

NATIONAL
INDIAN
GAMING
COMMISSION

APR 29 1994

Raul Garza, Chairman
Kickapoo Traditional Tribe of Texas
Tribal Office
P.O. Box 972
Eagle Pass, Texas 78853

Dear Chairman Garza:

This letter responds to your request to review and approve the tribal gaming ordinance adopted by the Kickapoo Traditional Tribe of Texas (the Tribe) on April 13, 1994. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

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

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

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

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

Sincerely yours,

Anthony J. Hope

Anthony J. Hope
Chairman

cc: Sandy Hansen, Tribal Attorney



KICKAPOO

Traditional Tribe of Texas

Tribal Office
P.O. Box 972
Eagle Pass, Texas 78853
(210) 773-2105
(210) 773-2303
(210) 757-9228 FAX

**TRADITIONAL COUNCIL
CHAIRMAN**
Raul Garza, Makateonenodua

SECRETARY
Pancho Salazar, Kotachimaa

TREASURER
Stella V. Garza, Sacuacua

MEMBERS
Jose Hernandez, Aweakodita
Herminia Garza, Enemicua

Resolution No. KTTT 94- 008

**ADOPTING AND ENACTING A REVISED ORDINANCE TO AUTHORIZE AND
REGULATE THE CONDUCT OF CLASS II AND CLASS III GAMING ON
TRIBAL LANDS**

WHEREAS, in January 1994 the Traditional Council enacted a resolution enacting an Ordinance Authorizing and Regulating the Conduct of Class II and Class III Gaming on Tribal Lands; and

WHEREAS, that Ordinance was submitted to the National Indian Gaming Commission for review and comment; and

WHEREAS, the National Indian Gaming Commission has noted certain deficiencies in the Ordinance that the Traditional Council wishes to correct; and

WHEREAS, the Tribe's legal counsel has prepared amendments to the Ordinance addressing the concerns raised by the National Indian Gaming Commission; and

WHEREAS, the Traditional Council has reviewed and concurs in the amendments prepared by the Tribe's legal counsel and in the Revised Ordinance Authorizing and Regulating the Conduct of Class II and Class III Gaming on Tribal Lands; and

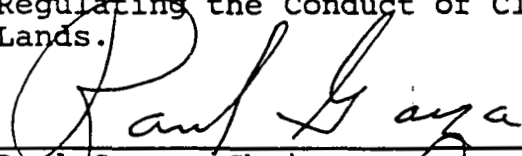
WHEREAS, the Traditional Council is the governing body of the Kickapoo Traditional Tribe of Texas; and

"A Federal And State Recognized Sovereign Indian Nation"

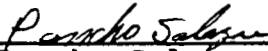
WHEREAS, the Traditional Council is expressly authorized to enact ordinances for the protection of the public health, safety and welfare; and

WHEREAS, the Traditional Council deems it in the best interest of the Kickapoo Traditional Tribe of Texas to authorize and regulate the conduct of Class II and Class III gaming on tribal lands:

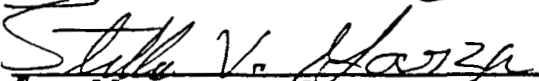
NOW THEREFORE THE TRADITIONAL COUNCIL OF THE KICKAPOO TRADITIONAL TRIBE OF TEXAS hereby enacts the Revised Ordinance Authorizing and Regulating the Conduct of Class II and Class III Gaming on Tribal Lands.



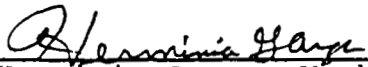
Raul Garza, Chairman



Pancho Salazar, Secretary



Estella Garza, Treasurer



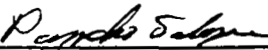
Herminia Garza, Member



Jose Hernandez, Member

CERTIFICATION

I hereby certify that the foregoing Resolution Amending and Enacting the Revised Ordinance Authorizing and Regulating the Conduct of Class II and Class III Gaming on Tribal Lands was enacted by the Traditional Council of the Kickapoo Traditional Tribe of Texas at a duly called meeting held at the Kickapoo Village Indian Reservation on the 13th day of April, 1994, at which a quorum was present and the vote was 5 in favor, 0 against, and 0 abstaining.



Pancho Salazar

**REVISED ORDINANCE AUTHORIZING AND REGULATING
THE CONDUCT OF CLASS II AND CLASS III GAMING
ON TRIBAL LANDS**

I. PURPOSE

The Traditional Council of the Kickapoo Traditional Tribe of Texas, empowered by Article VII, Paragraph j of the Constitution of the Kickapoo Traditional Tribe of Texas to enact ordinances and resolutions in order to safeguard the peace, safety, welfare and political integrity of the Tribe, hereby enacts this Ordinance in order to authorize and regulate the conduct of Class II and Class III Gaming on tribal lands.

II. DEFINITIONS

As used in this Ordinance, the following terms shall have the respective meanings ascribed thereto unless the context clearly indicates otherwise.

- 2.1 "The Act" shall mean the Indian Gaming Regulatory Act, Pub. L. No. 100-497, codified at 25 U.S.C. Sections 2701-2721.
- 2.2 "Class I Gaming" shall have the meaning as set forth in the Act.
- 2.3 "Class II Gaming" shall have the meaning as set forth in the Act
- 2.4 "Class III Gaming" shall have the meaning as set forth in the Act.
- 2.5 "Commission" shall mean the National Indian Gaming Commission.
- 2.6 "Compact" shall mean an agreement between the Tribe and the State of Texas or other appropriate governmental body authorizing and regulating the conduct of Class III gaming, which Compact has been approved by the Secretary of the Interior pursuant to the Act.
- 2.7 "Certified Public Accountant" shall mean a certified public accountant who is a member of an accounting firm of regional or national recognition, which firm has no existing or previous relationship with any management company with which the Tribe may contract for the conduct of Class II and/or Class III gaming.
- 2.8 "Gaming" shall mean the playing of Class II and/or Class

on tribal lands by the Compact, the Act and other applicable federal or tribal laws.

- 2.9 "Gaming Facility" or "Facility" shall mean the improvements constructed on tribal lands and the surrounding grounds on the Property at which Class II and/or Class III games of chance are conducted, and includes any parking areas and drives used for ingress and egress to and connecting the "Facility" to city, county or state roads and highways.
- 2.10 "Gaming Operation" shall mean that economic activity owned by the Tribe which operates the games, receives the revenues, issues the prizes and pays the expenses associated with Class II and/or Class III gaming.
- 2.11 "Gaming supply contract" shall mean any agreement between the Gaming Operation and any person or entity for the provision of goods or services to the Gaming Operation in an amount that exceeds \$25,000 in any year. The term shall include multiple agreements between the Gaming Operation and any person or entity owned in whole or in part by another person or entity with which the Gaming Operation has another agreement for goods or services, when the aggregate amount of the agreements exceed \$25,000 in any year.
- 2.12 "Key Employee" shall mean (1) any person who performs one or more of the following functions:
- (a) bingo caller,
 - (b) counting room supervisor;
 - (c) chief of security;
 - (d) custodian of gaming supplies or cash;
 - (e) floor manager;
 - (f) pit boss;
 - (g) dealer;
 - (h) croupier;
 - (i) approver of credit; or
 - (j) custodian of gambling devices, including persons with access to cash and accounting records with such devices; and

- (k) if not otherwise included, (2) any person whose total cash compensation is in excess of \$50,000 per year; or (3) the four highest-compensated employees in the Gaming Operation; and
 - (l) any employee or agent of the Gaming Operation that is designated in the Compact as a key employee.
- 2.13 "Ordinance" shall mean this Ordinance authorizing and regulating the conduct of Class II and Class III Gaming on tribal lands.
- 2.14 "Primary Management Official" shall mean any person having management responsibility for a management contract; any person who has authority to hire and fire employees or to set up working policy for the Gaming Operation; the chief financial officer or other person who has financial management responsibility for the Gaming Operation; and any employee or agent of the Gaming Operation that is designated in the Compact as a primary management official.
- 2.15 "State" shall mean the State of Texas and its political subdivisions.
- 2.16 "Traditional Council" shall mean the governing body of the Tribe, elected pursuant to Art. V, Section 1 of the Constitution of the Kickapoo Traditional Tribe of Texas.
- 2.17 "Tribal Land" or "tribal lands" shall mean (1) all land within the limits of the existing Kickapoo Village Indian Reservation; and (2) any real property that is now held or which is hereafter acquired by the United States in trust for the Kickapoo Traditional Tribe of Texas and over which the Tribe and United States, as opposed to the State of Texas, exercise governmental power; and (3) any land hereafter acquired by the Tribe and held subject to restriction by the United States against alienation and on which Gaming is permitted by law.
- 2.18 "Tribe" shall mean the Kickapoo Traditional Tribe of Texas. Whenever the Tribe is accorded a right or responsibility under the terms of this Agreement, that right or responsibility shall be exercised by the Traditional Council or its authorized representative.

III. GAMING AUTHORIZED

By this ordinance, the Traditional Council hereby authorizes the conduct of Class II and Class III Gaming, as those terms are defined by the Act, on tribal lands provided that the Traditional Council shall not license any person to, and no person may, conduct

Class III Gaming on tribal lands until the Secretary of the Interior has approved the Compact and has authorized the Tribe to engage in Class III Gaming on tribal lands.

IV. OWNERSHIP OF GAMING

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

V. USE OF GAMING REVENUES

5.1 The Tribe's share of net revenues from Class II and/or Class III Gaming shall be used only for the following purposes:

5.1.1 to fund tribal government operations and programs;

5.1.2 to provide for the general welfare of the Tribe and its members;

5.1.3 to promote tribal economic development;

5.1.4 to help fund operations of local government agencies; and

5.1.5 to donate to charitable organizations.

5.2 If the Traditional Council or the Tribe should elect, in the future, to make per capita payments to tribal members, the Traditional Council shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior pursuant to 25 U.S.C. § 2710(b)(3).

VI. AUDIT

6.1 The Tribe shall cause to be conducted annually by a Certified Public Accountant an independent audit of the Gaming Operation and shall submit the resulting audit reports to the Commission.

6.2 All gaming supply contracts that result in the purchase of supplies, services or concessions in excess of \$25,000 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit described in Section 6.1, above.

VII. PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Any Class II and/or Class III Gaming Facility constructed on tribal lands shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

VIII. LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

Any person who applies for a position as a primary management official or key employee of any Class II or Class III Gaming Operation shall be required to complete a written application form, in three originals, which contains, at a minimum, the information listed in 25 C.F.R. Sections 556.3 and 556.4. Until such time as a person employed as a primary management official or key employee is issued a gaming license by the Traditional Council, such person's employment shall be temporary, "at will," and such person shall be subject to immediate termination for cause or for no cause.

8.1 Privacy Act Notice. The following notice shall be placed on the cover page of the application form that each key employee or primary management official must complete prior to being employed in any Gaming Operation.

"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. §§ 2701-2721. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate federal, tribal, state, local or foreign law enforcement and regulatory agencies, when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of any employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a position classified as a key employee or primary management official.

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

8.2 Notice Regarding False Statements. The following notice shall be placed on the cover page of the application form that each key employee or primary management official must complete prior to being employed in any Gaming Operation.

"A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, a false statement on any part of your application may result in your being punished by fine or imprisonment under 18 U.S.C. § 1001."

8.3 Application Form. Each applicant for a position as a key employee or primary management official shall be asked to provide to the Tribe all of the following information:

- 8.3.1 the applicant's full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, and all languages (spoken or written);
- 8.3.2 currently, and for no less than the previous five years, the applicant's business and employment positions held, ownership interest(s) in those businesses, business and residence addresses, and driver's license number(s);
- 8.3.3 the names and current addresses of no less than three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph 8.3.2 of this Section;
- 8.3.4 current business and residence telephone numbers;
- 8.3.5 a description of any existing and previous business relationships that the applicant has had with any Indian tribe, including ownership interest(s) in those businesses;
- 8.3.6 a description of any existing and previous business relationships that the applicant has had with the gaming industry, in general, including ownership interest(s) in those businesses;
- 8.3.7 the name and address of any licensing or regulatory agency with which the applicant has filed an application for a license or permit related to gaming, whether or not such license

or permit was granted;

8.3.8 for each felony for which there is an ongoing prosecution or a conviction involving the applicant, the name and address of the court involved, and the date and disposition, if any;

8.3.9 for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) involving the applicant, within no less than 10 years of the date of the application, the name and address of the court involved and the date and disposition, if any;

8.3.10 for each criminal charge involving the applicant (excluding minor traffic violations), whether or not there is a conviction, if such criminal charge is within not less than 10 years of the date of the application and is not otherwise listed pursuant to Sections 8.3.8 or 8.3.9, the criminal charge, the name and address of the court involved, and the date of disposition, if any;

8.3.11 the name and address of any licensing or regulatory agency with which the applicant has filed an application for an occupational license or permit, whether or not such license or permit was granted;

8.3.12 a current photograph of the applicant;

8.3.13 any other information that the Traditional Council may deem relevant; and

8.3.14 fingerprints of the applicant taken by the Maverick County, Texas, sheriff's department or Texas Department of Public Safety on fingerprint forms supplied by the agency which takes the fingerprints.

8.4 Background Investigation. The Tribe shall conduct or shall cause to be conducted a detailed background investigation of each key employee or primary management official.

8.4.1 The background investigation shall be conducted in a confidential manner, with the identity of any person interviewed in the

course of the investigation being disclosed only to such officials who, in the performance of their official duties, have a need to know such information.

8.4.2

The Tribe shall contract with the Texas Department of Public Safety [hereafter "DPS"], or such other agency as the Texas Legislature may hereafter designate as the State agency responsible for conducting background investigations on persons involved in gaming pursuant to a State license, to conduct the background investigations on each key employee or primary management official of the Gaming Operation. At a minimum, each background investigation shall comply with the following procedures.

8.4.2.1 DPS shall obtain the fingerprints of each key employee or primary management official on fingerprint forms supplied by DPS and shall forward each set of fingerprints to the Federal Bureau of Investigation for processing.

8.4.2.2 DPS shall inquire into the prior activities, criminal record, if any, and reputation, habits and associations of each key employee and primary management official.

8.4.2.3 DPS shall interview a sufficient number of knowledgeable people, such as former employers, personal references, and others to whom referred in order to provide a basis for the Tribe to make a finding concerning the eligibility of the key employee or primary management official for employment in the Gaming Operation.

8.4.2.4 DPS shall document its disposition of all potential problem areas and shall document all disqualifying, or potentially disqualifying, information that it obtains during the course of conducting each background investigation.

8.4.2.5 DPS shall prepare and submit to the

Tribe an investigative report that sets forth the information required in Section 8.6.1, below.

8.4.3 The Traditional Council shall approve the scope of each investigation before the results of the investigative report are reviewed and a license is issued to the key employee or primary management official.

8.4.4 Any key employee or primary management official of a Class III Gaming Operation shall be subject to the background investigation requirements and procedures specified in the Compact, which shall not be any less stringent than the background requirements and procedures specified in this Ordinance.

8.5 Eligibility Determination. The Traditional Council shall review the investigative report on each person employed as a key employee or primary management official, and any other information deemed relevant by the Council, in order to make a finding concerning the eligibility of the person to be licensed as a key employee or primary management official in the Gaming Operation.

8.5.1 No person who poses a threat to the public interest or to the effective regulation of gaming or who creates or enhances the danger of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall be licensed as a primary management official or key employee.

8.5.2 The Traditional Council shall have the sole responsibility and authority for determining whether a prospective primary management official or key employee is eligible to be licensed as a primary management official or key employee in the Gaming Operation, unless a Compact shall vest the State with concurrent authority to make that determination.

8.6 Procedures for Forwarding Applications and Reports to the Commission. The Tribe shall ensure that the procedures set out in this Section are implemented with respect to each key employee and primary management official employed at any Class II or Class III Gaming Operation on tribal lands.

8.6.1 Investigative Report. No later than 60 days after a key employee or primary management

official begins employment with a Gaming Operation, the Traditional Council shall forward to the Commission the investigative report on such key employee and primary management official which was prepared by DPS pursuant to Section 8.4.2.5, above. Each investigative report shall include all of the following:

8.6.1.1 steps that were taken in conducting the background investigation;

8.6.1.2 the results obtained;

8.6.1.3 the conclusions reached; and

8.6.1.4 the bases for the conclusions reached.

8.6.2 **Eligibility Determination Report.** The Traditional Council shall prepare and forward to the Commission, with the investigative report provided for in Section 8.6.1, above, a copy of the eligibility determination made under Section 8.5, above.

8.7 Licensing Procedures.

8.7.1 If, within 30 days after the Commission has received the investigative report and eligibility determination provided for in Sections 8.6.1 and 8.6.2, above, the Commission has notified the Tribe that it has no objection to the issuance of a license to an applicant for a key employee or primary management official position with the Gaming Operation, the Tribe may issue a license to such applicant.

8.7.2 If, during the 30-day period provided for in Section 8.7.1, above, the Commission notifies the Tribe that it objects to the employment of the subject person as a primary management official or key employee, the Traditional Council shall reconsider the employment of said person, giving due consideration to the objection(s) itemized by the Commission.

8.7.2 If, during the 30-day period provided for in Section 8.7.1, above, the Commission requests additional information concerning a key employee or a primary management official who

is the subject of an investigative report, the Traditional Council shall provide or shall cause to be provided such information to the Commission. The 30-day period provided for in Section 8.7.1, above, shall be suspended from the date that the Commission requests the additional information until the date that the Commission has received the additional information.

8.7.3 Notwithstanding any other provision of this Section 8.7, the Traditional Council shall have the sole responsibility and authority for determining whether a prospective key employee or primary management official is eligible to be licensed as a key employee or primary management official in the Gaming Operation, unless a Compact shall vest the State with concurrent authority to make that determination.

8.8 Denial of License.

8.8.1 Dismissal of Key Employee or Primary Management Official. Should the Traditional Council decide not to issue a gaming license to a person employed as a primary management official or key employee, the employment of said primary management official or key employee shall be terminated immediately.

8.8.2 Notice to Commission. Should the Traditional Council decide not to issue a gaming license to a person employed as a primary management official or key employee, the Tribe shall so notify or shall cause to be so notified the Commission and may forward copies of its eligibility determination and investigative report (if any) to the Commission for inclusion in the Indian Gaming Individuals Records System.

8.9 License Suspension/Revocation. If, after a primary management official or key employee has been issued a gaming license, the Tribe receives reliable information indicating that the employee or official is not eligible for employment under Section 8.5, above, the Tribe shall suspend such license and shall notify the licensee in writing by certified mail of the suspension and the proposed revocation. The notice shall contain the date, time and place at which a hearing to determine whether the license should be revoked will be conducted.

8.9.1 Immediately upon receipt of the notice of suspension, the subject primary management official or key employee shall be suspended from all duties and responsibilities with respect to the Gaming Operation.

8.9.2 The Traditional Council shall preside at a hearing at which evidence shall be presented and a determination made as to whether to revoke or reinstate the suspended gaming license. The decision of the Traditional Council shall be final.

8.9.3 The Traditional Council shall notify the Commission, in writing by certified mail, of its decision to revoke or reinstate any gaming license that was previously suspended by the Council.

8.10 Time Limitation on Employing a Key Employee or Primary Management Official. The Gaming Operation shall not retain as a key employee or primary management official a person who has not been issued a gaming license within 90 days after his/her initial, "at will" employment.

8.11 Retention of Records. The Tribe shall retain each application for employment as a key employee and primary management official and the resulting investigative report (if any) for no less than three years from the date of termination of employment of the subject key employee or primary management official.

IX. LICENSE LOCATIONS.

The Tribe shall require a separate license for each place, facility or location on tribal lands where Class II and/or Class III Gaming is conducted under this Ordinance.

X. DISPUTE RESOLUTION BETWEEN THE TRIBE AND/OR MANAGER AND CUSTOMERS OF THE GAMING OPERATION

10.1 Rules of Play. The rules of play for each type of game, along with these dispute-resolution procedures, shall be posted at a conspicuous place, visible and accessible to customers, in the Gaming Facility. All games shall be conducted fairly and honestly, pursuant to the posted rules of play. The posted rules of play shall govern the

resolution of any dispute between the Tribe and/or Manager and any customer of the Gaming Operation.

10.2 General Manager. Any dispute between the gaming public and the Gaming Operation shall be presented initially to the General Manager of the Gaming Operation. The General Manager shall strive to satisfy the customer.

10.3 Manager. If the General Manager cannot resolve a dispute to the satisfaction of a customer, the General Manager shall present the dispute, in writing, to the Management Contractor within three working days. The Management Contractor shall attempt to resolve the dispute to the customer's satisfaction. The decision of the Management Contractor shall be in writing, and shall be sent by certified mail to the customer within 10 calendar days of the Management Contractor's receipt of the writing describing the dispute from the General Manager. The decision of the Management Contractor shall advise the customer that he/she may appeal the Management Contractor's decision to the Traditional Council pursuant to Section 10.4, below.

10.4 Traditional Council. Any customer who is not satisfied with the decision of the Management Contractor (or the General Manager, if there is no Management Contractor) may present his/her dispute to the Traditional Council, in writing, no later than 10 days after the customer's receipt of the decision of the Management Contractor or General Manager, as appropriate. The Traditional Council shall review the evidence and issue a decision no later than 20 days following receipt of the customer's appeal of the decision. The decision of the Traditional Council shall be in writing and shall be final.

XI. NOTICE/AGENT FOR SERVICE OF PROCESS

11.1 Any notice required to be delivered to the Tribe under this Ordinance or the Act shall be given to:

Chairman, Traditional Council
Kickapoo Traditional Tribe of Texas
P.O. Box 972
Eagle Pass, Texas 78853

11.2 The Tribe's agent for service of process shall be:

Whiteing & Thompson
1136 Pearl Street, Suite 203
Boulder, Colorado 80302

Attn: Sandy Hansen

XII. ENTIRE ORDINANCE

This Ordinance is the entire gaming ordinance governing the conduct of Class II and/or Class III gaming on the Kickapoo Village Indian Reservation or by the Kickapoo Traditional Tribe of Texas.

XIII. EFFECTIVE DATE.

13.1 Class II Gaming. As it relates to Class II Gaming, this Ordinance shall take effect upon its approval by the Chairman of the National Indian Gaming Commission.

13.2 Class III Gaming. As it relates to Class III Gaming, this Ordinance shall take effect upon (i) approval of this Ordinance by the Chairman of the National Indian Gaming Commission and publication of the same in the Federal Register and (ii) approval of a Compact for the conduct of Class III Gaming by the Secretary of the Interior and publication of that Compact in the Federal Register.