JUN - 7 2006

Chairman Tony Salazar
Kickapoo Tribe of Oklahoma
Post Office Box 70
McCloud, OK 74851

RE: Kickapoo Tribe of Oklahoma Gaming Ordinance

Dear Chairman Salazar:

This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve amendments to the Kickapoo Tribe of Oklahoma Gaming Ordinance submitted on April 4, 2006. The Kickapoo Council approved the Ordinance on June 11, 2005. The Kickapoo Business Committee approved the Ordinance by Resolution #KTO2006-23 on March 14, 2006. This letter constitutes approval of your submission under the Indian Gaming Regulatory Act (IGRA). It is important to note that the Gaming Ordinance amendments are approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction.

Thank you for submitting the amendments for review and approval. The NIGC staff and I look forward to working with you and the Tribe on future gaming issues.

Sincerely,

Philip N. Hogen
Chairman

Kickapoo Tribe of Oklahoma

APR - 4 2006

Post Office Box 70
McLoud, Oklahoma 74851

Administration 405 / 964-2075
Fax 405 / 964-6211

RESOLUTION KTO2006[23]

A RESOLUTION DULY ADOPTED BY THE BUSINESS COMMITTEE OF THE KICKAPOO TRIBE OF OKLAHOMA RATIFYING THE ADOPTION OF THE GAMING ORDINANCE BY THE KICKAPOO COUNCIL AND ENACTING THE FINAL FORM OF THE GAMING ORDINANCE.

WHEREAS, the Kickapoo Tribe of Oklahoma (the "*Tribe*") is a federally recognized Native American Indian Tribe organized pursuant to the *Thomas-Rogers Oklahoma Indian Welfare Act of 1936*; and

WHEREAS, the Kickapoo people have, through a continuation of Kickapoo history, and an organized self-government, since time immemorial, sovereign powers inherent in Kickapoo tradition and recognized by treaties with the government of the United States of America and in the Constitution of the United States of America; and

WHEREAS, the Business Committee of the Kickapoo Tribe of Oklahoma, in accordance with the *Kickapoo Tribe of Oklahoma Constitution and By-Laws, Article V, Section 1(a),* is authorized to speak and act on behalf of the Tribe; and

WHEREAS, the Kickapoo Council, in accordance with *Kickapoo Tribe of Oklahoma Constitution and By-Laws, Article XV*, has the general power and authority to adopt ordinances establishing tribal rules and procedures; and

WHEREAS, in order to conduct gaming activities consistent with federal law, including the regulations and guidelines established by Public Law 100-497, commonly known as "The Indian Gaming Regulatory Act," and any tribal/state gaming compact applicable to the Tribe, the Tribe desired to adopt a gaming ordinance; and

WHEREAS, on June 11, 2005, at the annual meeting of the Kickapoo Council, the Kickapoo Council voted to adopt the Kickapoo Tribe of Oklahoma Gaming Ordinance (the "*Ordinance*") in draft form, subject to any necessary revisions including those mandated by the National Indian Gaming Commission (the "*NIGC*") prior to their approval of the Ordinance and its subsequent enactment by the Business Committee; and

WHEREAS, attached as Exhibit A hereto, there has been presented at this meeting the final form of the Ordinance as revised to include those changes determined by the NIGC to be necessary and appropriate for the approval and enactment of the Ordinance consistent with The Indian Gaming Regulatory Act and other applicable law.

NOW, THEREFORE, BE IT RESOLVED BY THE BUSINESS COMMITTEE OF KICKAPOO TRIBE OF OKLAHOMA THAT, the adoption of the draft Ordinance by the Kickapoo Council is hereby acknowledged, ratified and approved.

BE IT FURTHER RESOLVED THAT, the Business Committee, on behalf of the Tribe, hereby enacts as the final form of the Ordinance, the Ordinance originally adopted in draft form by the Kickapoo Council and further modified and presented at this meeting as Exhibit A attached hereto.

BE IT FURTHER RESOLVED THAT, all actions of the members of the Business Committee, agents or employees of the Tribe that are in conformity with the purposes and intent of this Resolution and in furtherance of the purposes of the Ordinance, whether heretofore or hereafter taken, are hereby ratified, confirmed, and approved. The proper officers, employees and agents of the Tribe are hereby authorized and directed to do all such acts and things, on behalf of the Tribe, as may be deemed necessary of desirable to carry out and give effect to the terms and intent of this Resolution and the Ordinance.

BE IT FURTHER RESOLVED THAT, if any section, paragraph or provision of this Resolution is held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision will not affect any of the remaining provisions of this Resolution.

BE IT FURTHER RESOLVED THAT, any resolutions of other actions of the Business Committee, the Tribe or the Kickapoo Council, or any of the officers, employees or agents of the foregoing, whether written or unwritten that are in effect and are in conflict or inconsistent with the terms of this Resolution or the Ordinance are hereby and to such extent repealed and annulled, and this Resolution shall supersede the same.

BE IT FURTHER RESOLVED THAT, this Resolution will be effective immediately.

BE IT FURTHER RESOLVED THAT, that the signature of each Business Committee member below constitutes written acknowledgement of their vote in favor of this Resolution:

Tony Salazar, Chairman

Jennell Downs, Secretary

Marlon Frye, Vice-Chairman

Everett Suke, Councilman

George Lopez, Treasurer

CERTIFICATION

We, Tony Salazar, Chairman and Jennell Downs, Secretary, serving in our official duties as members of the Kickapoo Tribe of Oklahoma Business Committee, do hereby certify that the above Resolution is a true and exact copy as approved by the Business Committee of the Kickapoo Tribe of Oklahoma, at a meeting of the Business Committee, held on March 14, 2006, with a quorum present, and the vote being 4 in favor, 0 opposed, and 1 abstaining.

Tony Salazar
Chairman
Business Committee
Kickapoo Tribe of Oklahoma

Jennell Downs
Jennell Downs, Secretary
Business Committee
Kickapoo Tribe of Oklahoma

APR - 4 2000

KICKAPOO TRIBE OF OKLAHOMA GAMING ORDINANCE

SECTION 100. ENACTMENT

Be it enacted by the Council of the Kickapoo Tribe of Oklahoma, the following Tribal ordinance. This ordinance shall be known and may be cited as the "Kickapoo Gaming Ordinance" and shall apply to all forms of gaming within the land and jurisdiction of the Kickapoo Tribe of Oklahoma.

SECTION 101. CITATION

This ordinance shall be known and may be cited as the "Kickapoo Tribe of Oklahoma Gaming Code" and shall apply to all forms of gaming conducted within the jurisdiction of the Kickapoo Tribe of Oklahoma.

SECTION 102. PURPOSES

The purposes of this ordinance are to promote the public order, peace, safety and welfare of all persons coming within the jurisdiction of the Kickapoo Indian Tribe of Oklahoma, to provide a safe and wholesome means of recreational activity in a community setting, and to provide a source of revenue for the operation of the programs and department of the Tribal government by ensuring that any gaming activity conducted whether Class I, II, or III is fair, responsible, and consistent with applicable federal law including the regulations and guidelines established by Public Law 100-497, known as "The Indian Gaming Regulatory Act," and/or any Tribal-State Compact to which the tribe is a party. This ordinance shall be liberally construed to promote these purposes.

SECTION 103. DEFINITIONS

Terms used herein but not defined shall have the same meanings as defined in the Indian Gaming Regulatory Act. Unless the context clearly indicates a different meaning, the following words are defined
as:

a. **"Act"** means the Indian Gaming Regulatory Act, Pub.L. 100-497, 25 U.S.C. § 2701 et seq.

b. **"Business Committee"** means the Kickapoo Tribe of Oklahoma Business Committee.

c. **"Chairman"** means the Chairman of the Kickapoo Tribe of Oklahoma Business Committee.

d. **"Class I Gaming"** means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of or in connection with Tribal ceremonies or celebrations.

e. **"Class II Gaming"** means Class II gaming as defined in accordance with the Act, 25 U.S.C. § 2703 (7).

f. **"Class III Gaming"** means Class III gaming as defined in accordance with the Act, 25 U.S.C. § 2703 (8).

g. **"Commission"** or **"Gaming Commission"** means the Kickapoo Tribe of Oklahoma Gaming Commission established by this ordinance.

h. **"Compact"** means a compact entered into by the Kickapoo Tribe of Oklahoma and any state which regulates Class III gaming.

i. **"Enterprise"** means the gaming operation established or licensed by the Tribe to conduct gaming operations of the Tribe.

j. **"Director of Gaming"** means the Director of Gaming as established in Section 114 of this ordinance.

k. **"Gaming employee"** means "gaming employee(s)" of the Enterprise and shall include primary management officials and key employees of the enterprises as defined in this ordinance.

l. **"Gaming facilities"** means any room or rooms, building or structures in which Class II gaming or Class III gaming is conducted within Kickapoo Tribe of Oklahoma jurisdiction.

m. **"Indian Lands"** means:

1. all lands within the limits of the Tribe's reservation;

2. any lands title to which is either held in trust by the United States for the benefit of the Tribe or individual or held by the Tribe or individual subject to restriction by the United States against alienation and over which the Tribe exercises governmental power, as defined in 25 U.S.C. § 2703(4) and 25 C.F.R. § 502.12; and

3. for all lands acquired in trust for the benefit of the Tribe after October 17, 1988, the lands meet the requirements set forth in 25 U.S.C. § 2719.

n. **"National Indian Gaming Commission"** or **"NIGC"** means the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.

o. **"Net Revenues"** means gross revenues of a Class II or Class III gaming activity less amounts paid out as, or paid for, prizes and total gaming-related operating expenses, excluding management fees paid to a management contractor within the meaning of 25 U.S.C. § 2711 (C).

p. **"Ordinance"** means this Kickapoo Tribe of Oklahoma Gaming Ordinance.

q. **"State"** means any State wherein the Kickapoo Tribe of Oklahoma conducts Class II or Class III gaming.

r. **"Tribe"** (and any of its derivations) means the Kickapoo Tribe of Oklahoma.

SECTION 104. ADOPTION OF COMPACT

Any Compact entered into between the Tribe and a State which is subsequently approved by the Secretary of the Interior and published in the Federal Register is hereby incorporated within and enacted as an integral part of this ordinance with respect to all forms of Class III gaming; provided, however, that nothing in the adoption of the Compact herein shall be deemed to affect the operation of the Tribe of any Class II gaming, whether conducted within or without the gaming facilities, or to confer upon the State any jurisdiction over such Class II gaming conducted by the Tribe within its Indian Lands.

SECTION 105. AUTHORIZATION FOR GAMING ACTIVITIES

a. Forms of Class III gaming authorized. The Tribe may conduct or operate all forms of Class III gaming authorized under any Compact.

b. Authority for Class II gaming. In addition to the forms of Class III gaming authorized under any compact, the Tribe shall be authorized to conduct all forms of Class II gaming within the Tribe's Indian Lands, including without limitation any form of bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith), pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo so long as played at the same location as bingo.

SECTION 106. COMPLIANCE WITH THE ACT

This Ordinance shall be construed in a manner which conforms to the Act in all respects, and, if inconsistent with the Act in any manner, the provisions of the Act shall govern.

a. Limitation on gaming operations. In compliance with 25 U.S.C. § 2710(b)(2)(A), the Tribe shall have the sole proprietary interest and responsibility for the conduct of any gaming activity on its Indian Lands.

b. Application of net revenues. In compliance with 25 U.S.C. § 2710(b)(2)(B), net revenues from any gaming activity are not to be used for purposes other than:

1. to fund Tribal government operations or programs;
2. to provide for the general welfare of the Tribe and its members;
3. to promote Tribal economic development;
4. to donate to charitable organizations;
5. to help fund operations of local Government Agencies, or
6. any other purpose permitted under the Act.

c. Annual Audit. In compliance with a U.S.C. § 2710 (b) (2) (c) and (d), all gaming activities shall be subject to an audit by independent certified public accountants, not less than annually, and copies of the annual audit shall be provided to the National Indian Gaming Commission. All contracts for supplies, services, or concessions for a contract amount in excess of $25,000 annually (except contracts for professional legal or accounting services) relating to Class II or Class III gaming shall be subject to such audits.

d. Public Safety Standards. In compliance with U.S.C. § 2710 (b) (2) (E), the construction and maintenance of any gaming facilities, and the operation of gaming activities, shall be conducted in a manner which adequately protects the environment and the public health and safety, and for that purpose shall comply with the requirements of the Compact and all other applicable health, safety and environmental standards enacted by the Tribe.

SECTION 107. ESTABLISHMENT OF TRIBAL GAMING COMMISSION

a. Establishment of Commission. There shall be established a five member Kickapoo Tribe of Oklahoma Gaming Commission, who shall be recommended by the Chairman of the Business Committee and approved by the Business Committee, at least three of whom shall be members of the Tribe, but none of whom shall be employees of the Enterprise. Each Commissioner shall serve for a term of three years commencing on the date of their appointment; provided, that, as to the initial members so appointed, one of the initial members appointed shall be designated to serve for an initial term of one year, two of the initial members appointed shall be designated to serve for an initial term of two years and two of the initial members appointed shall be designated to serve for an initial term of three years. The members of the Commission shall appoint one of their members to be the Chairman of the Commission. The members of the Commission shall serve on a part time basis and the compensation of members of the Commission shall be established by the Business Committee. Members of the Commission may be removed by a majority vote of the members of the Business Committee. Vacancies in the Commission must be filled by appointment by the Business Committee. No member or employee of the Commission shall participate as a player in any gaming activity conducted by the Tribe.

b. Powers and duties of the Commission. The Commission shall have the following powers and duties:

1. The Commission shall have primary responsibility for oversight of Tribal gaming operations to assure the integrity of such operations and shall, for that purpose, employ non-uniformed inspectors who may be present in all gaming facilities during all hours of operation and who shall be under the sole supervision of the Commission and not under the supervision of any management employees of the Tribal gaming operations. Such inspectors shall have unfettered access to all areas of the gaming at all times, and personnel employed by the Enterprise shall for such purposes provide such inspectors access to locked and secure areas of the gaming facilities in accordance with the standards of operation and management promulgated pursuant to any Compact. Such inspectors shall report to the Commission regarding any failure by the Enterprise to comply with any of the provisions of any Compact or this Ordinance and any other applicable laws and ordinances. Inspectors assigned by the Commission may also receive consumer

complaints within the gaming facilities and shall assist in seeking voluntary resolution of such complaints. Inspectors appointed by the Commission shall be licensed as gaming employees in accordance with any Compact.

2. The Commission may, on its own initiative, investigate any aspect of the operations of the Enterprise in order to protect the public interest in the integrity of such gaming activities and to prevent improper or unlawful conduct in the course of such gaming activities, and shall investigate any report of a failure of the Enterprise to comply with the provisions of any Compact or this Ordinance and may require the Enterprise to take any corrective action deemed necessary by the Commission upon such terms and conditions as the Commission may determine appropriate. The Commission may compel any person employed by or doing business with the Enterprise to appear before it and to provide such information, documents or other materials as may be in their possession to assist in any such investigation.

3. The Commission shall carry out each of the responsibilities and duties set forth for the Tribal Gaming Agency in any Compact.

4. The Commission shall prepare a plan for the protection of public safety and the physical security of patrons in each of its gaming facilities, setting forth the respective responsibilities of the Commission, the security department of the Enterprise, any Tribal police agency, and if appropriate, any State or local police agency.

5. The Commission shall review and approve floor plans and surveillance systems for each gaming facility and may confer with other organizations regarding the adequacy of such plans and systems.

6. The Commission shall promulgate, review and revise (as necessary) Standards of Operation and Management for Class III gaming activities in accordance with any Compact.

7. The Commission may issue and revoke licenses for Class II gaming employees in accordance with this Ordinance.

8. The Commission may issue and revoke licenses for Class III gaming employees in accordance with this Ordinance.

9. The Commission shall establish a list of persons barred from the gaming facilities because their criminal history or association with career offenders or career offender organizations poses a threat to the integrity of the gaming activities of the Nation.

10. The Commission shall promulgate, review and revise (as necessary) the rules of each game of chance operated by the Tribe pursuant to any Compact and shall in accordance with the provisions of any Compact notify the State Gaming Agency of such rules and of any change in such rules.

11. The Commission shall enforce the health and safety standards applicable to the gaming facilities of the Enterprise in accordance with Section 106.d. of this Ordinance. Prior to the opening of any facility for Class III gaming, the Enterprise shall obtain a certificate of compliance from the Commission relating to the Class III gaming facilities. The Commission shall issue a certificate of compliance to the Enterprise upon a determination that the gaming facilities of the Enterprise comply with such standards.

12. The Commission may impose penalties for violations of this Ordinance or any Compact.

13. The Commission may, in the name of the Tribe, bring any civil action or criminal complaint in the courts of the Tribe, or any competent Federal Court System to enforce the provisions of this Ordinance, the Act or the Compact, occurring where Kickapoo gaming is conducted. The bringing of any such action by the Commission shall not be deemed to be a waiver of sovereign immunity by the Commission or the Tribe.

14. The Commission may receive any complaint from an employee of the Enterprise or any member of the public who is, or claims to be, adversely affected by an act or omission of the Enterprise of any employee there of which is asserted to violate this Ordinance, or any Compact, and may impose such remedial action as it deems appropriate to bring the Enterprise into compliance with such provisions. The Commission may for this purpose, in its sole discretion, conduct a hearing and receive evidence with regard to such complaint if it deems an evidentiary proceeding useful in the resolution of the complaint.

15. The Commission shall adopt an annual operating budget which shall be subject to the approval of the Business Committee and may in accordance with said budget employ such staff from time to time as it deems necessary to fulfill its responsibilities under this Ordinance, and may retain legal counsel, consultants and other professional services including investigative services to assist the Commission with respect to any of the issues over which the Commission exercises jurisdiction. The expenses of the Commission in accordance with such budget shall be assessed against the Enterprise and the Enterprise shall pay such assessments to the Tribe.

16. The Commission may employ inspectors to conduct background investigations on key employees and primary management officials. Any inspector employed to assist in the background investigations may be assigned to work under and report to the Executive Director. Inspectors employed to conduct background investigations shall not be licensed as a gaming employee.

c. Chairman. The Chairman of the Commission or any other member of the Commission acting in the absence of the Chairman may, whenever he deems it necessary to protect the public interest in the integrity of Tribal gaming operations, issue in the name of the Commission any order which the Commission has the power to issue, to the Enterprise or to any employee or contractor of the Enterprise or to any other person within the jurisdiction of the Tribe,

to take any action or cease and desist from any action as may be required to protect to the public interest; provided, that such order shall be subject to review by the Commission at its earliest opportunity, whereupon it may be confirmed or vacated by the Commission.

d. Executive Director. The Commission shall appoint an individual to serve as Executive Director of the Commission to administer its responsibilities as necessary and to oversee inspectors appointed by the Commission as well as such other staff as the Commission may from time to time employ. The Executive Director shall be responsible for coordination of the functions of the Commission with the National Indian Gaming Commission, any state gaming agency and other state and local agencies as necessary. The Chairman may request the Executive Director to conduct a preliminary investigation and render a recommendation to the Commission with respect to background checks of key employees and primary management officials and the grant or denial of any license, the imposition of any penalty, the investigation of any complaint, or any other action within the jurisdiction of the Commission. The Executive Director shall have the power, in the name of the Commission, to conduct any hearing, investigation or inquiry, compel the production of any information or documents, and otherwise exercise the investigatory powers of the Commission, which the Commission may exercise under this Ordinance.

e. Procedures of the Commission.

1. Regular meetings of the Commission may be held upon such notice, or without such notice, and at such time and place as shall from time to time be fixed by the Commission. Unless otherwise specified by the Commission, no notice of such regular meetings shall be necessary.

2. Special meetings of the Commission may be called by the Chairman or the Executive Director. The person or persons calling the special meeting shall fix the time and place thereof. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Commission need to be specified in the notice of the meeting.

3. At any meeting of the Commission, three (3) of the members then in office shall constitute a quorum for the transaction of business. The vote of a majority of the members present at a meeting at which a quorum is present shall be the act of the Commission. The Chairman shall preside at all meetings of the Commission unless the Chairman designates another member to preside in his absence.

4. Any action required or permitted to be taken at a meeting of the Commission may be taken without a meeting if all of the members sign written consents setting forth the action taken or to be taken, at anytime before or after the intended effective date of such action. Such consents shall be filed with the minutes of the Commission, and shall have the same effect as a unanimous vote or resolution of the Commission at a legal meeting thereof.

5. Members of the Commission may participate in a meeting of the Commission by means of conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each

other, and participation in a meeting in such matter by any member does not object at the beginning of such meeting to the holding thereof in such manner, shall constitute presence in person at such meeting.

6. No action of the Commission to impose a penalty pursuant to this Ordinance, or to revoke a license for a gaming employee previously issued by the Commission, shall be valid unless the person affected is given at least seven days notice of the proposed action and the opportunity to appear and be heard before the Commission, either in person or through a representative or legal counsel, and to submit such evidence as the Commission deems relevant to the matter at issue; provided, that if the Commission deems it necessary to protect the public interest in the integrity of the gaming activities, the Commission may take such action with immediate effect as it deems required, and shall thereupon provide notice and an opportunity to be heard to the affected person as soon as is reasonably practicable following such action. Any person who is denied an initial gaming employee license or who is barred from the gaming facilities by action of the Commission may request a hearing before the Commission by written request submitted within thirty days following receipt of notice of the action of the Commission, and the Commission shall thereupon afford an opportunity to appear and be heard before the Commission, either in person or through a representative or legal counsel, and to submit such evidence as the Commission shall either affirm or reconsider its decision. Any hearing conducted under this subsection may, at the direction of the Commission, be conducted by the Executive Director or by one or more of the Commission designated by the Commission for that purpose.

7. The Commission may adopt such additional procedures and rules as it deems necessary or convenient to govern its affairs and which are consistent with this Ordinance.

SECTION 108. <u>GAMING OPERATIONS</u>

a. The Tribe through the Business Committee shall have sole proprietary interest in and be responsible for the conduct of all gaming operations. All gaming operations shall be administered by the Director of Gaming who is employed by and serves at the pleasure of the Business Committee. In the event that the Tribe enters into a management contract approved by the NIGC, some or all of the duties of the Tribe and the Director of Gaming may be delegated to the approved management contractor.

b. The Tribal Gaming regulatory authority shall be vested in the Commission.

c. The Business Committee shall have the authority to amend this Ordinance as necessary and shall submit any such amendments to the NIGC for approval. The Commission monitors compliance with this ordinance, any tribal-state compacts, and all applicable federal or tribal laws.

SECTION 109. LICENSE FOR LOCATION

The Tribe shall issue a separate license to each place, facility or location within its Indian Lands where Class II and/or Class III gaming is conducted under this ordinance.

SECTION 110. QUALIFICATIONS

The Director of Gaming, the Commission's executive director and "Key" employees must:

a. Never have been convicted of a felony, gaming offense or crime involving dishonesty or moral turpitude;

b. Not have been convicted of any offense except traffic violations within two years from the date of employment;

c. Not be a member of the Business Committee or Grievance Committee or related to any member of the Business Committee or Grievance Committee by blood or marriage within the second degree;

d. Not have had his surety bond forfeited or been criminally convicted of or found civilly liable for any breach of fiduciary duty to the tribe or have been impeached or removed from Tribal office;

e. Be bondable in the necessary amounts; and

f. Meet any other applicable qualifications as prescribed in the Indian Gaming Regulatory Act.

SECTION 111. ETHICS

The Tribe recognizes that many important decisions on highly sensitive issues must be made daily and has determined that all entities and/or individuals charged with making these decisions shall be held to extremely high ethical standards. Therefore, prior to taking their positions, the Director of Gaming, the Commission and/or any position involving the oversight of the management of the gaming Enterprise, shall agree to be bound by the following principles:

a. Members shall not hold financial interests that conflict with the conscientious performance of their duties as managers and regulators.

b. Members shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest.

c. Members shall not solicit or accept any gift or other item of monetary value, including complimentary items (See Section 112 below), from any person or entity seeking official action or inaction, from doing business with, or conducting activities regulated by the member's organization, or whose interests may be substantially affected by the performance or nonperformance of the Members' duties.

d. Members shall make no unauthorized commitments or promises of any kind purporting to bind the Tribe.

e. Members shall not use their positions for private gain.

f. Members shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons related to Members.

g. Members shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.

h. Members shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.

i. Members shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

j. Members shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.

k. Members shall disclose any real or apparent financial or personal conflicts. If there is a real conflict or the appearance of one, the member shall not take part in any decision related to the conflict.

SECTION 112. <u>COMPLIMENTARY ITEMS</u>

a. The use of complimentary items shall be governed by regulations established by the Gaming Commission, which shall be in accord with the NIGC's Minimum Internal Control Standards, found at 25 C.F.R. §542.17.

b. No Key Employee, Primary Management Official, Business Committee member, member of the Gaming Commission, or any person directly related to or sharing a residence with the persons, shall be authorized to receive complimentary items.

c. Complimentary items shall be included in the annual budget for the gaming operation, with maximum limits specified, and shall be subject to approval by the Business Committee.

SECTION 113. <u>CONDUCT OF GAMING OPERATIONS</u>

a. <u>Minimum Internal Control Standards</u>.

The Tribe acknowledges its obligation to adopt and implement Minimum Internal Control Standards (MICS) for the operation of its Tribal gaming operation, no less stringent than those found in the regulation of the NIGC at 25 C.F.R. Part 542.

b. Tribal Internal Control Standards.

The Tribal Internal Control Standards (TICS) shall be developed by the Gaming Commission to be reviewed and approved by the Business Committee. The Gaming Commission shall enforce the TICS.

c. The Gaming Commission shall regulate the gaming operation consistent with the following:

1. The rules of play and operation of the game as prescribed and approved by the Commission, including setting of wager limits.

2. Each and every player has a fair and equal opportunity to win.

3. The method of winning and the prize or prizes for each game should be clearly outlined before each game.

4. The winner or winners of each game shall be verified.

5. No person who is conducting or assisting in the gaming operation shall participate directly or indirectly in the play of that game.

6. No person under the age of eighteen (18) years of age shall be permitted to play for any reason.

7. The Gaming Commission shall make the final determination as to the validity of a winner or winners at the conclusion of the game at which they were a winner.

8. No alcoholic beverages or drugs of any kind shall be permitted in the facility during the time that the facility is being used for the gaming operation, unless the Kickapoo Tribe of Oklahoma Liquor Commission has issued an Alcoholic Beverage license for on-premises consumption.

9. No person under the influence of intoxicants, drugs or in any violation of Tribal law or ordinance shall be permitted to engage in any form of gaming nor to remain in the building when gaming is being conducted.

10. Trash should be separated to facilitate recycling and efforts should be made to protect the environment.

SECTION 114. DIRECTOR OF GAMING

a. In addition to the General Manager for the facility, there shall be established a Director of Gaming which shall serve in a management oversight role over the General Manager and the day-to-day operations of the gaming operation. The Director of Gaming may be one or more persons named by the Business Committee. In no event shall the Director of Gaming be comprised of more than three persons. In the event that the Tribe enters into a management

contract approved by the NIGC, the Director may delegate some or all duties to the approved management contractor. The Director shall oversee all non-regulatory aspects of the gaming operation. Regulation of the gaming operation shall be the sole responsibility of the Gaming Commission.

b. The duties of the Director of Gaming are to:

1. Monitor and oversee the day-to-day operations of the gaming facility, whether managed by a tribal employee or by an approved management contractor;

2. Inspect and examine on a periodic basis all books, records, and papers of the gaming facility;

3. Set hours of operation for the gaming facility;

4. Develop marketing plans;

5. Oversee the interview, selection, and training of employees of the gaming operation;

6. Establish employee policies, rates of pay, and hours of work;

7. Adopt an annual operating budget, subject to Business Committee approval; and

8. Enter into contracts on behalf of the gaming facility, subject to Business Committee approval.

SECTION 115. <u>EMPLOYEES</u>

a. All persons employed in the gaming facility shall be licensed by the Commission as prescribed by the Indian Gaming Regulatory Act or any tribal-state compact for Class III gaming.

b. Each employee will wear a license in a visible manner when operating or assisting in the operation of a gaming facility.

c. No person shall be employed whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming.

d. As necessary, the Business Committee may require the Commission, the executive director or any other "key" employee to be bonded in an amount not less than $50,000 payable to the Tribe.

e. Background investigations will be conducted on the primary management officials and key employees as prescribed in the Indian Gaming Regulatory Act, federal regulations, or any

tribal- state compact for Class III gaming and the results forwarded to the NIGC prior to the issuance of licenses.

f. Licenses will be issued according to requirements at least as stringent as set forth in 25 C.F.R. Parts 556 and 558, as may be amended from time to time.

g. When licenses are issued, the Commission will promptly notify the NIGC as described in the Indian Gaming Regulatory Act, federal regulations, or any tribal-state compact for Class III gaming.

h. The Director of Gaming shall employ qualified tribal members in preference to other equally-qualified applicants for work, but shall not be required to employ or retain in employment unqualified tribal members.

SECTION 116. <u>EMPLOYEES LICENSED</u>

The Commission shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any Class II or Class III gaming Enterprise operated on Indian Lands:

a. <u>Definitions</u>. For the purposes of this section, the following definitions apply:

1. Key employee means those key employees as defined in any statute or regulation and at a minimum include:

(a) A person who performs one or more of the following functions:

(1) Bingo caller;

(2) Counting room supervisor;

(3) Chief of Security;

(4) Custodian of gaming supplies or cash;

(5) Floor manager;

(6) Pit boss;

(7) Dealer;

(8) Croupier;

(9) Approve of credit; or

(10) Custodian of gambling devices including persons with access to cash and accounting within such devices.

(b) If not otherwise included, any other person whose total cash compensation is in excess of $50,000 per year; or

(c) If not otherwise included, the four most highly-compensated persons in the gaming operation.

2. Primary management official means:

(a) The person having management responsibility for a management contract;

(b) Any person who has authority to hire and fire employees or to set up working policy for the gaming operation; or

(c) The chief financial officer or other person who has financial management responsibility.

b. Application Forms.

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

"In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U. S. C. A. § 2701 et seq. 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 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, 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 of firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position."

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

2. Existing key employees and primary management officials shall be notified in writing that they shall either:

(a) Complete a new application form that contains a Privacy Act notice; or

(b) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

3. The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant:

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, Section 1001).

4. The Commission shall notify in writing existing key employees and primary management officials that they shall either:

(a) Complete a new application form that contains a notice regarding false statements; or

(b) Sign a statement that contains the notice regarding false statements.

c. Background Investigations.

1. The Commission shall request from each primary management official and from each key employee all of the following information:

(a) Full name, other names used (oral and written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

(b) Currently and for the previous five years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;

(c) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under Paragraph c.1 (b) of this section;

(d) Current business and residence telephone numbers;

(e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(g) 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;

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

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

(j) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten years of the date of the application and is not otherwise listed pursuant to Paragraph c.1(h) or c.1(i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

(k) 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;

(l) A current photograph;

(m) The required application fee for background checks as may be set from time to time by the Commission;

(n) Any other information the Tribe deems relevant;

(o) Fingerprints consistent with procedures adopted by the Commission according to 25 C.F.R. §522.2(h), which shall require that the Tribal law enforcement agency take fingerprints and submit them to the Federal Bureau of Investigation for a criminal check against FBI records. In the event that Tribal law enforcement is temporarily unable to take the applicant's fingerprints, then the Commission may cause the fingerprints to be taken by another city, county, state or federal law enforcement agency; and

(p) The Commission shall conduct an investigation sufficient to make a determination under Subsection (d) below. In conducting a background investigation, the Commission or any agent acting on behalf of the Commission shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

d. Eligibility Determination.

The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or

primary management official for employment in a gaming operation. In conducting the criminal background check, the Commission or any agent acting on behalf of the Commission shall, at a minimum, conduct a search of records maintained in the state of Oklahoma for the previous ten years, search criminal records maintained by Courts of the County wherein the applicant resides and cause a criminal check to be conducted with the records maintained by the Federal Bureau of Investigation. The information compiled in the investigation shall be submitted with a recommendation on the proposed action to the Commission for its review. If the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a management contractor or a tribal gaming operation shall not employ that person in a key employee or primary management official position.

e. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the Nation Indian Gaming Commission.

1. When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Commission shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Subsection (d) of this section.

2. The Commission shall forward the report referred to in this subsection to the National Indian Gaming Commission within 60 days after an employee begins work.

3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

f. Report to the National Indian Gaming Commission.

1. Pursuant to the procedures set out in Subsection (e) of this section, the Commission shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

(a) Steps taken in conducting a background investigation;

(b) Results obtained;

(c) Conclusions reached; and

(d) The bases for those conclusions.

2. The Commission shall submit, with the investigative report, a copy of the eligibility determination made under Subsection d of this section unless the NIGC shall have advised the Tribe that the submission of the eligibility determination is not necessary. This determination shall include a Statement describing how the information submitted by the applicant was verified; a statement of results following an inquiry into the applicants prior activities, criminal record, if any, and reputation,

habits and associations; a Statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Tribe to make a finding concerning the eligibility for employment in a gaming operation; and a Statement documenting the disposition of all potential problem areas noted and disqualifying information obtained.

3. If a license is not issue to an applicant, the Commission:

(a) Shall notify the National Indian Gaming Commission; and

(b) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for the inclusion in the Indian Gaming Individuals Records System.

4. With respect to key employees and primary management officials, the Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

g. Granting a Gaming License.

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Commission that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Commission has provided an application and investigative report to the National Indian Gaming Commission, the Commission may issue a license to such applicant.

2. The Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under Paragraph (g) (i) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Commission with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Commission has provided an application and investigative report to the National Indian Gaming Commission, the Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Commission shall make the final decision whether to issue a license to such applicant.

h. License Suspension.

1. If, after the issuance of a gaming license, the Commission receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under Subsection (d) above, the Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

3. After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the National Indian Gaming Commission of its decision.

SECTION 117. VENDOR LICENSING

Subject to review and approval by the Business Committee, the Commission shall adopt regulations for the licensing of vendors who provide services and supplies to the Enterprise with an annual value of $25,000 or more. Provided, however, that contracts for professional legal and accounting services are excluded from this section. Provided, further, that financing provided by a federally regulated or state-regulated bank, savings and loan, or trust, or other federally or state-regulated lending institution; any agency of the federal, state, tribal or local government; or any person or entity, including, but not limited to, an institutional investor who, alone or in conjunction with others, lends money through publicly or commercially traded bonds or other commercially traded instruments, including but not limited to the holders of such bonds or instruments or their assignees or transferees, or which bonds or commercially traded instruments are underwritten by any entity whose shares are publicly traded or which underwriter, shall be exempt from the licensing requirements of this section.

SECTION 118. GAMING ACCOUNT

The Business Committee shall designate one banking account as the Tribal "Gaming Account." The account shall be maintained in a financial institution designated by the Business Committee. The Gaming Account shall be subject to the Annual Audit. Gross revenues derived from the conduct of Tribal gaming operations, excluding any cash payouts made during a Gaming session shall be deposited in the Tribal Gaming Account. No other monies shall be commingled with the Tribal Gaming Account. Net revenues are to be transferred monthly to the Tribe's General Fund account to be disbursed solely as authorized by Business Committee appropriation.

SECTION 119. SUPPLIES AND EQUIPMENT

All reasonable and necessary expenses of the gaming operation must be approved. All contracts for purchases of supplies, concession or services (excluding contracts for professional, legal or accounting services) in excess of $3,000 must receive prior approval of the Business Committee, which shall be obtained by the Director of Gaming by submitting the proper requisition. All purchases of equipment, materials, concessions and food or any other item paid from the Gaming Account shall be the property of the Tribe.

SECTION 120. LOCATION AND SCHEDULE OF GAMING

All gaming sessions authorized herein shall be conducted at a place within Tribal Indian Lands, and in a location permitted by the Act, and on such days and times as may be approved by the Business Committee. The location and time for conducting Class III Gaming shall be consistent with any Tribal-state compact.

SECTION 121. DISCRIMINATION

Notwithstanding any other provision of this section, the Director of Gaming, Business Committee and/or Gaming Commission may bar any person from admittance to any Tribal gaming facility for any or no reason whatsoever. However, no person shall be discriminated against because of his race, color, creed, sex or natural origin.

SECTION 122. PATRON DISPUTE RESOLUTION

a. Making a Claim.

Any patron having a claim against the gaming Enterprise shall present a claim to the gaming Enterprise for any appropriate relief including the award of money damages. Claims against the gaming Enterprise are to be presented within ninety (90) days of the date the loss occurs. In the event a claim is not presented following ninety (90) days after the loss occurs, but within one (1) year after the loss occurs, any judgment in a lawsuit arising from the act which is the subject of the claim shall be reduced by ten (10) percent. A claim against the gaming Enterprise shall be forever barred unless notice thereof is presented within one (1) year after the loss occurs. A claim against the gaming Enterprise shall be in writing and filed with the Tribal Gaming Commission at the address of the gaming facility. Notices explaining this procedure shall be posted in the gaming facility. Such notices shall explain that this procedure is the exclusive method of making a tort claim or registering a patron dispute about payment of a bet or a distribution of winnings, such notices shall explain that upon denial of a claim redress must be sought exclusively in Tribal Court.

b. Notice.

The written notice of claims of the gaming Enterprise shall state the date, time, place and circumstances of the claim, the identity of the tribal or gaming employees, if known, the amount of compensation or other relief demanded, the name, address and telephone number of the claimant, and the name, address and telephone number of any agent authorized to settle the claim.

c. Denial.

A claim is deemed denied if the gaming Enterprise fails to approve the claim in its entirety within ninety (90) days of receipt, unless the interested parties have reached a settlement before the expiration of that period. A person may not initiate suit against the gaming Enterprise unless the claim has been denied in whole or in

part. The claimant and the gaming Enterprise may continue attempts to settle a claim: however, settlement negotiations do not extend the date of denial.

d. Limitations.

No action for any cause arising from personal injury, property damage, or patron gaming dispute shall be maintained unless valid notice has been given and the action is commenced in a tribal court within 180 days after denial of the claim as set forth herein. Neither the claimant nor the gaming Enterprise may extend the time to commence an action by continuing to attempt settlement of the claim.

SECTION 123. REPORT OF WINNERS

No prize shall be awarded unless the winner has fairly won without any collusion with the Director of Gaming, Commissioner or any of their employees or agents and/or employees of the gaming Enterprise. A receipt acknowledging acceptance and receipt of the prize awarded must be signed by any winner regardless of the amount. The Director of Gaming and/or Commission has the authority to hold the payment of any winnings indefinitely until the final verification of authentic winning has been determined whether by inquiry or electronic means of validation upon the approval of the Business Committee. The Director of Gaming or its designee shall make accurate and timely reports to the Internal Revenue Service of any winners at any gaming facility whose prize winnings exceed the minimum limits set by the Internal Revenue Service. In which case, acceptable proof of winners: name, address, and social security number must be presented to the Director of Gaming or his designee in order to be paid prizes.

SECTION 124. CRIMINAL PENALTIES

Subject to Federal Indian law and other applicable law, any person or firm violating the provisions of this chapter shall be guilty of an offense and shall, upon conviction thereof, be punished as provided by law. If a person is convicted in Tribal court, he may be punished by confinement in the Tribal jail for a period of not less than ten (10) days and no more than six (6) months or by a fine of not less than $500 and no more than $5,000 or by both such fine and imprisonment.

SECTION 125. SERVICE OF PROCESS

All notices or process made pursuant to this ordinance may be made by directing said notice to:

Director of Gaming
Kickapoo Tribe of Oklahoma
P.O. BOX 406
McLoud, OK 74851

cc: Tribal Administrator
Kickapoo Tribe of Oklahoma
P.O. BOX 70
McLoud, OK 74851

SECTION 126. REPEALER

Any prior gaming ordinances and all other ordinances inconsistent herewith are hereby repealed.

SECTION 127. EFFECTIVE DATE

This ordinance shall become effective on the date of approval by the National Indian Gaming Commission.