

PONCA TRIBE OF NEBRASKA  
TRIBAL COUNCIL  
AGENDA

OCTOBER 28, 2018  
10:00 AM  
TRIBAL OFFICE  
5805 S 86<sup>TH</sup> CIR  
OMAHA, NEBRASKA

- I. CALL TO ORDER
  - a. Invocation/Roll Call
- II. APPROVAL OF AGENDA
- III. APPROVAL OF MINUTES
  - a. October 8, 2018
- IV. RATIFICATION OF ACTIONS
- V. CHAIRMAN'S REPORT
- VI. LAW & ORDER CODE, TITLE I – GENERAL PROVISIONS REVISED – FIRST READING
- VII. LAW & ORDER CODE, TITLE XIII – SECURED TRANSACTIONS ACT REVISED – SECOND READING/APPROVAL - RESOLUTION
- VIII. MICHAEL HLAVSA, PONCA GAMING COMMISSION CONSULTANT
  - a. Ponca Gaming Commission FY19 Budget - MOTION
- IX. GARY STOLTENBERG, ELDERS COUNCIL
  - a. Fiscal Year 2019 Elders Council Budget – MOTION
- X. FALON MCALPIN, EXECUTIVE DIRECTOR OF TRIBAL AFFAIRS
  - a. Executive Team Report
- XI. JACOB OLSUFKA, DIRECTOR OF FINANCE
  - a. Schedule of Expenditures Report as of 9/30/18
  - b. Indirect Cost Report as of 9/30/18
  - c. General Fund Report as of 9/30/18
  - d. Committee Report as of 9/30/18
  - e. Tribal Council Report as of 9/30/18
  - f. Miscellaneous Report September 2018
  - g. FY19 General Fund Budget - MOTION
- XII. HILARY FARLEY, IT MANAGER
  - a. Microsoft Office 365 Exchange Online – MOTION
  - b. N-Krypt Email Encryption – MOTION
  - c. VM Racks Website Hosing Renewal - MOTION
- XIII. JONATHAN ROBINSON, HUMAN RESOURCE DIRECTOR
  - a. NDA w/Silverback RX and QCC Insurance Company – MOTION
  - b. Delta Dental Contract – MOTION
  - c. Transportation Superintendent Job Description Revised – MOTION
- XIV. STEPHANIE SLOBOTSKI, TRANSPORTATION PLANNER
  - a. Storm Shelter Recommendations - MOTION
- XV. JOEY NATHAN, EXECUTIVE DIRECTOR – NPHA
  - a. Quarterly Report
  - b. FY2017 Audit
  - c. Community Based Development Organization Designation - RESOLUTION
- XVI. MARSHALL PRICHARD, OSNI PONCA CHAIRMAN
  - a. Quarterly Report
- XVII. NEW BUSINESS
  - a. Nebraskans for the Arts Request – MOTION
  - b. Letter Rescinding Appeal of Land into Trust on O Street – MOTION (Chairman Wright)
  - c. Indian Center Inc. Request for Support – DISCUSSION/MOTION (Chairman Wright)
- XVIII. OTHER BUSINESS
- XIX. ADJOURN

\*\*\*\* NOTICE: ALL TRIBAL MEMBERS \*\*\*\*

**LAW AND ORDER CODE REVISION  
TITLE I  
GENERAL PROVISIONS**

**Discussion on October 8, 2018  
During Tribal Council Meeting**

\*\*\*\* NOTICE: All Tribal Members\*\*\*\*

The Ponca Tribal Council will be reviewing a proposed amendment to the Law and Order Code, Title I – General Provisions, Section 1-7-5 Recognition of Foreign Court Orders/Judgments.

Our current lender and likely all future phase lenders will have an issue with the current language of the L&O Code regarding the enforcement of foreign judgments. In particular, current tribal law states that foreign judgments (i.e. other tribal courts, state courts or federal courts) will be enforced by the Ponca tribal courts as long as, among other things, such judgments don't violate the "public policy of the Ponca Tribe." This standard is too broad and would allow the Tribal Courts to refuse to enforce any judgment it doesn't agree with.

Rather than repealing and replacing this section, our lender is proposing adding an additional subsection which would allow the Tribal Council, by resolution, to waive application of this language. Such resolutions would be entered into as closing conditions of certain loans, including the upcoming Shakopee loan. Thus, we propose adding the following to Section 1-7-5 as #3 to the existing Law & Order Code:

( ). Nothing in this subsection shall prevent the Tribal Council, by duly executed Tribal Council Resolution, from making the foregoing provisions not applicable to any transaction, agreements, or other matter specified in such Tribal Council Resolution.

**There will be a discussion by Tribal Council that is open for public comment on October 8, 2018 at 10:00 a.m. or as soon thereafter as it may be heard.**

**Written comments will be accepted until 9 AM on October 8.** The written comments may be emailed to [janc@poncatribene.org](mailto:janc@poncatribene.org) or mailed to:

Ponca Tribe of Nebraska  
Attn: Jan Colwell  
P.O. Box 288  
Niobrara, NE 68760

FIRST READING TO BE HELD OCTOBER 28, 2018.  
SECOND READING/APPROVAL TO BE HELD NOVEMBER 5, 2018.

3. Neither the Tribe nor its officers or employees when involved in a civil action arising from the performance of their official duties shall be required to post security by bond or otherwise for any purpose.

**Section 1-7-4. Limitations in Civil Actions.**

1. Unless otherwise specifically provided in this Code, the following limitations on the bringing of civil actions shall apply:

a. Any action against the Tribe or its officers derivative of lease of tribal land must be commenced within six (6) years of the date the cause of action occurred.

b. Any other action against the Tribe or its officers or employees arising from the performance of their official duties must be commenced within one (1) year of the date the cause of action accrued, provided that any cause of action that is based on fraud or mistake shall not be deemed to have accrued until the aggrieved party has discovered the facts constituting fraud or mistake.

c. Any other action must be commenced within three (3) years of the date the cause of action accrued, provided, however, that the cause of action based on fraud or misrepresentation shall not be deemed to have accrued until the aggrieved party has discovered the facts constituting the fraud or misrepresentation.

2. None of the above limitations of action shall be construed as a waiver of the Tribe's sovereign immunity.

**Section 1-7-5. Recognition of Foreign Court Orders/Judgments.** The Tribe shall recognize and enforce valid foreign court judgments and orders if:

1. The foreign court recognizes and enforces judgments and orders of the Tribal Court; and

2. The foreign court judgment is not contrary to the public policy of the Tribe.

3. Nothing in this subsection shall prevent the Tribal Council, by duly executed Tribal Council Resolution, from making the foregoing provisions not applicable to any transaction,

agreements, or other matter specified in such Tribal Council Resolution.

**CHAPTER 8  
WEAPONS ON PONCA TRIBE OF NEBRASKA PROPERTY**

**Section 1-8-1. Purpose.** The purpose of this chapter is to ensure the safety of tribal members and all others on the lands and property of the Tribe by categorically excluding the possession of firearms of any kind on all lands and property and in all buildings and vehicles of the Tribe.

**Section 1-8-2. Definitions.** Unless the context requires otherwise, as used in this Chapter:

1. "Authorized Individual" means a person specifically authorized under this Chapter to carry weapons on the Tribe's property.

2. "Law Enforcement Officer" means a person who is designated as such by the laws of the Tribe or who otherwise is elected, appointed, or employed by the Tribe or other government and vested with the authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of penal, criminal, traffic, or highway laws, including certified supervisory and command personnel whose duties include the supervision, training, guidance, and management responsibilities of law enforcement officers, but does not include support personnel.

3. "Premises of the Tribe" means lands, grounds or property of the Tribe and any building, facility or vehicle of the Tribe, whether owned, leased, or held in trust for the Tribe.

**Section 1-8-3. Prohibition; Exceptions.**

1. No person shall go armed with, carry, or transport a firearm, deadly weapon or dangerous instrument of any kind, whether concealed or not, on the premises of the Tribe.

2. The Tribe has and reserves the right to inspect any person entering or found on the premises of the Tribe as well as any articles and property in any person's possession to detect firearms, deadly weapons or dangerous instruments.

PONCA TRIBE OF NEBRASKA  
TRIBAL COUNCIL

RESOLUTION 18-\_\_\_\_\_

WHEREAS: The Ponca Tribe of Nebraska is a federally recognized Indian Tribe (P.L. 101-484) whose business affairs are conducted by the Ponca Tribal Council as defined in the Constitution approved July 22, 1994 by the Acting Deputy Commissioner of Indian Affairs; and

WHEREAS: Pursuant to the Constitution of the Ponca Tribe of Nebraska, the Ponca Tribal Council exercises legislative powers to enact and promulgate resolutions and ordinances subject to all express restrictions upon such powers contained in the constitution; and

WHEREAS: The Ponca Tribal Council has reviewed the proposed amendments to the Ponca Tribe of Nebraska Law & Order Code, Title XIII – Secured Transactions Act. This Ordinance will be repealed and replaced with the proposed amendment entitled “Governmental Secured Transactions Ordinance”; and

WHEREAS: The proposed amendments to the Law & Order Code, Title XIII was placed on the September 29, 2018 Tribal Council Agenda to allow comments from the public and on October 8, 2018 and October 28, 2018 for first and second readings respectively. A notice of intent to amend the Law & Order Code, Title XIII was mailed to all heads of household at least 14 days prior to any final action satisfying the requirements for the adoption, amendment, or abolishment of Ordinances.

THEREFORE BE IT RESOLVED that the Ponca Tribal Council approves to repeal the current Title XIII – Secured Transactions Act and replace with Title XIII – Governmental Secured Transactions Ordinance.

BE IT FURTHER RESOLVED that these amendments shall take effect immediately.

CERTIFICATION

THIS IS TO CERTIFY AND AFFIRM that the above and foregoing resolution was duly authorized and passed by the Tribal Council of the Ponca Tribe of Nebraska at a duly called meeting held in Omaha, Nebraska on the \_\_\_\_ day of October, 2018 by a vote of \_\_\_\_ Ayes; \_\_\_\_ Nays; \_\_\_\_ Abstained; \_\_\_\_ Absent. Chairperson \_\_\_\_ voting \_\_\_\_ not voting. A Quorum of \_\_\_\_ was present.

ATTEST

\_\_\_\_\_  
Larry Wright, Jr., Chairman  
Ponca Tribe of Nebraska

\_\_\_\_\_  
Candace Schmidt, Secretary  
Ponca Tribe of Nebraska

**\*\*\*\* NOTICE: All Tribal Members \*\*\*\***

**LAW AND ORDER CODE REVISION  
TITLE XIII  
SECURED TRANSACTIONS ACT**

**Discussion on September 29, 2018  
During Tribal Council Meeting**

**\*\*\*\* NOTICE: All Tribal Members\*\*\*\***

The Ponca Tribal Council will be reviewing proposed amendments to the Law and Order Code, Title XIII – Secured Transactions Act. The current ordinance will basically be repealed and replaced. The current Tribal Code is inconsistent with the law in several other jurisdictions, and would make it difficult, if not impossible, for creditors to gain enforceable security interests in personal property, which is essential to the financing for the interim casino, as well as future financings.

A complete copy of the new proposed Secured Transactions Act is available at the tribal offices, or one may be obtained by contacting Jan Colwell, Tribal Council Executive Assistant at 402-857-3391.

**There will be a discussion by Tribal Council that is open for public comment on September 29, 2018 at 10:00 a.m. or as soon thereafter as it may be heard.**

**Written comments will be accepted until 9 AM on September 29th.** The written comments may be emailed to [janc@poncatribene.org](mailto:janc@poncatribene.org) or mailed to:

Ponca Tribe of Nebraska  
Attn: Jan Colwell  
P.O. Box 288  
Niobrara, NE 68760

FIRST READING HELD OCTOBER 8, 2018  
SECOND READING/APPROVAL TO BE HELD OCTOBER 28



## TITLE XIII

### PONCA TRIBE OF NEBRASKA GOVERNMENTAL SECURED TRANSACTIONS ORDINANCE

#### CHAPTER 1 PURPOSE

**Section 13-1-1** The purpose of this Ordinance is to establish tribal laws governing security interests granted by a Tribal Party; to provide that the proper office for filing a financing statement against any Tribal Party shall be the office specified by Iowa law as if such Tribal Party were located in Iowa; and to provide that a security interest in Pledged Revenues may be perfected by the filing of an initial financing statement.

**Section 13-1-2** This Ordinance may be cited as the “Ponca Tribe of Nebraska Governmental Secured Transactions Ordinance”.

#### CHAPTER 2 SCOPE

**Section 13-2-1** Except as otherwise provided in Article 5 hereof, this Ordinance shall apply only with respect to those security interests that (i) are granted by a Tribal Party, and (ii) are expressly stated to be granted in reliance on this Ordinance.

**Section 13-2-2** This Ordinance shall remain in effect as to any security interest to which it applies until all obligations secured thereby have been fully and finally discharged or otherwise satisfied, except that this Ordinance may be amended in any manner that is not adverse to any secured party with respect to any such security interest.

#### CHAPTER 3 DEFINITIONS

**Section 13-3-1** In this Ordinance the following terms have the following meanings:

(a) *Iowa UCC* means, with respect to any particular transaction, the Uniform Commercial Code of the State of Iowa, as amended from time to time.

(b) *Contract UCC* means, with respect to any particular transaction, the Uniform Commercial Code (as amended from time to time) of the state of the United States that is stated to apply in a writing signed by a Tribal Party with respect to such transaction, or if none is so stated to apply, the Iowa UCC.

(c) *Pledged Revenues* means all of a Tribal Party's money, earnings, income and revenues, and the rights to receive the foregoing, whether in the form of money, deposit accounts, investments, accounts, instruments or other assets, and the proceeds thereof, in which such Tribal Party has granted a security interest in a writing signed by such Tribal Party.

(d) *Tribal Party* means the Tribe and all of its governmental authorities, instrumentalities, subdivisions, subsidiaries and departments, including the successors and assigns of all of the foregoing.

(e) *Tribe* means the Ponca Tribe of Nebraska, a federally recognized Indian tribe.

**Section 13-3-2** Any undefined terms that are defined in the Iowa UCC are used in this Ordinance with the meanings that apply in the Iowa UCC.

#### **CHAPTER 4 LAWS APPLICABLE TO SECURITY INTERESTS**

**Section 13-4-1** Except as provided elsewhere in this Ordinance, the rights and obligations of any person with respect to any security interest to which this Ordinance applies shall be governed by the Contract UCC.

**Section 13-4-2** Except as provided elsewhere in Article 4 of this Ordinance, the perfection, effect of perfection or nonperfection and priority of any security interest to which this Ordinance applies shall be determined in accordance with the Iowa UCC as if each Tribe and Tribal Party were (for purposes of Sections 554.9301 through 554.9307 of the Iowa UCC) located in the State of Iowa and as if the reservation were located in the State of Iowa.

**Section 13-4-3** Notwithstanding any other provision of the Contract UCC, the Iowa UCC or this Ordinance to the contrary, a security interest granted in Pledged Revenues in which the applicable Tribal Party has rights shall be created and attach upon the giving of value and the granting of such security interest by such Tribal Party in a writing executed by that Tribal Party, and such security interest may be perfected only by the filing of an initial financing statement with respect to such security interest in the same manner and in the same location as if all of such Pledged Revenues were accounts.

**Section 13-4-4** The provisions of Section 554.9109(3) of the Iowa UCC and the Contract UCC shall be ineffective to limit the application of Iowa UCC and the Contract UCC in accordance with this Ordinance.



**CHAPTER 5**  
**EFFECTIVE DATE AND REPEALER**

**Section 13-5-1** To the extent any provision of any law, ordinance, resolution, motion or any other action of any Tribal Party heretofore taken is in conflict with any provision of this Ordinance, the provision of this Ordinance shall supercede and the conflicting provision shall be and hereby is repealed as it shall apply to a security interest to which this Ordinance applies.

**Section 13-5-2** This Ordinance is effective upon the date of its enactment by the Tribe's Tribal Council.

**AGENDA ITEM REQUEST**

(for employees only)

DATE SUBMITTED:   10   /   9   /   2018  

All agenda item requests must be approved by the Tribal Business Manager and forwarded to the Niobrara Office, Attn: Jan Colwell **five (5) working days before the meeting.**

Meeting of:   X   Tribal Council  
           Executive Committee

Meeting Date:   10   /   27   /   2018  

Subject:   Microsoft Office 365 Exchange Online  

ACTION REQUEST: (Please describe request in the form of a motion)

  Motion to approve Microsoft Office 365 Exchange Online in the amount of \$8,400.  

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Will there be support materials for this agenda item?   X   Yes        No  
(If there are support materials, one copy must be attached)

Submitted By:   Hilary Farley  

APPROVED \_\_\_\_\_  
Executive Director of Tribal Affairs

**AGENDA ITEM REQUEST**  
(for employees only)

DATE SUBMITTED:   10   /  17  / 2018

All agenda item requests must be approved by the Tribal Business Manager and forwarded to the Niobrara Office, Attn: Jan Colwell **five (5) working days before the meeting.**

Meeting of:  Tribal Council  
 Executive Committee

Meeting Date:  10  /  28  / 2018

Subject:   N-Krypt Email Encryption  

ACTION REQUEST: (Please describe request in the form of a motion)  
  Motion to approve RFP for N-Krypt email encryption in the amount of \$18,150.00    
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\_\_\_\_\_  
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Will there be support materials for this agenda item?  Yes  No  
(If there are support materials, one copy must be attached)

Submitted By:   Hilary Farley  

APPROVED \_\_\_\_\_  
Executive Director of Tribal Affairs

**AGENDA ITEM REQUEST**

(for employees only)

DATE SUBMITTED:   10   /  17   / 2018

All agenda item requests must be approved by the Tribal Business Manager and forwarded to the Niobrara Office, Attn: Jan Colwell **five (5) working days before the meeting.**

Meeting of:   X   Tribal Council  
           Executive Committee

Meeting Date:  10  /  28  / 2018

Subject:   VM Racks Website Hosting Renewal  

ACTION REQUEST: (Please describe request in the form of a motion)  
Motion to approve RFP for Website Hosting Renewal to VM Racks in the amount of \$5,988

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Will there be support materials for this agenda item?   X   Yes        No  
(If there are support materials, one copy must be attached)

Submitted By:   Hilary Farley  

APPROVED \_\_\_\_\_  
Executive Director of Tribal Affairs

**AGENDA ITEM REQUEST**

(for employees only)

DATE SUBMITTED: 10/17/2018

All agenda item requests must be approved by the Tribal Business Manager and forwarded to the Niobrara Office, Attn: Jan Colwell **five (5) working days before the meeting.**

Meeting of:  Tribal Council  
 Executive Committee

Meeting Date: 10/28/2018

Subject: Contracts

ACTION REQUEST: (Please describe request in the form of a motion)

- Motion to approve the NDA with Silverback Rx and QCC Insurance Company.
- Motion to approve the Delta Dental contract.

Will there be support materials for this agenda item?  Yes  No  
(If there are support materials, one copy must be attached)

Submitted By: Jonathan Robinson

APPROVED

  
EDTA/CEO/DOF/HRD

**AGENDA ITEM REQUEST**  
(for employees only)

DATE SUBMITTED: 10/17/2018

All agenda item requests must be approved by the Tribal Business Manager and forwarded to the Niobrara Office, Attn: Jan Colwell **five (5) working days before the meeting.**

Meeting of:  Tribal Council  
 Executive Committee

Meeting Date: 10/28/2018

Subject: Job Description

ACTION REQUEST: (Please describe request in the form of a motion)

- Motion to approve the Transportation Superintendent job description – Revised.

Will there be support materials for this agenda item?  Yes  No  
(If there are support materials, one copy must be attached)

Submitted By: Jonathan Robinson

APPROVED

  
EDTA/CEO/DOF/HRD

**AGENDA ITEM REQUEST**

(for employees only)

DATE SUBMITTED: 10/18/18

All agenda item requests must be approved by the Tribal Business Manager and forwarded to the Niobrara Office, Attn: Jan Colwell **five (5) working days before the meeting.**

Meeting of:  Tribal Council  
 Executive Committee

Meeting Date: 10/27/18

Subject: Storm shelter recommendations

ACTION REQUEST: (Please describe request in the form of a motion)

Motion to accept the recommendations of the planning team and submit for design to be brought back for final approval in December 2018.

Will there be support materials for this agenda item?  Yes  No  
(If there are support materials, one copy must be attached)

Submitted By: Stephanie Slobotski

APPROVED

  
Executive Director of Tribal Affairs



**AGENDA ITEM REQUEST**  
(for employees only)

DATE SUBMITTED:   10   /   15   /  2018  

All agenda item requests must be approved by the Executive Director of Tribal Affairs and then forwarded to the Niobrara Office, Attn: Jan Colwell **five (5) working days before the meeting.**

Meeting of:     X   Tribal Council  
                           Executive Committee

Meeting Date:  10   /  28   /  2018  

Subject:   Northern Ponca Housing Authority  

ACTION REQUEST: (Please describe request in the form of a motion)

- 1) Tribal Council Quarterly Report
- 2) FY 2017 Audit

Will there be support materials for this agenda item?     X   Yes            No  
(If there are support materials, one copy must be attached)

Submitted By:   Joey Nathan  

APPROVED     
                  Executive Director of Tribal Affairs

**AGENDA ITEM REQUEST**

(for employees only)

DATE SUBMITTED:   10   /   15   / 2018

All agenda item requests must be approved by the Executive Director of Tribal Affairs and then forwarded to the Niobrara Office, Attn: Jan Colwell **five (5) working days before the meeting.**

Meeting of:  Tribal Council  
 Executive Committee

Meeting Date:   10   /   28   / 2018

Subject:   Northern Ponca Housing Authority  

ACTION REQUEST: (Please describe request in the form of a motion)

1) CBDO Designation

Will there be support materials for this agenda item?  Yes  No  
(If there are support materials, one copy must be attached)

Submitted By:   Joey Nathan  

APPROVED \_\_\_\_\_  
Executive Director of Tribal Affairs

PONCA TRIBE OF NEBRASKA  
TRIBAL COUNCIL

RESOLUTION 18-\_\_\_\_\_

WHEREAS: The Ponca Tribe of Nebraska is a federally recognized Indian Tribe (P.L. 101-484) whose business affairs are conducted by the Ponca Tribal Council as defined in the Constitution approved July 22, 1994 by the Acting Deputy Commissioner of Indian Affairs; and

WHEREAS: Pursuant to the Constitution of the Ponca Tribe of Nebraska, the Ponca Tribal Council exercises legislative powers to enact and promulgate resolutions and ordinances subject to all express restrictions upon such powers contained in the constitution; and

**WHEREAS**, the Tribal Council of the Ponca Tribe of Nebraska has designated the Northern Ponca Housing Authority (NPHA) as its Tribally Designated Housing Entity by Tribal Council Resolution No. 97-67; and

**WHEREAS**, the Northern Ponca Housing Authority has established the Northern Ponca Housing Resident Association under the provision of Section 21-19,105 to 21-19, 117 of the Nebraska Corporation Act and as a 501c3 under the Internal Revenue Service code in section 501 (c)(3); and

**WHEREAS**, the Northern Ponca Housing Resident Association is a tribal-based and State of Nebraska based nonprofit organization. Such organizations are associations or corporations duly organized to promote and undertake community development activities on a not-for-profit basis within an identified service area; and

**THEREFORE BE IT RESOLVED**, the Northern Ponca Tribe hereby designates the Northern Ponca Housing Resident Association as a Community Based Development Organization pursuant to 24 CFR §1003.204(c)(2)(iv) for purposes of undertaking community development activities in the service area of the Ponca Tribe of Nebraska.

CERTIFICATION

THIS IS TO CERTIFY AND AFFIRM that the above and foregoing resolution was duly authorized and passed by the Tribal Council of the Ponca Tribe of Nebraska at a duly called meeting held in Omaha, Nebraska on the \_\_\_\_ day of October, 2018 by a vote of \_\_\_\_ Ayes; \_\_\_\_ Nays; \_\_\_\_ Abstained; \_\_\_\_ Absent. Chairperson \_\_\_\_ voting \_\_\_\_ not voting. A Quorum of \_\_\_\_ was present.

ATTEST

\_\_\_\_\_  
Larry Wright, Jr., Chairman  
Ponca Tribe of Nebraska

\_\_\_\_\_  
Candace Schmidt, Secretary  
Ponca Tribe of Nebraska