



January 12, 2022

Via Email

Daniel Carter
Kaw Nation Attorney General
Drawer 50
Kaw City, Oklahoma 74641

RE: Kaw Nation Tribal Gaming Ordinance Amendments, Resolution 21-74

Dear Mr. Carter:

This letter responds to your request on behalf of the Kaw Nation for the National Indian Gaming Commission (NIGC) to review and approve the Nation's amendments to its gaming ordinance. The amendments were adopted by the Kaw Nation Tribal Council in Resolution 21-74. The amendments increase the overall number of Kaw Gaming Commissioners from one (1) to three (3) members. Other technical corrections include:

- Authorizes the Gaming Commission to maintain a secured area to ensure the security of fingerprint submissions and personal information in licensing files;
- Increases the security requirements for licensing information to ensure it complies with CJIS;
- Establishes a quorum for the Tribal Gaming Commission; and
- Adds a legal reference to the National Crime Prevention and Privacy Compact Act of 1988, 34 U.S.C. § 40311-40316.

These amendments are approved as they are consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations. If you have any questions or require anything further, please contact Staff Attorney Heather McMillan Nakai at (202) 527-5577 or heather.nakai@nigc.gov.

Sincerely,

A handwritten signature in black ink that reads "E. Sequoyah Simermeyer". The signature is written in a cursive style.

E. Sequoyah Simermeyer
Chairman

cc: Kim Jenkins, Kaw Nation Tribal Secretary



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KAW NATION TRIBAL COUNCIL RESOLUTION 21-74

A RESOLUTION TO AMEND THE KAW NATION GAMING ORDINANCE

WHEREAS, the Kaw Nation is federally recognized Indian tribe, whose inherent sovereignty has existed since time immemorial; and

WHEREAS, the Supreme law of the Kaw Nation is the Constitution of the Kaw Nation, adopted and ratified on August 20, 2011, as amended on April 29, 2016; and

WHEREAS, the Constitution delegates authority to the Kaw Nation Tribal Council to serve as legislative body of the Kaw Nation and to act in and on all matters and subjects upon which the Kaw Nation is empowered to act, now or in the future; and

WHEREAS, the Kaw Nation Tribal Council has the duty and responsibility to act in the best interest of the Kaw Nation; and

WHEREAS, the Kaw Nation Gaming Ordinance was amended in 2016 and approved by the National Indian Gaming Commission which currently provides for one (1) Gaming Commissioner;

WHEREAS, the Kaw Nation Tribal Council, desires to amend the Kaw Nation Gaming Ordinance to change the number of Gaming Commissioners from one (1) to three (3), and to make other accompanying amendments as set forth in the attached redline amendment, in order to improve the overall operation and regulation of the Kaw Nation gaming establishments;

THEREFORE, BE IT RESOLVED, that the Kaw Nation Tribal Council hereby approves and authorizes amendments to the Kaw Nation Gaming Ordinance changing the number of Gaming Commissioners from one (1) to three (3), and making other accompanying amendments as set forth in the attached redline;

BE IT FURTHER RESOLVED, that this amendment to the Kaw Nation Gaming Ordinance shall be submitted to the National Indian Gaming Commission for approval and shall not take effect until approved by the National Indian Gaming Commission and published in the Federal Register.

CERTIFICATION

I, Lynn Williams, Chair of the Kaw Nation Tribal Council, do hereby certify that said resolution was approved and adopted on the 13 day of November, 2021 as an official act by quorum vote of the Kaw Nation Tribal Council and the vote was: 6 for; 0 against; 0 abstention, and 0 absent.

	For	Against	Abstain	Absent
Cheri Dunn	<u>X</u>	_____	_____	_____
Robert Allen	<u>X</u>	_____	_____	_____
Wesley Pappan	<u>X</u>	_____	_____	_____
Debbie Lewman	<u>X</u>	_____	_____	_____
Kimberly Jenkins	<u>X</u>	_____	_____	_____
James Pepper Henry	<u>X</u>	_____	_____	_____

Lynn Williams
Lynn Williams, Chair

ATTEST: Kimberly Jenkins
Kimberly Jenkins, Tribal Council Secretary



Kaw Nation

GAMING ORDINANCE

2021



Approved by Tribal Council on November 13, 2021, Res. 21-74
Will be sent to NIGC for approval

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Kaw Nation Gaming Ordinance

Section 1. Purpose

The Tribal Council of the Kaw Nation (“Tribe”), empowered by the Kaw Nation Constitution to enact ordinances, hereby enacts this ordinance in order to govern and regulate the operation of all forms of gaming and gaming operations on the Tribe’s Indian lands.

Section 2. Applicability

Unless specifically indicated otherwise, all provisions of this ordinance shall apply to all gaming on the Tribe’s Indian lands.

Section 3. Definitions

The following terms shall have the same meaning and effect as those same terms are defined in the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. §§ 2701 *et seq.*, and the National Indian Gaming Commission (“NIGC”) regulations, 25 C.F.R. §§ 500 *et seq.*, if they are defined in IGRA and the NIGC’s regulations.

- A. **Applicant.** Any person, partnership, corporation, joint venture or other entity applying for, or requesting renewal of, any license described in or required by this Ordinance.
- B. **Application.** A request for the issuance or renewal of a license described by this Ordinance.
- C. **Chair.** The Chair of the Kaw Nation Gaming Commission.
- D. **Class I gaming.** “Class I gaming” means:
 - 1. Social games played solely for prizes of minimal value; or
 - 2. Traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.
- E. **Class II gaming.** Class II Gaming as defined by 25 U.S.C. § 2703(7) and 25 C.F.R. §502.3, and any regulations promulgated thereunder.
- F. **Class III gaming.** Class III Gaming as defined by 25 U.S.C. §2703(8) and 25 C.F.R. §502.4, and any regulations promulgated thereunder.
- G. **Commission.** The Kaw Nation Gaming Commission established to perform regulatory oversight and to monitor compliance with tribal, federal, and applicable state regulations.
- H. **Commissioner.** Any member of the Kaw Nation Gaming Commission.

- I. **Compact.** The Tribal State Compact, including all renewals, amendments, appendices, exhibits and other attachments thereto for the Kaw Nation and the State of Oklahoma providing for the conduct of Class III Gaming by the Kaw Nation under 25 U.S.C. § 2710(d).
- J. **Council.** The Tribal Council of the Kaw Nation.
- K. **Director.** A member of the Kaw Gaming, Inc. Board of Directors.
- L. **Gaming device.** 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 Ordinance 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.
- M. **Facility License.** A separate license issued by the Gaming Commission to each place, facility or location on Indian lands where the Tribe elects to allow gaming.
- N. **Gaming Commission Employee.** An employee under the supervision and authority of the Kaw Nation Gaming Commission, such as a background investigator or internal control auditor.
- O. **Gaming Establishment.** 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.
- P. **Gaming Operation.** Each business entity owned by the Tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by the Tribe directly; by a management contractor; or, under certain conditions, by another person or entity.
- Q. **Indian lands.**
 - 1. Land within the limits of an Indian reservation; or
 - 2. Land over which an Indian tribe exercises governmental power and that is either:
 - a. Held in trust by the United States for the benefit of any Indian tribe or individual; or
 - b. Held by an Indian tribe or individual subject to restriction by the United States against alienation.

R. **Key Employee.**

1. A person who performs one or more of the following functions:
 - a. Bingo caller;
 - b. Counting room supervisor;
 - c. Chief of security;
 - d. Custodian of gaming supplies or cash;
 - e. Floor manager;
 - f. Pit boss;
 - g. Dealer;
 - h. Croupier;
 - i. Approver of credit; or
 - j. Custodian of gambling devices, including persons with access to cash and accounting records within such devices;
2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year;
3. If not otherwise included, the four most highly compensated persons in the gaming operation; or
4. Any other person designated by the Commission as a key employee.

S. **License.** Any authorization granted by the Commission, pursuant to this Ordinance, 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.

T. **Licensee.** A tribally owned gaming operation or a person licensed by the Tribal Gaming Commission as a primary management official, key employee or other gaming employee under the provisions of this ordinance.

U. **Management Contract.** Any contract, subcontract or collateral agreement between an Indian tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

V. **Net Revenues.** Gross gaming revenues of an Indian gaming operation less:

1. Amounts paid out as, or paid for, prizes, winnings; and
2. Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

W. **NIGC.** The National Indian Gaming Commission.

- X. **Non-key Employee.** All other persons who perform any functions not designated as a Key Employee or Primary Management Official.
- Y. **Ordinance.** The Kaw Nation Tribal Gaming Ordinance, as amended from time to time and any rules promulgated by the Kaw Nation Gaming Commission.
- Z. **Person.** Any association, partnership, corporation, firm, trust, or other form of business association or entity, as well as a natural person.
- AA. **Primary Management Official.**
 - 1. The person(s) having management responsibility for a management contract.
 - 2. Any person who has authority:
 - a. To hire and fire employees; or
 - b. To set up working policy for the gaming operation; or
 - c. The chief financial officer or other person who has financial management responsibility.
 - 3. Any other person designated by the Commission as a primary management official.
- BB. **Secured Area.** An area, room, group of rooms, space, or other segment of or within a gaming facility or other building with both physical and personal security controls sufficient to protect confidential or protected information or tribal assets.
- CC. **Tribe.** “Tribe” means the Kaw Nation.
- DD. **Vendor of gaming goods and services.** 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.

Section 4. Gaming Authorized

Class II and/or class III gaming are authorized to be conducted on the Tribe’s Indian lands, if such gaming is conducted in accordance with this ordinance, the Indian Gaming Regulatory Act, the NIGC’s regulations, and any other applicable laws or regulations.

Section 5. Ownership of Gaming

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance, unless the Tribe elects to allow individually owned gaming.

Section 6. Use of Net Gaming Revenues

Net revenues from Tribal gaming shall be used only for the following purposes:

1. To fund Tribal government operations or programs;
2. To provide for the general welfare of the Tribe and its members;
3. To promote Tribal economic development;
4. To donate to charitable organizations; or
5. To help fund operations of local government agencies.

Section 7. Per Capita Payments

Net revenues from any gaming activities conducted or licensed by the Tribe may be used to make per capita payments to Tribal members if—

1. The Tribe has prepared a plan to allocate revenues to one or more of the five uses authorized by section 6 of this ordinance; and,
2. The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in sections 6(1) and 6(3) of this ordinance;
3. The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person; and,
4. The per capita payments are subject to Federal taxation and the Tribe notifies its members of such tax liability when payments are made.

Section 8. Gaming Commission

- A. The Tribe hereby establishes a Tribal Gaming Commission (“Commission”) to regulate the Tribe’s gaming operations. The Commission shall consist of three (3) members, including a Chair, Vice-Chair and one additional member.
- B. The Commission will conduct oversight to ensure compliance with Tribal, federal and, if applicable, state laws and regulations. It will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the gaming operation’s internal controls and in tracking gaming revenues. In order to carry out its regulatory

duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all of its records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate. The Commission shall have a Secured Area for its operations.

- C. Commissioner positions shall be filled through selection and appointment by the Tribal Council. The Tribal Council may suspend or remove any Commissioner for cause. The Commissioner would be entitled to appeal the suspension and removal and notice and an opportunity to be heard before the Tribal Council and a hearing shall be provided. Tribal Council's determination on appeal is final. During such suspension, the Tribal Council may appoint a qualified person to act in the suspended Commissioner's place. Further, should any vacancy occur in the position of a Commissioner, the selection process shall be initiated by the Tribal Council and the un-expired portion of the Commissioner's term shall be filled through selection and appointment by the Tribal Council.
- D. The term of office for each Commissioner shall be three (3) years and the Commissioners can be reappointed for additional terms.
- E. The following persons are not eligible to serve as Commissioners: Tribal Council members, Executive Officers of the Tribal Council, while serving as such; current employees of the gaming operation; gaming contractors (including any principal of a management, or other, contracting company); and persons ineligible to be key employees or primary management officials. Any person previously convicted of any felony will not be allowed to serve as a Commissioner. Any person previously convicted of a misdemeanor offense of embezzlement, theft or any other offense related to money or honesty, such as fraud, will only be allowed to serve as a Commissioner if the Tribal Council specifically finds that a significant amount of time has passed and the person is now of trustworthy character. The Tribal Council shall require a criminal history check for each Commissioner candidate; shall review the candidate's criminal history check results; and shall make an appropriate eligibility determination within 30 days of appoint to the position of Commissioner. The Commissioner will have a temporary appointment until a determination of suitability.
- F. The Tribe recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated gaming operation. The Commission shall be independent of, and act independently and autonomously from, the Tribal Council in all matters within its purview. No prior, or subsequent, review by the Tribal Council of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this ordinance. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe requires that, at a minimum:
 - 1. No member of the Tribal Council or Gaming Board of Directors may serve on the Tribal Gaming Commission;

2. Members of the Commission are prohibited from gambling in the facility;
 3. A Commissioner is prohibited from accepting complimentary items from the gaming operation and suppliers of gaming goods and services, unless of reasonable value and all complimentary items received shall be reported to the Tribal Council on the monthly report to the Tribal Council.
 4. A Commissioner may only be removed from office by the Tribal Council, prior to the expiration of their respective terms, for neglect of duty, misconduct, malfeasance or other acts that would render a Commissioner unqualified for the position.
- G. Nominees for Commissioner positions must satisfy the eligibility standards set forth for primary management officials and key employees found in Section 21 of this ordinance. All requisite background investigations shall be performed under the direction of the Kaw Nation Police Department.
- H. The Tribal Gaming Commission shall:
1. Review and approve all investigative work conducted including those in connection with the background investigations of primary management officials, key employees and non-key employees;
 2. Make licensing eligibility determinations, which shall be signed by the Chair of the Commission;
 3. Issue gaming licenses to primary management officials, key employees and non-key employees of the operation, if warranted by the eligibility determination;
 4. Approve standards for licensing Tribal gaming facilities;
 5. Issue facility licenses to gaming facilities;
 6. Ensure compliance with all Tribal, state and federal laws, rules and regulations regarding Indian gaming, if applicable;
 7. Hold hearings on patron complaints, in accordance with procedures established in this ordinance and the Tribal gaming regulations;
 8. Approve regulations necessary to comply with applicable internal control standards;
 9. Approve regulations on the levying of fees and/or taxes associated with gaming license applications;

10. Approve regulations on the levying of fines and/or the suspension or revocation of gaming licenses for violations of this ordinance or any Tribal, federal or state gaming regulations, if applicable;
 11. Approve regulations for enforcing voluntary exclusions;
 12. Approve a list of regulatory authorities that conduct background investigations of, and license, vendors who are recognized as trustworthy;
 13. Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation;
 14. Approve such regulations and guidelines to implement the provisions of this ordinance, so long as they are in furtherance of, and not in conflict with, any provisions of this Ordinance;
 15. Have a representative of the Gaming Commission at the quarterly General Council meeting, when requested by the Tribal Council; and
 16. Maintain a Secured Area to ensure the security of fingerprint submissions and personal information in licensing files.
- I. The Office of the Tribal Gaming Commission, with the ultimate responsibility being placed on the Gaming Commission, shall:
1. Conduct background investigations, or cause such investigations to be conducted, for primary management officials; key employees and non-key employees;
 2. Create and maintain investigative reports based on the background investigations of primary management officials; key employees and non-key employees;
 3. Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints, in accordance with applicable policies and in a manner that ensures confidential information is secured and protected;
 4. Submit a notice of results to the NIGC of the background investigations done for each primary management official; key and non-key employee applicant;
 5. Establish standards for licensing Tribal gaming facilities;
 6. Inspect, examine and monitor all of the Tribe's gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment, not including records maintained by Human Resources;

7. Ensure compliance with all Tribal, state and federal laws, rules and regulations regarding Indian gaming, if applicable;
8. Investigate any suspicion of wrongdoing associated with any gaming activities;
9. Comply with any and all reporting requirements under IGRA, the NIGC's regulations and any tribal-state compact to which the Tribe is a party, and any other applicable law;
10. Draft and issue regulations necessary to comply with applicable internal control standards;
11. Draft and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
12. Draft and issue regulations on the levying of fines and/or the suspension or revocation of gaming licenses for violations of this ordinance or any Tribal, federal or state gaming regulations, if applicable;
13. Establish a list of persons not allowed to game in the Tribe's gaming facilities in order to maintain the integrity of the gaming operation;
14. Establish a list of persons who have voluntarily agreed to be excluded from the Tribal gaming facility, and create regulations for enforcing the exclusions;
15. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, federal or state statutes, ordinances, regulations, codes or resolutions;
16. Create a list of regulatory authorities that conduct background investigations of, and license, vendors who are recognized as trustworthy;
17. Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
18. Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation; and
19. Draft such regulations and guidelines to implement the provisions of this ordinance, so long as they are in furtherance of, and not in conflict with, any provisions of this Ordinance.
20. Provide and supervise a surveillance department and provide surveillance services at all gaming enterprises.

- J. Before adopting, amending and repealing regulations, the Commission shall give notice of any such proposed action to the Tribal Council, the gaming operation(s) and all other persons whom the Commission has reason to believe have a legitimate interest in the proposed action. The notice shall invite comments and describe the general nature of the proposed action and the manner in which comments on the proposed action shall be received by the Commission. All rules, regulations, policies and procedures, and tribal internal control standards shall be filed in the Office of the Tribal Secretary.
- K. The Commission shall ensure that all records and information obtained as a result of a background investigation for licensing shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel and/or others employed by the Tribal gaming operation on a need-to-know basis, for actions taken in their official capacities, provided that such disclosure is not inconsistent with applicable Criminal Justice Information Security and Criminal History Record Information policies.
- L. The confidentiality requirements in Section 8(K), above, do not apply to requests for such records or information from any Tribal, federal, or state law enforcement or regulatory agency, or for the use of such records or information by the Commission and staff in the performance of their official duties.
- M. The Commissioners shall be compensated at a level determined by the Tribal Council. In order to ensure the Commission is not improperly influenced, a Commissioner's compensation shall not be based on a percentage of gaming revenue.
- N. The Commission shall keep a written record of all its meetings and the Gaming Commission meeting minutes shall be filed with the Tribal Secretary.
- O. The Commission shall establish a budget for its operations that shall be approved by the Tribal Council.
- P. The Commission shall make monthly written reports to the Tribal Council due by the noon the Friday preceding the regular monthly Tribal Council Meeting. Such reports shall contain the following information:
1. Number and type of licenses issued during the previous month;
 2. Information regarding denials, suspensions and revocations;
 3. A report of the Commission expenditures for the prior quarter
 4. A summary of any Commission travel and training;
 5. All complimentary items received by a Commissioner;

6. All other information which the Commission deems relevant in order to keep the Council informed and current on all gaming regulatory matters.

Q. A majority of the Commission shall constitute a quorum. The concurrence of a majority of the Commissioners shall be required for any final determination by the Commission. The Commission may act in its official capacity, even if there are vacancies on the Commission.

Section 9. Audits

- A. The Tribe shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC. Annual audits shall conform to generally accepted auditing standards (GAAP).
- B. All gaming-related contracts that result in the purchase of supplies, services or concessions for more than \$25,000 in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under Section 9(A) of this ordinance.
- C. Copies of the annual audit of each licensed gaming operation, and each audit for supplies, services or concessions of each gaming operation, shall be furnished to the NIGC within 120 days after the end of each fiscal year of the gaming operation.

Section 10. Environment and Public Health and Safety

Each gaming facility shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public.

Section 11. Patron Dispute Resolution

The Gaming Commission shall conduct patron dispute resolutions in accordance with the Kaw Nation and State of Oklahoma Tribal State Compact and other applicable laws.

Section 12. Facility Licenses

- A. The Tribe shall issue a separate license to each place, facility or location on Indian lands where gaming is conducted under this ordinance.
- B. The Tribal Gaming Commission is responsible for issuing new or renewed facility licenses to each place, facility or location.
- C. The Tribal Gaming Commission shall identify the environmental, health and public safety standards with which the place, facility or location must comply, and specify the form, conditions and content of a facility license application. The Commission shall require the facility to submit:

1. A legal description of the lands upon which the facility is located, and a certification that the site constitutes “Indian lands,” as defined in IGRA, the NIGC’s regulations, NIGC Office of General Counsel and DOI Solicitor Offices’ Indian lands legal opinions, judicial decisions and any other applicable law.
- D. The Tribal Gaming Commission shall only issue a facility license if the facility provides the required information and documentation, and sufficiently satisfies any additional conditions deemed necessary by the Commission.
- E. The Tribe or the Gaming Commission shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Tribal Gaming Commission. This notice must be submitted at least 120 days before the opening of any new place, facility or location on Indian lands where gaming will occur.
- F. The Tribal Gaming Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within 30 days of issuance, along with any other required documentation.
- G. The Tribe shall notify the NIGC Chair within 30 days if a facility license is terminated or expires, or if a gaming place, facility, or location closes or reopens.

Section 13. Agent for Service of Process

The Commission designates the Kaw Nation Attorney General as the agent for service of any official determination, order or notice of violation. The Attorney General 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.

Section 14. Required Application Forms.

- A. The Kaw Nation Gaming Commission shall require any applicant for any type of gaming license to provide:
 1. Application for gaming license by individual, if applicable, or application, for gaming license by contract or entry, including management;
 2. Personal history record, with attached personal financial questionnaire;
 3. One complete fingerprint card or digital fingerprint submission; and,
 4. Request to release information – individual or entity.
- B. The Commission may request any additional forms or information from an application, as it deems necessary or appropriate.

- C. 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.
- D. Applicants and licensees shall have a continuing duty to provide any materials, assistance or other information required by 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.

Section 15. Privacy Notice

- A. The following notice shall be placed on the Tribe's license application form for a non-key, key employee or a primary management official before it 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. §§ 2701 *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC 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 NIGC in connection with the issuance, denial, 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 being unable to license you for 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.

- B. The following additional notice shall be placed on the application form for a key employee or a primary management official before it is filled out by an applicant:

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

Section 16. License Fees

The Commission may charge a license application fee, to be set by the Tribal Gaming Commission, to cover its expenses in investigating and licensing non-key employees, key employees and primary management officials of the gaming operation.

Section 17. Fingerprints

The Gaming Commission shall perform a background investigation for each primary management official, key employee and non-key employee of the gaming operation. The Commission shall request fingerprints from each primary management official and key employee. Fingerprints shall be taken by the Gaming Commission. Fingerprints will be forwarded to the Federal Bureau of Investigation ("FBI"), through the NIGC where applicable, for processing and the National Criminal Information Center to determine the applicant's criminal history, if any and reported to NIGC.

Section 18. Background Investigations

- A. The Gaming Commission shall perform a background investigation for each primary management official, non-key employee and key employee in its gaming operation.
- B. The Gaming Commission is responsible for conducting the background investigations of primary management officials; key and non-key employees.
- C. The Gaming Commission shall obtain from each primary management official, key employees and non-key employees all of the following information:
 1. Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender and all languages spoken and/or written);
 2. Currently, and for the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
 3. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (C)(2) of this section;
 4. Current business and residential telephone numbers, and all cell phone numbers;
 5. A description of any existing and previous business relationships with other tribes, including any ownership interests in the businesses;

6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in the 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 gaming, whether or not such license or permit was granted;
 8. 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 of disposition, if any;
 9. 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 of disposition, if any;
 10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application, and is not otherwise listed pursuant to paragraphs (C)(8) or (C)(9) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;
 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 photograph;
 13. Any other information the Commission deems relevant; and
 14. Fingerprints obtained in accordance with procedures adopted by the Commission pursuant to 25 C.F.R. § 522.2(h).
- D. When a primary management official, non-key or key employee is employed by the Tribe, a complete application file, containing all of the information listed in Section 18(c), shall be maintained.

Section 19. Procedures for Conducting Background Investigations

- A. The Gaming Commission, or its agent, shall employ or engage an investigator to conduct a background investigation of each applicant for a primary management official; key and non-key employee position. The investigation must be sufficient to allow the Gaming Commission to make an eligibility determination under Section 22 of this ordinance. The investigator shall:
 1. Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;

2. Contact each personal and business reference provided in the license application, when possible;
3. Conduct a personal credit check;
4. Conduct a civil history check for past or outstanding judgments, current liens, past or pending lawsuits, and any other information deemed to be relevant;
5. Conduct a criminal history records check by submitting the applicant's fingerprints to the NIGC, FBI or to another law enforcement agency for forwarding to the FBI to perform a criminal history records check utilizing the FBI's data base;
6. Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony and/or misdemeanor convictions or ongoing prosecutions within the past 10 years;
7. Inquire into any previous or existing business relationships with the gaming industry, including with any tribes with gaming operations, by contacting the entities or tribes;
8. Verify the applicant's history and current status with any licensing agency by contacting the agency; and
9. Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

Section 20. Investigative Reports

- A. The Gaming Commission shall create and maintain an investigative report for each background investigation of a primary management official, non-key or key employee.
- B. Investigative reports shall include all of the following information:
 1. Steps taken in conducting the investigation;
 2. Results obtained;
 3. Conclusions reached; and
 4. The basis for those conclusions.

Section 21. Eligibility Determinations

- A. Before a license is issued to a primary management official, key employee or non-key employee or Gaming Commission employee, the Commission shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations.
- B. If the Commission, in applying the standards adopted in this ordinance, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, he or she shall not license that person in a key employee or primary management official position.
- C. Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a primary management official or key employee.

Section 22. Notice of Results of Background Investigations

- A. Before issuing a license to a primary management official or key employee, the Gaming Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.
 - 1. The notice of results must be submitted to the NIGC no later than 60 days after the applicant begins working for the Casino.
- B. The notice of results shall include the following information:
 - 1. The applicant's name, date of birth, and social security number;
 - 2. The date on which the applicant began, or will begin, working as a primary management official or key employee;
 - 3. A summary of the information presented in the investigative report, including:
 - a. licenses that have previously been denied;
 - b. gaming licenses that have been revoked, even if subsequently reinstated;
 - c. every known criminal charge brought against the applicant within the last 10 years of the date of the application; and
 - d. every felony offense of which the applicant has been convicted or any ongoing prosecution; and
 - 4. A copy of the eligibility determination made in accordance with Section 21.

Section 23. Granting Gaming Licenses

- A. All primary management officials, key and non-key employees of the gaming operation and all Gaming Commission employees must have a gaming license issued by the Gaming Commission.
- B. The Gaming Commission is responsible for granting and issuing gaming licenses to primary management officials, non-key and key employees and all Gaming Commission employees.
- C. The Gaming Commission may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by Section 22.
- D. The Gaming Commission shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days of issuance.
- E. The gaming operations shall not employ an individual in a primary management official or key employee position who does not have a license after 90 days of beginning work at the gaming operation.
- F. The Gaming Commission must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within 30 days of the NIGC receiving a notice of results of the applicant's background investigation.
 - 1. The Gaming Commission shall take the NIGC's objections into account when reconsidering a license application.
- G. The Gaming Commission will make the final decision whether to issue a license to an applicant for a primary management official, key or non-key employee position or a Gaming Commission employee.
- H. If the Gaming Commission has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee, as required by Section 25.

Section 24. Denying Gaming Licenses

- A. The Gaming Commission shall not license a primary management official, key or non-key employee or Gaming Commission employee if the Gaming Commission determines, in applying the standards in Section 21 for making a license eligibility determination, that licensing the person:
 - 1. Poses a threat to the public interest;
 - 2. Poses a threat to the effective regulation of gaming; or

3. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.
- B. When the Gaming Commission does not issue a license to an applicant for a primary management official, key or non-key employee position or Gaming Commission employee, or revokes a previously issued license after reconsideration, it shall provide the applicant or licensee with notice and hearing in accordance with Section 25. When the denial or revocation of a license relates to a primary management official or key employee, the Gaming Commission shall:
1. Notify the NIGC; and
 2. Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

Section 25. Gaming License Suspensions and Revocations

- A. If, after a license is issued to a primary management official, key or a non-key employee, or Gaming Commission employee, the Commission receives notice from the NIGC that the primary management official or key employee is not eligible for employment or if the Gaming Commission denies, suspends or revokes a license, the Gaming Commission shall do the following:
1. Immediately suspend the license, if applicable;
 2. Provide the licensee with written notice of the suspension and proposed revocation, or Commission action; and
 3. Provide the licensee with notice of a time and place for a hearing on the proposed revocation/action of the license.
 4. The right to a revocation hearing vests only when a license is granted under an ordinance approved by the NIGC Chair.
 5. Following a revocation hearing, the Commission shall decide whether to revoke or reinstate the license at issue.
 6. The Commission shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.
- B. If the Gaming Commission denies, suspends or revokes a license issued to a primary management official, key or a non-key employee, or Gaming Commission employee for any reason than in accordance with subsection A of this Section, the Gaming Commission shall do the following:

1. Immediately take action on the license, if applicable;
2. Provide the licensee with written notice of the suspension or Commission action and the Notice shall notify the licensee that a hearing must be requested within ten days from the day the Notice is received and failure to request a hearing in a timely manner shall finalize the Commission action, and
3. Upon a hearing request by the licensee, the Gaming Commission shall provide the licensee with notice of a time and place for a hearing on the action of the license; and the hearing must be held within thirty days from the date a hearing request is received by the Gaming Commission.
4. Following the hearing, the Commission shall decide whether to revoke or reinstate the license at issue.
5. The Commission shall notify the NIGC of any action taken by the Commission and notify the NIGC that a primary management official or key employee is not eligible for employment.

Section 26. Appeal of a License Denial or Revocation

- A. In the event that the Gaming Commission denies or revokes a gaming license, the applicant or revoked licensee may file an appeal within ten (10) days with the Kaw Nation District Court. If an appeal is not filed timely, the decision of the Kaw Nation Gaming Commission shall be final.
- B. The Kaw Nation District Court Judge shall review the determination of the Gaming Commission and may overturn the decision if the Kaw Nation District Court finds the determination to be arbitrary and capricious.
- C. The Decision of the Kaw Nation District Court Judge is final.

Section 27. Records Retention

- A. The Gaming Commission shall retain, in a secure area, for no less than three years from the date a licensee is terminated or otherwise ceases from providing services to the Tribal gaming enterprise, gaming facility or Gaming Commission, the following documentation:
 1. Applications for licensing;
 2. Investigative Reports; and
 3. Eligibility Determinations.
- B. The Gaming Commission shall maintain all other records in accordance with the Tribal Records Retention Policy, including the following:

1. 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;
2. Meeting minutes from all Commission meetings;
3. Compliance reports;
4. Reports relating to customer disputes, complaints or other issues that affect the integrity of the gaming operation;
5. Commission budget and expenditures;
6. Tribal Council Communications and correspondences;
7. NIGC and State Compliance communications and correspondences;
8. Gaming Device list; and
9. Any other records or documents the Commission deems necessary or appropriate.

Section 28. Licenses for Vendors

Vendors of gaming services or supplies, with a value of \$25,000 or more annually, must have a vendor license from the Tribal Gaming Commission in order to transact business with the Tribal gaming operation. Contracts for non-gaming vendors, professional legal and professional accounting services are excluded from this Section.

Section 29. Submission of a Vendor License Application

In order to obtain a gaming vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include those officers, directors, managers, owners, partners, and non-institutional stockholders that either own 10% or more of the business' stock or are the 10 largest stockholders, as well as the on-site supervisors or managers designated in an agreement with the gaming facility, if applicable.

Section 30. Contents of the Vendor License Application

- A. Applications for gaming vendor licenses must include the following:
 1. Name of business, business address, business telephone number(s), federal tax identification number (or social security number, if a sole proprietorship), main office address (if different from business address), any other names used by the applicant in business, and type of service(s) applicant will provide;

2. Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship or other entity;
3. If the applicant is a corporation, the state of incorporation;
4. Trade name, other names ever used and names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
5. General description of the business and its activities;
6. Whether the applicant will be investing in, or loaning money to, the gaming operation, and, if so, how much;
7. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
8. A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial or management interests in any non-gaming activity;
9. Names, addresses and telephone numbers of three (3) business references with whom the company has regularly done business for the last five (5) years;
10. The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
11. If the business has ever had a license revoked for any reason, the circumstances involved;
12. A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;
13. A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles, and percentage of ownership in the company; and
14. Any further information the Commission deems relevant.

- B. The following notice shall be placed on the application form for a vendor and its principals:

Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Commission's vendor license.

Section 31. Vendor Background Investigations

The Gaming Commission shall employ or otherwise engage an investigator to complete an investigation of a gaming vendor. This investigation shall include, at a minimum, the following steps:

- A. Verification of the vendor's business' incorporation status and qualifications to do business in the state where the gaming operation is located;
- B. Obtaining a business credit report, if available;
- C. Conducting a check of the vendor's business' credit history;
- D. Calling and questioning each of the references listed in the vendor application;
and
- E. Conducting an investigation of the principals of the vendor's business, including facilitating a criminal history check, obtaining criminal history check results, obtaining a credit report, and interviewing the personal references listed.

Section 32. Vendor License Fees

The Commission may charge a license fee, to be set by the Gaming Commission, to cover its expenses in investigating and licensing vendors of the gaming operation.

Section 33. Vendor Background Investigation Reports

The investigator shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals, and present it to the Gaming Commission.

Section 34. Assessment.

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

Section 35. Compliance with Federal Law

The Commission shall comply with all applicable federal laws, including, where applicable, the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.* and the National Crime Prevention and Privacy Compact Act of 1998, 34 U.S.C. § 40311-40316.

Section 36. Repeal

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

Section 37. 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 Tribal Council.

Section 38. 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.

Section 39. Consent to Jurisdiction.

Any person who applies for a license under this Ordinance, 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 Kaw Nation, the Commission and the Kaw Nation Tribal Court. Nothing in this section shall limit the jurisdiction of the Kaw Nation, the Commission or the Kaw Nation Tribal Court under any circumstances not explicitly contemplated in this Section.