaming Commissioner and Deputy Gaming Commissioner shall be four (4) years from the date of oath of office.
- (1) A Commissioner or Deputy Commissioner whose term has expired shall hold his/her seat until the office is filled according to the guidelines of this Ordinance.
- (2) Should a vacancy occur, the seat shall be filled according to the guidelines of this Ordinance.
- (i) The following persons are not eligible to serve as Gaming Commissioner and/or Deputy Gaming Commissioner: while serving as such; employees of the gaming operation; gaming contractors (including any principal of management or other contracting company); persons ineligible to be key employees or primary management officials. The Business Committee shall require a criminal history check with appropriate law enforcement agencies and shall review this criminal history report and make an appropriate suitability determination.
- (j) The independence of the Gaming Commission is essential to a well-regulated gaming operation. For that reason, Commissioners may only be removed from office by the Business Committee prior to the expiration of their respective terms for neglect of duty, misconduct, or malfeasance that would render a Commissioner unqualified for his/her position. Any allegations of neglect of duty, misconduct, or malfeasance must be substantiated by a preponderance of the evidence in writing, and must be given fourteen (14) days in advance of a hearing. Commissioners shall have the option to legal counsel. Commissioners will be given an opportunity to provide evidence rebutting the grounds for their proposed removal before the removal. A unanimous vote of the Business Committee on the validity of the removal shall be final and may be subject to appeal in CFR. A wrongful removal shall entitle the affected Commissioner to compensation for expenses incurred in an appeal and any pay withheld.
- (k) The Commission may act in its official capacity even if there are vacancies on the Commission.
- (l) Gaming Commissioners and Deputy Gaming Commissioners shall be compensated at a level determined by the Business Committee. The Chief of the Eastern Shawnee Tribe shall provide oversight duties for the Gaming Commission office.
- (m) Commissioner compensation shall not be based on a percentage of gaming revenue to ensure the Commission is not improperly influenced.

## EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE

- (n) The Tribal Gaming Commission's annual budget shall be determined by the Commission and approved by the Business Committee. The Gaming Commission shall maintain an administrative office and staff personnel. The Gaming Commission staff will consist of Compliance Agents, Licensing Agents, Auditors, Inspectors, Office support and any other personnel to properly operate the Gaming Commission office to fulfill its responsibilities under this Ordinance. The Commission may retain legal counsel, consultants or other professional services.

### Section 1.09 Ethics

- (a) The Tribe recognizes that the duties of the Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Commission shall be held to extremely high ethical standards. Prior to taking their positions on the Commission, employees of the Commission, including the Gaming Commissioner and Deputy Gaming Commissioners, shall agree to be bound by the following principles:
  - (1) Employees shall not hold financial interests that conflict with the conscientious performance of their duties as managers and regulators.
  - (2) Employees shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest.
  - (3) Employees shall not solicit or accept any gift or other item of monetary value, including complimentary items or services (see Section 1.09, below), from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the member's organization, or whose interests may be substantially affected by the performance or nonperformance of the Members' duties.
  - (4) Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Tribe.
  - (5) Employees shall not use their positions for private gain.
  - (6) Employees shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons related to Members.
  - (7) Employees shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.
  - (8) Employees shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.
  - (9) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
  - (10) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.

## **EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE**

- (11) Employees shall disclose any real or apparent financial or personal conflicts. If there is a real conflict or the appearance of one, the member shall not take part in any decision related to the conflict.

### **Section 1.10 Complimentary Items**

- (a) The use of complimentary items shall be governed by regulations established by the Gaming Commission.
- (b) No Member or employee of the Gaming Commission, shall be authorized to receive complimentary items other than food and beverages and non-monetary items, or, if at a public event held at the gaming facility, the free items offered to the general public.
- (c) Complimentary Items shall be included in the annual budget for the gaming operation, with maximum limits specified, and shall be subject to approval by the Business Committee.

### **Section 1.11 Audit**

- (a) The Gaming Commission shall cause an annual audit of all gaming operations to be conducted by an independent certified public accountant, and shall submit the resulting audit reports to the National Indian Gaming Commission.
- (b) All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection (a) above.

### **Section 1.12 Environment and Public Health and Safety**

- (a) Gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.
- (b) The Business Committee shall adopt standards that assure adequate protection of the environment and the public health and safety.

### **Section 1.13 Patron Dispute Resolution**

- (a) Patrons who have complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief with the Gaming Commission. Complaints shall be submitted in writing, and at the discretion of the Commission, the petitioner may be allowed to present evidence.
- (b) The Gaming Commission shall schedule a hearing within ten (10) days, and hold the hearing no later than thirty (30) days of receipt of petitioner's complaint. Petitioner may have counsel present at such hearing. The Commission shall render a decision in a timely fashion and all such decisions will be final when issued.
- (c) Any patron's complaint must be submitted to the Commission no later than one hundred-eighty (180) days after the denial of the claim by the operation.

## **EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE**

- (d) All claims by patrons shall be limited to a maximum recovery of Two Hundred Fifty Thousand (\$250,000) for any one person and Two Million (\$2,000,000) for any one occurrence for personal injury and One Million (\$1,000,000) for any one occurrence for property damage, except disputes relating to a patron's entitlement to a game prize, which shall be limited to the amount of such prize. No claim shall be paid, or be the subject of any award, in excess of the limit of liability. The Commission's decision shall constitute the complainant's final remedy.

### **Section 1.14 Regulations**

Any regulations promulgated by the Gaming Commissioner shall have full force and effect from the date of issuance, provided however: before adopting, amending and repealing regulations, The Commissioner shall give a 14 day notice of any such proposed action to the Business Committee, the gaming operation(s) and all other persons whom the Commission has a reason to believe have a legitimate interest in the proposed actions. The notice shall invite comments and describe the general nature of the proposed action and the manner in which comments on the proposed action shall be received by the Commission.

### **Section 1.15 Facility Licenses**

- (a) The Gaming Commission 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.
- (b) The Gaming Commission 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 every three (3) years. The Gaming Commission shall specify the form, conditions and content for the application for such licenses, which shall be submitted by the General Manager of the facility, and the initial application shall include a legal description of the lands whereon the facility is located, and a certification that said premises constitute "Indian lands" as specified in the Indian Gaming Regulatory Act, and shall identify the environmental, health, and public safety standards with which the facility must comply, and a certification that the facility is in compliance therewith. Each subsequent application for the renewal of such facility license shall identify any changes or additions to said legal description and applicable environmental, health and safety standards, and include current certifications of compliance therewith. The Gaming Commission shall only issue such licenses if the applications therefor include the required information and certifications and such further conditions as the Gaming Commission shall have specified.

### **Section 1.16 Agent for Service of Process**

The Tribe hereby designates the Chief of the Eastern Shawnee Tribe as agent for service of process, who may be contacted at:

Chief of Eastern Shawnee Tribe

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12755 South 705 Road  
Wyandotte, OK 74370  
with additional concurrent notice to:  
Eastern Shawnee Tribal Gaming Commission  
12751 S 705 RD  
Wyandotte, OK 74370

## **Section 1.17 Compliance with Federal Law**

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

## **Section 1.18 Repeal**

To the extent that they are inconsistent with this Ordinance, all prior gaming Ordinances are hereby repealed.

## **Section 1.19 Amendment**

This Ordinance may be amended only by a unanimous vote of the Tribe's Business Committee.

## **Section 1.20 Licenses of Key Employees and Primary Management Officials**

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 enterprise operated on Indian lands. The Gaming Commission will issue licenses and perform background investigations according to requirements at least as stringent as 25 C.F.R. Parts 556 and 558.

## **Section 2.01 License Application Forms**

- (a) The following notice shall be placed on the application form for a key employee or a primary management official:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information 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 the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when necessary pursuant to a requirement by a Tribe or the

## **EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE**

National Indian Gaming Commission in connection with the issuance, denial or revocation of a gaming license, or investigation of activities while associated with a Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe 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.

- (b) The following additional notice shall be placed on the application form for a key employee or a primary official:

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) The Commission shall notify in writing existing key employees and primary management officials who have not completed an application containing the notices set forth above that they shall either:
  - (1) Complete a new application form that contains both the Privacy Act and false statement notices; or
  - (2) Sign a statement that contains the Privacy Act and false statement notices and consent to the routine uses described in that notice.

### **Section 2.02 License Fees**

The Gaming Commission will set and charge a licensing fee for investigative purposes and licensing of Key Employee and Primary Management Officials of the gaming operation.

### **Section 2.03 Fingerprints**

Each applicant for a Key Employee or Primary Management Official shall be required to have fingerprints taken as part of the license application procedure. Fingerprints shall be taken by Gaming Commission personnel and forwarded to the NIGC for processing through the FBI and NCIC to determine the applicant's criminal history, if any. In the event that the Gaming Commission is temporarily unable to take the applicant's fingerprints, then the Gaming Commission may cause the fingerprints to be taken by Tribal law enforcement or any other city, county, state or federal law enforcement agency.

### **Section 2.04 Background Investigations**

- (a) The Gaming Commission is responsible for conducting background investigations and suitability determinations.

## EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE

- (b) The Gaming Commission shall request from each primary management official and from each key employee all of the following information:
- (1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
  - (2) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
  - (3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (b)(2) of this section;
  - (4) Current business and residence telephone numbers;
  - (5) A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;
  - (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
  - (7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
  - (8) For each felony for which there was an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
  - (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
  - (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is not otherwise listed pursuant to paragraph (b)(8) or (b)(9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
  - (11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
  - (12) A photograph taken within the last year;
  - (13) Fingerprints; and
  - (14) Any other information the Tribe deems relevant.

### Section 2.05 Procedures for Conducting a Background Check on Applicants

- (a) As part of its review procedure, the Commission or its agent shall conduct a background investigation on each applicant sufficient to allow the Gaming Commission to make an eligibility determination under section 2.06 below. The Commission or its agent shall:
- (1) Verify the applicant's identity through items such as a social security card, drivers license, birth certificate, or passport;

## **EASTERN SHAWNEE TRIBE OF OKLAHOMA GAMING ORDINANCE**

- (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 criminal history check via the submission of the applicant's fingerprints to the NIGC, and further obtain information from the appropriate court regarding past felony and/or misdemeanor convictions and criminal charges within the last ten years;
  - (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; and
  - (8) Take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted.
- (b) The Commission or its agent shall create an investigative report noting the steps taken, information gained, potential problems areas, and disqualifying information.
- (c) The Gaming Commission and its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation, other than disclosure as required under Federal, Tribal, or State law.

### **Section 2.06 Eligibility Determination**

The Gaming Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for granting of a gaming license. If the Gaming Commission determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming the Gaming Commission shall not license that person in a key employee or primary management official position.

### **Section 2.07 Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission**

- (a) When a key employee or primary management official is employed to work at a gaming operation authorized by this ordinance, the Commission shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in section 2.06 above.
- (b) The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.



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### Section 2.08 Report to the National Indian Gaming Commission

- (a) The Tribal Gaming Commission shall prepare and forward a report on each background investigation to the National Indian Gaming Commission. An investigative report shall include all of the following:
  - (1) The applicant's name, date of birth, and social security number;
  - (2) The date on which the applicant began, or will begin, working as a primary management official or key employee;
  - (3) Summary of information including:
    - (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 the application; and
    - (iv) Every felony offense of which the applicant has been convicted or any ongoing prosecution.
  - (4) Results obtained;
  - (5) Conclusions reached; and
  - (6) The basis for those conclusions.
- (b) The Commission shall forward the completed investigative report to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.
- (c) The Commission shall submit, with the investigative report, a copy of the eligibility determination, unless the NIGC shall have advised the Tribe that the submission of the eligibility determination is not necessary. This determination shall include a Statement describing how the information submitted by the applicant was verified; a Statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; a Statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Gaming Commission to make a finding concerning the eligibility for licensing required for employment in a gaming operation; and a Statement documenting the disposition of all potential problem areas noted and disqualifying information obtained.
- (d) If a license is not issued to an applicant, the Gaming Commission:
  - (1) Shall notify the NIGC; and
  - (2) Shall forward copies of its eligibility determination and investigative report to the NIGC for inclusion in the Indian Gaming Individuals Records System.
- (e) With respect to all employees, and in particular key employees and primary management officials, the Gaming Commission shall retain applications for employment reports of background investigations and eligibility determinations for inspection 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.

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## Section 2.09 Granting a Gaming License

- (a) If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Gaming Commission, acting for the Tribe, may issue a license to such applicant.
- (b) The Gaming Commission shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days of issuance.
- (c) The Gaming Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission 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 under paragraph (a) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
- (d) If, within the thirty (30) day period described above, the National Indian Gaming Commission 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 Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Gaming Commission shall make the final decision whether to issue a license to such applicant.

## Section 2.10 License Suspension

- (a) If, after the issuance of a gaming license, the Gaming Commission receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment, the Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
- (b) The Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- (c) The right to a revocation hearing vests only when a license is granted under an ordinance approved by the NIGC Chair.
- (d) After a revocation hearing, the Gaming Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment. The revocation of a gaming license by the Gaming Commission is final with no appeal.

## Section 3.01 Licenses for Vendors

- (a) Vendors of gaming services or supplies with a value of \$25,000 or more annually must have a vendor license from the Gaming Commission in order to

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transact business with the Tribal gaming operation. Contracts for professional legal and accounting services may be excluded from this section.

- (b) Gaming vendors are vendors who provide gaming supplies and services, including cash-related services.
- (c) Non-gaming vendors provide services that do not have the ability to impact the integrity of the Tribal gaming operations, such as media advertising, facility maintenance workers, linen and laundry services, and food and beverage suppliers. The Gaming Commission shall create a regulation detailing which vendors fall into this category and shall maintain a register of the non-gaming vendors that it licenses. The regulation may exempt from licensing requirements non-gaming vendors who: 1) are Tribal, Local, State, or Federal government agencies; 2) are regulated by the State of Oklahoma or the Tribe; or 3) will provide goods of insubstantial or insignificant amounts or quantities if the Gaming Commission determines that licensing of the vendor is not necessary to protect the public interest.
- (d) Attorneys or Certified Public Accountants may be exempt from the licensing requirements herein to the extent that they are providing services covered by their professional licenses. Attorneys or Certified Public Accountants will be registered with the Gaming Commission.

### **Section 3.02 Submission of a Vendor License Application**

In order to obtain a gaming vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include its officers, directors, management, owners, partners, non-institutional stockholders that either own 5% or more of the stock or are the 10 largest stockholders, and the on-site supervisor and manager under the agreement with the Tribe.

### **Section 3.03 Contents of the Vendor License Application**

- (a) Applications for gaming vendor licenses must include the following:
  - (1) Name of business, business address, business phone, federal tax ID number (or SSN if a sole proprietorship), main office address if different from business address, any other names the applicant has done business under, type of service applicant will provide;
  - (2) Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;
  - (3) If the applicant is a corporation, the state of incorporation, and the qualification to do business in the State of Oklahoma if the gaming operation is in a different State than the State of incorporation.
  - (4) Trade name, other names ever used, names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
  - (5) General description of the business and its activities;
  - (6) Whether the applicant will be investing in or loaning money to the gaming operation and, if so, how much;

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- (7) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
  - (8) A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial, or management interests in non-gaming activities;
  - (9) Names, addresses, and phone numbers of three business references with whom the company had regularly done business for the last five years;
  - (10) The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
  - (11) If the business has ever had a license revoked for any reason, the circumstances involved;
  - (12) A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition if any;
  - (13) List the business' funding sources and any liabilities of \$50,000 or more.
  - (14) A list of the principals of the business, their social security numbers, addresses and telephone numbers, title, and percentage of ownership in the company; and
  - (15) Any further information the Tribe deems relevant.
- (b) The following notice shall be placed on the application form for a vendor and its principals:
- Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Tribe's vendor license.

### **Section 3.04 Vendor Background Investigation**

The Gaming Commission shall employ or otherwise engage an agent to complete an investigation of the gaming vendor. This investigation shall contain, at a minimum, the following steps:

- (a) Verify of the business' incorporation status and qualification to do business in the State where the gaming operation is located;
- (b) Obtain a business credit report, if available, and conduct a Better Business Bureau check on the vendor;
- (c) Conduct a check of the business' credit history;
- (d) Call each of the references listed in the vendor application; and
- (e) Conduct an investigation of the principals of the business, including a criminal history check, a credit report, and interviews with the personal references listed.

### **Section 3.05 Vendor License Fee**

The Gaming Commission will set and charge a licensing fee for investigating and licensing of vendors of the gaming operation.

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### **Section 3.06 Vendor Background Investigation Report**

The agent shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals and present it to the Gaming Commissioner and/or Deputy Gaming Commissioner.

### **Section 3.07 Exemption for Vendors Licensed by Recognized Regulatory Authorities**

The Gaming Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors which have received a license from one of the named regulatory authorities.

### **Section 3.08 Licenses for Non-Gaming Vendors**

For non-gaming vendors, the Gaming Commission may create a less stringent vendor licensing process, including a due diligence check rather than a full background investigation as laid out in Section 3.04 above. The Gaming Commission may investigate such vendors and may conduct audits in addition to monitoring Tribal purchases.