



Brenda Case  
Gaming Commission Chairman  
Kaw Nation of Oklahoma  
107 North Main  
PO Box 141  
Newkirk, OK 74647

APR 13 2004

Re: Gaming Ordinance of the Kaw Nation

Dear Commissioner Case:

By letter dated January 11, 2004, you submitted the Kaw Nation of Oklahoma Gaming Ordinance of 2004 (Gaming Ordinance) for review and approval by the National Indian Gaming Commission (NIGC) Chairman. The Kaw Nation Executive Council adopted the Gaming Ordinance with Resolution 04-07 on January 11, 2004. We received the letter requesting approval of the Gaming Ordinance on January 16, 2004. The Executive Council subsequently adopted an amendment to the Gaming Ordinance with Resolution 04-28 on March 23, 2004. You submitted the amendment for the NIGC Chairman's review and approval by letter dated March 25, 2004, and requested we review the Gaming Ordinance and the amendment together. The amendment incorporates several minor changes to the Gaming Ordinance suggested by our legal staff that conform the Gaming Ordinance to the requirements of the Indian Gaming Regulatory Act (IGRA).

IGRA and NIGC regulations require that tribes conducting gaming submit their gaming ordinance and amendments to the ordinance for review and approval by the NIGC Chairman. The Kaw Nation first submitted a gaming ordinance, adopted with Resolution 93-58 of the Kaw Nation Executive Council, by letter dated September 22, 1993. The NIGC Chairman approved that gaming ordinance in a letter to the Kaw Nation dated December 27, 1993. The 2004 Kaw Nation of Oklahoma Gaming Ordinance, as amended, replaces the previous ordinance in its entirety.

Thank you for submitting the Gaming Ordinance and the amendment for our review. This letter constitutes approval of the 2004 Kaw Nation of Oklahoma Gaming Ordinance, as amended by Kaw Nation of Oklahoma Resolution 04-28.

Sincerely,

A large, stylized handwritten signature in black ink, which appears to read "Philip N. Hogen". The signature is written over the word "Sincerely," and extends downwards and to the right.

Philip N. Hogen  
Chairman

JAN 16 2004



# KAW NATION

Drawer 50  
Kaw City, OK 74641  
(580) 269-2552 Fax (580) 269-2301

## KAW NATION EXECUTIVE COUNCIL RESLUTION NO. 04-07

### A RESOLUTION APPROVING THE KAW NATION OF OKLAHOMA GAMING ORDINANCE OF 2004.

**WHEREAS,** The Kaw Nation of Oklahoma is a federally recognized Indian Nation organized pursuant to the Oklahoma Indian Welfare Act of June 26, 1936 (25 U.S.C. 503; 49 Stat. 1967);


**WHEREAS,** The Kaw Nation adopted and ratified the Constitution of the Kaw Nation of July 31, 1990, and this Constitution was approved and certified by the Secretary of the United States Department of Interior on August 14, 1990; and

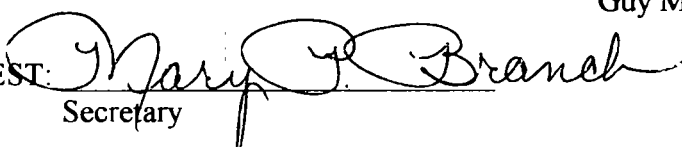
**WHEREAS,** On this 11<sup>th</sup> day of January, 2004 the Kaw Nation Executive Council has accepted and approved the Gaming Ordinance, submitted on January 10, 2004, to improve the overall operation of the Gaming Industry.

**NOW, THEREFORE, BE IT RESOLVED** that the Kaw Nation hereby approves the Gaming Ordinance of 2004.

### CERTIFICATION

I, Guy Munroe, Chairman of the Kaw Nation Executive Council, do hereby certify that said resolution was approved and adopted on January 11, 2004, as an official act by quorum vote of the Kaw Nation General council, and that the vote was 4 for, 0 against, 0 absent, with 0 abstaining.

  
\_\_\_\_\_  
Guy Munroe, Chairman

ATTEST:   
\_\_\_\_\_  
Secretary



**Kaw Nation of Oklahoma  
Gaming Ordinance**

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1/16/2011

# Kaw Nation of Oklahoma Tribal Gaming Ordinance

## ARTICLE I. IN GENERAL

### Sec. 1-1. Definitions.

Unless a different meaning is set forth below, the terms used in this chapter shall have the same meaning as defined in the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq. (IGRA).

(A) *Applicant* means any person, partnership, corporation, joint venture or other entity applying for, or requesting renewal of, any license described in or required by this chapter.

(b) *Application* means a request for the issuance or renewal of a license described in or required by this chapter.

(c) *Council or Tribal Council* means the Tribal Council of the Kaw Nation of Oklahoma.

(d) *Chairman* means the Chairman of the Kaw Nation Gaming Commission.

(e) *Class II Gaming* means Class II Gaming as defined at 25 U.S.C. 2703(7)(A), and any regulations promulgated thereunder.

(f) *Class III Gaming* means Class III Gaming as defined in 25 U.S.C. 2703(8), and any regulations promulgated thereunder.

(g) *Compact* means the Tribal State Compact including all renewals, amendments, appendices, exhibits and other attachments thereto between the Kaw Nation of Oklahoma and the State of Oklahoma providing for the conduct of Tribal Class III Gaming by the Kaw Nation of Oklahoma Tribe.

(h) *Commission* means the Kaw Nation Tribal Gaming Commission.

(i) *Commissioner* means an individual member of the Kaw Nation Tribal Gaming Commission.

(j) *Gaming* means any Class II Gaming or Class III Gaming activity, either individually or collectively, whether authorized or unauthorized.

(k) *Gaming device* means any equipment or mechanical, electromechanical or electronic contrivance, component or machine, used remotely or directly in connection with any gaming which affects the result of a wager by determining or predicting the outcome of such game or the odds of winning or losing such game. The term shall be broadly construed to promote the purposes of this chapter and shall also include any devices, machines, components or contrivances which do or are capable of affecting, in any way, the playing of any gaming.

(l) *Supplier of gaming goods and services* means any person who manufactures, sells, leases, distributes, supplies or makes modifications to, any gaming device of the Tribe and all persons holding any direct or indirect financial interest in such gaming device supplier.

(m) *Gaming establishment* means any premises where gaming is operated or conducted on Tribal Indian land, and includes all buildings, improvements, appurtenances, equipment and facilities used or maintained in connection with such gaming.

(n) *Gaming operation* means any business enterprise owned by the Tribe, the revenues of which are primarily derived from gaming or from any gaming establishment.

(o) *Gross revenue*.

(1) *Gross revenue* means the total of all of the following, less the total of all cash paid out as losses to patrons and any items made deductible as losses by calculation of gross revenues:

(i) Cash received as winnings;

(ii) Cash received in payment for credit extended by a licensee to a patron for the purpose of gaming; and

(iii) Compensation received for conducting any game in which the licensee is not a party to a wager.

(2) For the purposes of this definition, cash or the value of noncash prizes awarded to patrons in a contest or tournament is not losses.

**(3) The term does not include:**

- (i) Counterfeit money or tokens;**
- (ii) Coins of other countries, which are received in gaming devices;**
- (iii) Cash taken in fraudulent acts perpetrated against a licensee for which the licensee is not reimbursed; or**
- (iv) Cash received as entry fees for contests or tournaments in which the patrons compete for prizes.**

**(4) Calculation of gross revenues. Certain expenses are not deductible.**

- (i) In calculating gross revenue, any prizes, premiums, drawings, benefits or tickets which are redeemable for money or merchandise or other promotional allowance, except money or tokens paid at face value directly to a patron as the result of a specific wager and the amount of cash paid to purchase an annuity to fund winnings must not be deducted as losses from winnings.**
- (ii) In calculating gross revenue from gaming devices, the actual cost to the licensee of any personal property distributed to a patron as the result of a legitimate wager may be deducted as a loss, but not travel expenses, food, refreshments, lodging or services. For the purposes of this section, "as the result of legitimate wager" means that the patron must make a wager prior to receiving the personal property, regardless of whether the receipt of the personal property is dependent on the outcome of the wager.**

(p) **"Indian lands"** means:

(1) all lands within the limits of any Indian reservation; and

(2) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

(q) **Key employee** means:

(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 terminals or other devices operated by the management of any gaming operation, including persons with access to cash and accounting records for such devices;

(2) If not otherwise included, any other person whose total cash compensation from employment in any gaming operation exceed \$50,000.00 per year;

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

(4) Any other employee of any gaming operation that the commission designates by its rules as a key employee.

(r) *License* means any authorization granted by the Commission, pursuant to this chapter, to any person, which is required for such person to perform certain acts or engage in certain activities. The issuance of a license shall not create a property or liberty interest in such license for the benefit of the licensee.

(s) *Licensee* means any person who has been issued a valid and current license pursuant to the provisions of this chapter.

(t) *Management contract* means any contract, agreement or other document, including all collateral agreements, establishing a relationship between the Tribal government and any person, pursuant to which such person has managerial responsibilities in or for any gaming operation.

(u) *Net revenue* means gross revenue of any gaming operation minus amounts paid for, or paid out as prizes, winnings, and related operating expenses, excluding management fees.

(v) *NIGC* means the National Indian Gaming Commission.

(w) *Operating expense* means any expense incurred in the operation of gaming that is specifically designated as an operating expense in any management contract or which by operation of generally accepted accounting principles, consistently applied, is so treated.

(x) *Ordinance* means the Kaw Nation Tribal Gaming Ordinance, as amended from time to time, and any rules promulgated by the Kaw Nation Gaming Commission.

(y) *Patron* means any person who participates in gaming, or who is physically present on premises wherein or whereon gaming is conducted.

(z) *Person* means any association, partnership, corporation, firm, trust or other form of business association or entity, as well as a natural person.

(aa) *Primary management official's* means:

(1) The person(s) having management responsibility over all or any part of any gaming operation;

(2) Any person who has authority:

(i) To hire and fire employees of a gaming operation; or

(ii) To establish working policy for a gaming operation;



(3) The chief financial officer or other person who has financial management responsibility for any gaming operation;

(4) Any person who is considered a controlling shareholder; or

(5) Any person the Commission designates by Commission rules as a primary management official.

(bb) *Regulations* means the gaming regulations promulgated by the Kaw Nation Gaming Commission pursuant to this Ordinance.

(cc) *Rules* means any rules governing the conduct of games or the control of internal fiscal affairs of gaming operations as may be promulgated by the Commission established pursuant to this Ordinance.

(dd) *Secretary* means the Secretary of the United States Department of the Interior.

(ee) *Tribe* means, and *Tribal* shall refer to, the Kaw Nation of Oklahoma.

**Sec. 1-01. Short title.**

This Ordinance shall be known and may be cited as the Kaw Nation of Oklahoma Gaming Ordinance.

**Sec. 1-02. Purpose.**

The Executive Tribal Council of the Kaw Nation of Oklahoma enacts this Ordinance in order to regulate all forms of gaming on the Tribe's Indian lands.

**Sec. 1-03. Public policy.**

(a) All gaming which is conducted within the Indian lands and which is otherwise authorized by law shall be regulated and licensed pursuant to the provisions of this Ordinance.

(b) The Executive Tribal Council hereby finds and declares it to be the public policy of the Kaw Nation of Oklahoma that:

- (1) Regulation of licensed gaming is important in order that licensed gaming is conducted honestly and that gaming is free from criminal and corruptive elements.
- (2) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming establishments and the manufacture or distribution of gaming devices.

- (3) All management entities, primary management officials, key employees, gaming establishments and suppliers of gaming goods and services must therefore be licensed and controlled to protect the public health, safety, morals, good order and general welfare of the Tribe.

**Sec. 1-04. Class II Gaming authorized.**

Class II Gaming is hereby authorized to be conducted on Indian lands; provided, however, that such Class II Gaming shall be conducted only in accordance with the provisions of this Ordinance, the rules, and IGRA.

**Sec. 1-05. Class III Gaming authorized.**

Class III Gaming is hereby authorized on Indian lands; provided, however, that Class III Gaming shall be conducted in accordance with the provisions of this Ordinance, the rules and IGRA, and as may be provided for in a compact between the State of Oklahoma and the Tribe, or such procedures as prescribed by the Secretary of the Interior pursuant to the Act.

**Sec. 1-06. Location of gaming.**

The Commission shall ensure that (i) such gaming as it authorizes and licenses pursuant to this Ordinance or Regulations, is conducted on Indian lands within the Tribe's Jurisdiction, and (ii) such gaming is not otherwise specifically prohibited by federal law.

**Sec. 1-07. Ownership of gaming.**

The Tribe shall have the sole proprietary interest in any gaming operation authorized by this Ordinance.

**Sec. 1-08. Use of gaming revenue.**

(a) Net revenues from any form of gaming authorized under this Ordinance shall be used only for the following purposes: to fund Tribal government operations and programs; to provide for the general welfare of the Tribe and its members; to promote Tribal economic development; to make donations to charitable organizations or to help fund operations of local government agencies.

**Sec. 1-09. Unauthorized gaming.**

Any person who commits any act of unauthorized gaming on Indian Lands shall be guilty of a crime and shall be prosecuted in the Kaw Nation Tribal Court.

**Sec. 1-10. Conduct of games.**

All gaming shall be conducted by persons duly licensed by the Commission. No person licensed by the Commission shall engage in, conduct or condone any gaming that is not conducted in accordance with such rules governing the conduct of games as may be promulgated by the Commission under this Ordinance.

**Sec. 1-11. Applicability of Ordinance.**

Unless specifically indicated otherwise, all provisions of this Ordinance, rules and regulations that the Tribal Commission may promulgate or issue, shall apply to both Class II Gaming and Class III Gaming including, but not limited to, all licensing and background investigation procedures.

**ARTICLE II. TRIBAL GAMING COMMISSION**

**Sec. 2-01. Establishment.**

In order to provide for the orderly development, administration and regulation of gaming, as well as other authorized enterprises within the jurisdiction of the Kaw Nation of Oklahoma, there is established the Office of the Tribal Gaming Commission. The Kaw Nation Executive Tribal Council shall select and approve a person to serve as the Gaming Commission Chairman and shall select three additional persons (Tribal Members) to serve as Tribal Gaming Commissioners for the term of three (3) years. The Commissioners may be removed from office prior to the end of any term for cause by the Ordinance. The Council may suspend the Commissioners for ninety (90) days. During such suspension the Council may appoint a qualified person to act as Commission Chairman/Commission Members. Further, should any vacancy occur in the position of Commission Chairman/Commission Members the selection process shall be initiated by the Kaw Nation Executive Council and the un-expired portion of the Commission Chairman/Commission Members' term shall be filled in the same manner as the initial selection of the Gaming Commission Chairman/Commission Members. (Resolution NO. 03-80)

**Sec. 2-02 Independence.**

In all matters within its purview and responsibilities, the Commission shall be and shall act independently and autonomously from the Executive Tribal Council. No prior or subsequent review by the Executive Tribal Council of any actions of the Commission shall be required or permitted, except as otherwise explicitly provided in this Ordinance.

**Sec. 2-03. Record Keeping**

The Commission shall maintain complete records regarding the following:

- (a) Applications, financial statements, fingerprints, contracts, licenses, suspension and cancellation notices and correspondences of all applicants, including management entities, key employees, primary management officials, gaming establishments and suppliers of gaming goods and services;
- (b) Meeting minutes from all Commission meetings;

- (c) Compact compliance;
- (d) Reports relating to customer disputes, complaints or other issues that affect the integrity of the gaming operation;
- (e) Commission budget and expenditures;
- (f) Council communications and correspondences;
- (g) Gaming device list; and
- (h) Any other records or documents the Commission deems necessary or appropriate.

**Sec. 2-04. Reports.**

The Commission shall make monthly reports to the Council. Such reports shall contain the following information:

- (a) Number and types of licenses issued during the previous month;
- (b) Information regarding license denials, suspensions or revocations;
- (c) Report of any events of noncompliance, breach or violations of this Ordinance, the rules, the compact, IGRA, license or any other law or regulation; provided, however, that these reports are not the subject of or relating to a pending investigation being conducted by the Commission, or hearing before the Commission;
- (d) A report of the Commission expenditures for the prior quarter;
- (e) A summary of any Commission travel and training;
- (f) All other information which the Commission deems relevant in order to keep the council informed and current on all gaming regulatory matters.

Nothing in this section shall authorize or permit the Commission to provide the Council with any information pertaining to a pending investigation being conducted by the Commission or hearing before the Commission. All such information shall be kept confidential. Any willful or careless breach of this provision shall present due cause for removal of the person from office and a penalty of up to \$5,000.00 for each offense. Claims of such disclosure shall be presented to the Commission within 60 days of the act complained of, or within 60 days the disclosure becomes known, whichever is later.

**Sec. 2-05. Budget.**

The Commission shall establish a budget for its operations. It shall acquire such furnishings, equipment, supplies, stationery, books and other items, as it deems necessary or desirable to carry out its functions, and incur such other expenses, within the limit of funds available to it, as it deems necessary.

**Sec. 2-06. Powers.**

The Commission shall exercise all powers necessary to effectuate the purposes of this Ordinance and all other powers provided for in this Ordinance. The Commission shall have the power to promulgate rules pursuant to this Ordinance, for the operation of games and the control of internal fiscal affairs of gaming operations and the conduct of all business properly brought before the Commission. In all decisions, the Commission shall act to promote and ensure the integrity, security, honesty and fairness of the operation and administration of all gaming. In accordance with this Ordinance, the Commission shall have the power and authority to deny any application for license, to limit, cancel, revoke, terminate, condition, modify, suspend, or restrict any license, to make findings of suitability, and to impose fines or sanctions for any cause deemed reasonable by the Commission upon any licensee. The Commission shall conduct, or cause to be conducted, background investigations on all applicants and licensees.

**Sec. 2-07 Promulgation of gaming rules and regulations**

The Commission may promulgate rules and regulations governing the conduct of all games authorized by the compact or IGRA, including rules governing the equipment, (chips, cards, tiles, etc.), used in such games. The rules of each authorized game offered at any duly licensed gaming establishment should be posted in a conspicuous location in such gaming establishment.

**Sec. 2-08 Promulgation of auditing and internal control**

The Commission may promulgate rules governing the control of internal fiscal affairs of gaming operations. At least annually, an independent audit of the gaming operations and shall submit the resulting reports to the National Indian Gaming Commission.

## **ARTICLE III. LICENSE APPLICATIONS AND PROCEDURES**

### **Sec. 3-01. Gaming license required.**

The Commission is hereby authorized to issue all licenses for the conduct of all gaming authorized under this Ordinance or any other license related to gaming which the Commission may, by rule or regulation require.

(a) *Persons.* The following persons must obtain licenses as a precondition to employment in or management of any gaming operation:

- (1) Any management entity Contractor;
- (2) All primary management officials;
- (3) All key employees;
- (4) Suppliers of gaming goods and services; and
- (5) Any other employee or class of employees as determined by Commission rules.

(b) *Gaming establishments.* Each place, facility, or location where gaming is conducted must obtain a separate facility license from the Commission.

### **Sec. 3-02. Standard for license.**

Licenses issued hereunder shall be issued according to requirements at least as stringent as those set forth in 25 C.F.R. §§ 556 and 558.

### **Sec. 3-03. Application for license.**

(a) No license shall be issued under this Ordinance to any primary management official, key employee or management contractor/entity except upon a sworn application filed with the Commission, in such form as may be prescribed by the Commission in Article 4 of this Ordinance, containing a full and complete showing, at a minimum, of the following:

- (1) Satisfactory proof that the applicant is of good character and of good reputation and is financially responsible;
- (2) If applicable, a complete description of the premises at which gaming will be conducted;
- (3) Agreement by the applicant to abide by all conditions of the license, this Ordinance, the rules and regulations, the compact and IGRA;

(4) A separate statement that the applicant has never been convicted of, or entered a plea of guilty or no contest to, any of the following criminal offenses:

- (i) Any felony within the past ten years;
- (ii) Any gaming-related offense,
- (iii) Fraud, misrepresentation or any other crimes of moral turpitude in any context, or
- (iv) A violation of any provision of this Ordinance, the rules and regulations promulgated by the Commission, or any other ordinance or rules of the Tribe or any state agency regulating or prohibiting gaming; and

(b) No license shall be issued to any applicant who is determined by the Commission to be a person whose prior activities, criminal record, reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto.

(c) The issuance of licenses shall also be subject to the provisions of Article 4 of this Ordinance regarding background investigations.

(d) The following notices shall be placed on the application form for a key employee, management entity, primary management official or supplier of gaming goods and services before an applicant completes such form:

- (1) "In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The Commission, and/or the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties will use the information. The information may be disclosed to appropriate federal, Tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when 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 disclosures indicated in this notice will result in a Tribe's being unable to hire you in a primary management official or key employee position.

(2) "The disclosure of your social security number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(3) "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. (18 U.S.C. 1001)"

**Sec. 3-04. Required application forms.**

(a) The Kaw Nation Gaming Commission shall require from any applicant who may be employed, vendor who supplies either gaming equipment, machines or supplier of goods to any gaming facility operated on Indian lands to provide:

(1) Application for gaming license by individual, if applicable, or application for gaming license by contract or entity, including management;

(2) Personal history record, with attached personal financial questionnaire, including statement of assets and statement of liabilities;

(3) One complete fingerprint card;

(4) Request to release information – individual or entity.

(d) The Commission may request any additional forms or information from an applicant, as it deems necessary or appropriate.

(e) The Commission shall create an individual file for each applicant, which includes the applicant's personal history record, and all background information compiled by the Commission.

**Sec. 3-05. Fingerprint cards required.**

All applicants for a license are required to submit a fingerprint card. The Kaw Nation Gaming Commission is hereby identified as the enforcement agency to take fingerprints. Pursuant to 25 C.F.R. § 522.2(h), the Commission shall forward an applicant's fingerprint cards to the NIGC to be processed by the Federal Bureau of Investigation National Criminal Information Center. The Commission may submit an applicant's fingerprint card to any additional Tribal, local or state criminal history check system or center as the Commission or the Commission Chairman deem necessary or appropriate. Reports obtained from such fingerprint processing shall be incorporated into the applicant's personnel file.



**Sec. 3-06. Continuing duty to provide information.**

Applicants and licensees shall have a continuing duty to provide any materials, assistance or other information required by the Commission, and to fully cooperate in any investigation conducted by or on behalf of the Commission. If any information provided on the application changes or becomes inaccurate in any way, the applicant or licensee shall promptly notify the Commission of such changes or inaccuracies.

**Sec. 3-07. Term of license; license fees; parameters of license.**

(a) Licenses, except provisional licenses (see section 3.11 provisional license), shall be for a term of one year, and shall expire on the anniversary of the effective date of such licenses.

(b) In order for the Tribe to recover the costs of complying with federal, Tribal, and state regulatory processes applicable to Class II Gaming and Class III Gaming, annual license fees shall be imposed:

(1) On any persons required to obtain a license, in accordance with a fee schedule to be established by the Commission; and

(2) In addition to the license fees imposed pursuant to subsection (b)(1) of this section, the Commission may impose such fees on licensees as are reasonably related to costs of enforcement, including investigations and proceedings before the Commission, and which will in the aggregate be sufficient to enable the Tribe and the Commission to recover its reasonable costs of enforcing this chapter. Such costs may be estimated by the Commission and imposed prior to a final Commission action regarding a particular licensee or applicant.

(c) Violations of any provision of this Ordinance or the rules, or relevant license provisions, by a licensee shall be deemed contrary to the public health, safety, morals, good order and general welfare of the Tribe, and shall be deemed grounds for refusing to grant or renew a license, suspension or revocation of a license. Acceptance of a license, or renewal thereof by a licensee, constitutes an agreement on the part of the licensee to be bound by the provisions of this Ordinance and the rules as they are now, or as they may hereafter be amended or restated, and to cooperate fully with the Commission. It is the responsibility of the licensee to remain informed of the contents of this Ordinance, the rules and all other applicable regulations, amendments, provisions, and conditions, and ignorance thereof will not excuse violations. A license issued hereunder is a privilege license and no right shall attach thereto.

**Sec. 3-08. Conditions of license.**

All licensees shall comply with such reasonable conditions as may be fixed by the Commission including, but not limited to, the following conditions:

(a) Facility licensees.

- (1) The licensee shall at all times maintain an orderly, clean and neat gaming establishment, both inside and outside the premises of the gaming establishment;
- (2) The Gaming Commission may enter the gaming facility at any time with no restrictions to any area or records within the gaming facility located on Indian lands.

- (a) Persons, management entities and suppliers of gaming goods and services licensed by the Commission shall comply with such conditions of the license as the Commission, in its reasonable discretion, may require.

**Sec. 3-09. Facility license.**

The Commission may issue an annual facility license to a gaming establishment, if the gaming establishment:

- (a) Is a sound physical structure with adequate and safe plumbing, electrical, heating, cooling and ventilation systems in place and operational;
- (b) Has been inspected and approved for safety by a building and fire inspector designated by the Commission;
- (c) Is adequate in all respects to accommodate the gaming intended to be carried on within the structure;
- (d) Is equipped with security and surveillance equipment meeting or exceeding provisions set forth in regulations established by the Commission;
- (e) Meets all requirements of applicable federal, tribal and state law; and

**Sec. 3-10. Certification of gaming devices.**

All gaming devices purchased, leased or otherwise acquired by the Tribe must meet the technical equipment standards set forth by the Commission. The Commission shall maintain a complete list of all gaming devices (whether or not such devices are in use) located at any gaming establishment on Indian lands.

**Sec. 3-11. Provisional license.**

The Commission may issue provisional licenses pending the satisfactory completion of all background investigations and other requirements of this chapter, IGRA, or the compact, and, if applicable, pending expiration of the 30-day NIGC review period provided for at 25 C.F.R. § 558. In no event shall a provisional license be valid for greater than 90 days, subject to the issuance of another provisional license if such background investigations are not completed so long as no information to date has been received which would otherwise disqualify the applicant for a license.

**Sec. 3-12. Provisional employment**

As provided in section 3-11, primary management officials and key employees may be employed in gaming operations prior to the issuance of a license hereunder and during the period that a license shall be effective on a provisional basis, but such employment shall be provisional only and subject to the requirements of this section. Employment may begin prior to issuance of a license only if the Commission has made a preliminary finding of eligibility for employment in gaming operations, which shall require a preliminary determination that the primary management official or key employee in question is not a person whose prior activities, criminal record or reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto. Provisional employment shall be terminated upon the occurrence of any of the following:

- (a) Denial of a relevant license by the Commission;
- (b) Unsatisfactory completion of a background investigation or NIGC review resulting in nullification of a provisional license; or
- (c) To the extent required under 25 C.F.R. § 558 and, at the end of 30 days after the starting date of provisional employment, if at the end of such period no license has been issued hereunder or if a license issued hereunder remains effective only on a provisional basis, as provided in section 3.11; provided, however, that provisional employees terminated for the reason described in this subsection shall be qualified for reemployment upon the satisfactory completion of background investigations and NIGC reviews.

**Sec. 3-13. Assignment or transfer.**

No license issued under this Ordinance may be assigned or transferred unless the proposed assignee or transferee would independently be qualified to hold the license proposed to be assigned or transferred and the Commission approves of such assignment or transfer.

## **ARTICLE IV. BACKGROUND INVESTIGATIONS AND LICENSE DECISIONS**

### **Sec. 4-01. Required background investigations.**

The Commission or the Commissions' staff shall conduct background investigations, or other agents retained by the Commission, under the supervision and direction of the Commission, on all persons specified in section 3.01 of this chapter.

### **Sec. 4-02. Standards for background investigations.**

All background investigations shall be conducted to ensure that gaming operations shall not employ or contract with persons whose prior activities, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of such gaming. Such investigations shall be conducted according to requirements at least as stringent as those set forth at 25 C.F.R. §§ 556 and 558, the compact, and this Ordinance. Background investigations shall be conducted in a manner, which takes all reasonable steps in verifying information, and to ensure the confidentiality of the information generated by the investigation as well as that submitted by the applicants. The Commission shall have jurisdiction to hear and decide upon any such claims.

### **Sec. 4-03. Information required for background investigations.**

(a) Each person subject to a background investigation under section 3-01 of this Ordinance shall be required to provide, subject to the Privacy Act of 1974, at a minimum, and in such form as may be prescribed by the Commission or the Commission Chairman, all of the following information:

- (1) Full name, other names used, social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (2) Currently and for the previous Five (5) years, all business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under subsection (a)(2) of this section;
- (4) Current business and residence telephone numbers;
- (5) A description of any existing and previous business relationships with any Native American Indian Tribe including, but not limited to, a description of the amount and type of ownership interest in those businesses;

(6) A description of any existing and previous business relationships with gaming including, but not limited to, a description of the amount and type of ownership interest in those businesses;

(7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to any gaming or gambling, whether or not such license or permit was granted;

(8) For each felony for which there is an ongoing prosecution or conviction, the charge, the name and address of the court involved, and the date and disposition, if any;

(9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), regardless of conviction, within ten years of the date of the application, the name and address of the court involved and the date and disposition;

(10) For each criminal charge (excluding misdemeanor traffic charges, but including any DUI, reckless or careless driving charges), whether or not there is a conviction, if such criminal charge is within ten years of the date of the application and is not otherwise listed, the type of criminal charge, the name and address of the court involved and the date and disposition of such charge;

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

(12) A current photograph;

(13) Any other information the Commission deems relevant; and

(14) Fingerprints consistent with the provisions of section 3.05.

(b) Background investigations conducted by the Commission or the Commission staff, must be sufficient enough for the Commission to make the determination described in section 4.08(a). In conducting a background investigation, the Commission or its agents, shall make every reasonable effort to maintain the confidentiality of the identity of each person interviewed in the course of the investigation.

#### **Sec. 4-04. Completion of investigation.**

Upon completion of the investigation, the Commission may either (i) grant a license to the applicant, or (ii) notice the applicant for a hearing under article V of this Ordinance. The Commission may notice the applicant for a hearing at any time during the investigation for any potential problems or disqualifying information.

**Sec. 4-05. Issuance of license.**

The Commission, subject to the requirements of section 4.08, issues a license only after it has determined that the following minimum requirements have been met:

- (a) The applicant has fully completed all required application forms and has provided the Commission with all other information that the Commission has requested;
- (b) The applicant meets all of the licensing requirements of this Ordinance;
- (c) The Commission has reviewed the applicant's criminal history record and deems the applicant's criminal history to be satisfactory to hold a license; and
- (d) All applicable license fees and costs have been paid.

**Sec. 4-06. Denial of a license application.**

The Commission, after a hearing conducted pursuant to article V of this Ordinance, may deny an applicant a license only after it has determined that the minimum requirements were not met by the applicant or the applicants' application, or if the Commission determines that the applicant is a person whose prior activities, criminal record, reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto.

**Sec. 4-07. Cancellation or suspension.**

Licensees and applicants shall be legally responsible for any violation of this Ordinance, any relevant license provisions, the rules, or IGRA. Any license issued hereunder may be canceled, limited, revoked, suspended, terminated or modified by the Commission, after a hearing as provided in article V, for the breach of any of the provisions of the license, this Ordinance, or rules. In addition:

- (a) Unless otherwise stated in this Ordinance or the rules, a licensee's attorney has the right to be present and to participate in any proceeding concerning the cancellation, limitation, revocation, suspension, termination or modification of a license;
- (b) A license may be summarily suspended, without a prior hearing, only upon notice to that effect from the NIGC; and
- (c) All decisions of the Commission regarding the cancellation, limitation, revocation, suspension, termination or modification of licenses shall be final, unless appealed as provided in article V of this Ordinance. The licensee shall conduct no gaming after cancellation, or pending of an appeal.

**Sec. 4-08. Eligibility determination and procedures for forwarding applications and reports for key employees and primary management officials to the National Indian Gaming Commission.**

(a) The Commission shall review an applicant's prior activities, criminal record, 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 Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the gaming operation shall not employ that person.

(b) When a key employee or primary management official commences work at a gaming operation, the Commission shall within a reasonable period of time forward to the NIGC a completed application for employment for such key employee or primary management official, and shall conduct all necessary background investigations. The Commission shall make the eligibility determination referred to in subsection (a) of this section.

(c) A report shall be submitted to the NIGC within 60 days after a key employee or primary management official commences work at a gaming operation or within 60 days of the approval of this Ordinance. Such report shall, at a minimum, include all of the following:

- (1) Steps taken in conducting the background investigation;
- (2) Results obtained;
- (3) Conclusions reached by the Commission;
- (4) The Commission's basis for those conclusions; and
- (5) A copy of the eligibility determination.

(d) No gaming operation shall continue to employ as a key employee or primary management official any person who does not have a license within 90 days of commencing work at a gaming operation.

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

- (1) Shall notify the NIGC; and
- (2) May forward copies of its eligibility determination and any relevant report regarding a background investigation of the applicant to the NIGC for inclusion in the Indian Gaming Individuals Records System.

(f) With respect to key employees and primary management officials, applications for employment and reports of background investigations shall be retained by the Commission for inspection by NIGC or his designee for no less than three years from the date of termination of employment of each key employee or primary management official.

**Sec. 4-09. Granting a gaming license.**

(a) If, within a 30-day period after the NIGC receives all required applications and reports, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official, the Commission may issue a license to such applicant.

(b) The Commission shall respond in a timely manner to requests for additional information from NIGC concerning key employees or primary management officials who are the subject of any report filed with the NIGC by the Commission. Any such request by NIGC shall suspend the 30-day period referred to in this section until the NIGC receives the additional information requested.

(c) If, within a 30-day period after the NIGC receives all required applications and reports, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Commission has submitted an application and all required reports to the NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such applicant.

**Sec. 4-10. License revocation and suspension following receipt of information from NIGC.**

(a) If, after the issuance of a license, the Tribe receives information from the NIGC indicating that a management entity, key employee, or primary management official is not eligible for employment under section 4.02 of this Ordinance, the Commission shall suspend such license, shall notify the licensee in writing of such suspension and the potential revocation of the licensee's license, and shall conduct a hearing in accordance with the rules regarding the proposed license revocation.

(b) After a hearing, the Commission shall revoke or reinstate a license suspended pursuant to subsection (a) of this section. The Commission shall notify the NIGC of its decision. A decision of the Commission to revoke a license after the hearing called for by subsection (a) of this section shall be final and there shall be no appeal. A management entity whose license has been revoked or suspended pursuant to this section may not operate a gaming operation.



## **ARTICLE V. RULES OF PROCEDURE FOR HEARINGS**

### **Sec. 5-01. Scope.**

This article shall govern all license hearings, appeal hearings conducted pursuant to this Ordinance.

### **Sec. 5-02. Hearings.**

(a) The Commission shall afford an applicant an opportunity for a hearing prior to any final action by the Commission on an application.

(b) The Commission shall afford a licensee the opportunity for a hearing prior to taking final action resulting in the revocation of the license or the imposition of any penalties, which the Commission is authorized to impose pursuant to these rules and the Ordinance.

(c) Nothing in this section shall limit the Commission's authority to summarily suspend or revoke a license without a hearing pursuant to section 4.07(b) of this Ordinance.

### **Sec. 5-03. Notice of hearing.**

(a) The Commission shall provide written notice to the applicant or licensee of the hearing at least seven days prior to the date set for the hearing. The day the applicant or licensee receives the notice shall be considered a full day's notice under this section. The notice shall be sent by registered or certified mail, or may be personally served upon the applicant or licensee. The notice shall state the date, time and place of the hearing.

### **Sec. 5-04. Determinations by the Commission.**

The Commission shall make all determinations of issues before it by a majority vote of the Commission.

## **ARTICLE VI. APPEALS**

### **Sec. 6-01. Right of appeal; appeals procedures.**

A person directly affected by any finding of the Commission pursuant to any licensing decision of the Commission under this Ordinance, shall have the right to appeal such finding by filing for a hearing before the Commission. Any such appeal must be filed with the Commission in writing on or before the Fifth day following receipt by such affected person of the written finding of the Commission. The Commission shall certify the hearing record within 90 days of the date of the filing of the appeal. In any case which come before the Commission for final action the Commissions' decision on the hearing shall be final, and no further appeal may be had.

## **ARTICLE VII. AUDITING**

### **Sec. 7-01. Conduct of audit.**

(a) The Commission shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the NIGC.

(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, and any other information the Commission deems necessary or appropriate.

## **ARTICLE VIII. EXCLUSION OR REJECTION OF INDIVIDUALS**

### **Sec. 8-01. Prohibition against certain individuals.**

It shall be a violation of this Ordinance for any licensee to knowingly fail to exclude or eject from the gaming area of a gaming establishment any individual who:

- (a) Is visibly under the influence of liquor, a drug or other intoxicating substance;
- (b) Is under the age of 18 years;
- (c) Is displaying disorderly conduct;
- (d) Is a person known to have committed a gaming related felony;
- (e) Is known to have a reputation for cheating or manipulation of games; or
- (f) Has been personally excluded, or is a member of any group or type of persons which has been excluded, for cause from gaming establishments by a resolution of the Commission.

## **ARTICLE IX. NATIONAL INDIAN GAMING COMMISSION**

### **Sec. 9-01. Regulation of the Commission.**

Notwithstanding any provision in this Ordinance or the rules, the Commission is hereby fully empowered to comply with all regulations promulgated by the NIGC including, but not limited to, reporting requirements relating to ordinances, contracts, license applications, background checks, and other information.

### **Sec. 9-02. Assessment.**

Notwithstanding any provision in this Ordinance or the rules, the Commission is hereby fully empowered to comply with all assessments authorized by the NIGC. Such assessments shall be payable solely from funds of gaming operation revenues as an operating expense.

## **ARTICLE X. GENERAL REQUIREMENTS**

### **Sec. 10-01. Security and Surveillance**

Each gaming establishment must provide for full security and surveillance within the gaming establishment at all times. All security personnel in a gaming establishment must be licensed by the Commission. The security and surveillance departments shall interact when necessary to carry out their official duties and to coordinate their activities in order to effectuate the best protection for the gaming patrons and the Tribal and management interests and assets of the enterprise.

### **Sec. 10-02. Compliance with other laws.**

The construction, maintenance and operation of any gaming operation shall be in a manner which protects the environment, public health and safety, and shall comply with all applicable Tribal and federal laws relating to environmental protection and public health and safety including, but not limited to, 25 C.F.R. § 522.4(b)(7).

### **Sec. 10-03. Amendments.**

All rules promulgated by the Commission are subject to proper revision, repeal, or amendment by the Commission. All amendments to this Ordinance shall be effective upon the date of passage by the Executive Tribal Council.

**Sec. 10-04. Severability.**

If any provision of this Ordinance, rules or regulations promulgated by the Commission, is found to be invalid by the Kaw Nation Tribal Court, the full remainder of such provisions shall not be affected.

**Sec. 10-05. Repeal.**

To the extent that they are inconsistent with this Ordinance, all prior gaming laws, rules and regulations, ordinances or regulations of the Tribe are hereby repealed.

**Sec. 10-06. Patron disputes.**

Any person who has any dispute, disagreement or other grievance with the gaming operation that involves currency, tokens, coins, or any other thing of value, may seek resolution of such dispute from the following persons and in the following order:

- (a) A member of the staff relevant of the gaming operation;
- (b) The supervisor in the area of the relevant gaming operation in which the dispute arose;
- (c) The manager of the relevant gaming operation; and
- (d) The Commission.

**Sec. 10-07. Patron rights regarding disputes.**

When a person brings a dispute for resolution pursuant to section 10-06, the complainant has the right to explain his or her side of the dispute, and to present witnesses in connection with any factual allegations. At each level, if the dispute remains unresolved, the complainant shall be informed of the right to take the dispute to the next higher level as set forth in section 10-06. Resolution of any dispute by the personnel of a gaming operation shall always involve two or more staff members. All disputes, whether resolved or not, shall be reported in detail by the staff persons involved to their supervisor, or, in the case of the general manager of the gaming operation, to the Commission.

**Sec. 10-08. Gaming Commission action on patron disputes.**

All disputes, which are submitted to the gaming Commission shall be decided by the Commission based on information, provided by the complainant, including any witnesses for, or documents provided by or for, the complainant. The decision of the Commission shall be in writing, shall be issued within 14 days of submission of the matter to the Commission, and shall be provided to the general manager of the gaming operation and to the complainant.

**Sec. 10-10. Consent to jurisdiction.**

Any person who applies for a license under this chapter, applies for employment in any gaming establishment, enters into any contract or agreement related to gaming, or participates in any gaming on Indian lands where the Kaw Nation has jurisdiction, shall be deemed to consent to the civil jurisdiction of the Tribe, the Commission and the Tribal Court. Nothing in this section shall limit the jurisdiction of the Tribe, the Commission or the Tribal Court under any circumstances not explicitly contemplated in the section.

**Sec. 10-11. Other powers of the Commission.**

In addition to and in conjunction with the powers and responsibilities listed in this Ordinance, rules and other applicable laws and regulations the Commission shall have power to:

- (a) Issue orders of temporary closure of gaming activities for violations of this gaming ordinance or of contractual obligations to the Tribe, the IGRA or the approved Class III Compact or orders of permanent closure of gaming activities for violations of this Ordinance, Tribal gaming regulations or contractual obligations to the Tribe;
- (b) Initiate civil and criminal actions in court to enforce provisions of this Ordinance, Tribal gaming regulations or the IGRA;
- (c) Negotiate and approve management agreements for Class II Gaming to be submitted to the Tribal Council for approval by Tribal Council resolution;
- (d) Approve, deny or revoke gaming licenses for Class II or Class III Gaming;
- (e) Monitor all gaming activities conducted on Kaw Nation lands on a continuing basis;
- (f) Ensure that background investigations are conducted as required by this Ordinance and the IGRA as well as conduct such additional investigations as the Commission may deem necessary;
- (g) Demand access to and inspect, examine, copy and audit all papers, books and records concerning activities and revenues of any gaming activity conducted on Kaw Nation lands and any other matters necessary to carry out their duties under this Ordinance;
- (h) Conduct such hearings as the Commission may deem appropriate in carrying out its duties, including administering oaths or affirmations to witnesses and issuing subpoenas to compel witnesses to appear at such hearings;

(i) When information is received through audits or other investigations that indicates a violation of Tribal, federal or applicable state ordinances, laws or regulations, to treat as confidential and provide such information to the appropriate law enforcement officials;

(j) Adopt regulations deemed necessary to clarify or enforce provision of this Ordinance or Tribal rights and interests established in approved management agreements or an approved Class III Compact; and

(k) Adopt a Kaw Nation of Oklahoma Class II and/or Class III Gaming license application.

**Sec. 10-12. Agent for Service of Process**

The Commission Chairman shall be designated agent for service of process for the Kaw Nation Tribal Gaming Commission. The Chairman shall promptly report any such service to the Commission, and shall promptly provide the Commission with a copy of any complaints or other documents served.

**ARTICLE XI. RESERVE**

## **Regulation**

- (a) The Gaming Commission Chairman shall act and perform as the Executive Director of the Gaming Commission, which is now established.
- (b) This position may not be held by any member of the Tribal Council, no person holding any elective office, nor any officer or official of any political party is eligible to act as Executive Director of the Gaming Commission.
- (c) The Gaming Commission Chairman, acting and performing as Executive Director of the Gaming Commission, may be removed from office by a majority vote of the Executive Tribal Council after a showing of cause.
- (d) The Gaming Commission Chairman shall devote his or her entire time and attention to the duties imposed under this Ordinance and the business of the Commission and shall not pursue any other business or occupation or hold any other office of profit.
- (e) The Gaming Commission Chairman shall not have any interest in any business or company holding a license under this Ordinance or doing business with any person licensed under this Ordinance.
- (f) The Gaming Commission Chairman is entitled to an annual salary and benefits in the amount specified by the Kaw Nation Executive Tribal Council.
- (g) The Gaming Commission Chairman shall furnish to the Commission such administrative and clerical services and such furnishings, equipment, supplies, stationery, books and all other things that the Commission may deem necessary to carry out its functions.
- (h) The Gaming Commission Chairman for the purposes of this Ordinance may;
  - i. Direct and supervise all employees in the Gaming office;
  - ii. Direct and supervise all administrative actions of the Commission;
  - iii. Sue on behalf of the Commission;
  - iv. Make, execute and effectuate any and all agreements or contracts, including contracts for the purchase of goods and services as are necessary upon approval of Executive Council;
  - v. Employ the services of such person(s) as are considered necessary for the purposes of consultation or investigation and contract for the services of such legal, professional, technical and operational personnel and consultants upon approval of the Executive Tribal Council;
  - vi. Perform such other duties which he or she may deem necessary to effectuate the purposes of this Ordinance;
  - vii. Maintain files for licenses under this Ordinance, together with a record of all actions taken with respect to those applications, maintain any other files he or she deems necessary for the purposes of this Ordinance;
  - viii. Maintain the budget established to the Gaming Commission office;
  - ix. Present a monthly report, pursuant to Sec. 2.04 of this Ordinance, on behalf of the Commission to the Executive Tribal Council.