



December 10, 2024

VIA EMAIL

Chairman Forrest Tahdooahnippah
Comanche Tribal Council and Comanche Business Committee
Comanche Nation
P.O. Box 908
Lawton, OK 73502

Re: Comanche Nation Amended Gaming Ordinance

Dear Chairman Tahdooahnippah:

This letter responds to your October 22, 2024 submission on behalf of the Comanche Nation ("Tribe") for the National Indian Gaming Commission Chairwoman (Acting) to review and approve amendments to the Tribe's gaming ordinance. The Tribe adopted the amended gaming ordinance through Resolution No. 154-2024.

Thank you for bringing these amendments to our attention. The amended gaming ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations. If you have any questions or require anything further, please contact NIGC Staff Attorney Rachel Hill at rachel.hill@nigc.gov or (202) 734-6545.

Sincerely,

A handwritten signature in blue ink that reads "Sharon M. Avery".

Sharon M. Avery
Chairwoman (Acting)

MAILING ADDRESS: NIGC/DEPARTMENT OF THE INTERIOR 1849 C Street NW, Mail Stop #1621 Washington, DC 20040 Tel: 202.632.7003 Fax: 202.632.7066

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COMANCHE NATION GAMING ORDINANCE

**AS REVISED, CODIFIED, AND AMENDED
THROUGH**

(History: Enacted by Comanche Business Committee (CBC) Resolution No. 56-09, approved by National Indian Gaming Commission (NIGC) on May 18, 2009; amended by CBC Resolution No. 111-09, amendment approved by NIGC on September 21, 2009; amended by CBC Resolutions No. 69-14, 83-14, and 114-14, amendments approved by NIGC on January 9, 2015; amended by CBC Resolution No. 33-15, amendment approved by NIGC on June 19, 2015; amended by CBC Resolution No. 79-17, amendment approved by NIGC on October 5, 2017; amendment by motion on July 7, 2018 and by CBC Resolution No. 143-18, amendment approved by NIGC on October 19, 2018; amended by CBC Resolution No. 36-19 March 2, 2019, amendment approved by NIGC May 7, 2019; amended by CBC Resolution No. 102-19 July 6, 2019; amendment approved by NIGC October 16, 2019; amended by CBC Resolution No. 160-2021; amended by CBC Resolution No. 105-2024; amended by CBC Resolution No. 154-2024.

COMANCHE NATION GAMING ORDINANCE

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COMANCHE

CERTIFICATION

The foregoing resolution was adopted a regular meeting of the Comanche Nation Business Committee held on the 5th day of October, 2024, at the Comanche Tribal Complex, Lawton, Oklahoma by a majority vote of 5 for, 0 against, and 0 abstaining, a quorum being present.


Forrest Tahdooahnipah, Tribal Chairman

ATTEST:


Robert Tippeconnie, Secretary/Treasurer

2024 OCT 22 PM 2:36

COMANCHE

RESOLUTION TO AMEND GAMING ORDINANCE

WHEREAS, the Comanche Nation is a federally recognized Indian tribe with a Constitution approved by the Secretary of Interior on January 9, 1967, to safeguard tribal rights, powers, and privileges of the tribe and its members and to improve the economic, moral, educational, and health status of its members; and

WHEREAS, the Comanche Nation Constitution, Article VI, Section 7 empowers the Comanche Business Committee to promulgate and enforce ordinances and codes governing law and order to protect the peace, health, safety, and general welfare on land determined to be within Comanche tribal jurisdiction; and

WHEREAS, to promote the general welfare and improve the economic status of tribal members, the Comanche Business Committee desires to amend the Comanche Nation Gaming Ordinance previously revised, codified, and amended through December 4, 2021; and

WHEREAS, the Comanche Business Committee enacted Comanche Nation Resolution 105-2024 on August 3, 2024, to approve revisions to the Comanche Nation Gaming Ordinance and to direct the Chairman to obtain approval of said Ordinance by the National Indian Gaming Commission ("NIGC"); and

WHEREAS, after the Chairman sought the NIGC's approval of the revised Ordinance, the NIGC recommended additional revisions to the Comanche Nation Gaming Ordinance before granting approval; and

WHEREAS, the Comanche Business Committee and Comanche Nation Gaming Commission subsequently incorporated the NIGC's revisions to the Comanche Nation Gaming Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the attached Comanche Nation Gaming Ordinance is hereby Amended and enacted; provided that such new Gaming Ordinance shall not become effective until approved by the NIGC; and

BE IT FURTHER RESOLVED the Business Committee directs the Chairman to obtain approval of said Ordinance by the Chairman of the NIGC and to make preparations for its implementation; and

BE IT FURTHER RESOLVED that the Amended and Restated Comanche Nation Gaming Ordinance shall be in full force and effect immediately upon NIGC approval.

BE IT FINALLY RESOLVED THAT, the Comanche Business Committee, acting for and on behalf of the Comanche Nation, does hereby authorize this Resolution for such intent.

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PART 100 GENERAL PROVISIONS

Section 101 Purpose

The Comanche Business Committee, empowered by Article VI § 7(j) of the Comanche Nation Constitution to enact ordinances and codes, hereby enacts this Gaming Ordinance in order to govern Class II and Class III Gaming on the Nation's Indian lands.

Section 102 Definitions

Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as set forth in the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*, and its regulations, 25 C.F.R. § 501 *et seq.*, or as either may be amended. Capitalized words and phrases used in this Ordinance shall have the meanings respectively ascribed to them in this Section.

- (A) **Board of Directors** or **Board** means the Comanche Nation Entertainment Board of Directors, established by the CBC, which oversees the management of the Nation's Gaming and Related Enterprises in accordance with the authority provided herein.
- (B) **CBC** means the Comanche Business Committee.
- (C) **CEO** means the Chief Executive Officer appointed by the Board.
- (D) **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** means:
 - (1) Bingo or lotto (whether electronic, computer, or other technologic aids are used) when players:
 - (a) play for prizes with cards bearing numbers or other designations;
 - (b) cover numbers or designations when objects, similarly, numbered or designated, are drawn or electronically determined; and
 - (c) win the game by being the first person to cover a designated pattern on such cards;
 - (2) Pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo, if played in the same location as bingo or lotto; and
 - (3) Non-banking card games that:
 - (a) State law explicitly authorizes or does not explicitly prohibit and are played legally anywhere in the State; and
 - (b) players play in conformity with State laws and regulations regarding hours, periods of operation, and limitations on wagers and pot sizes.
- (F) **Class III Gaming** means all forms of gaming that are not Class I or Class II, including, but not limited to:
 - (1) Any house banking games, including but not limited to:
 - (a) Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house-banking games); and
 - (b) Casino games such as roulette, craps, and keno;
 - (2) Any slot machines, as defined in 15 U.S.C. §1171(a)(1), and electronic or electromechanical facsimiles of any game of chance;

- (3) Any sports betting and pari-mutuel wagering, including, but not limited to, wagering on horse racing, dog racing or jai alai; or
- (4) Lotteries.
- (G) **Comanche Nation Entertainment (CNE)** means the unincorporated entity wholly-owned by the Nation composed of the Nation's Gaming Facilities, Surveillance Department, and Related Enterprises.
- (H) **Commission** means the Comanche Nation Gaming Commission.
- (I) **Commission Employee** means a person employed by the Commission.
- (J) **Commissioner** means a person appointed by the CBC to serve on the Comanche Nation Gaming Commission.
- (K) **Compact** means any Comanche Nation — State of Oklahoma Gaming Compact concerning Class III Gaming approved by the Secretary of the Interior and published in the Federal Register pursuant to 25 U.S.C. § 2710(d).
- (L) **Confidential Information** means all private and/or proprietary information of the Comanche Nation, CNE, and/or the Commissioner that may have a significant adverse impact on the Nation, CNE, the Commissioner, or any employees, Patrons, and/or Vendors of the foregoing entities if it is published or its integrity compromised. Confidential Information includes information protected by tribal law, federal privacy laws, and the kind of information exempted from disclosure under the federal Freedom of Information Act.
- (M) **Director** means a person appointed by the CBC to serve on the Board of Directors.
- (N) **Executive Management** means those persons employed by the Board to perform the management, administration, and supervision of the day-to-day activities of the Nation's Gaming Facilities, and Related Enterprises, which may include but not be limited to duties and functions normally associated with a chief executive officer, chief operating officer, chief information officer, chief financial officer, and general managers of the Gaming Facilities.
- (O) **Game** means the actual activity qualifying as Class II or Class III Gaming or, as appropriate, to engage in Class II or Class III Gaming.
- (P) **Gaming**, as used throughout this Ordinance, means conducting or, as appropriate, engaging in Class II and/or Class III Gaming on the Nation's Indian lands, but shall not include bona fide business transactions.
- (Q) **Gaming Activity** means an endeavor associated with or directly related to (i) the manufacture, distribution, service, or maintenance of Gaming devices or (ii) the supervision, conduct, or operation of any Gaming. **Gaming Activity** does *not* include commercial activity that is *not directly related* to Gaming, such as, but not limited to, hospitality services and retail activity.
- (R) **Gaming Employee** means an employee of CNE or the Gaming Commission whose duties:
 - (1) are *directly* connected with a Gaming Activity; or
 - (2) require or authorize unescorted access to areas of a Gaming Facility that are highly restricted.
- (S) **Gaming Facility** means any building, part of a building, on Indian lands where Gaming Activities authorized and regulated by this Ordinance are conducted but does not include any Non-Gaming enterprises that are adjacent or attached to a Gaming Facility.
- (T) **Gaming Facility License** is a separate license issued by the Commission to each

- Gaming Facility.
- (U) **Gaming Vendor** means any person, business, or entity, who manufactures, distributes, sells, leases, supplies, markets, services, repairs, updates, installs, removes, or otherwise provides goods or services to CNE or the Commissioner and such goods or services are directly related and unique to a Gaming Activity.
 - (V) **IGRA** means the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*, including regulations promulgated thereunder, as now enacted or as may from time to time be amended, re-enacted, or replaced.
 - (W) **Indian lands** means those lands meeting the requirements set forth in 25 U.S.C. § 2703(4) and 25 C.F.R. § 502.12 (*see also* 25 U.S.C. § 2719; 25 C.F.R. Part 292).
 - (X) **Key Employee** means:
 - (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;
 - (j) Custodian of Gaming devices, including persons with access to cash and accounting records within such devices;
 - (2) All employees of the Gaming Commission;
 - (3) The four (4) highest positions on the organizational chart of a Gaming Facility; and
 - (4) Any other Gaming or Gaming-related position that the Commissioner designates by regulation as a Key Employee position.
 - (5) All employees authorized by the gaming operation for unescorted access to secured gaming areas designated as secured gaming areas by the CNGC.
 - (Y) **Management Contract** shall have the meaning set forth at 25 C.F.R. § 502.15.
 - (Z) **Nation** means the Comanche Nation.
 - (AA) **Net Gaming Revenues** has the same meaning as set forth in the Nation's Revenue Allocation Plan and means Gaming revenue remaining at the end of each calendar month, after disbursement of operating expenses and dues, including but not limited to loan payments, player winnings, equipment costs, adequate contingency reserves, supplies, casino employee wages, salaries, fees, and all other expenses (excluding Management Contract fees, if applicable, as set forth at 25 U.S.C. § 2703(9) and 25 C.F.R. § 502.16), for that month or period.
 - (BB) **NIGC** means National Indian Gaming Commission.
 - (CC) **Non-Gaming Vendor** means any person, business, or entity that provides goods and services to the Commissioner or CNE that are not necessary for, or directly related to, the conduct of Gaming, including *but not limited to* construction, repair and maintenance services, and food and beverage services.
 - (DD) **Patron** means any natural person who enters upon a Gaming Facility for the purpose of playing Games located therein.
 - (EE) **Persons directly related to** means a spouse, child, parent, or sibling.
 - (FF) **Person having a financial interest in a contract** includes:

- (1) A natural person that is a party to a contract;
 - (2) Any beneficiary or trustee of a trust when that trust is a party to a contract;
 - (3) Any partner of a partnership when that partnership is a party to a contract;
 - (4) Any director or holder (either alone or in combination with a spouse, parent, child, or sibling) of five percent (5%) or more issued and outstanding stock of a corporation when that corporation is a party to a contract;
 - (5) All parties of an entity when that entity holds an interest in a trust, partnership, or corporation that is a party to a contract;
 - (6) Any person or entity that will receive an interest from those listed above through attribution, grant, pledge, or gift.
- (GG) **Primary Management Official** means:
- (1) The person(s) having management responsibility for a Management Contract;
 - (2) Any person who is employed by CNE and has authority:
 - (a) To hire and fire Gaming Facility employees;
 - (b) To establish and supervise working policies for a Gaming Facility; or
 - (c) The chief financial officer or other person who has financial management responsibility for the Nation's Gaming; or
 - (d) The general manager or a position with duties similar to a general manager; or
 - (3) Any other Gaming or Gaming-related position that the Commissioner designates by regulation as a Primary Management Official.
- (HH) **Related Enterprise**, as used in this Ordinance, means any Non-Gaming enterprise managed and operated by CNE.
- (II) **Revenue Allocation Plan or RAP** means that document setting forth the Nation's plan for allocating Net Gaming Revenue and, as required by IGRA, has been submitted to and approved by the Secretary of the Interior.
- (JJ) **State** means the State of Oklahoma.
- (KK) **Tribal Court** means any court established by the Nation to hear disputes and that complies with the due process requirements set forth in the Indian Civil Rights Act, 25 U.S.C. §1302.

Section 103 Gaming Authorized and Regulated

- (A) Class II and Class III Gaming are hereby authorized to be conducted on the Nation's Indian lands in accordance with this Ordinance.
- (B) Any Class III Gaming shall be authorized if conducted in accordance with a Compact between the Nation and the State of Oklahoma or Secretarial procedures approved by the Secretary of the Interior.
- (C) No person under the age of eighteen (18) years may participate in Gaming Activities.

Section 104 Ownership of Gaming

The Nation shall have the sole proprietary interest in and responsibility for the conduct of any Gaming authorized by this Ordinance.

Section 105 Use of Net Gaming Revenues

Net Gaming Revenues shall be distributed in accordance with the Nation's RAP and the CBC shall

ensure that such funds are used only for the following purposes, as prescribed by IGRA:

- (A) To fund the Nation's government operations and programs;
- (B) To provide for the general welfare of the Nation and its members;
- (C) To promote the Nation's economic development;
- (D) To donate to charitable organizations; or
- (E) To help fund operations of local government agencies.

Section 106 Per Capita Payments

The Nation shall authorize and issue per capita payments to its members only in accordance with the Revenue Allocation Plan submitted to and approved by the Secretary of the Interior as required by 25 U.S.C. § 2710(b)(3).

Section 107 Environment and Public Health and Safety

- (A) Gaming Facilities shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public.
- (B) The CBC shall, with input from CNE and the Commission, adopt and enforce laws and standards applicable to Gaming Facilities to ensure adequate protection of the environment and the health and safety of the public.

Section 108 Agent for Service of Process

The Nation hereby designates the Chairman of the Comanche Nation as its agent for service of process,

with notice sent to:

584 N.W. Bingo Road
Lawton, OK 73507;

With concurrent notice to:

CEO, Comanche Nation Entertainment
302 NW Rogers Lane
Lawton, OK 73507;

and

Executive Director, Comanche Nation Gaming Commission 1915 East
Gore Boulevard
Lawton, OK 73501.

Section 109 Compliance with Federal Law

The Nation, CNE, and the Commissioner shall comply with all applicable federal law, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*, regulating the conduct of Gaming on Indian lands.

Section 110 Repealer

All prior Gaming ordinances and/or codes of the Comanche Nation are hereby repealed.

Section 111 Tribal Member Access to Financial Information

A copy of the annual outside independent audit, required by Sections 213 and 320 of this Ordinance, shall be available for review by Comanche Nation tribal members in accordance with established procedures that protect proprietary data.

Section 112 Confidential Information

Consistent with the Comanche Constitution, this Ordinance, and other tribal laws, CNE and the Commission shall promulgate policies and procedures governing the use of their respective Confidential Information.

Section 113 Political Activity Prohibited

- (A) Directors, Commissioners, the Commission Executive Director, and the CEO shall have the right to vote as they choose and to express their personal opinion on political subjects and candidates, but shall not, at any time, while holding the position of Director, Commissioner, Executive Director or CEO:
 - (1) take an active part in political campaigns for election to the Nation's public offices;
 - (2) use his or her official authority or influence for the purpose of interfering with or affecting the result of an election to a public office of the Nation; or
 - (3) knowingly solicit, accept, or receive a political contribution from any person.
- (B) No Director, CEO, Executive Director, Commissioner, vendor, contractor, employee of CNE, or employee of the Gaming Commissioner shall engage in any partisan political activity or political activity related to the Nation's public offices while:
 - (1) on duty;
 - (2) in any room or building where he or she performs his or her official duties; or
 - (3) wearing a uniform or official insignia identifying the office or position of the person.
- (C) No Director, CEO, Executive Director, Commissioner, vendor, contractor, employee of CNE, or employee of the Gaming Commissioner shall engage in or promote any partisan political activity or political activity related to the Nation's public offices while:
 - (1) using any vehicle owned or leased by CNE or the Gaming Commission; or
 - (2) using any equipment or property of CNE or the Gaming Commission.

Sections 114 —199 RESERVED

PART 200 COMANCHE NATION ENTERTAINMENT

Section 201 Establishment; Governance

- (A) There is hereby established an unincorporated entity wholly-owned by the Nation, comprising the Nation's Gaming Facilities, Surveillance Department, and Related Enterprises, and this entity shall be known as **Comanche Nation Entertainment (CNE)**. CNE shall possess the same immunity and tax status as the Nation.
- (B) The Comanche Nation Entertainment Board of Directors shall oversee and control the Nation's conduct of Gaming and Related Enterprises through oversight of Executive

Management and the adoption of policies and procedures to govern the operation of Gaming Facilities and Related Enterprises.

- (C) The operations of the Board, including Executive Management and staff hired thereby, shall be an authorized Gaming-related operating expense for purposes of audit and determining Net Gaming Revenue subject to distribution under the Nation's RAP or other applicable law.
- (D) In the event that the Nation enters into a Management Contract approved by the NIGC, the Board may delegate some or all of its duties to the approved Management Contractor.
- (E) The actions and duties of the Board shall not violate applicable Gaming Laws or interfere with the Commission's regulation of the Nation's Gaming Activities.

Section 202 Board Composition; Quorum

- (A) The Board shall consist of three (3) Directors, all of whom shall be enrolled members of the Comanche Nation.
- (B) The Board shall elect a Chair from among themselves, whose duty it shall be to call for and preside over all meetings and to execute official documents of the Board.
- (C) A Vice-Chair shall also be elected from among the Directors who shall perform the duties of the Chair in the Chair's absence.
- (D) A majority of the members of the Board constitutes a quorum and the concurrence of a majority shall be required for any official action.
- (E) The Board may act in its official capacity even if there are vacancies on the Board.
- (F) Directors shall serve in such capacity until a successor is duly appointed and qualified unless such Director is removed in accordance with this Ordinance prior to the expiration of a term.

Section 203 Director Terms

Terms of office for Directors shall be three (3) years and each staggered by one (1) year to result in the appointment of one (1) Director per year. The initial term for Directors shall be three (3) years for first Director, two (2) years for the second Director, and one (1) year for the third Director. After the initial terms, the ensuing terms of office shall be three (3) years. A Director may be re-appointed by the CBC without limitation on the number of terms. A Director's term shall automatically re-new unless the CBC appoints a successor before the expiration of a Director's term of office.

Section 204 Director License

Directors shall be subject to the same background check and license eligibility requirements as Key Employees and Primary Management Officials, found in Part 400 of this Ordinance and regulations promulgated hereunder, and each must be licensed accordingly in order to qualify for and retain office.

Section 205 Director Qualifications

In addition to satisfying the licensing eligibility standards for Key Employees and Primary Management Officials set forth in Commissioner regulations, each candidate for Director must possess at least two (2) of the following qualities:

- (A) A degree in Business Administration, Accounting, Marketing, or an equivalent field;
- (B) Five (5) or more years' experience in business management;
- (C) Two (2) or more years' experience in casino management; or
- (D) Demonstrated knowledge of federal Indian law, the Indian Gaming Regulatory Act, and related statutes and regulations.

In addition, each candidate for Director must also demonstrate honesty, integrity, and good moral character.

Section 206 Directors' Duties

Directors shall the following duties:

- (A) Hire, direct, and supervise a Chief Executive Officer in accordance with this Ordinance, or a similarly qualified and approved Management Contractor;
- (B) Establish, adopt, and cause to be implemented policies and procedures for Comanche Nation Entertainment.
- (C) Monitor and oversee the operations of Gaming Facilities and Related Enterprises to ensure Executive Management accomplishes the duties set forth in this Ordinance or assigned by the Board; and
- (D) Retain counsel to represent the Board, CNE, and/or CNE employees;
- (E) Monitor and oversee implementation of strategic objectives set by the Comanche Business Committee; and
- (F) Any other duties or powers not prohibited herein that the Directors determine are necessary to monitor and oversee the management of the Gaming Facilities and Related Enterprises.

Section 207 Board Role

Directors shall not assume the role of, or act as, Executive Management personnel, but rather shall delegate all management functions to Executive Management and oversee the performance of the CEO.

Section 208 Appointment of Director

Any vacancies occurring in the Board of Directors and any position to be filled by reason of upcoming expiration of a Director's term of office shall be filled by the CBC via appointment by resolution. Directors shall be compensated in such manner and amount as determined by the CBC. Such compensation shall be an operating expense of CNE.

Section 209 Director Eligibility

The Nation recognizes the importance of an independent Board of Directors in maintaining well-managed Gaming Facilities and the need to avoid potential conflicts of interest in the operation and regulation of the Gaming Facilities. The Nation hereby finds that, at a minimum, the following persons are *not* eligible to serve on the Board of Directors:

- (A) Member of the CBC, the Commission, or a Primary Management Official of a direct competitor to the Nation's Gaming Facilities while employed as such;
- (B) Persons having a financial interest in a contract to which the Board of Directors, the

- Commission, a Gaming Facility, or a Related Enterprise are a party;
- (C) Persons directly related to or sharing a residence with any of the above;
- (D) Employees of the Board, Commission, Gaming Facilities or Related Enterprises, while employed as such; and
- (E) Persons ineligible to be licensed as Key Employees or Primary Management Officials.

Section 210 Removal of Director

- (A) A Director may be removed from office by the CBC prior to the expiration of his/her respective term only for neglect of duty, misconduct, malfeasance, or other acts that would render the Director unqualified for his/her position.
- (B) When the CBC believes that a removal is appropriate, it shall notify the Director, in writing, setting forth the grounds for such removal and the date, time and place of the hearing on the matter before the CBC, providing the Director at least three (3) days' advance notice.
- (C) Any allegations of neglect of duty, misconduct, malfeasance, or other acts that would render the Director unqualified for his/her position must be substantiated by a preponderance of the evidence.
- (D) The CBC may opt to preliminarily remove a Director pending the hearing.
- (E) At the hearing, such Director shall be given an opportunity to provide evidence rebutting the grounds for his/her removal before the removal is voted upon.
- (F) A vote of the CBC on the appropriateness of removal shall be final and not subject to further appeal.
- (G) A finding by the CBC that a preliminary removal was wrongful shall entitle the affected Director to compensation withheld.
- (H) The unexpired term of a Director removed under this Section shall be filled in accordance with this Ordinance.

Section 211 Directors' Meetings

- (A) The Board of Directors shall hold regular meetings and special meetings as needed.
- (B) The Board of Directors shall keep a written record of all meetings and make such records available to the CBC or the Commission upon request.

Section 212 Board Reports

The Board of Directors shall make financial reports to the CBC monthly and as requested.

Section 213 Chief Executive Officer

- (A) The Board shall hire Chief Executive Officer, subject to confirmation by the CBC, to oversee and manage the operations of CNE.
- (B) The CEO shall serve as a full-time, at-will employee of CNE.
- (C) In the event that the Nation enters into a Management Contract approved by the NIGC, the CEO may delegate some or all of its duties to the approved Management Contractor.
- (D) The actions and duties of the CEO shall not violate applicable Gaming laws or interfere with the Commission's regulation of the Nation's Gaming Activities.

- (E) The compensation and term of the CEO shall be determined by the Board of Directors subject to approval by the CBC.

Section 214 CEO License

The CEO shall be subject to the same background check and license eligibility requirements as Key Employees and Primary Management Officials, found in Part 400 of this Ordinance and regulations promulgated hereunder, and must be licensed accordingly in order to qualify for and retain the position of CEO.

Section 215 CEO Qualifications

The CEO shall be subject to the same qualification requirements outlined in Section 205 of this Ordinance for the Directors, except that the Chief Executive Officer shall have a minimum of ten (10) years' work experience in the executive management of similarly-sized business entities, which may include professional casino management experience.

Section 216 CEO Eligibility

The Nation recognizes the importance of an independent CEO in maintaining well-managed Gaming Facilities and Related Enterprises and the need to avoid potential conflicts of interest in the operating and regulation of such. The Nation hereby finds that, at a minimum, the following persons are not eligible to serve as CEO:

- (A) Member of the CBC, the Commission, or a Primary Management Official of a direct competitor to the Nation's Gaming Facilities, while serving as such,
- (B) Persons having a financial interest in a contract to which the Nation, CNE or the Gaming Commission is a party;
- (C) Persons directly related to or sharing a residence with any of the above;
- (D) Employees of the Gaming Commission, while employed as such; and
- (E) Persons ineligible to be licensed as Key Employees or Primary Management Officials.

Section 217 Removal of CEO

The Board shall have the authority to remove the Chief Executive Officer at its discretion upon a majority vote of the Board at a meeting duly convened for such purpose. The CBC shall have the authority to remove the Chief Executive Officer for neglect of duty, misconduct, malfeasance, or other acts that would render the CEO unqualified for his/her position.

Section 218 CNE Contracting Limitations

CBC approval, by resolution, is needed prior to the CEO entering into any contract or agreement that is:

- (A) a Management Contract, as defined by IGRA;
- (B) for the construction or purchase of buildings or any other improvements to real property or buildings thereon exceeding \$3,000,000.00;
- (C) with any other Indian tribe or its agency, or any unit of federal, state, tribal or local government; *provided however* that a contract or agreement for the following is not

included in this limitation:

- (1) the routine provision of emergency services and utilities (including but not limited to water, electric, telephone, sewer, sanitation, fiber optics); and
- (2) other goods and services related to a Gaming Facility or a Related Enterprise (including but not limited to marketing, transportation, lodging, and distribution);
- (D) granting any person a possessory interest in real property;
- (E) in violation of; by its terms, the Nation's Gaming laws, IGRA, or other applicable federal law; or
- (F) purporting to waive the Nation's sovereign immunity; *provided however* that the CEO may enter a contract or agreement that provides a limited waiver of sovereign immunity as to specifically identified security or assets within the sole control of CNE so long as that limited waiver complies with Tribal Council Resolution No. 01-06 or any successor resolutions.

Section 219 Void Contracts

Any contract or agreement that, by its terms, violates any provision of Section 218 of this Ordinance shall be null, void, and unenforceable *ab initio* in its entirety including any provision for dispute resolution therein.

Section 220 CNE Budget

- (A) CNE shall develop annually, prior to the beginning of the Nation's fiscal year, a projection of the Net Gaming Revenue to be distributed to the Nation and a budget for CNE's operations, including personnel costs, proposed capital expenditures, loan payments, contingency reserves, and other expenses, for the following fiscal year.
- (B) Said proposed budget shall be submitted to the CBC prior to the Nation's fiscal year and shall be treated as highly confidential and proprietary.
- (C) CNE may obtain and pay for such capital improvements, furnishings, equipment, supplies, stationery, subscriptions, employees, and services as it deems necessary or desirable to carry out its functions within the limit of the budgeted funds and expenditures and in accordance with Section 218.

Section 221 Distribution of Net Gaming Revenue

CNE shall determine and distribute the Net Gaming Revenue in the manner directed by CBC resolution.

Section 222 CNE Annual Audit

- (A) CNE shall cause to be conducted an annual outside independent audit of CNE, which may be encompassed within existing independent audit systems of the Nation. The resulting audit report(s) shall be submitted to the CBC, Commissioner, and NIGC within one hundred twenty (120) days from the close of the fiscal year.
- (B) All contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 in any fiscal year (except contracts for professional legal and

accounting services) shall be specifically included within the scope of the audit required by Subsection (A) above.

Sections 222-299 RESERVED

PART 300 COMANCHE NATION GAMING COMMISSION

Section 301 Gaming Commission Established

- (A) There is hereby established an office of the Nation which shall be known as the “Comanche Nation Gaming Commission” (hereinafter “Commission”) whose duty is to regulate the Nation’s Gaming operations. The Commission is hereby designated the Tribal Compliance Agency under the Nation’s Compact with the State.
- (B) The Nation recognizes the importance of an independent Commission in maintaining well-regulated Gaming. The Commission shall act independently and autonomously from the CBC in the enforcement of regulatory matters within its purview. No prior or subsequent review by the CBC of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Ordinance.
- (C) The distributions made by the Board to the Commission pursuant to the Commission’s budget, approved by the CBC, shall be considered a distribution to the Commission for accounting purposes and deducted from Net Gaming Revenue for RAP purposes.

Section 302 Role of the Commission

- (A) The purpose of the Gaming Commission is regulatory, not managerial, and therefore, the Commission shall not interfere with the management of the Nation’s Gaming operations except for citing violations of applicable Gaming laws and regulations to ensure compliance therewith.
- (B) The Commission and CNE will work together to resolve regulatory issues.
- (C) Commission’s duties and responsibilities are limited and specific to ensure the fair and impartial consideration of all matters related to licensing and enforcement of compliance with Gaming laws and regulations.
- (D) Nothing in this Ordinance shall prevent the Comanche Nation Police Department from investigating criminal activity within its jurisdiction.

Section 303 Commission Composition; Quorum

- (A) The Commission shall consist of three (3) members.
- (B) The Commissioners shall elect a Chair from among them, whose duty it shall be to call and preside over all meetings and hearings and to execute official documents for the Commission.
- (C) In addition, the Commissioners shall elect a Vice-Chair who shall perform the duties of the Chair in the Chair’s absence.

- (D) A majority of the voting Commissioners shall constitute a quorum and the concurrence of a majority of the same shall be required for any official action.
- (E) The Commission may act in its official capacity even if there are vacancies on the Commission.
- (F) Commissioners shall serve in such capacity until his/her respective successor is duly appointed and qualified unless removed in accordance with this Ordinance prior to the expiration of a term.

Section 304 Commissioner License

Commissioners shall be subject to the same background check and license eligibility requirements as Key Employees and Primary Management Officials, found in Part 400 of this Ordinance and regulations promulgated hereunder, and each must be licensed accordingly in order to qualify for and retain office.

Section 305 Commission's Duties and Role

The Commission shall have the following duties:

- (A) Comply and ensure compliance with this Ordinance, IGRA, the Compact, and any other applicable Gaming laws and regulations, including but not limited to any and all reporting requirements;
- (B) Promulgate the following tribal internal control standards, regulations, and procedures, all of which must be approved by the CBC, to implement the provisions of this Ordinance, to comply with other applicable Gaming laws and regulations, to track and audit the generation and expenditure of Gaming revenue, and to promote effective regulation of Gaming:
 - (1) Regulations for the licensure, including tiered licensure, or registration of vendors, employees, and Gaming Facilities as required in Part 400 of this Ordinance;
 - (2) Regulations and procedures governing the conduct of background investigations that set forth eligibility standards for the different tiers of licensing and the registration of vendors, employees, and Gaming Facilities;
 - (3) Regulations providing for the levying of fees, including a schedule of such fees, associated with registering, permitting, and licensing, as applicable, of employees, vendors, and Gaming Facilities, and the certification, as applicable, of Gaming devices;
 - (4) Regulations governing enforcement actions, the levying of fines, including a schedule of such fines, and the denial, suspension, or revocation of any individual or vendor license, for violations of this Ordinance or any other applicable Gaming laws and regulations;
 - (a) Fines may be assessed against employees of CNE or employees of the Gaming Commission pursuant to the authority provided in the Indian Civil Rights Act of 1968 (as amended);
 - (5) A list of regulatory authorities that conduct background investigations of, and license vendors;
 - (6) Procedures and standards for the internal audit of all major Gaming areas of the Nation's Gaming Facilities in accordance with the internal audit

- requirements set forth in 25 C.F.R. Parts 542 and 543;
- (7) Regulations governing nepotism and for segregation of duties among incompatible positions for immediate family members;
 - (8) Regulations to allow for the voluntary and involuntary exclusion of certain persons from the Nation's Gaming Facilities;
 - (9) Procedures and regulations to provide any affected person or entity the right to due process and the right to appeal any adverse action taken by the Commission;
 - (10) Regulations governing hearings, the issuance of subpoenas, receipt of evidence, and adjudication of appeals;
- (C) Certify gaming devices in accordance with established procedures and as required by the Compact and 25 C.F.R. Parts 543 and 547;
 - (D) Hold hearings, issue subpoenas, receive evidence, and adjudicate appeals, all in accordance with CBC-approved regulations, on matters related to licensing and enforcement actions taken by the Commission;
 - (E) Adjudicate Patron tort claims and prize claims in accordance with applicable laws and CBC-approved regulations;
 - (F) Ensure that the CNE annual audit under Section 222 of this Ordinance is secured;
 - (G) Approve and enter into contracts and other agreements Commissioner subject to the limitations set forth at Section 316 of this Ordinance;
 - (H) Establish, adopt, and cause to be implemented policies and procedures, including personnel policies, that are applicable to the Gaming Commission and its employees;
 - (I) Management of the budget of the Gaming Commission;
 - (J) Monitor and oversee the regulation and enforcement of the Nation's Gaming by the Executive Director and Commission staff;
 - (K) Enforcement of this Ordinance and CBC-approved regulations, including but not limited to:
 - (1) Conduct appropriate background investigations of Primary Management Officials, Key Employees, and other persons required to be licensed or permitted;
 - (2) Report results of background investigations, as required, to the NIGC;
 - (3) Obtain and process fingerprints;
 - (4) Make licensing eligibility determinations and issue tiered Gaming licenses for Gaming Employees, Gaming Vendors, and others whose licensure is required;
 - (5) Make permitting eligibility determinations and issue permits for Non-Gaming Employees, Non-Gaming Vendors, and others requiring a permit;
 - (6) May issue Gaming Vendor licenses by reciprocity to applicants that are currently licensed by trustworthy regulatory authorities;
 - (7) Issue permits, registration, and waivers to employees or vendors, if they meet requirements;
 - (8) Issue Gaming Facility licenses;
 - (9) Assess and collect fees related to the processing of applications for permits, registration, and licensure, as applicable, of employees of CNE, employees of the Gaming Commissioner, and vendors;
 - (10) Assess fines, as applicable, related to enforcement actions for violations of this Ordinance or any other applicable Gaming laws and regulations; all fines

- assessed shall be paid directly to the Comanche Nation Tax Commission;
- (11) In order to carry out the Commissioner's regulatory duties, authorized staff of the Commissioner shall have unrestricted access to all areas and records of CNE, and may inspect, examine, and monitor all Gaming Activities and have immediate access to review, inspect, examine, photocopy and audit all records of the Gaming Facility; provided however, every reasonable effort shall be made to avoid unnecessary disruptions to the Nation's Gaming Activities;
 - (12) Perform the internal audit of all major Gaming areas of the Nation's Gaming Facilities;
 - (13) Investigate any suspicion of wrongdoing associated with any Gaming Activity;
 - (14) Establish a list of persons not allowed to Game in the Nation's Gaming Facilities or allowed to hold a Gaming license in order to maintain the integrity of the Gaming;
 - (15) Establish and maintain a list of persons who have voluntarily asked to be excluded from the Nation's Gaming Facilities;
 - (16) Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, Federal, or State statutes;
 - (17) Review, solely for compliance with this Ordinance and other applicable Gaming laws and regulations, the following items and activities of CNE if such item or activity is directly related to Gaming or a Gaming Activity:
 - contracts;
 - policies and procedures;
 - promotions planned by Gaming Facilities;
 - implementation, maintenance, and removal of software systems, servers, and slot management systems;
 - installation, maintenance, and removal of gaming devices;
 - (a) The foregoing shall not be revised by the Commissioner and shall only be approved or denied;
 - (b) If denied, documentation shall be provided to CNE that sets forth the section(s) and language of the submitted item or process that is(are) non-compliant and the applicable section(s) of law(s) or regulation(s) with which the item or process does not comply;
 - (L) Delegate duties, as needed, to the Executive Director and Commission staff; and
 - (M) Any other duties or powers not prohibited herein that the CBC determines are necessary to monitor and oversee the regulation of the Nation's Gaming.

Section 306 Commissioner Qualifications

In addition to satisfying the licensing eligibility standards set forth for Key Employees and Primary Management Officials, each candidate for Commissioner shall have a demonstrated knowledge of Federal Indian Law, IGRA, and related statutes and regulations and must meet requirements of both subsections (A) and (B) of this section and the requirements of either subsections (C) or (D) of this Section:

- (A) Be an Enrolled member of the Comanche Nation; and
- (B) Demonstrate honest, integrity, and good moral character; and
- (C) Possess a high school diploma; four (4) or more years' work experience in a highly regulated industry in the field of business management, compliance, or regulation; and at least of the following:
 - (1) Demonstrated knowledge of licensing requirements for Gaming Facilities;
 - (2) Demonstrated knowledge of compliance requirements for Gaming Facilities;
 - (3) Demonstrated knowledge of audit requirements for Gaming Facilities; or
- (D) Possess a Bachelor's degree in Business Administration, Management, Accounting, Marketing, Law, or another relevant field, with a preference given to candidates with a relevant graduate degree; two (2) or more years' work experience in a highly-regulated industry in the field of business management, compliance or regulation; and at least one of the following:
 - (1) Demonstrated knowledge of licensing requirements for Gaming Facilities;
 - (2) Demonstrated knowledge of compliance requirements for Gaming Facilities;
 - (3) Demonstrated knowledge of audit requirements for Gaming Facilities; and

Section 307 Appointment of Commissioner

Any vacancies occurring in the Commission and any position to be filled by reason of upcoming expiration of a Commissioner's term of office shall be filled by the CBC via appointment by resolution. Commissioners shall be compensated in such manner and amount as determined by the CBC.

Section 308 Commissioner Terms

Terms of office for Commissioners shall be three (3) years and each staggered by one year to result in the appointment of one (1) Commissioner per year, except that the term of the Alternate Commissioner shall coincide with Commissioner 3. The initial term for Commissioners shall be three (3) years for the first Commissioner, two (2) years for the second Commissioner, and one (1) year for the third Commissioner. After the initial terms, the ensuing terms of office shall be three (3) years. A Commissioner may be re-appointed by the CBC without limitation on the number of terms. A Commissioner's term shall automatically re-new unless the CBC appoints a successor before the expiration of a Director's term of office.

Section 309 Commissioner Eligibility

The Nation recognizes the importance of an independent Commission in the fair regulation of Gaming and the need to avoid potential conflicts of interest in the operation and regulation of the Gaming Facilities. The Nation hereby finds that the following persons at a minimum, are not eligible to serve as a Commissioner:

- (A) Members of the CBC, CNE Board of Directors, or Primary Management Official of a direct competitor of the Nation's Gaming Facilities;
- (B) Persons having a financial interest in a contract to which CNE, the CNE Board of Directors, the Commission or Gaming Facility are a party;
- (C) Persons directly related to or sharing a residence with any of the above;
- (D) Employees of the Commission, the CNE Board of Directors, Gaming Facilities, or Related Enterprises, while employed as such; and

(E) Persons ineligible to be licensed as Key Employees or Primary Management Officials.

Section 310 Removal of Commissioner

The independence of the Commission is essential to the well-regulated conduct of Gaming. For this reason:

- (A) A Commissioner may only be removed from office by the CBC prior to the expiration of his/her respective term for neglect of duty, misconduct, malfeasance, or other acts that would render a Commissioner unqualified for his/her position.
- (B) When the CBC believes that a removal is appropriate, it shall notify the Commissioner, in writing, setting forth the grounds for such removal and the date, time and place of the hearing on the matter, providing the Commissioner at least three (3) days' advance notice.
- (C) The CBC may opt to preliminarily remove a Commissioner pending the hearing.
- (D) Any allegations of neglect of duty, misconduct, malfeasance, or other acts that would render him/her unqualified for his/her position must be substantiated by a preponderance of the evidence.
- (E) At the hearing, such Commissioner will be given an opportunity to provide evidence rebutting the grounds for his/her proposed removal before the removal is voted upon.
- (F) A vote of the CBC on the appropriateness of removal shall be final and not subject to further appeal.
- (G) A finding by the CBC that a preliminary removal was wrongful shall entitle the affected Commissioner to compensation for expenses incurred in an appeal and any compensation withheld.
- (H) The unexpired term of a Commissioner removed under this Section shall be filled in accordance with this Ordinance.

Section 311 Commission Meetings

- (A) The Commissioners shall hold regular meetings monthly and special meetings or hearings as needed.
- (B) The Commission shall keep a written record of all Commissioner meetings and hearings and make such records available to the CBC upon request.

Section 312 Executive Director

The Gaming Commission may delegate all powers vested by this Ordinance, with the exception of the powers to: hold hearings, adjudicate appeals, and to supervise and monitor the Executive Director, to an Executive Director. The Executive Director must satisfy the eligibility standards set forth for Key Employees and Primary Management Officials, found in Part 400 of this Ordinance, and regulations promulgated hereunder, and must be licensed accordingly in order to retain the position. The Executive Director shall be compensated at a level determined by the Commissioners and such compensation shall not be based on a percentage of Gaming revenue. The Commissioners may remove the Executive Director at their discretion upon a majority vote of the Commissioners at a meeting duly convened for such purpose.

Section 313 Executive Director Eligibility

The Nation recognizes the importance of an independent Commission in the fair regulation of

Gaming and the need to avoid potential conflicts of interest in the operation and regulation of the Gaming Facilities. The Nation hereby finds that the following persons, at a minimum, are *not* eligible to serve as Executive Director:

- (A) Members of the CBC, the CEO, or a Primary Management Official of a direct competitor to the Nation's Gaming Facilities, while service as such;
- (B) Persons having a financial interest in a contract to which the Nation, CNE, or the Commission is a party;
- (C) Persons directly related to or sharing a residence with any of the above;
- (D) Employees of the Gaming Commission or CNE, while employed as such; and
- (E) Persons ineligible to be licensed as Key Employees or Primary Management Officials.

Section 314 Qualifications of Executive Director

The Executive Director shall be subject to the same qualification requirements outlined in Section 306 of this Ordinance for the Commissioners, except that the Executive Director shall have a minimum of five (5) years' work experience in the management, compliance, or regulation of a business in a highly-regulated industry.

Section 315 Hearings and Appeals

- (A) Hearings
 - (1) The Commission shall afford applicants for licenses and licensees an opportunity for a hearing *prior* to any final action that:
 - (a) denies, suspends, revokes, limits, or terminates a license (except as allowed at Section 412(A) and (C) of this Ordinance);
 - (b) imposes sanctions upon a licensee; or
 - (c) may affect an individual's or entity's ability to obtain or maintain a gaming license issued by the Commission or other regulatory agency.
 - (2) Notice shall be served by the Commission on the affected party clearly setting forth the following:
 - (a) The legal basis for the proposed adverse action;
 - (b) All evidence relied upon by the Commission in making its initial determination;
 - (c) The time, date, and place of a hearing before the Tribal District Court; and
 - (d) The party's right to present testimony, exhibits, and any other evidence or testimony.
 - (3) All hearings shall be on the record and the affected party or parties may be represented by an attorney.
 - (a) Any attorney appearing before the Commission must be duly qualified and admitted to practice before the Tribal Court.
 - (4) A party's failure to appear at a hearing may constitute grounds for:
 - (a) Refusal to grant a license to the applicant;
 - (b) Imposition of proposed sanctions; or
 - (c) Revocation, modification, or suspension of a license, as proposed in the notice.

- (5) Neither the affected party nor the Commission shall be bound by technical rules relating to evidence and witnesses but the basic principles of relevancy, materiality, and probative force shall govern the proof of all questions of fact.
- (B) Appeals
 - (1) An affected party shall have the right to appeal a decision by the Commission provided that a notice of appeal is filed with the Tribal Court within thirty (30) days of receiving the written decision. Upon receipt of the notice of appeal, the Commission shall promptly file the full record of the proceedings with the Tribal Court.
 - (2) Failure to seek review of a decision within thirty (30) days of receipt shall constitute a waiver of all rights of appeal and further shall deprive the Tribal Court of jurisdiction over the matter.
 - (3) In all appeals, the Tribal Court shall give proper deference to the Commission's interpretation of its regulations.
 - (4) The Tribal Court shall not set aside, modify, or remand any determination by the Commission unless it finds that such determination is:
 - (a) Arbitrary and capricious;
 - (b) An abuse of the Commission's discretion;
 - (c) Unsupported by substantial evidence; or
 - (d) Contrary to law.
 - (5) The Tribal Court shall issue a written decision on all appeals and such decision shall be final.
 - (6) The Commission expressly waives sovereign immunity solely for the purpose of allowing appeals to the Tribal Court from final determinations of the Commission related to licensing and enforcement actions and such consent is limited to declaratory and injunctive relief.

Section 316 Commission Contracting Limitations

CBC approval, by resolution, is needed prior to the Commission entering into a contract or agreement that is:

- (A) for the construction or purchase of buildings or any other improvements to real property or buildings thereon;
- (B) with any other Indian tribe or its agency, or any unit of federal, state, tribal or local government; *provided however* that a contract or agreement for the following is not included in this limitation:
 - (1) the routine provision of utilities (including but not limited to water, sewer, electric, telephone, sewer, sanitation); and
 - (2) other goods and services related to the Gaming Commission's operations (including but not limited to transportation and lodging);
- (C) granting any person a possessory interest in real property;
- (D) in violation of, by its terms, the Nation's Gaming laws, IGRA, or other applicable federal law; or
- (E) purporting to waive the Nation's and/or the Gaming Commission's sovereign immunity.

Section 317 Void Contracts

Any contract or action of the Commission or other authorized signatory that, by its terms, violates any provision of Section 316 of this Ordinance shall be null, void, and unenforceable *ab initio* in its entirety including any provision for dispute resolution therein.

Section 318 Confidentiality of Records

- (A) The Commission shall ensure that all records and information obtained as a result of an investigation or other function shall be deemed Confidential Information and treated in accordance with Section 112 of this Ordinance.
- (B) Confidential Information obtained during the course of an investigation may be disclosed to the CEO, members of CNE's management team, and shall be disclosed to legal counsel. This Confidential Information may also be disclosed to relevant human resource personnel on a need-to-know basis solely for actions taken in their official capacities.
- (C) The identity of persons interviewed in the course of conducting a background investigation shall be Confidential Information.
- (D) The prohibitions of this Section do not apply to:
 - (1) Requests for Confidential Information from Tribal, Federal, or State law enforcement or regulatory agency with jurisdiction over the Nation's Gaming provided that the Commission receives a request in writing and reasonable assurances as to the continuing confidentiality of the information disclosed;
 - (2) The Commission's statutory duty to provide Confidential Information to a Tribal, Federal, or State law enforcement or regulatory agency; or
 - (3) The use of Confidential Information or records by the Commission and staff, solely in the performance of their official duties.

Section 319 Commission Reports

The Commission shall make reports, at least monthly, to the CBC summarizing the Commissioner's activities. Compliance reports shall be provided to the CEO.

Section 320 Commission Budget

- (A) The Commission shall develop annually, prior to the beginning of each fiscal year, a budget for the operations, including personnel costs, capital expenditures, and equipment upgrades, of the Gaming Commission. Surplus cash reserves at the end of the fiscal year shall be included in the following year's budget.
- (B) The Commission shall submit said proposed budget to the CBC for approval by resolution. The CBC shall distribute to the Commission monthly, or less frequently if requested by the Commission, a *pro rata* share of the Gaming Commission's CBC-approved budget.
- (C) The Commission may obtain such furnishings, equipment, supplies, stationery, subscriptions, employees, and service(s) as it deems necessary or desirable to carry out its functions within the limit of the budgeted funds approved by the CBC

pursuant to this Section.

Section 321 Annual Audit

The Nation, through the Commission, shall cause to be conducted an annual outside independent audit of the Commission's operations, which may be encompassed within existing independent audit systems of the Nation. The resulting audit reports shall be submitted to the CBC within one hundred twenty (120) days from the close of the fiscal year.

Section 322 Patron Dispute Resolution

- (A) The CBC shall approve regulations, with input from CNE and the Commission, governing the procedures for resolving Patron tort claims and prize claims against the Gaming Facilities, its employees, or Management Contractor.
- (B) Such procedures shall at a minimum be consistent with any applicable legal requirements.
- (C) The maximum amount of damages payable for any tort claim for personal injury or property damage shall be limited to the amount of liability insurance coverage maintained by the Gaming Facility which shall, at a minimum, be consistent with any applicable Compact requirements.
- (D) The maximum amount payable for any prize claim shall be the amount of the prize which the claimant establishes they were entitled to be awarded and shall not exceed the maximum payout available for that particular Game.

PART 400 LICENSING

Section 401 Employee Licenses

- (A) The Nation, through the Commission, shall ensure that the requirements set forth in this Ordinance are implemented with respect to Key Employees and Primary Management Officials and any other persons required by this Ordinance to have a Gaming license.
- (B) The Nation, through the Commission, shall issue licenses and perform background investigations for Key Employees and Primary Management Officials according to requirements at least as stringent as 25 C.F.R. Parts 556 and 558.
- (C) Key Employees and Primary Management Officials must have a Gaming license issued by the Commission and shall not be employed if such person has not been issued a fully-approved Gaming license within ninety (90) days of beginning work.
- (D) The Commission shall promulgate regulations and standards that have been approved by the CBC concerning the licensing, tiered licensing, and permitting of Gaming Employees.

Section 402 License Application Forms

- (A) The following notices shall be placed on the Nation's Gaming license application form for a Key Employee or a Primary Management Official before it is filled out by an applicant:

- (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 granted a gaming license. The information will be used by the Commissioner and the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Nation 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.
 - (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 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).
- (B) Any existing Key Employees and Primary Management Officials who have not yet done so shall be notified in writing by the Commission of the need to sign a statement acknowledging receipt of the notices required by 25 C.F.R. Part 556 and consent to the routine uses described in the notices.
- (C) License Applications shall also contain a notice of consent to the jurisdiction of the Commission and the Tribal Court as follows, with a separate signature line immediately below such notice for the applicant to accept such jurisdiction:
- (1) Acceptance of a Commission-issued license by an employee or vendor shall constitute acceptance by that individual or entity of the jurisdiction of the Commission and the Tribal Court for all licensure actions and any violations of such licensure or this Ordinance.

Section 403 Licensing Fee

The Comanche Nation Gaming Commission may charge a reasonable fee, to be approved by the CBC, to cover its expenses in investigating and licensing Key Employees, Primary Management Officials, other persons, and vendors of the Gaming Facilities and the Commission.

Section 404 Fingerprints

- (A) The Commission shall require fingerprints as part of the license application procedure for each Key Employee, Primary Management Official, or other person required to obtain such level of Gaming license.
- (B) Fingerprints shall be taken by the Commission and then forwarded to the NIGC for processing through the Federal Bureau of Investigation and the National Criminal Information Center to determine the applicant's criminal history, if any.

Section 405 Background Investigations

- (A) The Commission is responsible for conducting background investigations for each Primary Management Official and Key Employee that is sufficient to allow the Commission to make an eligibility determination in accordance with Section 406 of this Ordinance.
- (B) The Commission shall obtain from each Primary Management Official and from each Key Employee or other person required to obtain such level of Gaming license 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 drivers' 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 (B)(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 Indian tribes, including any ownership interests in those businesses;
 - (6) A description of any existing and previous business relationships with the Gaming industry generally, including ownership interests 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 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 disposition, if any, and date of disposition;
 - (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the disposition, if any, and date of disposition;
 - (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application, and is not otherwise listed pursuant to paragraph (B)(8) or (B)(9) of this Section, the criminal charge, the name and address of the court involved, and the disposition, if any, and date of disposition;
 - (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 taken within a year of the date of application;
 - (13) Fingerprints obtained in accordance with CBC-approved procedures required by 25 C.F.R. § 522.2(h); and
 - (14) Any other information required by the CBC-approved procedures for the Commissioner's background investigations of Primary Management Officials and Key Employees.
- (C) The identity of persons interviewed in the course of conducting a background investigation shall be Confidential Information.

- (D) The Commission shall create and maintain an investigative report for each background investigation of a Primary Management Official or Key Employee. The investigative report must be created prior to issuing a Gaming license to a Primary Management Official or a Key Employee and 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 406 Gaming License Eligibility Determination

- (A) Before a Gaming license is issued to a Primary Management Official or a Key Employee, the Commission shall make a finding concerning the eligibility of that person for receiving such a license, according to CBC-approved eligibility standards, by reviewing that person's prior activities, criminal record, if any, and reputation, habits, and associations.
- (B) If the Commission, in applying the CBC-approved eligibility standards, determines that licensing that 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, the Commission shall not license that person as a Key Employee or Primary Management Official.
- (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 407 Report to the NIGC

- (A) Before issuing a Gaming license to a Primary Management Official or Key Employee, the Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC. The notice of results must be submitted to the NIGC no later than sixty (60) days after the applicant begins working. The notice of results shall include all of the following:
 - (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;
 - (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 406 of this Ordinance.

Section 408 Granting an Individual Gaming License

- (A) The 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 407 of this Ordinance. The Commission must notify the NIGC of the issuance of a license to a Primary Management Official or Key Employee within thirty (30) days of issuance.
- (B) If, within the thirty (30) day period following NIGC's receipt of the notice of results required by Section 407 of this Ordinance, the Commission receives from the NIGC a statement of itemized objections to the issuance of a license to a Primary Management Official or Key Employee, the Commission must reconsider that application. The Commission must take into account the NIGC's objections; however, the Commission shall make the final decision whether to issue a license to that applicant for a Primary Management Official or Key Employee Gaming license.
- (C) If the Commission determines that a license previously issued to a Primary Management Official or Key Employee should be rescinded based upon NIGC objections, written notice and a hearing shall be provided to the licensee, as required by sections 412 and 413 of this Ordinance.

Section 409 Licenses for Gaming Vendors

- (A) The Commission shall promulgate CBC-approved regulations governing the tiered licensing of Gaming Vendors with no less than the following tiers:
 - (1) Gaming Vendors that provide goods or services valued at \$25,000 or more annually;
 - (2) Gaming Vendors that provide goods or services valued at less than \$25,000 annually.
- (B) The Commission shall promulgate CBC-approved regulations governing the registration, permitting, and waivers of Non-Gaming Vendors.
- (C) Such regulations shall set forth the process and the eligibility standards for the licensing and background investigation of Gaming Vendors that must be licensed and the process for the permit, registration, and waivers of vendors that do not need to be licensed.
- (D) The following types of vendors shall be exempt from the licensing and background investigation process:
 - (1) Tribal, local, state, or federal governments and associated agencies;
 - (2) Businesses and companies owned and/or chartered by the Nation;
 - (3) Sponsorships or charitable organizations;
 - (4) Public Utilities;
 - (5) Vendors that are regulated by a state or the federal government;
 - (6) Entertainment in the form of single event contracts;
 - (7) Restaurants and caterers;
 - (8) Insurance companies;
 - (9) Travel companies;
 - (10) Commercial transportation companies;
 - (11) Fleet service providers;
 - (12) Attorneys, accountants, and other professionals providing services covered by their respective professional license;

- (13) Vendors licensed by regulatory authorities recognized as trustworthy;
 - (14) Publishers of newspapers, magazines, journals, periodicals, and other print media for routine subscriptions, *provided* that licensure shall be required if the services of such publisher are secured to publish tickets, coupons, or other instruments that may be used or redeemed for value for gaming activities in the Nation's gaming facilities;
 - (15) Television, radio, and other media companies, unless such entity is to publish, provide, or distribute tickets, coupons, or other instruments that may be used or redeemed for value for gaming activities in the Nation's gaming facilities;
 - (16) Providers of training and/or educational services if such provider is affiliated with an educational institution, professional association, not-for-profit organizational institution, tribal, federal, or state agency, or other public institution;
 - (17) Federally- or state-chartered financial institutions;
 - (18) Providers of medical equipment, supplies, and/or services; and
 - (19) Any other vendor that provides goods or services of insubstantial or insignificant amounts or quantities and that shall not pose a threat to the public interest if they are not licensed.
- (E) The Commission shall promulgate CBC-approved regulations governing the tiered licensing of Gaming Vendors with no less than the following tiers:
- (1) Gaming Vendors that provide goods or services valued at \$25,000 or more annually;
 - (2) Gaming Vendors that provide goods or services valued at less than \$25,000 annually.
- (F) The Commission shall promulgate CBC-approved regulations governing the registration, permitting, and waivers of Non-Gaming Vendors.
- (G) Such regulations shall set forth the process and the eligibility standards for the licensing and background investigation of Gaming Vendors that must be licensed and the process for the permit, registration, and waivers of vendors that do not need to be licensed.
- (H) The following types of vendors shall be exempt from the licensing and background investigation process:
- (1) Tribal, local, state, or federal governments and associated agencies;
 - (2) Businesses and companies owned and/or chartered by the Nation;
 - (3) Sponsorships or charitable organizations;
 - (4) Public Utilities;
 - (5) Vendors that are regulated by a state or the federal government;
 - (6) Entertainment in the form of single event contracts;
 - (7) Restaurants and caterers;
 - (8) Insurance companies;
 - (9) Travel companies;
 - (10) Commercial transportation companies;
 - (11) Fleet service providers;
 - (12) Attorneys, accountants, and other professionals providing services covered by their respective professional license;
 - (13) Vendors licensed by regulatory authorities recognized as trustworthy;
 - (14) Publishers of newspapers, magazines, journals, periodicals, and other print media for routine subscriptions, *provided* that licensure shall be required if

the services of such publisher are secured to publish tickets, coupons, or other instruments that may be used or redeemed for value for gaming activities in the Nation's gaming facilities;

- (15) Television, radio, and other media companies, unless such entity is to publish, provide, or distribute tickets, coupons, or other instruments that may be used or redeemed for value for gaming activities in the Nation's gaming facilities;
- (16) Providers of training and/or educational services if such provider is affiliated with an educational institution, professional association, not-for-profit organizational institution, tribal, federal, or state agency, or other public institution;
- (17) Federally- or state-chartered financial institutions;
- (18) Providers of medical equipment, supplies, and/or services; and
- (19) Any other vendor that provides goods or services of insubstantial or insignificant amounts or quantities and that shall not pose a threat to the public interest if they are not licensed.

Section 410 Gaming Facility Licenses

- (A) The Commission shall issue a separate license to each Gaming Facility once every three (3) years.
- (B) The Commission shall specify the form, conditions, and content for the application for Gaming Facility licenses, which shall be submitted by CNE, and the initial application shall include:
 - (1) a legal description of the lands whereon the facility is located and a certification that said premises constitute Indian lands as specified in IGRA; and
 - (2) a provision identifying the environmental, health, and public safety standards with which the facility must comply, and a certification that the facility is in compliance therewith.
- (C) Each subsequent application for the renewal of a Gaming Facility license shall identify any changes or additions to said legal description and applicable environmental, health, and safety standards, and shall include current certifications of compliance therewith.
- (D) The Commission shall only issue a Gaming Facility license if the application includes the required information and certifications and such further conditions as specified in the applicable regulations.
- (E) The Nation or Commission shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Commission. This notice must be submitted at least 120 days before the opening of any new Gaming Facility.

Section 411 License Ineligibility

- (A) Any person or entity determined ineligible for a Gaming license shall be afforded the opportunity for a hearing, in accordance with applicable law and regulations.
- (B) If the Commission decides not to issue a Key Employee or Primary Management Official license to an applicant, the Commission shall:
 - (1) Notify the applicant of the basis for such denial;
 - (2) Notify CNE of such denial; and
 - (3) Notify the NIGC of the denial and 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 Records System after the expiration of any waived appeal process or after the conclusion of an unsuccessful appeal process.

Section 412 License Suspensions and Revocations

- (A) If, after a license is issued to a Primary Management Official or a Key Employee, the Commission receives notice from the NIGC that the Primary Management Official or Key Employee is not eligible for licensing and employment, the Commission shall:
 - (1) Immediately suspend the license;
 - (2) Provide written notice of the suspension and proposed revocation to the licensee;
 - (3) Provide written notice of the time and place for the hearing on the proposed revocation of the license to the licensee;and
 - (4) Notify the NIGC of the decision to revoke or reinstate a license within forty-five (45) days of receipt of notice from the NIGC that the person is not eligible for licensing and employment as a Primary Management Official or Key Employee.
- (B) If, after the issuance of any Gaming license, the Commission receives or discovers reliable information indicating that any licensed employee, official, or vendor may no longer meet the applicable eligibility standards to retain such license, the Commission shall immediately notify the licensee, in writing, of the suspension and proposed revocation of such license and shall notify the licensee of the right to a hearing, conducted in accordance with Section 413 of this Ordinance.
- (C) Following a revocation hearing, the Commission shall notify the NIGC of the 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.
- (D) The Commission may temporarily suspend a license without a hearing for up to fifteen (15) days in those cases where such extraordinary action is essential to protect the public safety or the integrity of Gaming and such action shall be taken only in those emergency cases where there is a clear need for these extraordinary measures. Such licensee shall be provided an opportunity for a hearing before an emergency suspension is extended.
- (E) A license suspension shall be effective only upon a specific order issued by the Commission to the licensee, the Tribal Court, and the employing Gaming Facility. A license shall not be suspended for more than sixty (60) days, and the Tribal Court must set a hearing on a suspension within fifty-three (53) days of the initial suspension.

Section 413 License Hearing

- (A) The Tribal Court shall set a hearing on a proposed suspension, revocation or conditional reinstatement of a license in accordance with regulations approved by the CBC and promulgated hereunder and notify the Commission, the licensee and CNE's designated agents for such notices, in writing, of the time and place for such

- hearing.
- (B) No more than seven (7) days after a licensing hearing, the Tribal Court shall issue a final written decision to revoke or to reinstate the license, with or without conditions, and shall forward such determination to the Commission, the licensee, the CNE, and the NIGC.
 - (C) The right to a revocation hearing vests only when a Gaming license is granted pursuant to this Ordinance, once the Ordinance has been approved by the NIGC.

Section 414 Retention of License Records

The Commission shall retain, for no less than three (3) years from the date of termination of employment, the following documentation for each Primary Management Official and Key Employee:

- (A) Application for licensing;
- (B) Investigative reports; and
- (C) Eligibility determination.

Sections 415 — 499 RESERVED

PART 500 ETHICS

Section 501 Standards for the CEO and Executive Director

The Nation recognizes that the duties of the CNE Directors, Gaming Commissioners, CNE CEO, and the Gaming Commission Executive Director include making important decisions on highly sensitive, pecuniary, and sometimes controversial issues, and as such, the Nation has determined that these individuals shall be held to extremely high ethical standards.

Section 502 Guiding Principles of Ethical Conduct

Prior to taking their positions as CNE Directors, Gaming Commissioners, CNE CEO, and the Gaming Commission Executive Director, each shall agree to be bound by the following principles:

- (A) None shall use or attempt to use, any actual or apparent authority of their position or office, which places or could reasonably be perceived as placing their financial interests, or the financial interests of a family member, or any other business interest with which they are associated, before the best interests of the Comanche Nation.
- (B) Each is operating with the paramount goal of carrying out the best interest of the Comanche Nation.
- (C) It is the intent of this Part, that each avoid any action, whether or not specifically prohibited herein, which could result in, or create an appearance of:
 - (1) Using their position or office for private gain;
 - (2) Giving improper preferential treatment to any person or business;
 - (3) Compromising the complete independence or impartiality of their actions;
 - (4) Making a decision outside of the scope of his or her official duties and capacity that interferes with, as a Gaming Commissioner or Executive Director, the conduct of Gaming, or as a CNE Director or the CEO, the actions of the Commission; or

- (5) Adversely affecting the confidence of the Comanche Nation members in the integrity of Gaming or the Commission.
- (D) None shall use or disclose Confidential Information gained in the course of, or by reason of, their official position or duties to unauthorized persons or entities, or to further the financial interest or personal interest of any entity or person other than the Nation.
- (E) Each desiring to take employment under the supervision of the other entity must resign their position prior to applying for such employment.
- (F) None may serve in an operational or policymaking capacity with a tribal Gaming organization of another tribe.

Section 503 Prohibited Complimentary Items

- (A) The use of complimentary items shall be governed by regulations approved by the CBC and promulgated by the Commission.
- (B) No Key Employee, Primary Management Official, CBC member, Director, CEO, Commissioner, Executive Director, Gaming Commission employee, or any person directly related to or sharing a residence with such persons, shall accept complimentary items except those that are:
 - (1) Valued at twenty-five dollars (\$25) or less;
 - (2) Offered to the general public at a public event;
 - (3) Ceremonial gifts; or
 - (4) Traditionally or customarily offered by the Nation to such officials.

Section 504 Gambling Prohibited

The CNE Directors, CNE CEO, Gaming Commissioners, Gaming Commission Executive Director, and those employees of CNE and the Gaming Commission that hold licenses for all Gaming Facilities are prohibited from gambling in any of the Nation's Gaming Facilities. Gaming Facility employees may gamble in the Nation's Gaming Facilities at which they are not directly employed or for which they do not hold a license.

Section 505 Additional Requirements

The CNE Directors, CNE CEO, Gaming Commissioners, Gaming Commission Executive Director, and employees of CNE and the Gaming Commission shall abide by all applicable tribal laws, ordinances, resolutions, and codes governing ethical standards for gaming.

Section 506 Consequences of Ethical Violations

Violations of this Part shall constitute just cause for removal of CNE Directors, the CNE CEO, Gaming Commissioners, or Gaming Commission Executive Director or adverse action against an employee.

Section 507 - 599 RESERVED



**RESOLUTION TO APPROVE COMANCHE NATION GAMING ORDINANCE
("ORDINANCE") CHANGE TO SECTION 207 (K) AND REMOVE SECTION 306 (F)
TO REMOVE THE ADJUDICATION OF PATRON TORT AND PRIZE CLAIMS
FROM THE COMANCHE NATION GAMING COMMISSION TO THE COMANCHE
TRIBAL COURT, AND DIRECTING SUBMISSION TO THE NATIONAL INDIAN
GAMING COMMISSION ("NIGC") FOR APPROVAL PURSUANT TO THE INDIAN
GAMING REGULATORY ACT ("IGRA")**

WHEREAS, the Comanche Nation is a federally recognized Indian Tribe with a Constitution approved by the Secretary of the Interior on January 9, 1967 to safeguard tribal rights, powers, and privileges to improve the economic, moral, educational, and health status of its members; and

WHEREAS, the Comanche Constitution, Article 6, Section 7, establishes the Comanche Business Committee as the duly elected official body designated to conduct business for and on behalf of the Comanche Nation in legal quorum; and

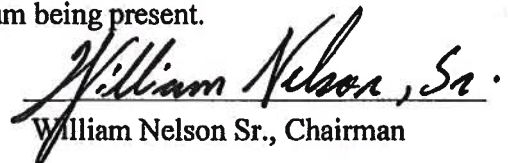
WHEREAS, the Comanche Business Committee desires to change Section 207 (K) and eliminate Section 306 (F) to remove the adjudication of patron tort and prize claims from the Comanche Nation Gaming Commission to the Comanche Tribal Court; and

NOW THEREFORE BE IT RESOLVED, the Comanche Business Committee, hereby changes Section 207 (K) and eliminates Section 306 (F) to remove the adjudication of patron tort and prize claims from the Comanche Nation Gaming Commission to the Comanche Tribal Court; and

BE IT FURTHER RESOLVED, that the Chairman can submit the amended Ordinance to the NIGC for approval.

CERTIFICATION

The foregoing resolution was adopted at a regular meeting of the Comanche Business Committee held on the 6th of July 2019, at the Comanche Tribal Complex, Lawton, Oklahoma, by a majority vote of 5 for, 0 against, and 0 abstaining, a quorum being present.


William Nelson Sr., Chairman

ATTEST:

Robert Tippeconne, Secretary/Treasurer

**COMANCHE NATION GAMING COMMISSION
TORT CLAIM REGULATIONS**

POLICY	CNGC TORT CLAIM REGULATIONS
NUMBER	CNGC-P-40-270
RESOLUTION	CN 024-16
EFFECTIVE DATE	March 19, 2016
SCOPE	Gaming Commissioner CNGC Employee Comanche Nation Entertainment Employee

The Comanche Nation

Tort Claim Regulations

The following Regulations are designed to meet the requirements of the gaming Compact(s) entered into by the State of Oklahoma and the Comanche Nation ("Nation") for Tort Claims consistent with the Compact's designation of authority with the Comanche Nation Gaming Commissioners ("Gaming Commission"). The Comanche Nation Gaming Commission promulgates these Tort Claim Regulations pursuant to its powers under Section 306 (F) of the Comanche Nation Gaming Ordinance of 2015.

PART 40-270.1

Section 40-270.1.2 Definitions

The following words and terms, when used in these Regulations, shall have the following meanings unless the context clearly indicates otherwise:

- (a) *Action* means any Tort Claim filed in the Tribal Court pursuant to these Regulations and Part 6, Section A, of the Tribal Gaming Compact.
- (b) *Authorized Representative* means any licensed attorney in good standing, who is authorized to act or settle a claim on claimant's behalf.
- (c) *Board of Directors* or *Board* means the Comanche Nation Entertainment Board of Directors, established by the Comanche Nation Business Committee (CBC), which oversees the management of the Nation's Gaming and Related Enterprises.
- (d) *Commission* or *Gaming Commissioners* means the Comanche Nation Gaming Commission, established by the Comanche Nation Business Committee (CBC), which oversees the regulation of the Nation's gaming and related enterprises.
- (e) *Compact* means the 2005 Tribal Gaming Compact between the Comanche Nation and the State of Oklahoma published in the Federal Register on January 27, 2005, 70 Fed. Reg. 3942.
- (f) *Covered Game* means any game played pursuant to the terms of Part 4 of the Compact.
- (g) *Deposition* means sworn and transcribed testimony under oath of a witness subject to examination by all

parties of interest.

- (h) *Executive Director* means the Executive Director of the Comanche Nation Gaming Commission or his/her designee.
- (i) *Gaming Facility* means any building of the Nation in which the Covered Games authorized by the Compact are conducted.
- (j) *Hearing Officer* means the person designated by the Gaming Commission to oversee, schedule and administrate over any tort claim hearing.
- (k) *Limit of Liability* means the maximum amount payable on a Tort Claim.
- (l) *Manager* means the highest level employee of a Gaming Facility.
- (m) *Nation* means the Great Comanche Nation of Oklahoma, a federally recognized Indian tribe and sovereign nation.
- (n) *Patron* means any person who is within or upon the premises of a Gaming Facility for the purpose of playing Games located therein.
- (o) *Respondent* means the Gaming Facility against which a Tort Claim is brought.
- (p) *Resolution Period* means the thirty (30) calendar day period beginning when a Tort Claim is filed, or any extension as provided in these Regulations.
- (q) *State* means the State of Oklahoma.
- (r) *Tort Claim* means any claim or Action brought by a Patron pursuant to these Regulations and Part 6, Section A, of the Compact.
- (s) *Tort Claimant* means a Patron making a Claim or Action pursuant to these Regulations.
- (t) *Tribal Court* means the federally administered court authorized to hear disputes arising within the Comanche Nation pursuant to 25 C.F.R. Pt. 11.

Section 40-270.1.3 Limited Waiver of Sovereign Immunity for Tort Claims

The Nation consents to suit against its licensed Gaming Facilities which operate Covered Games in the administrative review process authorized by these Regulations, and in the Tribal Court pursuant to these Regulations, and Part 6 of the Compact, provided that all requirements of these Regulations have been satisfied, and provided that such consent shall be subject to the following conditions and limitations:

- (a) Consent to suit is granted only to the extent that a Tort Claim or any award or judgment rendered thereon does not exceed the Limit of Liability. Under no circumstances shall any consent to suit be effective as to any award which exceeds such applicable amount.
- (b) This consent shall only extend to the Patron actually claiming to have been injured. A Tort Claim shall not be assignable. In the event any assignment of the Tort Claim is made, or any person other than the Patron claiming the injury becomes a party to any action hereunder, this consent shall be deemed revoked for all purposes.
- (c) Notwithstanding the foregoing, consent to suit shall not be revoked if an action on a Tort Claim is filed by:
 - (1) A court appointed representative of a claimant's estate;
 - (2) An indispensable party; or
 - (3) A health provider or other party subrogated to the Claimant's rights by virtue of any insurance policy.
- (d) Nothing herein is intended to, or shall constitute a consent to suit against the Gaming Facility as to such party except to the extent such party's claim is:
 - (1) In lieu of and identical to the claim that would have been made by the Claimant directly but for the appointment of said representative or indispensable party, and participation of such other party is in lieu of and not in addition to pursuit of the claim by the Patron, and
 - (2) The claim of such other party would have been subject to a consent to suit hereunder if it had been made by the Claimant directly.

Section 40-270.1.4 Jurisdiction

Any Patron may make a Tort Claim pursuant to these Regulations by filing a Notice of Tort Claim with the Gaming Commission. If a Tort Claim is filed, the Tort Claimant and Legal Representative must sign the Tort Claim Notice in order to be valid. The act of properly filing a Claim initiates a case and shall be deemed written consent to submit to the jurisdiction of the Comanche Nation without limitation of time or event by those signing the Claim. A Patron submits to the jurisdiction of the Nation when they enter onto the Nation's property.

Section 40-270.1.5 Tort Claim

- (a) A Tort Claim is authorized by these Regulations by the limited waiver of sovereign immunity of the Nation only if the same is made pursuant to procedures outlined in these Regulations. Any deviation from procedures outlined may result in dismissal with prejudice of a claim at the discretion of the Gaming Commission.
 - (1) No award shall be made in excess of insurance coverage.
 - (2) If the name of the Comanche tribal government appears in any pleading or application for Tort Claim, the same is grounds for dismissal without prejudice of the Tort Claim based upon the sovereign immunity of the Nation.
 - (3) A Tort Claim not filed within ninety (90) days of the occurrence date shall have the value of any determination reduced ten percent (10%).
- (b) A Tort Claim must be filed within one (1) year of occurrence. Failure to file within such time shall forever bar such Tort Claim.
- (c) Any Tort Claim filed with the Gaming Commission shall be reviewed and a determination issued by the Gaming Commission or Hearing Officer within ninety (90) days of filing unless time is waived by the Tort Claimant by written request.
- (d) A Claimant may waive time for resolution in ninety (90) day increments by written application to the Hearing Officer. No limit shall exist on the number of time extensions which the Tort Claimant may request.
- (e) The Gaming Facility Management has a continuing duty to resolve a Tort Claim with a Patron occurring within a Gaming Facility under the Compact and these Regulations. Nothing herein prevents Comanche Nation Entertainment from developing policies and procedures for purposes of settlement of Claim. However, the only Tort Claim form which will be considered by the Hearing Officer is a Tort Claim form made in substantial compliance with the form identified herein.
- (f) If a claim is settled prior to a determination by the Hearing Officer, the parties shall promptly provide the Hearing Officer with notification of Settlement.

Section 40-270.1.6 Tort Claim Form

- (a) The Tort Claim Notice form and these Regulations shall be made available at each Gaming Facility in brochure form for Patron review.
- (b) Gaming Facility employees are required to provide a Tort Claim form to any individual who requests a form.
- (c) A Tort Claim shall be made by filing with the Gaming Commission a completed claim as required in this Section.

- (d) Claims received by employees of any Gaming Facility shall be forwarded via email to the Gaming Commission within twenty-four (24) hours of receipt. A confirmation telephone call shall be made to a Compliance Gaming Agent Supervisor within twenty-four (24) hours of receipt.
- (e) Upon receipt of a Tort Claim Form, the Gaming Commission shall assign a number to each Claim with the first four (4) digits being the year the Tort Claim was filed followed by a hyphen and the three-digit number of the Tort Claim received during that calendar year. For example, the fifth Tort Claim of 2006, would be assigned the Claim Number: 2006-005.
- (f) The Claim Form shall substantially comply with the following form in this section.

John Doe (Tort Claimant)

V.

Case No: _____

_____ Gaming Facility
(Appropriate name if known and omit reference to Tribe)
near _____ (location)

Notice of Tort Claim

_____ Name of Tort Claimant
_____ Facility name or location where claim occurred.
_____ Date of claim ____ : ____ .M. time
_____ Address of Tort Claimant
_____ E-mail
_____ Telephone

Ambulance called (circle one) Yes No

Arrival of ambulance: ____ : ____ .M. time

Describe circumstances of the incident upon which claim is based (Use additional pages if necessary):

Describe how Facility is at fault (Use additional pages if necessary):

Names and addresses of persons known to have witnessed or have information regarding the incident including employees of Facility and others (Use additional pages if necessary):

Was injury reported to management? (Circle one): Yes No
Was supporting documentation of the injury supplied? (Circle one): Yes No

Compensation Claimed

The Burden of Proof regarding the Compensation Claimed lies with the Claimant and must be provided to support the Claim.

Basis of claim:

Amount claimed for pain \$ _____ Amount claimed for medical \$ _____

Amount claimed for other \$ _____

Explain other: _____

Total settlement request: \$ _____

The undersigned consents to the jurisdiction of the hearing tribunals of the Comanche Nation by entering onto the Nation's property and by filing this claim without regard to time or event. The undersigned swears and affirms this Claim is made in good faith and acknowledges, pursuant to 18 U.S.C. §1167 and other provisions of the federal criminal code, that false Claims may be prosecuted by the federal government and/or Nation.

The undersigned is advised that this Claim is subject to a ninety (90) days review process. The review deadline allows for little or no consideration of Tort Claimant's schedule in the hearing of this matter. Upon request of the Tort Claimant the review process may be extended to one hundred eighty (180) days. Does Tort Claimant request a one hundred eighty day (180) review process? (Circle One) Yes No

This Claim is made under oath, must be notarized, and falsification of any part thereof is subject to criminal prosecution for perjury.

(Signature)

(Date)

Legal Counsel or Representative (if applicable any):

Attorney/Representative Name

CBA# (if applicable)

Address

Phone Number

City/State/Zip Code

Fax Number

Email Address: _____

Name, address, telephone number and e-mail address of Representative authorized to settle claim is:

GAMING COMMISSION USE

(CNGC Staff Receiving)

(Date/Time received) (Claim Number)

Section 40-270.1.7 Determination Hearing Process

- (a) Prior to any judicial proceedings, the Patron shall exhaust administrative remedies through the Determination Hearing process administered by Gaming Commission.
- (b) At the conclusion of the Determination Hearing, the Tort Claimant, Insurer and/or Gaming Facility, and any other party may submit Proposed Findings of Fact and Conclusions of Law for consideration by the Hearing Officer. Nothing herein prevents joint submission of all or a part of such requirements.
- (c) Determinations under these Regulations may be made only by the Hearing Officer and shall be exclusively satisfied only by the Insurer within thirty (30), or such time as approved by the Hearing Officer if dealing with a third 3rd party, of a final un-appealed Determination.
- (d) Should the Respondent fail to pay a Determination within the time allowed the Gaming Commission may file a cause of action in Tribal Court for the Tort Claimant to obtain a court order and/or judgment against Respondent for payment of Determination.
- (e) Tort Claimant shall notify the Gaming Commission within (5) business days of any changes in address and/or contact information.
- (f) Tort Claimant's appearance for hearings and depositions shall be at a time and location of Gaming Commission's choosing.
 - (1) Continuances shall be allowed if requested by the Tort Claimant only if the Resolution period is extended;
 - (2) Tort Claimant's failure to appear shall be deemed a voluntary withdrawal and dismissal of the Tort Claim five (5) days after failure to appear. However, a Tort Claimant may have a continuance granted from such failure to appear should:
 - (A) The Tort Claimant files a written request to excuse the failure to appear within five (5) days of the failure to appear, and such request is granted by the Hearing Officer; and
 - (B) The Tort Claimant files a request for an extension of the resolution period, and such request is granted by the Hearing Officer; and
 - (C) The Tort Claimant pays the costs associated with each party and Gaming Commission's expenses associated with hearing or deposition appearance and preparation;
 - (3) The Hearing Officer shall grant such requests liberally unless the request overwhelming lacks merit. All costs must be paid within ten (10) days of assessment to the Gaming Commission.

Section 40-270.3.06 Deposition

Claimant deposition required

As a condition of prosecuting a Tort Claim, the Claimant shall appear to be deposed at least once, unless the matter is settled prior to the deposition, which shall include the attendance of the claimant's legal counsel if requested; provided that the Gaming Commission shall afford claimant at least ten (10) days' written notice of the deposition; and provided further that the claimant's failure to appear without cause for any deposition properly noticed pursuant to this Section shall be deemed a voluntary withdrawal and dismissal of the Tort Claim, subject to the provisions of 40-270.1.7.

Section 40-270.3.07 Early Settlement Conference

- (a) After the transcription of the Tort Claimant's deposition is received, an early settlement conference and scheduling conference shall be set by the Hearing Officer. The parties shall endeavor to resolve the Claim at such time. Failing resolution, a scheduling order shall be entered by the Hearing Officer in substantial compliance with the following form in this section.
- (b) The form may be amended at any time by the parties with the approval of the Hearing Officer.
- (c) Should the parties acknowledge that the early settlement conference is not needed; all parties may avoid a hearing by joint submission of the scheduling order form in this section.

_____ (Tort Claimant))
)
 V.) Case No.: _____
)
 _____ (Facility Name), near)
 _____ called _____)

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Section 40-270.3.08 Mediation

- (a) Mediation may be ordered by the Hearing Officer prior to a Determination Hearing and all terms of the Mediation will be agreed upon at that time. The Mediation Order shall be in substantial compliance with the following form in this section.
- (b) The noted form in this section may be amended by the parties with the approval of the Hearing Officer.
- (c) The parties may, by agreement, select the mediator, an independent 3rd party. In the absence of agreement by the parties, the Hearing Officer shall appoint a qualified person to act as mediator. The mediator must be licensed to practice law in Tribal Court located in Anadarko, Oklahoma. Mediation may be ordered by the Hearing Officer with at least ten (10) days' notice to the parties.
- (d) The mediation shall take place on Nation owned property. The parties may petition for just cause to hold the mediation off Nation owned property and/or outside the jurisdictional boundaries of the Nation, provided, there is joint agreement of the parties and approval of the Hearing Officer. However, the location of the mediation, shall not, in any way, affect the jurisdiction or venue as set forth in these Regulations.
- (e) If the matter is resolved at mediation, all parties shall sign the mediation agreement and the Hearing Officer shall enter an order dismissing the Claim with prejudice and noting that the Claim was resolved. The signing of a mediation statement or settlement agreement shall be executed within the Nation's jurisdiction. Failure to appear for mediation without just cause or without a motion for continuance being granted by the Hearing Officer may be treated as failure to appear for Hearing.
- (f) Should mediation fail to result in settlement, the mediator shall draft a report in accordance with the Mediation Order and deliver the same to the Gaming Commission.
- (g) The parties may file a joint request to extend the resolution period and continue the Determination Hearing which shall be granted if such motion is based on further mediation, and all parties agree in writing.

_____ (Tort Claimant))
)
 V.) Case No.: _____
)
)
 _____ (Facility Name), near)
 called)

Now on this ____ day of _____, 20__ the undersigned Hearing Officer, pursuant to Tort Claim Regulations, orders the above case be addressed by mediation with report to the Hearing Officer to be given by the mediator within twenty (20) days of mediation conclusion:

1. Brief summary of facts given mediator.
2. Whether contributory negligence is a factor or consideration in mediator review. The level of participation of each counsel and client in mediation. The reasonableness of each party in considering resolution.
3. Mediator's evaluation of possible and proper settlement of issues (valuation).
4. Mediator's determination of whether parties were properly prepared and how the preparation affected outcome.
5. Other opinions or statements the mediator believes would be useful to the Determination of the claim.

IT IS THEREFORE ORDERED That the parties appear for mediation before:

Approved by:

Hearing Officer

Section 40-270-.3.09 Reporter

- (a) The Gaming Commission shall provide a certified court reporter for all depositions and hearings as required by the Hearing Officer.
- (b) The Gaming Commission shall pay for the deposition of the Tort Claimant and the presence of the reporter at all hearings. Hearing transcript expense shall be paid by the party requesting a copy of the hearing transcript at \$5.00 per page. Any party requesting a deposition shall pay for all costs and copies associated with such deposition.

Section 40-270.4.1 Discovery

- (a) The parties shall cooperate in discovery in the following manner:
 - (1) The Gaming Facility shall provide to all parties a copy of all surveillance reports, management reports, security reports and witness statements possessed by Gaming Facility and/or employees or management pertaining to the filed Tort Claim upon completion of the Tort Claimant's deposition. Other information may be requested from the Gaming Facility by a motion upon a showing of relevance, provided the same is not subject to any attorney-client privilege or an overriding interest of the Nation as determined by the Hearing Officer. All proprietary information shall be redacted.
 - (2) The parties may have written discovery as well as written depositions, including, but not limited to, the following:
 - (A) Motion to continue scheduling order;
 - (B) Motion to compel discovery;
 - (C) Motion to limit discovery;
 - (D) Motion for confidentiality order;
 - (E) Motion to continue;
 - (F) Motion in limine; and
 - (G) Motion to dismiss.
 - (3) At the request of a party, subpoenas for deposition or testimony at the determination hearing shall be issued by the Hearing Officer to any person or entity licensed by the Gaming Commission. The party requesting the subpoena shall be responsible to provide a subpoena form to the Hearing Officer for filing and issuance. The party requesting the subpoena shall pay any fees for service of the subpoena. The party issuing the subpoena shall be responsible to provide the Hearing Officer with the address for service of such subpoena.

Section 40-270.4.2 Presentation of Evidence at Hearing

- (a) Oral evidence shall be taken only upon oath or affirmation.
- (b) Parties to an administrative hearing shall have the following rights:
 - (1) To call and examine witnesses;
 - (2) To introduce exhibits relevant to the issues of the case, including the transcript of testimony made by a witness or party to the case;
 - (3) To cross-examine opposing witnesses in any matters relevant to the issue of the case;
 - (4) To impeach any witness; and
 - (5) To offer rebuttal evidence.
- (c) Any person who is a party to the hearing and chooses not to testify on his/her own behalf may be compelled to testify.
- (d) Presentation of deposition testimony may be by submission for later review by the Hearing Officer.

Section 40-270-4.3 Admissibility of Evidence

- (a) All relevant evidence is admissible.
- (b) The parties or their counsel may by oral or written stipulation agree that certain evidence be admitted even though such evidence might otherwise be subject to objection.
- (c) Irrelevant and unduly repetitious evidence should not be admitted, subject to the discretion of the Hearing Officer.
- (d) The Hearing Officer shall note objections, to information deemed privileged, made by the parties on evidentiary matters and determine admissibility at any time prior to a Determination.
- (e) Nothing herein shall prevent the admissibility of records kept in the normal course of business by the Gaming Facility or the records produced by a Gaming Facility pursuant to these Regulations from being summarily admitted at any hearing.

Section 40-270.4.5 Depositions of Those Not Claimants

The testimony of any material witness, regardless of where the witness is domiciled, may be taken by deposition in the manner provided by law and may be used at the hearing. For depositions occurring outside the Comanche Tribal Jurisdiction the parties must agree in writing and have written approval of the Hearing Officer. Deposition costs shall be paid by the party calling the deposition.

Section 40-270.4.6 Official Notice

The Hearing Officer may take official notice of any generally accepted information or technical or scientific matter and of any other fact which may be judicially noticed by the Tribal Courts. The parties must be informed of any information, matters or facts so noticed and upon request, must be given a reasonable opportunity to refute such information, matters or facts by evidence or by written or oral presentation of authorities. The manner of such refutation shall be determined by the Hearing Officer. The Hearing Officer may, in his/her discretion, before rendering Determination, permit the filing of amended or supplemental information and shall notify all parties thereof and provide a reasonable opportunity for objections or rebuttal thereto.

Section 40-270.4.7 Continuances

Continuances are within the sole discretion of the Hearing Officer and may be granted upon a showing of good cause by the party requesting the continuance, and may be granted upon a joint written motion by the parties upon a showing of good cause.

Section 40-270.4.8 Communications with the Hearing Officer

- (a) Unless required for the disposition of ex parte matters, as allowed by law:
 - (1) Neither a party nor his/her representative shall communicate, directly or indirectly, with the Hearing Officer regarding any matter related to the hearing, except upon notice and opportunity to all parties to participate.
 - (2) The Hearing Officer shall not communicate, directly or indirectly, with any party or his/her representative regarding any matter related to the hearing, except upon notice and opportunity to all parties to participate.
- (b) This section does not preclude a party or his/her counsel from conferring with the Gaming Commission Staff or the Gaming Commission's counsel on procedural matters.

Section 40-270.5.1 Third Party Practice

- (a) In the event that a third party requests to intervene in any pending Administrative proceeding, the Hearing Officer shall rule on whether or not to allow the intervention. Should a third party intervener be allowed to enter the Administrative proceeding, their intervention shall be deemed consent to the jurisdiction of the Nation without limit to time or event. The third party may be represented by Legal Counsel as provided for in these Regulations.
- (b) Any licensed vendor of the Nation may be joined by the Respondent in an action before the Gaming Commission upon proper pleading.

Section 40-270.5.2 Default

The unexcused failure of a party to appear at the hearing shall constitute a default and an admission of any facts that may have been alleged by the opposing party. The Hearing Officer may take action based on such default or admission or on any other evidence without further notice to the defaulting party. If the Hearing Officer takes action based on an admission, the record must include the evidence upon which the action is based.

Section 40-270.5.3 Sanctions

If any party or Legal Counsel fails to reasonably comply with any provision of these Regulations, tribal law, or any order entered by the Hearing Officer regarding any matter, including discovery, then the Hearing Officer may, upon motion or upon his own initiative, impose appropriate sanctions upon such party or Legal Counsel, or both.

Section 40-270.5.4 Insurer

- (a) No Insurer of a Nation Gaming Facility may invoke the sovereign immunity of the Nation to avoid the responsibility for payment of any Tort Claim or payment of Determination of a Hearing Officer under these Regulations.
 - (1) Every Gaming Facility policy of liability insurance shall include an endorsement providing that the Insurer shall not invoke sovereign immunity of the Nation in connection with any Claim made to the extent the Nation is covered by insurance and shall comply with the terms of any Compact and these Regulations.
 - (2) Any entity providing liability insurance coverage for personal injury and property damage claims to a Gaming Facility shall, in writing, submit to the jurisdiction of the Nation, together with the endorsement required in the preceding paragraph.
- (b) The Insurer shall provide to the Gaming Commission an address for service of Notice and keep the same current at all times.
 - (1) The licensed Insurer shall, at all times, maintain a person or claims adjustment entity to immediately address Tort Claims. Such person's name and location information shall be printed or written on Claim forms in compliance with Compact.
 - (2) The Insurer may identify, in writing, Legal Counsel to represent the Insurer in claims before the Gaming Commission. The Gaming Commission may thereafter provide the Insurer's copies of Tort Claims to such Legal Counsel.
- (c) Gaming Facilities shall maintain liability limits of: (1) not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) for any one (1) person; (2) Two Million Dollars (\$2,000,000.00) for any one (1)

occurrence for personal injury; (3) and One Million Dollars (\$1,000,000.00) for any one (1) occurrence for property damage; or the corresponding limits under a Governmental Tort Claims Act of Nation, whichever is greater.

- (d) The Insurer shall provide prompt Tort Claim review and be responsible to meet the requirements of these Regulations.
- (e) Failure of the Insurer to address the Insurer's obligations stated herein may result not only in judgment against the Insurer for Tort Claims, but also in fines and sanctions against the Insurer. Failure to pay or appeal a Determination within time allowed by these Regulations is grounds for sanction and judgment as provided for herein, as well as, an award for attorney fees and costs for any action pursued by the Gaming Commission or Nation against the Insurer.

Section 40-270.5.5 Legal Counsel

- (a) A Tort Claimant, Insurer, Gaming Facility, or any other party may have representation by Legal Counsel licensed to practice law. Legal Counsel for the Tort Claimant shall sign the Tort Claim Form if said Legal Counsel assisted in the preparation of the form and shall promptly file a separate Entry of Appearance with the Office of the Hearing Officer.
- (b) A person who files an Entry of Appearance as Legal Counsel for any party shall be deemed to have consented to the jurisdiction of the Nation.
- (c) Attorney fees for Tort Claim representation shall not exceed thirty percent (30%) of the first Twenty-Five Thousand Dollars (\$25,000.00) of the amount of settlement or Determination awarded a Tort Claimant and twenty percent (20%) of any amount of settlement or Determination that exceeds Twenty-Five Thousand Dollars (\$25,000.00).
- (d) No provision for the withdrawal of Legal Counsel from a pending Tort Claim is contained within these Regulations. Substitution of Legal Counsel will be allowed.
- (e) Additional Legal Counsel may be added by any party provided an Entry of Appearance is filed with the Gaming Commission and notice is given to the opposing Party or Legal Counsel (if applicable).

Section 40-270.5.6 Punitive Damages

Punitive damages shall not be available in any proceeding before the Gaming Commission. Any application for punitive damages shall be summarily dismissed by the Hearing Officer.

Section 40-270.5.7 Decision of the Hearing Officer

- (a) After the hearing, the Hearing Officer shall render a written Determination on the merits. Nothing herein shall be construed to prevent Hearing Officer from reviewing the hearing transcript before Determination.
- (b) A copy of the Determination shall be mailed by certified mail to each party.

Section 40-270.5.8 Reproduction Costs

In the event a party appeals a Determination of the Hearing Officer, the appealing party shall reimburse the Gaming Commission for all reproduction costs associated with making a certified record for judicial review. Said costs shall be paid to the Gaming Commission before the hearing record will be certified by the Hearing Officer and released to the appealing party.

Section 40-270.5.9 Civil Action in Tribal Court

- (a) A judicial proceeding for any cause arising from a Tort Claim may be maintained by the parties in accordance with and subject to these Procedures, only if the following requirements have been met:
 - (1) The Parties has followed all administrative procedures required by these Procedures;
 - (2) The Hearing Officer has made a Determination of the Tort Claim; and
 - (3) The Appealing Party has filed a Notice to Appeal with the Gaming Commission within thirty (30) days of the certified mailing date of the Determination Order of the Tort Claim and that the Appealing Party has perfected an appeal to the Tribal Court within one hundred eighty (180) days of the Determination Order date of the Hearing Officer. Neither the Claimant nor the Facility may agree to extend the time to commence a judicial proceeding.
 - (4) Any Tribal Court review of hearings described in this Title shall be limited to a review of the official record of the hearing as heard by the Hearing Officer, and no additional discovery shall be allowed in an appeal to the Tribal Court.
 - (5) Filing of a civil action shall suspend payment of any Determination made by the Hearing Officer. Prior acceptance of a Determination payment shall be grounds for summary dismissal with prejudice.



COMANCHE NATION GAMING COMMISSION
PRIZE CLAIM REGULATIONS

POLICY	CNGC PRIZE CLAIM REGULATIONS
NUMBER	CNGC-P-40-260
RESOLUTION	CNGC 32-2015 CN 024-16
EFFECTIVE DATE	CNGC November 17, 2015 CN March 19, 2016
SCOPE	Gaming Commissioner CNGC Employee Comanche Nation Entertainment Employee Patrons

The Comanche Nation

Prize Claim Regulations

The following Regulations are designed to meet the requirements of the gaming Compact(s) entered into by the State of Oklahoma and the Comanche Nation ("Nation") for Prize Claims consistent with the Compact's designation of authority with the Comanche Nation Gaming Commissioner ("Gaming Commission"). The Comanche Nation Gaming Commission promulgates these Prize Claim Regulations pursuant to its powers under Section 306 (F) of the Comanche Nation Gaming Ordinance of 2015.

PART 40-260.01

Section 40-260.1.02 Definitions

The following words and terms, when used in these Regulations, shall have the following meanings unless the context clearly indicates otherwise:

- (a) *Action* means any Prize Claim filed with the Gaming Commission pursuant to these Procedures and Part 6, Section B, of the Compact.
- (b) *Authorized Representative* means any licensed attorney in good standing, who is authorized to act or settle a claim on the claimant's behalf.
- (c) *Board of Directors* or *Board* means the Comanche Nation Entertainment Board of Directors, established by the Comanche Nation Business Committee (CBC), which oversees the management of the Nation's Gaming and Related Enterprises.
- (d) *Commission* or *Gaming Commissioners* means the Comanche Nation Gaming Commission, established by the Comanche Nation Business Committee (CBC), which oversees the regulation of the Nation's gaming and related enterprises.
- (e) *Compact* means the 2005 Tribal Gaming Compact between the Comanche Nation and the State of Oklahoma published in the Federal Register on January 27, 2005, 70 Fed. Reg. 3942.

- (f) *Covered Game* means any game played pursuant to the terms of Part 4 of the Compact.
- (g) *Deposition* means sworn and transcribed testimony under oath of a witness subject to examination by all parties of interest.
- (h) *Executive Director* means the Executive Director of the Comanche Nation Gaming Commission or his/her designee.
- (i) *Gaming Facility* means any building of the Nation in which the Covered Games authorized by the Compact are conducted.
- (j) *Hearing Officer* means the person designated by the Gaming Commission to oversee, schedule and administrate over any prize claim hearing.
- (k) *Manager* means the highest level employee of a Facility.
- (l) *Nation* means the Comanche Nation of Oklahoma, a federally recognized Indian tribe and sovereign nation.
- (m) *Patron* means any person who is within or upon the premises of a Gaming Facility for the purpose of playing Covered Games located therein.
- (n) *Prize Claim* means any claim or Action brought by a Patron pursuant to these Regulations and Part 6, Section B, of the Compact.
- (o) *Prize Claimant* means a Patron making a Claim or Action pursuant to these Regulations.
- (p) *Prize Limit* means the maximum amount payable on a Prize Claim.
- (q) *Resolution Period* means the thirty (30) calendar day period beginning when a Prize Claim is filed, or any extension as provided in these Regulations.
- (r) *Respondent* means the Gaming Facility against which a Prize Claim is brought.
- (s) *State* means the State of Oklahoma.

Section 40-260.1.03 Jurisdiction

Any Patron may make a Prize Claim pursuant to these Regulations by filing a Notice of Prize Claim with the Gaming Commission. If a Patron's Legal Counsel files a Prize Claim, the Prize Claimant must have also signed the Prize Claim Notice in order to be valid. The act of properly filing a Claim initiates a case and shall be deemed written consent to all civil and criminal laws of the Nation without limitation of time or event by both those signing the Claim. A Patron submits to the jurisdiction of the Nation when they enter onto the Nation's property.

Section 40-260.1.04 Prize Claim

- (a) A Prize Claim filed against a Gaming Facility location is authorized by these Regulations by the limited waiver of sovereign immunity by Comanche Nation Entertainment only if the claim is made pursuant to procedures outlined in these Regulations. Any deviation from procedures outlined herein may result in dismissal without prejudice of a claim at the discretion of the Hearing Officer.
 - (1) No award shall be made in excess of the Prize Limit.
 - (2) If the name of the Comanche tribal government appears in any pleading or application for Prize Claim, the same is grounds for dismissal without prejudice of the Prize Claim based upon the sovereign immunity of the Nation.
- (b) A Prize Claim Notice shall be filed within ten (10) calendar days from the date the Claim occurred. The official date of the Prize Claim Notice shall be the date of filling with the CNGC or Gaming Facility. Failure to file the Prize Claim Notice within the ten (10) calendar days shall bar the prize claim and any subsequent filing of such Prize Claim shall be summarily dismissed.
- (c) Prize Claims filed shall be reviewed and a decision made by the Comanche Nation Gaming Commission

within thirty (30) calendar days of filing unless time is waived by the Prize Claimant and the Gaming Facility by written request.

- (d) Each time a waiver is given, the time for resolution shall only be extended thirty (30) calendar days. No limit shall exist on the number of time extensions the parties may request.
- (e) The Gaming Facility Management has a continuing duty to resolve a Prize Claim with a Patron occurring within a Gaming Facility under the Compact and these Regulations. Nothing herein prevents Comanche Nation Entertainment from developing policies and procedures for purposes of settling Prize Claims. However, the only Prize Claim form which will be considered by the Hearing Officer is a Prize Claim form made in substantial compliance to the form identified below.
- (f) If a Prize Claim is settled prior to a determination by the Hearing Officer, the parties shall provide the Hearing Officer with notification of Settlement, and said Prize Claim shall be dismissed.

Section 40-260.1.05 Prize Claim Form

- (a) The Prize Claim Notice forms and these Regulations shall be made available at each Gaming Facility in brochure form for Patrons to review.
- (b) Gaming Facility employees are required to provide a Prize Claim form to any individual requesting such.
- (c) A Prize Claim filing shall be made by a person having a claim and/or their Authorized Representative by filing the following form with the Gaming Commission or Gaming Facility.
- (d) Prize Claim Notices received by a Gaming Facility shall be forwarded via email to the Gaming Commission within twenty-four (24) hours of receipt. A confirmation telephone call shall be made to a Compliance Gaming Agent Supervisor within twenty-four (24) hours of receipt. Said notices to the Gaming Commission shall fulfill the Gaming Facility's notification obligations.
- (e) Upon receipt, the Gaming Commission shall assign a number to each Prize Claim with the first four (4) digits being the year the Prize Claim was filed followed by a hyphen, followed by the letter "P", followed by a hyphen and the three-digit number of the Prize Claim received during that calendar year. For example, the fifth Prize Claim of 2015, would be assigned the Claim Number: 2015-P-005.
- (f) The Prize Claim Form shall be in substantial compliance with the following:

Case No:

Section 260.1.06 Notices

- (a) Within twenty-four (24) hours after receiving the filing of a Prize Claim, the Gaming Commission shall forward a copy of the same to the Board and State of Oklahoma agency responsible for Compact duties.
- (b) The Prize Claimant and the Gaming Facility shall be provided with imaging reports specific to the Prize Claim Notice, security reports, surveillance reports and gaming facility reports to assist in prompt claim review. All proprietary information shall be redacted.
- (c) Any employee of the Gaming Facility with valid gaming license may appear at the Determination Hearing and represent the Gaming Facility. Within ten (10) calendar days after Notice of any filing herein, the Gaming Facility shall file an Entry of Appearance identifying the Gaming Facility employee responsible for the Gaming Facility duties identified, or in the alternative, have Legal Counsel enter appearance for the Gaming Facility.
- (d) Within seventy-two (72) hours of the filing of a Claim the Gaming Facility shall deliver to the Office of the Hearing Officer a summary identifying contact efforts, Claim evaluation, and proposed Claim award, if contested.
 - (1) If applicable, the Gaming Commission shall notify the appropriate state agency if no Prize Claim resolution is made within seventy-two (72) hours.
 - (2) If necessary, a representative of a Game Vendor possessing a Gaming License or an attorney licensed to practice may appear on behalf of the Game Vendor at any proceeding herein and receive Notices for the Game Vendor.
- (e) A copy of these Regulations shall be sent by certified mail, e-mailed and/or faxed to the Prize Claimant, Gaming Facility and Gaming Vendor (if applicable) within 5 days of the official filing date.

Section 40-260.1.07 Scheduling Order

- (a) Within ten (10) calendar days of receiving a Prize Claim, the Gaming Commission shall issue the following Notice and Scheduling Order to the Prize Claimant, Gaming Facility and, if necessary, the Gaming Vendor:

_____ (Tort Claimant))
)
 V.) Case No.: _____
)
 _____ (Facility Name), near)
 _____ called _____)

1. Response of Insurer and/or Comanche Nation Entertainment
2. Early Settlement Conference or mediator selected (if applicable)
3. Written Discovery Completion
4. Depositions, if ordered, Mediator Selected
5. Pre-Determination Summaries
6. Mediation
7. Suggested Findings of Fact and Conclusions of Law submitted
8. Determination

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- (b) The Hearing Officer may amend the Notice and scheduling order for good cause or upon application by the Prize Claimant, Gaming Facility or Gaming Vendor, if applicable any. Request for amendment of the scheduling order by the Prize Claimant shall require the Prize Claimant to file written request for extension of time for resolution.
- (c) Prize Claim Notice and Scheduling Order shall be sent by certified mail, e-mail and/or facsimile, if available, to Prize Claimant, Gaming Facility and Gaming Vendor, if applicable.

Section 40-260.1.08 Deposition

- (a) The Gaming Commission shall provide a certified court reporter for all depositions and hearings as required by the Hearing Officer.
- (b) The Gaming Commission shall pay for the deposition of the Prize Claimant and the presence of the reporter at all hearings. Hearing transcript expense shall be paid by the Gaming Commission, any party requesting a hard copy of the hearing transcript shall pay \$5.00 per page. Any party requesting a deposition shall pay for all costs and copies (\$5.00 per page) associated with such deposition.
- (c) The testimony of any material witness, regardless of where the witness is domiciled, may be taken by deposition and may be used at the hearing. Depositions occurring outside the Comanche Tribal Jurisdiction must be agreed in writing by the parties and have the written approval of the Hearing Officer.

Section 40-260.1.09 Determination Hearing Process

- (a) At the conclusion of the Determination Hearing, the Prize Claimant, Gaming Facility and Game Vendor, if applicable, shall submit Proposed Findings of Fact and Conclusions of Law for consideration of the Hearing Officer in making the Determination. Nothing herein prevents joint submission of all or a part of said Proposed Findings of Fact or Conclusions of Law. The Hearing Officer shall prepare the Determination Order.
- (b) Determinations under these Regulations may be made only by the Hearing Officer and shall be exclusively satisfied by the Gaming Facility and/or Gaming Vendor, if applicable within fifteen (15) calendar days of a Determination.
- (c) Should the Gaming Facility or Gaming vendor, if applicable, fails to pay such a determination within the time allowed, the Hearing Officer shall notify the Gaming Commission for potential gaming license suspension or revocation action.
- (d) Failure of a Prize Claimant to appear for Determination Hearing may be excused in the same manner as provided for failure to appear for Deposition.

Section 40-260.1.10 Presentation of Evidence at Hearing

- (a) Oral evidence shall be taken only upon oath or affirmation.
- (b) Parties to a Determination hearing shall have the right to call and examine witnesses; to introduce exhibits relevant to the issues of the case, including the transcript of testimony made by a witness

or party to the case at bar, to cross-examine opposing witnesses in any matters relevant to the issue of the case; to impeach any witness, regardless of which party called the witness to testify; and to offer rebuttal evidence.

- (c) Any person who is a party to the hearing and chooses not to testify in his/her own behalf may be compelled to testify and be subject to either a direct or cross-examination.
- (d) Presentation of deposition testimony shall be by submission for later review by the Hearing Officer.

Section 40-260.1.11 Admissibility of Evidence

- (a) All relevant evidence is admissible.
- (b) The parties or their counsel may by oral or written stipulation agree that certain evidence be admitted even though such evidence might otherwise be subject to objection.
- (c) Irrelevant and unduly repetitious evidence should not be admitted, subject to the discretion of the Hearing Officer.
- (d) The Hearing Officer shall note objections made by the parties on evidentiary matters and determine admissibility of the evidence.
- (e) Nothing herein shall prevent the admissibility of records kept in the normal course of business by the Gaming Facility or the records produced by Gaming Facility pursuant to these Regulations from being summarily admitted at any hearing.

Section 40-260.1.12 Gaming Vendor

- (a) No Gaming Facility or Gaming Vendor, if applicable, may invoke the sovereign immunity of the Nation to avoid the responsibility for any Determination of a Hearing Officer under these Regulations.
- (b) Every Gaming Vendor shall submit consent in writing to the jurisdiction of the Nation and to the Gaming Commission.
- (c) Every Gaming Vendor shall have provided an address for service, to the CNGC Licensing Department, and shall keep the same current at all times. The Gaming Vendor shall have sufficient individual representatives licensed or retain Legal Counsel to appear as required herein.
- (d) Gaming Vendors shall provide prompt Prize Claim review and be responsible to meet the requirements of these Regulations for issues involving games of the Gaming Vendor.
- (e) Failure of the Gaming Vendor to satisfy the Gaming Vendor's obligations stated herein, or as ordered by the Hearing Officer, may result in Determination against the Gaming Vendor for Prize claims, and/or fines and sanctions against the Gaming Vendor.
- (f) Should any Gaming Vendor not pay a Determination award within fifteen (15) days, the Gaming Facility shall be responsible to pay such Determination award.

Section 40-260.1.13 Depositions of Those Not Claimants

The testimony of any material witness, regardless of where the witness is domiciled, may be taken by

deposition in the manner provided by law and may be used at the Determination Hearing. Deposition costs shall be paid by the party calling the deposition.

Section 40-260.1.14 Official Notice

The Hearing Officer may take official notice of any generally accepted information or technical or scientific matter and of any other fact which may be judicially noticed by a court of law. The parties must be informed of any information, matters or facts so noticed and upon request, must be given a reasonable opportunity to refute such information, matters or facts by evidence or by written or oral presentation of authorities. The manner of such refutation shall be determined by the Hearing Officer. The Hearing Officer may, at their discretion, before rendering Determination, permit the filing of amended or supplemental information and shall notify all parties thereof and provide a reasonable opportunity for objections or rebuttal thereto.

Section 40-260.1.15 Continuances

Continuances are within the sole discretion of the Hearing Officer and may be granted upon a showing of good cause by the party requesting the continuance, and may be granted upon a joint written motion by the parties upon a showing of good cause.

Section 40-260.1.16 Communications with the Hearing Officer

- (a) Unless required for the disposition of ex parte matters, as allowed by law and authorized by these Regulations:
 - (1) Neither a party nor his representative shall communicate, directly or indirectly, with the Hearing Officer regarding any matter related to the hearing, except upon notice and opportunity to all parties to participate.
 - (2) The Hearing Officer shall not communicate, directly or indirectly, with any party or his representative regarding any matter related to the hearing, except upon notice and opportunity to all parties to participate.
- (b) This section does not preclude a party or their counsel from conferring with the Gaming Commission Staff or the Gaming Commission's counsel on procedural matters.

Section 40-260.1.17 Third Party Practice

In the event that a third party requests to intervene in any Prize Claim proceeding, the Hearing Officer shall rule on whether or not to allow the intervention. Should a third party intervener be allowed to enter the Prize Claim proceeding, their intervention shall be deemed consent to the jurisdiction of the Nation. The third party may be represented by Legal Counsel as provided for in these Regulations.

Section 40-260.1.18 Default

- (a) The unexcused failure of a party to appear at any hearing shall constitute a default and an admission of any facts that may have been alleged by the opposing party. The Hearing Officer may take action based on such default or admission or on any other evidence without further notice to the defaulting party. If the Hearing Officer takes action based on an admission, the record must include the evidence upon which the action is based.
- (b) Prize Claimant's failure to appear without just cause for any hearing or deposition shall be deemed a voluntary withdrawal of the Prize Claim. The Prize Claim shall be dismissed with prejudice not less than (5) calendar days after the date of hearing or deposition, unless the Claimant has just cause for failure to appear. To assert just cause, the Prize Claimant must make a written filing with the Hearing Officer:
 - (1) Outlining the cause of failure to appear;
 - (2) Requesting Resolution Period extension; and
 - (3) Including payment of a two hundred fifty dollar (\$250) fee to cover costs of the Gaming Commission for the Deposition preparation or any other hearing.
 - (4) Upon a finding of just cause, the Hearing Officer shall issue a new Scheduling Order.

Section 40-260.1.19 Sanctions

If any party or Legal Counsel fails to reasonably comply with any provision of these Regulations or any order entered by the Hearing Officer regarding any matter, including discovery, the Hearing Officer may, upon motion or upon his/her own initiative, impose appropriate sanctions upon such party or Legal Counsel, or both.

Section 40-260.1.20 Legal Counsel

- (a) A Prize Claimant, Gaming Facility or Gaming Vendor, if applicable, may have Legal representation by any attorney licensed to practice law. Legal Counsel for the Prize Claimant shall sign the Prize Claim Form if said Legal Counsel assisted in the preparation of the same and shall promptly file a separate Entry of Appearance with the Office of the Hearing Officer.
- (b) Any Attorney who files an Entry of Appearance for any party shall be deemed consent to the jurisdiction of the Nation.
- (c) Attorney fees for Prize Claim representation shall not exceed thirty percent (30%) of the first twenty-five thousand dollars (\$25,000) of the amount awarded in settlement or Determination of a Prize Claim, and twenty percent (20%) of any amount of settlement or Determination that exceeds twenty-five thousand dollars (\$25,000).
- (d) No provision for withdrawal of Legal Counsel from a pending prize claim is contained within these Regulations. A substitution of Legal Counsel will be allowed pending a written application for substitution is approved by the Hearing Officer. Additional Legal Counsel may be added by any party provided an Entry of Appearance is filed with the Gaming Commission designee and notice is given to the other Party or Legal Counsel (if applicable).

Section 40-260.1.21 Punitive Damages

Punitive damages may not be sought or awarded to any party to any Prize Claim proceeding before the Gaming Commission.

Section 40-260.1.22 Decision of the Hearing Officer

- (a) After the Determination Hearing, the Hearing Officer shall issue a written decision within seven (7) calendar days. Nothing herein shall be construed to prevent the Hearing Officer from reviewing the hearing transcript before Determination.
- (b) A copy of the decision must be served on each party. The Prize Claimant, Gaming Facility and Gaming Vendor, if applicable, is responsible for advising the Hearing Officer and the Gaming Commission of their proper mailing address. The decision shall be sent by certified mail to the Prize Claimant, Gaming Facility or Gaming Vendor, if applicable.
- (c) The Hearing Officer's decision shall be Final on the date of the Hearing Officer's signature, and not subject to appeal.

