



October 5, 2017

VIA FACSIMILE AND
FIRST CLASS MAIL

Mr. William Nelson, Chairman
Comanche Nation
584 NW Bingo Road
Lawton, OK 73507

Re: Amended Gaming Ordinance

Dear Chairman Nelson:

This letter responds to your request for the Chairman of the National Indian Gaming Commission to review and approve the Comanche Nation's (Nation) Amended Gaming Ordinance. The Gaming Ordinance was authorized by Resolution #79-17 on July 08, 2017. The NIGC received a copy of the Gaming Ordinance on July 13, 2017.

Thank you for bringing the amended Gaming Ordinance to our attention. The Gaming Ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions, please feel free to contact Staff Attorney Heather McMillan Nakai at (202) 527-5577.

Sincerely,

A handwritten signature in black ink, which appears to read "Jonodev O. Chaudhuri".

Jonodev O. Chaudhuri
NIGC Chairman



**A RESOLUTION OF THE COMANCHE BUSINESS COMMITTEE
AMENDING THE COMANCHE NATION GAMING ORDINANCE**


- 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 and to improve the economic, moral, educational, and health status of its members;
- WHEREAS,** pursuant to Article VI, section 7(j) of the Comanche Constitution, the Comanche Business Committee has the duty, responsibility, and authority "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";
- WHEREAS,** in 1996, the Comanche Business Committee enacted the Comanche Nation Gaming Ordinance, which was approved in its current form by the National Indian Gaming Commission (NIGC) on June 19, 2015, in accordance with and as required by the Indian Gaming Regulatory Act (IGRA), 25 USC §§ 2701 *et seq.*; and
- WHEREAS,** the Comanche Business Committee has determined that it is in the best interest of the Nation to amend the Comanche Nation Gaming Ordinance.

NOW THEREFORE BE IT RESOLVED that the Comanche Business Committee hereby amends the Comanche Nation Gaming Ordinance as shown in the attachments hereto; and


BE IT FINALLY RESOLVED THAT the Comanche Business Committee hereby directs the Chairman to submit and obtain NIGC approval of the attached Comanche Nation Gaming Ordinance, which shall be in full force and effect upon the date of NIGC approval.

CERTIFICATION

The foregoing resolution was adopted at a regular meeting of the Comanche Business Committee held on Saturday July 8, 2017, at the Comanche Nation Complex, Lawton, Oklahoma, by a majority vote of 6 for, 0 against, and 0 abstaining, a quorum being present.


William Nelson Sr., Chairman

ATTESTED:


Robert Tippeconnie, Secretary-Treasurer

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COMANCHE NATION GAMING ORDINANCE

AS REVISED, CODIFIED, AND AMENDED
THROUGH [NIGC Approval Date]

(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. [xx-17], amendment approved by NIGC on [Date].)

COMANCHE NATION GAMING ORDINANCE

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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 Review or Employee Board of Review** means the final review body for disputes by an employee of CNE or the Commission, as authorized by this Ordinance.
- (B) **CBC** means the Comanche Business Committee.
- (C) **Chief Executive Officer (CEO)** means the person appointed by the CBC to oversee and manage CNE
- (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 or not 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 established by the CBC, which performs regulatory oversight and monitors compliance with applicable Gaming laws and regulations in accordance with the authority provided herein.
- (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 the 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, the Commission, and/or the Board of Review that may have a significant adverse impact on the Nation, CNE, the Commission, the Board of Review, 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) **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.
- (N) **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.
- (O) **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.
- (P) **Gaming Employee** means an employee of CNE or the 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.
- (Q) **Gaming Facility** means any building, part of a building, or area located 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.
- (R) **Gaming Facility License** is a separate license issued by the Commission to each Gaming Facility.
- (S) **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 Commission and such goods or services are directly related and unique to a Gaming Activity.
- (T) **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.
- (U) **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).
- (V) **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 Commission employees;
 - (3) Any employee of CNE whose total cash compensation is in excess of \$50,000 per year;
 - (4) The four (4) most highly compensated persons in a Gaming Facility; and
 - (5) Any other Gaming or Gaming-related position that the Commission designates by regulation as a Key Employee position.
- (W) **Management Contract** shall have the meaning set forth at 25 C.F.R. § 502.15.
- (X) **Nation** means the Comanche Nation.
- (Y) **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.
- (Z) **NIGC** means National Indian Gaming Commission.
- (AA) **Non-Gaming Vendor** means any person, business, or entity that provides goods and services to the Commission 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.
- (BB) **Patron** means any natural person who enters upon the premises of a Gaming Facility for the purpose of playing Games located therein.
- (CC) **Persons directly related to** means a spouse, child, parent, or sibling.
- (DD) **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.
- (EE) **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
 - (3) Any other Gaming or Gaming-related position that the Commission designates by regulation as a Primary Management Official.
- (FF) **Related Enterprise**, as used in this Ordinance, means any Non-Gaming enterprise managed and operated by CNE.
- (GG) **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.
- (HH) **State** means the State of Oklahoma.
- (II) **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

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

Section 109. Compliance with Federal Law

The Nation, CNE, and the Commission 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

- (A) Confidential Information shall be safeguarded with strong custody and access procedures by the Nation, CNE, and the Commission.

- (B) Confidential Information shall be made available only to authorized persons or for authorized functions on a "need to know" basis.
- (C) Confidential Information shall *not* be considered tribal records subject to disclosure to Comanche Nation tribal members as set forth at Article X § 4 of the Comanche Nation Constitution.

Section 113. Political Activity Prohibited

- (A) Commissioners 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 Commissioner 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 CEO, Commissioner, vendor, contractor, employee of CNE, or employee of the Commission 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 CEO, Commissioner, vendor, contractor, employee of CNE, or employee of the Commission 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 Commission; or
 - (2) using any equipment or property of CNE or the Commission.

Sections 114 – 199 RESERVED

PART 200. COMANCHE NATION ENTERTAINMENT

Section 201. Comanche Nation Entertainment Created

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 of the Nation.

Section 202. Office of CEO Established

- (A) CNE shall be led and managed by the Chief Executive Officer (CEO) because the effective operation of CNE requires active supervision by a qualified individual on a daily basis. The office of the CEO, including management and staff hired thereby, shall be an authorized Gaming-related operating expense for purposes of audit and determining Net Revenue, as defined by IGRA, and for purposes of determining Net Gaming Revenue subject to distribution under the Nation's RAP.
- (B) 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.
- (C) 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.

Section 203. CEO Appointment, Term, and Compensation

- (A) The CBC shall appoint the CEO to serve as a full-time employee of CNE pursuant to an employment agreement and the requirements established herein.
- (B) If the CEO position is vacant, the Chairman of the Comanche Nation shall call for resumes from qualified candidates.
- (C) The CBC shall review resumes received and shall choose from among them a person meeting the qualifications required herein.
- (D) The CBC shall confirm such appointment by resolution.
- (E) The CEO's term shall be three (3) years and an individual may be reappointed by the CBC without limitation on the number of terms.
- (F) The CEO shall be compensated at a level determined by the CBC and such compensation shall be an authorized Gaming-related operating expense for purposes of audit and determining Net Revenues, as defined by IGRA, and for purposes of determining Net Gaming Revenue subject to distribution under the Nation's RAP.

Section 204. 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 205. CEO Qualifications

In addition to satisfying the licensing eligibility standards for Key Employees and Primary Management Officials set forth in Commission regulations, to qualify for the position of CEO, an individual must possess:

- (A) A degree in Business Administration, Accounting, Marketing, or an equivalent field; and
- (B) Five (5) or more years' work experience in the executive management of similarly-sized business entities, which shall include at least two (2) years' professional casino management experience.

Section 206. 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 operation and regulation of such. The Nation hereby finds that, at a minimum, the following persons are *not* eligible to serve as the 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 Commission is a party;
- (C) Persons directly related to or sharing a residence with any of the above;
- (D) Employees of the Commission, while employed as such; and
- (E) Persons ineligible to be licensed as Key Employees or Primary Management Officials.

Section 207. CEO's Duties

The CEO shall have the following duties:

- (A) Hire, direct, and supervise CNE's management team, which may include, but not be limited to, persons who perform the duties and functions normally associated with a chief operating officer, chief information officer, chief financial officer, chief legal officer, chief compliance officer, and general managers of the Gaming Facilities, Surveillance Department, and Related Enterprises, and indirectly supervise all CNE employees;
- (B) Develop and implement policies and procedures for CNE to guide development, protect Patrons, employees, and property, promote operational efficiency, reduce operating costs, comply with relevant laws and regulations, and encourage growth of Net Gaming Revenues and other income;
- (C) Develop, approve, and present to the CBC, the annual operating budget for CNE in accordance with Section 211 of this Ordinance and implement and manage such budget;
- (D) Approve and enter into contracts and other agreements, in accordance with Section 208 of this Ordinance, on behalf of CNE, the Gaming Facilities, and/or Related Enterprises and monitor and ensure the performance of such contracts and other agreements;
- (E) Adopt personnel policies governing the employees of CNE;
- (F) Monitor and oversee CNE's operations;
- (G) Develop CNE's organizational structure to enhance communication and optimize performance;

- (H) Provide a copy of all Gaming-related contracts to the Commission to review for compliance with this Ordinance and other applicable Gaming laws and regulations;
- (I) Establish wager limits, prize limits, and pay-out ratios;
- (J) Develop marketing and strategic development plans;
- (K) Oversee the investigation, negotiation, and informal resolution of Patron complaints related to tort claims and prize claims and, if applicable, assist Gaming Facilities throughout the Commission's hearing process;
- (L) Ensure CNE's operations comply with applicable laws and regulations;
- (M) Delegate performance of duties, as needed, to other members of management;
- (N) Other Gaming-related duties as assigned or delegated by the CBC; and
- (O) Any other duties or powers not prohibited herein that the CEO determines are necessary to monitor and oversee the management of CNE.

Section 208. CEO's 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 a contract or agreement satisfying the following requirements is not included in this limitation and may be entered into without prior CBC approval:
 - (1) Waiver and consent to suit is non-assignable, non-transferable, and limited to claims against CNE arising only from acts or omissions of CNE that breach the contract, and such waiver and consent shall terminate upon expiration of the contract;
 - (2) Enforcement under such contract is limited to injunctive relief or to actual contract damages and limited to specifically identified security or assets within the sole control of CNE, excluding property held in trust by the United States on behalf of the Nation and excluding identifiable assets of the Nation, and such damages shall not exceed \$3,000,000.00;
 - (3) Jurisdiction is limited to the Tribal Court and/or such other courts or arbitration deemed prudent by the CEO; provided that the courts of the State of Oklahoma shall not have jurisdiction over CNE or the Nation; and
 - (4) Expressly approved as to form by legal counsel for the CEO and legal counsel for the Nation.

Section 209. Void Contracts

Any contract or agreement that, by its terms, violates any provision of Section 208 of this Ordinance shall be null, void, and unenforceable *ab initio* in its entirety including any provision for dispute resolution therein.

Section 210. CEO Reports

The CEO shall meet with and make financial reports to the CBC monthly and as requested. The CEO will keep a written record of all meetings with the CBC and make such records available to the CBC upon request.

Section 211. CNE Budget

- (A) The CEO 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 208.

Section 212. Distribution of Net Gaming Revenue

The CEO shall determine and distribute quarterly to the Nation the Net Gaming Revenues generated by CNE in accordance with projected Net Gaming Revenue distributions in the manner directed by CBC resolution. Within forty-five (45) days of the end of CNE's fiscal year, extra Net Gaming Revenues, if any, will be distributed in one lump sum to the Nation in the same manner as projected Net Gaming Revenue.

Section 213. CNE Annual Audit

- (A) The CEO 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, Commission, 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.

Section 214. Removal of CEO

- (A) The CEO is not an at-will employee and may be removed from employment 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 CEO unqualified for his/her position.
- (B) When the CBC believes that a removal is appropriate, it shall notify the CEO, in writing, setting forth the grounds for such removal and the date, time, and place of the hearing on the matter, providing the CEO at least three (3) days' advance notice.
- (C) Any allegations of neglect of duty, misconduct, malfeasance, or other acts that would render the CEO unqualified for his/her position must be substantiated by a preponderance of the evidence.
- (D) The CBC may opt to preliminarily remove the CEO pending the hearing for a period not to exceed seven (7) days.
- (E) At the hearing, such CEO may have legal counsel present and 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 CEO to compensation for expenses incurred in an appeal and any other compensation withheld.
- (H) The CEO shall have the right to appeal the removal to the Tribal Court provided that a notice of appeal is filed with the Tribal Court and the CBC within ten (10) days of the hearing on removal. Upon receipt of the notice of appeal, the CBC shall promptly file the full record of the hearing with the Tribal Court. Failure to seek review of the CBC's removal within ten (10) days of the hearing shall constitute a waiver of all rights of appeal and further shall deprive the Tribal Court of jurisdiction over the matter.

Sections 215-299 RESERVED

PART 300. COMANCHE NATION GAMING COMMISSION

Section 301. Gaming Commission Established

- (A) There is hereby established an agency 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.
- (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.

Section 302. Role of Commission and Commissioners

- (A) The purpose of the 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) Commissioners' duties and responsibilities are limited and specific to ensure the fair and impartial review and adjudication of all matters related to licensing and enforcement of compliance with Gaming laws and regulations. Commissioners shall not participate in, direct, or attempt to influence the outcome, course, or direction of a Commission investigation into any aspect of compliance, revenue control, background investigation, internal audit, or any other Commission activity. Commissioners must remain independent of all day-to-day activities in order to fairly and impartially judge all matters.
- (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 four (4) members, one of whom shall be designated as a non-voting alternate, and at least two (2) of whom shall be an enrolled member of the Comanche Nation.
- (B) The Commissioners shall elect a Chair, whose duty it shall be to call for and preside over all meetings and hearings and to execute official documents of the Commission.
- (C) 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 alternate Commissioner may attend all meetings of the Commission, but shall not count toward a quorum, vote, or take other official action unless a voting Commissioner is unavailable.
- (F) The Commission may act in its official capacity even if there are vacancies on the Commission.
- (G) Commissioners shall serve in such capacity until their 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. 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 the requirements of either (A) or (B) of this Section:

- (A) 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 one of the following:
 - (1) Demonstrated knowledge of licensing requirements for Gaming Facilities; or
 - (2) Demonstrated knowledge of compliance and audit requirements for Gaming Facilities; or
- (B) 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; or
 - (2) Demonstrated knowledge of compliance and audit requirements for Gaming Facilities.

Section 306. Commissioners' Duties

Commissioners shall have the following duties:

- (A) Hire, direct, and supervise an Executive Director of the Commission in accordance with Sections 330-337 of this Ordinance;
- (B) 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;
- (C) 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 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) 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;
 - (8) Regulations governing hearings, the issuance of subpoenas, receipt of evidence, and adjudication of appeals, as stated in Section 307 of this Ordinance;
 - (9) Regulations to allow for the voluntary and involuntary exclusion of certain persons from the Nation's Gaming Facilities;
- (D) Certify gaming devices in accordance with established procedures and as required by the Compact and 25 C.F.R. Parts 543 and 547;
- (E) 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;
- (F) Adjudicate Patron tort claims and prize claims in accordance with applicable laws and CBC-approved regulations;
- (G) Approve and enter into contracts and other agreements on behalf of the Commission subject to the limitations set forth at Section 308 of this Ordinance;
- (II) Establish, adopt, and cause to be implemented policies and procedures, including personnel policies, that are applicable to the Commission and its employees;
- (I) Monitor and oversee the regulation and enforcement of the Nation's Gaming by ensuring that the Executive Director and Commission staff accomplish the duties set forth in Section 333 of this Ordinance; and
- (J) Any other duties or powers not prohibited herein that the Commission determines are necessary to monitor and oversee the regulation of the Nation's Gaming.

Section 307. 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 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 the hearing; 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) The Commission shall not 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) The Tribal Court shall have exclusive appellate jurisdiction over a final determination made by the Commission related to licensing and enforcement actions.
- (2) An affected party shall have the right to appeal a final determination of the Commission to the Tribal Court provided that a notice of appeal is filed with the Tribal Court and the Commission within thirty (30) days of receiving the written determination. Upon receipt of the notice of appeal, the Commission shall promptly file the full record of the Commission's proceedings with the Tribal Court.
- (3) Failure to seek review of a final determination of the Commission within thirty (30) days of receiving the written determination shall constitute a waiver of all rights of appeal and further shall deprive the Tribal Court of jurisdiction over the matter.
- (4) In all appeals, the Tribal Court shall give proper deference to the Commission's interpretation of its regulations.
- (5) 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.
- (6) The Tribal Court shall issue a written decision on all appeals and such decision shall be final.

- (7) The Tribal Court may award the prevailing party or parties reasonable costs and attorney fees, as set by the Tribal Court.

Section 308. 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 Commission 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 Commission's sovereign immunity.

Section 309. Void Contracts

Any contract or action of the Commissioners or other authorized signatory that, by its terms, violates any provision of Section 308 of this Ordinance shall be null, void, and unenforceable *ab initio* in its entirety including any provision for dispute resolution therein.

Section 310. CBC Review or Approval Needed

The adoption of, and any changes to, the Commission's regulations, rules, procedures, and/or standards that are applicable to any person or entity outside of the Commission, including but not limited to those set forth in Section 306(C), shall be considered rulemaking and shall not be effective until CBC approval is secured by resolution. At least thirty (30) days prior to submitting the proposed changes to the CBC for review and approval, the Commission shall forward a copy of the proposed changes to the CEO and shall provide notice of the proposed changes to all affected parties. Such notice shall set forth the proposed changes and the process and deadlines for submitting comments. The Commission shall compile all comments received and submit them, along with the proposed changes, to the CBC. The CBC shall receive copies of and provide due consideration to all comments received from persons and/or entities affected by the proposed changes.

Section 311. Confidentiality of Commission 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 Nation's 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 312. Appointment of Commissioner

- (A) For any vacancy on the Commission, the Chairman of the Comanche Nation shall call for resumes from candidates.
- (B) The CBC shall review resumes received and shall choose from among them a person meeting the qualifications of this Ordinance.
- (C) The CBC shall confirm such appointment by resolution. The selected candidate(s) must pass the background investigation required of a Primary Management Official or Key Employee.
- (D) Once the background investigation is successfully completed, the candidate(s) will be sworn in by the CBC.
- (E) Each Commissioner shall be designated as Commissioner 1, Commissioner 2, Commissioner 3, or Alternate Commissioner.

Section 313. 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. A Commissioner may be re-appointed by the CBC.

Section 314. 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, the CEO, 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 Commission is a party;
- (C) Persons directly related to or sharing a residence with any of the above;
- (D) Employees of the Commission or CNE, while employed as such; and

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

Section 315. 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 their respective term for neglect of duty, misconduct, malfeasance, or other acts that would render a Commissioner unqualified for their 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 them unqualified for their 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 their 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 316. Commissioner Compensation

- (A) Commissioners shall be compensated at a level determined by the CBC.
- (B) Commissioner compensation shall *not* be based on a percentage of Gaming revenue to ensure the Commissioners are not improperly influenced.
- (C) Commissioners shall not be considered employees of the Nation, the Commission, or a Gaming Facility for any purpose and shall carry out the responsibilities of their terms on a part-time periodic basis.

Section 317. Commissioner 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 318. Commission Reports

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

Section 319. Commission Budget

- (A) The Commission shall develop annually, prior to the beginning of each fiscal year, a budget for its operations, including personnel costs, capital expenditures, and equipment upgrades. This budget shall include a projection of fees expected to be collected over the year. Surplus cash reserves at the end of the fiscal year shall be included in the following year's budget. Such fees shall not overlap the authority of the Nation's Tax Commission as set forth in the Nation's General Revenue and Taxation Act of 1995.
- (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 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 320. Commission 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 321. 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.

Sections 322-329 RESERVED.

Section 330. Office of Executive Director Established

There is established the position of Executive Director of the Commission because effective operation of a Commission requires active supervision on a daily basis, and also requires that fair regulation should be separated from the daily management and activities of a Commission workforce.

Section 331. Appointment of Executive Director

The Commissioners shall hire and direct an Executive Director of the Commission to oversee and manage the day-to-day operations and employees of the Commission, and who shall serve as an at-will, full-time employee of the Commission.

Section 332. Removal of Executive Director

The Commissioners shall have the authority to remove the Executive Director at their discretion upon a majority vote of the Commissioners at a meeting duly convened for such purpose; a decision to remove the Executive Director shall be final and not subject to further appeal to the Board of Review or any other venue.

Section 333. Duties of Executive Director

The Executive Director shall have the following duties:

- (A) Management of the Commission budget;
- (B) Development of regulations, rules, standards, and procedures necessary for the effective regulation of the Nation's Gaming;
- (C) Implementation of Commission-approved policies and procedures and annual operating budget;
- (D) Direct supervisory authority over all employees of the Commission;
- (E) Organize the Commission staff and functions to carry out its duties efficiently and effectively;
- (F) Commission employee scheduling;
- (G) Execution of approved Commission policy and procedure;
- (H) 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 Commission, 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 Commission's regulatory duties, authorized staff of the Commission 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, in accordance with Section 302(C); within twenty-four (24) hours of initiating an investigation, the Executive Director shall provide written notification to the CEO that sets forth the alleged misconduct being investigated;
- (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 Commission 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;
- (I) Delegate other duties, as needed, to Commission staff; and
- (J) Other non-adjudicatory duties as assigned or delegated by the Commissioners.

Section 334. Executive Director License

The candidate for the position of 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.

Section 335. Qualifications of Executive Director

The Executive Director shall be subject to the same qualification requirements outlined in Section 305 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, which shall include at least two (2) years' work experience in Gaming.

Section 336. Compensation of Executive Director

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.

Section 337. Eligibility of Executive Director

The Executive Director shall be subject to the same eligibility requirements that are imposed on the Commissioners, as found in Section 314 of this Ordinance.

Sections 338-399 RESERVED.

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 Commission 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 Comanche Nation Gaming Commission and the Tribal Court for all licensure actions and any violations of such licensure or this Ordinance.

Section 403. Licensing Fee

The Nation may charge a reasonable fee, to be set by the CBC and imposed by the Commission, 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 Commission'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 has issued a license to a Primary Management Official or Key Employee before receiving the NIGC's statement of 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 Commissioners 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 Commissioners 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.

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, prior to the Commission making a final determination on license eligibility.
- (B) After a hearing, the Commissioners shall issue a written determination whether the applicant is eligible for a Gaming license.
- (C) The Commissioners' eligibility determination shall be considered a final determination.
- (D) 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 a time and place for a hearing on the proposed revocation of the license to the licensee;
 - (4) Conduct the hearing in accordance with Section 413 of this Ordinance and applicable regulations; and
 - (5) Notify the NIGC of its 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 afford the licensee an opportunity for a hearing,

- conducted in accordance with Section 413 of this Ordinance.
- (C) Following a revocation hearing, the Commission shall decide whether to revoke or reinstate the license at issue. The Commission shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a Primary Management Official or Key Employee is not eligible for employment.
 - (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 Board, and the employing Gaming Facility. A license shall not be suspended for more than sixty (60) days. If the Commission does not fully reinstate the license or set a hearing on the revocation or conditional reinstatement of the license within sixty (60) days of the initial suspension, such suspension shall be considered a final determination and subject to appeal.

Section 413. License Hearing

- (A) The Commission 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 shall notify the licensee and CNE's designated agents for such notices, in writing, of a time and a place for such hearing.
- (B) No more than seven (7) days after a licensing hearing, the Commissioners shall issue a final written determination to revoke or to reinstate the license, with or without conditions, and shall forward such determination to 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 Commissioners

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

Section 502. Guiding Principles of Ethical Conduct

Prior to taking their positions as CEO or Commissioners, each shall agree to be bound by the following principles:

- (A) No CEO or Commissioner 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) The CEO and Commissioners are operating with the paramount goal of carrying out the best interest of the Comanche Nation.
- (C) It is the intent of this Part, that the CEO and Commissioners 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 Commissioner, the conduct of Gaming, or as 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) No CEO or Commissioner 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) A CEO or Commissioner desiring to take employment under the supervision of the other entity must resign their position prior to applying for such employment.
- (F) No CEO or Commissioner 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, CEO, Commissioner, 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 CEO, all Commissioners, and those employees of CNE and the 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. Consequences of Ethical Violations

Violations of this Part shall constitute just cause for removal of a CEO or Commissioner or adverse action against an employee.

Sections 506 – 599 RESERVED

PART 600. BOARD OF REVIEW FOR EMPLOYEE DISPUTES

Section 601. Board of Review Established

The Nation has determined that, in order to adhere to adopted personnel policies and procedures and to provide a fair process, there shall be established an **Employee Board of Review** that shall serve as the final review body for disputes by any employee of CNE or the Commission, except those employees specifically excluded by this Ordinance, for appealable adverse employment actions taken pursuant to the applicable personnel policy.

Section 602. Authorized Disputes

For purposes of this Part, disputes subject to appeal to the Board of Review shall include only such disagreements with CNE management or Commission management concerning adverse employment actions for which the applicable personnel policy provides a right of appeal, but does not include those adverse employment actions taken based on the Commission's licensing actions.

Section 603. Composition

The Board of Review shall consist of five (5) members comprised of one member from the CBC, one Commission employee with management responsibilities and one Commission employee without management responsibilities, one CNE employee with management responsibilities, and one CNE employee without management responsibilities.

Section 604. Selection

- (A) The CBC shall select one committeeman to serve as an ex-officio member of the Board of Review and designate them as such by CBC resolution. The CBC-representative to the Board of Review shall not vote in any decision rendered by the Board of Review except to break a tie vote.
- (B) The employees representing the Commission shall be elected from their representative groups in accordance with procedures adopted by the Board of Review.
- (C) The employees representing CNE shall be elected from their representative groups in accordance with procedures adopted by the Board of Review.

Section 605. Terms

- (A) Board of Review members shall serve three (3) year terms and may be re-appointed by the CBC, or re-elected, as applicable, without limitation on the number of terms served.
- (B) Board of Review members shall serve until their successor is duly appointed and qualified unless removed in accordance with this Part prior the expiration of their term.

Section 606. License

A member of the Board of Review shall be subject to a background check and licensure, as set forth in regulations promulgated under this Part and approved by the CBC, and must be licensed accordingly prior to taking office and in order to retain office.

Section 607. Compensation

- (A) The Board of Review members who are employed by CNE or the Commission shall receive their normal rate of pay for the time they participate in meetings and hearings and shall also be compensated at a rate set by the CBC per meeting or hearing in recognition of the additional duties and responsibilities the employee is undertaking.
- (B) Board of Review members not employed by CNE or the Commission shall be compensated at a rate set by the CBC per meeting or hearing.
- (C) All Board of Review members shall be reimbursed for actual costs incurred during the scope of his/her duties as a member of the Board of Review.

Section 608. Operational Costs and Administrative Assistance

- (A) Costs for general meetings of the Board of Review shall be shared on a *pro rata* basis by the Commission and CNE. Costs for each Board of Review hearing and related meeting, if needed, shall be charged to the entity whose adverse employment action is being appealed.
- (B) The Commission shall provide administrative assistance to the Board of Review.

Section 609. Regulations

The Board of Review shall promulgate regulations related to Board of Review requirements and procedures that have been approved by the CBC, provide due process for all parties, and are not inconsistent with this Part.

Section 610. Organization

- (A) The Board of Review members shall elect a Chair from among them, whose duty it shall be to preside over all meetings and hearings.
- (B) In addition, the members shall elect a Vice-Chair who shall be the custodian of any evidence submitted, and who shall preside in the Chair's absence.

Section 611. Meetings

The Board of Review shall meet monthly, if needed, to conduct its business and to hear disputes, and shall keep official records of the meetings and hearings.

Section 612. Decisions

No later than seven (7) calendar days following a hearing on an employee dispute, the Board of Review shall issue its decision in writing which shall be final when issued.

Section 613. Removal

- (A) No Board of Review member shall be removed prior to the end of their term without cause.
- (B) Removal shall be effectuated by a majority vote of the entire Board of Review, which

shall be a final decision.

Section 614. Recusal

A Board of Review member shall not review or participate in any dispute in which the member has a conflict of interest. Indicators of a conflict of interest include but are not limited to disputes:

- (A) Affecting the member or any person directly related to the member, as defined in Section 102(DD);
- (B) For which the member could be called as a witness; or
- (C) The member took part in the decision-making process, in any way, that led to the adverse employment action being appealed.