

KIOWA GAMING ORDINANCE ACT OF 2023

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Section 1. Purpose.

The Legislature of the Kiowa Tribe (herein the “Tribe”) hereby enacts this law to govern and regulate the operation of class II and class III gaming operations in the Territory of the Tribe.

Section 2. Applicability.

This law shall apply to all Class II and all Class III gaming in the Territory.

Section 3. Definitions.

- A. The definitions set out in the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. §§ 2703, as they exist today and as they may be amended from time to time are hereby adopted as the law of the Tribe.
- B. The definitions set out in the National Indian Gaming Commission (“NIGC”) regulations, 25 C.F.R. part 502, as they exist today and as they may be amended from time to time are hereby adopted as the law of the Tribe.
- C. The following defined terms set out in quotations shall have the meanings set out below and shall control over those defined terms that may be adopted from IGRA or NIGC:
 - “Commission” shall mean the Tribe’s Gaming Commission established to perform regulatory oversight and to monitor compliance with tribal, federal and applicable state regulations.
 - “Commissioner” shall mean a Tribal Gaming Commissioner.
 - “Constitution” shall mean the Constitution of the Kiowa Tribe.
 - “Directly related to” shall mean a spouse, child, parent, grandparent, grandchild, aunt, uncle, or ~~first cousin sibling(s)~~.
 - ~~“Director” shall mean a member of the Tribal Gaming Board of Directors.~~
 - “Licensee” shall mean any person who requires a license from the Commission.
 - “Indian Lands” shall mean the Territory of the Tribe.
 - “KCOA” shall mean the Kiowa Casino Operations Authority as it now exists, may later be amended, or any successor entity vested with the duties, rights and responsibilities of the KCOA.
 - “NIGC” shall mean the National Indian Gaming Commission.
 - “Person” shall mean any natural person or any business entity authorized to do business in the Territory.

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- “Rules” shall mean any administrative action that is intended to have prospective, general effect, and is synonymous with the term regulation as that term is used in the Constitution.
- “Territory” shall have the meaning set out in Article III, Section 1 of the Constitution.
- “Tribe” shall mean the Kiowa Tribe as set out in the Constitution at Article IV.

Section 4. Authorization.

All gaming, including without limitation, Class II and Class III gaming is, subject to licensure by the **Kiowa Tribal Gaming** Commission and compliance with the requirements of Kiowa law, authorized to be conducted in the Territory, if such gaming is conducted in accordance with this law, IGRA, NIGC’s regulations, and any other applicable laws or regulations duly promulgated by the Commission pursuant to this law, if any.

Section 5. Ownership of Gaming.

- A. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this law, except as expressly provided by **this** law.
- ~~B. No person or entity, other than the Tribe, shall conduct gaming without obtaining a license from the Commission.~~
- ~~C. The Commission may issue a license for individually owned gaming so long as:~~
 - ~~1. The individually owned gaming operation is licensed and regulated pursuant to this law;~~
 - ~~2. The income to the Tribe from an individually owned gaming operation is used only for the purposes listed in this Ordinance;~~
 - ~~3. Not less than sixty percent of the net revenues of the individually owned gaming operation is income to the Tribe;~~
 - ~~4. The owner of the individually owned gaming pays an annual assessment to NIGC pursuant to 25 C.F.R. § 514.1;~~
 - ~~5. The Commission applies licensing standards that are at least as restrictive as those established by the law of Oklahoma that governs similar gaming that occurs in Oklahoma, if any; and~~
 - ~~6. The Commission determines that the owner of the individually owned gaming would be eligible to receive a State license to conduct the same activity within the jurisdiction of the surrounding State~~

Section 6. Use of Net Gaming Revenue

- A. Net revenues from gaming shall be used only for the following purposes:

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1. To fund government operations and programs of the Tribe;
 2. To provide for the general welfare of the Tribe and its members;
 3. To promote economic development of the Tribe;
 4. To donate to charitable organizations of the Tribe; or
 5. To help fund operations of local government agencies.
- B. Net revenues from any class II and/or class III gaming activities conducted or license by the Tribe may be used to make per capita payments to tribal members if:
1. The Tribe has prepared a plan to allocate revenues to one or more of the five uses authorized by section 6(A) of this ordinance;
 2. The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in sections 6(A)(1) and 6(A)(3) of this ordinance;
 3. The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person; and
 4. The per capita payments are subject to Federal taxation and the Tribe notifies its members of such tax liability when payments are made.

Section 7. Board of Trustees (KCOA Charter of 2023 Resolution KL-CY-2023-007)

- A. In addition to the Chief Executive Officer and Chief Operating Officer/General Manager for the gaming facility, the Kiowa Tribe Legislature shall establish a Kiowa Casino Operations Authority which shall serve in a management oversight role over the Chief Executive Officer and Chief Operating Officer/General Manager and the day-to-day operations of the gaming operation.
1. In the event that the Tribe enters into a management contract approved by the NIGC, the Board of Trustees may delegate some or all duties to the approved management contractor.
 2. The Board of Trustees shall oversee all non-regulatory aspects of the gaming operation.
 3. Regulation of the gaming operation shall be the sole responsibility of the Kiowa Tribal Gaming Commission.
- B. The members of the Board of Trustees shall be subject to the same background requirements as key employees and primary management officials and must be licensed accordingly.

Section 7.8. Kiowa Gaming Commission

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- A. The Kiowa Tribe Legislature hereby establishes the **Kiowa Tribal Gaming Commission** (“**Commission**”) pursuant to Article VI, Section 6 (h) of the Kiowa Constitution to regulate gaming operations in Kiowa Tribe Territory. The Commission shall consist of three (3) members, who shall hold the following titles: Chairperson, Vice-Chairperson and, Secretary/ Treasurer.
- B. Neither the Commission, its commissioners, nor any staff or employees of the Commission shall engage in any other activity relating in any way to gaming including without limitation any regulatory activity for the United States, any state or any other Tribe or foreign government, or any management, operation or consultation relating to gaming, anywhere. Such prohibition shall apply to every Commissioner, staff member or employee of the Commission during their term of office or employment and said prohibition shall extend for one year after employment, except the one (1) year prohibition after service for the Kiowa Tribe shall not apply to serving in a regulatory role for another Tribe.
- C. The Commission shall ensure compliance with Tribe, Federal, and any other applicable laws and regulations.
- D. The Commission shall serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the gaming operation’s internal controls and in tracking gaming revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of all places where games are located in the Territory, and to all of its records relating to such games, their operation, storage, transportation, sale, lease, licensure or use. The Commission shall have authority to enter into any building to enforce this law or any regulation of the Commission. The Commission may suspend or revoke any gaming license.
- E. Each of the Commissioner positions shall be filled as set out in the Constitution, Article VI, Section 6 (h).
- F. The initial Commissioners under this law, their positions, and their terms of office expire as set forth herein:

Commissioner	Title	Expiry of Office
	Chairman	
	Vice-Chairman	
	Secretary/Treasurer	

The term of office shall be for a maximum of four (4) years. A Commissioner may serve in consecutive terms of office. If a new Commissioner is not nominated by the **Tribal** Chairman more than 10 days before the expiry of office, the Commissioner then holding that seat is automatically reappointed to such position.

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- G. The following persons are not eligible to serve as Commissioners: **Kiowa Tribe Legislature members, while serving as such**; any person employed by the KCOA; **any person employed by the Kiowa Casino Enterprises**; any person who is a member of the board of the KCOA; any person who contracts with or supplies services to the **KCOA gaming operation; gaming contractors, including any principal of a management or other contracting company**; any person operating any gaming facility within the Territory; any person employed by or consulting with any entity operating any gaming facility within the Territory; any person then elected or appointed to a governmental post for the State of Oklahoma (but not including counties, cities and towns), or any person elected to a post or employed by the federal government, any person who operates, consults with or provides services to any gaming facility within the Territory; any person employed by any licensee; persons directly related to, or sharing a residence with, any of the above; persons ineligible to be licensed by the Commission as key employees or primary management officials; and any person previously convicted of any felony or misdemeanor offense involving intent to act in violation of law, including without limitation embezzlement, theft, deceit, fraud, rape, assault, or murder.
- H. The Legislature of the Tribe (“Legislature”) recognizes the importance of an independent Commission in maintaining a well-regulated gaming operation. The Commission shall be independent of, and act independently and autonomously from, the Legislature in all matters within the purview of the Commission. No prior, or subsequent, review by the Legislature of any actions of the Commission shall be required or permitted except as otherwise provided in this law. However, nothing herein shall enlarge or diminish the jurisdiction of the Courts of the Tribe nor diminish the obligation the Commission has under the Constitution, including to act in compliance with due process of the law.
- I. Before the Executive Director of the Commission is hired, the Tribal Chairman ~~must~~ shall concur in the decision. If the Tribal Chairman does not concur **within ten (10) business days**, then another candidate must be hired. Once hired, only the Commission, by a majority vote may hire or fire its Executive Director, ~~staff or other employees~~.
- J. Legislators and their staff, the Chairman and his staff, **KCOA Board members and their staff**, and Commissioners, staff and employees of the Commission are prohibited from engaging in activities that create a conflict of interest, or the appearance of impropriety relating to their official duties for the Tribe. In order to avoid such conflicts or the appearance of impropriety, the Legislature requires that, at a minimum:
1. Legislators and their staff, the Chairman and his staff, **KCOA Board members and their staff**, Commissioners, staff and employees of the Commission are prohibited from gambling in any facility licensed by the Commission;
 2. Legislators and their staff, the Chairman and his staff, **KCOA Board members and their staff**, Commissioners, staff and employees of the Commission are prohibited from accepting any gifts, whether denominated “complimentary items” or any other term, from any person or entity licensed by the Commission, excepting food and beverages.

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However, gifts may be given without violating this rule if the total value of all gifts given by a licensee to a official is less than \$151 dollars;

3. Legislators and their staff, the Chairman and his staff, **KCOA Board members and their staff**, Commissioners, staff and employees of the Commission are prohibited from accepting any loans from any person or entity licensed by the Commission;
4. Legislators and their staff, the Chairman and his staff, **KCOA Board members and their staff**, Commissioners, staff and employees of the Commission are prohibited from engaging in any business or venture with any person or entity licensed by the Commission, **for personal gain or advantage**;
5. Commissioners, their staff and employees, and **KCOA Board members and their staff**, shall comply with KL-CY-2017-025, Executive Code of Ethics or any amendments thereof;
6. Commissioners, their staff and employees shall not use any information they obtain in their official positions for any personal or business advantage; and
- ~~7.~~ Commissioners may only be removed from office by the Legislature, prior to the expiration of their respective terms, for neglect of duty, misconduct, malfeasance, a violation of the requirements of this law, including particularly the requirements of Section ~~7 8~~ (B) and Section ~~7 8~~ (I), as well as any action that would render a commissioner unqualified for the position. **(SHOULD THE LEGISLATURE REMOVE EXECUTIVE BRANCH OFFICIALS?)**
- K. Every person nominated and every person who serves as a Commissioner must satisfy the eligibility standards set forth for primary management officials and key employees found in Section 22 of this law. All requisite background investigations to ensure the eligibility of each Commissioner shall be the responsibility of and performed under the direction of the Chairman of the Tribe.
- L. The compensation for each Commissioner shall be set out in the Commission's budget, as approved by the Chairman and the Legislature by law.
- M. The Commission shall, consistent with the limitations of and in compliance with the Constitution:
 1. Conduct background investigations, or cause such investigations to be conducted, for primary management officials and key employees;
 2. Review and approve all investigative work conducted in connection with the background investigations of primary management officials and key employees;
 3. Create and maintain investigative reports based on the background investigations of primary management officials and key employees;

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4. Designate a law enforcement agency to obtain and process fingerprints and conduct a criminal history check that shall include a check of criminal history records information maintained by the Federal Bureau of Investigation.;
5. Make licensing eligibility determinations, which shall be signed by the Chair of the Commission;
6. Submit a notice of results to the NIGC of the background investigations done for each primary management official and key employee applicant;
7. Issue gaming licenses to primary management officials and key employees of the operation, if warranted by the eligibility determination;
8. Establish standards for licensing gaming facilities;
9. Issue gaming licenses to gaming facilities;
10. Inspect, examine and monitor all of the Tribe's gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming facilities and operations;
11. Ensure compliance with all Tribe, federal and applicable state laws, rules and regulations regarding Indian gaming;
12. Investigate any suspicion of wrongdoing associated with any gaming activities;
13. Hold hearings on patron complaints, in accordance with procedures established in this ordinance and the Tribal gaming regulations;
14. Comply with any and all reporting requirements under IGRA, the NIGC's regulations and any tribal-state compact to which the Tribe is a party, and any other applicable law;
15. Promulgate and issue regulations necessary to comply with applicable internal control standards;
16. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
17. Promulgate and issue regulations on the levying of fines and/or the suspension or revocation of gaming licenses for violations of this law or any Tribe, federal or applicable state gaming regulations;
18. Establish a list of persons not allowed to game in the Tribe's gaming facilities in order to maintain the integrity of the gaming operation;

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19. Establish a list of persons who have voluntarily agreed to be excluded from the tribal gaming facilities, and create regulations for enforcing the exclusions;
 20. All persons under the age of 18 shall not be permitted to engage in any gaming at any facility licensed by the Kiowa Gaming Commission. (need to include employment for 18 year old)
 21. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribe, federal or state statutes, laws, ordinances, regulations, codes, or resolutions;
 22. Create a list of regulatory authorities that conduct background investigations of, and licenses, vendors who are recognized as trustworthy;
 23. Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
 24. Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation;
 25. Promulgate such regulations and guidelines as deemed appropriate to implement the provisions of this law, so long as they are in furtherance of, and not in conflict with, any provisions of this law;
 26. Employ staff as needed to complete its duties under this law;
 27. Subject to approval by the Chairman of the Tribe, rent or purchase land, buildings and equipment necessary and essential for the operation of the Commission and its staff. No approval by the Chairman is needed for purchases less than \$25,001; and,
 28. To propose a budget for the Commission to the Chairman for approval by the Legislature by law. The general budget procedures for the Tribe shall apply to the budget for the Commission and the budget shall conform to the requirements of the Kiowa Constitution.
- N. Before adopting or changing any rule, the Commission shall comply with any laws of the Tribe relating to the passage of administrative rules, and in all cases must provide due process of law to any person potentially affected by the proposed rule or rule change. If no law exists relating to the passage of administrative rules, the Commission must, at a minimum provide 30-days written notice of any such proposed action to the Legislature, and shall publish such proposed regulations or amendments on the Tribe's or Legislature's webpage. The Commission must also provide a written copy of the proposed rule or rule change to any person who requests it. The notice shall invite comments from any person, and describe the general nature of the proposed action and the manner in which comments on the proposed action shall be received by the Commission. Before passing any rule or rule change, the

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Commission shall hold a public hearing where it shall allow public comment. After receiving written or verbal comments, the Commission shall respond to all public comments and provide a reasoned explanation for its decision to pass or change the rule in light of each comment received.] ****need more clarification**

- O. ~~The Chairman and~~ the Commission shall ensure that all records and information obtained as a result of a background investigation, including but not limited to, the identity of each person interviewed in the course of an investigation, shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel and/or others employed by the Tribal gaming operation on a need-to-know basis, for actions taken in their official capacities.
- P. The confidentiality requirements of this law do not apply to requests for such records or information from any ~~tribe tribal~~ or federal law enforcement or regulatory agency, or for the use of such records or information by the Commission and staff in the performance of their official duties.
- Q. A majority of the Commissioners then appointed shall constitute a quorum. The concurrence of a majority of the Commissioners shall be required for any final determination by the Commission. The Commission may act in its official capacity, even if there are vacancies on the Commission.
- R. Commissioners shall be compensated at a level set in an approved **Kiowa Tribal Gaming Commission** Annual Budget. In order to ensure the Commission is not improperly influenced, a Commissioner's compensation shall not be based on a percentage of gaming revenue.
- S. The Commission shall keep a written record of all its meetings and shall keep all its records in accordance with the Tribe's record retention policies, and **NIGC policy** or laws as they now exist or may later be amended.

Section 8 9. Audits

- A. The Commission shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC.
- B. Annual audits shall conform to generally accepted auditing principles, **the audit firm must be a certified internal gaming auditor, in accordance with 25 CFR § 571.12(b).**
- C. All gaming-related contracts that result in the purchase of supplies, services or concessions for more than \$25,000 in any year (**except contracts for professional legal and accounting services**) shall be specifically included within the scope of the audit conducted under Section 8 9(A) of this law.

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- D. Copies of the annual audit of each licensed gaming operation, and each audit for supplies, services or concessions of each gaming operation, shall be furnished to the NIGC within 120-days after the end of each fiscal year of the gaming operation, **to include the annual audit of the KCOA.**
- E. The auditors must be changed every 3 years in compliance with the Kiowa Constitution.

Section ~~9~~ 10. 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 public health and safety.
- B. The ~~Chairman of the Tribe~~ **Kiowa Tribal Gaming Commission or a designee** shall identify and enforce laws, resolutions, codes, policies, standards, or procedures, which are applicable to each gaming place, facility or location, to ensure adequate protection of the environment and the health and safety of the public.

Section ~~10~~ 11. Patron Dispute Resolution

~~Any person or entity~~ **Patrons** holding a complaint against any gaming establishment licensed by the Commission for any reason shall have as their sole remedy the right to file a petition for relief with the Commission. Complaints shall be submitted in writing. The Commission shall hold a hearing within 30-days of receipt of a complaint. The petitioner may have counsel present at the hearing. The petitioner shall be allowed to present evidence and provide argument. After the hearing, the Commission shall render a decision in a timely fashion. All such decisions shall be in writing. Any complaint must be submitted to the Commission within 30-days of the incident giving rise to the complaint. All claims by shall be limited to a maximum recovery of \$25,000 per occurrence, and a cumulative limit of ~~\$125,000~~ **50,000 per guest in any twelve (12) month period**, except disputes relating to entitlement to a game prize, which shall be limited to the amount of such prize. The Commission's decision shall be ~~the final remedy, and may be appealed to the Trial Court within 30-days of publication, not including the date of publication.~~

Section ~~11~~ 12. Facility Licenses

- A. The Commission shall issue a separate license to each place, facility, or location on Indian lands where ~~class II and/or class III~~ gaming is conducted under this law.
- B. The Commission is responsible for timely issuing new or renewed facility licenses to each place, facility, or location.
- C. The Commission shall require that a facility license application be completed by the ~~Chief management official~~ **Executive Officer for all of the gaming facility facilities. for each gaming place, facility, or location.**

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- D. Every application to the Commission for a facility license shall include the legal description of the lands upon which the facility is located, and a certification that the site constitutes “Indian lands,” as defined in IGRA, the NIGC’s regulations, the NIGC Office of General Counsel and DOI Solicitor Offices’ Indian lands legal opinions, judicial decisions, and any other applicable law; and any other items the Commission requires by rule.
- E. The Commission shall identify the environmental, health, and public safety standards with which the place, facility, or location must comply, and specify the form, conditions, and content of a facility license application.
- F. The Commission shall only issue a facility license if the application includes the required information and documentation, and sufficiently satisfies any additional conditions deemed necessary by this law.
- G. The 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 place, facility, or location on Indian lands where **class II and/or class III** gaming will occur.
- H. The Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within 30-days of issuance, along with any other documentation the Commission requires.
- I. The Commission shall notify the NIGC Chair within 30-days if a facility license is terminated or expires, or if a gaming place, facility, or location closes or reopens.

Section ~~12~~ 13. Agent for Service of Process

The Tribe hereby designates the Chairman of the Tribe as agent for service of process, who may be contacted at:

PO Box 369
100 Kiowa Way
Carnegie, Oklahoma 73015

Section 14. Compliance with Federal Law

- A. **The Commission and the Kiowa Tribe Legislature will comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C § 5311 et seq, state liquor laws, tribal liquor laws and any other applicable regulations.**

Section 15. Repeal

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- A. To the extent that they are inconsistent with this law, all prior gaming laws are hereby repealed.

Section ~~13~~ 16. Access to Financial Information

A copy of the gaming operation's annual audit shall be provided to the Legislature and the Chairman of the Tribe within 10-days of receipt by the Commission. The Commission shall permit ~~an~~ **audit financial records** of the Commission to be made available for review, upon request at any time (during business hours) ~~by the Chairman of the Tribe or the Speaker of the Legislature.~~

Section ~~14~~ 17. License Application Forms

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

"In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribe, State, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe being unable to license you for a primary management official or key employee position.

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

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

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

Section ~~15~~ 18. License Fees

The Commission may charge a license / application fee in an amount to be set by the Commission which may include costs to cover its expenses in investigating and licensing key employees and primary management officials of the gaming operation.

Section ~~16~~ 19. Background Investigations

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- A. The Commission shall perform a background investigation for each primary management official and key employee in its gaming operation. The investigation must be sufficient to allow the Commission to make an eligibility determination under Section 19 of this law .
- B. The Commission is responsible for conducting the background investigations of primary management officials and key employees. The background investigation shall include a check of criminal history records information **from the NIGC and** maintained by the Federal Bureau of Investigation.
- C. **Each applicant for a key employee or primary management official shall be required to have fingerprints taken as part of the license application procedure. The Kiowa Gaming Commission shall be equipped to perform fingerprinting for all key employees and primary management officials. Should The ~~Tribe~~ Commission become unable or choose not to perform the required fingerprinting, the Commission shall request fingerprints from each primary management official and key employee by any law enforcement agency designated by the Commission, ~~to take fingerprints is Bureau of Indian Affairs or another law enforcement agency designated by the Tribe~~ and will be forwarded to the NIGC for processing through the FBI and NCIC to determine the applicant's criminal history, if any.**
- D. The Commission shall request from each primary management official and key employee 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 5-years, business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
 3. The names and current addresses of at least three (3) personal references, including one **(1)** personal reference who was acquainted with the applicant during each period of residence listed under paragraph (D)(2) of this Section;
 4. Current business and residential telephone numbers, and all cell phone numbers;
 5. A description of any existing and previous business relationships with other tribes, including any ownership interests in 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;

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8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date of disposition, if any;
 9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10-years of the date of the application, the name and address of the court involved and the date of disposition, if any;
 10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10-years of the date of the application, and is not otherwise listed pursuant to paragraphs (D)(8) or (D)(9) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;
 11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
 12. A current photograph showing the person's face without any hats or colored glass lenses;
 13. Any other information the Commission may require by rule; and
 14. Fingerprints obtained in accordance with procedures adopted by the Tribe.
- E. When a primary management official or key employee is employed by the Tribe, a complete application file, containing all of the information listed in Section ~~16~~ 19(D), shall be maintained.
- F. The Commission, and its investigators, shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.
- G. **Non-Criminal Justice Applicant's Privacy Rights**
1. **Key (Gaming) applicants are subject to a national fingerprint-based Criminal History Record Check (CHRI), solely for licensing purposes. A CHRI copy cannot be provided to applicant, tribal leadership, other tribal agencies, state agencies, human resources, external auditors, etc. for other purposes such as to save money or to meet tribal state gaming compact requirements.**
 2. **Applicants have certain rights as listed below:**
 - a. **Applicant will be provided with notification that their fingerprints will be used to check the criminal history records of the FBI.**
 - b. **Applicant will be provided and acknowledge receipt of Privacy Act Statement when submitting their fingerprints and associated personal information for the purpose of application for a key license (gaming). The privacy act statement**

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explains the authority for collecting information and how it will be used, retained and shared.

- c. If the applicant challenges the fingerprint results and requests a copy of their FBI record, KHA will direct the applicant to where they may obtain their copy at <https://www.fbi.gov/services/cjis/identity-history-summary-checks>. Applicant will be given 10 working days from date of application to provide corrected information on charges.

Section ~~17~~ 20. Procedures for Conducting Background Investigations

- A. The Commission, or its agent, shall employ or engage an investigator to conduct a background investigation of each applicant for a primary management official or key employee position. The investigator shall:
 1. Verify the applicant's identity through items such as a social security card, driver's license, birth certificate, or passport;
 2. Contact each personal and business reference provided in the license application, when possible;
 3. Conduct a personal credit check;
 4. Conduct a civil history check;
 5. Conduct a criminal history records check;
 6. Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony and/or misdemeanor convictions or ongoing prosecutions within the past 10-years;
 7. Inquire into any previous or existing business relationships with the gaming industry, including with any tribes with gaming operations, by contacting the entities or tribes;
 8. Verify the applicant's history and current status with any licensing agency by contacting the agency; and,
 9. Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

Section ~~18~~ 21. Investigative Reports

- A. ~~Tribe~~ The Commission shall create and maintain an investigative report for each background investigation of a primary management official or key employee.

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- B. Investigative reports shall include all of the following information:
1. Steps taken in conducting the investigation;
 2. Results obtained;
 3. Conclusions reached; and,
 4. The basis for those conclusions.

Section ~~19~~ 22. Eligibility Determinations

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

Section ~~20~~ 23. Notice of Results of Background Investigations

- A. Before issuing a 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.
- B. The notice of results must be submitted to the NIGC no later than 60-days after the applicant begins working for the ~~Tribe~~ gaming operation.
- C. The notice of results shall include the following information:
1. The applicant's name, date of birth, and social security number;
 2. The date on which the applicant began, or will begin, working as a primary management official or key employee;
 3. A summary of the information presented in the investigative report, including:
 - a. licenses that have previously been denied;
 - b. gaming licenses that have been revoked, even if subsequently reinstated;

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- 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,
- e. a copy of the eligibility determination made in accordance with Section ~~19~~ **22(a)(b)**.

Section ~~21~~ **24**. Granting Gaming Licenses

- A. All primary management officials and key employees of the gaming operation must have a gaming license issued by the ~~T~~ **Tribe Commission**.
- B. The Commission is responsible for granting and issuing gaming licenses to primary management officials and key employees.
- C. 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 ~~20~~ **23**.
- D. The Commission shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30-days of issuance.
- E. No licensee of the Commission shall employ an individual in a primary management official or key employee position who does not have a license after 90-days of beginning work at an gaming facility licensed by the Commission.
- F. The Commission must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within 30-days of the NIGC receiving a notice of results of the applicant's background investigation.
- G. The Commission shall take the NIGC's objections into account when reconsidering a license application.
- H. The Commission will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.
- I. If the Commission has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee, as required by Section ~~10~~ **11**.

Section ~~22~~ **25**. Denying Gaming Licenses

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- A. The Commission shall not license a primary management official or key employee if the Commission determines, in applying the standards in Section ~~20~~ 23 for making a license eligibility determination, that licensing the person:
1. Poses a threat to the public interest;
 2. Poses a threat to the effective regulation of gaming; or
 3. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.
- B. When the Commission does not issue a license to an applicant for a primary management official or key employee position, or revokes a previously issued license after reconsideration, it shall:
1. Notify the NIGC; and,
 2. Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

Section ~~23~~ 26. Gaming 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 employment, the Commission shall do the following:
1. Immediately suspend the license;
 2. Provide the licensee with written notice of the suspension and proposed revocation; and,
 3. Provide the licensee with notice **by certified mail** of a time and place for a hearing on the proposed revocation of the license.
- B. Following a revocation hearing, the Commission shall decide whether to revoke or reinstate the license at issue.
- C. 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.

[note:see page 25 of 2010 Ordinance §100.29 (c)(3)...ask Legislatures regarding tribal court appeals]**

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Section ~~24~~ 27. Records Retention

- A. The Commission shall retain in its own records, for no less than ~~three~~ five (5) years from the date a primary management official or key employee is terminated from employment with the Tribe, the following documentation:
1. Application for licensing;
 2. Investigative Reports; and,
 3. Eligibility Determinations.
- B. After three years, the records set forth above shall be managed in accord with the Tribe's record retention policy, if any.

Section ~~25~~ 28. Licenses for Vendors

Vendors of **gaming** services or supplies, with a value of \$25,000 or more annually, must have a vendor license issued by the Commission in order to transact business with the gaming operation.

- A. Contracts for professional legal and accounting services **that have obtained an exemption from the Commission** are excluded from this Section.
- B. **Vendors of non-gaming services or supplies with a value of \$25,000 or more on a fiscal year basis must have a vendor license from the Commission in order to transact business with the tribal gaming operation.**
- C. **Gaming vendors are vendors who provide gaming supplies and services, including but not limited to, cash-related services and gaming equipment.**
- D. **Non-gaming vendors provide services that do not have the ability to impact the integrity of the Tribal gaming operations. As example, but not limited to, media advertising, facility maintenance workers, linen and laundry services, food and beverage suppliers, etc.**
- E. **The Commission shall create regulation detailing which vendors fall into each category and shall maintain a register of both gaming and non-gaming vendors that it licenses.**
- F. **The Commission may exempt from licensing requirements non-gaming vendors who:**
1. **are a tribal, local, state, or federal government agency;**
 2. **are regulated by the Tribe, Local, State or Federal regulations; or**
 3. **will provide services or supplies under \$25,000 annualized (based on the fiscal year of the gaming operation).**

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Section ~~26~~ 29. Submission of a Vendor License Application

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

Section ~~27~~ 30. Contents of the Vendor License Application

- A. Applications for gaming vendor licenses must include the following:
1. Name of business, business address, business telephone number(s), federal tax identification number (or social security number, if a sole proprietorship), main office address (if different from business address), any other names used by the applicant in business, and type of service(s) applicant will provide;
 2. Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;
 3. ~~If the applicant is a non-natural business entity, proof of registration under the Tribe's Business laws;~~ **The applicant is a corporation, the state of incorporation and the qualification to do business in the state of Oklahoma, if the gaming operation is in a different state, then the state of incorporation.**
 4. Trade name, other names ever used and names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
 5. General description of the business and its activities;
 6. Whether the applicant will be investing in, or loaning money to, the gaming operation, and if so, how much;
 7. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 8. A list of **Indian Native American** tribes with which the vendor has an existing or previous business relationship, including ownership, financial, or management interests in any non-gaming activity;

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9. Names, addresses and telephone numbers of three (3) business references with whom the company has regularly done business for the last 5-years;
 10. The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
 11. If the business has ever had a license revoked for any reason, and the circumstances involved;
 12. A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;
 13. A list of the business' funding sources and any liabilities of \$50,000 or more;
 14. A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles, and percentage of ownership in the company; and
 15. Any further information the Commission may require by rule.
- B. The following notice shall be placed on the application form for a vendor and its principals:
- “Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Tribe’s vendor license.”
- C. A vendor may submit to the Commission a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit, in writing, any changes in the information since the other license application was filed, and any information requested by the Commission not contained in the other application.

Section 28 31. Vendor Background Investigations

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

- A. **Verifying Verification** of the vendor’s business’ incorporation status and qualifications to do business in the state where the gaming operation is located;
- B. Obtaining a business credit report, if available, and conducting a Better Business Bureau check on the vendor;
- C. Conducting a check of the vendor’s business’ credit history;
- D. Calling and questioning each of the references listed in the vendor application; and,

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- E. Conducting an investigation of the principals of the vendor's business, including facilitating a criminal history check, obtaining criminal history check results, obtaining a credit report, and interviewing the personal references listed.

Section ~~29~~ 32. Vendor License Fee

The Commission shall charge a license fee ~~the amount of which shall be set by rule to, at a minimum, to be set by the Commission to cover its expenses processing vendor applications~~ in investigating and licensing vendors of the gaming operation. The Commission may increase these fees annually by 10% or as deemed feasible by the Commission by approved resolutions. The Commission shall have the sole authority to waive or reimburse any licensing fee to vendors.

Section ~~30~~ 33. Vendor Background Investigation Reports

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

Section ~~31~~ 34. Vendors Licensed by Recognized Regulatory Authorities

The Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors who have received a license from one of the named regulatory authorities.

~~Section 32. Compliance with Federal Law~~

~~The Tribe shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 et seq.~~

Section 35. Licenses for Non-Gaming Vendors

- A. For non-gaming vendors, the Commission is authorized to create a less stringent vendor licensing process, including a due diligence check rather than a full background investigation.
- B. The Commission may investigate such vendors when appropriate and may conduct audits in addition to monitoring the gaming operations purchases.

Section ~~33~~ 36. Consent to Jurisdiction

Any person or entity who applies for a license under this law, applies for employment in any gaming facility, enters into any contract or agreement related to gaming, or participates in any gaming in the **Kiowa Treaty** Territory, shall be deemed to consent to the civil jurisdiction of the Tribe, the Gaming Commission, the Courts of the Tribe, and shall consent to the application of the laws of the Tribe to any

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dispute. Nothing in this Section shall limit the Jurisdiction of the Tribe, the Commission, or the Courts of the Tribe.

Section ~~34~~ 37. Crimes

- A. All crimes including, but not limited to, gaming cheats, scams, embezzlement, etc., are subject to prosecution under the jurisdiction of the Tribe and the Courts of the Tribe as defined in this law.
- B. The following are considered criminal acts:
1. Altering or misrepresenting the outcome of gaming or other event on which wagers have been made after the outcome of such gaming or event has been determined but before such outcome is revealed to the players;
 2. Placing or increasing a bet or wager after acquiring knowledge of the outcome of the gaming or event which is the subject of the bet or wager, including past-posting and pressing bets;
 3. Aiding anyone in acquiring such knowledge referred to in subsection (b) or subsection (f) of this Section for the purposes of increasing or decreasing any bet or wager, or for the purpose of determining the course of play;
 4. Claiming, collecting or taking, or attempting to claim, collect, or take, money or anything of value in or from a game with intent to defraud or claiming, collecting, or taking an amount greater than the amount actually won in such game;
 5. **Knowingly** enticing or inducing another to go to any place where gaming is conducted or operated in violation of the provisions of this law, with the intent that the other person play or participate in such gaming;
 6. Reducing the amount wagered or canceling a wager after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets;
 7. Manipulating, with intent to cheat or defraud, any component or part of a game in a manner contrary to the designed and normal functional purpose for such component or part, with knowledge that such manipulation will affect the outcome of the game, or with knowledge of any event that affects the outcome of the game;
 8. Defrauding the Tribe, any licensee, or any participant in any gaming facility;
 9. Participating in any gaming not authorized under this law or the Tribal-State Compact;
 10. Knowingly providing false information or making any false statement with respect to an application for employment or for any license, certification or determination provided for in this law;

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11. **Knowingly** providing false or misleading information or making any false or misleading statement to the Tribe or the Commission in connection with any contract for services or property related to gaming;
12. **Knowingly** making any false or misleading statement in response to any official inquiry by the Commission or its agents;
13. Offering or attempting to offer anything of value to a licensee in an attempt to induce the licensee to act or refrain from acting in a manner contrary to the official duties of the licensee under this law, other laws or regulations of the Tribe, or applicable Federal law;
14. Acceptance by a licensee of anything of value with the expectation that receipt of such thing of value is intended, or may be perceived as intended, to induce the licensee to act or refrain from acting, in a manner contrary to the official duties of the licensee under this law, other laws or regulations of the Tribe, or applicable Federal law;
15. Falsifying, destroying, erasing, or altering any books, computer data, records, or other information relating to a gaming facility in ways other than is provided in approved internal control procedures;
16. Taking any action, which interferes with or prevents the Commission, the Trustees of the KCOA, or the Tribe from fulfilling its duties and responsibilities under this law, the laws and regulations of the Tribe, or Federal law;
17. Entering into any contract, or making payment of any contract, for the delivery of goods or services to a gaming facility, when such contract fails to provide for or result in the delivery of goods or services of fair value for the payment made or contemplated;
18. Operating or conducting Class II or Class III Gaming within the **Kiowa Treaty** Territory without a Gaming License issued by the Commission;
19. Possessing or carrying a firearm in a Gaming Facility within the **Kiowa Treaty** Territory unless such person is a sworn law enforcement officer or security personnel duly licensed to carry a firearm by the State of Oklahoma;
20. Knowingly or intentionally violating any provision of this law, any rules, orders, or regulations promulgated by the Commission or any provision of the Indian Gaming Regulatory Act, or any rule, order, or regulation promulgated by the NIGC;
21. Using bogus or counterfeit cards, or substitute or use any game cards that have been **altered or** tampered with;
22. Employing, possessing or have on one's person any cheating device to facilitate cheating

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in a gaming activity; and,

23. Except as specifically permitted by the Commission, possessing with the intent to use in connection with gaming, either individually, or in concert with others, any calculator, computer, or other electronic or mechanical device to assist in projecting the outcome or odds of such gaming, to keep track of or analyze cards, or to change probabilities of any game or the playing strategies regularly utilized in such gaming.

~~(b)~~ (a) Any person convicted by the Courts of the Tribe of an offense under this Section may be sentenced to up to one-year imprisonment and a fine of not more than Five Thousand Dollars (\$5,000.00) or both, for each separate violation or offense. Nothing in this Section shall prevent the prosecution of any person for the violation of any provision of the laws of the Tribe.

[note: **ask Legislature about limits..see page 31 and 32 of 2010 Ordinance.]

Section 35 38. Enforcement

- A. The Kiowa Prosecutor may, in his discretion prosecute any of the crimes aforementioned. To the extent the crime involves less than \$5,001, it shall be prosecuted as a misdemeanor. If the amount relating to the crime is \$5,001 or more the Prosecutor may in his discretion prosecute the crime as a felony.
- B. The Commission shall enforce those actions listed as a crime, as a civil matter, whether or not the Prosecutor is enforcing the law criminally. The Commission shall establish rules for civil enforcement, ensuring the provision of due process. The Commission shall make a determination concerning civil liability based on a standard that the evidence shows more likely than not that the criminal provisions above were violated. The Commission may seek restitution for any sums gotten wrongfully, and may impose a civil fine not to exceed Five Thousand Dollars (\$5,000.00) for each violation of the criminal provisions set forth above. Additionally, the Commission may revoke the license of any person or ban any person from any facility licensed by the Commission.
- C. The Courts of the Tribe shall have jurisdiction over any criminal action brought and over any appeals of civil enforcement by the Commission.

Section 39. Security and Surveillance

- A. Each gaming facility must provide full security and video surveillance, within the gaming facility, at all times. The security and surveillance departments shall interact when necessary to carry out their official duties and to coordinate their activities in order to be protect gaming patrons and the tribal and management interests and assets of the facility.

Section 40. Effective Date

This law shall take effect immediately upon its approval by the NIGC Chair.

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