

APR 16 1998

Edward Red Eagle, Sr.
Assistant Principal Chief
Osage Tribal Council
P.O. Box 779
Pawhuska, Oklahoma 74056

Dear Edward Red Eagle:

This letter responds to your request to review and approve the Gaming Codes of the Osage Tribe of Indians, adopted by Resolution Nos. 29-817 and 29-818, on March 4, 1998, by the Osage Tribal Council. 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. Such approval does not constitute approval of specific games.

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

Sincerely yours,



Tadd Johnson
Chairman

MAR - 6 1998

**RESOLUTION
OF THE
OSAGE TRIBAL COUNCIL**

No. 29-817

WHEREAS,

1. The Osage Tribal Council, organized pursuant to provisions of the Act of June 28, 1906, 34 Stat. 539, as amended, and is the elected governing body of the Osage Tribe of Indians; and

2. The general governing authority of the Osage Tribal Council for the Osage Tribe of Indians has been reaffirmed in *Fletcher v. United States*, Case No. 95-5208, Tenth Circuit Court of Appeals, June 10, 1997; and

3. The Osage Tribal Council has determined that entry into Class II gaming operation would produce income to significantly benefit the Osage Tribe of Indians; and

4. A Class II Gaming Ordinance of the Osage Tribe of Indians, referenced as Title I, has developed and presented to the Osage Tribal Council; and

5. The Osage Tribal has fully considered and reviewed this ordinance; and

6. The Osage Tribal Council desires to adopt this ordinance, a copy of which is attached hereto, as the official Class II Gaming Ordinance of the Osage Tribe of Indians. **THEREFORE, BE IT**

RESOLVED,

1. The Class II Gaming Ordinance of the Osage Tribe of Indians, a copy of which is attached hereto, further referenced as Title I, be, and the same is, hereby adopted as the official Class II Gaming Ordinance of the Osage Tribe of Indians; and

2. The Principal Chief, or in his absence the Acting Principal Chief, is hereby authorized to sign this Resolution and to certify the Ordinance adopted by this Resolution and to transmit three original copies thereof to the Chairman of the National Indian Gaming Commission for his official approval of said Ordinance.

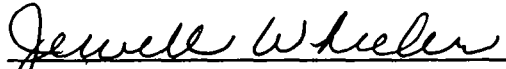
CERTIFICATION

I hereby certify the foregoing Resolution No. 29-817 was considered by the Osage Tribal Council at a duly called meeting in Pawhuska, Oklahoma, at which a quorum was present and the same was adopted by a vote of 7 in favor, 0 opposed and 1 absent, this 4th day of March, 1997.



ACTING Principal Chief

ATTEST:



Secretary

**RESOLUTION
OF THE
OSAGE TRIBAL COUNCIL**

No. 29-818

WHEREAS,

1. The Osage Tribal Council, organized pursuant to provisions of the Act of June 28, 1906, 34 Stat. 539, as amended, and is the elected governing body of the Osage Tribe of Indians; and

2. The general governing authority of the Osage Tribal Council for the Osage Tribe of Indians has been reaffirmed in *Fletcher v. United States*, Case No. 95-5208, Tenth Circuit Court of Appeals, June 10, 1997; and

3. The Osage Tribal Council has determined that a Gaming Commission Ordinance setting detailed procedures for the regulation of Class II Gaming within the Tribal jurisdiction is necessary and desirable; and

4. Such a Gaming Commission Ordinance has been developed and presented to the Osage Tribal Council; and

5. The Osage Tribal Council has fully considered and reviewed this Ordinance; and

6. The Osage Tribal Council desires to adopt this Ordinance, to also be called Title II, Gaming Ordinance of the Osage Tribe of Indians. **THEREFORE, BE IT**

RESOLVED,

1. The Gaming Commission Ordinance of the Osage Tribe of Indians, also known as Title II, Gaming Ordinances of the Osage Tribe of Indians, a copy of which is attached hereto, be, and the same is, hereby adopted as the official Gaming Commission Ordinance of the Osage Tribe of Indians; and

2. The Principal Chief, or in his absence, is hereby authorized to certify the Ordinance as the official Gaming Commission Ordinance of the Osage Tribe of Indians and transmit three original copies thereof to the Chairman of the National Indian Gaming Commission; and

3. That the Principal Chief, or in his absence the Acting Principal Chief, is hereby authorized to sign this Resolution.

CERTIFICATION

I hereby certify the foregoing Resolution No. 29-818 was considered by the Osage Tribal Council at a duly called meeting in Pawhuska, Oklahoma, at which a quorum was present and the same was adopted by a vote of 7 in favor, 0 opposed and 1 absent, this 4th day of March, 1997.



ACTING Principal Chief

ATTEST:



Secretary

GAMING ORDINANCES OF THE OSAGE TRIBE OF INDIANS

Title I

CLASS II GAMING ORDINANCE OF THE OSAGE TRIBE OF INDIANS

MAR - 6 1998

Section 1.01. Purpose

The Osage Tribal Council, the sole governing body of the Osage Tribe of Indians (hereinafter "Tribe"), empowered by the Act of June 28, 1906, 34 Stat. 539, as amended, to enact ordinances, hereby enacts this ordinance in order to set the terms of Class II gaming operations and to regulate such gaming on Indian lands which are defined by 25 C.F.R. Section 502.12 as:

- A. Land within the limits of an Indian reservation; or
- B. Land over which an Indian tribe exercised governmental power and that is either--
 - 1. Held in trust by the United States for the benefit of any Indian tribe or individual; or
 - 2. Held by an Indian tribe or individual subject to restriction by the United States against alienation.

Section 1.02. Gaming Authorized

Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C., Section 2703(7) (A) ("IGRA") and by regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. Section 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized by the Tribe.

Section 1.03. Ownership of Gaming

The Tribe shall have the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this ordinance, except in instances where the Tribe may elect to license and allow individually owned gaming according to the provisions of 25 C.F.R. Sections 522.10 and 522.11. In such instances:

- A. The gaming operation shall be licensed under the provisions hereof and under the provisions of the Class II Gaming Commission Ordinance of the Osage Tribe of Indians; and
- B. All income to the Tribe from an individually owned gaming operation shall be used only for the purposes listed in 25 C.F.R. Section 522.4(b)(2); and

C. Not less than 60 percent of the net revenues shall be income to the Tribe; and

D. The owner of such an operation shall pay an assessment to the National Indian Gaming Commission as provided by 25 C.F.R. Section 514.1; and

E. All such licenses shall be issued pursuant to licensing standards that are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the surrounding State; and

F. Licenses shall be denied for any person or entity that would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the surrounding State and State law standards shall apply with respect to the purpose, entity, pot limits and hours of operation.

Section 1.04. Use of Gaming Revenue

A. Net revenues from class II gaming shall be used only for the following purposes: to fund tribal government operations and programs; provide for the general welfare of the Tribe and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

B. If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. Section 2710(b) (3)

Section 1.05. Audit

A. 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.

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

Section 1.06. Protection of the Environment and Public Health and Safety

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

Section 1.07. Licenses for Key Employees and Primary Management Officials

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any Class II gaming enterprise operated on Indian lands:

A. Definitions

For the purposes of this section, the following definitions apply:

1. 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 \$50,000.00 per year; or

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

2. 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 operation; or

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

B. Application Forms

1. The following notice shall be placed on the application form of a key employee or a primary management official before that form is filled out by an applicant:

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. Section 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 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, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when 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 investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosure indicated in this notice will result in the tribe's 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 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 notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant:

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.)

4. The Tribe shall notify in writing existing key employees and primary management officials 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

1. The Tribe 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 5 years: business and employment positions held, ownership interests in those businesses and residence addresses, and drivers license numbers;

c. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1) (b) of this section.

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 is 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 has been 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 section, 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 photograph;

m. Any other information the Tribe deems relevant; and

n. Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. Section 522.2(h).

2. The Tribe shall conduct an investigation sufficient to make a determination under subsection D. below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Eligibility Determination

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.

E. 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 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 subsection D of this section.

2. The Tribe shall forward the report referred to in subsection F of this section 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.

3. 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.

F. Report to National Indian Gaming Commission

1. Pursuant to the procedures set out in subsection E of this section, 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:

- a. Steps taken in conducting a background investigation;
- b. Results obtained;
- c. Conclusions reached; and
- d. The bases for those conclusions.

2. The Tribe shall submit, with the report, a copy of eligibility determination made under subsection D of this section.

3. If a license is not issued to an applicant, the Tribe:

- a. Shall notify the National Indian Gaming Commission; and
- b. 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.

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

G. Granting a Gaming License

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

2. The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph G. 1. of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

H. License Suspension

1. 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 subsection D. above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Tribe 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 Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

Section 1.08. 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 1.09 Investigations and License Standards

The Tribe shall perform background investigations and issue licenses for key employees and primary management officials according to requirements that are at least as stringent as those in 25 C.F.R. Parts 556 and 558.

Section 1.10. Repeal

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

CERTIFICATION

I hereby certify that the above and foregoing ordinance is a true, accurate and exact copy of the Class II gaming ordinance of the Osage Tribe of Indians adopted by formal Resolution No. _____ of the Osage Tribal Council on the _____ day of _____, 1998, a copy of which is attached hereto, and that said Resolution expressly authorized me to make this certification.

Charles O. Tillman, Jr.
Principal Chief

**RESOLUTION
OF THE
OSAGE TRIBAL COUNCIL**

Resolution No. _____

WHEREAS:

1. The Osage Tribal Council, organized pursuant to provisions of the Act of June 28, 1906, 34 Stat. 539, as amended, is the elected governing body of the Osage Tribe of Indians; and
2. The Osage Tribal Council has determined that entry into Class II gaming operation would produce income to significantly benefit the Osage Tribe of Indians; and
3. A Class II Gaming Ordinance of the Osage Tribe of Indians, referenced as Title I, has developed and presented to the Osage Tribal Council; and
4. The Osage Tribal Council has fully considered and reviewed this ordinance; and
5. The Osage Tribal Council desires to adopt this ordinance, a copy of which is attached hereto, as the official Class II Gaming Ordinance of the Osage Tribe of Indians. **THEREFORE
BE IT**

RESOLVED:

1. That the Class II Gaming Ordinance of the Osage Tribe of Indians, a copy of which is attached hereto, further referenced as Title I, be, and the same is, hereby adopted as the official Class II Gaming Ordinance of the Osage Tribe of Indians.
2. That the Principal Chief, or in his absence the Acting Principal Chief, is authorized to sign this Resolution and to certify the Ordinance adopted by this Resolution and to transmit three original copies thereof to the Chairman of the National Indian Gaming Commission for his official approval of said Ordinance.

CERTIFICATION

I hereby certify that the foregoing Resolution No. 29-_____ was considered by the Osage Tribal Council at a duly called meeting in Pawhuska, Oklahoma, at which a quorum was present and the same was adopted by a vote of _____ in favor, _____ opposed, and _____ absent, this _____ day of _____, 1998.

ATTEST:

Secretary

Principal Chief

GAMING ORDINANCES OF THE OSAGE TRIBE OF INDIANS

Title II

GAMING COMMISSION ORDINANCE OF THE OSAGE TRIBE OF INDIANS

Section 2.01. Action and Authority

The Osage Tribal Council, the sole governing body of the Osage Tribe of Indians (hereinafter "Tribe"), empowered by the Act of June 28, 1906, 34 Stat. 539, as amended, to enact ordinances, hereby enacts this ordinance which is entitled "the Gaming Commission Ordinance of the Osage Tribe of Indians," also referenced as Title II, Gaming Ordinances. Additional authority for the enactment of this ordinance is the Indian Gaming Regulatory Act of 1988 (IGRA), 25 U.S.C. Sections 2701 *et seq.*, and the regulations implementing IGRA, 25 C.F.R. Part 501 *et seq.*

Section 2.02. Scope

This ordinance shall apply to all Class II gaming conducted within the jurisdiction of the Osage Tribe of Indians.

Section 2.03. Purpose

A. This ordinance is intended to promote the peace, safety and welfare of all persons coming within the jurisdiction of the Tribe by insuring that all gaming operations conducted within the Tribal jurisdiction are conducted in a fair and responsible manner; provide a safe and wholesome means of recreational activity in a community setting; insure that the public order, peace, and safety are maintained; and provide a source of revenue for the Tribal Government. This ordinance shall be liberally construed to promote such purposes.

B. This ordinance is further intended to establish a detailed regulatory method and procedure to regulate Class II gaming operations and to comply with all requirements of the National Indian Gaming Commission set forth in 25 C.F.R. Parts 501 *et seq.*

Section 2.04. Definitions

All definitions used in IGRA and its implementing regulations, cited in Section 2.01, above, shall be used to define all terms used herein, unless the context clearly indicates that a different meaning is intended, except and in addition:

A. "Chairman", as used herein, shall mean the Chairman of the Gaming Commission of the Osage Tribe of Indians when used in that context.

B. "Class II Gaming Ordinance of the Osage Tribe of Indians" or "Gaming Ordinance" shall mean the Tribal Ordinance approved by the Chairman, National Indian Gaming Commission, also referenced as Title I, Gaming Ordinances.

C. "Commission", as used herein, shall mean the three-person entity created by this ordinance to generally regulate and monitor gaming operations within the Tribal jurisdiction when used in that context.

D. "Gaming Commission Ordinance of the Osage Tribe of Indians" or "Gaming Commission Ordinance" or "Title II, Gaming Ordinances" shall mean this Ordinance which details procedures to be followed by the Commission to comply with the provisions of the Class II Gaming Ordinance of the Osage Tribe of Indians, also called Title I, Gaming Ordinances; the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. Sections 2701 *et seq.*; and the regulations implementing IGRA, 25 C.F.R. Parts 501 *et seq.*

E. "NIGC" shall mean the National Indian Gaming Commission;

F. "Osage Tribe of Indians" or "Tribe" shall mean the Osage Tribe of Indians as defined by the Act of June 28, 1906, 34 Stat. 539, as amended, consisting of members who are any persons of Osage Indian blood of whatever degree.

G. "The Osage Tribal Council" or "Tribal Council" shall mean the sole governing body of the Osage Tribe of Indians established by the Act of June 28, 1906, 34 Stat. 539, as amended.

H. Where the masculine gender is used herein it shall also denote the feminine gender.

Section 2.05. Establishment of a Gaming Commission

There is hereby established a Tribal entity which shall be known as "The Gaming Commission of the Osage Tribe of Indians (hereinafter "Commission").

Section 2.06. Membership of Commission

A. The Commission shall consist of three members, any of whom may or may not be Members of the Osage Tribal Council, who shall be nominated by the Principal Chief and be duly appointed by formal Resolution of the Osage Tribal Council.

B. The Osage Tribal Council shall, upon nomination by the Principal Chief, by formal Resolution, appoint one of such Members as Chairman and Executive Director of the Commission (hereinafter "Chairman").

C. At any time during which the Chairman may be absent from a meeting or be temporarily unable to perform official duties, the other two members of the Commission may appoint one of themselves as Acting Chairman. If the said two Members can not agree upon who is to be appointed as Acting Chairman, the Principal Chief of the Osage Tribal Council may, upon the request of any Commission Member, appoint one of them as Acting Chairman to serve until the Chairman is again present and able to perform the Chairman's duties or until the Chairman is replaced by a formal Resolution of the Osage Tribal Council.

D. The Chairman or Acting Chairman shall vote on all matters along with the other member or members present at any meeting. A majority vote of two shall be controlling on any matter if all three Commission Members are present.

E. A quorum for the transaction of all Commission business shall exist when any two members of the Commission are present at any regular or special meeting of the Commission. If only the Chairman or Acting Chairman and one other Member is present at any such meeting the decision and vote of the Chairman or Acting Chairman on any matter shall be controlling if the two Commission members can not agree on the matter. Notwithstanding the provisions hereof, if an impasse or irreconcilable controversy should arise among the Commission Members, it shall be settled by the decision of the Principal Chief of the Osage Tribal Council.

F. The provisions of this Section shall apply to all matters and decisions of the Commission, including, but not limited to, decisions at hearings provided in Section 2.16., below.

Section 2.07. Qualifications of Members

All members of the Commission must:

- A. Be over twenty-one years of age.
- B. Be of good moral character and reputation within the Osage community.
- C. Never have been convicted of a felony or of a crime of any nature involving moral turpitude.
- D. Own no interest in any Tribal gaming operation or management contract.
- E. Have significant business or employment experience to qualify them to generally manage Tribal gaming operations including the proper accounting therefor, *provided however*, that such past experience need not necessarily have been in the gaming field.
- F. Have exhibited a desire and motivation to be of service to the Osage Tribe of Indians.

G. Have no history of alcohol or drug abuse or of mental or emotional illness or disability which might adversely affect the performance of their duties as Members of the Commission.

H. Be able to pass a suitability investigation and determination such as may be prescribed by the Osage Tribal Council to insure moral, ethical, legal, and professional fitness for the position in the judgment of the Osage Tribal Council.

I. Be a Tribal member as defined by Section 2.04, F., above.

Section 2.08. Term of Office

Members of the Commission shall serve two year terms at the will and pleasure of the Osage Tribal Council. Any Member may be removed from office by formal Resolution of the Osage Tribal Council with or without cause at any time. In such an event the Osage Tribal Council shall, by formal Resolution, appoint a successor to fill the vacant position.

Section 2.09. Compensation of Members of the Commission

Members of the Commission shall receive only *per diem* and mileage reimbursement at the standard rates fixed by the Osage Tribal Council for other Tribal employees as and for compensation for their services, unless and until otherwise provided by formal Resolution of the Osage Tribal Council amending this Section.

Section 2.10. Annual Budget

A. The Chairman shall present an annual operating budget for the Commission for the Tribal fiscal year ending June 30, 1998, to the Osage Tribal Council for the balance of that Tribal fiscal year within thirty (30) days following his appointment. He shall thereafter present such an operating budget at the same time each year as is required of other units of the Osage Tribal Government.

B. The annual budget shall be approved by formal Resolution of the Osage Tribal Council and be appropriated from general Tribal funds and revenues. No funds or revenues which are trust assets belonging to, or derived from, any funds, revenues or contracts belonging to or entered into for the benefit of the Osage Minerals Estate or for the headright owners who share in the Osage Minerals Estate may be used for this purpose. No expenditures or obligations of funds exceeding each annual budget for a given year shall be allowed unless approved amendments are granted by formal Resolution of the Osage Tribal Council.

C. In the event such funding appears to be inadequate at any time during a given fiscal year to meet the needs of the Commission, the Chairman shall request that the Osage Tribal Council amend the budget to provide for such additional funds.

D. All funds which are unexpended or unobligated from the Commission's budget at the end of any fiscal year shall revert to the general Tribal Treasury Account.

E. All personnel positions for supervisory, administrative, investigatory and clerical support staff, their grades, and their compensation must be authorized by the Osage Tribal Council in its approval of the annual budget, or amendments thereto.

F. All such personnel shall be considered to be Tribal employees and shall be subject to all provisions of the Tribal Personnel Manual in addition to the provisions hereof.

G. All such Commission employees shall be subject to similar background investigations and suitability determinations required for key employees of gaming operations under this Ordinance, under the Indian Gaming Regulatory Act, 25 U.S.C. Sections 2701 *et seq.*, and under 25 CFR Parts 501 *et seq.*, except that such need not be approved by NIGC..

Section 2.11. Operating Funds for Commission; Bank Account

A. A special bank account with a bank that is insured by the Federal Deposit Insurance Corporation (FDIC) shall be established by the Chairman for operating funds of the Commission to be known as the OTC Gaming Operations Account. The Chairman, the Principal Chief and such other officials or employees of the Commission as may be authorized by the Commission shall be the only signatory authorities on that account.

B. The account shall be funded pursuant to the Commission's approved budget by periodic draw downs from the OTC account by checks drawn against the OTC General Gaming Account and signed by authorized signatories for that account. Each draw down must be approved by an authorized official or employee of the Osage Tribal Council. Draw downs shall not exceed the Commission's budget for any quarter of a fiscal year unless approved by formal Resolution of the Osage Tribal Council.

C. All operations of the Commission, including start up costs, are to be funded from this account.

Section 2.12. Income and Disbursements of Income

A. All income received by the Gaming Commission for license fees, civil penalties, civil fines, investigatory expense reimbursement, and other miscellaneous income shall be deposited into the OTC General Gaming Account by the Tribe.

B. Appropriate adjustments shall be made to the Gaming Commission bank account at the beginning of each new fiscal year, together with appropriate accounting adjustments, with any excesses over and above the authorized draw down for the first quarter of each new fiscal year to be paid by check into the OTC General Gaming Account of the Tribe.

Section 2.13. Meetings of the Commission

A regular meeting of the Commission shall be held during the first week of each month, on a regular day to be determined by the Commission. Additional meetings shall be held as necessary at the direction of the Chairman. All meetings shall be conducted pursuant to the Robert's Rules of Order.

Section 2.14. Duties and Responsibilities of the Commission

The Commission shall have the following duties and responsibilities in addition to the duties, responsibilities and requirements set forth in other Sections of this Ordinance. Where there is apparent conflict or ambiguity between any provision of this Section and with the provisions of any specific Section contained in this Ordinance, the provisions of the specific Section shall govern:

- A. Develop licensing procedures for all employees of all gaming operations pursuant to 25 C.F.R. Section 558.1.
- B. Issue and renew licenses for all employees of gaming operations, but only to primary management officials and key employees upon completion of background investigations and after following the procedures contained in 25 C.F.R. Parts 556 and 558, and suspend and revoke any license of any employee for good cause, *provided however*, that issuance, renewal, revocation, or suspension of the license of a primary management official shall require the advice and consent of the Osage Tribal Council.
- C. Take all necessary actions to insure that all gaming operations fully comply with all of the provisions of 25 C.F.R. Part 514 - Fees, regarding quarterly reporting and the payment of all fees to the NIGC as required by that C.F.R. Part.
- D. Conduct background investigations on primary management officials and key employees according to requirements that are at least as stringent as those in 25 C.F.R. Parts 556 and 558 pursuant to 25 C.F.R. Section 522.4(b)(5).
- E. Forward completed employment applications for primary management officials and key employees to the NIGC pursuant to 25 C.F.R. Section 558.3. These applications must include the Privacy Act notice and the notice regarding false statements contained in 25 C.F.R. Sections 556.2 and 556.3.
- F. Forward completed investigative reports on each background investigation for each primary management official or key employee to the NIGC prior to issuing a license pursuant to 25 C.F.R. Section 556.5.

G. 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 pursuant to 25 C.F.R. Section 558.2.

H. Notify the NIGC if, after conducting a background investigation on a primary management official or a key employee, the Tribe does not license the official pursuant to 25 C.F.R. Section 556.5(d)(1) and (2).

I. Retain applications and reports of background investigations of primary management officials and key employees for no less than three years from termination of employment pursuant to 25 C.F.R. Section 558.1(c).

J. Issue separate licenses to each place, facility, or location on Indian lands authorized by the Osage Tribal Council for the conduct of gaming operations pursuant to 25 C.F.R. Section 522.4(b)(6).

K. Ensure that gaming facilities are constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety pursuant to 25 C.F.R. Section 522.4(b)(7).

L. Obtain annual independent outside audits from auditors selected by the Osage Tribal Council and submit such audits to the NIGC pursuant to 25 C.F.R. Section 522.4(b)(3). The scope of these audits should include all gaming related contracts that result in purchases of supplies, services or concessions for more than \$25,000 in any year pursuant to 25 C.F.R. Section 522.4(b)(4).

M. Ensure that net revenues from any gaming activities are used for the limited purposes set forth in the Class II Gaming Ordinance of the Osage Tribe of Indians, also denominated as Title I., in all matters within the cognizance of the Commission. Such uses which are not within the cognizance of the Commission will be monitored, appropriated and approved by the Osage Tribal Council.

N. License and regulate individually owned and operated gaming operations pursuant to 25 C.F.R. Sections 522.10 and 522.11 and pursuant to all provisions of the Class II Gaming Ordinance of the Osage Tribe of Indians and this Ordinance.

O. Promulgate Tribal gaming regulations pursuant to Tribal law.

P. Monitor gaming activities to ensure compliance with Tribal law/regulations.

Q. Interact with other regulatory and law enforcement agencies regarding the regulation of gaming.

R. Conduct investigations of possible violations and take appropriate enforcement action with respect to Tribal gaming ordinances and regulations.

S. Provide independent information to the Osage Tribal Council on the status of the Tribe's gaming activities.

T. Take testimony and conduct hearings on regulatory matters, including matters related to the revocation of licenses of key employees, primary management officials, and others, as indicated.

U. Develop and approve minimum internal control standards and procedures for each gaming operation, its credit policies and procedures for acquiring supplies and equipment in coordination with the Osage Tribal Council or its authorized representative(s) authorized to manage the various gaming operations.

V. Establish any supplementary criteria for the licensing of primary management officials, key employees, and other employees as the Osage Tribal Council deems necessary.

W. Establish standards for and issue licenses or permits to persons and entities who deal with the various Tribal gaming operations such as manufacturers and suppliers of machines, equipment and supplies.

X. Maintain records on licenses and persons denied licenses including persons otherwise prohibited from engaging in gaming activities within the Tribe's jurisdiction.

Y. Demand access to and inspect, examine, photocopy or audit all papers, books and records of any gaming operation within the Tribal jurisdiction and/or any individual or entity who does business with any gaming operation within the Tribal jurisdiction and perform audits of all such activities and matters to ensure compliance with applicable Tribal ordinances, regulations and/or policy, with IGRA, and with 25 C.F.R. Parts 501 *et seq.*, and other applicable law.

Z. Approve rules of various games, and inspect games, tables, equipment, machines, cards, dice, and chips or tokens used in the gaming operation. Establish or approve video surveillance standards, where necessary and applicable. Establish standards/criteria for gaming machines and facilitate the testing of machines for compliance. Ensure that no unlawful machines or equipment are used in any gaming operation within the Tribal jurisdiction.

AA. Resolve patron disputes, employee grievances, and other problems.

AB. Maintain a handbook of NIGC documents, recommended and required forms and procedures, and NIGC informational releases and documents by use of the NIGC Fax on Demand System, or otherwise, and incorporate such into all procedures used by and requirements made by the Tribal Gaming Commission to the greatest practicable extent.

AC. Furnish assistance and information to the Principal Chief, the Osage Tribal Council, or any relevant committee thereof, upon request, concerning any proposed Management Contract and the principals thereof proposing such a contract, proposed gaming sites or locations, applications for individually owned or operated gaming operations, gaming machines, equipment and supplies and manufacturers and suppliers thereof, or on any other gaming matter, together with appropriate recommendations to assist the Osage Tribal Council in making decisions thereon.

AD. Collect and pursue judgments and legal actions to collect all civil penalties and civil fines imposed by the Commission, as authorized by the Osage Tribal Council.

AE. Seek advice from auditors and attorneys authorized by the Osage Tribal Council to perform such services for the Commission.

AF. Use such Tribal buildings and equipment in the performance of duties as authorized by the Osage Tribal Council.

AG. Issue orders to effect all intents, provisions and purposes of all Tribal Gaming Ordinances, the Indian Gaming Regulatory Act, and 25 C.F.R. Parts 501 *et seq.*, and file such legal actions as may be necessary to enforce such orders, as authorized by the Osage Tribal Council.

AH. Submit an annual report to the Osage Tribal Council, including the views of each Member of the Commission, during the month of January of each calendar year which shall include the following:

1. Recommendations on whether the Commission should be a full or part time Commission;
2. Recommendations for amendments to this Ordinance;
3. A summary report on issuances, suspensions, or denials of all gaming licenses;
4. A summary report on all civil fines and civil penalties imposed by the Commission, the collection thereof, and the posture of all legal actions filed, as authorized by the Osage Tribal Council, to collect them;
5. A summary report about each gaming employee or gaming operation which, in the opinion of the Commission, may require corrective action by the Osage Tribal Council; and
6. A summary report on all other matters relevant to Tribal gaming.

AI. Hire, fire, promote, demote, suspend, direct, supervise, train, manage, and appropriately delegate responsibilities and duties to such supervisory employees, accountants, investigators, secretaries, clerks, and other personnel needed by the Commission to perform its duties and responsibilities, *provided however*, that all such employees and such acts relating to such employees shall be subject to the provisions of the Tribal Personnel Manual and, *provided further*, that all such acts shall be in accord with the approval of the Commission's annual budget, and amendments thereto, pursuant to formal Resolutions of the Osage Tribal Council.

AJ. Utilize the services of the Osage Tribal Police Force to provide fingerprinting and criminal background checks and investigations and/or use the services of any other local, state or federal cooperating law enforcement agency for such purposes and make reasonable payment or reimbursement to all such agencies for fees charged or expenses incurred in such activities, *provided however*, that no payments of fees or reimbursement of expenses shall be made to the Osage Tribal Police Force. Should the need arise, the Osage Tribal Council will provide necessary funding through the Tribal appropriations process to the Osage Tribal Police Force for such assistance.

AK. Make immediate reports to the Principal Chief, the Osage Tribal Council, or to any relevant committee of the Osage Tribal Council, as appropriate, on crimes, breaches of Tribal or Federal laws, policies or regulations, disturbances, practices, events, or other matters involving gaming which may require the immediate attention and action of the Osage Tribal Council.

AL. Require each gaming facility licensed to conduct gaming operations within the jurisdiction of the Tribe to keep such financial records and books of account, as may be approved by an auditor selected by the Osage Tribal Council, at each such facility for inspection and audit by the Commission.

AM. Perfect appeals to decisions of the National Indian Gaming Commission relating to any Tribal gaming matter, with the advice and consent of the Osage Tribal Council.

AN. Perform all other gaming related duties consistent with the regulation of gaming activities conducted within the Tribal jurisdiction not otherwise expressly provided by this Section or by other Sections of this Ordinance, *provided however*, that the advice and consent of the Osage Tribal Council shall first be obtained on all such other matters of extreme importance or significance.

AO. Render all necessary assistance to the National Indian Gaming Commission that may be required by law or regulation. In instances where such assistance is not required by law or regulation, render all reasonable assistance on matters affecting Tribal interests.

Section 2.15. Commission Access to Information

The Commission may secure from any department or agency of the Tribal government, and from cooperating agencies of any federal, state, or local government information to enable it to carry out its functions under this Ordinance. Upon request of the Chairman of the Commission, the head of any Tribal department or agency shall furnish Principal Chief of the Osage Tribe who shall circulate copies to all Members of the Osage Tribal Council.

Section 2.16. Conduct of Commission Hearings

A. The Commission, sitting *en banc* with the Chairman or Acting Chairman and at least one other Member present, shall hold all hearings required by this Ordinance or by applicable federal laws or regulations. It shall have the authority to determine its own rules of procedure, not inconsistent with fairness and equity; to hear cases involving licensing; revocation, suspension and cancellation of licenses; to hear grievances arising from orders of the Commission regarding management practices and/or maintenance of gaming facilities affecting the environment or the public health and safety; to hear disputes between the gaming public and gaming operations licensed by the Tribe; to hold hearings on the imposition of civil penalties and fines by the Commission as authorized by Section 2.23 below, and to hear all other appropriate matters involving gaming within the Tribal jurisdiction as may be determined by the Commission.

B. Hearings may be conducted on the record of documents presented or by the taking of oral testimony and argument. Adequate and advance notice shall be given as to the time, date and place of hearings to all interested parties involved in a case. Hearings that involve oral presentations may be recorded verbatim at the discretion of the Commission or at the request of a party and transcripts thereof shall be furnished to parties upon request. Fees for transcripts shall be at the actual cost of recordation and duplication, as applicable and as is ordered by the Commission. The decisions of the Commission shall be final except as otherwise provided by this Ordinance and by applicable federal laws and regulations.

C. Parties appearing before the Commission shall give testimony under oath. Documentary evidence and physical evidence may be accepted when properly verified. All parties appearing at hearings where oral testimony and argument are to be permitted shall be given a reasonable opportunity to be heard and to present evidence and arguments. Hearings may be recessed and reconvened at the direction of the Chairman when found to be necessary. Default decisions may be rendered by the Commission against parties who fail to appear for a hearing who were given reasonable and official notice of the hearing by the Commission.

D. Final decisions of the Commission may be oral at hearings and a minute made thereof or be reduced to writing and mailed by certified mail, return receipt requested, to all parties making official appearances in such cases who have standing to invoke the decision and determination of the Commission, at the discretion of the Commission. A copy of each written decision or minute of oral decision shall be furnished monthly to the

Principal Chief of the Osage Tribe who shall circulate copies to all Members of the Osage Tribal Council.

Section 2.17. Appeals from Decisions of the Commission

All decisions of the Commission shall be final and unappealable, except as may otherwise be provided by applicable federal law. In such a case, appeals may be taken only to the Code of Federal Regulations Court (CFR Court) having jurisdiction within the Osage Tribal jurisdiction or to its appellate Division. The Osage Tribe expressly does not waive any aspect of its sovereign immunity against lawsuits in any such circumstance or case.

Section 2.18. Legal Counsel

All legal representation, counsel, advice and legal services shall be furnished to the Commission by an attorney with whom the Osage Tribal Council has an existing attorney's contract, as assigned by the Principal Chief of the Osage Tribal Council. Such attorneys are contractually bound to ethically represent the Osage Tribal Council and the Tribe at large and not an individual or subordinate entity of the Tribe or of the Osage Tribal Council. This provision is inserted to insure that all actions of the Commission are lawful and in accord with the policies of the Osage Tribal Council and with the provisions of this Ordinance, the Class II Gaming Ordinance of the Osage Tribe of Indians, the Indian Gaming Regulatory Act of 1988, 25 U.S.C. Sections 2701 *et seq.*, the provisions of 25 C.F.R. Parts 501 *et seq.* and other applicable laws and regulations

Section 2.19. Audits

A. Annual audits of the actions and activities of the Commission shall be conducted by auditors approved by the Osage Tribal Council. Annual audits of all gaming operations conducted within the jurisdiction of the Osage Tribe shall be conducted by the Commission using independent auditors selected by the Osage Tribal Council by formal Resolution, and conducted and reported as required by 25 C.F.R. Sections 522.4. (b) (3) and (4); 25 C.F.R. Section 571.12; 25 C.F.R. Section 571.13; 25 C.F.R. Section 571.14; and any amendments thereto.

B. Quarterly fee assessment reports submitted pursuant to the requirements of 25 C.F.R. Section 514, shall be reconciled with audited financial statements as required by 25 C.F.R. Section 571.14.

C. The Commission shall be responsible for insuring that such audits, reports and reconciliations are submitted to the National Indian Gaming Commission in a prompt and timely fashion.

D. In addition, other financial and management audits may be conducted by independent auditors selected by the Osage Tribal Council at any time at the direction of the Osage Tribal Council.

Section 2.20 Inspection of Books and Records by the National Indian Gaming Commission

The Commission shall furnish all reasonable assistance to the National Indian Gaming Commission when it may elect to inspect books and records pursuant to the provisions of 25 C.F.R. Sections 571.1 *et seq.*

Section 2.21 Bonding and Insurance

A. The Commission shall currently monitor the insurance and bonding of all Management Contractors who are required to carry adequate policies of insurance and/or corporate surety bonds on which the Tribe is a designated beneficiary, to insure the Tribe against property losses including buildings and equipment owned, rented or leased by the Tribe which are used in the gaming facility which is subject to the Management Contract; statutory, common law, and constitutional tort claims; thefts and burglaries involving property or funds; misapplications or misappropriations of property or funds by agents, servants or employees of the Management Contractor; and against any other peril or hazard which the Commission may direct.

B. The Commission shall currently monitor the bonding and insurance of Tribally operated gaming facilities designating the Tribe as a beneficiary, to insure the Tribe against the perils and hazards enumerated in subsection A., above, including, but not limited to, fidelity and fiduciary bonds or insurance covering Tribal employees of gaming operations, as is determined to be prudent and necessary in the judgment of the Osage Tribal Council in establishing and operating such gaming facilities.

C. The Commission shall currently monitor the bonding and insurance of each individually owned or operated gaming facility which was required by the Osage Tribal Council in its formal approving Resolution and which designated to Osage Tribe as a beneficiary.

D. The Commission shall currently monitor perils and hazards which were not required to be insured by approving Resolutions or contracts with the Osage Tribal Council and report all such matters to the Osage Tribal Council.

Section 2.22. Licenses; Terms; Format; Issuance; and Display

A. Licenses shall be issued in a certificate format to be determined by the Commission.

B. A separate gaming facility site license, at least 8 1/2" by 11" in size, must be issued for each gaming facility site and must be prominently displayed at the facility at all times. Such a license shall remain valid for each such site so long as it is in operation pursuant to the provisions of this Ordinance. All Management Contractors and all operators of individually owned or operated gaming operations shall pay a fee to be determined by the Commission for each such license which is sufficient to cover all Tribal

costs for license issuance, including, but not limited to costs of investigations and inspections.

C. A separate Management Contractor's license and/or license for an individually owned or operated gaming operation, at least 8 1/2" by 11" in size, must be issued for each contract or facility and must be prominently displayed at each such facility at all times. Such a license shall remain valid during the term of the Management Contract or agreement for individually owned or operated gaming operation and during any authorized extensions thereto. Management Contractors and individually owned or operated gaming operations shall pay a fee to be determined by the Commission for each such license which is sufficient to cover all Tribal costs of license issuance, including, but not limited to costs of background investigations.

D. A separate license of wallet size, bearing the photograph of the employee, his name, address, height, weight, skin, eye, and hair color and driver's license number (if the employee has a driver's license) and designating whether the license is for a primary management official, a key employee, or a general employee, and the individual's employer, shall be issued to every employee of every gaming operation, including all employees of a Management Contractor and all employees of an individually owned or operated gaming operation licensed by the Commission. All such licenses shall remain valid during the course of each such employee's employment by the Tribe, Management Contractor, or individually owned or operated gaming operation that are licensed by the Commission, unless revoked, canceled, or suspended as otherwise provided by this Ordinance or by applicable federal laws or regulations. Management Contractors and individually owned or operated gaming operations shall pay a fee to be determined by the Commission for each such license issued to their employees which is sufficient to cover all Tribal costs of license issuance, including, but not limited to costs of background investigations.

E. The Commission shall only issue a site or facility license for each gaming facility site after determining that it meets all suitability, environmental, and public safety criteria which the Commission may require.

F. All individuals, corporations, partnerships, joint ventures, and/or legal entities of every kind and nature holding licenses issued by the Commission shall promptly exhibit such licenses to any member of the public, Commission Member or employee, agent or employee of the National Indian Gaming Commission, or to any law enforcement officer when requested to do so. Individual licenses shall be carried upon the person of all employees of all gaming operations at all times that they are on duty or shall be kept in a readily available place on the premises of the gaming operation.

G. The Commission shall comply with all substantive and procedural requirements of this Ordinance; the Class II Gaming Ordinance of the Osage Tribe of Indians; the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. Sections 2701 *et seq.*; and with the Federal Regulations implementing IGRA to be found at 25 C.F.R. Parts 501 *et seq.* regarding the issuance, renewal, revocation or suspension of any license.

Section 2.23. Civil Fines and Civil Penalties

A. The Commission is hereby authorized to determine and to impose civil fines and civil penalties of up to \$5,000 for each separate material breach of the provisions of this Ordinance and all other gaming ordinances of the Osage Tribe of Indians and for each separate offense enumerated in (1) and (2), immediately below, upon any licensee or employee of a Tribal gaming operation, upon any management contractor or employee thereof, or upon any independently owned or operated gaming operator or employee thereof, or upon any applicant for such a license or contract, who shall:

(1) willfully defraud; deceive; cheat; or misrepresent any material fact to any official of the Commission or to the Osage Tribal Council or the National Indian Gaming Commission during the course of the offender's application for employment, license, or contract, or during the course of such offender's license, employment or contract; or

(2) embezzle, steal, or otherwise unlawfully convert to the offender's own use or possession any property belonging to the Tribe or to any gaming operation or owner thereof, a fellow employee or licensee, or member of the gaming public patronizing a Tribally licensed gaming facility, or

(3) harass, threaten, assault or commit a battery upon the person or unlawfully injure the property of any official of the Commission or of the Osage Tribal Council or National Indian Gaming Commission, a fellow employee or licensee, owner or operator of any gaming facility, or member of the gaming public patronizing a Tribally licensed gaming facility.

(4) the Commission may delegate authority to such of its investigators, supervisors, or enforcement officials as it may determine to issue written citations to offenders for the civil fines and civil penalties provided by this Section. Such citations shall advise an offender of the charge, the punishment which may be imposed, his right to a hearing on the citation, and of the time, date and place of such hearing, *and provided further:*

(5) Such hearings shall be conducted in accordance with the provisions of Section 2.16, above. The Commission shall determine from the evidence submitted as such hearing whether the civil fine or civil penalty should be assessed or imposed. Decisions of the Commission in such instances shall be final and unappealable.

(6) All such civil fines and civil penalties officially imposed or assessed by such final decisions of the Commission shall be deemed to constitute a lawful indebtedness of the offender to the Tribe.

(7) The Commission shall keep a continuing record of all civil penalties and civil fines owing to the Tribe and shall include a summary thereof in its annual report to the Osage Tribal Council. During the course of such an annual report the Commission shall recommend to the Tribal Council charge offs of such civil fines and civil penalties which, in the judgment of the Commission, are uncollectible, and upon formal Resolution of the Osage Tribal Council such items may be charged off as uncollectible, and all records shall be properly amended to reflect such charge offs.

(8) All income from such fines and civil penalties shall be handled as provided by Section 2.12, A. and B., above.

(9) All gaming operations licensees, applicants for such licenses, management contractors, and employees of all gaming operations, whether permanent or temporary, and whether of Indian or non-Indian blood or descent, shall be deemed to have voluntarily submitted themselves, or the entities which employ them in the case of Management Contractors or individually owned or operated gaming facilities, to the jurisdiction of the Commission and to the provisions of this Section and to the provisions of other relevant Sections of this Ordinance and to the provisions of all other gaming ordinances of the Osage Tribe of Indians by virtue of such contracts, licenses and applications therefor with the Osage Tribe of Indians.

(10) The failure to pay any civil fine or civil penalty imposed or assessed under the provisions of this Section by any person or entity, shall constitute grounds and cause for revocation of licenses and shall further constitute grounds for termination of employment of employees of Tribally licensed gaming operations. Notwithstanding any inconsistent provisions which may be contained in the Tribal Personnel Manual, grievance procedures contained therein shall not be available to Tribal gaming operations employees with respect to the imposition or assessment of civil penalties and civil fines by final orders of the Commission.

(11) All civil fines and civil penalties provided by this Section shall be in addition to all fines, penalties, punishment, or imprisonment provided by the provisions of 25 C.F.R. Part 11, or by other applicable Tribal, federal, or state law in the case of both Indians and non-Indians.

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

Notwithstanding the fact that I am, or may be, of non-Indian blood or descent, I hereby consent to the jurisdiction of the Osage Tribal Gaming Commission, to the jurisdiction of the Code of Federal Regulations Court of Indian Offenses established pursuant to 25 C.F.R. Part 11, and to all orders and decisions thereof which may involve any and all gaming activities of every kind and nature in which I may participate as a

contractor, licensee, employee, or otherwise within the jurisdiction of the Osage Tribe of Indians, and I hereby waive all jurisdictional defenses to any and all actions, hearings, orders, decisions or civil penalties or civil fines which may be imposed by either of such adjudicatory bodies or tribunals.

Section 2.24. Management Contracts

A. "Management contract" means any contract, subcontract, or collateral agreement between an Indian tribe and a contractor or between a contractor and a subcontractor if such agreement provides for the management of all or part of a gaming operation. See 25 C.F.R. Section 502.15. Under the provisions of 25 U.S.C. Sections 2705 and 2711, and 25 C.F.R. Part 533, the Chairman of the National Indian Gaming Commission has responsibility to investigate and the final authority to approve or to disapprove Management Contracts.

B. The Commission shall assist the National Indian Gaming Commission in processing management contracts applications, as requested, pursuant to the provisions of 25 C.F.R. Parts 531, 533, 535, and 537 utilizing Standard Form 85P and NIGC's instructions and other recommended forms for the submission of required information

C. The Commission shall require all applicants for management contracts to submit to the Commission duplicates of all documents which such applicants are required to submit to the National Indian Gaming Commission to the Commission. The Commission shall, thereupon, perform such investigations and provide copies of such documents as the Osage Tribal Council may direct, to assist in a determination of the Osage Tribal Council as to whether it wishes to enter a contract with such an applicant before such a contract is sent to the National Indian Gaming Commission for its approval.

D. Every person or entity who applies to the Osage Tribal Council for a management contract or for an agreement to operate a privately owned or operated gaming facility must deposit with the Commission a fee of \$2,000.00 to cover the costs of processing the application. Additional deposits may be required if the initial deposit proves to be inadequate to cover processing and preliminary investigation costs. All sums not expended or charged in the processing procedure shall be returned to the applicant at the time the application is disapproved by the Osage Tribal Council, or at the time it is finally approved by the National Indian Gaming Commission, as applicable and required, should the Osage Tribal Council approve the application, sign the contract, and direct that it be submitted to the National Indian Gaming Commission for its processing, investigation, consideration, and approval or disapproval.

E. At the initiation of each application for a Management Contract and at all material times thereafter all applicants shall be advised by the Commission that the final approval of such a contract is reserved to the Chairman of the National Indian Gaming Commission and that the Tribe's approval and execution of such contracts is only a preliminary step in the final approval process.

Section 2.25. Gaming Licenses and Background Investigations for Key Employees and Primary Management Officials; Application Requirements

A. In conducting license and background investigations for primary management officials and for key employees, as defined by 25 C.F.R. Section 502.19 and Section 502.14, respectively, the Commission shall take action to ensure that all of the requirements of 25 C.F.R. Part 501 *et seq*, relating thereto, are met, which shall include, but are not limited to the following:

1. 25 C.F.R, Section 556.2, Privacy Notice;
2. 25 C.F.R, Section 556.3, Notice regarding false statements;
3. 25 C.F.R, Section 556.4, Background investigations;
4. 25 C.F.R, Section 556.5, Report to Commission; and
5. 25 C.F.R. Section 558.1, Scope;
6. 25 C.F.R. Section 558.2, Eligibility determination for employment in a gaming operation;
7. 25 C.F.R. Section 558.3, Procedures for forwarding applications and reports for key employees and primary management officials to the Commission;
8. 25 C.F.R. Section 558.4, Granting a gaming license;
9. 25 C.F.R. Section 558.5, License suspension

B. All investigative reports, whether conducted for primary management officials, key employees, or other employees (at the discretion of the Commission), shall include all of the following:

1. Steps taken in conducting a background investigation which should include:
 - a. verification of the applicant's name, place of birth, date of birth and citizenship by requiring the applicant to provide items such as a birth certificate, social security card, or passport;
 - b. confirmation of the applicant's business and employment positions held and ownership interests in those businesses currently and for the past 5 years by attempting to contact through letter, telephone calls or personal visits to past employers listed in the

application and through documentation such as copies of partnership agreements, stock certificates, and IRS returns;

c. obtainment of the applicant's driving record by using applicant's driver's license number to contact the Department of Motor Vehicles in the state where such license is issued;

d. ascertainment of character information about the applicant by contacting personal references identified in the application;

e. inquiry into any existing or previous business relationships the applicant has had with Indian tribes, including the scope of those relationships, by contacting those tribes identified in the application and also inquiry with other state and federal entities that have contact with Indian tribes to obtain other information available;

f. gathering of information about any existing or previous business relationships the applicant may have had in the gaming industry, including the scope of those relationships, by contacting those entities identified in the application, and, where appropriate, contacting other state gaming agencies or the NIGC to obtain other information available;

g. verification of the applicant's history and status with any licensing agency identified by the applicant with which the applicant has applied for an occupational license or permit by contacting those agencies;

h. obtainment of information regarding any past felonies, misdemeanor convictions, or criminal charges within the last 10 years by contacting state, city, county and tribal courts, and state, local and tribal police departments in the applicant's areas of residence and obtaining as much information as possible through public court records and requiring an applicant to submit any court documents pertaining to the applicant's civil or criminal history;

i. obtainment and verification of any other information deemed relevant or desirable by either the Commission or by the Osage Tribal Council. Such may include the use of a credit reporting agency;

j. satisfaction as to the accuracy of the information contained in the application and analysis thereof. Where questions arise (i.e., information is obtained about an applicant's criminal activities, financial problems, character deficiencies) the documentation should include a further probe into the applicant's background and

either broaden the scope of the investigation or focus in more detail on a potential problem area. During this phase of the investigation, analysis and report the depth of the background investigations will vary considerably. The adequacy of each background investigation will depend upon the detailed analysis of the information obtained through the investigative process.

C. Fingerprint checks and application for, receipt of, and use of criminal history record information (CHRI) must comply with the following policy guidance and meet the following qualifications:

1. The Commission and the Tribal Police Force shall comply with NIGC procedures for the processing of fingerprint cards, as set forth in NCIG Bulletins Nos. 93-2, 96-2, 96-5, 5001 and 25 C.F.R. 522.2(h).

2. The procedures set forth in NCIG Bulletin No. 93-2, including the execution of an NCIG prescribed memorandum of understanding for Tribal receipt and use of criminal history information (CHRI) contained in that publication.

3. The Commission and/or the Tribal Police Force, as necessary and required to accomplish a full criminal history records information (CHRI) check, shall utilize the services of NCIG, State regulatory and law enforcement agencies, and other available sources, as may be provided by applicable law and by existing agreements between such agencies and the Federal Bureau of Investigation. The Commission is authorized to pay such costs and fees as are necessary to acquire the required information. In conducting such criminal history information background investigations the Commission and/or the Osage Tribal Police Force shall also seek information from the sources listed in Subsection D., immediately below.

D. The Commission should seek information, when needed, from the following agencies:

1. Federal Agencies:

- a. Department of the Interior (BIA, Inspector General);
- b. National Indian Gaming Commission;
- c. U.S. District and Appellate Courts - civil/criminal/bankruptcy;
- d. U.S. Attorneys;

2. State Agencies and Organizations:

- a. State Gaming Boards and Commissions;

- b. Department of Public Safety;
 - c. Department of Motor Vehicles;
 - d. Secretary of State - Corporations Divisions;
 - e. State Bar Associations/Accountancy Boards/Contractor Boards/
Other state licensing agencies;
 - f. State Crime Commissions;
 - g. State Courts - civil and criminal;
3. County/City Agencies and Organizations:
- a. County Courts - civil/criminal;
 - b. County Licensing Departments;
 - c. Recorder of the Deeds/Assessor's Office/Treasurer's Office;
 - d. County Sheriff's Office;
 - e. City Police Departments;
 - f. Chambers of Commerce;
 - g. Better Business Bureaus.

E. Before issuing a license to a primary management official or a key employee, the Commission shall forward to the NIGC investigative reports on each background investigation conducted. Each investigative report must include the following:

1. A description of the steps taken in conducting the background investigation. The steps taken may be provided by:
 - a. A step-by-step recitation of the work done, or
 - b. A checklist or program with indication of procedures completed.
2. An explanation of the results obtained. This may be supplied by listing exceptions, areas of concern, or negative information obtained during the course of the investigation.

3. A statement as to the conclusions reached. Where no exception, area of concern or negative information was obtained, the report should so state. Where exceptions, areas of concern or negative information was obtained, the conclusions as to each should be provided.

4. The bases or justifications for each of the conclusions.

5. The Commission shall use the report form provided by NIGC which meets the requirements of 25 C.F.R. Section 556.5, contained in NIGC Bulletin 94-4 in all appropriate cases. The Commission shall also require all applicant's for licenses to sign the Authorization for Release of Information form provided by NIGC Bulletin 94-4 and forward an original copy thereof to NIGC with each investigative report submitted.

F. Suitability Determination

1. The Commission shall, using NIGC prescribed forms, furnish a written Suitability Determination with each investigative report to NIGC. An authorized Commission official must review a person's prior activities, criminal record, if any, reputation, habits and associations to make a finding concerning the eligibility for employment in the gaming operation. If the authorized Commission official, in applying the standards adopted by Tribal ordinances, determines that employment poses a threat to the public interest or to the effective regulation of gaming, or enhances the dangers of unsuitable, unfair, or illegal practices and methods in the conduct of gaming, a management contractor or a tribal gaming, or an individually owned or operated gaming operation, shall not employ that person in a key employee or primary management official position.

G. Licensing

1. Upon completion of a background investigation and a determination of eligibility (suitability) for employment in a gaming operation, the Commission must forward an investigative report and suitability determination to the NIGC within 60 days after an employee begins work. The Chairman of the NIGC may, during the ensuing 30 days, request additional information from the Commission concerning a key employee or primary management official who is the subject of such a report. Such a request suspends the 30 day period until the Chairman of the NIGC receives the additional information.

2. If the NIGC notifies the Commission that it has no objections to the issuance of a license to a particular applicant, the Commission may issue a license to such applicant. If the NIGC provides the Commission with a statement itemizing objections to the issuance of a license to a particular applicant, the Commission must reconsider the application, taking into account the objections itemized by the NIGC. The Commission, however, shall make the final decision whether to issue a license to such applicant.

H. NIGC Forms To Be Used and Recommended Procedures To Be Followed

The Commission shall utilize all forms recommended to be used by the NIGC and all procedures to be used contained in current NIGC Bulletins and amendments thereto.

Section 2.26. Compliance and Enforcement by the National Indian Gaming Commission

A. The Commission shall immediately advise the Osage Tribal Council if and when any actions of the National Indian Gaming Commission which affect the Osage Tribe of Indians occur as set forth in 25 C.F.R. Part 570, Subpart A–General; 25 C.F.R. Part 570, Subpart B–Inspection of Books and Records; and/or 25 C.F.R. Part 570, Subpart C–Subpoenas and Depositions, occur. In such instances the Commission shall take all necessary actions and issue all necessary orders to comply with all requests and orders of the National Indian Gaming Commission.

B. The Commission take such action as is necessary, subject to the provisions of of Section 2.19, above, to insure that the provisions of 25 C.F.R. Part 571, Subpart D–Audits, are met.

C. The Commission shall immediately advise the Osage Tribal Council if and when any actions of the National Indian Gaming Commission which affect the Osage Tribe of Indians occur as set forth in 25 C.F.R. Part 573, Enforcement. In such instances the Commission shall take all necessary actions and issue all necessary orders to comply with all requests and orders of the National Indian Gaming Commission.

D. The commission shall immediately advise the Osage Tribal Council if and when any actions of the National Indian Gaming Commission which affect the Osage Tribe of Indians occur as set forth in 25 C.F.R. Part 575–Civil Fines. In such instances the Commission shall take all necessary actions and issue all necessary orders to comply with all orders of the National Indian Gaming Commission, after receiving advice and consent from the Osage Tribal Council.

E. The Commission shall consult with the Osage Tribal Council and with its attorneys concerning any appeal of any action of the National Indian Gaming Commission which should be appealed to the National Indian Gaming Commission pursuant to the provisions of 25 C.F.R. Part 577–Appeals Before the Commission. The Commission shall thereupon take all necessary actions and issue all necessary orders to perfect such an appeal, if authorized by the Osage Tribal Council. The Commission shall, with the advice of Tribal legal counsel, recommend appeals of final decisions of the National Indian Gaming Commission to the appropriate Federal Court, when advisable and when such appellate rights are authorized by law.

F. The Commission shall take all necessary action and issue all necessary orders to insure that all fees due and payable to the National Indian Gaming Commission pursuant to the requirements of 25 C.F.R. Part 514—Fees, and promptly and fully paid and that all reports and other requirements of such Part are fully met.

G. The Commission shall take all necessary actions and issue appropriate orders to insure that all facilities operators fully comply with Internal Revenue Service Regulations regarding the reporting of prize moneys won by members of the gaming public at all licensed facilities.

Section 2.27. Service upon the Tribe by the National Indian Gaming Commission

A. The Chairman of the Gaming Commission of the Osage Tribe of Indians is hereby designated to be the service agent for the Tribe to comply with the requirement of 25 C.F.R. Section 519.1. The Chairman shall, by written communication, keep the National Indian Gaming Commission currently advised at all times of his designation, name and address.

B. The Commission shall take all necessary action and issue all necessary orders to insure that each management contractor or tribal operator or individually owned or operated gaming facility licensed by the Tribe complies with the provisions of 25 C.F.R. Section 519.2 regarding the designation of a service agent to the National Indian Gaming Commission.

C. The Commission shall establish procedures, rules, and standards for the maintenance, upkeep, sanitation, environmental considerations, security, public peace, security of the gaming public, protection of Tribal funds and assets, conduct and training of employees, and all other matters incident to or required for the successful and profitable operation of each such facility and protection of Tribal interests.

Section 2.28 Limitations on Hiring of Employees

The Commission shall not issue a license to any employee of a Management Contractor or individually owned or operated gaming facility or Tribally owned gaming facility who:

A.. Is less than 16 years of age;

B.. Has been convicted by any court of competent jurisdiction of a felony, a gaming offense, or other crime, including misdemeanors, involving moral turpitude; or

C. Holds any elective or appointive office or position with the Osage Tribe of Indians, including, but not limited to the Osage Tribal Council.

Section 2.29. Implied Consent for Audits and Reviews

Any person, organization, or corporation which applies for or receives a license to conduct Class II gaming operations pursuant to this Ordinance shall be deemed to have consented to the audit and review of its records by authorized accounting and law enforcement agencies or officers of the Tribe without notice or warrant at any reasonable time, including spot checks or field audits of its operations during gaming sessions in return for the privilege of conducting Class II gaming operations within the Tribal jurisdiction.

Section 2.30. Age Restrictions

The Commission shall monitor gaming operations to insure that no person under the age of sixteen (16) years of age shall be permitted to play Class II games at any location licensed under the provisions of this Ordinance.

Section 2.31. Discrimination Prohibited

The Commission shall monitor all gaming operations to insure that no person shall be discriminated against due to race, color, creed, sex, or national origin at any gaming operation conducted within the jurisdiction of the Tribe.

Section 2.32. Indian Preference Required

Every manager, contractor, operator, or owner of any Class II gaming facility licensed by the Commission under this Ordinance shall give preference in hiring and employee retention practices primarily to those of Osage Indian descent and secondarily to members of other federally recognized Indian tribes. Proof of such descent may be established by either an official tribal membership card or by a Certificate of Degree of Indian Blood issued by either the Bureau of Indian Affairs or by a federally recognized Indian tribe. The Commission shall monitor compliance with this Section and report infractions to the Osage Tribal Council.

Section 2.33. Requirements to Receive a Prize

The Commission require that all facilities establish rules to be prominently posted at all Class II gaming facilities regarding how prizes are won and the eligibility of a person to receive a prize which must include acceptable proof of the winner's name, address, and social security number, a signed receipt acknowledging acceptance and receipt of the prize awarded, and execution of required Internal Revenue Service (IRS) forms, when applicable.

Section 2.34. Disputes Between the Gaming Public and Gaming Operations Operators

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

B. In cases where such disputes can not be promptly and amicably settled, such shall be referred to an investigator/arbitrator by the managing official of the gaming operation, or the intervention of such an investigator/arbitrator may be requested by the aggrieved member of the gaming public. The investigator/arbitrator shall be an employee of the Commission who has been assigned such duties on a regular basis. The investigator/arbitrator shall make all reasonable efforts to amicably settle such a dispute. Should such a settlement not be effected, the investigator/arbitrator shall promptly make a written report on the controversy and advise the Chairman who shall, in turn, promptly schedule a hearing by the Commission on the matter, giving all involved parties reasonable notice of the time, place and date of the hearing. The hearing shall be conducted pursuant to the provisions of Section 2.16, above. The Commission shall either dismiss the grievance or enter an order against the operator or the facility to effect fairness, justice and equity. In proper cases the Commission may also impose a civil penalty or a civil fine upon the facility, its operator or any of its employees found to have committed a material wrong against a member of the gaming public. Appeals from such decisions of the Commission may only be taken as hereinabove provided under Section 2.17.

C. No liability of any kind or nature shall ever attach to the Osage Tribe of Indians as a result of any such dispute or the final decision of the Commission thereon. The Sovereign Immunity of the Osage Tribe of Indians against lawsuits or of its officials, acting in their official capacities, is expressly reserved in any such instance.

D. A copy of the provisions of this Section 2.34 shall be appropriately posted in plain view of the gaming public at all gaming facilities within the jurisdiction of the Tribe.

Section 2.35. Severability

The provisions of this Ordinance are severable. If any part or provision hereof shall be held to be void by any court of competent jurisdiction, the decision of the court so holding shall affect or impair any of the remaining parts or provisions of this Ordinance.

Section 2.36. Effective Date

This Ordinance shall be effective from and after the date of approval by the Osage Tribal Council.

CERTIFICATION

I hereby certify that the above and foregoing ordinance is a true, accurate and exact copy of the Gaming Commission Ordinance of the Osage Tribe of Indians adopted by formal Resolution No. _____ of the Osage Tribal Council on the _____ day of _____, 1998, a copy of which is attached hereto, and that said Resolution expressly authorized me to make this certification.

Charles O. Tillman, Jr.
Principal Chief

**RESOLUTION
OF THE
OSAGE TRIBAL COUNCIL**

Resolution No. _____

WHEREAS:

1. The Osage Tribal Council, organized pursuant to provisions of the Act of June 28, 1906, 34 Stat. 539, as amended, is the elected governing body of the Osage Tribe of Indians, and
2. The Osage Tribal Council has determined that a Gaming Commission Ordinance setting detailed procedures for the regulation of Class II Gaming within the Tribal jurisdiction is necessary and desirable; and
3. Such a Gaming Commission Ordinance has been developed and presented to the Osage Tribal Council; and
4. The Osage Tribal Council has fully considered and reviewed this Ordinance; and
5. The Osage Tribal Council desires to adopt this Ordinance, to also be called Title II, Gaming Ordinance of the Osage Tribe of Indians. **THEREFORE BE IT**

RESOLVED:

1. That the Gaming Commission Ordinance of the Osage Tribe of Indians, also known as Title II, Gaming Ordinances of the Osage Tribe of Indians, a copy of which is attached hereto, be, and the same is, hereby adopted as the official Gaming Commission Ordinance of the Osage Tribe of Indians.
2. That the Principal Chief, or in his absence the Acting Principal chief, is hereby authorized to certify the Ordinance as the official Gaming Commission Ordinance of the Osage Tribe of Indians and transmit three original copies thereof to the Chairman of the National Indian Gaming Commission.
3. That the Principal Chief, or in his absence the Acting Principal Chief, is hereby authorized to sign the Resolution.

CERTIFICATION

I hereby certify that the foregoing Resolution No. 29-_____ was considered by the Osage Tribal Council at a duly called meeting in Pawhuska, Oklahoma, at which a quorum was present and the same was adopted by a vote of _____ in favor, _____ opposed, and _____ absent, this _____ day of _____, 1998.

ATTEST:

Secretary

Principal Chief