



SEP 8 2005

VIA FACSIMILE & REGULAR MAIL

Billy Evans Horse
Chairman
Kiowa Tribe of Oklahoma
P.O. Box 369
Carnegie, Oklahoma 73015
Fax: (580) 654-2188

Re: Amended and Restated Gaming Ordinance of the Kiowa Tribe of Oklahoma

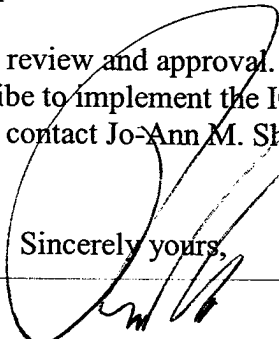
Dear Chairman Evans Horse:

This letter responds to your request to the National Indian Gaming Commission (NIGC) to review and approve the gaming ordinance of the Kiowa Tribe of Oklahoma (Tribe). The original version of the ordinance was received by the NIGC on June 14, 2005. On or about September 1, we informed your legal counsel of certain deficiencies in the original ordinance. Consequently, the Kiowa Tribe's Business Committee revised the ordinance to correct these issues and adopted a new ordinance by Resolution No. CY-2005-176 on September 3, 2005.

This letter constitutes approval under the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §2701 *et seq.*, of the enclosed Amended and Restated Gaming Ordinance. Approval does not constitute approval of specific games. In addition, the ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe possesses jurisdiction and exercises governmental power.

Thank you for submitting the ordinance for review and approval. The NIGC staff and I look forward to working with you and the Tribe to implement the IGRA. If you have questions or require further assistance, please contact Jo-Ann M. Shyloski, NIGC Senior Attorney, at 202-632-7003.

Sincerely yours,


Philip N. Hogen
Chairman



Kiowa Tribe of Oklahoma

P.O. Box 369 · Carnegie, Oklahoma · 73015

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Kiowa Business Office

RESOLUTION NO. CY-2005-176

RESOLUTION OF THE KIOWA BUSINESS COMMITTEE APPROVING AND ADOPTING THE KIOWA INDIAN TRIBE OF OKLAHOMA AMENDED AND RESTATED GAMING ORDINANCE

WHEREAS, the Kiowa Indian Tribe of Oklahoma (the "*Tribe*") is a - sovereign nation and from time immemorial has been a sovereign nation;

WHEREAS, the Tribe is federally recognized by the Secretary of Interior of the United States as having powers of self government and as being eligible for the special programs and services provided by the United States to Indians, and its sovereignty is thereby recognized by the United States, all as evidenced by order of the Associate Commissioner of Indian Affairs, dated March 13, 1970, approving the constitution and bylaws of the Tribe (the "*Constitution*");

WHEREAS, pursuant to that Constitution, specifically Article V, section 2, the Tribe has delegated to their elected representatives, the Business Committee (the "*Business Committee*"), the responsibility and authority to take all necessary action to promulgate and enforce ordinances and codes to protect the general welfare of the Tribe and its members;

WHEREAS, pursuant to Ballot Issue 94-A-5, the Gaming Ordinance (as defined below) was ratified by a vote of the Council on June 18, 1994;

WHEREAS, by Resolutions No. CY-95-39 and CY-95-40, both dated June 26, 1995, the Business Committee, acting pursuant to the aforesaid power, enacted a resolution to approve and adopt the Kiowa Indian Tribe of Oklahoma Gaming Ordinance of 1995 and the Kiowa Indian Tribe of Oklahoma Gaming Facility Bonding Ordinance of 1995 (together, as amended, the "*Existing Gaming Ordinance*");

- WHEREAS**, as is required under federal law, the Existing Gaming Ordinance was approved by the Chairman of the National Indian Gaming Commission (the "*NIGC*"), as indicated by that Chairman's publication of a notice of approval of Class III tribal gaming ordinances, in Volume 61, Federal Register, page 31963, on Friday, June 21, 1996;
- WHEREAS**, on July 12, 2001, by Resolution No. CY-2001-045, the Business Committee exercised its authority, as delegated to it by the Council in the Constitution, to amend, in accordance with Article XIX of the Existing Gaming Ordinance, in certain particulars the Existing Gaming Ordinance;
- WHEREAS**, by letter dated September 7, 2001, the NIGC granted its approval of the amendment to the Existing Gaming Ordinance;
- WHEREAS**, on July 8, 1999, the Tribe was served by the Chairman of the NIGC, with notice of violation and closure order 6-99, in which the NIGC Chairman alleged that the Tribal gaming operation was in violation of law for operating Class III games without a compact with the State of Oklahoma;
- WHEREAS**, on January 19, 2000, the Tribe was served by the Chairman of the NIGC, with notice of violation 00-03, in which the NIGC Chairman alleged further violations of law in connection with the Tribal gaming operation;
- WHEREAS**, on June 16, 2000, the Tribe was served by the Chairman of the NIGC, with notice of violation and closure order 00-08, by which the NIGC Chairman further alleged additional violations of law in connection with the Tribal gaming operation;
- WHEREAS**, on August 8, 2000, the Tribe was served by the Chairman of the NIGC with notice of civil fine assessment CFA-00-08, by which the NIGC Chairman assessed a civil fine against the Tribe in the amount of \$100,000.00;
- WHEREAS**, for the Tribe to be able to commence gaming and pursue development of the Project, it must resolve its existing disputes with the NIGC and obtain a lifting of the NIGC closure orders;
- WHEREAS**, on February 15, 2005, by Resolution No. CY-2005-160, the Business Committee exercised its authority to adopt an amended gaming ordinance and authorized and instructed the Chairman to submit the amended gaming ordinance to the NIGC, pursuant to IGRA and the NIGC regulations, for approval;

WHEREAS, the NIGC has provided the Business Committee with comments to the proposed gaming ordinance, which have been incorporated into the Kiowa Indian Tribe of Oklahoma Amended and Restated Gaming Ordinance, in the form attached as Exhibit A (the "*Restated Gaming Ordinance*");

WHEREAS, to commence gaming that is the most profitable and beneficial for the Kiowa people, the Business Committee has determined that it is in the best interest of the Tribe to adopt the Restated Gaming Ordinance; and

WHEREAS, the Kiowa Gaming Commission has reviewed and recommends approval of the Restated Gaming Ordinance in order to more fully empower the Kiowa Gaming Commission in the regulation, oversight and supervision of gaming operations of the Tribe consistent with IGRA, the regulations of the NIGC and the declared policy of gaming of the Tribe set forth in the Restated Gaming Ordinance.

NOW, THEREFORE IT BE AND IT HEREBY IS

RESOLVED, that the Business Committee hereby approves and adopts the Restated Gaming Ordinance and authorizes and instructs the Chairman, (or in his absence, the Vice-Chairman) and their designees to take all necessary action to submit the Restated Gaming Ordinance to the NIGC, pursuant to IGRA and the NIGC regulations, for approval;

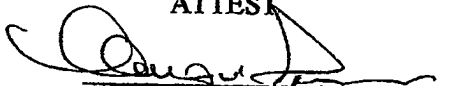
RESOLVED, that the Business Committee hereby authorizes, instructs and directs the Chairman, Vice-Chairman and Secretary of the Tribe and their designees to do and perform such deeds and acts, and execute such further agreements or documents, as may to such persons, on behalf of the Tribe, be deemed necessary or convenient to carry out and perform the purposes and intentions of these resolutions and obtain approval of the Restated Gaming Ordinance by the Secretary of the Interior and enactment of the Restated Gaming Ordinance and grants any additional approvals and consents necessary to accomplish these actions; and

RESOLVED, that, effective as of the effective date of the Restated Gaming Ordinance, the Existing Gaming Ordinance, as amended prior to the date hereof, and, to the extent that any other ordinance, regulation, policy or practice of the Tribe is inconsistent with this resolution or the Restated Gaming Ordinance hereby enacted, such ordinance, regulation, policy and practice is hereby superseded and repealed.

CERTIFICATION

The foregoing Resolution No. CY-2005-176 was duly adopted at the Special Meeting of the Kiowa Business Committee Meeting held on September 3, 2005, at the Kiowa Tribal Complex, Carnegie, Oklahoma with a vote of (5)for, (1) against, (0) abstentions, with a quorum being present.

ATTEST


Marge Pence, Secretary

WITNESS


Billy Evans Horse, Chairman

(SEAL)



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Article 1. Declaration of Policy

It is the declared policy of the Kiowa Indian Tribe of Oklahoma that:

- (a) All Class II and Class III gaming conducted on Kiowa Indian lands shall be regulated by the Tribal Gaming Commission to protect the public health, welfare

and morals of residents, employees, patrons and the Tribe from the adverse effects which may derive from unregulated or unlawful gaming;

- (b) All gaming activities authorized under this Ordinance shall comply with the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., and the regulations promulgated by the National Indian Gaming Commission;
- (c) No person shall conduct any Class II Gaming or any Class III Gaming within Kiowa Indian lands, except as licensed pursuant to this Ordinance;
- (d) The Business Committee further finds that effective regulatory oversight of gaming and ancillary and accessory uses of Gaming Facilities requires a functional separation between the operation of Tribal Gaming and the regulation of Tribal Gaming;
- (e) The Business Committee further finds that the creation of a permanent and stable source of funding for the regulation of gaming will ensure the independence and integrity of a Tribal Gaming Commission and also finds that the independence and integrity of the Tribal Gaming Commission can be seriously threatened if the Tribal leadership is able to withhold funding or provides insufficient funding for the Tribal Gaming Commission to carry out its regulatory responsibilities; and
- (f) The Business Committee further finds that the length of term in office and assurance of an opportunity to perform the required duties are important to the independence of tribal gaming regulatory authorities in general and the Tribal Gaming Commission in particular and the term of office for Tribal Gaming Commission members should be a fixed term and long enough to ensure stability, and continuity which can be fostered by staggering the terms of Tribal Gaming Commission members, thus avoiding wholesale changes in membership.

Article 2. Purpose

The Business Committee of the Kiowa Indian Tribe of Oklahoma (hereinafter "Tribe"), empowered by the Constitution of the Kiowa Indian Tribe of Oklahoma to enact laws and regulations, hereby enacts this ordinance to govern Class II and Class III Gaming Operations on the Kiowa Tribe of Oklahoma's "Indian lands," as defined in the Indian Gaming Regulatory Act of 1988 (hereinafter "IGRA") at 25 U.S.C § 2703(4).

Article 3. Scope

This Ordinance shall apply to all Class II and Class III gaming conducted on Kiowa Indian lands.

Article 4. Definitions

Terms used in this Ordinance shall have the following definitions:

(a) **Act or IGRA** shall mean the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§ 2701-2721.

(b) **Business Committee** shall mean the Kiowa Business Committee as described in the Constitution of the Kiowa Indian Tribe of Oklahoma.

(c) **Class I gaming** shall mean 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.

(d) **Class II gaming** shall have the meaning found at 25 U.S.C. § 2703(7).

(e) **Class III gaming** shall mean all forms of gaming that are not Class I gaming or Class II gaming.

(f) **Gaming Facility** means a building or buildings and accessory improvements used in the operation of Class II or Class III gaming, as applicable, including all land upon which the building or buildings are situated that is appropriated for the use of the Gaming Facility, together with all parts of the Gaming Site, all related appurtenances and fixtures.

(g) **Gaming Operation** shall have the meaning set forth in 25 C.F.R. § 502.10.

(h) **Gaming Site or Site** means the tract or tracts of land upon which a Gaming Facility is located.

(i) **Gaming Commission or Commission** shall mean the Kiowa Tribal Gaming Commission established under Article 8 hereof to perform regulatory oversight and to monitor compliance with Tribal, Federal, and applicable State regulations.

(j) **Indian tribe or Tribe** shall mean the Kiowa Indian Tribe of Oklahoma which—

- (1) is recognized as eligible by the Secretary for the special programs and services provided by the United States to Indians because of their status as Indians, and
- (2) is recognized as possessing powers of self-government.

(k) **Key Employee** shall have the meaning set forth in 25 C.F.R. § 502.14.

(l) **Kiowa Casino Operations Authority** shall mean that certain unincorporated commercial enterprise of the Tribe established to develop, construct, furnish, equip, own, lease, operate, manage, maintain, promote and finance all gaming, resort and hospitality businesses of the Tribe on Kiowa Indian lands, and engaging in any other lawful activity in furtherance thereof.

- (m) **Kiowa Indian lands** shall have the meaning found in 25 U.S.C. § 2703(4).
- (n) **Management Contract** shall have the meaning set forth in 25 C.F.R. 502.15.
- (o) **Management Contractor** means the Person (other than the Tribe) holding a Management Contract entered into pursuant to 25 U.S.C. § 2710(d)(9) or § 2711 and approved by the National Indian Gaming Commission pursuant to Part 533 (Approval of Management Contracts), Title 25, Code of Federal Regulations.
- (p) **M.I.C.S.** means the minimum internal control standards for Indian gaming facilities required under 25 C.F.R. Part 542.
- (q) **Net revenues** shall have the meaning set forth in 25 C.F.R. § 502.16.
- (r) **NIGC** shall mean the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.
- (s) **Patron** means a person participating in a game with the hope of winning money or other benefit, and any other natural person while on a Gaming Site and having the intent to purchase any goods or services for sale to the general public therein.
- (t) **Primary Management Official** shall have the meaning set forth 25 C.F.R. § 502.19 and shall include members of the Board of Trustees of the KCOA.
- (u) **Relative** shall mean means spouse, child, parent, grandparent, grandchild, sibling, adoptive or step-parents, adoptive children and siblings, or any persons living in the same household.
- (v) **State** means the State of Oklahoma and any of its agencies or instrumentalities.
- (w) **Tribal Business Committee** means the Kiowa Business Committee as described in the Constitution of the Kiowa Indian Tribe of Oklahoma.
- (x) **Tribal Court** means a court duly constituted under the Constitution of the Kiowa Indian Tribe of Oklahoma, or so long as there be no such court, the Court of Indian Offenses sitting in Anadarko, Oklahoma, together with all tribunals provided for the appeal of the decisions of such court under federal law.
- (y) **Tribal Gaming Chairman** means the Chairman of the Kiowa Tribal Gaming Commission.
- (z) **Tribal-State Compact** shall mean an agreement between the Kiowa Indian Tribe of Oklahoma and the State of Oklahoma under 25 U.S.C. § 2710(d), relating to Class III gaming.

Article 5. Gaming Authorized

(a) Class II gaming as defined in IGRA, 25 U.S.C. § 2703(7) and by the regulations promulgated by the NIGC at 25 C.F.R. § 502.3 is hereby authorized in accordance with the provisions of this Ordinance.

(b) Class III gaming as defined in IGRA, 25 U.S.C. § 2703(8) and by the regulations promulgated by the NIGC at 25 C.F.R. § 502.4 is hereby authorized in accordance with the provisions of this Ordinance and pursuant to the terms of a Tribal-State Compact or such procedures as prescribed by the Secretary of the Interior pursuant to the Act.

Article 6. Ownership of Gaming

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

Article 7. Use of Gaming Revenue

Net revenues derived from any Gaming Operation authorized under Article 5 of this Ordinance shall be used only for the following purposes:

- (a) to fund tribal government operations or programs;
- (b) to provide for the general welfare of the Tribe 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.

Article 8. Tribal Gaming Commission

(a) Establishment of Gaming Commission. There is hereby established a Tribal Gaming Commission which shall be called the Kiowa Tribal Gaming Commission and whose duty it is to regulate all gaming activities authorized under this Ordinance. The Gaming Commission shall be a department, body corporate and politic of the Tribe, and shall as a department of the Tribe, enjoy and exercise the Tribe's sovereign powers and immunities, subject to any restrictions set out in the Tribal Constitution and in this Ordinance.

- (1) **Purpose.** The purpose of the Gaming Commission is regulatory, not managerial. The Commission will conduct oversight to ensure compliance with Federal, Tribal, and, if applicable, State laws and regulations. ~~The Commission will serve as the licensing authority for Primary Management Officials, Key Employees and other persons employed in gaming facilities of the Tribe, for vendors and suppliers of gaming equipment and services and will administer an effective~~

program for background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the internal control standards for the gaming facility and in tracking revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming facility and to all records. The Commission shall have clear authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.

- (2) **Independence.** The Tribe recognizes the importance of an independent Gaming Commission in maintaining a well-regulated gaming facility. The Commission shall be and act independently and autonomously from the Business Committee in all matters within its purview. No prior or subsequent review by the Business Committee of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Ordinance.

(b) **Membership and Terms of Office.** The Gaming Commission shall consist of three (3) members: a Chairperson, Vice-Chairperson, and a Secretary. Except for their initial appointment under this Article 5(c), terms of office shall be for five years and thereafter until their respective successors are duly appointed and confirmed. There shall be no limitation upon the successive terms that a commissioner may serve.

(c) **Initial Appointments of Commissioners.** Notwithstanding the foregoing, the Commissioners who are incumbent upon the effective date of the resolution amending the Ordinance and reconstituting the Gaming Commission shall continue to serve and shall be deemed to be reappointed to their respective offices for the following terms: the first incumbent Commissioner shall be appointed for a term to expire on May 31, 2010; the second incumbent Commissioner for a term to expire on May 31, 2011; and the third incumbent Commissioner for a term to expire on May 31, 2012. The incumbent Commissioners shall not be further required to be reappointed or redesignated.

(d) **Oath of Office.** Each member of the Tribal Gaming Commission shall prior to first assuming the duties of her or his office, give an oath to be administered by the Chairman of the General Election Board of the Tribe, to uphold, support and defend the Constitution, Bylaws and ordinances of the Kiowa Indian Tribe of Oklahoma, the Indian Gaming Regulatory Act of 1988 and the regulations of the National Indian Gaming Commission duly promulgated thereunder, and to diligently and impartially discharge the duties of her or his office. The following form of oath shall be given:

I _____ do hereby solemnly affirm that I will support and defend the Constitution, Bylaws and ordinances of the Kiowa Indian Tribe of Oklahoma, the Indian Gaming Regulatory Act of 1988 and the regulations of the National Indian Gaming Commission duly promulgated thereunder, and will carry out faithfully and impartially the duties of my office to the best of my ability and will promote and protect the best interests of the Kiowa Indian Tribe in accordance with the tribal constitution and bylaws.

(e) Minimum Requirements. Members of the Gaming Commission shall be subject to the same background check requirements as key employees and primary management officials, and must be licensed accordingly. The minimum requirements for appointment as a member of the Gaming Commission are as follows:

- (1) Member of the Kiowa Indian Tribe of Oklahoma;
- (2) Minimum of 30 years of age; and
- (3) Four year degree from an accredited United States college or university or received at least forty (40) hours of training in gaming regulation and management of the business and operation of gaming, under a formal training program found by the Business Committee to be acceptable.

(f) Ineligible Persons. Those persons who hold elected office of the Tribe or are otherwise employees of the Tribe, and also any member of the Tribe who has been recalled from elected office of the Tribe or previously removed for a good cause, from the Gaming Commission, shall be ineligible to serve as Commissioners. Any person whose Relative is employed by the Tribe as a Key Employee or Primary Management Official of a Tribal Gaming Facility, a Management Contractor, or the Kiowa Casino Operations Authority, shall be ineligible to serve as a Commissioner during such Relative's employment. No person who is ineligible to be a Key Employee or Primary Management Official and no person convicted of a felony, embezzlement, theft, or any other money-related crime or a crime of moral turpitude (such as fraud) may serve on the Gaming Commission.

(g) Selection of Gaming Commission Members. Members of the Gaming Commission shall be appointed by the Business Committee by duly-enacted resolution following a hearing at which the Business Committee examines the appointee's eligibility and qualifications.

(h) Officers. Officers of the Gaming Commission shall be the Chairman, a Vice Chairman, and a Secretary.

(1) **Chairman.** The Chairman of the Gaming Commission shall preside at all meetings of the Gaming Commission. She or he shall have general supervision of the affairs of the Gaming Commission and shall perform all duties pertaining to the office of the Chairman. The Gaming Chairman shall designate the Vice Chairman and Secretary; provided however that no commissioner shall hold more than one of these offices. The Tribal Gaming Chairman shall upon approval of the Gaming Commission, be the official spokesperson for the Gaming Commission to present and discuss all regulatory matters related to gaming on Kiowa Indian lands, to and/or with members of the press and officials of the National Indian Gaming Commission. In the absence of the Tribal Gaming Chairman, the Vice Chairman will serve pro tempore as Tribal Gaming Chairman.

(2) **Secretary.** The Secretary shall: (a) prepare and keep the minutes of all meetings of the Gaming Commission and all resolutions and regulations

enacted by the Gaming Commission, in books provided for that purpose; (b) see that all notices required by this Ordinance to be given by the Gaming Commission are duly given in accordance with the provisions of this Ordinance; (c) be the custodian of the Gaming Commission's records; (d) sign with the Tribal Gaming Chairman or Vice Chairman, licenses and permits issued by the Gaming Commission, the issue of which shall have been authorized by resolution of the Gaming Commission; (e) keep in orderly archives, fully-executed counterparts of all written agreements concerning gaming to which the Tribe or Kiowa Casino Operations Authority, is a party; keep backup copies of all of the foregoing types of records of the Gaming Commission in a secure place separate from the original records, in order to protect the Gaming Commission, the Business Committee and the Tribe from the peril of loss or destruction of such records; (f) turn over to her or his successor, in good order, all records of the Tribal Gaming Commission for which the Secretary is custodian; and (g) perform such other duties incident to the office of Secretary.

(3) **Designation of Treasurer.** The Gaming Commission may at its discretion designate the Director of the Kiowa Tax Commission to serve as treasurer/controller of the Gaming Commission; provided however that the Gaming Commission may from time to time designate or redesignate another suitable employee of the Tribe or employee of the Gaming Commission to serve in such capacity. The person from time to time serving as the designated treasurer/controller shall be responsible for the collection of all fees and assessments due the Tribal Gaming Commission in accordance with the relevant provisions of this Ordinance.

(i) Conflict of Interest Prohibited. To avoid potential conflicts of interest between the operation and regulation of gaming, the Tribe hereby finds that:

- (1) No member of the Business Committee or Kiowa Casino Operations Authority, and no employee of the Gaming Commission or the Kiowa Casino Operations Authority, may serve on the Gaming Commission;
- (2) No Relative of any member of the Business Committee or Kiowa Casino Operations Authority, or any employee of the Gaming Commission, may serve on the Gaming Commission;
- (3) No gaming contractor (including any principal of a management or other contracting company) or Relative thereof, may serve on the Gaming Commission;
- (4) No person whose other employment or responsibilities conflict, could potentially conflict, or create an impression or appearance of impropriety, with the duties and responsibilities of a member of the Commission, may serve on the Gaming Commission;

(5) Members of the Gaming Commission are prohibited from:

- (A) Gambling in any facility owned by the Tribe;
- (B) Accepting complimentary items from any gaming facility owned by the Tribe;
- (C) Providing professional or contractual services of any kind to any gaming facility owned by the Tribe for the duration of their term of office and for two years after its expiration; and
- (D) Providing management services to any gaming facility owned by the Tribe pursuant to a management contract between the Tribe and another party for the duration of their term of office and for two years after its expiration.

(j) Powers and Duties. The Gaming Commission shall have the following powers and perform the following duties:

- (1) **Regulatory Authority.** The Gaming Commission shall have the power, responsibility, and duty to:
 - (A) Conduct or cause background investigations to be conducted on, at a minimum, primary management officials and key employees;
 - (B) Issue, deny, suspend, revoke, restrict, and/or reinstate gaming licenses to vendors and suppliers of gaming equipment and services related to gaming equipment, including any person or entity which provides goods, services, or supplies to a Gaming Facility, which shall include advisory review.
 - (B) Review and approve all investigative work conducted;
 - (C) Report results of background investigations to the NIGC;
 - (D) Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
 - (E) Make suitability determinations, which shall be signed by the Chairman of the Gaming Commission;
 - (F) Issue, deny, suspend, revoke, restrict, and/or reinstate gaming licenses to primary management officials and key employees of the facility, consistent with the suitability determination as it may be modified from time to time based on the results of a Commission investigation;

- (G) Issue, deny, suspend, revoke, restrict, and/or reinstate Gaming Facility Licenses;
- (H) Inspect, examine and monitor all gaming activities, have immediate access to review, inspect, examine, photocopy and audit all records of all Tribal gaming facilities, and subpoena persons or documents;
- (I) Ensure compliance with all applicable Tribal, State, and Federal laws, rules, and regulations regarding Indian gaming;
- (J) Investigate any suspicion of wrongdoing associated with any gaming activities;
- (K) Hold hearings on patron complaints, in compliance with procedures established in this Ordinance and other Tribal gaming regulations;
- (L) Comply with any and all reporting requirements under this Ordinance, the IGRA, any Tribal-State Compact, and any other applicable law;
- (M) Promulgate and enforce regulations governing Class II and Class III gaming on Kiowa Indian lands including but not limited to the following:
 - (i) Internal control standards necessary to comply with the NIGC's Minimum Internal Control Standards;
 - (ii) The levying of fees and/or taxes associated with gaming license applications;
 - (iii) The levying of fines and/or suspension, restriction, or revocation of gaming licenses for violations of this Ordinance, or any other applicable Tribal, State, or Federal regulations regarding Indian gaming;
 - (iv) Procedures for hearings and appeals of adverse licensing or other decisions by the Gaming Commission;
 - (v) Review of the training programs for employees of a tribal gaming facility and ensure such program includes components or modules focusing on internal controls and gaming-related operational procedures.
 - (vi) Procedures for inspection, certification, and approval of games and gaming machines or devices.
 - (vii) Licensing procedures for all employees, other than key employees and primary management officials, of a Gaming Operation; and

(viii) Licensing procedures for any entity or person which provides goods, supplies or services to a Gaming Operation.

(N) Review and approve any Management Contract for a Gaming Operation on Kiowa Indian lands;

(O) Inspect and examine all Gaming Sites and Gaming Facilities on Kiowa Indian lands at such times as the Gaming Commission may deem convenient to determine and verify compliance with this Ordinance and the Act;

(P) Hold such administrative hearings, administer oaths and affirmations of witnesses appearing before the Gaming Commission, sit and act at such times and places, take such testimony, and receive such evidence as the Gaming Commission deems appropriate;

(Q) Order the temporary or permanent closure of a Gaming Operation on Kiowa Indian lands and take such other enforcement actions as are authorized under this Ordinance; and

(R) In all decisions, the Commission shall act to promote and ensure the integrity, security, honesty and fairness of the Gaming Operations and administration of all gaming activities, in a manner that fosters and supports prudent business decisions and practices.

(2) **Internal Operations.** The Gaming Commission shall have the power and duty to:

(A) Employ and fix the salaries of, or contract for the services of, such professional, technical and operational personnel and consultants as it deems the execution of the Commission's duties may require, including but not limited to an Executive Director, Treasurer, General Counsel, and Special Counsel;

(B) Adopt, amend, or repeal personnel policies and procedures governing Gaming Commission employees; including the terms and conditions of employment for Gaming Commission employees;

(C) Establish from time to time consultant groups and advisory boards which shall have such duties and the members of which shall hold office for such periods as the Gaming Commission may determine;

(D) Adopt by-laws as necessary for its internal operations, provided that such by-laws shall be consistent with the provisions of this Ordinance and other applicable law;

- (E) Hold meetings at least once a month at the Gaming Commission's main office or at any other designated meeting place, subject to the following:
- (i) Special meetings may be convened by the Tribal Gaming Chairman, or by written request of any two Commissioners, as necessary to carry out the official duties of the Gaming Commission. Notice of each special meeting shall be given by the Tribal Gaming Chairman by telephone or mail to each Commissioner. Notice shall be received at least 24 hours in advance of such meeting and shall include the date, time and place of the proposed meeting.
 - (ii) An emergency meeting may be called by the Tribal Gaming Chairman or any two Commissioners with less than 24 hours' notice; provided, however, that the Tribal Gaming Chairman (or the two Commissioners as the case may be) shall use all reasonable and diligent efforts to notify all Commissioners of such meeting, with as much prior notice as may be practicable under the circumstances.
 - (iii) All meetings of the Gaming Commission shall be open to the public; provided, however, that the Gaming Commission may, in its discretion, close any portion of any meeting to the public when discussing any information which is confidential pursuant to the terms of this Ordinance.
- (F) Use such Tribal buildings and other property in the performance of its duties as shall be approved by the Business Committee;
- (G) Procure all supplies, services, and property it deems necessary to carry out its regulatory responsibilities under this Ordinance and the Act;
- (H) Maintain bank accounts, deposit all payments, fees, assessments, penalties, interest, and fines collected under the authority of this Ordinance into accounts designated by the Gaming Commission for its sole uses and purposes, subject to the limitations established in this Ordinance; and
- (I) Maintain accurate and complete books of account for all payments, fees, assessments, penalties, interest, and fines received and disbursements made pursuant to this Ordinance.
- (3) **Budget.** The Gaming Commission shall have the power and duty to establish a budget for its operations as necessary to pay salaries and other expenses it deems necessary and appropriate to carry out its functions.
-
- (A) The Gaming Commission budget for any year shall be equal to two-thirds of one percent of the gross gaming revenue (win) but in no event more than \$1,500,000. For each year after fiscal year 2004, the Gaming Commission

Budget shall increase 5% annually to account for growth and economy. The Commission shall establish an internal budget, which shall not exceed that cap. If the Commission's budget need exceeds the cap for any year, Commission shall seek or obtain additional funds from the Business Committee.

(B) Any surplus remaining in the Gaming Commission's budget at the end of any budget year shall be refunded to the Kiowa Business Committee. The amount of funding collected by the Commission in fees, fines and other charges shall offset the revenues provided in subparagraph (3)(A) of this subsection, and the offset amount shall be refunded to the Kiowa Business Committee.

(C) The Gaming Commission shall present its annual budget to the Kiowa Business Committee for its review and concurrence. In the event the Kiowa Business Committee fails to concur with the budget presented by the Gaming Commission, the Gaming Commission shall operate under the prior year's annual budget until such time as the Kiowa Business Committee provides its concurrence.

(4) Record Keeping. The Gaming Commission shall have the power and duty to:

(A) Arrange for the preparation and keeping of complete and accurate records of all meetings and actions taken by the Commission;

(B) Maintain complete records regarding the following:

(i) Applications, financial statements, fingerprints, contracts, licenses, suspension and cancellation notices and correspondence with respect to all primary management officials, key employees, and gaming facilities;

(ii) Commission licenses;

(iii) Compact compliance;

(iv) Reports relating to customer disputes, complaints or other issues that affect the integrity of the gaming facility;

(v) Commission budget and expenditures;

(vi) Communications with the Business Committee and Business Committee members; and

(vii) Any other records or documents the Commission deems necessary or appropriate.

(5) Reporting. The Gaming Commission shall have the power and duty to:

- (A) Make quarterly reports to the Business Committee within 30 days after the end of each quarter. Such reports shall contain the following information:
- (i) Number and types of licenses issued during the previous quarter;
 - (ii) Information regarding license denials, suspensions or revocations;
 - (iii) Report of any events of noncompliance, breach or violations of this Ordinance, the rules, the compact, IGRA, a license or any other law or regulation; provided that such reports are not the subject of or relating to a pending investigation or hearing being conducted by the Commission;
 - (iv) A report of the Commission expenditures for the prior quarter;
 - (v) A summary of any Commission travel and training;
 - (vi) All other information which the Commission deems relevant in order to keep the Business Committee informed and current on all gaming regulatory matters; and
 - (vii) Such additional information as may be requested in writing by the Business Committee, consistent with the provisions of this Ordinance.

- (B) File an annual report with the Business Committee, which shall include:
- (i) A summary of the year's activities;
 - (ii) The financial condition of the Gaming Commission, and the budget for the coming year;
 - (iii) The condition of the Gaming Commission properties;
 - (iv) Any significant problems and accomplishments;
 - (v) Plans for the future; and
 - (vi) Such other information as the Commission or the Business Committee shall deem pertinent.

(C) A copy of the quarterly and annual reports shall be provided to the Kiowa Casino Operations Authority.

~~(D) In addition to the foregoing reports, upon the written request of the Tribal Chairman made pursuant to a Business Committee resolution, the Gaming Commission shall promptly and fully advise the Business Committee with respect to any specific business and affairs of the Gaming Commission and~~

shall provide with such response, copies of all records, books, and documents reasonably requested, except for confidential documents such as license applications, personal information of licensees, reports of background investigations and suitability determinations and other records that pursuant to this Ordinance are confidential.

- (E) Nothing in this Article shall authorize or permit the Commission to provide any information pertaining to a pending investigation being conducted by the Commission or pending hearing before the Commission. All such information shall be kept confidential until a final decision is made by the Commission. Any breach of this provision shall present due cause for removal of the person from office or employment and a penalty of up to \$5,000.00 for each offense.
- (6) **Limited Waiver of Sovereign Immunity.** The Gaming Commission shall have the power and duty to:
 - (A) Waive the right of the Gaming Commission to exercise sovereign immunity in contracts, agreements or undertakings to which the Gaming Commission is a party, *provided* that any such waiver of sovereign immunity is strictly limited to enforcement of obligations of the Gaming Commission and is enforceable only against the assets and revenues of the Gaming Commission; and *provided further*, that all assets, including net revenues and Reserves, held by Kiowa Casino Operations Authority, or transferred to other accounts or purposes of the Tribe, shall be exempt from such enforcement.
 - (B) If in any case the Gaming Commission exceeds the foregoing limitations on its power and authority to waive sovereign immunity, it shall be deemed to have only waived its sovereign immunity, but not that of the Tribe, and the extent of such waiver shall be expressly limited by the provisions of this subsection.
- (7) **Exclusion of individuals.** The Gaming Commission shall have the power and duty to:
 - (A) Exclude or remove any persons from the premises of any gaming facility, if the Commission deems it in the best interest of the Tribe. Any person so excluded shall be entitled to a hearing as provided for in the Commission's regulations and shall have the rights provided to an applicant therein. The manager of any gaming facility shall also have the authority to exclude or remove any person from the gaming facility, and all such actions shall be reported to the Commission within 24 hours of the taking of such action.
 - (B) Require that a licensee eject from the gaming area of a gaming facility any individual who is:

- (i) Visibly under the influence of alcohol or other intoxicating substance;
- (ii) Under the age of 21 years;
- (iii) Displaying disorderly conduct;
- (iv) Known to have committed a gaming related felony;
- (v) Known to have a reputation for cheating or manipulation of games; or
- (vi) Subject to a Commission exclusion resolution, or is a member of any group of persons that has been excluded for cause from gaming facilities by a resolution of the Commission.

(8) Compliance with applicable laws. Notwithstanding any provision of Tribal law or regulation, the Commission has the power and duty to:

(A) Comply with all regulations promulgated by the NIGC including, but not limited to, reporting requirements relating to ordinances, contracts, license applications, background checks, and other information.

(B) Ensure compliance with all assessments authorized by the NIGC. Such assessments shall be payable solely from gaming facility revenues as an operating expense.

(C) Comply with the provisions of the Tribal-State Compact including, but not limited to, any licensing, approval, or monitoring requirements contained in the Tribal-State Compact.

(9) Confidentiality. The Gaming 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 process. Under no circumstances shall information obtained during the course of an employee background investigation be disclosed to members of management, human resource personnel or others employed by the KCOA or tribal gaming facility. This subsection (9) does not apply to requests for such information or records from any Tribal, Federal or applicable State law enforcement or regulatory agency, or from the Tribal Court or for the use of such information or records by the Commission and staff in the performance of their official duties.

(10) Mediation. The Gaming Commission shall focus its attention on ensuring compliance with approved gaming laws and regulations, and shall not intervene in the operational, non-regulatory aspects of the KCOA. If a dispute arises with the Board of Directors of the KCOA regarding whether an issue is regulatory or operational, the Gaming Commission shall meet with the Board of Directors, and

enter into formal mediation if necessary, to make a good faith effort to resolve the dispute before bringing it to the Business Committee for a resolution.

(11) Limitations of authority.

(A) The Gaming Commission shall possess only those powers specifically granted in this Ordinance and such other powers as are specifically delegated by action of the Kiowa Business Committee. The Gaming Commission is authorized to take such actions as are necessary and appropriate to carry out the authority granted herein.

(B) No Commissioner or employee of the Commission shall engage in lobbying or other political activity before, or on behalf of, any tribal, state, local or federal government agency or body.

(12) Regulations.

(A) Any regulation promulgated by the Gaming Commission pursuant to the authority granted under this Ordinance shall be valid to the extent not inconsistent with this Ordinance and the Tribal Constitution and shall have the force of law equivalent to that of this Ordinance.

(B) To enact, amend, or revoke any regulation under this Ordinance, the Gaming Commission shall first, publish a notice of proposed rulemaking by written notice served by certified mail return receipt requested upon the agent for service of process of the Tribe, the KCOA, and any management contractor.

(C) The notice shall set out the full text of the proposed regulation, amendment, or revocation and shall invite written comment. The notice shall state the deadline for submission of written comments and the address where written comments shall be sent.

(D) The deadline for written comments shall be no earlier than fourteen days following the date upon which the notice is served upon the respective service agents. The notice shall also announce the date, time, and place at which the Gaming Commission is to hold a public hearing regarding the proposed regulation and any written comments received in respect thereof. The date of such hearing shall be no earlier than fourteen days following the latest date upon which the written comments are to be received.

(E) The hearing shall be held in one of the following locations: Anadarko, Carnegie, or Lawton, Oklahoma, as determined by the Gaming Commission. Such location shall be announced in the written notice of the proposed rulemaking.

(F) At the hearing the Gaming Commission shall afford to the opportunity to provide oral testimony or comment to the Tribal Chairman, members of the Business Committee, members of the KCOA Board of Trustees, and executive officers of the KCOA or any other Management Contractor.

(G) Following the hearing, the Gaming Commission shall publish the full text of its final regulation in the same manner as it is required to publish the notice of proposed rulemaking.

(k) Removal. The independence of the Gaming Commission is essential to a well-regulated gaming facility. For that reason, Commissioners may only be removed from office by the Business Committee prior to the expiration of their respective terms for the following grounds:

- (1) neglect of duty;
- (2) misconduct;
- (3) malfeasance;
- (4) conviction of a felony in any jurisdiction;
- (5) conviction of embezzlement, theft, or any other money-related crime or a crime of moral turpitude in any jurisdiction;
- (6) the Commissioner does not meet the minimum requirements of Article 8(e); or
- (7) the Commissioner is an ineligible person under Article 8(f).

Any petition for removal of a Commissioner must be substantiated by a preponderance of the evidence. Commissioners may appeal their removal to the Tribal Court, and may provide evidence rebutting the grounds for their removal. A decision of the Tribal Court 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 expenses incurred in an appeal and any pay withheld during the pendency of the appeal. Commissioners may also be subject to recall pursuant to and consistent with Article IV of the Constitution of the Kiowa Indian Tribe of Oklahoma.

(l) Transition. Upon expiration of a Commissioner's term and until his or her successor has been duly appointed, qualified and confirmed, or upon removal from office, each Commissioner shall turn over to his or her successor or to the Chair, in a timely fashion and in good order, all monies, books, records, minutes, documents contracts or other property of the Gaming Commission in his or her custody. If such property is not turned over or is damaged or missing, the Commission may charge the Commissioner a reasonable replacement fee.

(m) Quorum; Voting. The Gaming Commission shall meet and decide all matters by majority vote of the full Commission. The Chair, or the Vice-Chair in the Chair's absence, shall preside at each meeting. The presence of two members of the Commission shall constitute a quorum for a meeting. The vote of two Commissioners shall constitute a majority vote and shall be binding on the Commission.

(n) Compensation. The Commissioners shall be entitled to receive a fixed stipend as compensation, of \$500.00 per meeting. The fixed stipend for Commissioners shall be increased to \$1,000 per meeting at such time as the Kiowa Casino Operations Authority has at least one Gaming Operation opened to the public for at least thirty (30) days with an annual stipend of \$15,000 per year during any year that the Tribe received distributions in excess of \$1,000,000. The per meeting stipend shall be payable for regular and special meetings of the Board and for

regular and special meetings of any committee of the Board. The trustees shall also be entitled to receive reimbursement for any reasonable expenses incurred in connection with the performance of the trustees' duties.

(o) Licensing Fees. The Gaming Commission shall assess the following Licensing fees for each category of gaming license:

(1) Gaming Facility License	\$250,000
(2) Management Contractor	\$50,000
(3) Primary Management Officials	\$5,000
(4) Key Employee	\$1,000
(5) Suppliers of gaming equipment and services related to gaming equipment	\$10,000
(6) Vendors of goods, supplies, or services to a Gaming Operation	\$5,000
(7) General Employees	\$50

The Gaming Commission is hereby authorized to establish, modify, and revise, through regulation, the schedule of license fees set forth in this Article 8(o). The Gaming Commission is also authorized to establish, by regulation, additional types of gaming licenses as may be appropriate from time to time at its discretion. In addition, the Gaming Commission may establish an administrative fee to cover its expenses in conducting background investigations and processing gaming license applications. Upon petition by a gaming license applicant demonstrating financial hardship, the Gaming Commission may waive or reduce the Gaming License fee or administrative application fee at its sole discretion.

(p) Personnel Matters. All personnel matters involving the Gaming Commission and its employees shall be governed exclusively by the personnel policies and procedures adopted by the Gaming Commission pursuant to Article 8 (j)(2)(B).

Article 9. Ethics

The Tribe recognizes that the duties of the Gaming Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Gaming Commission shall be held to extremely high ethical standards and shall be subject to removal for violating these standards. Prior to taking their positions as Commissioners and as the Executive Director of the Gaming Commission (collectively, the "Members"), the Members shall agree to be bound by the following principles:

- (a) Members shall not hold financial interests that conflict with or could be perceived to conflict with the conscientious performance of their duties as regulators.
- (b) Members 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.

- (c) Members shall not solicit or accept any gift or other item of monetary value, including complimentary items (see Article 10, below), from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the member's organization, or whose interests may be substantially affected by the performance or nonperformance of the member's duties.
- (d) Members shall make no unauthorized commitments or promises of any kind purporting to bind the Tribe.
- (e) Members shall not use their positions for private gain.
- (f) Members shall act impartially, in accordance with all relevant federal, tribal, and state laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any Relative of the Member.
- (g) Members shall ensure that Tribal property and gaming assets under their control shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.
- (h) Members shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.
- (i) Members shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
- (j) Members shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.

Article 10. Complimentary Items

(a) The Tribe shall cause an annual outside independent audit of Gaming Operations, including all Tribal gaming facilities and the Gaming Commission, to be conducted, and shall submit the resulting audit reports to the NIGC. The Tribe's fiscal year is October 1 to September 30.

(b) All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection (a) above.

~~(c) Such independent audit shall apply and require the consistent application of generally accepted accounting principles, and shall:~~

- (1) Be conducted by independent accountants of known and demonstrable experience, expertise, and stature in conducting casino audits of this kind and scope;
- (2) Include an opinion, qualified or unqualified, or if appropriate, disclaim an opinion on the financial statements taken as a whole in accordance with standards of the accounting profession established by rules and regulations of the State of Oklahoma;
- (3) Disclose whether the accounts, records and control procedures maintained by the gaming facility conform with the IGRA, the Tribal-State Compact, the regulations of the NIGC, and the ordinances and regulations of the Tribe; and
- (4) Provide a review of the internal financial controls of the gaming facility to disclose any deviation from the requirements of this Ordinance or the regulations of the Gaming Commission by the management of the audited gaming facility.

The cost of any audit performed under this Article shall be paid from operating funds of the gaming facility. The results of the certified audit shall be provided to the Board of Trustees of the KCOA, the Business Committee, the Gaming Commission, the NIGC, and such other governmental agencies as may be required by law.

Article 11. Environment and Public Health and Safety

Gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

Article 12. Dispute Resolution

Patrons who have complaints against the gaming facility, a gaming employee, or a management contractor shall have as their sole remedy the right to file a petition for relief with the Gaming Commission. Complaints shall be submitted in writing, and at the discretion of the Commission, the petitioner may be allowed to present evidence. The Gaming Commission shall hold a hearing within 30 days of receipt of petitioner's complaint. Petitioner may have counsel present at such hearing. The Commission shall render a decision in a timely fashion and all such decisions will be final when issued. Any patron complaint must be submitted to the Commission within thirty (30) days of the incident giving rise to the complaint. All claims by patrons shall be limited to a maximum recovery of \$500 per occurrence, and a cumulative limit of \$1,000 per patron in any twelve (12) month period, except disputes relating to a patron's entitlement to a game prize, which shall be limited to the amount of such prize.

Article 13. Licenses for Key Employees and Primary Management Officials

(a) The Tribe shall ensure that the policies and procedures set out in this Article are implemented with respect to key employees and primary management officials employed at any gaming facility operated on Kiowa Indian lands.

(b) Application Forms

- (1) 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 Kiowa Indian Tribe of Oklahoma and the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when necessary pursuant to a requirement by a tribe or the National Indian Gaming Commission 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.

- (2) Existing key employees and primary management officials who have not completed an application containing the notice set forth above shall be notified in writing that they shall either:
- (A) Complete a new application form that contains a Privacy Act notice; or
 - (B) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.
- (3) 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).

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- (4) The Gaming Commission shall notify in writing existing key employees and primary management officials who have not completed an application containing the notice set forth above that they shall either:

(A) Complete a new application form that contains a notice regarding false statements; or

(B) Sign a statement that contains the notice regarding false statements.

(c) Background Investigations. Gaming Commission background investigation procedures shall contain a clear statement that the Gaming Commission is responsible for conducting background investigations and suitability determinations; an organizational chart or statement showing the positions or people responsible for promulgating the background investigation procedures, with an explanation of how these positions and people were selected; a listing of minimum investigative procedures to be performed; and a report to the NIGC as described in subsection (f) below.

(1) The Gaming Commission shall request from each primary management official and from each key employee all of the following information:

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

(B) Currently and for the previous 10 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;

(C) The names and current addresses of at least five personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1)(B) of this Article;

(D) Current business and residence telephone numbers;

(E) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(F) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(G) 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;

(H) 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;

- (I) 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;
- (J) 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 (1)(H) or (1)(I) of this Article, the criminal charge, the name and address of the court involved and the date and disposition;
- (K) 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;
- (L) A current passport photograph;
- (M) A statement whether the applicant is a Tribal member, or a Relative of a member of the Business Committee, or Gaming Commission, or an employee of the Tribe, or a member of a Federally recognized Indian tribe;
- (N) If an applicant is claiming an Indian or Kiowa Preference pursuant to Article 22 of this Ordinance then the applicant shall provide documentation of enrollment in the Kiowa tribe or enrollment in a Federally recognized Indian tribe;
- (O) A statement whether the individual has been convicted of a gaming offense or offense involving moral turpitude, including previous contact between the applicant and persons known to be involved in organized crime;
- (P) Copies of the applicant's federal income tax returns for the prior two years;
- (Q) Any other information required by an approved Tribal regulation; and
- (R) Fingerprints of the applicant consistent with procedures adopted by the Gaming Commission according to 25 C.F.R. § 522.2(h), which shall be taken by the Bureau of Indian Affairs police located in Anadarko, Oklahoma or the Oklahoma State Bureau of Investigations for a criminal history check, provided further that the Gaming Commission shall have the discretion to secure fingerprints by alternative means so long as such alternative means is acceptable to the NIGC. Such a criminal history check shall include a check of criminal history records information maintained by the Federal Bureau of Investigation.

- (2) The Gaming Commission shall conduct an investigation sufficient to make a determination under subsection (d) of this Article. This shall include verification of information submitted by the applicant. The Tribe shall document all potential problem areas noted, and any disqualifying information. In conducting a background investigation, the Gaming Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

(d) Ineligible Persons. No license shall in any event be issued to or renewed for an applicant who:

- (1) is a member of the Kiowa Business Committee or the Gaming Commission or a Relative of a member of either body;
- (2) is not a person of good character, honesty, and integrity;
- (3) has knowingly and willfully provided materially false statements or information to the Gaming Commission pursuant to the Act or this Ordinance, or has refused to comply the a request for additional information from the Gaming Commission or the NIGC pursuant to a license application;
- (4) is determined by the Gaming Commission to be unsuitable under the licensing criteria of this Ordinance;
- (5) has had their gaming license revoked for cause in any jurisdiction;
- (6) is delinquent in the payment of any obligation owed to the Gaming Commission pursuant to this Ordinance or any regulations promulgated by the Gaming Commission; or
- (7) has failed to comply with the Act, the regulations of the National Indian Gaming Commission, this Ordinance, or any regulation promulgated by the Gaming Commission.

(e) Eligibility Determination. The Gaming Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming facility. If the Gaming 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 tribal gaming facility shall not employ that person in a key employee or primary management official position.

(f) Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

- (1) When a key employee or primary management official begins work at a gaming facility authorized by this Ordinance, the Gaming Commission shall forward to the NIGC a completed application for employment and conduct the background investigation and make the determination referred to in subsection (d) of this Article.
 - (2) The Gaming Commission shall forward the report referred to in subsection (f) of this Article to the NIGC within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the NIGC.
 - (3) The gaming facility shall not employ as a key employee or primary management official a person who does not have a license after 90 days.
- (g) Report to the National Indian Gaming Commission.
- (1) Pursuant to the procedures set out in subsection (e) of this Article, the Gaming Commission shall prepare and forward an investigative report on each background investigation to the NIGC. An investigative report shall include all of the following:
 - (A) Steps taken in conducting a background investigation;
 - (B) Results obtained;
 - (C) Conclusions reached; and
 - (D) The bases for those conclusions.
 - (2) The Gaming Commission shall submit, with the report, a copy of the eligibility determination made under subsection (d) of this Article, unless the NIGC shall have advised the Tribe that the submission of the eligibility determination is not necessary. This determination shall include a statement describing how the information submitted by the applicant was verified; a statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; a statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Gaming Commission to make a finding concerning the eligibility for employment in a gaming facility; and a statement documenting the disposition of all potential problem areas noted and disqualifying information obtained.
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- (3) If a license is not issued to an applicant, the Gaming Commission:
- (A) Shall notify the NIGC; and

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

(4) With respect to all employees, the Gaming Commission shall retain applications for employment and, with respect to key employees and primary management officials, the Gaming Commission shall retain reports of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

(h) Granting a Gaming License.

(1) If, within a thirty (30) day period after the NIGC receives a report, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the NIGC, the Gaming Commission, acting for the Tribe, may issue a license to such applicant.

(2) The Gaming Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under subsection (g)(1) of this Article until the Chairman of the NIGC receives the additional information.

(3) If, within the thirty (30) day period described above, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Gaming 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. The Gaming Commission shall make the final decision whether to issue a license to such applicant.

(i) License Suspension.

(1) If, after the issuance of a gaming license, the Gaming Commission receives from the NIGC reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection (d) of this Article, the Gaming Commission shall suspend such license and shall notify the licensee in writing of the suspension and the proposed revocation.

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

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

(j) No Property Rights in Licenses. No applicant for or holder of a License shall be deemed to have acquired any property rights in any license required hereunder for the Gaming Operations. All such licenses are intended solely for the purpose of the Tribe exercising its regulatory authority under this Ordinance and the Act. The decision to issue, refuse to issue, suspend, or revoke a license is solely a matter of the exercise of the Tribe's regulatory authority and within the discretion of the Gaming Commission, subject to the notice and hearing provisions specifically provided for herein.

(k) Term of License. Each Gaming License shall be issued for a term of one year, commencing on the issue date of the license and expiring on the first anniversary of such issue date.

(l) Assignment/Transfer/Display. A Gaming License may not be assigned or transferred person-to-person or place-to-place and is valid only for use by the person in whose name it is issued and at the Gaming Facility for which it is issued. Any material change in the ownership of a private corporation or limited liability company shall be deemed a person-to-person transfer. A Gaming Facility License shall be conspicuously displayed at all times at the Gaming Facility for which it is issued.

(m) Waiver of Submission Requirements. At its discretion, the Gaming Commission shall have the power to waive any of the requirements for information and documents that must otherwise be submitted under the license application process set forth in this Ordinance, provided that such waiver is acceptable to the NIGC and does not otherwise impair the Gaming Commission's ability to carry out its regulatory responsibilities under this Ordinance and the Act.

Article 14. Requirements for Corporations, Limited Liability Companies, Partnerships, Limited Partnerships, and General Partners of Limited Partnerships

Each business entity seeking to be licensed in any capacity shall submit the following minimum information with its license application:

- (a) a complete statement as to the form of the organization, including copies of its organizational and governing documents and the name, address, and the telephone number of the governmental authority having copies of such records on file or responsible for the oversight of the organization;
- (b) a complete copy of the entity's minute book(s), records relating to ownership, governance, and management of the entity, and a complete list of all owners of equity interests in the entity or other interests convertible to equity interest;

- (c) a good-standing certificate issued by the Secretary of State of the State of the applicant's domicile and if that domicile is not Oklahoma, then certified documentation satisfactory to the Tribal Gaming Commission that the applicant is duly admitted as a foreign business enterprise doing business in Oklahoma (both) as of a date not more than ninety (90) days prior to the date upon which the Tribal Gaming Commission receives the application;
- (d) the entity's federal tax identification number;
- (e) the address and telephone numbers of all places which it has conducted its business or does conduct its business, and the name, address and telephone number of its service agent, if any;
- (f) a statement as to whether any Primary Management Official of the business entity is a member, or Relative of a member, of the Tribal Business Committee or Gaming Commission;
- (g) a statement as to whether the business entity, or any Primary Management Official of the organization, has been convicted of any felony, gaming offense, or offense involving moral turpitude;
- (h) a statement setting forth all prior experiences or contact of the business entity, its Primary Management Official, with Indian gaming enterprises in any capacity, and the gaming industry generally, including specifically the name, address, and telephone number of any regulatory or licensing agency having jurisdiction over or records of such prior activities;
- (i) a statement describing any previous contact that the business entity, its Primary Management Official, have had with persons known to be involved in organized crime;
- (j) a complete statement as to prior arrests, convictions, and civil suits, whether as plaintiff or defendant, involving the business entity, the owners of all equity of the Person and its corporate parent and ultimate parent (or in the case of statutory persons whose securities are listed on the NASDAQ or publically traded on the New York Stock Exchange the owners of five percent (5%) of such equity) its Primary Management Official, including the name of the court, the style and number of the case, description of the claims by each of the parties, and the outcome. Whenever possible, the final judgement, and any opinion of the court if available, of the courts should be attached to the application;
- (k) a complete list of every other organization with which the business entity is affiliated, including without limitation, a parent, ultimate parent, subsidiary, owner of equity interests sufficient to name one person to a managing entity, organization with which the applicant has had at least one common director, or

Primary Management Official even though the individual's status may not be the same in both organizations; and

- (l) a description of the Compliance Committee and other safeguards the organization has in place to prevent any person from becoming a Primary Management Official of said organization without first obtaining a license from the Gaming Commission.

Article 15. Additional Information Required of a Management Contractor

The following additional information shall be submitted with an application for a Management Contractor license:

- (a) an organizational chart of the proposed management organization and job descriptions of the Management Contractor, which shall identify which employees are or will be the Primary Management Official of the Tribal Gaming Operation;
- (b) a statement identifying by parties, date and site, all other prior and current management contracts under which the Management Contractor has provided for the operation of any Indian or non-Indian gaming location and if so: (1) a description of the location of each such operation, and (2) the name, address and telephone number of the party with whom such contract was entered;
- (c) a list of jurisdictions on which the Management Contractor regularly conducts business or maintains an office or other place of business; and
- (d) all other information required by 25 U.S.C. § 2711 and 25 C.F.R. § 537.1.

Article 16. Gaming Facility License

Applications for a Gaming Facility License must contain at a minimum:

- (a) a complete legal description of the Gaming Site, including evidence that the Gaming Site is within the territorial jurisdiction of the Tribe and qualifies as Indian lands;
- (b) a complete and accurate description of the Gaming Facility, including where possible, blueprints, drawings, equipment layout drawings, complete with identification and locations of the gaming equipment to be installed, site plans, plot plans, surveys, floor plans including square footage, utility services, waste services, parking plans, and photographs (or renderings for a facility to be constructed) and a certification of Trust Status issued subsequent to the current owner of the Site taking title thereto, by the Superintendent, Bureau of Indian Affairs, Anadarko Agency, or the designee of the Superintendent, establishing to the satisfaction of the Tribal Gaming Commission that the land in question is

owned by or is leased by the Tribe, is land upon which under the Act, the Tribe may conduct gaming and to the extent acquired by the Tribe subsequent to October 17, 1988, is located within the boundaries of the former Kiowa, Comanche and Apache reservation of the Tribe or is contiguous to other land held in trust or restricted status by the United States for the Tribe in Oklahoma; and

- (c) evidence that the proposed Gaming Facility is insurable against fire and other hazards, and that liability insurance has been procured to protect the public from hazard which may exist in or around the proposed Gaming Facility.

Article 17. Prohibited Acts

In addition to other civil and criminal acts that may be regulated or prohibited by this Ordinance, the Tribal-State Compact, other Tribal law or applicable Federal law, the following shall constitute prohibited activities and unauthorized gaming under this Ordinance and shall subject any perpetrator to Gaming Commission action including, but not limited to, the imposition of civil penalties, referral to appropriate law enforcement authorities for criminal proceedings, and license suspension or revocation:

- (a) Altering or misrepresenting the outcome of gaming or other event on which wagers have been made after the outcome of such gaming or event has been determined but before such outcome is revealed to the players;
 - (b) Placing or increasing a bet or wager after acquiring knowledge of the outcome of the gaming or event which is the subject of the bet or wager, including past-posting and pressing bets;
 - (c) Aiding anyone in acquiring such knowledge referred to in subsection (b) or subsection (f) of this Article for the purposes of increasing or decreasing any bet or wager, or for the purpose of determining the course of play;
 - (d) Claiming, collecting or taking, or attempting to claim, collect or take, money or anything of value in or from a game with intent to defraud or claiming, collecting or taking an amount greater than the amount actually won in such game;
 - (e) Knowingly enticing or inducing another to go to any place where gaming is conducted or operated in violation of the provisions of this Ordinance, with the intent that the other person play or participate in such gaming;
 - (f) Reducing the amount wagered or canceling a wager after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets;
-
- (g) Manipulating, with intent to cheat or defraud, any component or part of a game in a manner contrary to the designed and normal functional purpose for such component or part, with knowledge that such manipulation will affect the

outcome of the game, or with knowledge of any event that affects the outcome of the game;

- (h) Defrauding the Tribe, any licensee or any participant in any gaming facility;
- (i) Participating in any gaming not authorized under this Ordinance or the Tribal-State Compact;
- (j) Knowingly providing false information or making any false statement with respect to an application for employment or for any license, certification or determination provided for in this Ordinance;
- (k) Knowingly providing false or misleading information or making any false or misleading statement to the Tribe or the Gaming Commission in connection with any contract for services or property related to gaming;
- (l) Knowingly making any false or misleading statement in response to any official inquiry by the Commission or its agents;
- (m) Offering or attempting to offer any thing of value to a licensee in an attempt to induce the licensee to act or refrain from acting in a manner contrary to the official duties of the licensee under this Ordinance, other Tribal laws or regulations, or applicable Federal law;
- (n) Acceptance by a licensee of any thing of value with the expectation that receipt of such thing of value is intended, or may be perceived as intended, to induce the licensee to act or refrain from acting, in a manner contrary to the official duties of the licensee under this Ordinance, other Tribal laws or regulations, or applicable Federal law;
- (o) Falsifying, destroying, erasing or altering any books, computer data, records, or other information relating to a gaming facility in ways other than is provided in approved internal control procedures;
- (p) Taking any action which interferes with or prevents the Gaming Commission, the Trustees of the KCOA, or the Tribe from fulfilling its duties and responsibilities under this Ordinance, other Tribal laws or regulations, or Federal law;
- (q) Entering into any contract, or making payment on any contract for the delivery of goods or services to a gaming facility, when such contract fails to provide for or result in the delivery of goods or services of fair value for the payment made or contemplated;
- (r) Operating or conducting Class II or Class III Gaming on Kiowa Indian lands without a Gaming License issued by the Gaming Commission;

- (s) Possessing or carrying a firearm in a Gaming Facility on Kiowa Indian lands unless such person is a sworn law enforcement officer or security personnel duly licensed to carry a firearm by the State of Oklahoma;
- (t) Knowingly or intentionally violating any provision of this Ordinance, any rules, orders, or regulations promulgated by the Gaming Commission or any provision of the Act or any rule, order, or regulation promulgated by the NIGC;
- (u) Using bogus or counterfeit cards, or substitute or use any game cards that have been tampered with;
- (v) Employ, possess, or have on one's person any cheating device to facilitate cheating in a gaming activity; and
- (w) Except as specifically permitted by the Gaming Commission, possessing with the intent to use in connection with gaming, either individually, or in concert with others, any calculator, computer, or other electronic or mechanical device to assist in projecting the outcome or odds of such gaming, to keep track of or analyze cards, or to change probabilities of any game or the playing strategies regularly utilized in such gaming.

Article 18. Criminal Acts

In addition to other civil and criminal acts that may be regulated or prohibited by this Ordinance, the Tribal-State Compact, other Tribal law or applicable Federal law, and to the extent consistent with federal law, the following shall constitute criminal acts under this Ordinance and shall subject any perpetrator to prosecution in Tribal Court:

- (a) Altering or misrepresenting the outcome of gaming or other event on which wagers have been made after the outcome of such gaming or event has been determined but before such outcome is revealed to the players;
- (b) Placing or increasing a bet or wager after acquiring knowledge of the outcome of the gaming or event which is the subject of the bet or wager, including past-posting and pressing bets;
- (c) Aiding anyone in acquiring such knowledge referred to in subsection (b) or subsection (f) of this Article for the purposes of increasing or decreasing any bet or wager, or for the purpose of determining the course of play;
- (d) Claiming, collecting or taking, or attempting to claim, collect or take, money or anything of value in or from a game with intent to defraud or claiming, collecting or taking an amount greater than the amount actually won in such game;

- (e) Reducing the amount wagered or canceling a wager after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets;
- (f) Manipulating, with intent to cheat or defraud, any component or part of a game in a manner contrary to the designed and normal functional purpose for such component or part, with knowledge that such manipulation will affect the outcome of the game, or with knowledge of any event that affects the outcome of the game;
- (g) Defrauding the Tribe, any licensee or any participant in any gaming facility;
- (h) Knowingly making any false or misleading statement in response to any official inquiry by the Commission or its agents;
- (i) Falsifying, destroying, erasing or altering any books, computer data, records, or other information relating to a gaming facility in ways other than is provided in approved internal control procedures;
- (j) Taking any action which interferes with or prevents the Gaming Commission, the Trustees of the KCOA, or the Tribe from fulfilling its duties and responsibilities under this Ordinance, other Tribal laws or regulations, or Federal law;
- (k) Possessing or carrying a firearm in a Gaming Facility on Kiowa Indian lands unless such person is a sworn law enforcement officer or security personnel duly licensed to carry a firearm by the State of Oklahoma;
- (l) Using bogus or counterfeit cards, or substitute or use any game cards that have been tampered with;
- (m) Employ, possess, or have on one's person any cheating device to facilitate cheating in a gaming activity.

Any person convicted by the Tribal Court of an offense under this Article may be sentenced to up to one year imprisonment and a fine of not more than Five Thousand Dollars (\$5,000.00) or both, for each separate violation or offense. Nothing in this section shall prevent the prosecution of any person for the violation of any provision of the laws of the Tribe."

Article 19. Civil Enforcement

- (a) The Gaming Commission may take any one or a combination of the following actions with respect to any person who violates any provision of this Ordinance:
 - (1) ~~Impose a civil fine not to exceed Five Hundred Dollars (\$500) for each violation, and if such violation is a continuing violation, for each day of such violation;~~

- (2) Suspend or revoke any gaming license issued by the Tribal Gaming Commission;
- (3) Bring an action in the Tribal Court for imposition of civil fines and remedial relief, including (but not limited to)
 - (A) restriction of further conduct of Gaming on Kiowa Indian lands;
 - (B) suspension, revocation, or termination of the License and issuing an order suspending further conduct of Gaming Kiowa Indian lands or other activities;
 - (C) seizure of any gaming apparatus, proceeds, or other property if a Licensee or other person connected with the Gaming Operations engaged in by the licensee;
 - (D) in the case of any non-member of the Tribe, expulsion and debarment of such persons from Kiowa Indian lands;
 - (E) collection of any unpaid fees together with interest at the rate of one percent (1%) per month or fraction of a month;
 - (F) execution of any nonexempt property of a violator located within the exterior boundaries of the Kiowa Indian lands; or
 - (G) a civil penalty of Fifty Dollars (\$50) per day for failure to file any report required under this Ordinance when due and Five Hundred Dollars (\$500) per day for failure to file such report after notice and demand.

(b) The Tribal Court shall have jurisdiction over any civil action brought by the Gaming Commission under this Ordinance, and also shall have the authority to impose any and all sanctions imposed by the Gaming Commission pursuant to this Ordinance. Upon a finding that a violation of this Ordinance has occurred, the Tribal Court may impose a civil penalty as provided in this Article for each separate violation in addition to any or all actual damages, administrative costs, court costs, and attorneys fees. Each day during which unlawful gaming is conducted on Kiowa Indian lands shall be deemed a separate violation.

Article 20. Hearings and Appeals

(a) Petition for Payment of Penalty. Any Licensee paying a penalty for late filing or failure to file a report for which there is an acceptable excuse may petition the Gaming Commission for a credit. The petition shall be filed within thirty (30) days after the petitioner knew or should have known that payment was excusable, but not more than six (6) months after payment in any case.

(b) Petition for Hearing and Reconsideration. Any person or entity aggrieved by a decision made or action taken by the Gaming Commission without the notice and opportunity for hearing, may petition the Gaming Commission for a hearing and reconsideration. The petition shall be filed within thirty (30) days after the petitioner knew or should have known of the decision or action.

(c) Petition for Review. Any person or entity aggrieved by a decision made or action taken by the Gaming Commission after notice and opportunity for hearing shall have the right of appeal to the Tribal Court. Petitions for such appeal shall specifically set forth the reasons for aggrieving, and be timely only if filed with the Tribal Court no later than ninety (90) days after the Gaming Commission's decision or action. The Tribal Court shall set the matter for hearing promptly after receipt of the petition, and may, upon establishing that it has jurisdiction and finds good cause, affirm, modify, reverse and or vacate the Gaming Commission's order, or order such other or further relief as the Tribal Court determines is just. The Tribal Court shall have no jurisdiction to award money damages against the Tribe, the Gaming Commission or any Commissioner thereof, or the KCOA or any Trustee thereof, except for an equitable accounting and the civil and criminal sanctions expressly provided for in this Ordinance. Except in cases where this Ordinance expressly authorizes de novo review of actions of the Gaming Commission, the Tribal Court shall review actions of the Gaming Commission upon the same basis as that which applies under Federal law to judicial review of actions of Federal administrative agencies.

Article 21. Age Prohibition

No person under the age of twenty one (21) shall be permitted to participate in any gaming either as a player or as an employee at any Gaming Facility, and no person under the age of twenty one (21) working as an employee of a Gaming Facility shall be permitted to work on or near the Gaming Area or to dispense or serve Alcoholic Beverages in a Gaming Facility.

Article 22. Indian and Kiowa Preference

- (a) Discrimination Prohibited. No person shall be discriminated against in connection with employment by or patronage of any Gaming Operation due to race, color, religious preference, gender or national origin. The implementation of the Indian and Kiowa preferences provided for herein, shall not be deemed to be discrimination.
- (b) Indian and Kiowa Preferences. All employers, including the KCOA, the Gaming Commission, any Management Contractor, or other gaming operator, operating on Kiowa Indian lands shall give a preference in hiring and employee retention and promotion practices first to members of the Tribe and second to members of other federally recognized Indian Tribes; provided however that persons employed by a Gaming Operation and duly licensed by the Gaming Commission, shall not be required to forfeit his or her job or be otherwise disadvantaged by this provision in any training, promotion or advancement matter solely because of the Kiowa and Indian preferences provided for herein. Compliance with this preference will

be deemed fulfilled upon a showing of reasonable recruitment and outreach to members of the Tribe.

Article 23. Security and Surveillance

Each gaming facility must provide for full security and video surveillance within the gaming facility at all times. The security and surveillance departments shall interact when necessary to carry out their official duties and to coordinate their activities in order to best protect gaming patrons and the Tribal and management interests and assets of the facility.

Article 24. Unclaimed Winnings

(a) Any winnings, whether property or cash, which are due and payable to a participant in any gaming activity, and which remain unclaimed at the end of a gaming session, shall be held in safekeeping for the benefit of such participant if his or her identity is known. Such winnings shall be held for 12 months or such longer period as the Gaming Commission deems reasonable in consideration of all relevant facts and circumstances. The Gaming Commission shall make such efforts as are reasonable under the circumstances to locate such participant. At the end of the safekeeping period, such winnings shall revert to the ownership of the KCOA.

(b) In the event the identity of a participant entitled to unclaimed winnings is unknown, the Commission shall use its best efforts to learn the identity of such individual; provided, however, if after six months from the time the winnings were payable, the Commission has been unable to identify the individual entitled thereto, such winnings shall revert to the ownership of the KCOA.

Article 25. Minimum Internal Control Standards

The Tribe acknowledges its obligation to adopt and implement MICS for the operation of its gaming facility no less stringent than those found in the regulations of the NIGC at 25 C.F.R. Part 542. The Tribe's MICS shall be set out in separate regulations promulgated by the Gaming Commission. To the extent that any proposed regulation exceeds an NIGC minimum requirement, the Gaming Commission shall identify and provide specific justification for such a proposal.

Article 26. License Locations

The Gaming Commission shall issue a separate license to each place, facility, or location on Indian lands where class II or class III gaming is conducted under this Ordinance.

Article 27. Agent for Service of Process

(a) Agent for the Tribe. The Tribe hereby designates the Chairman as agent for service of any official determination, order, or notice of violation by the NIGC pursuant to 25 C.F.R. § 519.1. The Chairman may be contacted at:

P.O. Box 369
Carnegie, Oklahoma 73015

The Tribe may change the service agent designation from time to time by resolution and upon notice to the NIGC and the Gaming Commission. A copy of any official determination, order, or notice of violation by the NIGC shall be sent by certified mail to the Tribal Gaming Chairman.

(b) Agent for the Gaming Commission. The Tribal Gaming Chairman is hereby designated agent for service of any official determination, order, or notice of violation by the NIGC. The Gaming Commission may change the service agent designation from time to time, by resolution and upon notice to the Tribal Business Committee and the NIGC.

(c) Management Contractor Service Agent. Each Management Contractor shall designate by written notification to the Gaming Commission, the Tribal Business Committee, and the NIGC an agent for service of any official determination, order, or notice of violation. A Management Contractor may change the service agent designation from time to time, by resolution and upon notice to the NIGC, the Tribal Business Committee, and the Gaming Commission.

(d) KCOA Service Agent. The KCOA shall by resolution of its Board of Trustees designate an agent for service of any official determination, order or notice of violation, which designation shall become effective upon service of the Authority's notice thereof upon the Gaming Commission, the NIGC, and the Tribal Business Committee.

(e) Nothing in this Ordinance shall be deemed a waiver of the Tribe's sovereign immunity, or that of its component units or regulatory agencies, except as specifically stated herein.

Article 28. Consent to Jurisdiction

Any person who applies for a license under this Ordinance, applies for employment in any gaming facility, enters into any contract or agreement related to gaming, or participates in any gaming on the Reservation, shall be deemed to consent to the civil jurisdiction of the Tribe, the Gaming Commission and the Tribal Court. Nothing in this Article shall limit the jurisdiction of the Tribe, the Gaming Commission or the Tribal Court under any circumstances not explicitly contemplated in the Article.

Article 29. Severability

If any provision of this Ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to violate applicable law or otherwise to be invalid, then that provision shall be severable and considered null and void, but such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons and circumstances, which shall remain in full force and effect, and such judgment shall be confined in its facility to the provisions of the Ordinance or the

application thereof to the person and circumstances directly involved in the controversy in which such judgment was rendered.

Article 30. Immunity

The individual members of the Gaming Commission, the General Counsel of the Gaming Commission, the Executive Director and other staff of the Gaming Commission shall be absolutely immune from civil suit in all actions at law or in equity for any actions taken and statements made in good faith within the scope of their authority as members or agents or employees of the Gaming Commission, or in the good faith belief that their actions and statements were within the scope of their authority. The Tribe shall at all times during and after the respective terms of office of such officials, hold harmless, defend, and indemnify the individual members, General Counsel, Executive Director, and other staff of the Gaming Commission against any civil suit, even if the civil suit alleges actions outside the scope of authority; provided however, that if a final judgment determines that actions were, in fact, outside the scope of authority, with no good faith belief that they were otherwise, then the cost of defense may be recovered from such indemnified person. In all cases, such defense shall be provided by legal counsel chosen by the indemnified person.

Article 31. Effective Date

This Ordinance shall be effective upon approval by the NIGC, and the Secretary of Interior to the extent required.

Article 32. Amendments

All provisions of this Ordinance are subject to amendment by the Business Committee. All amendments to this Ordinance shall be effective upon the date of passage by the Business Committee, subject to approval by the NIGC.

Article 33. Repeal

The Gaming Facility Bonding Ordinance of 1995 is hereby repealed.

Enclosure

cc: Todd Araujo, Akin Gump
Tim Harper, Region V Director (with Enclosure)