



DEC - 9 2003

Lawrence T. Morgan, Speaker
Navajo Nation Council
P.O. Box 3390
Window Rock, Arizona 86515

RE: Navajo Nation Gaming Ordinance

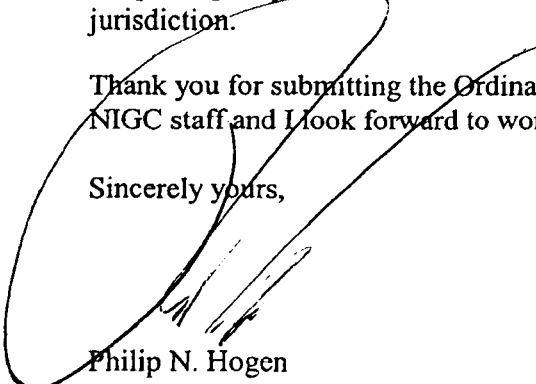
Dear Mr. Morgan:

This letter responds to your request to the National Indian Gaming Commission (NIGC) to review and approve the Navajo Nation Gaming Ordinance (Ordinance) adopted by the Navajo Nation Council by Resolution CAP 34-02 on April 18, 2002. The Ordinance was received by the NIGC on October 16, 2003. Under the Indian Gaming Regulatory Act (ACT) and the regulations promulgated by the NIGC, the Chairman has 90 days to review an ordinance and either approve or disapprove it pursuant to 25 C.F.R. § 522.4.

The Ordinance is a revision of a prior ordinance submitted by the Navajo Nation (Nation) on November 29, 2001, and disapproved by the Chairman on January 30, 2002. In our disapproval letter, we advised the Nation of the deficiencies which resulted in the disapproval. The Nation has corrected those deficiencies. Therefore, this letter constitutes approval of the revised Ordinance submission under the IGRA. It is important to note that the Ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe exercises jurisdiction.

Thank you for submitting the Ordinance of the Navajo Nation for review and approval. The NIGC staff and I look forward to working with the Nation in implementing the IGRA.

Sincerely yours,



Philip N. Hogen
Chairman

RESOLUTION OF THE
NAVAJO NATION COUNCIL

OCT 16 2003

Approving Technical Amendments to the
Navajo Nation Gaming Ordinance

WHEREAS:

1. Pursuant to 2 N.N.C. §102 (A), the Navajo Nation Council is the governing body of the Navajo Nation; and

2. The Navajo Nation Council by passage of Resolution CO-75-01 adopted the Navajo Nation Gaming Ordinance; and

3. On November 21, 2001, the Navajo Nation in accordance with provisions of the Indian Gaming Regulatory Act (IGRA) 25 U.S.C. §2701 et seq., submitted the Gaming Ordinance to the National Indian Gaming Commission (NIGC) for review and approval; and

4. On January 30, 2002, the NIGC acting through its Chairman Montie R. Deer, disapproved the Navajo Nation Gaming Ordinance citing several technical deficiencies as set forth and attached as Exhibit "A"; and

5. Technical Amendments designed to correct the deficiencies noted by the NIGC have been drafted and submitted to amend the Navajo Nation Gaming Ordinance, as set forth and attached as Exhibit "B"; and

6. The Economic Development Committee of the Navajo Nation Council passed Resolution EDCAP-34-02 approving the Technical Amendments and recommending that the Navajo Nation Council adopt the Technical Amendments, attached as Exhibit "C".

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Nation Council hereby approves the Technical Amendments to the Navajo Nation Gaming Ordinance, as set forth in Exhibit "B".

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 37 in favor, 10 opposed and 0 abstained, this 18th day of April 2002.

Edward T. Begay

Edward T. Begay, Speaker
Navajo Nation Council

April 19, 2002
Date

Motion: Mark Maryboy
Second: Ralph Bennett

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby give notice that I will not veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005. (C) (10), on this 30th day of April 2002.

Kelsey A. Begaye
Kelsey A. Begaye, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005(C)(10) this _____ day of _____ 2002 for the reason(s) expressed in the attached letter to the Speaker.

Kelsey A. Begaye, President
Navajo Nation

EXHIBIT A Exhibit "A"

FEB 07 2002



Copy - Ed Richard
Leonard Gonne
Michelle Brown
DW
2/2/02

JAN 30 2002



Korsy 2-6-02
Dimit DW
Koren

Kelsey A. Begaye, President
The Navajo Nation
P.O. Box 9000
Window Rock, AZ 86515

Dear President Begaye:

This letter responds to your request to the National Indian Gaming Commission (NIGC) for the review and approval of the Navajo Nation's (Tribe) Tribal Gaming Ordinance (Ordinance). The Tribal Council enacted the Ordinance by Resolution No. CO-75-01 on November 21, 2001. Under the Indian Gaming Regulatory Act (IGRA) and the regulations promulgated by the NIGC, the Chairman has 90 days to review an ordinance and either approve or disapprove it. 25 C.F.R. § 522.4.

After careful review, the Tribe's Ordinance is disapproved based on the following deficiencies:

1. Section 522.2(h) of 25 C.F.R. requires the Tribe to both identify a law enforcement agency that will take fingerprints and provide a description of procedures for conducting a criminal history check by a law enforcement agency. The Ordinance does not include these provisions.
2. 25 C.F.R. § 522.4(b)(7) requires that the Ordinance provide that the Tribe shall conduct, maintain, and operate the gaming facility in a manner that adequately protects the environment and the public health and safety. Section 1102(a) of the Ordinance addresses health and safety concerns only with respect to the design and construction of gaming facilities. The Ordinance must specifically provide that the Tribe will *conduct, maintain, and operate* the facility in a manner that adequately protects both public health and safety and the environment. Furthermore, Section 1102(a) also provides for the protection of the "natural environment from any contamination due to discharge of waste or unreasonable disturbance of the land surface." These provisions are insufficient to meet the broad requirements of section 522.4(b)(7). No limitations may be placed on protection of the environment.

APR-09-02
Kelsey A. Begaye, President

Page 2

3. The Ordinance definition of "net revenues" is inconsistent with the definition found in 25 C.F.R. § 502.16. The Ordinance defines net revenues as "the gross revenues of any gaming activity less amounts paid out as, or paid for, prizes and total operating expenses." Section 201(x). The definition at 25 C.F.R. § 502.16 includes the language, "excluding management fees" following the words, "total operating expenses."

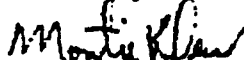
We note that Section 1310 of the Ordinance provides that non-profit organizations may conduct small bingo games on the reservation. Please be advised that the only form of gaming conducted on Indian lands that is not subject to the regulatory provisions of the IGRA is class I gaming -- social gaming for prizes of minimal value and traditional Indian gaming conducted during tribal ceremonies or celebrations. 25 U.S.C. §§ 2703(6), 2710(a)(1). All other forms of gaming (class II and class III) conducted on Indian lands, regardless of whether for commercial, governmental or charitable purposes, are subject to the regulatory provisions of the IGRA. "Any class II gaming on Indian lands shall continue to be within the jurisdiction of the Indian tribes, but shall be subject to the provision of this Act." 25 U.S.C. § 2710(a)(2).

The Tribe may resubmit its ordinance when it has revised the Ordinance to cure the deficiencies listed above. My staff is directed to work with you to cure the deficiencies.

The Tribe may appeal this disapproval within 30 days after service of this letter by filing an appeal with the NIGC pursuant to 25 C.F.R. Part 524. The appeal must state why this disapproval is erroneous and include supporting documentation. Failure to file an appeal within the 30-day period results in a waiver of the opportunity to appeal. An administrative appeal must be submitted and considered by the Commission before appeal to a federal district court.

If you have any questions concerning this letter or the ordinance review process, please contact staff attorney Maria Getoff at (202) 632-7003. We look forward to working with you in implementing the IGRA.

Sincerely yours,



Montie R. Deer
Chairman

EXHIBIT B

Exhibit "B"

PROPOSED TECHNICAL AMENDMENTS NAVAJO NATION GAMING ORDINANCE

1. Amend Section 201(x) as follows:

(x) "Net Revenue" means the gross revenues of any gaming activity less amounts paid out as, or paid for, prizes and total gaming related operating expenses, excluding management fees.

2. Amend Section 1001 as follows:

Section 1001. Background Investigations.

(a) Unless otherwise provided in a tribal-state compact entered into between the Navajo Nation and a State. The Gaming Regulatory Office shall at all times have in place, and shall regularly update and improve, a system for conducting background investigations of every applicant for licensing under this ordinance. Such system shall comply with the requirements of this Ordinance and the Act, and shall include, at a minimum, utilization of records of all available, tribal, state and federal law enforcement agencies, resources of the Commission, communications with other Indian tribes engaged in gaming activities, and any and all other sources of information accessible to the Gaming Regulatory Office for this purpose. Such system shall ensure that all applicants are notified of their rights under the Privacy Act as specified in 25 C.F.R. Part 556.

3. Amend Section 1002 by renumbering current Section 1002 to Section 1003 and inserting the New Section 1002, entitled Criminal History Checks:

Section 1002. Criminal History Checks.

(a) Unless otherwise provided in a tribal-state compact entered into between the Navajo Nation and the State of New Mexico or the State of Arizona, the Navajo Nation Department of Public Safety will take fingerprints when required and send them to the NIGC. The NIGC will send the fingerprints to the FBI which will review them for any federal criminal activity including all felonies and misdemeanors. The FBI will send the fingerprints back to the NIGC along with a report stating any recorded federal criminal activity, and the NIGC will return the reviewed fingerprints with the FBI report to the Navajo Nation Department of Public Safety.

(b) As part of the background investigation, the applicant will be required to disclose whether they have ever been prosecuted or convicted of a felony or a misdemeanor. In addition, unless otherwise provided in a tribal-state compact entered into between the Navajo Nation and the State of New Mexico or the State of Arizona, the Navajo Nation Department of Public Safety will review the records of the Tribal Court and also the statewide district, supreme and superior courts for New Mexico and Arizona for any criminal records a prospective employee may have.

And renumber as noted above:

Section 10023. Notification to the Gaming Commission

(a) Within the time requirements established by the Commission the Gaming Regulatory Office shall transmit to the Commission a complete copy of license applications or such other information as may be required by the Commission. After-completion of the background check of the applicant, and within the time requirements established by the Commission, the Gaming Regulatory Office shall provide to the Commission a complete report on the results of the background investigation. In the event, the Gaming Regulatory Office receives any information from the Commission concerning the applicant, such information shall be taken into account by the Gaming Regulatory Office in its action on the application. The Gaming Regulatory Office shall notify the Commission if the Gaming Regulatory Office does not license an applicant.

(b) Upon issuance of a license under this ordinance, the Gaming Regulatory Office shall give notice thereof to the Commission. Should the Gaming Regulatory Office receive information from the Commission indicating that a Primary Management official or Key Employee does not meet the standards established in this ordinance or in the Act for issuance of such a license, the Gaming Regulatory Office shall immediately suspend such license and give written notice thereof to the licensee. The Gaming Regulatory Office shall also notify the licensee that the licensee has 15 days following receipt of the notice of suspension to request that the Gaming Regulatory Office reconsider the notice of suspension.

4. Amend Section 1102 (a) as follows:

Section 1102. Standards for Issuance of License. The Gaming Regulatory Office shall not issue a Gaming Facility license for any facility or location at which Gaming Activities are to be offered within the Nation unless the Gaming Facility meets the following requirements:

(a) the physical facility within which the Gaming Activities are to be conducted is ~~designed and constructed in compliance with the laws of the Nation and the requirements of the Act, so as to ensure the health and safety of all employees and patrons of such activities, and the protection of the natural environment from any contamination due to discharge of waste or unreasonable disturbance of the land surface~~ constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety;

5. Amend Section 1310 as follows:

Section 1310. Small Bingo Games and Raffles. Any non-profit organization, upon proper application to the Gaming Regulatory Office, may conduct or operate a small bingo game or raffle within the territorial jurisdiction of the Nation, in accordance with the regulatory provisions of the Indian Gaming Regulatory Act and the regulations issued by the Gaming Regulatory Office specifying the manner in which such games may be conducted, ~~provided that such games shall at a minimum comply with the following:~~

~~(a) the organization conducting the game shall provide satisfactory evidence to the Gaming Regulatory Office of its nonprofit status, and no member, director, officer, employee or agent of the organization shall receive any direct or indirect pecuniary benefit from the small bingo games or raffle, other than being able to participate in the games on a basis equal to that of all other participants;~~

~~(b) the organization shall have been in existence continuously and conducting activities within the Nation for a period of no less than two years immediately prior to conducting the games;~~

~~(c) the gross receipts from the small bingo or raffle shall not exceed \$5,000.00 in the aggregate on any single occasion;~~

~~(d) the requirements of this section shall not apply to small bingo games and raffles conducted by Navajo Nation Senior Citizen Centers, Pre school and Headstart programs, or other school organizations.~~

**RESOLUTION OF THE
ECONOMIC DEVELOPMENT COMMITTEE
OF THE NAVAJO NATION COUNCIL**

**Approving Technical Amendments To the Navajo Nation Gaming Ordinance
And Recommending That the Navajo Nation Council Adopt the Technical
Amendments To the Navajo Nation Gaming Ordinance**

WHEREAS:

1. Pursuant to 2 N.N.C. §§721 and 722, the Economic Development Committee is established as a standing committee of the Navajo Nation Council with the purpose of establishing, amending, regulating, enforcing and fostering policies pertaining to the development of the economy of the Navajo Nation; and

2. The Navajo Nation Council by passage of Resolution CO-75-01 adopted the Navajo Nation Gaming Ordinance; and

3. On November 21, 2001, the Navajo Nation in accordance with provisions of the Indian Gaming Regulatory Act (IGRA) 25 U.S.C. §2701 et. seq. submitted the Gaming Ordinance to the National Indian Gaming Commission (NIGC) for review and approval; and

4. On January 30, 2002, the NIGC acting through its Chairman Montie R. Deer, disapproved the Navajo Nation Gaming Ordinance citing several technical deficiencies as set forth and attached as Exhibit "A"; and

5. Technical Amendments designed to correct the deficiencies noted by the NIGC have been drafted and submitted to amend the Navajo Nation Gaming Ordinance, as set forth and attached as Exhibit "B"; and

6. The Economic Development Committee of the Navajo Nation Council finds that it is in the best interests of the Navajo Nation to further the passage of Resolution CO-75-01 and to approve the Technical Amendments to the Navajo Nation Gaming Ordinance.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Economic Development Committee of the Navajo Nation Council hereby approves the Technical Amendments to the Navajo Nation Gaming Ordinance, as set forth in Exhibit "B".

2. The Economic Development Committee of the Navajo Nation Council further recommends that the Navajo Nation Council adopt the Technical Amendments to the Navajo Nation Gaming Ordinance, as set forth in Exhibit "B".

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Economic Development Committee of the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed and 0 abstained, this 11th day of April 2002.



**Tim Good luck, Chairperson Pro Tem
Economic Development Committee**

**Motion: Ralph Bennett
Second: Robert Ortiz**

RESOLUTION OF THE
NAVAJO NATION COUNCIL

Adopting a Navajo Nation Gaming Ordinance

WHEREAS:

1. Pursuant to 2 N.N.C. §102(A), the Navajo Nation Council is the governing body of the Navajo Nation; and

2. Pursuant to Resolution CJY-55-00, attached as Exhibit "A" herein, the Navajo Nation Council removed criminal liability for the conduct of gaming activities within the boundaries of the To'Hajiilee Chapter. The purpose of this resolution was to allow casino gaming within the Chapter as an economic development initiative of the Navajo Nation; and

3. Pursuant to the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§2701-2721 and 18 U.S.C. §§166-1168, the Navajo Nation must adopt a Navajo Nation Gaming Ordinance governing the conduct of gaming within the Navajo Nation for gaming to occur within the To'Hajiilee Chapter (25 U.S.C. Section 2710 9(d)), attached as Exhibit "A" herein; and

4. The passage of a Navajo Nation Gaming Ordinance is a condition precedent to requesting a compact with the State of Arizona; such a compact is necessary to protect any future gaming initiatives within the State of Arizona; and

5. Pursuant to resolutions passed by To'Hajiilee Chapter, To'Hajiilee Chapter members support gaming at To'Hajiilee, attached as Exhibit "B" herein; and

6. The feasibility of gaming at To'Hajiilee Chapter is substantiated by the attached Feasibility Study which was done by Johnson and Associates and was finalized on Friday, September 28, 2001, attached as Exhibit "C" herein; and

7. The transportation, sale, delivery and consumption of alcohol at any gaming facility established by or on behalf of To'Hajiilee Chapter is strictly prohibited; and

8. In an effort to formally adopt a Navajo Nation Gaming Ordinance, it is agreed that the issue of revenue sharing between the Navajo Nation and To'Hajiilee Chapter, from any gaming casino established by or on behalf of To'Hajiilee Chapter, shall be resolved prior to the approval of a Gaming Compact between the Navajo Nation and the State of New Mexico; and

9. Pursuant to Resolution EDCO-119-01, the Economic Development Committee of the Navajo Nation Council has reviewed the proposed Navajo Nation Gaming Ordinance and recommends its adoption by the Navajo Nation Council, attached as Exhibit "D" herein; and

10. The Navajo Nation Council supports the adoption of the Navajo Nation Gaming Ordinance to allow To'Hajiilee Chapter to develop and establish gaming casinos as an economic development initiative and to protect any future Navajo Nation gaming rights in the State of Arizona, which is in the best interest of the Navajo Nation.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Council hereby adopts a Navajo Nation Gaming Ordinance, attached as Exhibit "A" herein.

2. The Navajo Nation Council directs that any gaming casino established by or on behalf of To'Hajiilee Chapter shall prohibit the transportation, sale, delivery and consumption of alcohol.

3. The Navajo Nation Council further directs that the President of the Navajo Nation, or his designee, negotiate a revenue sharing agreement between the Navajo Nation and To'Hajiilee Chapter prior to Navajo Nation Council's approval of a Gaming Compact between the Navajo Nation and the State of New Mexico.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 44 in favor, 17 opposed and 1 abstained, this 16th day of October 2001.

Edward T. Begay

Edward T. Begay, Speaker
Navajo Nation Council

Oct 17, 2001

Date

Motion: Lawrence Morgan

Second: Duane Tsinigine

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby give notice that I will not veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005 (C) (10), on this 25th day of October 2001.

Kelsey A. Begaye

Kelsey A. Begaye, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005(C)(10) this _____ day of _____ 2001 for the reason(s) expressed in the attached letter to the Speaker.

Kelsey A. Begaye, President
Navajo Nation

ORDINANCE FOR THE REGULATION OF
GAMING ACTIVITIES WITHIN THE NAVAJO NATION

Chapter 1: Findings and Purposes

101 - Legislative Findings	3
102 - Purposes	3

Chapter 2: Definitions

201-Definitions	4
-----------------------	---

Chapter 3: Tribal Ownership and Use of Net Revenues

301 -Tribal Ownership of Gaming Activities	7
302 -Use of Net Revenues	8

Chapter 4: Navajo Gaming Regulatory Office

401 -Establishment of the Gaming Regulatory office	8
402 -Personnel	8
403 -Powers and Duties of the Gaming Regulatory Office	10
404 -Issuance of Regulations	12
405 -Petition for Self-Regulation	13
406 -Independence of Gaming Regulatory Office	13
407 -Relationship to Management	13

Chapter 5: Gaming Facility Operator's License

501 -Requirement of License	13
502 -Standards of Suitability	14

Chapter 6: Gaming Manager's License

601 -Requirement of License	14
602 -Standards of Suitability	15

Chapter 7: Manufacturers Suppliers License

701 -Requirement of License	16
702 -Standards of Suitability	17

Chapter 8: Gaming Employee's License

801 -Requirement of License	18
802 -Standards of Suitability	18

Chapter 9: License Application Procedure

901 - Application Requirements; Processing	19
902 - Fees.....	21
903 - License Terms; Renewal	22
904 - Reserved	23
905 - Non-transferability of License	23

Chapter 10: Background Investigations; Notifications

1001 - Background Investigations	23
1002 - Notification to the National Indian Gaming Commission	24

Chapter 11: Gaming Facility License

1101 - Requirement of License	24
1102 - Standards for Issuance of License	25
1103 - Application for a New or Amended Gaming Facility License; Procedure	26
1104 - Fees	27
1105 - License Terms; Renewal	28

Chapter 12: Facility Inspection; Notice of Violation;
Complaints; Judicial Review

1201 - Facility Inspection	28
1202 - Notice of Violation	28
1203 - Investigation of Complaints	30
1204 - Judicial Review	30

Chapter 13: Gaming Operation

1301 - Scope of Permissible Gaming	31
1302 - Hours, Days, Other Standards	31
1303 - Employee and Player Age Limit	31
1304 - Management; Security	32
1305 - Internal Controls	32
1306 - Annual Independent Audit	33
1307 - Public Disclosure of Payoffs	34
1308 - Patron Disputes	34
1309 - Play by Employees	35
1310 - Small Bingo Games and Raffles	35
1311 - Processing of Contracts	36

Chapter 14: Violations and Remedies

1401 - Violations	36
-------------------------	----

1402 - Civil Penalties	37
1403 - Civil Remedies	37

Chapter 15: Amendments and Compliance with Applicable Laws

1501 - Amendments	37
1502 - Compliance with the Compact and the Act	37
1503 - Severability	37
1504 - Non-liability	37
1505 - Navajo Preference	37

ORDINANCE FOR THE REGULATION OF GAMING ACTIVITIES
WITHIN THE NAVAJO NATION

Chapter 1. Findings and Purposes.

Section 101. Legislative Findings. The Navajo Nation Council of the Navajo Nation hereby finds:

(a) That the orderly and honest conduct of gaming activities within the Navajo Nation will be of vital importance to the economy of the Nation, and to the general welfare of its members;

(b) That the growth and success of gaming within the Navajo Nation is dependent upon public confidence and trust that such activities are conducted honestly and that they are free from criminal and corrupt elements, and that the facilities in which such activities are conducted are designed and maintained to assure the safety and comfort of patrons of the gaming activities;

(c) That such public confidence and trust can only be maintained by the comprehensive regulation of all persons, practices, and activities related to the operation of the Nation's gaming facilities; and

(d) All of the Nation's establishments where gaming is conducted, and all persons holding positions of responsibility with respect to any such activity, must therefore be licensed, and their activities monitored, to assure that the public health, safety and general welfare of the inhabitants of the Nation and the patrons of its gaming facilities are fully protected, and so as to assure the economic success of gaming activities within the Nation.

Section 102. Purposes. This Ordinance is enacted, and shall be interpreted, so as to accomplish the following purposes:

(a) The maintenance of the highest standards of honesty and integrity in the operation of any and all gaming activities within the Navajo Nation;

(b) The maintenance of public confidence and trust in the honesty and integrity of such gaming activities, and in the persons engaged in such activities;

(c) The maximum reasonable economic return to the Navajo Nation as the owner of gaming facilities within the Nation consistent with the fair and reasonable expectations of patrons of such activities and the assurance of their safety and comfort in participating in gaming activities; and

(d) Compliance with all applicable laws of the Navajo Nation and the United States of America, including but not limited to the Indian Gaming Regulatory Act of 1988.

Chapter 2. Definitions.

Section 201. Definitions. For Purposes of this Ordinance:

(a) "Act" means the Indian Gaming Regulatory Act of 1988, Public Law 100-497, 25 U.S.C. SS 2701-2721 and 18 U.S.C. §§ 1166-1168, and all regulations promulgated pursuant thereto.

(b) "Class I Gaming" means all forms of gaming defined as Class I in section 4(6) of the Act, 25 U.S.C. § 2703(6)

(c) "Class II Gaming" means all forms of gaming defined as Class II in section 4(7) of the Act, 25-U.S.C. § 2703(7)

(d) "Class III Gaming" means all forms of gaming as defined in section 4(8) of the Act, 25 U.S.C. § 2703(8).

(e) "Commission" means the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.

(f) "Compact" means a Tribal-State Compact entered into between the Navajo Nation and a State pursuant to section 11(d) of the Act, 25 U.S.C. § 2710(d), for purposes of regulating Class III gaming activities conducted within the Nation, and all amendments and modifications thereto.

(g) "Distributor" means a person who distributes Class II and Class III Gaming Devices and/or component parts thereof.

(h) "Executive Director" means the Executive Director of the Gaming Regulatory Office.

(i) "Gaming Activity" means all forms of Class II and Class III Gaming owned and operated by the Nation and conducted within the territorial jurisdiction of the Nation.

(j) "Gaming Device" or "Electronic Game of Chance" means a microprocessor-controlled electronic device which allows a player to play games of chance, some of which are affected by skill, which device is activated by the insertion of a coin, currency,, tokens or by the use of a credit, and which awards game credits, cash, tokens, or replays, or a receipt that can be redeemed by the player for any of the foregoing. Game play may be displayed by:

(i) Video facsimile; or

(ii) Mechanical rotating reels whereby the software of the device predetermines the stop positions and the presence, or lack thereof, of a winning combination and pay out, if any.

(k) "Gaming Employee" means any person employed as a Primary Management Official or Key Employee of a Gaming Operation of the Nation and any person employed in the operation or management of a Gaming Operation, including, but not limited to, any person whose employment duties require or authorize access to restricted areas of a Gaming Facility not otherwise open to the public. Gaming Employee does not mean janitors, cooks, waitresses or waiters, and other employees not directly involved in the Gaming Operation within a Gaming Facility.

(l) "Gaming Facility" means the buildings or structures licensed and approved by the Nation in which Gaming Activities are conducted.

(m) "Gaming Facility Operator" means the Nation, a wholly owned Tribal Enterprise, or such other entity of the Nation—as the Nation may from time to time designate as the wholly-owned tribal entity having full authority and responsibility for the operation and management of Class II or Class III Gaming Activities.

(n) "Gaming Operation" means any Gaming Activity conducted within a Gaming Facility.

(o) "Gaming Ordinance" means this Ordinance which governs the conduct of Gaming Activities within the Navajo Nation, all amendments thereto, and all regulations promulgated thereunder.

(p) "Gaming Services" means the providing of any goods or services, except for legal services, to a Gaming Facility Operation in connection with the operation of Class II or Class III gaming in a Gaming Facility, including but not limited to, equipment, transportation, food, linens, janitorial supplies, maintenance, or security services for the Gaming Facility, in an amount in excess of \$10,000 in any-single month.

(q) "Indian Lands" means land as defined in 25 U.S.C. § 2703 (4)(A) and (B), subject to the provisions of 25 U.S.C. § 2719.

(r) "Key Employee" means a Gaming Employee 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) Custodian of Gaming Devices including persons with access to cash

and accounting records within such devices;

- (7) Dealer;
- (8) Pit boss;
- (9) Croupier;
- (10) Approval of Credit; or

If not otherwise included, any other person whose total cash compensation from the Gaming Operation is in excess of \$50,000 per year; or, if not otherwise included, the four most highly compensated persons in the Gaming Operation.

(s) "Management Contract" means a management contract within the meaning of 25 U.S.C. §§ 2710(d)(9) and 2711.

(t) "Management Contractor" means a natural person or entity that has entered into a Management Contract with the Nation or a Gaming Facility Operator which has been approved pursuant to 25 U.S.C. §§ 2710(d)(9) and 2711.

(u) "Manufacturer" means a natural person or entity that manufactures Gaming Devices and/or component parts thereof as defined by this Ordinance for use or play in the Gaming Facilities.

(v) "Nation" means the Navajo Nation.

(w) "Navajo Nation Council" means the Navajo Nation Council of the Navajo Nation.

(x) "Net Revenue" means the gross revenues of any gaming activity less amounts paid out as, or paid for, prizes and total operating expenses.

(y) "Office of Attorney General" means the Office of the Attorney General of the Navajo Nation.

(z) "Person" includes a corporation, company, partnership, firm, association or society as well as a natural person. When "person" is used to designate the violator or offender of any law, it includes a corporation, company, partnership, firm, association, or society of persons.

(aa) "Primary Management Official" means the person having management responsibilities under a Management Contract; or any person who has authority to hire and fire employees or to set up working policy for a Gaming Operation; or the chief financial officer or other person who has financial management responsibility for a Gaming

Operation.

(bb) "Principal" means with respect to any entity:

- (i) Each of its officers and directors;
- (ii) Each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager;
- (iii) Each of its owners or partners, if an unincorporated business;
- (iv) Each of its shareholders who own more than five percent (5%) of the shares of the corporation, if a corporation; and
- (v) Each person other than a banking institution who has provided financing for the entity constituting more than five percent (5%) of the entity; and
- (vi) Each of the beneficiaries, or trustees of a trust.

(cc) "Privacy Act" means the Privacy Act of 1974, as amended (P.L. 93-579, as amended; 5 U.S.C. § 552(a), and the obligations and responsibilities placed on the United States government under the Privacy Act as applied to the Commission pursuant to the Indian Gaming Regulatory Act.

(dd) "Public Employee" means a Public Employee within the meaning of the Navajo Nation Ethics in Government Law, 2 N.N.C. Sections 3751 et. seq.

(ee) "Public Official" means a Public official within the meaning of the Navajo Nation Ethics in Government Law, 2 N.N.C. Sections 3751 et. seq.

(ff) "State" means the State of Arizona, New Mexico, or Utah and any of their authorized officials, agents and representatives.

(gg) "Tribal Gaming Enterprise" means the Nation, an enterprise of the Nation, or such other entity of the Nation designated by the Navajo Nation Council to conduct a Gaming Operation.

Chapter 3. Tribal ownership and Use of Net Revenues.

Section 301. Tribal Ownership of Gaming Activities. All Gaming Activities within the Nation shall be owned entirely by the Nation and conducted and operated by a Tribal Gaming Enterprise, with the following exceptions:

- (a) Class I Gaming; and

- (b) Small bingo games and raffles as provided in Section 1310 of this Ordinance.

Section 302. Use of Net Revenues. All net revenues received by the Nation from all Gaming Activities shall be utilized according to applicable Navajo Nation laws and in accordance with the National Indian Gaming Regulatory Act and CFR 25.

Chapter 4. Navajo Gaming Regulatory Office.

Section 401. Establishment of the Gaming Regulatory Office. There, is hereby established the Navajo Gaming Regulatory Office within the Executive Branch of the Navajo Nation government, with legislative oversight by the Economic Development Committee of the Navajo Nation Council, and shall have overall civil regulatory authority over Gaming Activities within the Nation as specifically provided herein.

Section 402. Personnel.

(a) The Navajo Gaming Regulatory Office (hereinafter "the Gaming Regulatory Office"), shall consist of an Executive Director, Inspectors and such assistants and other staff as the Executive Director shall determine are required from time to time, subject to funding provided by the Navajo Nation Council.

- (1) No employee of the Gaming Regulatory Office shall:
 - (A) be employed by a Gaming Facility Operator.
 - (B) have an immediate family member employed by a Gaming Facility Operator.
- (2) No former employee-of the Gaming Regulatory Office shall be employed by a Gaming Facility Operator within six (6) months of leaving employment of the Gaming Regulatory Office.
- (3) No employee of the Gaming Regulatory Office shall be employed by or hold, directly or indirectly, a financial interest in an organization or entity which has entered into a Management Contract with the Nation or a Gaming Facility Operator; (ii) is a Distributor; (iii) provides Gaming Services; or (iv) provides financing to the Nation or a Gaming Facility Operator for purposes of conducting Gaming Operations within the Nation.

(b) The Executive Director of the Gaming Regulatory Office shall be retained by contract by the President of the Navajo Nation, such contract being approved by the Navajo Nation Council for a four year term, and such contract being executed by the President. The job performance of the Executive Director shall be reviewed periodically by the President who shall submit a written report of each such review to the Speaker of the Navajo Nation Council. The Executive Director of the Gaming Regulatory office shall be removable only for breach of contract.

(c) The Executive Director shall be a person of the utmost honesty and integrity, shall not have been convicted of a felony or a misdemeanor involving theft, embezzlement or a crime involving moral turpitude, whose prior activities, reputation, habits and associations shall not 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) The contract of the Executive Director shall require the Executive Director to be the Nation's designated agent for service of any official determination, order or notice of the Commission. The contract shall further require the Executive Director to have a bachelor's degree in business administration or related field and at least six years of experience in gaming management and/or regulation, or the contract shall require the Executive Director to have a master's degree in business administration or related field and at least four years of experience in gaming management and/or regulation.

(e) Inspectors shall act under the authority and supervision of the Executive Director. Inspectors shall have the right to inspect any Gaming Facility at any time and shall have immediate and unrestricted access to any and all areas of a Gaming Facility.

(f) The background of every employee, Inspector, and the Executive Director of the Gaming Regulatory Office shall be investigated by the Nation's Personnel Department to ensure qualification for employment in the Gaming Regulatory Office. Except for the Executive Director, who shall be subject to section 402(c), no person shall be employed by the Gaming Regulatory Office if the Nation's Personnel Department determines that such person:

- (1) Has been convicted of any felony within the past ten (10) years or any gaming offense;
- (2) Has knowingly and willfully provided materially important false statements or information on his or her license application; or
- (3) Has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

Section 403. Powers and Duties of the Gaming Regulatory Office. Subject to all of the provisions of this Ordinance, the Gaming Regulatory Office shall have the following powers and duties, which it may exercise directly or through such agents or employees as it deems appropriate:

- (a) To have and to exercise full authority and responsibility for the regulation of

Gaming Activities within the Nation, as provided in this Ordinance and the Act.

(b) To enter at any time any Gaming Facility within the Nation for the purpose of inspecting the facility, its employees and operations, its equipment and supplies, and its business records, books-of account, and any and all other financial records or documents pertaining to the business operations of the facility, and to make such summaries or copies of any and all such documents or other records for the purpose of ensuring compliance with the provisions of this Ordinance or the Act;

(c) To issue subpoenas and compel the attendance of witnesses at any place within the Nation, to administer oaths and to require testimony under oath;

(d) To seize and remove from any Gaming Facility and impound any equipment, supplies, documents or records for the purpose of examination in connection with an investigation;

(e) To review for compliance with all applicable laws and regulations and to make recommendations thereon to the Department of Justice for their approval:

- (1) the terms of any and all proposed contracts between the Nation or a Tribal Gaming Enterprise and any person or entity which provide for the management or operation of any Gaming Facility within the Nation;
- (2) the provisions of any and all Gaming Services: and,
- (3) the terms of any lease of land which is the site or proposed site of such Gaming Facility;

(f) To investigate any aspect of Gaming Activities within the Nation 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 to investigate any report of a failure of any Gaming Operation within the Nation to comply with the provisions of this ordinance or the Act and to require such Gaming Operation to take any corrective action deemed necessary by the Gaming Regulatory Office upon such terms and conditions as the Gaming Regulatory Office may determine appropriate;

(g) To establish a list of persons who, because of their criminal history or association with career offenders or career offender organizations pose a threat to the integrity of the Gaming Activities of the Nation, or are barred from any Gaming Operation within the Nation pursuant to § 1401(f) of this Ordinance;

(h) To approve the rules of each game of chance operated by the Nation pursuant to Section 301 of this ordinance;

(i) To require that all contracts for supplies, services, or concessions in an amount

in excess of \$10,000 annually (except contracts for professional legal or accounting services) relating to such gaming be subject to annual audits by an independent certified public accountant licensed in a state;

(j) To perform background investigations on every applicant for a Gaming Facility Operator's License, a Gaming Manager's License, a Manufacturers/Supplier's License, a Gaming Employee's License and every applicant for a position of Primary Management Official or Key Employee with a Gaming Facility Operator;

(k) To approve or deny applications for licenses or to limit, condition, restrict, revoke or suspend any license which it has granted;

(l) To issue licenses and employee identification cards on such forms as may be designated by the Gaming Regulatory Office;

(m) To issue a notice of violation to, or impose a civil penalty upon, any person or entity for violation(s) of any provision(s) of this Ordinance or the Act;

(n) To detain persons who may be involved in illegal activities, for purposes of notifying and summoning appropriate law enforcement authorities; and

(o) To do all other things reasonably necessary for the proper and efficient fulfillment of the powers and responsibilities of the Gaming Regulatory Office under this ordinance or the Act.

(p) To create and establish a revolving account to deposit the fees collected from the license applicants. The account shall be used to pay for the expenses of operating the Office including, but not limited to the salaries of additional personnel, equipment, vehicles, travel, and other expenses related to the operation of the Office. The Plan of Operation for the revolving account shall be approved by the Economic Development Committee and Budget and Finance Committee of the Navajo Nation Council.

Section 404. Issuance of Regulations.

(a) The Gaming Regulatory Office shall from time to time promulgate and issue regulations governing any aspect of its responsibilities under this Ordinance, which, so long as they are in furtherance of and not in conflict with any provision of this Ordinance, shall have the force of law. Without limitation, the matters to be addressed by such regulations may include the following:

- (1) The time and manner for applying for a Gaming Operator's License under this ordinance, and the specific information to be provided in connection with such application, including information necessary for adequate assessment of the applicant's background, and the manner in which such applications will be processed;

- (2) The procedure by which applicants for licenses under this ordinance shall apply for such licenses, including the information to be provided by the applicant necessary for adequate assessment of the applicant's background, and the manner in which such applications will be processed; and
- (3) The specific types of accounting, security, record keeping and reporting measures required by this Ordinance or the Act to be in place and functioning at any Gaming Facility licensed under this Ordinance.

(b) Except in emergency situations addressed in subsection (c) below, prior to promulgating a final regulation the Gaming Regulatory Office shall publish the regulation in proposed form. The proposed regulation shall be provided directly to the President of the Nation, the Speaker of the Navajo Nation Council, the Chairperson and each member of the Economic Development Committee of the Navajo Nation Council, the Office of the Attorney General, and to any other interested person or interested office or agency of the Nation. The proposed regulation shall be accompanied by a notice stating that the Gaming Regulatory Office will accept written comments for no less than thirty (30) days following the date of publication. As provided in this section, "publish" shall mean publication in newspaper(s) of general circulation within the Nation. In the event of significant public interest with respect to any regulation, the Gaming Regulatory Office may hold a public hearing prior to issuing a final regulation. Notice of such hearing shall be given as set forth above, and in addition shall be mailed directly to any person submitting comments on the proposed regulation. Except as provided in subsection (c) of this section, no final regulation shall be issued until the Gaming Regulatory Office has reviewed all comments received by the close of the comment period, as well as all presentations made at any hearing held pursuant to this subsection.

(c) In the event the Gaming Regulatory Office determines that an immediate rule-making is necessary to avoid serious jeopardy to the integrity of any Gaming Activity within the Nation, or otherwise to deal with an emergency situation affecting the responsibilities of the Gaming Regulatory Office, the Gaming, Regulatory Office may, upon making an express written finding as to such emergency, issue a final regulation to take effect immediately; provided, that the Gaming Regulatory Office shall publish notice and-request comments on such regulation in the same manner as is provided above, and upon consideration of any comments received, shall make such amendments to such final regulation as the Gaming Regulatory Office deems appropriate.

(d) All final regulations adopted by the Gaming Regulatory Office shall be officially filed with the Reporting Section of the Navajo Nation Council, the Office of the President, the Office of the Attorney General, and Records and Communications.

Section 405. Petition for Self Regulation. Upon the Gaming Regulatory Office's determination that the Nation is eligible therefor, the Gaming Regulatory Office may submit

to the Commission an application for a certificate of Self -Regulation, under the provisions of 25 U.S.C. § 2710 (c) (4). The Gaming Regulatory Office shall do everything necessary and appropriate to obtain such Certificate and to maintain the Certificate in good standing.

Section 406. Independence of Gaming Regulatory Office. The Gaming Regulatory Office is constituted as an independent regulatory agency of the Nation. The Gaming Regulatory Office shall not be subject to political direction or influence in the performance of its duties from any public official or public employee of the Nation.

Section 407. Relation to Gaming Management. Neither the Executive Director of the Gaming Regulatory Office nor any other public official or public employee of the Nation (individually or collectively) shall have any role in the management of any licensed gaming establishment. Aside from the specific duties of the Executive Director as defined in this ordinance all decisions, policies, and actions with regard to the operation of any licensed gaming establishment are the prerogative and responsibility of the gaming management as described in Chapter 5 and 6 of this ordinance.

Chapter 5. Gaming Facility Operator's License.

Section 501. Requirement of License. Each Tribal Gaming Enterprise established by the Navajo Nation Council to conduct a Gaming operation within the territorial jurisdiction of the Nation shall obtain a Gaming Facility operator's License from the Gaming Regulatory Office before the Tribal Gaming Enterprise may commence operation of a Gaming Activity. Each appointee for the position of member of the Board of Directors of such Tribal Gaming Enterprise shall also obtain a Gaming Facility Operator's License from the Gaming Regulatory Office before submission of the appointment to the Navajo Nation Council for approval.

Section 502. Standards of Suitability.

(a) Tribal Gaming Enterprise. No Tribal Gaming Enterprise shall be issued a Gaming Facility Operator's License by the Gaming Regulatory Office unless the Gaming Regulatory Office is satisfied that the Tribal Gaming Enterprise is established and organized pursuant to a plan of operation adopted by the Navajo Nation Council.

(b) Board of Directors. No member of the Board of Directors of a Tribal Gaming Enterprise established by the Navajo Nation Council to conduct a Gaming operation shall be issued a Gaming Facility Operator's License or have his License re-need by the Gaming Regulatory Office if the Gaming Regulatory Office determines that such person:

- (1) Has been convicted of any felony or gaming offense;
- (2) Has knowingly and willfully provided materially important false statements or information on his license application;
- (3) Has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming,

or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; or

- (4) Has a conflict of interest or a potential for a conflict of interest if a member of the Board of Directors. Any Public Official or Public Employee of the Nation shall be deemed to have a conflict of interest.

Chapter 6. Gaming Manager's License.

Section 601. Requirement of License. No person, corporation, partnership, or other entity shall manage any Gaming Operation as the general manager of a Tribal Gaming Enterprise without first obtaining a Gaming manager's License from the Gaming Regulatory Office. In the case of a corporation, partnership or other entity, each Principal of the corporation, partnership or other entity must also obtain a Gaming Manager's License from the Gaming Regulatory Office.

Section 602. Standards of Suitability.

(a) Individuals. No person shall be issued a Gaming Manager's License or have his License renewed under this Chapter if the Gaming Regulatory Office determines that such person:

- (1) Has been convicted of any felony or gaming offense;
- (2) Has knowingly and willfully provided materially important false statements or information on his license application;
- (3) Has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; or
- (4) Has a conflict of interest or a potential for a conflict of interest if a Gaming Manager. Any Public Official or Public Employee of the Nation shall be deemed to have a conflict of interest.

(b) Corporations, Partnerships, - and other Entities.

- (1) No corporation, partnership, or other entity shall be issued a Gaming Manager's License or have its License re-need by the Gaming

Regulatory Office unless the Gaming Regulatory Office is satisfied that such corporation, partnership or other entity:

- (A) Is organized and in good standing under the laws of the jurisdiction where it was established, and is qualified to do business within the Nation and the State;
 - (B) Is in sound financial condition, as shown by a financial statement certified by a certified public accountant to be a current, complete and accurate depiction of the organization's financial status;
 - (C) Is not now and has not been in the past five years the subject of any criminal investigation by any tribal, federal, or state law enforcement authority, as shown by an affidavit of Principals of the organization having personal knowledge thereof;
 - (D) Has established a reputation for financial integrity and sound business practices, or, if the organization was recently formed, that all persons having any role in its formation, including persons supplying financing, are persons qualified to be licensed individually under the terms of this Chapter;
 - (E) Has established that any person having a role in the formation or acting as a Principal of the organization is not a Public Official or Public Employee of the Nation; and
 - (F) in all other respects will be reliable and trustworthy, and whose involvement in Gaming Activities within the Nation will be in the best interests of the Nation.
- (2) As a condition of any such license, the Gaming Regulatory Office shall require that any licensed corporation, partnership or other entity:
- (A) Maintain an office within the Nation; and
 - (B) Give notice to the Gaming Regulatory Office within 10 days of any material change in any information disclosed in the application for which prior notice was not feasible, including but not limited to, any change in its principals.

Chapter 7. Manufacturers/Suppliers License.

Section 701. Requirement of License. Each Manufacturer and each Distributor of Gaming Devices, and each supplier of Gaming Services shall be licensed by the Gaming Regulatory Office prior to the sale or lease of any Gaming Devices or Gaming Services to

a Gaming Facility Operator licensed under this Ordinance. In addition, any person, corporation, partnership or other entity extending or guarantying financing for the Gaming Operation or the Gaming Facilities shall be licensed by the Gaming Regulatory Office, unless such person, corporation, partnership or entity is an agency of the United States or a lending institution licensed and regulated by the State or the United States.

Section 702. Standards of Suitability.

(a) Individuals. No person shall be issued a license or have his license re-need under this chapter if the Gaming Regulatory Office determines that such person:

- (1) Has been convicted of any felony or gaming offense;
- (2) Has knowingly and willfully provided materially important false statements or information on his license application;
- (3) Has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulations and control or gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or carrying on of the business and financial arrangements incidental thereto; or
- (4) Has a conflict of interest or a potential for a conflict of interest. Any Public Official or Public Employee of the Nation shall be deemed to have a conflict of interest.

(b) Corporations, Partnerships, and Other Entities.

- (1) No corporation, partnership, or other entity shall be issued a license or have its license re-need under this Chapter unless the Gaming Regulatory Office is satisfied that such corporation, partnership or other entity:
 - (A) Is organized and in good standing under the laws of the jurisdiction where it was established, and is qualified to do business within the Nation and the State;
 - (B) Is in sound financial condition, as shown by a financial statement certified by a certified public accountant to be a current, complete and accurate depiction of the organization's financial status;
 - (C) Is not now and has not been in the past five years the subject of any criminal investigation by an tribal, federal, or state law

enforcement authorities, as shown by an affidavit of Principals of the organization having personal knowledge thereof;

- (D) Has established a reputation for financial integrity and sound business practices, or, if the organization was recently formed, that all persons having any role in its formation, including persons supplying financing, are persons qualified to be licensed individually under the terms of this chapter;
 - (E) Has established that any person having a role in the formation or acting as a Principal of the organization is not a Public Official or Public Employee of the Nation; and
 - (F) Is in all other respects reliable and trustworthy, and whose involvement in Gaming Activities within the Nation will be in the best interests of the Nation as set forth in this Ordinance.
- (2) As a condition of any such license, the Gaming Regulatory Office shall require that any licensed corporation, partnership or other entity give notice to the Gaming Regulatory Office within 10 days of any material change in any information disclosed in the application for which prior notice was not feasible, including but not limited to, any change in its Principals.

Chapter 8. Gaming Employee's License.

Section 801. Requirement of License. Every Gaming Employee of a Gaming Facility Operator shall be licensed by the Gaming Regulatory Office prior to commencement of employment.

Section 802. Standards of Suitability. No person shall be issued a Gaming Employee's License or have his License re-need under this Chapter if the Gaming Regulatory Office determines that such person:

- (a) Has been convicted of any felony within the past ten (10) years or any gaming offense;
- (b) Has knowingly and willfully provided materially important false statements or information on his or her license or employment application; or
- (c) Has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

- (d) Has a conflict of interest or a potential for a conflict of interest if a Gaming Employee. Any Public Official or Public Employee of the Nation shall be deemed to have a conflict of interest.

Chapter 9. License Application Procedure.

Section 901. Application Requirements: Processing.

(a) Each application for a license under Chapters 5, 6, 7 or 8 of this Ordinance must be submitted to the Gaming Regulatory Office on forms prescribed by the Gaming Regulatory Office, and must be accompanied by the required fee and such supporting information as the Gaming Regulatory Office prescribes by regulation which shall include:

- (1) In the case of individual persons:
 - (A) Full name, including any aliases by which applicant has ever been known;
 - (B) Social security number;
 - (C) Date and place of birth, gender, current citizenship, and all languages spoken or written;
 - (D) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
 - (E) 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 l(D) of this subsection (a) ;
 - (F) Education history;
 - (G) Current business or employment and residence telephone numbers;
 - (H) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
 - (I) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

- (J) 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;
 - (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) All criminal proceedings, except for minor traffic offenses, to which the applicant has been a party including description of the charge, the name and address of the court involved and the date and disposition;
 - (M) A set of fingerprints;
 - (N) A current photograph; and
 - (O) A complete and current financial disclosure statement.
- (2) In the case of corporations, partnerships or other entities applying for a license under Chapters 5, 6, 7 or 8 of this Ordinance:
- (A) The name, address, and other additional pertinent background information on each of the Principals;
 - (B) The name, address, and other additional pertinent background information on each of its related, associated, affiliated, parent or subsidiary corporations, partnerships, entities or individuals;
 - (C) A description of any previous experience that each Principal has had with other Indian tribes involving gaming, any management contract, or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had contact relating to gaming; and
 - (D) A complete financial statement of each Principal.

(b) The Gaming Regulatory Office and its staff may assist any applicant in assembling all information required for processing of the application, but no application will be processed until it is complete. The Gaming Regulatory Office staff may at any time after an application is submitted request the applicant in writing to supply additional information to enable the Gaming Regulatory Office to complete the processing of the application, which request must be complied with forthwith.

(c) The application forms used by the Gaming Regulatory Office shall contain the Privacy Act notice and the notice regarding false statements, and in the form required by the Commission, pursuant to 25 C.F.R. Part 556, and each applicant shall consent in writing to the release of any information that may be relevant to the Gaming Regulatory Office's inquiry into the applicant's background from any person or entity. Any and all information obtained by the Gaming Regulatory Office in the course of reviewing an application will remain confidential, and will not be released by the Gaming Regulatory Office to any other person or agency (other than the commission if disclosure is required under the Act) without the applicant's consent, or pursuant to an order of court or other body of competent jurisdiction.

(d) The Gaming Regulatory Office shall issue a decision on the application in writing. The written decision of the Gaming Regulatory Office shall constitute final action of the Gaming Regulatory Office on such application. In the event any application for a license is denied, the decision shall specify the reason for such denial.

Section 902. Fees. The Gaming Regulatory Office shall collect the following fees in connection with the processing of applications and the issuance of licenses:

(a) Gaming Facility Operator's License:

(1) Initial application fee:

- | | |
|---------------------------------|-----------|
| (A) Tribal Gaming Enterprise: | \$50,000. |
| (B) Member, Board of Directors: | \$ 500. |

(2) Annual renewal fee:

- | | |
|---------------------------------|-----------|
| (A) Tribal Gaming Enterprise: | \$15,000. |
| (B) Member, Board of Directors: | \$ 100. |

(b) Gaming Manager's License:

- | | |
|------------------------------|-----------|
| (1) Initial application fee: | \$ 1,000. |
| (2) Annual renewal fee: | \$ 500. |

(c) Manufacturers/Suppliers License:

(1) Initial application fee:

- | | |
|---|-----------|
| (A) Manufacturer/Distributor of Gaming Devices: | \$ 1,000. |
| (B) Supplier of Gaming Services: | \$ 100. |

- (C) Third Party Fi Financier: \$ 1,000.
- (2) Annual renewal fee:
 - (A) Manufacturer/Distributor of Gaming Devices: \$ 500.
 - (B) Supplier of Gaming Services: \$ 50.
 - (C) Third Party Financier: \$ 500.
- (d) Gaming Employee's License:
 - (1) Initial application fee of \$25.00.
 - (2) Annual renewal fee of \$10.00.
- (e) Other Fees. The Gaming Regulatory Office may by regulation prescribe --such other fees as it deems appropriate.

Section 903. License Terms: Renewal.

(a) Each Gaming Facility Operator's License, Gaming Manager's License, Manufacturers/Suppliers License and Gaming Employee's License issued by the Gaming Regulatory Office hereunder shall have a primary term of one year. Such license may be renewed for subsequent one-year periods upon proper application therefor, on forms specified by the Gaming Regulatory Office, but no licensee shall have any vested right to renewal of any license issued hereunder.

(b) The Gaming Regulatory Office shall issue a temporary license within 60 days of the receipt of a completed application for licensing pursuant to Chapters 5, 6, 7 or 8 of this Ordinance unless the background investigation undertaken by the Gaming Regulatory Office discloses that the applicant has a criminal history, or unless other grounds sufficient to disqualify the applicant pursuant to this Ordinance are apparent on the face of the application. The temporary license shall become void and be of no effect upon either the issuance of a license or upon the issuance of notice of denial of the license in accordance with the provisions of this Ordinance.

Section 904. Reserved

Section 905. Non-transferability of License. Each Gaming Facility Operator's License, Gaming Manager's License, Manufacturer's/Supplier's License, and Gaming Employee's License issued by the Gaming Regulatory Office hereunder is valid only for the person-or entity at the place of business shown on the license. The license is not transferable or otherwise assignable without prior approval from the Gaming Regulatory Office.

Chapter 10. Background Investigations; Notifications.

Section 1001. Background Investigations.

(a) The Gaming Regulatory Office shall at all times have in place, and shall regularly update and improve, a system for conducting background investigations of every applicant for licensing under this ordinance. Such system shall comply with the requirements of this Ordinance and the Act, and shall include, at a minimum, utilization of records of all available, tribal, state and federal law enforcement agencies, resources of the Commission, communications with other Indian tribes engaged in gaming activities, and any and all other sources of information accessible to the Gaming Regulatory Office for this purpose. Such system shall ensure that all applicants are notified of their rights under the Privacy Act as specified in 25 C.F.R. Part 556.

(b) Every applicant for licensing under this ordinance shall be subjected to a thorough background investigation, and such investigations shall be updated upon application for renewal of a license, and at such other times as the Gaming Regulatory Office may determine appropriate.

(c) The Gaming Regulatory Office shall prepare a background investigation report on every applicant for licensing under this ordinance which shall include all of the following:

- (1) Steps taken in conducting a background investigation;
- (2) Results obtained;
- (3) Conclusions reached; and
- (4) The bases for those conclusions.

(d) The cost of performing the background investigations on Gaming Employees shall be an expense of the Gaming Facility operator who has hired or proposes to hire the employee.

(e) The Gaming Regulatory Office shall at all times maintain files containing the results of any background investigations conducted by it. Such files shall be retained for no less than three years from the date of termination of employment or expiration of the license. Such files shall contain systems designed to safeguard the identities of confidential informants from inadvertent disclosure.

Section 1002. Notification to the Gaming Commission.

(a) Within the time requirements established by the Commission the Gaming Regulatory Office shall transmit to the Commission a complete copy of license applications or such other information as may be required by the Commission. After -completion of the background. check of the applicant, and within the time requirements

established by the Commission, the Gaming Regulatory Office shall provide to the Commission a complete report on the results of the background investigation. In the event the Gaming Regulatory Office receives any information from the Commission concerning the applicant, such information shall be taken into account by the Gaming Regulatory Office in its action on the application. The Gaming Regulatory office shall notify the Commission if the Gaming Regulatory Office does not license an applicant.

(b) Upon issuance of a license under this ordinance, the Gaming Regulatory Office shall give notice thereof to the Commission. Should the Gaming Regulatory Office receive information from the commission indicating that a Primary Management Official or Key Employee does not meet the standards established in this ordinance or in the Act for issuance of such a license, the Gaming Regulatory Office shall immediately suspend such license and give written notice thereof to the licensee. The Gaming Regulatory Office shall also notify the licensee that the licensee has 15 days following receipt of the notice of suspension to request that the Gaming Regulatory Office reconsider the notice of suspension. Upon such request for reconsideration, the Gaming Regulatory Office shall consider such oral statement(s) or written documentation as the licensee may present to the Gaming Regulatory Office at the time and place designated by the Gaming Regulatory Office. Within 15 days of receipt of such statement(s) or documentation, or the licensee's request for reconsideration, whichever is later, the Gaming Regulatory Office shall issue a written decision. The written decision of the Gaming Regulatory Office shall constitute final action of the Gaming Regulatory Office. The Gaming Regulatory Office shall notify the Commission of its decision.

Chapter 11. Gaming Facility License.

Section 1101. Requirement of License. No person or entity may commence any Gaming Activities subject to regulation hereunder at any facility or location within the Nation until such facility or location has received a Gaming Facility License under the provisions of this Chapter, nor shall any person or entity offer any new or different Gaming Activities, as, defined by regulations to be issued by the Gaming Regulatory Office, at any facility or location that is already licensed, without first obtaining an amended license for, such new and different Gaming Activities from the Gaming Regulatory Office.

Section 1102. Standards for Issuance of License. The Gaming Regulatory Office shall not issue a Gaming Facility license for any facility or location at which Gaming Activities are to be offered within the Nation unless the Gaming Facility meets the following requirements:

(a) the physical facility within which the Gaming Activities are to be conducted is designed and constructed in compliance with the laws of the Nation and the requirements of the Act, so as to ensure the health and safety of all employees and patrons of such activities, and the protection of the natural environment from any contamination due to discharge of waste or unreasonable disturbance of the land surface;

(b) the Gaming Activities to be conducted within the facility will lawfully be carried

on by the Nation under the Act, and that the facilities are appropriate to the carrying on of such activities;

(c) the Gaming Facility Operator will adequately staff and equip the facility to ensure the safety, comfort and convenience of the patrons thereof, and that the Gaming Facility Operator has taken adequate measures to provide for traffic, emergency service accessibility, food, drink and sanitary needs for patrons and employees, security, law enforcement and other concerns raised by the type of Gaming Activities proposed to be undertaken in compliance with this ordinance and the Act;

(d) the Nation or Tribal Gaming Enterprise has agreed to a Management Contract or has made provision for management of the facility under terms and provisions that ensure that the activities will be carried out in a manner consistent with the requirements of this Ordinance, that the contracting party or parties have received appropriate licenses issued under the provisions of this Ordinance, and that all employees hold Gaming Employee's Licenses issued under the provisions of this ordinance; and

(e) in all other relevant respects, the facility will be operated in a way that is fully consistent with the provisions of this Ordinance, and that its operation will further the interests of the Nation with respect to its operation of Gaming Activities.

Section 1103. Application for a New or Amended Gaming Facility License Procedure

(a) An application for a new or amended Gaming Facility License shall be submitted by the Tribal Gaming Enterprise prior to the commencement of operations at the facility or the commencement of the new activity at the facility for which an amended license is required.

(b) The Gaming Regulatory Office shall prescribe the information required to be submitted with such applications, but at a minimum, such application for licensing a new facility shall include the following:

- (1) The name, specific position and job description of all persons to be employed as Primary Management Officials or Key Employees at the facility;
- (2) Job descriptions for every other position in which persons will be employed at the facility;
- (3) A detailed description of each Gaming Activity to be engaged in at the facility, together with expected payouts to winners;
- (4) A description of the internal controls, plan of organization and all coordination methods and measures for the safeguarding of assets,

ensuring the accuracy and reliability of its accounting data, promoting operational efficiency and encouraging adherence to prescribed managerial policies;

- (5) Detailed plans for the facility, including landscaping, traffic controls, parking, food and drink services, and other physical aspects of the building;
- (6) A detailed description of how security will be maintained at the facility, identifying the persons, agencies or entities that will provide such security;
- (7) A detailed description of how gaming proceeds will be accounted for and disposed of on a daily basis;
- (8) A copy of any proposed Management Contract or other contractual arrangement by which the activities at the facility are to be managed;
- (9) A description of provisions for dealing with fire or other potential emergencies at the facility;
- (10) A detailed description of how sewage and other waste products from the facility will be handled and disposed of; and
- (11) Any other information relevant to the proposed operation of the facility or requested by the Gaming Regulatory Office as part of the application.

(c) An application for an amended license to conduct new or different Gaming Activities at a licensed location or to otherwise alter the terms or conditions of an existing license, shall, at a minimum, include the following information:

- (1) Any change in information previously provided in the original license application or any previous application for an amended license for the facility;
- (2) A detailed description of the changes in the facility or in the activities to be carried on therein for which the amended license is required, together with a statement of the reasons for such change;
- (3) If a proposed change will require any change in the existing Management Contract with respect to the facility, a copy of the proposed amendment to such contract or new contract; and
- (4) Any other information relevant to the changes or new activities requiring the amendment.

(d) In its decision to license any facility, or to amend any existing license to permit the conduct of new or different Gaming Activities at a licensed facility, the Gaming Regulatory Office may specify, consistent with the provisions of this ordinance, terms or conditions it believes necessary or appropriate to ensure the health and safety of patrons and employees of any such facility, the integrity of the Gaming Activities carried on at such facility, and the security of gaming proceeds. If dissatisfied with any such condition, the applicant may request that the Gaming Regulatory Office reconsider its determination. Upon such request for reconsideration, the Gaming Regulatory Office shall issue a written decision within 15 days of its receipt of the request for reconsideration. The written decision of the Gaming Regulatory Office shall constitute final action of the Gaming Regulatory Office.

Section 1104. Fees. The Gaming Regulatory Office shall collect the following fees in connection with the processing of applications and the issuance of licenses:

(a) Gaming Facility License:

(1) Annual fee of \$ 30,000.

(2) Application for amendment of an existing Gaming Facility License: \$ 15,000.

(b) The annual fee shall be payable in equal quarterly installments, the first of which shall be payable within 15 days of receipt of notice of approval of the Gaming Facility License. The remaining installments shall be paid on the first day of each succeeding calendar quarter.

(c) The Gaming Regulatory Office may by regulation prescribe such other fees as it deems appropriate.

Section 1105. License Terms: Renewal. Each Gaming Facility License issued by the Gaming Regulatory Office shall be for a term of two years. Such license may be renewed for subsequent three year terms upon proper application on forms specified by the Gaming Regulatory Office.

Chapter 12: Facility Inspection; Notice of Violation; Complaints; Judicial Review.

Section 1201. Facility Inspection. The Gaming Regulatory Office shall, no less than monthly and at such other times as it believes are warranted, cause detailed inspections to be made of each Gaming Facility licensed under the provisions of this ordinance, to assure that such facility is being operated in accordance with the terms of the license and of the provisions of this ordinance and the Act.

Section 1202. Notice of Violation.

Office or the Act.

(d) Each person or entity to whom a notice of violation is issued shall submit a written response to the Gaming Regulatory Office together with any additional written information the person believes the Gaming Regulatory Office should consider. Such response and supporting documentation must be received by the Gaming Regulatory Office within 15 days of the receipt of the notice of violation. Upon receipt of the written response, the Gaming Regulatory Office shall issue a written decision within 15 days. Such written decision shall constitute final action of the Gaming Regulatory Office with respect to such notice of violation. No action to enforce the notice of violation shall be taken by the Gaming Regulatory Office until the Gaming Regulatory Office issues its written decision; provided that, the Gaming Regulatory Office may summarily suspend any license issued under this ordinance or take such other immediate action if the continued licensing of, or conduct by, a person or entity constitutes an immediate threat to the public health, safety or welfare. The notice of violation is the final action of the Gaming Regulatory Office if no written response to the notice of violation is submitted to the Gaming Regulatory Office within the time prescribed in Section 1202(b)(6).

(e) The Gaming Regulatory Office may employ a Hearing Officer to hear and decide matters to be heard by the Gaming Regulatory Office in accordance with the provisions of this ordinance; provided, sufficient funds are appropriated or made available for a Hearing Office and appropriate staff.

Section 1203. Investigation of Complaints.

(a) The Gaming Regulatory Office shall investigate all sworn complaints that are filed with the Gaming Regulatory Office alleging that a licensee is acting in violation of the terms of any license, or a Gaming Facility is not being maintained in accordance with the terms of any license or does not adequately protect the health, safety and welfare of the employees or patrons.

(b) The Gaming Regulatory Office shall give written notice of and provide a copy of the sworn complaint to the licensee. The licensee shall file with the Gaming Regulatory Office a written reply to the complaint within 15 days of receipt of the notice and complaint.

(c) Following receipt of the licensee's response to the complaint, the Gaming Regulatory Office shall cause a full investigation to be made of the allegations. If the Gaming Regulatory Office determines that a violation of the Ordinance or the Act has occurred or is occurring, the Executive Director shall issue a notice of violation in accordance with the provisions of this Chapter.

Section 1204. Judicial Review.

(a) Any person or entity who has been issued a notice of violation by the Executive Director of the Gaming Regulatory Office and who has submitted a written response to the Gaming Regulatory Office in compliance with the provisions of Section 1202(d) of this

(a) The Executive Director of the Gaming Regulatory Office shall issue a notice of violation to any person or entity determined by the Gaming Regulatory Office to be in violation of any provision of this Ordinance or the Act.

(b) A notice of violation shall contain:

- (1) A citation to the ordinance, regulation or federal law that has been or is being violated;
- (2) A description of the circumstances surrounding the violation, set forth in common and concise language;
- (3) The action which must be taken to correct the violation;
- (4) Notice that the violation must be corrected within 15 days from receipt of the notice of violation;
- (5) Notice of a civil fine or other enforcement action that will or may be imposed if the violation is not corrected;
- (6) Notice that a written response to the notice of violation must be submitted to, and received by, the Gaming Regulatory Office within 15 days of the receipt of the notice of violation; and
- (7) Notice that the cited violation shall be the written decision of the Gaming Regulatory Office if no written response to the notice of violation is submitted to the Gaming Regulatory Office within the time prescribed in Section 1202(b)(6).

(c) In the event the violation is not corrected, or a written response to the notice of violation is not made within 15 days following receipt of the notice of violation, the Gaming Regulatory Office may take one or more of the following actions:

- (1) Suspend or revoke the license of the person or entity to whom the notice of violation was directed;
- (2) Assess a civil penalty in accordance with the provisions of this ordinance;
- (3) Forcibly eject the violator from the premises of the Gaming Facility
- (4) Seize the Gaming Facility and all equipment, records, and proceeds of Gaming Activities located within the Gaming Facility; or
- (5) Upon consultation with the Nation's Attorney General, initiate in the District Court of the Navajo Nation a civil action or criminal complaint to enforce the Ordinance, regulations of the Gaming Regulatory

Chapter, may apply to the District Court of the Navajo Nation for review of such notice of violation. Any applicant for a license under this ordinance, any person or entity licensed pursuant to this Ordinance, and any patron of a Gaming Operation may apply to the District Court of the Navajo Nation for review of a final action of the Gaming Regulatory Office.

(b) Any such application for court review must be made within 15 days of receipt of notice of the final action of the Gaming Regulatory Office. The person or entity requesting judicial review shall be the moving party and shall have the burden of proof by clear and convincing evidence.

(c) The reviewing court shall decide all relevant questions of law presented, interpret statutory provisions, and determine the basis for the action of the Gaming Regulatory Office. The reviewing court shall uphold the action of the Gaming Regulatory Office unless the court determines that such action was:

- (1) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- (2) Contrary to statutory right, power, privilege, or immunity;
- (3) In excess of statutory jurisdiction, authority, or limitations, or in violation of statutory right;
- (4) Without observance of procedure required by law; or
- (5) Unsupported by substantial evidence.

Chapter 13: Gaming Operation.

Section 1301. Scope of Permissible Gaming. The Gaming Activities permitted to be conducted in a licensed Gaming Facility are those which may lawfully be carried on by the Nation under applicable provisions of federal law including, but not limited to, the Act, -subject to any limitations which may be imposed by this Ordinance.

Section 1302. Hours. Days. Other Standards.

(a) For all activities on Indian lands located outside the State of New Mexico the Gaming Regulatory Office may by regulation establish the permissible hours and days of operation of Gaming Activities. The regulations may authorize a licensed Gaming Facility to remain open and conduct Gaming Activities twenty-four hours a day, seven days a week. The Gaming Regulatory Office may also, by regulation, establish other standards of operation for such facilities, as the Gaming Regulatory Office deems appropriate.

(b) For all activities on Indian lands located within the State of New Mexico, the following standards shall apply:

- (1) The Navajo Nation shall take all necessary action to impose on its gaming

operation standards and requirements equivalent to or more stringent than those contained in the federal Fair Labor Standards Act of 1938, the federal Occupation Safety and Health Act of 1970, and any other federal laws relating to wages, hours of work and conditions of work, and the regulations issued thereunder;

(2) On any construction project involving any Gaming Facility or related structure that is funded in whole or in part by federal funds, all workers will be paid wages meeting or exceeding the standards established for New Mexico under the federal Davis-Bacon Act;

(3) The Navajo Nation, the Gaming enterprise and a Management Contractor shall not discriminate in the employment of persons to work for the gaming Enterprise or in the Gaming Facility on the grounds of race, color, national origin, gender, sexual orientation, age or handicap. This provision shall not be deemed to prohibit the application of the Navajo Preference in Employment Act.

(4) All employees of a gaming establishment shall be provided employment benefits, including, at a minimum, sick leave, life insurance, paid annual leave and medical and dental insurance as well as providing unemployment insurance and workers compensation insurance through participation in programs offering benefits at least as favorable as those provided by comparable programs of the State of New Mexico;

(5) A grievance process shall be provided for an employee in cases disciplinary or punitive action taken against an employee that includes a process for appeals to persons of greater authority than the immediate supervisor of the employee;

(6) New Mexico State Department of Environment inspectors shall be permitted to inspect gaming Facilities' food service operations during normal gaming Facility business hours to assure that standards and requirements equivalent to New Mexico's Food Service Sanitation Act are maintained;

(7) Gaming enterprises are prohibited from cashing any paycheck or any type of government assistance check, including Social Security, AFDC , pension and other similar checks, for any patron.

(8) Gaming enterprise are prohibited from extending credit by accepting IOUs or markers from its patrons;

(9) Odds shall be posted on each electronic and electromechanical gaming device.

(10) Automatic teller machines on Gaming Facility premises shall be programmed so that the machines will not accept cards issued by New Mexico to AFDC recipients for access to AFDC benefits.

(11) Each electronic or electromechanical gaming device in use at the Gaming Facility shall pay out a mathematically demonstrable percentage of all amounts

wagered, which must not be less than eighty percent (80%);

(12) No later than ninety days after this compact takes effect, all gaming machines on the premises of the Gaming Facility will be connected to a central computerized reporting and auditing system on the Gaming Facility premises, which shall collect on a continual basis the activity of each gaming machine in use at the Gaming Facility, and that such data shall be electronically accessible to New Mexico Gaming Representative upon entry of appropriate security codes;

(13) Employees of a Gaming Facility are prohibited from selling, serving, giving or delivering an alcoholic beverage to an intoxicated person or from procuring or aiding in the procurement of any alcoholic beverage for an intoxicated person at the Gaming facility.

(14) Gaming Facility employees that dispense, sell, serve or deliver alcoholic beverages shall attend alcohol server Education Classes similar to those classes provided for in the New Mexico Liquor Control Act;

(15) Gaming Facility operators shall purchase and maintain a liquor liability insurance policy that will provide, at a minimum, personal injury coverage of one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) aggregate per policy year;

(16) Alcoholic beverages shall not be sold, served, delivered or consumed in that part of a gaming Facility where gaming is allowed;

(17) The Tribal Gaming Enterprise shall spend an amount that is no less than on-quarter of one percent (25%) of its net win as that term is defined herein annually to fund or support programs for the treatment and assistance of compulsive gambling;

(18) Governing any Management Contract regarding its Class III gaming activity such that it conforms to the requirements of tribal law and the IGRA and the regulations issued thereunder;

(19) The operation of any class III Gaming shall be prohibited for at least four (4) consecutive hours daily, Monday through Thursdays (except federal holidays);

(20) Gaming Facility Operators and the Navajo Nation shall not provide, allow, contract to provide or arrange to provide alcoholic beverages, food or lodging for no charge or at reduced prices at a Gaming Facility or lodging facility as an incentive or enticement for patrons to game; and

(21) The Navajo Nation, the Navajo Gaming Regulatory Office or a Management Contractor shall be prohibited from contributing directly, or through an agent, representative or employee, revenue from a Gaming Enterprise owned by the Navajo Nation, or anything of value acquired with that revenue, to a candidate, political committee or

persona holding an office elected or to be elected at an election covered by New Mexico's Campaign Reporting Act.

Section 1303. Employee and Player Age Limit. No person under 21 years of age shall be permitted to place any wager, directly or indirectly, in any Gaming Activity. No person under 18 years of age shall be employed by a Gaming Facility Operator or by the Gaming Regulatory Office. The Gaming Regulatory Office shall by regulation establish measures by which licensees shall enforce the provisions of this section.

Section 1304. Management: Security.

(a) The Gaming Facility Operator shall have the responsibility for the on-site operation, management and security of the Gaming Facility, and shall comply with all requirements of this ordinance and the Act. The Gaming Facility Operator shall adopt reasonable procedures, consistent with this ordinance and the Act, designed to provide for the following: the physical safety of its employees; the physical safety of patrons in the Gaming Facility; the physical safeguarding of assets transported to and from the Gaming Facility and cashier's cage department; and the protection of the patrons' and the Gaming Operation's property from illegal activity.

(b) The Gaming Facility Operator shall designate an agent for service of any official determination, order or notice of the Commission.

Section 1305. Internal Controls.

(a) The Gaming Regulatory Office shall by regulation establish and the Gaming Facility Operators shall implement minimum standards of internal controls to be in place at each licensed Gaming Facility, which shall include systems of accounting and administrative controls. Internal controls include the plan of organization and all of the coordinate methods and measures adopted within a Gaming Operation to safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency and encourage adherence to prescribed managerial policies.

(b) The system of accounting controls shall provide a plan of organization and a description of procedures and records that will permit reasonable assurance that the following objectives will be maintained:

- (1) safeguarding of assets;
- (2) reliability of financial records;
- (3) execution of transactions in accordance with management's general or specific authorization;
- (4) recording of transactions as necessary to permit recording of gaming revenue and to maintain accountability for assets;

- (5) access to assets only in accordance with management's authorization;
- (6) comparison of records of assets with existing assets at reasonable intervals with provision for appropriate action with respect to any differences.

(c) The system of administrative controls shall include a complete plan of organization that will provide appropriate segregation of functional responsibilities and sound practices to be followed in the performance of those duties by competent and qualified personnel. The plan of organization shall be diagrammatic and narrative describing the interrelationship of functions and the division of responsibilities upon which the system of internal control relative to gaming operations is based.

(d) Upon written application to the Gaming Regulatory Office, the licensee may request any material change in the internal control system it determines appropriate. The Gaming Regulatory Office shall notify the licensee in writing that such application is accepted or rejected, within thirty days of receiving such application. The written decision of the Gaming Regulatory Office shall constitute final action of the Gaming Regulatory Office.

(e) The system of accounting controls shall include a detailed system for counting cash receipts at least daily, and shall be appropriate to the types of Gaming Activities carried on at the facility and the physical characteristics of the system utilized for collecting cash.

(f) The Gaming Regulatory Office shall require that all bank accounts maintained by the operators of the Gaming Facility shall be identified by bank and account number and that all signatories to such accounts be identified by name.

Section 1306. Annual Independent Audit.

(a) Each licensed Gaming Facility Operator shall provide at its own expense an audited financial statement for its licensed Gaming Facilities to the Gaming Regulatory Office at least annually, on a date to be established by the Gaming Regulatory Office, and at such other times as the Gaming Regulatory Office may require.

(b) The audit shall be conducted by an independent certified public accountant licensed in a state, who shall submit an audit report expressing an unqualified or qualified opinion or, if appropriate, disclaim an opinion on the statement taken as a whole in accordance with generally accepted auditing standards of the accounting profession. The examination and audit shall disclose whether the accounts, records, and internal controls and accounting procedures maintained by the licensed Gaming Facility are in compliance with this Ordinance and the Act. To facilitate the completion of such audits, each licensed Gaming Facility operator shall make and maintain complete, accurate and legible records

of all transactions pertaining to any Gaming Activities and any other revenue producing activities conducted by the licensee at or in conjunction with any licensed Gaming Facility. Such records as well as all original entry transaction records shall be maintained for at least five years from the date on which they are made, and during the pendency of any litigation arising thereunder. Such records shall be maintained on the licensed premises or at a location approved by the Gaming Regulatory Office.

(c) Each licensed Gaming Facility Operator shall maintain general accounting records on a double entry system of accounting with detailed, supporting subsidiary records sufficient to furnish the information required for the standard financial reports. to adequately reflect gross income and expenses related to gaming and subsidiary operations.

(d) The Gaming Regulatory Office shall from time to time prescribe a uniform chart of accounts and accounting classifications in order to assure consistent and effective disclosure of financial information.

(e) The Gaming Regulatory Office, when it deems necessary, may request additional information from either the licensee, or its independent accountant through the licensee, regarding either the financial statements, the audit or both. The licensee shall provide to the Gaming Regulatory Office copies of all letters from the independent accountant to the licensee regarding internal control matters within thirty days after receipt by the licensee.

(f) The Gaming Regulatory Office shall provide copies of all annual audits of Gaming Activities and licensees to the Commission as required under the Act, within the time requirements established by the Commission, and shall cooperate with the Commission with respect to any additional information required.

Section 1307. Public Disclosure of Payouts. A schedule of payout information as to all Gaming Activities carried on within a license 'd Gaming Facility shall be displayed at all times within the facility at a location clearly visible to patrons, and shall be updated regularly.

Section 1308. Patron Disputes.

(a) Refusal to Pay Winnings. Whenever the Gaming Facility Operator refuses payment of alleged winnings to a patron, and the Gaming Facility Operator and the patron are unable to resolve the dispute to the satisfaction of the patron and if the dispute involves:

- (1) At least five hundred dollars (\$500), the Gaming Facility Operator shall notify the Gaming Regulatory Office as soon as possible; or
- (2) Less than five hundred dollars (\$500), the Gaming Facility Operator shall inform the patron of his or her right to request that the Gaming Regulatory Office conduct an investigation.

The Gaming Regulatory Office shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.

(b) Notice to Patrons. The Gaming Regulatory Office shall mail written notice by certified mail, return receipt requested, to the Gaming Facility Operator and the patron of its decision resolving the dispute within 30- days after the date that the Gaming Regulatory Office first receives notification from the Gaming Facility Operator or a request to conduct an investigation from the patron.

(c) Effective Date of Decision. The decision of the Gaming Regulatory Office is effective on the date it is received by the aggrieved party as reflected on the return receipt.

(d) Review of Decision. - Within 30 days after the date of receipt of the written decision, the aggrieved party may file a petition with the Gaming Regulatory Office requesting a review of the decision. The Gaming Regulatory Office may set a hearing on the matter or may make a decision based solely upon the prior decision and other documentation provided to it by the patron and the Gaming Facility operator. The Gaming Regulatory Office shall then issue a written decision and mail it to the parties pursuant to the procedures set forth in Section 1308 (b) . The written decision of the Gaming Regulatory Office shall be the final decision of the Gaming Regulatory Office.

Section 1309. Play by Employees. No Primary Management Official, Key Employee, member or staff of the board of directors of a Tribal Gaming Enterprise, Management Contractor, employee of a Gaming Facility, and no employee of the Gaming Regulatory Office shall play or be permitted to play either in person or through an agent in any Gaming Activity carried on in any Gaming Facility licensed by the Gaming Regulatory Office pursuant to this Ordinance.

Section 1310. Small Bingo Games and Raffles. Any non-profit organization, upon proper application to the Gaming Regulatory Office, may conduct or operate a small bingo game or raffle within the territorial jurisdiction of the Nation, in accordance with regulations issued by the Gaming Regulatory Office specifying the manner in which such games may be conducted, provided that such games shall at a minimum comply with the following:

(a) the organization conducting the game shall provide satisfactory evidence to the Gaming Regulatory Office of its nonprofit status, and no member, director, officer, employee or agent of the organization shall receive any direct or indirect pecuniary benefit from the small bingo games or raffles, other than being able to participate in the games on a basis equal to that of all other participants;

(b) the organization shall have been in existence continuously and conducting activities within the Nation for a period of no less than two years immediately prior to conducting the games;

(c) the gross receipts from the small bingo game or raffle shall not exceed \$5,000.00 in the aggregate on any -single occasion;

(d) the requirements of this section shall not apply to small bingo games and raffles conducted by Navajo Nation Senior Citizen Centers, Pre-School and Headstart Programs, or other school organizations.

Section 1311. Processing of Contracts. The Department of Justice shall review the recommendation of the Gaming Regulatory Office and, if in compliance with applicable law and regulation, approve the terms of any and all proposed contracts between the Nation or a Tribal Gaming Enterprise and any person or entity which provide for the management or operation of any Gaming Facility within the Nation, the provision of any and all Gaming Services, as well as the terms of any lease of land which is the site or proposed site of such Gaming Facility.

Chapter 14. Violations and Remedies.

Section 1401. Violations. It shall be a violation of this ordinance for-any person to:

(a) conduct or operate any Gaming Activities within the Nation except as provided in this Ordinance;

(b) receive, distribute, apply or direct any property, funds, proceeds or other asset of any Gaming Activity to the benefit of any individual or other person except as authorized by this Ordinance or by any duly enacted Resolution of the Navajo Nation Council;

(c) tamper with any equipment used in the conduct of Gaming Activities with the intent to cause any person to win or lose any wager other than in accordance with the publicly announced rules of such Gaming Activities;

(d) do any other act in connection with the conduct of any Gaming Activities with the intent to affect the outcome of any wager other than in accordance with the publicly announced rules-of such Gaming Activities;

(e) participate as a player in any Gaming Activities if such person is prohibited under Section 1309 from participating in such Gaming Activities; or

(f) participate as a player in any Gaming Activities while such person is listed as a person barred from the Nation's Gaming Facilities as provided in Section 403(g).

Section 1402. Civil Penalties. Any person who violates any provision of this Ordinance or the Act shall be subject to civil penalties including exclusion from employment by a Gaming Facility operator, exclusion from attendance at any Gaming Facility, exclusion from the Nation if the person is a non-member of the

Nation, or a civil fine of not more than \$10,000.00 for each such violation.

Section 1403. Civil Remedies. The Gaming Regulatory Office may in the name of the Nation bring any civil action in the courts of the Nation to enforce the provisions of this Ordinance or the Act or to enjoin or otherwise prevent any violation of this Ordinance or the Act occurring within the territorial jurisdiction of the Nation.

Chapter 15. Amendments; Compliance with Applicable Laws; etc.

Section 1501. Amendments. This Ordinance may be amended by action of the Navajo Nation Council.

Section 1502. Compliance with the Act. All Gaming Activities conducted pursuant to this Ordinance shall comply with the terms and-conditions of the Act.

Section 1503. Severability. If any section, provision, or portion of this Ordinance is adjudged to be invalid by a court of competent jurisdiction, the remainder of this ordinance will remain valid.

Section 1504. Non-liability. The Nation declares that there is no liability on the part of the Nation, its agencies, agents, or employees for any damages which may occur as a result of reliance upon or conformity with the requirements of this ordinance. The Nation by adoption of this ordinance does not waive its sovereign immunity in any respect.

Section 1505. Navajo Preference. Preference in employment and contracting at licensed gambling establishments shall be in compliance with the Navajo Preference in Employment Act, 15 N.N.C. Section 601 et. seq., and the Navajo Nation Business Preference Law, 5 N.N.C. Section 201 et. seq.

Section 1506. Prior Inconsistent Law. All prior laws inconsistent with this Ordinance are hereby expressly repealed to the extent of-their inconsistency.