

NATIONAL
INDIAN
GAMING
COMMISSION

FEB 22 1994

Viola Hatch, Tribal Chairperson
Cheyenne and Arapaho Tribes of Oklahoma
100 Red Moon Circle
Concho, Oklahoma 73022

Dear Chairperson Hatch:

This letter responds to your request to review and approve the tribal gaming ordinance adopted by the Cheyenne and Arapaho Tribes of Oklahoma on April 3, 1993, and amended on February 17, 1994. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Cheyenne and Arapaho Tribes of Oklahoma for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

Anthony J. Hope

Anthony J. Hope
Chairman

cc: James B. Druck

CHEYENNE-ARAPAHO TRIBES OF OKLAHOMA

GAMING ORDINANCE

Adopted by the 28th Business Committee
April 3, 1993

Amended by the 29th Business Committee
February 17, 1994

CHEYENNE AND ARAPAHO TRIBES OF OKLAHOMA GAMING ORDINANCE

TITLE I. GENERAL PROVISIONS

Section 100. Short title

This ordinance shall be known and may be cited as the Cheyenne and Arapaho Tribes of Oklahoma Gaming Ordinance.

Section 101. Findings and Intent.

The Cheyenne and Arapaho Tribes of Oklahoma finds that:

(a) The present form of Tribal government was organized by the membership to form a more perfect union, develop our natural resources, insure our domestic tranquility, promote the general welfare, to enjoy certain rights of home rule, to provide education in schools of higher learning including vocational, trade, high schools, and colleges for our people, and to secure the opportunities offered us under the Indian Reorganization Act. . ." [Preamble to the Constitution and Bylaws of the Tribe].

(b) The Cheyenne and Arapaho Tribes of Oklahoma desire to be self-sufficient in its internal affairs as continued reliance upon federal and other resources will adversely affect the quality of life of this Tribe.

(c) Public gaming operations have been introduced to the Cheyenne and Arapaho Tribes of Oklahoma and it is of vital interest to the public health, safety, and welfare of the Cheyenne and Arapaho people that the Tribe promote and regulate public gaming in a manner commensurate with the interests of the Cheyenne and Arapaho Tribes of Oklahoma.

(d) By virtue of the treaties between the United States of America and the Cheyenne and Arapaho Tribes of Oklahoma and federal statutes and court decisions which together have established and maintained the doctrine of Indian sovereignty, there remains the federal guarantee of the perpetual integrity of the Cheyenne and Arapaho Tribes of Oklahoma.

(e) The Cheyenne and Arapaho Tribes of Oklahoma require an economic base by which Tribe may generate revenues in order to promote its self-sufficiency and fund essential governmental services.

(f) The operation and regulation of public gaming by the Tribe is in the best interest of the Cheyenne and Arapaho Tribes of Oklahoma.

Further, the Cheyenne and Arapaho Tribes of Oklahoma Tribal Business Committee determines that the intent of this ordinance is to:

(g) Authorize, regulate and control gaming on lands over which the Cheyenne and Arapaho Tribes of Oklahoma exercise governmental authority or control;

(h) Provide revenue generated by the Tribe's licensed gaming operations, to fund tribal government operations and programs, and to promote the general welfare of the Tribe;

(i) Foster a spirit of cooperation with the National Indian Gaming Commission, and other federally recognized tribes in the regulation of Tribal gaming;

(j) Protect gaming as a means of promoting tribal economic development; and

(k) Ensure that Tribal gaming is conducted fairly and honestly both by the operator and the players as a genuine means of providing both recreation and entertainment, free from organized crime and other corrupting influences.

Section 102. Definitions.

The following words and phrases when used in this Ordinance shall have the meanings respectively ascribed to them in this section:

(a) "Tribe" shall mean the Cheyenne and Arapaho Tribes of Oklahoma, a federally recognized Indian tribe organized under Section 16 of the Indian Reorganization Act of 1934.

(b) "Business Committee" shall mean the governing body of the Tribe, duly elected in accordance with the provisions of the Constitution of the Tribe.

(c) "Compact" shall mean an agreement or other instrument concerning the operation of games of chance, entered into or approved, pursuant to Section 2710(d)(1)(c) of the Indian Gaming Regulatory Act of 1988, between the Tribe and the State of Oklahoma, or as may otherwise be approved by the Secretary.

(d) "Gambling equipment" shall mean any and all goods, materials, machines or devices used to conduct gaming activities by the tribe.

(e) "Gaming" shall mean the act of paying (wagering) for the opportunity to participate in a game or games of chance (risk) for a prize of money or something of value; to operate, carry on, conduct, maintain, or expose for play, money, property, or any representative of value wherein the outcome of a game is decided by chance or in which chance is a material element, but does not include social games played solely for consumable goods, i.e., foodstuffs or games played in private homes or residences for prizes or games operated by charitable and educational organizations which are approved by the Council.

(f) "Gaming enterprise" shall mean any commercial business owned by the Tribe and operated, in part or in whole, for the conduct of Class II or Class III gaming as delineated by the Indian Gaming Regulatory Act of 1988, 25 USC §2701 et. seq. and/or by virtue of the Tribe's exercise of its governmental powers and authority as a sovereign nation.

(g) "Gaming Manager" shall mean a person, organization or entity that conducts the management of gaming at a Tribe gaming enterprise; including an entity entering into a management contract with the Tribe or the Tribe itself including any subdivision thereof.

(h) "Gaming test laboratory" shall mean, a laboratory designated as competent and qualified to conduct scientific tests and evaluations of games of chance and related equipment; and/or a laboratory operated by or under contract

with the States of Minnesota, Nevada, New Jersey, Connecticut, Colorado, or South Dakota.

(i) "Indian Gaming Regulatory Act of 1988" shall mean the Act of the United States Congress adopted on October 17, 1988, as Public Law 100-597, 102 Stat. 2467, codified at 25 U.S.C. §2701 et. seq.

(j) "Key Employee" shall mean

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

- (i) Bingo caller;
- (ii) Counting room supervisor
- (iii) Chief of security
- (iv) Custodian of gaming supplies or cash
- (v) Floor manager
- (vi) Pit boss
- (vii) Dealer
- (viii) Croupier
- (ix) Approver of credit; or
- (x) Custodian of gambling devices including persons with access to cash and accounting records within such devices

(2) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or

(3) If not otherwise included, the four most highly compensated persons in the gaming operation

(k) "License" shall mean the permission by authority of the Tribe to do any act, which without such permission, shall be illegal. License, with respect to real property of the Tribe, is a privilege to go on the premises for a certain purpose, but does not operate to confer on, vest in, or license any title, interest, or estate in such property.

(l) "Licensee" shall mean any person, entity or organization granted a license pursuant to the provisions of this Ordinance.

(m) "Primary Management Official" shall mean

(1) The person having management responsibility for a management contract;

(2) Any person who has authority:

- (i) To hire and fire employees; or

(ii) To set up working policy for the gaming operation; or

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

(n) "Other compact" shall mean such agreements as may in the future be entered into between the Tribe and the State of Oklahoma, governing Class III gaming, as that term is defined by the Indian Gaming Regulatory Act of 1988, codified at 25 U.S.C. §2703(8).

(o) "Other games of chance" shall mean games similar to traditional bingo in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance. Such games may be played using pull tabs, raffles, paddlewheels, tipboards, punchboard, tip jars, paddlewheels, gaming tables, tokens, or satellite television transmission, all of which shall have the same meaning as the term Class II gaming as defined by the Indian Gaming Regulatory Act of 1988, codified at 25 U.S.C. §2703(7)(A). Any such games as are permitted to be played in the State of Oklahoma by any person for any purpose, shall be included in this definition.

(p) "Shall" as used in this Ordinance imposes an obligation to act.

(q) "Traditional bingo" shall mean that game in which each player is supplied a card or board containing five adjoining horizontal and vertical rows with five spaces in each row each containing a number or figure therein and the word "free" marked in the center space thereof, or in which such a card or board is represented on a video screen. Upon announcement by the person conducting the game or the appearance on the video screen of any number or figure appearing on the player's card or board, the space containing said figures or number is covered by the player. When a player shall have covered all five spaces in any horizontal and vertical row, or shall have covered four spaces and the "free" space in a five space diagonal row, or shall have covered the required combination of spaces in some other preannounced pattern of arrangement, such combination of spaces covered shall constitute "bingo." The player or players to first announce "bingo" are awarded money, merchandise, or some other consideration by the person or persons conducting the game.

(r) "Video game of chance" shall mean electronic or electro-mechanical video devices that simulate games commonly referred to as poker, blackjack, craps, hi-lo, roulette line-up symbols and numbers, or other common gambling forms,

which are activated by the insertion of a coin, token or currency, and which award game credits, cash, tokens, or replays, and contain a meter or device to record unplayed credits or replays; or otherwise shall have the same meaning as the term Class III gaming as defined by the Indian Gaming Regulatory Act of 1988, codified at 25 U.S.C. §2703(8).

Section 103. Effect of Headings.

Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or section of this Ordinance.

Section 104. Civil Penalty Provisions.

It shall be a civil violation of the laws of the Cheyenne and Arapaho Tribes of Oklahoma to violate any provision of this Ordinance, any regulations promulgated by the Tribal Gaming Board and of any proper order issued under the authority of this Ordinance. Any person or licensee so violating such authority shall be fined not more than One Thousand Dollars (\$1,000.00) or by suspension of license for a period not to exceed one year, or by both such fine and suspension or other penalty alternative under Tribal Law, including revocation; a show cause hearing pursuant to section 208 shall be afforded by the Tribal Gaming Board to any person subject to such civil penalty prior to any final determination to impose any civil penalty.

In the alternative, should the actions of any person also constitute a criminal offense under the laws of the Tribe, the United States, or the State of Oklahoma, then in that event, Tribe may choose to refer such violation for criminal prosecution within the appropriate court of competent jurisdiction.

Section 105. Liberal interpretation.

The provisions of this Ordinance, being necessary for the welfare of the Tribe and its members, shall be construed liberally to effect the purpose and objective hereof.

Section 106. Severability.

The provisions of this Ordinance are severable; and if any part or provision hereof shall be held void by tribal or federal court or federal agency, the decision of the court or agency so holding shall not affect or impair any of the remaining provisions of the Ordinance.

Section 108. Amendment.

This Ordinance may be amended only by majority vote of the Tribal Business Committee. Any such amendment, including repeat in part or in 'toto', which would adversely effect the contractual rights of a third party who has obtained an approved Management Agreement with Tribe, shall not become effective until the completion or fulfillment of the term of such approved agreement.

TITLE II. DEVELOPMENT, ADMINISTRATION, AND ENFORCEMENT

Section 200. Tribal Gaming Board Over Gaming.

In order to provide for the orderly development, administration, and regulation of tribal gaming, the Tribal Gaming Board is hereby empowered and established to exercise its authority as the duly authorized body of the Tribe over the regulation of any gaming activity within the Cheyenne and Arapaho Tribes of Oklahoma in compliance with the provisions of this Ordinance.

The Gaming Board shall consist of three (3) board members appointed by the Business Committee to staggered three (3) year terms. No less than one (1) of said appointees shall be a licensed, practicing attorney with knowledge, experience and expertise in the area of Indian law and Indian gaming. An attorney board member shall be appointed to the position of Chairman of the Gaming Board, and shall fill the initial three (3) year term. Two (2) additional positions shall be appointed to serve terms of one (1) and two (2) years respectively.

Section 201. Conflict of interest.

Any Board member, or employee of the Board or any member of his/her family living with him/her may not have a financial interest in any gaming business of enterprise doing business with Cheyenne-Arapaho jurisdiction, or in any gaming contractor, or accept any gift or thing of value from a gaming contractor so employed by Tribe. Nothing in this section shall prohibit any Board member or other person subject to this section from having a financial interest in any gaming business or enterprise operating pursuant to the provisions of this Ordinance as would any member of the Tribe if entitled to such interest as a Tribal member, including any per capita payments derived from profits made by any gaming business or enterprise operating pursuant to the provisions of this Ordinance.

Section 202. Gaming Board Duties.

(a) The Gaming Board shall be charged with the responsibility of administering and enforcing the provisions of this Ordinance.

(b) It shall be the responsibility of the Gaming Board to promulgate regulations, if necessary, to administer the provisions of this Ordinance. These duties involved in the administration of this Ordinance shall include but not be limited to the following:

(1) Printing and making available application forms for initial and renewal licenses, as well as any other necessary licenses and to make available the licenses themselves;

(2) Supervise the collection of all fees and all applicable taxes;

(3) Processing all gaming license applications;

(4) Issuing licenses and notifying the National Indian Gaming Commission of such issuances as required by the Indian Gaming Regulatory Act;

(5) Determining applicable license fees;

(6) Providing for outside independent audits of all gaming activity licensed pursuant to the provisions of this Ordinance and providing those audits to the National Indian Gaming Commission or other appropriate regulatory agency until the Commission commences its duties;

(7) Reviewing all gaming operation contracts, records, documents, and anything else necessary and pertinent to the financial accountabilities of licensees or the enforcement of any provision of this ordinance, regulations adopted or other applicable law.

(8) The Gaming Board shall have the power and authority to deny any application, to limit, condition, suspend, or restrict any license, making a finding of suitability or approval of the license or a finding of suitability or approval of or the imposition of a fine upon any person licensed for any cause deemed reasonable by the Council;

(9) The performance of any other duties required in the Ordinance or any amendments thereto or other duties which may hereafter be specified by the Gaming Board;

(10) Employing legal Counsel;

(11) Defending this Ordinance in any court of law or before any federal agency;

(12) Conduct or have conducted background investigations on all primary management officials and key employees of the involved gaming enterprise, and maintain ongoing oversight of such management and key employees;

(13) The Gaming Board shall propose an annual budget for operations pursuant to the provisions of this Ordinance, including salaries, expenses and all related costs of Gaming Board members and any employees or agents thereof, reasonably necessary to the activities of the Board in carrying out the duties of the Board under this Ordinance, or any rules and/or regulations promulgated in support hereof.

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(1) Printing and making available application forms for initial and renewal licenses, as well as any other necessary licenses and to make available the licenses themselves;

(2) Supervise the collection of all fees and all applicable taxes;

(3) Processing all gaming license applications;

(4) Issuing licenses and notifying the National Indian Gaming Commission of such issuances as required by the Indian Gaming Regulatory Act;

(5) Determining applicable license fees;

(6) Providing for outside independent audits of all gaming activity licensed pursuant to the provisions of this Ordinance and providing those audits to the National Indian Gaming Commission or other appropriate regulatory agency until the Commission commences its duties;

(7) Reviewing all gaming operation contracts, records, documents, and anything else necessary and pertinent to the financial accountabilities of licensees or the enforcement of any provision of this ordinance, regulations adopted or other applicable law.

(8) The Gaming Board shall have the power and authority to deny any application, to limit, condition, suspend, or restrict any license, making a finding of suitability or approval of the license or a finding of suitability or approval of or the imposition of a fine upon any person licensed for any cause deemed reasonable by the Council;

(9) The performance of any other duties required in the Ordinance or any amendments thereto or other duties which may hereafter be specified by the Gaming Board;

(10) Employing legal counsel;

(11) Defending this Ordinance in any court of law or before any federal agency;

(12) Conduct or have conducted background investigations on all primary Primary Management Officials and Key Employees of the involved gaming enterprise, and maintain ongoing oversight of such management and Key Employees;

(13) The Gaming Board shall propose an annual budget for operations pursuant to the provisions of this Ordinance, including salaries, expenses and all related costs of Gaming Board members and any employees or agents thereof, reasonably necessary to the activities of the Board in carrying out the duties of the Board under this Ordinance, or any rules and/or regulations promulgated in support hereof.

Section 203. Power of Gaming Board.

The Gaming Board may exercise any proper power and authority necessary to perform the duties assigned by this Ordinance and is not limited by any enumeration of powers in this chapter.

Section 204. Plan of organization.

The Gaming Board may organize any functional committees or divisions as may be necessary and may from time to time alter such plan of organization as may be expedient.

Section 205. Notice of Amendment.

In adopting, amending, or repealing any requirement promulgated under this Ordinance, or in the enforcement of any provision of this Ordinance, the Gaming Board shall give prior notice of the proposed action to all licensees and other persons whom the Gaming Board have reason to believe have a legitimate and bona fide interest in such proposed action.

Section 206. Hearing.

The Gaming Board shall afford an applicant for a license an opportunity for a hearing prior to a final action denying such application and shall afford a licensee or any other person(s), subject to this Ordinance, the opportunity for a hearing prior to taking final action resulting in terminating, revoking, suspending, or limiting a license or any other adverse action the Gaming Board deems appropriate, provided, that the Gaming Board may summarily suspend temporarily or extend suspension of a license for Thirty (30) days in those cases where such action is deemed appropriate by the Gaming Board. In cases where a license is suspended prior to a prompt hearing, an opportunity for a hearing shall be provided.

Section 207. Gaming Board Findings.

Whenever upon specific factual finding the Gaming Board determines that any person has failed to comply with the provisions of this Ordinance or any regulation promulgated hereunder, the Gaming Board shall make a certification of findings with a copy thereof to the subject or subjects of that determination. After five (5) days notice and within ninety (90) days thereof the Gaming Board shall hold a hearing, at which time the subject shall have an opportunity to be heard and to present evidence.

Section 208. Show Cause Hearing.

At such hearing it shall be the obligation of the subject to show cause why the determination is incorrect; why the application in question should not be denied; why the license, or licenses, in question should not be denied; why the license, or licenses, in question should not be revoked or suspended; why the period of suspension should not be extended; to show cause why special conditions or limitations upon a license should not be imposed; or to show cause why any other action regarding any other person or persons subject to any action should not be taken. At such hearing, the subject shall be allowed to have access to evidence upon which any determination is made and to confront witnesses.

Section 209. Gaming Authority Determination.

Following such hearing the Gaming Board shall, within seven (7) days, reach a determination by majority vote concerning the accuracy of the preliminary certification of facts and whether the licenses in question should be granted, continued, suspended, revoked, conditioned, or limited and whether any other action recommended to or by the Gaming Board (including, but not limited to, forfeitures or fines) should be taken.

Section 210. Written determination provided.

Within three (3) days following this determination the Gaming Board shall inform the subject in writing of that determination.

Section 211. Sanctions.

Any person who engages in activities on property subject to the provisions of this Ordinance without a license in violation of the terms imposed thereon, in violation of terms of suspension, or in violation of any other provisions of this Ordinance, regulations promulgated hereunder, or amendments thereto shall be in violation of the ordinance, including any person who unlawfully trespasses upon any premises licensed by this Ordinance without the consent of the licensee and/or the Gaming Board. Separate violations shall be prosecuted as separate offenses before the Gaming Board or other Tribal judicial body, or other judicial body as the case may be. Each day of violation shall constitute a separate count or violation of this Ordinance. A violator shall also be required to pay court costs, storage fees, and auction or sales fees. All property used in each and every separate violation of this Ordinance may become the property of the Tribe by forfeiture. Persons may be prohibited from trespassing on premises licensed under this Ordinance; and licenses may be suspended, revoked, or limited and/or establishments may be forcibly closed. All such action shall be taken at the discretion of the Gaming Board. Winnings found to have been received in violation of this ordinance are forfeited and become the property of the Tribe.

Section 212. No limitation on the number of gaming enterprises.

Nothing in this Ordinance shall limit the number of gaming operators the Gaming Board can license pursuant to the provisions of this Ordinance to conduct gaming on those lands within the jurisdiction and control of the Tribe.

Section 213. Audit.

(1) The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.

(2) 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 (1) above.

TITLE III. LICENSING.

Section 300. License required.

Any person, organization or entity (including Primary Primary Primary Management Officials and Key Employees), engaged on behalf of the Tribe, in conducting public gaming enterprise pursuant to the provisions of this Ordinance, on trust or restricted lands of Tribe and/or which is subject to the jurisdiction of the Tribe, or any person, organization or entity selling, leasing or otherwise distributing Class III gambling equipment or video games of chance to the Tribe, shall be required to have and display prominently, or display upon request, an appropriate, valid, and current Tribal public gaming license issued pursuant to the provisions of this Ordinance. Any other forms of public gaming operations being conducted within the jurisdiction of the Tribe without the lawful written approval of the Gaming Board are prohibited.

Section 301. Application necessary.

Except as provided for in Section 307, all persons or organizations who seek to engage in public gaming activities within the jurisdiction of the Tribe must apply for the appropriate license at least Thirty (30) days prior to the scheduled activities or as otherwise allowed in the discretion of the Gaming Board.

Section 302. Application for gaming enterprise.

The application for any gaming enterprise made by the proposed gaming operator for that gaming enterprise shall contain the following information:

- (a) the name and address of the gaming operator;
- (b) The name(s) and address(es) of all interested parties (including those with direct or indirect financial interests) and their interest and connection with the applicant;
- (c) the name and location of the gaming enterprise for which the gaming operator license is being sought, the number and types of games to be played, a detailed plan of any proposed construction with an environmental impact study, the number of planned employees, and a business plan which includes pro-forma projections;
- (d) explicit and detailed information of any criminal record of any party of interest whose name appears on the application to determine whether any party of interest:
 - (1) has committed a felony or gaming offense in any jurisdiction;
 - (2) has engaged in prior activities or maintains habits or associations affecting his present conduct which would:
 - (i) pose a threat to the public and Tribal interests;
 - (ii) threaten the effective regulation and control of Tribal gaming;
 - (iii) enhance the dangers of unsuitable, unfair, or illegal methods, or activities in the conduct of gaming or the appearance of same.
 - (3) the name and address of all proposed or actual ancillary contractors who provide supplies, services, concessions or property to the proposed gaming operator;
 - (4) the social security number(s) of all parties of interest whose names appear on the application;
 - (5) a description of any previous experience which the proposed operator has had with the gaming industry generally, and Indian gaming in particular, including specifically the name and address of any licensing or

regulatory agency with which such applicant has had contact relating to gaming;

(6) a financial statement of the applicant;

(7) any additional information as may be deemed necessary by the Gaming Board.

Section 303. Application for Primary Management Officials and Key Employees;

The application for Primary Management Officials and Key Employees of any gaming operator or the Tribe shall contain:

(a) the name and address of each proposed Primary Management Official and proposed Key Employee;

(b) explicit and detailed information of any criminal record of the applicant in order to determine whether the applicant:

(1) Has committed a felony or gaming offenses in any jurisdiction;

(2) has engaged in any prior activities, or maintains any habits or associations affecting his present conduct which would:

(i) pose a threat to the public and Tribal interest;

(ii) threaten the effective regulation and control of gaming;

(iii) enhance the dangers of unsuitable, unfair, or illegal methods, or activities in the conduct of gaming;

(3) the social security number of the applicant;

(4) a description of any previous experience which the applicant has had with the gaming industry generally, and Indian gaming in particular, including specifically the name and address of any licensing or regulatory agency with which such person has had contact relating to gaming;

(5) a current and complete financial statement from the applicant;

(6) any additional information, including the fingerprints of the applicant, as may be determined the Gaming Board.

Any other employee not a Primary Management Official or Key Employee shall be required to fill out an employment application provided by the gaming operator of the Tribe and shall be required to submit to a background check with local law enforcement authorities chosen by the gaming manager of the Tribe and leave on file with such authorities a set of fingerprints, or as otherwise required by Tribal/State compact.

Section 303.A Fingerprints.

Fingerprints of Key Employees and Primary Management Officials shall be taken by the Cheyenne and Arapaho Tribes of Oklahoma Police Department, Concho, Oklahoma, or such other duly authorized law enforcement agency authorized in writing by the Gaming Board, after due notice to the National Indian Gaming Commission. The Cheyenne and Arapaho Tribes of Oklahoma Police Department or other authorized law enforcement agency shall thereafter immediately submit such fingerprint cards to the National Indian Gaming Commission for processing.

Section 303.B Eligibility Determination and Background
Investigation

The Tribe 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 operation. If the Tribe 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 operation shall not employ that person in a Key Employee or Primary Management Official position.

**Section 303.C Procedures for Forwarding Applications and Reports
for Key Employees and Primary Management Officials
to the National Indian Gaming Commission.**

(a) When a Key Employee or Primary Management Official begins work at a gaming operation authorized by this Ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Section 303.B.

(b) The Tribe shall forward the report referred to in Section 303.D to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.

(c) The gaming operation shall not employ as a Key Employee or Primary Management Official a person who does not have a license after 90 days.

Section 303.D Report to the National Indian Gaming Commission.

(a) Pursuant to the procedures set out in Section 303.C, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

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

(b) The Tribe shall submit, with the report, a copy of the eligibility determination made under Section 303.B.

(c) If a license is not issued to an applicant, the Tribe:

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

(d) With respect to Key Employees and Primary Management Officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

Section 303.E License Suspension.

(a) If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a Key Employee or a Primary Management Official is not eligible for employment under Section 303.B, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

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

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

Section 303.F License Locations.

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

**Section 303.G Forms for Licensing of Primary Management Officials
and Key Employees.**

The Tribe shall utilize the procedures and forms attached hereto as Exhibit A, or such other procedures and forms as shall hereafter be adapted by the Gaming Board and submitted to the National Indian Gaming Commission.

Section 303.H Description of Procedures for Background Investigations.

The procedures for performing background investigations are forth on Exhibit B hereof. Such procedures shall be followed by the Tribe and the Gaming Board. In the event that the Tribe and the Gaming Board establish different procedures, a report of such additional procedures shall be submitted to the National Indian Gaming Commission.

Section 304. Application for distributors of video games of chance and gambling equipment.

The application for any person, organization or entity wishing to sell, lease or otherwise distribute Class III gaming equipment and/or video games of chance to the Tribe shall contain the following information:

- (a) the name(s) and mailing address of the person or entity making the application;
- (b) the names and addresses of all interested parties (including those with direct or indirect financial interests);
- (c) the nature of the license applied for; the type of activity to be engaged in under the license;
- (d) explicit and detailed disclosure of any criminal record, including any delinquent taxes or other monies owed to the Tribe, of the applicant, any person involved in the organization, and any party of interest whose name appears on the application;
- (e) any additional information necessary to allow the Tribe or the State of Oklahoma to investigate the applicant or any person included on the application;
- (f) whether the applicant has been properly licensed by the State of Oklahoma pursuant to Oklahoma Law or any other federally recognized Oklahoma Tribe and proof of being the holder of a current and valid distributor or manufacturer license from the Tribe; or properly licensed and holding a current and valid license from either the State of New Jersey, Minnesota, Wisconsin, Kansas, Nevada, or South Dakota, or any other federally recognized tribe of Indians.
- (g) Whether the applicant has ever had a distributor or manufacturer license revoked or suspended by any state or other jurisdiction that issued the license and, if so, the circumstances surrounding the state's action;
- (h) a statement of waiver allowing the Tribe or the Tribe's delegated representative to conduct a background investigation of the applicant and any person whose name is required to appear on the application;
- (i) whether the applicant or any person whose name is required to appear on the application maintains any involvement in the business of wholesale distribution of alcoholic beverages.

Section 305. Machine licenses.

In addition to a distributor license provided for in Section 303, the person or entity with whom the Tribe enters into a lease or sales agreement regarding video games of chance must obtain from the Gaming Board an annual non-transferable license for each video game of chance to be placed in a gaming enterprise operating under the provisions of this Ordinance.

(a) An application for a license for a video game of chance shall contain the following information:

(1) the name and address of the applicant with proof of a current and valid distributor or manufacturer license issued by a state and the Tribe;

(2) identification numbers of codes for each video game of chance placed in a Tribal gaming enterprise, including the manufacturer, the serial number and the model number;

(3) proof of approval and certification of the machine by an approved gaming test laboratory or proof that the video game of chance conforms precisely to the exact specifications of the video game of chance prototype tested and approved by the gaming test laboratory;

(4) all other information as required by the Tribal-State Compact.

(5) proof of a current and valid video game of chance license issued by the Tribe pursuant to this Ordinance.

(b) Upon issuance, the Gaming Board shall have attached to each video game of chance licensed under the provisions of this Ordinance, an unremovable identification plate on the exterior cabinet which contains the information as required by a Tribal Compact, Ordinance, or Regulation.

Section 306. Classes of Licenses.

Upon proper application and approval, the following classes of licenses may be issued by the Gaming Board:

(a) Class A license for a gaming enterprise in which a gaming management firm or entity wishes to conduct traditional bingo and other similar Class II games of chance at a Tribal gaming enterprise; the license shall be site specific, valid for a period of one year and shall have an application fee of \$1,000.00;

(b) Class B license for a gaming enterprise in which a gaming management firm or entity wishes to conduct video games of chance or other Class III gaming subject to a Tribal Compact Ordinance or at a Tribal gaming enterprise; the license shall be site specific, valid for a period of one year and shall have an application fee of \$2,500.00;

(c) Class C license to any Primary Management Official or Key Employee thereof who wishes to be licensed for employment in conducting games of chance or other gaming subject to other compacts at a Tribal gaming enterprise; the license shall be site specific, valid for a period of one year and shall have an application fee of \$200.00;

(d) Class D license to any distributor or manufacturer of Class III gambling equipment and/or video games of chance to be used in a Class III Tribal gaming enterprise; the license shall be valid for a period of one year and shall have an application fee of \$200.00.

(e) Class E license for each video game of chance to be used in a Tribal gaming enterprise; the license shall be valid for a period of one year and shall have the fee of \$25.00 per machine.

Section 307. Fraud on application.

It shall be unlawful for any applicant to lie or willfully deceive in the submission of a license application.

Section 308. Exemptions.

(a) The following activities are not public gaming operations under the terms of this ordinance and, therefore, do not require licensing under this title:

(1) Gaming not for gain. Gaming in which no cash or valuable prizes are won, other than "points" for cumulative competitive ratings of "places" for immediate competitive rankings, is not subject to the provisions of this ordinance. However, gaming for fun which is conducted by a non-profit organization is subject to the requirements of this ordinance if cash or valuable prizes are awarded. "Valuable prize" means (\$100.00) or more in fair market value.

(2) Traditional Indian Gaming. Traditional Indian gaming activity, in the nature of hand games, are not subject to the provisions of this ordinance. The Gaming Authority is hereby authorized to determine on a case-by-case basis, upon request, whether a particular traditional gaming activity qualifies for the exemption.

(b) The existing gaming enterprise known as Cheyenne and Arapaho Tribal Gaming Enterprises shall be automatically licensed with the adoption of this Ordinance; such gaming enterprise is issued a Class I license and Class II license with a waiver of any application fee; such licenses shall be renewed each year with a waiver of any fee until otherwise provided by Gaming Board decision or amendment to this Ordinance.

Section 309. License Renewal.

Every licensee intending to continue engaging in public gaming activities within the Cheyenne and Arapaho Tribes of Oklahoma Tribal Jurisdiction during the next calendar year shall apply for renewal of the license at least thirty (30) days prior to the expiration of the previous license period.

Section 310. License display.

Every licensed gaming operation shall display in a prominent place a current and valid Cheyenne and Arapaho Tribes of Oklahoma tribal license for that location.

Section 311. Requirements to maintain license.

(a) Change in location. When a licensee changes a location of public gaming activities within the Cheyenne and Arapaho Tribes of Oklahoma Tribal Jurisdiction, the Gaming Board shall, after notification by the licensee of such changes, issue a corrected license for the balance of the current period reflecting the new address upon reasonable proof of change of address and without imposition of an additional license fee.

(b) It shall be unlawful for any licensee to fail to notify the Gaming Board of any new Key Employee, new ancillary contractor, or new operator. The Gaming Board shall investigate and provide approval or disapproval of the new Key Employee, contractor, or operator within thirty (30) days. Any information received by the Gaming Board shall be confidential.

(c) It shall be unlawful for any licensee to begin the employment of a new person, begin the performance of any new contract or begin the control of any new operator without the approval of the Gaming Board.

(d) It shall be unlawful for any person to possess a firearm or dangerous weapon on premises where licensed gaming is allowed, with the exception of licensed firearms for the maintenance of order, firearms possessed by duly authorized peace officers, and firearms maintained by the licensee if previously approved by the Gaming Board and Tribal Law Enforcement for protection of himself, his agents, and invitees.

(e) It shall be unlawful for a licensee to engage in pawnbroking or to take goods or materials in hock or to lend money or engage in similar activity with indigent persons solely for the purpose of enabling the indigent person to gamble. This provision is not intended to prohibit the extending of credit by the licensee to persons of means after proper application and credit checks are performed.

(f) A licensee is required during normal business hours, to maintain his premises open for inspection by the Gaming Board or its agents or any other authorized government agency and keep its books and financial record open for similar inspection.

(g) Licensed gaming employees and tribal gaming managers must produce at a player's request, losing tickets, copies of cancelled checks or other evidence of loss acceptable to the Internal Revenue Service if requested by the player or

contestant at the time the player or contestant buys a ticket or chance or otherwise enters the game.

(h) The Gaming Board shall by regulation impose the following additional requirements:

(1) A determination of whether and in what manner rules of play must be posted for each type of licensed gaming;

(2) The maximum prize, pot or bet limit, if any, that shall be offered in any type of gaming;

(3) Rules for the particular conduct of any type of licensed gaming should the Gaming Board deem that such rules are necessary for the proper conduct of gaming;

(4) Any other regulation controlling licensed gaming which is deemed necessary by the Gaming Board.

Section 312. Fees.

Each application for an initial or renewal license shall be accompanied by payment of the license fee. The Gaming Board's determination of the license fee properly owed under this Ordinance shall be final. This fee is imposed for the revocable privilege of being licensed to engage in public gaming activities within the jurisdiction of the Tribes.

Section 313. Non-transferability.

The license issued pursuant to the provisions of this Ordinance is valid only for the person(s) or organization(s) at the place of business shown on the face thereof. It is not assignable or otherwise transferable to any other person or organization or for any other location without the written approval of the Gaming Board.

Section 314. Payment of license fees.

All license fees collected under authority of the Tribal Gaming Board shall be paid to the Tax Commission of the Tribes.

Section 315. License as a revocable privilege.

The public gaming operations license is a revocable privilege, and no holder thereof shall be deemed to have an interest in any vested rights therein or thereunder. The burden of proving qualifications to hold any license rests at all times in the licensee. The Gaming Board is charged by law with the duty of continually observing the conduct of all licensees to the end that licenses shall not be held by unqualified or disqualified persons or unsuitable person or persons whose operations are conducted in an unsuitable manner.

Section 316. Violations.

Violation of any provision of this Ordinance or any of the Gaming Board's Regulations by a Licensee, his agent, or employee shall:

- (a) be deemed contrary to the public health, safety, morals, good order, and general welfare of the Tribe and its members;
- (b) be grounds for refusing to grant or renew a license, or for suspension or revocation of a license;
- (c) be grounds for the filing of criminal charges and/or a civil action in a court of competent jurisdiction on behalf of the Gaming Board; and
- (d) be grounds for immediate revocation of license in the case of a licensee being convicted of a felony.

Acceptance of a license or renewal thereof or condition imposed thereon by a licensee constitutes agreement on the part of the licensee to be bound by all the regulations and/or conditions of the Gaming Board and by the provisions of this Ordinance as the same are now or may hereafter be amended or promulgated. It is the responsibility of the licensee to keep him/herself informed of the contents of all such regulations, provisions, and conditions, and ignorance thereof will not excuse the violation.

TITLE VI. RULES OF GENERAL APPLICABILITY

Section 400. Rules of gaming operation.

Each licensee operating a gaming enterprise under a license issued pursuant to the provisions of this Ordinance shall prominently display in writing all rules and regulations pertaining to all gaming activity, including but not limited to traditional bingo, other games of chance and video games of chance, near the specific location where such gaming activity is conducted; or shall make available a written list of all such rules and regulations to any person making a request for such.

Each gaming employee and management entity licensed under the provisions of this Ordinance shall utilize gaming rules and regulations that are in compliance with the laws of the Tribe, the United States of America, and any gaming Compact and specifically the Indian Gaming Regulatory Act of 1988.

Section 401. Video Games of Chance.

The following requirements shall apply to management and conduct of all video games of chance within any gaming enterprise licensed pursuant to the provisions of this Ordinance.

(a) Licensing of manufacturers; no gaming enterprise may own, lease, or operate video games of chance that have been manufactured by a manufacturer that has not received a license from the Gaming Board pursuant to the provisions of Title III of this Ordinance. The Gaming Board shall issue licenses only to manufacturers of video games of chance holding a valid license from the States of Minnesota, New Jersey, Nevada, South Dakota, Kansas, Wisconsin and Connecticut, or from any other federally recognized Tribe.

(b) Licensing of distributors; no gaming enterprise may own, lease, or operate video games of chance that have been distributed by a distributor that has not received a license from the Gaming Board pursuant to the provisions in Title III of this Ordinance. The Gaming Board shall issue licenses only to distributors of video games of chance holding a valid license from the State of Minnesota, or the State of New Jersey, or the State of Nevada, or the State of South Dakota, Kansas, Wisconsin and Connecticut.

(c) Suspension, revocation, or non-renewal of manufacturer or distributor license; in the event that the States of Minnesota, Kansas, Wisconsin, Connecticut, New Jersey, Nevada, or the State of South Dakota, suspends, revokes, or refuses to renew a license of a manufacturer or distributor of video games of chance similarly licensed by the Gaming Board, such action shall be grounds for similar action by the Gaming Board, which shall investigate, suspend, revoke, or refuse to renew the license issued by the Gaming Board to such manufacturer or distributor.

(d) Technical standards: testing and approval of video games of chance; no video game of chance may be purchased, leased or otherwise acquired by a gaming enterprise unless:

(1) the video game of chance is purchased, leased, or acquired from a manufacturer or distributor licensed to sell, lease or distribute video games of chance by the Gaming Board pursuant to the provisions of this Ordinance; and

(2) the video game of chance, or a prototype thereof, has been tested, approved or certified by an approved gaming test laboratory as meeting all requirements and standards of any appropriate compact, ordinance, regulation, or rule on video games of chance.

(e) Compliance of video games of chance: any gaming activity involving video games of chance shall be conducted in strict compliance with the Tribal compact, ordinances, and regulations on video games of chance.

Section 402. Restrictions for gaming enterprises.

Each licensee operating a gaming enterprise under a license issued pursuant to the provisions of this Ordinance must at all times observe the following restrictions on gaming activities:

(a) Minimum age for players: no person below the age of eighteen (18) years on the date of gaming shall be permitted to participate in the gaming in any gaming enterprise licensed under the provisions of this Ordinance. If any person below the age of eighteen (18) years plays and otherwise qualifies to win any prize, the prize shall not be paid, and the estimated amount wagered during the course of the game shall be returned to the player.

(b) Prohibition on alcohol: no gaming enterprise shall allow to be sold or otherwise make available any beverage containing alcohol including, but not limited to, beer or liquor at the gaming enterprise location without the specific approval of same by the Gaming Board with the approval of the Business Committee.

(c) Prohibition on firearms: no firearms or airguns which are capable of discharging dangerous projections or games including, but not limited to, "bb's" or CO2 guns, rifles, shotguns, pistols, or revolvers, shall be allowed on the premises except as permitted for security by an employed security force or other city, state, or federal law enforcement officers in the course of their official duties.

Section 403. Disputes with Customers of the Gaming Operation.

Gaming Manager shall prescribe rules of play for each type of gaming which has been licensed by the Gaming Board. Such rules of play shall be acceptable to Gaming Board and shall be posted in plain view, accessible and visible by all customers of the Gaming Operation. All games shall be conducted fairly and honestly by both Gaming Manager and customers. In the event of a dispute between Gaming Manager and any customer, the written rules of play shall govern. However, Gaming Manager shall strive to satisfy the customer in the resolution of any dispute. The general manager on site, employed by Gaming Manager, shall be initially responsible to attempt to resolve all such disputes. If a dispute cannot be resolved by the general manager, the general manager shall immediately submit a written report of the dispute to both Gaming Manager and the Tribal Coordinator employed by the Tribe to oversee the Gaming Operation, who shall discuss the dispute with each other and with the customer. Manager shall make the final determination of the action to be taken to resolve the dispute, after consulting with Tribal Coordinator. Any customer who is not satisfied with the decision of Manager may appeal the decision to the Gaming Board. The determination of the Gaming Board shall be final.

ARTICLE V. INDIAN GAMING REGULATORY ACT.

Section 500. Policy.

It shall be the policy of the Tribe to fully comply with all applicable U.S. federal law, to include the provisions of the Indian Gaming Regulatory Act (25 U.S.C. Section 2701 et seq.), and the Tribal Gaming Compact, if any, in the conduct of all gaming activity within the jurisdiction of the Tribe.

Section 501. Proprietary Interest.

The Cheyenne and Arapaho Tribes of Oklahoma shall have the sole proprietary interest in and responsibility for the conduct of any gaming activity, Class II or Class III, as those terms are defined by the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §2703(7), (8) within the jurisdiction of the Tribe.

Section 502. Net Revenues.

Net revenues derived from gaming activity shall be utilized 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.

Section 503. Per capita payments.

Net revenues from any gaming activity (as defined by the Indian Gaming Regulatory Act, 25 U.S.C. §2703) may be used to make per capita payments to Tribal members only if the following conditions are first met:

(a) The Tribe has prepared an adequate plan for allocation of net revenues as described above in section 502, which plan has been approved by the Secretary of Interior or his authorized delegee;

(b) In the event of a per capita distribution, the interests of affected minors and other legally incompetent persons entitled to such per capita payments are adequately protected and preserved, under a plan approved by the Gaming Board and by the Secretary of the Interior or his authorized delegee; and

(c) The recipients of said per capita payments are properly notified by the Tribe that the payments are subject to federal taxation.

Section 504. Licensee standards.

It is the further duty of the Gaming Board to develop standards whereby any person whose prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest or to the effective regulation of the gaming activity contemplated herein, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment by any gaming activity licensed by the Gaming Board. The Gaming Board shall conduct background investigations on primary Primary Management Officials and Key Employees of all gaming activity. The results of such background checks shall be supplied to the National Indian Gaming Commission prior to the issuance of any gaming license.

Section 505. Contracts.

All contracts for supplies, services, or concessions for a contract amount in excess of Twenty-five Thousand Dollars (\$25,000.00) annually (except for contracts for professional legal or accounting services) relating to Class II gaming (as defined by the Indian Gaming Regulatory Act, 25 U.S.C. §2703) shall be subject to the outside independent audits provided for in Title II, section 206(6) of this ordinance.

Section 506. Protections.

It is the further duty of the Gaming Board to ensure that any construction and maintenance of any gaming facility licensed by the Gaming Board, and the operation of the gaming activity therein shall be conducted in a manner which adequately protects the environment and the public health and safety.

Section 507. Licenses for continuing operations.

No licenses will be issued to allow the continuing operation of individually owned gaming establishments since none were in operation on September 1, 1986.

Section 508. Tribal Self-Regulation.

It is the intent of the Tribe to request a hearing before the National Indian Gaming Commission for the issuance of a certificate of self-regulation. In anticipation of being self-regulating, the Tribe ensures that it will:

- (a) conduct its gaming activity in a manner which:
 - (1) has resulted in an effective and honest accounting of all revenues;
 - (2) has resulted in a reputation for safe, fair, and honest operation of the activity; and
 - (3) has been generally free of evidence of criminal or dishonest activity;
- (b) adopt and implement adequate systems for:
 - (1) accounting for all revenues from licensed gaming activity;
 - (2) investigation, licensing, and monitoring of all employees of the gaming activity; and
 - (3) investigation, enforcement and prosecution of violations of this ordinance and regulations; and
- (c) conduct all gaming operations on a fiscally and economically sound basis.

Section 509. Management agreements.

All management agreements entered into by the Tribe, if any, shall comply with all the applicable provisions of the Indian Gaming Regulatory Act, 25 U.S.C. §2711.

Section 510. Internal Revenue Code.

All applicable Internal Revenue Code provisions concerning reporting and withholding of taxes with respect to the winnings from gaming shall be adhered to.

Section 511. Agent for Service of Process.

Any notice given to the Tribe hereunder shall be delivered to the Tribe by certified mail, addressed as follows:

Chairperson Viola Hatch
Cheyenne and Arapaho Tribes of Oklahoma
100 Red Moon Circle
Concho, Oklahoma 73022

The agent for service of process for any legal process served in connection herewith shall be:

Chairperson Viola Hatch
Cheyenne and Arapaho Tribes of Oklahoma
100 Red Moon Circle
Concho, Oklahoma 73022

CERTIFICATION

Viola Hatch, Tribal Chairperson, of the Cheyenne and Arapaho Tribes of Oklahoma, hereby certifies that this Gaming Ordinance is a true and exact copy as amended by the 29th Business Committee at a duly called meeting held on the 17th day of February, 1994, there being a quorum present, by a vote of 5 for, 0 opposed, 0 abstentions, 2 absent and 1 not voting. (List all votes)

Roll Call Vote:

Viola Hatch
Viola Hatch, Chairperson
29th Business Committee
Cheyenne and Arapaho Tribes
of Oklahoma

ATTEST:

Clara Bushykeed

EXHIBIT A

LICENSING OF PRIMARY MANAGEMENT OFFICIALS
AND KEY EMPLOYEES

TRIBE'S RESPONSIBILITIES WHEN LICENSING PRIMARY MANAGEMENT
OFFICIALS AND KEY EMPLOYEES

Pursuant to Part 556 of the Rules and Regulations, unless a tribal-state compact allocates sole jurisdiction to an entity other than a tribe with respect to background investigations, the requirements of Part 556 apply to all Class II and Class III gaming.

1. BACKGROUND INVESTIGATIONS:

- (a) Pursuant to Section 556.4 of the Rules and Regulations, the Tribe shall perform a background investigation for each *primary management official* and for each *key employee* (see Definition Section) of a gaming operation. The information requested by this Section has been incorporated in the Application which is attached hereto as *Exhibit A*. The Application also contains the Privacy Act notice and notice regarding false statements as required by Sections 556.2 and 556.3 of the Rules and Regulations.
- (b) In conducting a background investigation, the Tribe or its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.
- (c) An authorized tribal official 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 a primary management official for employment in a gaming operation. If the authorized tribal official, in applying the standards adopted in a tribal ordinance, determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming, a management contractor or a tribal gaming operation shall not employ that person in a key employee or primary management official position.
- (d) A gaming operation shall not employ in a key employee or primary management official position a person who has supplied materially false or misleading information or who has omitted material information with respect to the required information.

2. REPORT TO COMMISSION:

- (a) When the Tribe employs a primary management official or a key employee, the Tribe shall forward to the National Indian Gaming Commission (the "Commission") a completed Application.
- (b) The Tribe shall also forward to the Commission an investigative report on each background investigation. Such report shall be submitted within 60 days after an employee begins work or within 60 days of the Chairman's approval of an ordinance, and shall include all of the following:
 - (1) Steps taken in conducting a background investigation;
 - (2) Results obtained;
 - (3) Conclusions reached; and
 - (4) The bases for those conclusions.
- (c) If the Tribe does not license an applicant:
 - (1) The Tribe shall notify the Commission; and
 - (2) May forward copies of its eligibility determination and investigative report (if any) to the Commission for inclusion in the Indian Gaming Individuals Record System.

3. PROCEDURE FOR FORWARDING APPLICATIONS AND REPORTS TO THE COMMISSION; ISSUANCE OF LICENSE:

- (a) The information required to be supplied to the Commission as set forth in paragraph 2 shall be submitted within 60 days after an employee begins work, or within 60 days of the Chairman's approval of an ordinance. A gaming operation shall not employ a key employee or primary management official who does not have a license after 90 days.
- (b) During a 30 day period beginning when the Commission receives a report, the Chairman may request additional information from the Tribe 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 until the Chairman receives the additional information.

- (c) If, within the 30 day period, the Commission notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application, the Tribe may go forward and issue a license to such applicant.
- (d) If, within the 30 day period, the Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report, the Tribe shall reconsider the application, taking into account the objections itemized by the Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

A gaming operation shall not employ a key employee or primary management official who does not have a license after 90 days.

4. **EXISTING PRIMARY MANAGEMENT OFFICIALS AND KEY EMPLOYEES:**

The Tribe shall notify existing key employees and primary management officials *in writing* that they shall either:

- (a) Complete a new Application form which contains a notice regarding false statements and a Privacy Act notice; or
- (b) Sign a statement that contains the statement regarding false statements and a Privacy Act notice and consent to the routine uses described in that notice.

5. **DEFINITIONS:***

Primary Management Official means:

- (a) The person having management responsibility for a management contract;
- (b) Any person who has authority:
 - (1) To hire and fire employees; or
 - (2) To set up working policy for the gaming corporation; or
- (c) The chief financial officer or other person who has financial management responsibility.

Key Employee means:

- (a) A person who performs one or more of the following functions:
 - (1) Bingo caller;
 - (2) Counting room supervisor;
 - (3) Chief of security;
 - (4) Custodian of gaming supplies or cash;
 - (5) Floor Manager;
 - (6) Pit boss;
 - (7) Dealer;
 - (8) Croupier;
 - (9) Approver of credit; or
 - (10) Custodian of gambling devices, including persons with access to cash and accounting records within such devices;
- (b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
- (c) If not otherwise included, the four most highly compensated persons in the gaming operation.

*Code of Federal Regulations, Title 25-Indians, Chapter III-National Indian Gaming Commission, Part 502-Definitions.