



November 20, 2008

George Thurman  
Principal Chief  
Sac and Fox Nation  
Box 246  
Stroud, OK 74079

Dear Chief Thurman:

This is in response to your request, dated October 29, 2008, to review and approve the second amended Sac and Fox Nation Gaming Ordinance of 2008, adopted through Resolution SF-09-10 on October 17, 2008. Your request is hereby approved under the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2710.

The Sac and Fox Nation Gaming Ordinance of 2008 is a comprehensive rewrite of the Nation's first gaming code adopted in 1993 and approved in 1994. Among other things, the new code adds authorization to play Class III games in accordance with the Nation's tribal-state compact. The new code also sets forth the powers delegated to the Nation's Gaming Commission. I believe that the new gaming code will serve the Nation well, and I wish you and the Nation success on your gaming endeavors.

If you have any questions about this matter, you may contact Senior Attorney Jeffrey Nelson at (202) 632-7003.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip N. Hogen". The signature is fluid and cursive, with a large initial "P" and "H".

Philip N. Hogen  
Chairman



# SAC AND FOX NATION

Route 2, Box 246 • Stroud, Oklahoma 74079 • (918) 968-1141 • FAX (918) 968-1142

## FILED

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IN THE DISTRICT COURT

RESOLUTION SF-09-10

DATE 10-29-08

2008 OCT 29 P 2:23

SAC AND FOX NATION

SECRETARY  
SAC & FOX NATION

SAC AND FOX NATION  
CHARLOTTE CARTWRIGHT, COURT CLERK

SPECIAL BUSINESS COMMITTEE MEETING

*Janet M. Carmichael Williams*

SAC AND FOX RESERVATION

STROUD, OKLAHOMA

BY: \_\_\_\_\_ DEPUTY

NOV - 3 2008

OCTOBER 17, 2008

**A PUBLIC LAW ADOPTING AND ENACTING THE SECOND AMENDED GAMING ORDINANCE OF 2008 AUTHORIZING GAMING, SETTING THE TERMS FOR CLASS I, II, AND III GAMING OPERATIONS ON THE INDIAN LANDS OF THE SAC AND FOX NATION, AS AMENDED.**

**WHEREAS,** the Business Committee of the Sac and Fox Nation met at a duly special called, noticed, convened, and held meeting at the date and place aforesaid, there being a quorum present; and

**WHEREAS,** the Business Committee is authorized to transact business and otherwise act on behalf of the Nation pursuant to the Constitution, Charter, and Laws of the Sac and Fox Nation; and

**WHEREAS,** the Indian Gaming Regulatory Act requires that tribes engaging in Class II and Class III Gaming as defined in that Act adopt a Law prescribing procedures and methods to be utilized with regard to the conduct of gaming within their Indians lands; and

**WHEREAS,** the Nation enacted the Gaming Ordinance of 2008 on May 8, 2008 and submitted the same to the National Indian Gaming Commission ("NIGC") for approval pursuant to 25 C.F.R. Part 522 on or about May 21, 2008; and

**WHEREAS,** the NIGC had issues with one portion of the definition of "Indian Lands" as follows "all lands within the limits of the Nation's reservation as described by the Act of February 13, 1891, Ch. 165, 26 Stat. 749" and indicated it would disapprove the submission; and

**WHEREAS**, the Nation withdrew the Law submission and resubmitted the Law on or about August 5, 2008 to address these issues and submit an Amended Gaming Ordinance; and

**WHEREAS**, the NIGC had new previously unidentified issues with one portion of the definition of "Indian Lands" and the definition of "games similar to bingo" and identified in a September 19, 2008 letter and indicated it would recommend disapproval of the submission; and

**WHEREAS**, the Nation disagrees with the basis for disapproval but desires to move forward by withdrawing the existing Gaming Ordinance submission and resubmitting the Second Amended Gaming Ordinance of 2008 with the remaining provisions and preserve the legal issue for later NIGC determination through a subsequent amendment; and

**WHEREAS**, the enactment of the Second Amended Gaming Ordinance of 2008 is in the best interest of the Sac and Fox Nation.

**NOW, THEREFORE,**

**BE IT ENACTED BY THE BUSINESS COMMITTEE OF THE SAC AND FOX NATION, PURSUANT TO THE AUTHORITY VESTED THEREIN BY THE CONSTITUTION AND CHARTER:**

**THAT:** upon approval of this Law by the Chairman of the NIGC as required by federal law, the current Title 4 of the Sac and Fox Code of Laws, and all prior ordinances or resolutions inconsistent with, or intended to be superseded by, this Act, including P.L. #SF-82-29, March 19, 1982; P.L. #SF-82-43, April 30, 1982; P.L. #SF-93-68, July 22, 1993; P.L. #SF-95-14, October 6, 1994; #SF/GC-03-07, July 19, 2003; P.L. #SF-04-86, May 10, 2004; P.L. #SF-04-138, August 23, 2004; P.L. #SF-08-180, May 8, 2008; P.L. #SF-08-237, August 5, 2008 are hereby repealed; and

**THAT:** the following provision shall then be codified in the Sac and Fox Code in a new Title to be entitled: "Gaming" and this Law shall thereafter govern all Class I, II and III Gaming within the jurisdiction of the Sac and Fox Nation.

**AND, BE IT FURTHER ENACTED BY THE BUSINESS COMMITTEE OF THE SAC AND FOX NATION, PURSUANT TO THE AUTHORITY VESTED THEREIN BY THE CONSTITUTION AND CHARTER:**

**THAT:** upon enactment of this Ordinance, it shall be submitted forthwith to the Chairman of the National Indian Gaming Commission for approval pursuant to the 25 U.S.C. §§2710 (b) and (d); and

**THAT:** this Ordinance shall be effective upon its approval by the Chairman of the National Indian Gaming Commission, and shall be promptly filed in the Office of the Court Clerk of the Sac and Fox Nation upon such approval; and

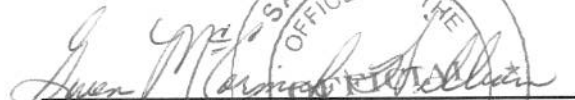
**THAT:** this Ordinance shall be codified at the appropriate locations in the Sac and Fox Code of Laws.

**CERTIFICATION**

**WE,** George Thurman, Principal Chief, and Gwen McCormick Wilburn, Secretary of the Sac and Fox Nation, do hereby certify the foregoing Resolution: P.L. #SF-09-10, to be a true, complete, and exact copy of the resolution as approved by the Business Committee in a properly called, noticed, and convened meeting held at the Sac and Fox Capitol Grounds, Sac and Fox Reservation, Stroud, Oklahoma on the day and year above stated, a quorum being present, by a vote of: George Thurman-yes, Cheryl McClellan Tofpi-yes, Michael Hackbarth-yes, Gwen McCormick Wilburn-yes, and Stella Nullake Nanaeto-yes.



George Thurman, Principal Chief  
Sac and Fox Nation

  
Gwen McCormick Wilburn, Secretary  
Sac and Fox Nation

FILED  
IN THE DISTRICT COURT

2008 OCT 29 P 2:24

SAC AND FOX NATION  
CHARLOTTE CARTWRIGHT, COURT CLERK

BY: \_\_\_\_\_ DEPUTY

# SAC AND FOX GAMING ORDINANCE OF 2008

(As Amended October 17, 2008)



APPROVED MAY 8, 2008  
APPROVED AUGUST 5, 2008  
APPROVED OCTOBER 17, 2008

# SAC AND FOX NATION GAMING ORDINANCE OF 2008

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## **SAC AND FOX NATION GAMING ORDINANCE OF 2008**

### **Section 1-1. FINDINGS AND DECLARATIONS**

(A) The Sac and Fox Nation finds and declares that:

(1) Gaming on the Indian lands of the Sac and Fox Nation provides economic development opportunities and a source of revenue for the Sac and Fox Nation and its political and business subdivisions which is needed to promote a strong tribal government, economic self-sufficiency, employment, job training, and to fund essential social programs and services to its members and other persons associated with the Nation; and

(2) It is in the interests of the Nation, and the public to regulate and control gaming in a manner that will protect the environment, the health, security and general welfare of the Nation, the players, and the community.

(B) Therefore, the Business Committee enacts this Law to protect and promote the political integrity, economic security, health, safety, and welfare of the Nation, its members and all persons living in or visiting the Nation.

[History: Public Law No. SF-08-180.]

### **Section 1-2. CONTINUING AUTHORITY TO REGULATE GAMING**

The Sac and Fox Nation retains continuing authority to amend this Title, or to enact and promulgate additional statutory or regulatory provisions relating to the conduct of gaming within the jurisdiction of the Sac and Fox Nation in order to protect the public health, safety, provided, that:

(A) Amendment of any provision of this Title which is required by the Indian Gaming Regulatory Act ("IGRA") of October 17, 1988, P.L. 100-497, codified at 25 U.S.C. §§2701, et. seq. and the authorized regulations issued pursuant thereto shall be effective only if such provisions are approved by the Chairman of the National Indian Gaming Commission ("NIGC") as provided in P.L. 100-497; and

(B) Such amendments, and any additional statutory or regulatory provisions shall be interpreted so as not to conflict with any provision of this Title which is required by the Act of October 17, 1988, P.L. 100-497, 25 U.S.C. §§2701, et. seq. and the authorized regulations issued pursuant thereto to the end that the provisions of this Title required by, and approved pursuant to, P.L. 100-497 shall govern any later amendments, statutes, or regulations unless the same be approved by the Chairman of the NIGC as provided in P.L. 100-497.

[History: Public Law No. SF-08-180.]

## Chapter One—PRELIMINARY PROVISIONS AND DEFINITIONS

### Section 1-101. Purpose

This Title governs all gaming operations on the Sac and Fox Nation's Indian lands.

[History: Public Law No. SF-08-180.]

### Section 1-102. Definitions

Unless a different meaning is clearly indicated in this Law, the terms used herein shall have the same meaning as defined in the IGRA, 25 U.S.C. §2701 et seq., and its authorized regulations, currently found at 25 C.F.R. §500 et seq. Specifically:

(A) "Business Committee" means the Business Committee of the Nation as provided in Art. III of the CONST. OF THE SAC & FOX NATION.

(B) "Class I Gaming" means social games 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.

[25 U.S.C. §2703(6); 25 C.F.R. §502.2]

(C) "Class II Gaming" means:

(1) The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith):

(a) Which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,

(b) In which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

(c) In which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and

(2) Card games that:

(a) Are explicitly authorized by the laws of the State, or

(b) Are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of

operation of such card games or limitations on wagers or pot sizes in such card games.

(3) The term "Class II Gaming" does not include:

(a) Any banking card games, including baccarat, chemin de fer, or blackjack (21), or

(b) Electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

*[25 U.S.C. §2703(7); 25 C.F.R. §502.3; United States v. 103 Electronic Gambling Devices, 223 F.3d 1091 (9th Cir. 2000); United States v. 1062 MegaMania Gambling Devices, 231 F.3d 713 (10th Cir. 2000); Diamond Games Enterprises v. Reno, 230 F.3d 365 (D.C. Cir. 2000); Seneca-Cayuga Tribe of OK v. NIGC, 327 F.3d 1019, (10th Cir. 2003), cert. denied, 540 U.S. 1218 (2004).]*

(D) "Class III Gaming" means all forms of gaming that are not Class I Gaming or Class II Gaming.

*[25 U.S.C. §2703(8); 25 C.F.R. §502.4]*

(E) "Collateral Agreement" means any contract, whether or not in writing, that is related, either directly or indirectly, to a Management Contract, or to any rights, duties or obligations created between the Nation (or any of its members, entities, or organizations) and a management contractor or subcontractor (or any person or entity related to a management contractor or subcontractor).

*[25 C.F.R. §502.5; See, 25 U.S.C. §§2711(a)(3), 2712(a)]*

(F) "Commission" or "Gaming Commission" means the Nation's Gaming Commission established to perform regulatory oversight and to monitor compliance with Tribal, Federal, and State regulations or obligations made applicable by the Compact.

(G) "Commissioner" means any member of the Gaming Commission.

(H) "Compact" means the Tribal-State Compact concerning Class III Gaming approved by Sac and Fox Resolution SF-05-74 (2005) and Oklahoma State Question 712 (2004) approved by the Secretary of the Interior and published in the Federal Register pursuant to 25 U.S.C. §2710(d) on June 1, 2005 (70 Fed. Reg. 31499), and any successor or additional class III Tribal-State Compacts entered into by the Nation and approved pursuant to federal law.

(I) "Complimentary" means a service or item provided by a gaming facility at no cost, or at a reduced cost.

(J) "Confidential Information" means all private and proprietary information belonging to the Nation, or to any political or business subdivision thereof which is authorized to conduct gaming activities on the Indian lands of the Nation, or involved in any way with the regulation of gaming which, if compromised, may have a significant

adverse impact on the Nation, any Gaming Operation, or any law enforcement action pending before any governmental body of the Nation. Confidential Information includes information that if compromised may have a significant impact on Sac and Fox customers, employees, or vendors. Confidential Information requires strong custody and access procedures, and is available only to authorized groups or functions on a "need to know" basis.

(K) "Directly related to" means a spouse, child, parent, grandparent, grandchild, aunt, uncle, sibling, or first cousin.

(L) "Electronic, computer or other technologic aid" means

(1) Any machine or device that:

- (a) Assists a player or the playing of a game;
- (b) Is not an electronic or electro-mechanical facsimile; and
- (c) Is operated in accordance with applicable Federal communications law.

(2) Include, but are not limited to, machines or devices that:

- (a) Broaden the participation levels in a common game;
- (b) Facilitate communication between and among gaming sites;

or

- (c) Allow a player to play a game with or against other players rather than with or against a machine.

(3) Examples of electronic, computer or other technologic aids include pull tab dispensers and/or readers, telephones, cables, televisions, screens, satellites, bingo blowers, electronic player stations, or electronic cards for participants in bingo games.

*[25 C.F.R. §502.7. See, 25 U.S.C. §2703(7)(A)(i) ; United States v. 103 Electronic Gambling Devices, 223 F.3d 1091 (9th Cir. 2000); United States v. 1062 MegaMania Gambling Devices, 231 F.3rd 713 (10th Cir. 2000); Diamond Games Enterprises v. Reno, 230 F.3rd 365 (D.C. Cir. 2000); Seneca-Cayuga Tribe of OK v. NIGC, 327 F.3rd 1019, (10th Cir. 2003), cert. denied, 540 U.S. 1218 (2004).]*

(M) "Electronic or electro-mechanical facsimile" means a game played in an electronic or electro-mechanical format that replicates a game of chance by incorporating all of the characteristics of the game, except when, for bingo, lotto, and other games similar to bingo, the electronic or electro-mechanical format broadens participation by allowing multiple players to play with or against each other rather than with or against a machine.

[25 C.F.R. §502.8. See, 25 U.S.C. §2703(7)(B)(ii) ; *United States v. 103 Electronic Gambling Devices*, 223 F.3d 1091 (9th Cir. 2000); *United States v. 1062 MegaMania Gambling Devices*, 231 F.3d 713 (10th Cir. 2000); *Diamond Games Enterprises v. Reno*, 230 F.3d 365 (D.C. Cir. 2000); *Seneca-Cayuga Tribe of OK v. NIGC*, 327 F.3d 1019, (10th Cir. 2003), cert. denied, 540 U.S. 1218 (2004).]

(N) "Gaming Operation" means each economic entity that is licensed by the Nation to operate Class II or Class III Gaming, receives the revenues, issues the prizes, and pays the expenses. A Gaming Operation may be operated directly by the Nation, the Sac and Fox Tribe, Inc. pursuant to its federal corporate charter, or by other political or business subdivisions thereof, including Sauk Business Enterprises, or by a management contractor on behalf of such licensed entity of the Nation when the Management Contract has been properly approved by the Nation and the NIGC.

[25 C.F.R. §502.10]

(O) "House banking game" means any game of chance that is played with the house as a participant in the game, where the house takes on all players, collects from all losers, and pays all winners, and the house can win.

[25 C.F.R. §502.11]

(P) "Indian lands" means:

(1) Any lands the title to which is either held in trust by the United States for the benefit of the Nation or individual or held by the Nation or individual subject to restriction by the United States against alienation and over which the Nation exercises governmental power; and

(2) All lands acquired in trust for the benefit of the Nation after October 17, 1988, if said lands meet the requirements set forth in 25 U.S.C. §2719.

[Act of Feb. 13, 1891, Ch. 165, 26 Stat. 749; 25 U.S.C. §2703(4); 25 U.S.C. §2719; 25 C.F.R. §502.12]

(Q) "Key Employee" means:

(1) A person who performs one or more of the following functions:

- (a) Bingo caller;
- (b) Counting room supervisor;
- (c) Chief of security;
- (d) Custodian of gaming supplies or cash;
- (e) Floor manager;
- (f) Pit boss;
- (g) Dealer;

- (h) Croupier;
  - (i) Approver of credit; or
  - (j) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
- (2) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
- (3) If not otherwise included, the four most highly compensated persons in the Gaming Operation.

[25 C.F.R. §502.14]

(R) "Management Contract" means any contract, subcontract, or Collateral Agreement between the Nation or a subsidiary of the Nation and a contractor, or between a contractor and a subcontractor if such contract, subcontract, or Collateral Agreement provides for the management of all or part of a gaming facility operated within the Nation.

[25 C.F.R. §502.15. 25 U.S.C. §2711]

- (S) "Nation" means the Sac and Fox Nation.
- (T) "Net Revenues" means gross gaming revenues of a Gaming Operation less:
- (1) Amounts paid out as, or paid for, prizes; and
  - (2) Total gaming-related operating expenses, excluding management fees;

[25 U.S.C. §2703(9); 25 C.F.R. §502.16]

(U) "NIGC" means the National Indian Gaming Commission as established by the Act of October 17, 1988, PL 100-497, 25 U.S.C. §§2701, et. seq.

(V) "Other games similar to bingo" means any game played in the same location as bingo (as defined in 25 U.S.C. §2703(7)(A)(i)) constituting a variant on the game of bingo, provided that such game is not house banked and permits players to compete against each other for a common prize or prizes..

[25 C.F.R. §502.9. 25 U.S.C. §2703(7)(A)(i)(III)]

(W) "Per Capita Payment" means the distribution of money or other thing of value to all members of the Nation, or to identify groups of members, which is paid directly from the Net Revenues in accordance with the Nation's Revenue Allocation Plan as approved by the Secretary of the Interior.

*[25 U.S.C. §2710(b)(3), 25 C.F.R. §290.2; "NIGC Bulletin 05-05"§106(a); SF-GC-96-04; 61 Fed. Reg. 2904 et seq. (June 7, 1996) and letter approving revenue allocation plan dated May 19, 1997 from Acting Area Director Anadarko Area Office, Bureau of Indian Affairs]*

(X) "Person having a direct or indirect financial interest in a Management Contract" means:

(1) When an individual person or persons are party to a Management Contract, any individual person having a direct financial interest in such Management Contract;

(2) When a trust is a party to a Management Contract, any beneficiary or trustee of that trust;

(3) When a partnership is party to a Management Contract, any partner;

(4) When a corporation is a party to a Management Contract, any person who is a director or who holds at least ten percent (10%) of the issued and outstanding stock alone or in combination with another stockholder who is directly related to such person; or

(5) When an entity other than a natural person has an interest in a trust, partnership or corporation that has an interest in a Management Contract, all parties of that entity are deemed to be persons having a direct financial interest in a Management Contract.

*[25 C.F.R. §502.17]*

(Y) "Person having management responsibility for a Management Contract" means the person designated by the Management Contract as having management responsibility for a Gaming Operation, or a portion thereof.

*[25 C.F.R. §502.18]*

(Z) "Primary Management Official" means:

(1) The person(s) having management responsibility for a Management Contract;

(2) Any person who has authority:

(a) To hire and fire employees;

(b) To set up working policy for a Gaming Operation; or

(c) The chief financial officer or other person who has financial management responsibility.

*[25 C.F.R. §502.19. See, 25 U.S.C. 2710(b)(2)(F)]*

(AA) "Prize Claim" means a patron's dispute, in connection with (1) the play of any authorized game of chance; (2) the amount of any prize which has been awarded; (3) the failure to be awarded a prize; (4) or the right to receive a refund or other compensation brought by a patron against a Gaming Operation pursuant to the Compact and any subsequent revisions or amendments to the Compact.

[History: Public Law No. SF-08-180.]

(AB) "Tort Claim" means a claim for personal injury or property damage brought by a patron against a Gaming Operation pursuant to the Compact and any subsequent revisions or amendments to the Compact.

[History: Public Law No. SF-08-180.]

### **Section 1-103. Gaming Authorized**

(A) Class I, Class II and Class III Gaming are hereby authorized within the jurisdiction of the Nation.

[25 C.F.R. §522.6(b)-(c)]

(B) Class I Gaming shall continue to be exercised and controlled in the traditional manner, and shall not be regulated by this Title.

(C) Class II Gaming on Indian lands of the Nation shall continue to be within the jurisdiction of the Nation, but shall be subject to the applicable provisions of the Act of October 17, 1988, P.L. 100-497, 102 Stat. 2467.

[25 U.S.C. §2710(a)(2)]

(D) Class III Gaming on Indian lands of the Nation shall continue to be within the jurisdiction of the Nation, but shall be subject to the provisions of any Compact which is in effect, or any Secretarial procedures approved by the Secretary of the Interior in lieu of a compact, and applicable provisions of the Act of October 17, 1988, P.L. 100-497, 102 Stat. 2467. In any conflict between this Law and the Compact or Secretarial procedures, the relevant Compact provision(s) or Secretarial procedures shall govern.

[25 U.S.C. §§2710(d)(1)(C), 2710(d)(5)]

[History: Public Law No. SF-08-180.]

## **Chapter Two—PROVISIONS REQUIRED BY P.L. 100-497**

### **Section 1-201. Ownership of Gaming**

(A) The Nation shall have the sole proprietary interest in and responsibility for the conduct of any Gaming Operation authorized by this Title. For purposes of this section, the term "Nation" includes the Sac and Fox Tribe, Inc., other political and



business subdivisions of the Nation, and social or charitable organizations of the Nation that are authorized by tribal law to operate gaming to support their purposes.

*[25 U.S.C. §2710(b)(2)(A); 25 C.F.R. §522.4(b)(1); Senate Report (Indian Affairs Committee) No. 100-446, Aug. 3, 1988, 1988 U.S.C.C.A.N. 3071, 3082]*

- (B) Privately owned gaming is prohibited within the jurisdiction of the Nation.

[History: Public Law No. SF-08-180.]

### **Section 1-202. Use of Gaming Revenue**

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

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

*[25 U.S.C. §2710(b)(2)(B); 25 C.F.R. §522.4(b)(2)]*

[History: Public Law No. SF-08-180.]

### **Section 1-203. Per Capita Payments**

(A) The Revenue Allocation Plan adopted by Resolution No. SF-GC-96-04, approved effective October 1, 1996, in accordance with the United States Department of the Interior's "Guidelines to Govern the Review and Approval of Per Capita Payments" dated December 21, 1992, or any amended and approved Revenue Allocation Plan, shall continue to govern all Per Capita Payments made from net revenues.

(B) If the Nation elects to make per capita payments to tribal members from revenues derived from its gaming operations, it shall ensure that the following requirements of 25 C.F.R. Part 290 are met:

- (1) The Nation shall authorize and issue such payments only in accordance with a revenue allocation plan submitted to and approved by the Secretary of the Interior under 25 U.S.C. §2710(b)(3).

*[25 U.S.C. §2710(b)(3); 25 C.F.R. §522.4(b)(2)(ii)]*

(2) The Nation shall ensure that the interests of minors and other legally incompetent persons who are entitled to receive any per capita payments under a Tribal per capita payment plan are protected and preserved. Per capita

payments may be disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person, pursuant to the approved Revenue Allocation Plan.

[25 C.F.R. §290.12(b)(3)]

(3) Tribal members shall be notified of the tax liability for per capita payments and how taxes will be withheld in accordance with the approved revenue allocation plan.

[25 C.F.R. §290.12(b)(4); 26 C.F.R. Part 31]

[History: Public Law No. SF-08-180.]

(4) The Nation shall designate or create a Tribal court system, forum, or administrative process for resolution of disputes concerning the allocation of Net Revenues and the distribution of per capita payments and will explain how it will correct deficiencies.

[25 C.F.R. § 290.12(3)(iii), (b)(5); 25 C.F.R. § 290.22]

(5) The Nation shall ensure that the effective Tribal revenue allocation plan reserves an adequate portion of Net Revenues from the Tribal Gaming activity to do one or more of the following purposes: fund Tribal government operations or programs; provide for the general welfare of the Tribe or its members; promote Tribal economic development; donate to charitable organizations; or to help fund operations of local government.

[25 C.F.R. § 290.12(b)(1)]

(6) The Nation shall ensure that distributions of per capita payments are made according to specific eligibility requirements.

[25 C.F.R. § 290.12(3)(iii), (b)(5)]

#### **Section 1-204. Independent Audits Required**

(A) The Commission shall cause an annual outside independent audit of each Gaming Operation to be conducted, and shall submit the resulting audit reports to the governing body of the audited Gaming Operation, the Business Committee, and the NIGC.

[25 U.S.C. §2710(b)(2)(C); 25 C.F.R. §522.4(b)(3)]

(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 of this Section.

[25 U.S.C. §2710(b)(2) (D); 25 C.F.R. §522.4(b)(4)]

[History: Public Law No. SF-08-180.]

### **Section 1-205. Environmental Health and Safety**

(A) The Commission will ensure gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

[25 U.S.C. §2710(b)(2)(E), 25 C.F.R. §522.4(b)(7)]

(B) The Commission will ensure each Gaming Operation shall adopt policies and procedures that assure adequate protection of the environment and the public health and safety at all gaming facilities.

(C) The policies and procedures issued by each Gaming Operation shall establish minimum standards for gaming facilities with regard to:

- (1) Emergency preparedness for natural and man-made disasters;
- (2) Food & water quality and safety;
- (3) Environmental and safety hazards relating to construction & maintenance;
- (4) Handling and disposal of hazardous and waste materials; and
- (5) Sanitation.

Each Gaming Operation shall consult with the professional staff of the Blackhawk Health Clinic, the Sac and Fox Police Department, and the Sac and Fox Justice Department regarding public health and safety issues mentioned in this Section, and take their views into account in the preparation of its policies and procedures.

[67 Fed. Reg. 46109 (July 12,2002)]

(D) The Commission shall require each gaming facility to conduct annual inspections of each gaming facility, and may inspect any gaming facility at such times as it deems necessary. One copy of each inspection report shall be provided to the governing body of the inspected Gaming Operation, and the Commission.

[67 Fed. Reg. 46109 (July 12,2002)]

(E) The Gaming Commission may bring any enforcement action necessary to enforce compliance with the policies and procedures issued pursuant to this Section.

[67 Fed. Reg. 46109 (July 12,2002)]

(F) The Commission shall take into account the inspection reports where conditions are present that pose a real and immediate threat: (1) To the environment, which, if uncorrected, would result in actual harm to life or destruction of property; or (2) to human health and well being, which, if uncorrected, could result in serious illness or death. The Commission may order the immediate closure of all or part of any gaming facility, or such lesser remedy as it deems necessary in order to protect the public health and safety or the environment.

[67 Fed. Reg. 46109 (July 12,2002)]

[History: Public Law No. SF-08-180.]

### **Section 1-206. Internal Control Standards**

The Commission shall adopt and implement Tribal Internal Control Standards for the operation of all gaming facilities in accordance with any applicable provisions of the Compact and the regulations of the NIGC, with such enhancements as may be useful or necessary to further protect the government of the Nation, the gaming facilities, and the public interest. The Tribal Internal Control Standards shall be set out in separate regulations to be reviewed and adopted by the Commission to ensure that they are in compliance with the requirements of the NIGC and the Compact. The Tribal Internal Control Standards so approved shall thereafter govern all Class II and Class III Gaming within the jurisdiction of the Nation until and unless they are amended by the Commission in the same manner in which they were adopted.

[History: Public Law No. SF-08-180.]

### **Section 1-207. Agent for Service of NIGC Process**

The Nation hereby designates the Principal Chief as agent for service of process from the NIGC, who may be contacted at:

Sac and Fox Nation  
Route 2, Box 246  
Stroud, Oklahoma 74079

[25 C.F.R. §519.1]

[History: Public Law No. SF-08-180.]

### **Section 1-208. Payment of Taxes and Regulatory Fees to the Nation**

Each gaming facility shall pay all tribal taxes due, and its fair share of the regulatory fees imposed by law to reimburse the Nation for the cost of regulating gaming within its Indian lands.

[History: Public Law No. SF-08-180.]

## Chapter Three—GENERAL PROVISION

### Section 1-301. Complimentary Items

(A) The use of complimentary items shall be governed generally by regulations established by the Commission not inconsistent with this section.

(B) No Key Employee, Primary Management Official, member of the governing body of a Gaming Operation, Commissioner, employee of the Commission, or elected official of the Nation, including Judicial officers, nor any person in their immediate family or sharing a residence with such persons, shall be authorized to receive, or receive, complimentary items, provided, that food and beverages reasonably provided and received in the course of normal business meetings and operations are not prohibited by this provision, and provided further, that at a public event held at a gaming facility, trade fair, conference, or related public activity, free food and beverages and other complimentary items offered to all attending members of the general public equally may be offered to, and received by, such persons.

(C) Complimentary Items shall be included in the annual budget for each gaming facility, within any maximum limits specified and approved by, the governing body of the Gaming Operation.

[History: Public Law No. SF-08-180.]

### Section 1-302. Compliance with Federal Law

The Nation, and all gaming operations conducted on its Indian lands, shall comply with all applicable federal law, including the Bank Secrecy Act, 31 U.S.C. §5311 et seq.

[History: Public Law No. SF-08-180.]

### Section 1-303. Ethical Conduct Respecting Gaming

(A) The Nation recognizes that the duties of the governing body of each Gaming Operation and the Commission include making important and difficult decisions on highly sensitive issues. As such, the Nation has determined that the governing body of each Gaming Operation, and the Gaming Commission shall be held to extremely high ethical standards. Prior to taking their positions, the Commissioners shall agree in writing to support, protect, and defend the Constitution, Charter, and laws of the Nation, to be bound by the principles of the Business Ethics and Conflict of Interest Policy of the Nation, and to refrain from conduct defined as Misconduct in Office by the Code of Laws of the Nation.

(B) The following constitute examples of the principles of the Business Ethics and Conflict of Interest Policy and definitions of Misconduct in Office that are especially applicable in the gaming context:

(1) Commissioners shall not hold financial interests that conflict with the conscientious performance of their duties as managers and regulators. Per Capita distributions are not considered financial interests that would conflict with the conscientious performance of duty by a manager or regulator.

(2) Commissioners 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) Commissioners shall not solicit or accept any gift or other item of monetary value, including complimentary items or services, from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the member's organization, or whose interests may be substantially affected by the performance or nonperformance of the Members' duties except as specifically authorized by law.

(4) Commissioners shall make no unauthorized commitments or promises of any kind purporting to bind the Nation or any of its agencies or subordinate entities.

(5) Commissioners shall not use their positions for private gain.

(6) Commissioners shall act impartially, in accordance with all relevant laws, and shall not give preferential treatment to any person, nor wrongfully withhold action to which any person is entitled on account of any matter personal to the Member.

(7) Commissioners shall ensure that the property and assets of gaming facilities are properly segregated and safeguarded, and that such property and assets are not used for unauthorized activities.

(8) Commissioners shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.

(9) Commissioners shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(10) Commissioners shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards applicable to the member.

(11) Commissioners 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.

(C) The Gaming Commissioners shall determine by regulation whether any additional employees of the Commission, shall be required to take the foregoing oath, and be bound by these principles.

[History: Public Law No. SF-08-180. The "Business Ethics and Conflict of Interest Policy of the Sac and Fox Nation" referred to in this section is intended to refer to the policy approved by Public Law SF#06-204, August 29, 2006, including any future amendments, substitutions, or replacements for that policy.]

#### **Section 1-304. Sovereign Immunity**

(A) Nothing contained in this Title shall be construed to be a waiver of the sovereign immunity of the Nation or the Sac and Fox Tribe, Inc., or the officers, employees, agents, or business or political subdivisions thereof (the "Nation"), nor to be a consent to any suit beyond the limits specifically authorized by the laws of the Nation. All such authorizations shall be strictly construed.

(B) Persons who are not employees of the Nation, but who are performing substantial, necessary, or useful services to the Nation on a voluntary basis, who are acting under the supervision, or with the approval of an officer, agent, or employee of the Nation, and who would be immune from suit were the acts in which they were engaged done by any officer, agent or employee of the Nation, shall enjoy the protection of the sovereign immunity of the Nation to the same extent as a paid agent or employee.

[History: Public Law No. SF-08-180.]

#### **Section 1-305. Patron Dispute Resolutions**

(A) All disputes between members of the gaming public and operators or employees of licensed gaming facilities shall be promptly and amicably reconciled by the managing official or his authorized representative.

(B) In cases where such disputes cannot be promptly and amicably settled, such cases shall be referred to an investigator/arbitrator by the managing official of the Gaming Operation, or the intervention of such an investigator/arbitrator by the managing official of the Gaming Operation, or the intervention of such an investigator/arbitrator may be requested by the aggrieved member of the gaming public. The investigator/arbitrator shall be an employee of the Commission who has been properly trained and assigned such duties on a regular basis. The investigator/arbitrator shall make all reasonable efforts to amicably settle the dispute. Should such a settlement not be effected, the investigator/arbitrator shall promptly make a written report on the controversy and advise the Chairman of the Commission who shall, in turn, promptly schedule a hearing by the Commission on the matter, giving all involved parties reasonable notice of time, place, and date of the hearing. The Commission shall either dismiss the grievance or enter an order against the operator of the facility to effect fairness, justice, and equity. In property cases the Commission may also impose a civil fine or a civil penalty upon the facility, its operator or any of its employees found to have committed a material wrong against a member of the gaming public. All decisions of the

Commission shall be final and unappealable, except as may otherwise be provided by applicable federal or tribal law. In such a case, appeals shall be taken only to the Sac and Fox Courts. The Nation expressly preserves all aspects of its sovereign immunity against lawsuits in any such circumstance or case.

(C) No liability of any kind or nature shall ever attach to the Nation as a result of any dispute or the final decision of the Commission. The sovereign immunity of the Nation against lawsuit of its officials, acting in their official capacities, is expressly reserved in any instance.

(D) A copy of the provisions of this section shall be appropriately posted conspicuously and in plain view of the gaming public at all gaming facilities within the jurisdiction of the Nation.

(E) Each Gaming Operation engaged exclusively in Class II Gaming operations shall maintain public liability insurance with liability limits not less than the amount required by regulation of the Commission, and the Compact, if applicable, for the express purposes of covering and satisfying tort claims against that facility.

#### **Section 1-306. Right of Appeal & Finality of Decisions**

The parties to an authorized judicial proceeding before the District Court of the Nation in which a prize claim or tort claim is in dispute shall have the right to appeal to the Supreme Court of the Nation as provided by law. A decision of the Sac and Fox District Court that is not appealed, or a decision of the Supreme Court of the Nation shall be final and conclusive.

[History: Public Law No. SF-08-180.]

### **Chapter Four—GAMING COMMISSIONER POWERS & DUTIES**

#### **Section 1-401. Gaming Commission**

(A) The Nation hereby establishes a Gaming Commission who shall regulate tribal gaming operations. The Commission shall consist of three members, at least two of whom must be enrolled members of the Sac and Fox Nation. There shall be among them a Chairperson, Vice Chairperson, and at least one additional Commissioner. The Commission may employ an Executive Director who may also serve as a Commissioner.

(B) The purpose of the Gaming Commission is regulatory, not managerial. The Commission will conduct oversight to ensure compliance with tribal, federal, and, if applicable by Compact, 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 and in tracking revenues. The Gaming Commission will also monitor all gaming operations through clandestine surveillance of all areas of each gaming facility. 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 notices of violation, closure orders, civil fine assessments, settlement agreements in lieu of enforcement actions, reopen orders, pre-opening agreements, and suspension or revocation of any gaming license when appropriate.

(C) The Nation recognizes the importance of an independent Gaming Commission in maintaining a well-regulated gaming operation. The Commission shall be and shall act independently and autonomously from the Business Committee and Governing Council, in all matters within its purview. No prior or subsequent review by the Business Committee or the Governing Council of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Law. To avoid potential conflicts of interest between the operation and regulation of the Gaming Facility, the Nation hereby finds that, at a minimum:

(1) No elected officer of the Sac and Fox Nation, any member of the Business Committee, Judges or Justices of the Nation's courts, Attorney General, Board members or employees of Sac and Fox Tribe, Inc., Sauk Business Enterprises members, employees of any of the Nation's gaming facilities, gaming contractors (including any principal of a management or other contracting company), persons ineligible to be key employees or primary management officials, or any person who has management responsibilities for any gaming operation may serve on the Gaming Commission;

(2) No member directly related to or living with any Business Committee member, Judges, or Justices of the Nation's courts, Attorney General, Board members or employees of Sac and Fox Tribe, Inc., Sauk Business Enterprises member may serve on the Commission;

(3) All persons employed by, or who are members of the Commission are prohibited from gambling in any of the Nation's Facilities; and

[NIGC Model Ordinance, Bulletin No. 05-05, Section 108(b)]

(D) Commission positions shall be filled in the following manner:

Through appointment by the Principal Chief and confirmation by the Business Committee. If a vacancy occurs for any reason by any member of the Commission, the Principal Chief shall, upon recommendation from the remaining Commissioners, make a temporary appointment for the remainder of that term.

(E) Nominees for positions of Commissioner of the Commission must satisfy the suitability standards set forth for key employees and primary management officials, found in Section 1-514 et seq. of this Law. Such background investigations shall be performed under the direction of the Chief of the Nation's Police Department or his or her designee.

- (F) The Commission shall have authority to:
- (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) Report 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 Chairman of the Gaming Commission;
  - (6) Issue gaming licenses to management officials and employees of the operations, consistent with the suitability determination;
  - (7) Establish standards for licensing Tribal gaming operations within the jurisdiction of the Nation;
  - (8) Issue facility gaming licenses to Tribal gaming operations within the jurisdiction of the Nation;
  - (9) Inspect, examine and monitor all gaming activities through surveillance, compliance and internal audit activities, approve the rules of various games, and authorize and inspect games, tables, equipment, machines, cards, dice, and chips or tokens and other paraphernalia used in all gaming operations to ensure compliance with applicable law;
  - (10) Inspect, examine, and monitor the handling of all cash, cash equivalents, and cash transaction and accounting systems, and to have immediate access to review, inspect, examine, photocopy and audit all records of any gaming establishment within the jurisdiction of the Nation;
  - (11) Ensure compliance with all applicable laws of the Nation, the state, and federal laws, rules, and regulations regarding Indian gaming;
  - (12) Investigate any suspicion of wrongdoing associated with any gaming activities and report such activities to appropriate law enforcement agents;
  - (13) Hold hearings on patron complaints, tort claims, and prize claims, in compliance with procedures established in the gaming ordinance, or as requested by any gaming facility;

(14) Comply with any and all reporting requirements under the IGRA, Compact, if applicable, to which the Nation is a party, and any other applicable law;

(15) Promulgate and issue regulations necessary to establish and require compliance with minimal internal control standards for all gaming operations within the jurisdiction of the Sac and Fox Nation, which standards shall govern the procedures for handling and accounting for gaming cash and cash equivalents, extending credit to patrons, and procedures for acquiring gaming supplies and equipment;

(16) Promulgate and issue regulations on the levying of fees necessary to defray the expenses of gaming license applications;

(17) Promulgate and issue regulations on the levying of civil fines or forfeitures respecting any person who violates applicable gaming law and regulations within the jurisdiction of the Sac and Fox Nation, and/or suspension or revocation of gaming licenses for violations of the gaming laws, rules, or any other applicable gaming law or regulations from state or federal jurisdictions; provided, that said regulations may not authorize the levy of a civil fine in excess of the amount which the NIGC is authorized to levy by statute;

(18) Establish a list of persons not allowed to game within the Nation's gaming facilities to maintain the integrity of the gaming;

(19) Establish a list of persons who have voluntarily asked to be excluded from the Nation's gaming facilities and create regulations for enforcing this exclusion;

(20) Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of tribal, federal, or state applicable laws, statutes, regulations, or resolutions;

(21) Establish such video and audio surveillance standards as may be necessary, and conduct or approve such video and audio surveillance of gaming facilities as may be necessary to provide security and to enforce the standards applicable to gaming within the jurisdiction of the Nation;

(22) Perform such other duties the Commission deems appropriate for the proper regulation of the tribal gaming operations within the jurisdiction of the Nation;

(23) Promulgate regulations and guidelines as it deems appropriate to implement the provisions of this law.

(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.

This Section does not apply to requests for such information or records from any tribal, federal or state law enforcement or regulatory agency, or for the use of such information or records by the Commission and staff in the performance of their official duties.

[NIGC Model Ordinance, Bulletin No. 05-05, Section 108(g)]

(H) Terms of Office for Gaming Commissioner shall be as follows: the Chair shall serve an initial term of one year, with subsequent Chairs serving four-year terms. The Vice-Chair and Commissioner(s) shall serve an initial term of two years, with subsequent Vice Chairs and Commissioners serving four-year terms.

(I) Tribal citizens previously convicted of a felony, of embezzlement, of theft, or of any other money-related crime or honesty-related crime (such as fraud) will only be allowed to serve as Commissioners if the Business Committee specifically finds a significant amount of time has passed and that the person is now of trustworthy character. 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 before appointing an individual to a position as a Commission.

(J) The independence of the Commission is essential to a well-regulated Gaming Operation. For that reason, Commissioners may only be removed from office by the Grievance Committee prior to the expiration of their respective terms for neglect of duty, misconduct, malfeasance, or other acts that would render a Commissioner unqualified for his/her position. Any allegations of neglect of duty, misconduct, malfeasance, or other acts that would render him or her unqualified for his/her position must be substantiated by a preponderance of the evidence. Commissioners will be given an opportunity to provide evidence rebutting the grounds for their proposed removal before the removal is considered. A vote of the Grievance Committee on the validity of the removal shall be final and not subject to further appeal. A wrongful removal shall entitle the affected Commissioner to compensation for fees and expenses incurred in an appeal and any pay withheld.

(K) A majority of the Commission shall constitute a quorum. The concurrence of a majority of the members appointed to the Commission shall be required for a final determination by the Commission. The Commission may act in its official capacity even if there are vacancies on the Commission.

(L) Gaming Commissioners shall be compensated at a level determined by the Business Committee. Commissioner compensation shall not be based on a percentage of gaming revenue to ensure the Commission is not improperly influenced.

[History: Public Law No. SF-08-180]

#### **Section 1-402. Buildings and Equipment»**

The Commission will use such buildings and equipment in the performance of its duties and responsibilities as may be authorized by the Business Committee. The Commission shall present its equipment needs in its budget.

[History: Public Law No. SF-08-180]

#### **Section 1-403. Personnel**

(A) The Commission is hereby authorized to hire, fire, promote, demote, suspend, direct, supervise, train, manage, and appropriately delegate responsibilities and duties to such supervisory employees, accountants, investigators, secretaries, clerks, directors, administrators and other necessary personnel needed by the Commission to perform its duties and responsibilities.

(B) All such employees, and all matters relating to the hiring, promotion, discipline, and discharge of such employees shall be subject to the provisions of the Nation's Personnel Manual and in accord with the Commission's approved budget, and any amendments thereto.

[History: Public Law No. SF-08-180]

#### **Section 1-404. Reasonable Assistance**

The Commission may seek from, and shall render to, any department or agency of the Nation's government, cooperating agencies of the federal government including the National Indian Gaming Commission, any state or municipality, any foreign state or law enforcement agency, other tribal or state gaming regulatory bodies or law enforcement agencies, all reasonable, necessary, and lawful assistance that may be required or allowed by law to protect the public, enforce the laws, and secure the integrity of the gaming industry.

[History: Public Law No. SF-08-180]

#### **Section 1-405. Enforcement Actions**

(A) In the performance of its duties and responsibilities, the Commission shall use its best judgment and discretion in all legal matters arising before it for decision, and may seek the additional advice of the Attorney General, Tribal Attorney / General Counsel, the Business Committee or other offices or agents of the Nation before making significant decisions.

(B) The Commission shall bring or defend any lawful action in any court or before other agency in order to enforce subpoenas, civil fines, civil penalties, or other lawful orders issued by the Commission, and defend the Commission, its officers, agents, and employees in the due execution of their authority.

(C) In either its administrative operations and hearings, or in legal action by or against it, the Commission is authorized to compromise and settle any claims or matters relevant to its duties when such compromise or settlement is consistent with the purposes of this Title and the development of the gaming industry within the jurisdiction of the Nation.

[History: Public Law No. SF-08-180]

#### **Section 1-406. License Fee Schedule**

The Commission shall establish a schedule of fees to be paid by each proponent or applicant for a gaming license to assist in covering its expenses in investigating and licensing gaming facilities, all employees of a gaming facility, vendors, management contractors, and others who are required to be licensed to participate in gaming within the Sac and Fox Nation.

[History: Public Law No. SF-08-180]

#### **Section 1-407. Reporting Requirements**

The Commission shall:

(A) Ensure that all Gaming Operations and facilities are current in their reports and payments due to the National Indian Gaming Commission under federal law; and

(B) Ensure that all Gaming Operations and facilities are current in any reports and payments required by a Compact which is in effect; and

(C) Ensure that all Gaming Operations and facilities are current in any reports and payments required by the laws of the Sac and Fox Nation; and

(D) Ensure that all Gaming Operations and facilities are current in any reports and payments required by the Internal Revenue Service; and

(E) Provide written annual reports to the Business Committee and Governing Council on the status of the Nation's gaming activities no later than June 1st of each calendar year.

[History: Public Law No. SF-08-180]

**Section 1-408. Record Keeping System**

The Commission shall establish a complete record keeping system and procedures necessary to ensure efficient record keeping and secure administrative control of the record keeping system. At a minimum, this record keeping system will:

(A) Maintain all records concerning licenses issued, persons denied licenses, persons prohibited from engaging in gaming activities, persons who have voluntarily requested that they not be allowed to participate in gaming within the Nation's jurisdiction, and all other official activities of the Gaming Commission.

(B) Maintain a handbook of NIGC documents, recommended and required forms and procedures, and NIGC informational releases and documents by use of the NIGC Fax on Demand System, or otherwise.

(C) Furnish necessary information, and substantiate any reports, to the Principal Chief, the Business Committee, the Governing Council, or any relevant committee or department thereof, concerning proposed management contracts and the principals thereof proposing such a contract, proposed gaming sites, or locations, applications for gaming operations, gaming machines, equipment and supplies, manufacturers and suppliers thereof, or on any other gaming matter, and to maintain the factual predicates for actions taken by the Commission.

(D) Provide adequate safeguards to protect confidential information and guard against its disclosure other than as may be authorized or required by law.

[History: Public Law No. SF-08-180]

**Section 1-409. Reporting NIGC Actions**

The Commission shall immediately advise the Business Committee, the Tribal Attorney / General Counsel and the Attorney General when any actions of NIGC may adversely affect the Nation or any gaming facility licensed by the Nation through Commission.

[History: Public Law No. SF-08-180]

**Section 1-410. Auditing Insurance Compliance**

The Commission shall monitor the bonding and insurance coverage of all gaming facilities to insure that the Nation is a named insured against property losses including buildings and equipment owned, rented or leased by the Nation which are used in any gaming facility; against statutory, common law, and constitutional tort claims, and against such claims which may arise pursuant to a compact which is in effect; against thefts and burglaries involving property or funds, misapplications or misappropriations of property or funds by agents, servants or employees of the gaming facility (including any management contractor), and against any other peril or hazard which the Commission may direct, including, but not limited to, fidelity and fiduciary bonds or insurance

covering the employees of gaming operations, as is determined to be prudent and necessary.

[History: Public Law No. SF-08-180]

### **Subchapter A—ADMINISTRATIVE HEARINGS**

#### **Section 1-420. Authority to Conduct Hearings**

The Commission is hereby authorized to issue subpoenas, take testimony, and conduct hearings on all regulatory matters, including matters related to the revocation of licenses of Key Employees, Primary Management Officials, and others as provided in this Title. The conduct of Commission Hearings shall be according to the Rules and Regulations of the Gaming Commission.

[History: Public Law No. SF-08-180]

### **Subchapter B—CIVIL FINES AND PENALTIES**

#### **Section 1-430. Civil Fines and Civil Penalties**

The Commission is hereby authorized to impose civil fines and civil penalties not to exceed Twenty-five Thousand Dollars (\$25,000) for each separate material violation of the provisions of the gaming laws of the Nation, upon any licensee or employee of a gaming operation, upon any management contractor or employee thereof, or upon any applicant for such a license or contract, or other person involved in any way with a Gaming Operation, or gaming facility who shall:

(A) Willfully defraud, deceive, or misrepresent any material fact to any official of the Commission, to an official of the Nation to influence the performance of duty, to the National Indian Gaming Commission during the course of the offender's application for employment, license, or contract, or during the course of such offender's license, employment or contract, or

(B) Embezzle, steal, cheat, or otherwise unlawfully convert to their own use, or the use of another, title or possession of any property belonging to the Nation, or to any Gaming Operation or gaming facility, a fellow employee or licensee, or member of the gaming public patronizing a licensed gaming facility, or

(C) Harass, threaten, assault or commit a physical trespass upon the person or unlawfully injure the property of any official of the Commission or of the Nation or National Indian Gaming Commission, a fellow employee or licensee, or member of the gaming public patronizing a licensed gaming facility.

The Commission may establish by regulation a schedule of minimum and maximum civil fines or civil penalties to be imposed for particular violations not in excess of the amount authorized by this section.



[History: Public Law No. SF-08-180]

### **Section 1-431. Citations to be Issued**

The Commission may delegate authority to its supervisors, investigators, or enforcement officials to issue written citations to offenders for the civil fines and civil penalties provided by this section. Such citations shall advise an individual or entity of the alleged violation, the civil fine or penalty which may be imposed, their right to a hearing on the citation, and the time, date and place of the hearing before the Gaming Commission.

[History: Public Law No. SF-08-180]

### **Section 1-432. Right to a Hearing**

Every person to whom a citation is issued shall have the right to a hearing before the Commission, unless they voluntarily choose to waive their right to a hearing by payment of the civil fine or civil penalty as assessed, or by failing to appear at the date, time, and place set for the hearing. All hearings will be conducted in accordance with this Title. The Commission shall determine from the evidence submitted at such hearings whether the civil fine or civil penalty should be assessed.

[History: Public Law No. SF-08-180]

### **Section 1-433. Civil Fine and Penalties are Debts**

All such civil fines and civil penalties which have become final shall be deemed to constitute a lawful indebtedness of the offender to the Nation.

[History: Public Law No. SF-08-180]

### **Section 1-434. Record of Final Assessments**

The Commission shall keep a continuing record of all civil fines and civil penalties owing to the Nation and shall include a summary thereof in its annual report. The Commission may recommend charge offs of such civil fines and civil penalties which, in the judgment of the Commission, are uncollectible, and upon formal resolution of the Business Committee these fines may be charged off as uncollectible, and all records shall be properly amended to reflect such charge offs.

[History: Public Law No. SF-08-180]

### **Section 1-435. Deposit of Fines and Penalties Collected**

All income from the collection of civil fines and civil penalties shall be deposited into the Treasury Account of the Nation, and may be appropriated by the Business Committee for the same purposes for which general revenues from taxation may be used.

[History: Public Law No. SF-08-180]

### **Section 1-436. Personal Jurisdiction**

All gaming operation patrons, licensees, applicants for such licenses, management contractors, and employees of all gaming operations, whether permanent or temporary, and whether of Indian or non-Indian blood, descent, or tribal membership, shall be deemed to have voluntarily submitted themselves, or the entities which employ them in the case of management contractors, to the jurisdiction of the Commission and to the provisions of this section and to the provisions of other relevant sections of this Title and to the provisions of any other gaming laws, rules or regulations of the Nation by virtue of such participation, contracts, licenses and applications therefore with the gaming industry within the jurisdiction of the Nation and the Nation's authority to regulate such gaming as confirmed by the IGRA.

[History: Public Law No. SF-08-180]

### **Section 1-437. Failure to Pay**

The failure to pay any civil fine or civil penalty which has become final shall constitute grounds and cause for the revocation of licenses, termination of employment of any employee of a licensed gaming operation, and a prohibition upon such person entering any gaming facility with the jurisdiction of the Nation. Notwithstanding any inconsistent provisions which may be contained in the Nation's Personnel Manual, grievance procedures contained therein shall not be available to gaming operation employees with respect to the imposition or assessment of civil fines and civil penalties by final orders of the Commission.

[History: Public Law No. SF-08-180]

## **Chapter Five—LICENSING**

### **Section 1-501. Licenses Required**

A separate license shall be issued to every employee of every gaming facility, including all employees of management contractors licensed by the Commission who have any responsibilities at a gaming facility within the jurisdiction of the Nation.

[History: Public Law No. SF-08-180.]

### **Section 1-502. Licenses To Be Displayed**

The authorized holder of any gaming license shall promptly exhibit such licenses to any member of the public, any Commission employee, any agent or employee of the NIGC, or to any law enforcement officer when requested to do so. Individual licenses shall be carried upon the person of all employees of all gaming operations at all times that they are on duty.

[History: Public Law No. SF-08-180.]

**Section 1-503. Jurisdictional Consent Required**

The Commission shall require all applicants for licenses to sign the following statement:

I hereby consent to the personal and subject matter jurisdiction of the Sac and Fox Gaming Commission, to the jurisdiction of the Sac and Fox Nation Courts, and to all orders and decisions thereof concerning all activities of every kind and nature in which I may be involved as a gaming participant, vendor, contractor, licensee, employee, or otherwise within the jurisdiction of the Sac and Fox Nation, and I hereby waive all jurisdictional defenses to any and all actions, hearings, orders, decisions, civil fines or civil penalties which may be imposed by either of such adjudicatory bodies or tribunals or any other courts of competent jurisdiction to enforce the same.

[History: Public Law No. SF-08-180.]

**Subchapter A—KEY EMPLOYEE AND PRIMARY MANAGEMENT  
OFFICIAL LICENSING****Section 1-511. Licenses Required**

The policies and procedures set out in this Subchapter shall be implemented with respect to Key Employees and Primary Management Officials employed at any Gaming Operation operated on Indian lands of the Nation. The Gaming Commission will issue licenses and perform background investigations according to requirements at least as stringent as those contained in the applicable provisions of 25 C.F.R. Parts 556 and 558, or the Compact, if applicable.

[25 U.S.C. §2710(b)(2)(F); 25 C.F.R. §558.3; 25 U.S.C. §522.4(b)(5)]

[History: Public Law No. SF-08-180.]

**Section 1-512. 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 employed in a Gaming Operation. The information will be used by the Tribe and the NIGC 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 NIGC in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigation of activities while associated with a Tribe or a Gaming Operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe being unable to hire you in a Primary Management Official or Key Employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.”

*[25 C.F.R. §556.2(a)]*

(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 application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, Section 1001)”

*[25 C.F.R. §556.3(a)]*

(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.

*[25 C.F.R. §556.2(b); 25 C.F.R. §556.3(b)]*

[History: Public Law No. SF-08-180.]

### **Section 1-513. Fingerprints**

Each applicant for a Key Employee or Primary Management Official license shall be required to have fingerprints taken as part of the license application procedure. Fingerprints shall be taken and forwarded to the NIGC for processing through the FBI to determine the applicant's criminal history, if any.

*[25 C.F.R. §522.2(h); 25 C.F.R. §556.4(a)(14)]*

[History: Public Law No. SF-08-180.]

**Section 1-514. Background Investigations**

(A) The Commission is responsible for conducting background investigations and suitability determinations for each Primary Management Official and each Key Employee.

(B) The Commission shall request from each Primary Management Official and from each Key Employee all of the following information:

(1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

(2) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers' 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 within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (B)(8) or

(B)(9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

(11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(12) A photograph taken within the last year; and

(13) Any other information the Gaming Commission deems relevant.

[25 C.F.R. §556.4]

[History: Public Law No. SF-08-180.]

### **Section 1-515. Background Check Procedures**

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

(1) Verify the applicant's identity through items such as a social security card, drivers license, birth certificate, or passport;

(2) Contact each personal and business reference provided in the License Application, when possible;

(3) Obtain a personal credit check, at the Commission's discretion;

(4) Conduct a civil history check;

(5) Conduct a criminal history check, and submit the applicant's fingerprints to the NIGC for additional checking, and further obtain information from the appropriate court regarding misdemeanor convictions and criminal charges within the last ten (10) years and any past felony or felonies;

(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 assigned investigator shall create an investigative report noting the steps taken, information gained, potential problem areas, and disqualifying information.

(C) The Gaming Commission and its investigator may promise to keep confidential the identity of each person interviewed in the course of the investigation if so requested, other than disclosure as required under Federal, Tribal, or State law made applicable by Compact obligations, and in the performance of their lawful duties.

[History: Public Law No. SF-08-180.]

### **Section 1-516. Eligibility Determination**

(A) The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a Key Employee or Primary Management Official applicants for employment in a Gaming Operation. If the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a Gaming Operation within the jurisdiction of the Nation shall not employ that person in a Key Employee or Primary Management Official position.

[25 C.F.R. §558.2]

(B) This determination may include a Statement describing how the information submitted by the applicant was verified; a Statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; a Statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Commission to make a finding concerning the eligibility for licensing required for employment in a Gaming Operation; and a Statement documenting the disposition of all potential problem areas noted and potential disqualifying information obtained. A copy of the investigative report showing this information may be attached to the Eligibility Determination unless these matters are restated in that instrument.

[25 C.F.R. §556.5(c). Moved from Model Ordinance Section 209(c)]

[History: Public Law No. SF-08-180.]

### **Section 1-517. Forwarding Documentation to the NIGC**

When a Key Employee or Primary Management Official is employed to work at a Gaming Operation authorized by this ordinance, the Gaming Commission shall forward to the NIGC a completed application for employment, conduct the background investigation, and make the determination.

[25 C.F.R. §558.3(a)]

[History: Public Law No. SF-08-180.]

### **Section 1-518. Report to the NIGC**

(A) The Commission shall prepare and forward a report on each background investigation of each Key Employee or Primary Management Official to the NIGC. An investigative report shall include all of the following:

- (1) Steps taken in conducting a background investigation;
- (2) Results obtained;
- (3) Conclusions reached; and
- (4) The bases for those conclusions.

[25 C.F.R. §556.5(a), (b)]

(B) The Commission shall forward the completed investigative report to the NIGC within 60 days after a Key Employee or Primary Management Official begins work.

[25 C.F.R. §558.3(b)]

(C) The Commission shall submit, with the investigative report, a copy of the eligibility determination, unless the NIGC shall have advised the Commission that the submission of the eligibility determination is not necessary.

[25 C.F.R. §556.5(c)]

(D) If a license is not issued to an applicant, the Commission:

- (1) Shall notify the NIGC; and
- (2) Shall forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

[25 C.F.R. §556.5(d)]

(E) The Commission shall retain all applications for employment and reports (if any) of background investigations for no less than three (3) years from the date of termination of employment, or denial of a license application. Records concerning applicants for licenses as Key Employees or Primary Management Officials shall be made available for inspection by the Chairman of the NIGC or his or her designee.

[25 C.F.R. §558.1 (c)]

[History: Public Law No. SF-08-180.]

### **Section 1-519. Granting a Gaming License**

(A) If, within a thirty (30) day period after the NIGC receives a report, the NIGC notifies the Gaming Commission 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 Gaming Commission has provided an application and investigative report to the NIGC, the Commission may issue a license to such applicant.

[25 C.F.R. §558.4(a)]

(B) The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a Key Employee or a Primary Management Official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (A) of this section until the Chairman of the NIGC receives the additional information.

[25 C.F.R. §558.4(b)]

(C) If, within the thirty (30) day period described above, the NIGC provides the Gaming Commission with a Statement itemizing objections to the issuance of a license to a Key Employee or to a Primary Management Official for whom the Commission has provided an application and investigative report to the NIGC, the Gaming Commission shall reconsider the application, taking into account the objections itemized by the NIGC.[25 C.F.R. §558.4(b)]

(D) The Gaming Commission shall make the final decision whether to issue a license to such applicant.

[25 C.F.R. §558.4(b)]

[History: Public Law No. SF-08-180.]

### **Section 1-520. License Term**

The Key Employee or a Primary Management Official gaming license issued shall be valid for a period of two years from the date of issue so long as the employee remains employed within the gaming industry in the Nation, and shall be renewable on such terms and conditions as the Commission may establish by regulation.

[See, 25 C.F.R. §§558.2, 558.4(b)]

[History: Public Law No. SF-08-180.]

### **Section 1-521. License Suspension or Revocation**

(A) If, after the issuance of a gaming license, the Commission receives from the NIGC or any other source reliable information indicating that a Key Employee or a Primary Management Official is not eligible for employment, the Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

[25 C.F.R. §558.5(b)]

(B) The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

[25 C.F.R. §558.5(c)]

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

[25 C.F.R. §558.5(d)]

[History: Public Law No. SF-08-180.]

### **Subchapter B—NON-KEY EMPLOYEE LICENSING**

#### **Section 1-531. Licenses for Non-Key Employees**

(A) The Gaming Commission is authorized to create a less stringent licensing process, which may be a simple due diligence check rather than a full background investigation, for all employees of Gaming Operations or facilities who are not Key Employees or Primary Management Officials. At its discretion, the Gaming Commission may further investigate license applicants when appropriate, and may require or conduct a full background check and NIGC check when it determines that circumstances either of the person or of the position applied for warrant such action.

[History: Public Law No. SF-08-180.]

#### **Section 1-532. Applicant Investigations**

The Gaming Commission shall review such portion of the applicant's prior activities, criminal record, if any, and reputation, habits and associations as the Commission determines necessary to make a finding concerning the eligibility of a such applicants for employment in a Gaming Operation in the particular position or class of positions for which the license is requested.

[History: Public Law No. SF-08-180.]

#### **Section 1-533. Licensing Standard**

The standard for licensure shall be whether the employment of the license applicant in the position or class of positions for which the license is requested, would pose a threat to the public interest or to the effective regulation of gaming, or would create or enhance the danger of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.

[History: Public Law No. SF-08-180.]

**Section 1-534. Eligibility Determination**

(A) If the Commission determines that employment of the license applicant in the position or class of positions for which the license is requested would not be inconsistent with the licensing standard, the purpose of this Title, or the public interest, then the license shall be issued.

(B) If the Commission determines that such employment would be inconsistent with the licensing standard, the purpose of this Title, or the public interest, then that person shall not be licensed, and shall not be employed at any gaming facility within the jurisdiction of the Nation in such position or class of positions.

[History: Public Law No. SF-08-180.]

**Section 1-535. License Term**

(A) The non-key employee gaming license issued shall be valid for a period of two years from the date of issue so long as the employee remains employed within the gaming industry in the Nation, and shall be renewable on such terms and conditions as the Commission may establish by regulation.

(B) Such gaming licenses may be suspended or revoked in the same manner as licenses for Key Employees and Primary Management Officials.

[See, 25 C.F.R. §§558.2, 558.4(b)]

[History: Public Law No. SF-08-180.]

**Section 1-536. Fingerprints**

Each applicant for a non-key employee license shall be required to have fingerprints taken as part of the license application procedure. Fingerprints shall be taken and be forwarded to the NIGC for processing through the FBI to determine the applicant's criminal history, if any.

[25 C.F.R. §522.2(h); 25 C.F.R. §556.4(a)(14)]

[History: Public Law No. SF-08-180.]

**Subchapter C—GAMING VENDOR LICENSING****Section 1-541. Licenses for Vendors**

(A) Vendors of gaming services or supplies must have a vendor license from the Commission in order to transact business with any gaming facility operated within the Nation. Contracts for professional legal and accounting services are excluded from this section.

(B) Gaming vendors are vendors who provide gaming supplies and services, including cash-related services.

(C) Non-gaming vendors are vendors who provide services that do not have the ability to impact the integrity of gaming operations, such as media advertising, facility maintenance workers, linen and laundry services, and food and beverage suppliers. The Commission shall create a regulation detailing which vendors fall into this category and shall maintain a register of the non-gaming vendors that it licenses. The regulation may exempt from licensing requirements non-gaming vendors who:

- (1) are a Tribal, Local, State, or Federal government agencies;
- (2) are regulated by a State, a tribe, or the federal government; or
- (3) will provide goods of insubstantial or insignificant amounts or quantities;

if the Commission determines that licensing of the vendor is not necessary to protect the public interest.

[History: Public Law No. SF-08-180.]

#### **Section 1-542. Submission of Vendor 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 10% or more of the stock or are the 10 largest stockholders, and the on-site supervisor or manager under the agreement with the Nation, if applicable. The Gaming Commission shall, by regulation, establish the scope of the investigation which shall be conducted concerning different classes of vendors to protect the public interest. A minimal investigation shall consist of verification of the basic information contained in the license application. The most strenuous investigation shall be the equivalent of that required for Key Employees or Primary Management Officials.

[History: Public Law No. SF-08-180.]

#### **Section 1-543. Contents of the Vendor 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 the business address, any other names the applicant has done business under during the preceding ten years, 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 place of incorporation, and the qualification to do business within the jurisdiction of the Nation unless it be a domestic corporation.
- (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;
- (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, unless the business is publicly traded, or is willing to submit a certified financial statement;
- (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 Gaming Commission deems relevant.

(B) The following notice shall be placed on the application form for a vendor and its principals:

Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the vendor license.

[History: Public Law No. SF-08-180.]

#### **Section 1-544. Vendor Background Investigation**

Subject to the regulations of the Gaming Commission, the Gaming Commission shall complete an investigation of the gaming vendor. This investigation shall contain, at a minimum, the following steps:

(A) Verify the business' incorporation status, if any, and qualification to do business in the jurisdiction of the Nation;

(B) Obtain a business credit report, if available, and/or conduct a Better Business Bureau check on the vendor;

(C) Call at least three (3) of the references listed in the vendor application; and

(D) The Commission will conduct an appropriate investigation of the principals of the business; said investigation may include such items such as criminal history check, a credit report, and interviews with the personal references listed.

[History: Public Law No. SF-08-180.]

#### **Section 1-545. Vendor Background Investigation Report**

The investigator shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals and present it to the Commission for appropriate action which shall be consistent with the same due process standards made applicable to Key Employees and Primary Management Officials.

[History: Public Law No. SF-08-180.]

#### **Section 1-546. Licenses for Non-Gaming Vendors**

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

[History: Public Law No. SF-08-180.]

**Section 1-547. License Term, Suspension, Revocation**

(A) The vendor gaming license issued shall be valid for a period of two (2) years from the date of issue so long as the vendor's business remains substantially unchanged, the ownership and management of the vendor's business does not significantly change, and the vendor routinely supplies its products or services to the gaming industry within the jurisdiction of the Nation, and shall be renewable on such terms and conditions as the Commission may establish by regulation.

(B) In the event of changes in the ownership or management of the vendor's business, it shall promptly notify the Commission who shall conduct such investigation as is proper under the circumstances, and issue a new or amended license if necessary, unless the change creates an unacceptable risk to the public interest, the health, welfare, and safety of the Nation or the public, or to the integrity of the gaming industry within the jurisdiction of the Nation, in which case the Commission shall notify the vendor of its concerns and demand that the vendor take specified corrective action. If the vendor fails to take the necessary corrective action, the Commission may suspend the vendor license and institute revocation proceedings.

(C) Such gaming licenses may be suspended or revoked in the same manner as licenses for Key Employees and Primary Management Officials.

*[See, 25 C.F.R. §§558.2, 558.4(b)]*

[History: Public Law No. SF-08-180.]

**Subchapter D—MANAGEMENT CONTRACTOR LICENSING****Section 1-551. Management Contractors License**

(A) In addition to the necessary license applications for each of its proposed Key Employees or Primary Management Officials, every proponent of a Management Contract shall submit to the Commission for its approval a copy of the draft contract, and all additional documents required by, or to be submitted to, the NIGC including, but not limited to background investigation applications and any supporting materials and documents.

(B) The Commission shall thereupon perform an investigation of the prospective candidate and its affiliates at least as stringent as the investigation conducted on applications for a license as a Key Employee or Primary Management Official. The Commission shall provide documents, analysis and recommendations to the Business Committee and the Nation's authorized entity having authority over the Gaming Operation which would be subject to the Management Contract regarding whether a contract should be entered into with the applicant. The Commission's analysis and recommendations should take place before application is submitted to the NIGC.

(C) The Commission shall also cause its lawyer to review the proposed contract to confirm that it is in compliance with all applicable laws and regulations.

(D) If the Commission determines that the draft Management Contract is in compliance with all applicable laws and regulations, and the proposed management contractor is suitable for the position under the standards applicable to Key Employees and Primary Management Officials, the Commission shall issue a conditional license to the Management Contractor for the draft contract, and authorize its submittal to the Chairman of the NIGC for final approval. The conditional license shall automatically go into full force and effect upon the approval of the proposed Management Contract by the Chairman of the NIGC.

[History: Public Law No. SF-08-180.]

#### **Section 1-552. Licenses Required**

No proposed Management Contract shall be forwarded to the NIGC for approval until the proposed management contractor has been licensed by the Commission.

[History: Public Law No. SF-08-180.]

#### **Section 1-553. Investigatory Fee**

In addition to any management contractor license fee which may be due under the Commission's fee schedule, every person or entity who applies to the Commission for a Management Contract shall deposit with the Commission an investigatory fee of \$5,000 dollars to cover the costs of necessary background investigations and the legal review. Additional fees may be required if the initial fee proves to be inadequate to cover processing and preliminary investigation costs. All remaining sums not expended or charged in the processing procedure shall be returned to the applicant at the time the application is disapproved by the Commission, or at the time it is finally approved by the Chairman of the NIGC.

[History: Public Law No. SF-08-180.]

#### **Section 1-554. License Term**

The management contractor gaming license shall be valid during the term of the approved Management Contract, and shall be renewable on such terms and conditions as the Commission may establish by regulation if that Management Contract is extended or renewed.

[See, 25 C.F.R. §§558.2, 558.4(b)]

[History: Public Law No. SF-08-180.]



**Section 1-555. License Suspension or Revocation**

(A) If, after the issuance of a management contractor license, the Commission receives from the NIGC, or any other source, reliable information indicating that a management contractor is not eligible for employment, the Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

[25 C.F.R. §558.5(b)]

(B) The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

[25 C.F.R. §558.5(c)]

(C) After a revocation hearing, the Commission shall decide whether to revoke or to reinstate the management Contractor license. The Commission shall notify the NIGC of its decision.

[25 C.F.R. §558.5(d)]

[History: Public Law No. SF-08-180.]

**Section 1-556. Final NIGC Approval Required**

At the initiation of each application for a Management Contract and at all material times thereafter, applicants shall be advised by the Commission that the final approval of such a contract or agreement is reserved to the Chairman of the NIGC and that the approval and execution of the contracts, and the issuance of the Commission's conditional license, is only a preliminary step in the final approval process. A Management Contract shall not be effective and shall be considered void until approved by the Chairman of the NIGC.

[History: Public Law No. SF-08-180.]

**Subchapter E—FACILITY LICENSES****Section 1-561. Facility Licenses Required**

The 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 Title. The Commission shall specify the form, conditions and content for the application for such licenses, which shall be submitted by the chief management official or the proponent of the facility.

[25 U.S.C. §2710(b)(1)(B); 25 C.F.R. §522.4(b)(6)]

[History: Public Law No. SF-08-180.]