

NATIONAL
INDIAN
GAMING
COMMISSION

NOV - 3 1994

Reginald T. Pasqual, Governor
Pueblo of Acoma
P.O. Box 309
Acomita, New Mexico 87034

Dear Governor Pasqual:

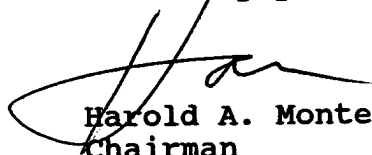
This letter responds to your request to review and approve the tribal gaming ordinance adopted on July 19, 1994, by the Pueblo of Acoma (Pueblo). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

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

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

Thank you for submitting the ordinance of the Pueblo of Acoma for review and approval. The NIGC staff and I look forward to working with you and the Pueblo in implementing the IGRA.

Sincerely yours,



Harold A. Monteau
Chairman

cc: Peter C. Chestnut, Esq.
121 Tijeras N.E., Suite 2001
P.O. Box 27190
Albuquerque, N.M. 87125

PUEBLO OF ACOMA

"THE SKY CITY"

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ACOMA, NEW MEXICO 87034

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RESOLUTION NO. TC JULY-19-94-1-5b

ACOMA GAMING ORDINANCE

July 1994

At a duly called meeting of the Acoma Tribal Council of the Pueblo de Acoma on the
19th day of JULY 1994, the following resolution was adopted:

WHEREAS:

- Section No. 1 The Pueblo of Acoma is a federally recognized Indian Tribe with a traditional form of government that exercises all inherent sovereign governmental powers. The Acoma Tribal Council is the governing body with legislative and other responsibilities for the Pueblo de Acoma; and
- Section No. 2. The Tribal Council, recognizing its responsibility and its authority to provide beneficial economic development strategies for Pueblo members in order to enhance the quality of life for those members, authorized the first Indian bingo in the state of New Mexico; and
- Section No. 3. The Tribal Council desires to regulate gaming within its grant, reservations, and on all lands owned by or otherwise subject to the jurisdiction of the Pueblo (Pueblo lands) for the purposes of generating governmental revenue; promoting tribal economic development, Pueblo self-sufficiency, education of our people and a strong tribal government; and
- Section No. 4 The Tribal Council adopted a Bingo Ordinance for the Pueblo de Acoma through Resolution No. TC-July-28-83-2-4, and amended that Ordinance through by Resolution Nos. TC-Sept-28-83-1-09 and TC-Mar-7-85-3. The Bingo Ordinance, as amended, provided for conduct of a bingo game, the use of electronic video machines and mechanical pull-tab dispensers. Resolution No-TC-MAR-24-93-01 amended the Acoma

Tribal gaming laws to allow additional gaming and address federal law requirements created since the prior Acoma gaming legislation. Resolution No. TC-AUG-3-93-01 codified the Acoma Gaming laws; and

Section No. 5 The Congress of the United States enacted the Indian Gaming Regulatory Act (IGRA) in 1988. That law imposed specific requirements on tribal gaming ordinances, and created the National Indian Gaming Commission (NIGC), which has power to develop regulations, and also regulate some gaming on Indian Lands; and

Section No. 6 The IGRA recognizes operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; and

Section No. 7 Federal Law (IGRA) recognizes three classes of gaming: "Class I Gaming" involves "traditional forms of Indian gaming" which are part of "tribal ceremonies or celebrations"; "Class II Gaming" means "bingo, pull-tabs, lotto, punch board, tip jars, instant bingo, and other games similar to bingo"; and "Class III Gaming" means "all forms of gaming that are not Class I Gaming or Class II Gaming". 25 U.S.C. §2703(6) through (8); and

Section No. 8 The Pueblo de Acoma has continuously operated since 1983 a Class II Gaming operation; video gaming machines were introduced in 1985 and are presently in operation at the tribally operated Acoma Gaming Facility; and

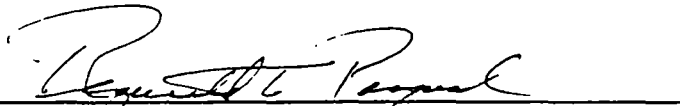
Section No. 9 Section 2712 of the IGRA requires the National Indian Gaming Commission (NIGC or Commission) to review "existing tribal ordinances" which authorize Class II or Class III gaming in order to confirm they comply with Section 2710(b) of the IGRA; and

Section No. 10 The NIGC requested and reviewed the Acoma Gaming Ordinance enacted August 3, 1993, and suggested several changes. Since then, Pueblo leaders decided an Acoma Gaming Commission should be created to regulate Acoma Gaming.

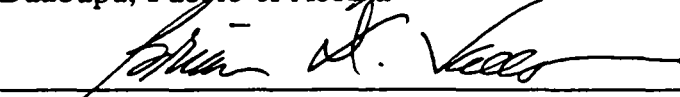
Section No. 11 The Pueblo of Acoma Tribal Council wants to amend and codify its gaming ordinances and create the Acoma Gaming Commission so that Acoma will better satisfy existing federal law and regulations.

NOW THEREFORE BE IT RESOLVED:

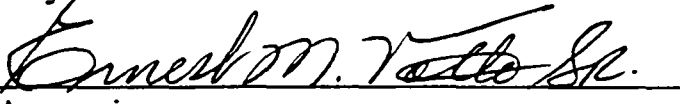
- Section No. 1. The Pueblo of Acoma Gaming Ordinance (July 19, 1994) attached to this Resolution is hereby adopted and enacted into law, effective immediately. All inconsistent language in prior Acoma gaming laws are hereby repealed.
- Section No. 2. The Tribal Administration, the Gaming Manager, the Acoma Gaming Commission, and their authorized representatives are directed to take all steps necessary to implement the attached Gaming Ordinance, and achieve compliance with tribal and federal law, including the Indian Gaming Regulatory Act.
- Section No. 3. The Governor and his administration, in consultation with the Acoma Gaming Manager, the Acoma Gaming Commission and Tribal Council, are authorized to negotiate terms of a Gaming Compact. Any Gaming Compact must be reviewed and approved by the Tribal Council, before submittal to the Secretary of the Interior for approval, in order to become effective.
- Section No. 4. Until such approvals have been made, Section 9.D. of the 1994 Acoma Gaming Ordinance shall be suspended and of no effect.



Daabupu, Pueblo of Acoma




Tinyenti




Ayuranti



My'yu Pinsibaarii



Pinsibaarii



Pinsibaarii

Peteuche Gilbert

Pinsibaarii

Ronald L. Charbi

Pinsibaarii

Mark F. Long

Pinsibaarii

Donald A. Chico

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Manuel Lopez

Pinsibaarii

Gregory T. Ortiz

Pinsibaarii

Nelson T. Kane

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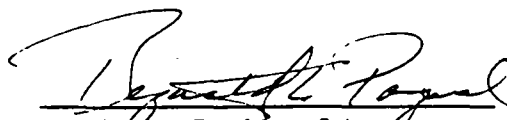


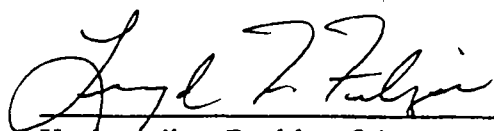
Lloyd P. Fulpi

Kudyaat'ita, Pueblo of Acoma

CERTIFICATION

I, the undersigned as Governor of the Pueblo of Acoma, "Sky City," hereby certify that the Acoma Tribal Council at a duly called meeting of the Tribal Council of Acoma, convened and held on the 19th day of JULY, 1994, at Acoma Pueblo, New Mexico, approved this Resolution, a quorum being present, and that 10 voted in favor, and 0 opposed.


Daabapu, Pueblo of Acoma


Kudyaaat'ita, Pueblo of Acoma



**Pueblo of Acoma
July 1994
Gaming Ordinance**

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PUEBLO OF ACOMA
GAMING ORDINANCE

STATEMENT OF PURPOSE

An ordinance to regulate the operation, conduct and playing of games of chance including Bingo on the ACOMA PUEBLO, and to produce revenue for (1) supporting programs which promote the health, education and welfare of the ACOMA people; (2) promoting tribal economic development, self-sufficiency and strong tribal government. This Ordinance has the further purpose of: (3) assuring that gaming at Acoma is licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the ACOMA people and the players; (4) conducting games honestly, competitively and free of criminal and corruptive elements.

BE IT ENACTED by the Council of the ACOMA PUEBLO of the ACOMA Reservation, as follows:

Section 1. Short Title

This ordinance may be cited as the Gaming Ordinance of the ACOMA PUEBLO.

Section 2. Interpretation

This ordinance shall be deemed as exercise of the police power of the ACOMA PUEBLO for the protection of the public welfare, health, peace and morals of the people of the ACOMA PUEBLO and all provisions of this ordinance shall be liberally construed for the accomplishment of this purpose.

Section 3. Definitions

In this ordinance, unless the context otherwise requires:

A. "Bingo game" means:

The activity commonly known as "bingo" wherein participants pay a sum of money for the use of one or more cards. When the games commences, numbers are drawn by chance, one by one, and announced. The players cover or mark those numbers on the cards which they have purchased until a player receives a given order of numbers in sequence that has been pre-announced for that particular game. The first player to call out "bingo" and be declared the winner will receive a predetermined prize.

B. "Gross receipts" means receipts from the sale of shares, tickets, or rights in any manner connected with participation in a game of bingo or the right to participate therein, including any admission fee or charge, the sale of equipment or supplies and all other income from any source.

C. "Non-profit organization" means an organization not for profit, which is operated for charitable, religious, educational or public purposes within the ACOMA Reservation and which has been so engaged for two years immediately prior to conducting or

operating a bingo game.

D. "Occasion" means a gathering at which bingo games are played.

E. "Person" means a natural person, firm association, corporation or other legal entity, except the Pueblo of Acoma

F. "Premises" means any room, hall, building, enclosure or outdoor area used for the purpose of playing a game of bingo.

G. "Small bingo game" means a bingo game or games conducted or operated by a non-profit organization in accordance with the provisions of Sections 5 and 7 of this ordinance and which does not exceed in the aggregate One Thousand Five Hundred Dollars (\$1,500.00) in gross receipts per occasion.

H. "Accounting Manager" means the Manager of the ACOMA Pueblo Central Accounting function unless the Acoma Tribal Council and Gaming Commission allows otherwise.

I. "Tribal bingo game" means a bingo game or games conducted or operated by the ACOMA Tribe in accordance with the provisions of Sections 6 and 7 of this ordinance.

J. "Video gaming" or "video games of chance" means electronic or electromechanical video devices that stimulate games of chance commonly referred to as poker, blackjack, craps, roulette, line-up symbols and/or numbers, or other common gambling forms which are activated by the insertion of a coin, token, or currency, and which award game credits, cash, tokens, or replays, and contain meters or devices to record credits received and paid out, and unplayed credits or replays.

Section 4. Gaming Limited

No person may hold, operate or conduct any games of bingo or video gaming or other games authorized by this Ordinance within the boundaries of the ACOMA PUEBLO except (1) a small bingo game conducted or operated by a non-profit organization in accordance with the provisions of this ordinance, or (2) a tribal bingo game, video gaming or other games conducted or operated by the ACOMA PUEBLO in accordance with the provisions of this ordinance.

Section 5. Small Bingo Games

A non-profit organization may conduct or operate a small bingo game within the exterior boundaries of the ACOMA PUEBLO in accordance with the provisions of Section 7 of this ordinance, subject to the following restrictions:

A. The non-profit organization shall maintain such status and no member, director, officer, employee or agent of the non-profit organization may receive any direct or indirect pecuniary benefit other than being able to participate in the game on a basis equal to all other

participants.

B. The non-profit organization shall have been in existence continuously on the ACOMA PUEBLO for a two year period immediately prior to conducting the game.

C. No person except a bona fide local member of the sponsoring organization may participate directly or indirectly in the conduct or operation of the game.

D. The gross receipts from the game shall not exceed One Thousand Five Hundred Dollars (\$1,500.00) in the aggregate on any occasion.

E. The non-profit organization must apply for and receive a permit for each occasion it wishes to conduct a Bingo game. Such application shall be to and such permit shall be issued by the Acoma Gaming Commission, which may in its discretion set a fee for issuance of such permits.

F. The sponsoring organization of any non-profit organization proposing to conduct or operate a small bingo game and the Gaming Manager of a tribal bingo game or video shall designate one or more officers or employees to be in charge and primarily responsible for the conduct of gaming on each occasion. The officer in charge shall supervise all activities on the occasion of which he is in charge and shall be present on the premises continuously during the games and for a period of at least thirty minutes after the last game.

G. All persons who hold, operate or conduct or assist in holding or conducting a small bingo game shall be bona fide local members of the sponsoring organization.

Section 6. Tribal Gaming

A. The ACOMA PUEBLO may hold, operate and conduct tribal bingo and/or video and other authorized games provided it can find suitable site(s) for gaming operation(s) and that the conduct of such games will not reduce, endanger, interfere with or harm tribal revenues, land use, or the public welfare of Acoma Pueblo.

B. The Gaming Manager shall supervise the administration of this section pursuant to rules and regulations governing the holding, operating and conducting of tribal gaming adopted by the Acoma Gaming Commission which shall be in accordance with, and shall not violate the provisions of this ordinance. The Gaming Manager or his designee shall provide for the rental or purchase of premises and equipment required for the operation of tribal gaming, and shall provide that tribal gaming shall be held, operated and conducted in conformity with the provisions of this ordinance, any management contract approved by the ACOMA Pueblo Tribal Council, and the Indian Gaming Regulatory Act ("IGRA") (25 U.S.C §§ 2701-2721).

C. The Gaming Manager shall manage each tribal gaming operation on ACOMA Land, pursuant to the employment policies of the ACOMA Pueblo or, if they are not applicable, with the consent of the Governor or the Acoma Gaming Commission.

D. The Gaming Manager shall have authority to establish, equip, operate and maintain a gaming operation in premises located at such places on the ACOMA Pueblo Lands as the ACOMA Tribal Council after consultation with the Acoma Gaming Commission may approve.

E. The Gaming Manager shall have the following powers and duties:

1. To acquire, lease furnish, equip and maintain such premises as shall be required for the operation of this ordinance. Video gaming equipment leases or purchases need approval by Governor.

2. To employ, direct, supervise, manage, control, promote, demote, discharge, fix the compensation and define the power and duties of such officers, clerks, card sellers, callers, security guards and other employees as shall be required for the operation of this ordinance.

3. To hold, operate and conduct tribal gaming in accordance with the provisions of this ordinance.

4. Without in any way limiting or being limited by the foregoing, to do all such things and perform all such acts as are deemed necessary or advisable for the purpose of carrying into effect the provisions of this ordinance.

5. To train and educate each gaming employee in (a) the applicable tribal and federal laws and policies, including this Ordinance and the Indian Gaming Regulatory Act; and (b) safety procedures for employees and the public.

F. The Gaming Manager shall be responsible for maintaining a permanent record containing the name and address of winners pursuant to limitations set by the Pueblo and/or the federal government.

G. All moneys collected or received from the sale of shares, tickets, or rights in any manner connected with participation in a tribal bingo or video game or the right to participate therein, including any admission charge, the sale of equipment or supplies and all other miscellaneous receipts from tribal bingo and video games shall be deposited in a special account of the ACOMA PUEBLO which shall contain only such money. All operating expenses, except cash prizes, shall be withdrawn from such account by consecutively numbered checks duly signed by the Accounting Manager or an employee, officer or officers designated by the Pueblo and payable to a specific person or organization. No check shall be drawn to "cash" or a fictitious payee.

H. The Gaming Manager shall maintain adequate written records of bingo and video gaming activities on the premises for a period of at least four (4) years. These records shall include:

1. Gross receipts
2. Records of prizes, maintained pursuant to paragraph E above

3. Any and all expenses
4. Capital expenditures
5. Contracts
6. Net profits
7. Payments to Acoma's General Fund

I. Net profits derived from Tribal Bingo and Video and other games, after payment of operating costs and management fees, if any, and after provisions for reserves, investment in and improvement of Tribal Bingo, Video and other games in accordance with the yearly Gaming business plan and budget has been made, shall be used in accordance with Tribal Council directives. The business plan and budget shall be reviewed by the Acoma Gaming Commission and sent to the Governor and Tribal Council for final approval.

J. The Gaming Manager and employees responsible for the holding, operation and conduct of tribal gaming in accordance with the provisions of this ordinance, shall be of good moral character and shall not have been convicted of any felony whatsoever, and, as a condition of their contract of employment, shall agree to any lawful means of testing, including but not limited to polygraph testing at any time and without prior notice concerning the handling, collection and/or disbursement of money. Screening of applicants shall be accomplished through any lawful means of the Gaming Manager may choose which have been approved by the Acoma Gaming Commission. Full compliance with IGRA and this ordinance is required.

Section 7. Operation of Games

A. The premises where any gaming is being held, operated and conducted shall at all times be open to inspection by the Acoma Gaming Commission and its agents, ACOMA Tribal Administration, Council, and upon authorization by the Governor or his designee, by the ACOMA Accounting Manager, auditors, National Indian Gaming Commission representatives, and ACOMA Police Chief.

Inspection of cash and cash counting activities must take place in the presence of a member of the Acoma Gaming Commission, Tribal Administration or with written authorization of the Governor or Acoma Gaming Commission.

B. When any merchandise prize is awarded in a game of bingo, its value shall be its current retail price.

C. Games of bingo and video gaming may be conducted each and every day of the week and at any hour of the date or night, at the discretion of the Gaming Manager.

D. There shall be no limit on the size of the prize offered or given in any single game of bingo, video or other gaming.

E. Bingo Operation:

1. The equipment used in the playing of bingo and the method of play, shall be such that each card shall have an equal opportunity to be a winner. The objects or balls to be drawn shall be essentially the same as to size, shape, weight, balance and all other characteristics that may influence their selection. All objections or balls shall be present in the receptacle before each game is begun. All numbers announced shall be plainly and clearly audible or visible to all the players present. Where more than one room is used for any one game, all numbers announced shall be plainly audible or visible to the players in the room and also audible or visible to the players in the other room or rooms. The cards or sheets of the players shall be part of a deck, group or series of cards, and which deck, group or series shall not be so prepared or arranged as to prefer any card.

2. The receptacle, the caller and the person removing the objects or balls from the receptacle must be visible to all players at all times except where more than one room is used for any one game wherein the provisions of subsection G shall prevail.

3. The particular arrangement of numbers required to be covered in order to win the game and the amount of the prize shall be clearly and audibly or visibly described and announced to the players immediately before each game is begun.

4. Any players shall be entitled to call for a verification of all numbers drawn at the time a winner is determined.

5. In the event that more than one person is a winner in any game, the prize for such game shall be split evenly (to the closest \$.25) between the winners.

F. Each person who holds, operates or conducts, or assists in holding or conducting a tribal bingo, video or other games shall wear a legible tag or gaming license showing the person's name and words ACOMA PUEBLO.

G. No person who holds, operates or conducts, or assists in holding, operating or conducting, a game of bingo, video or other gaming may play at the session of the game at which such person is working.

H. No person under the age of eighteen (18) years shall be allowed within the premises either as a spectator or as a player during any session of tribal gaming. At small bingo games persons under eighteen (18) years of age shall be allowed to be present and play if accompanied by a parent or legal guardian.

I. No alcoholic beverages shall be served or sold in connection with any gaming held on the ACOMA PUEBLO, and no alcoholic beverages, illegal substances, or firearms shall be allowed within the premises at any time when gaming is in session.

J. All provisions limiting and controlling the conduct of tribal and small bingo games are applicable to installations and use of pull-tab dispensing machines and electronic video machines, and other gaming allowed by this Ordinance.

K. Security. Acoma Gaming enterprise shall have adequate security, which at a

minimum shall require at least two security people on duty at all times. Video gaming shall have an electronic/video surveillance system installed. Video tapes from surveillance cameras shall be maintained for a reasonable period of time. The security plan for the Acoma gaming operation shall be reviewed with the Acoma Gaming Commission at least once each year.

Section 8. Violations: Jurisdiction

A. Any person who violates any provision of this ordinance, or any rule or regulation authorized thereunder, shall be guilty of a criminal offense punishable by a fine and not more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than six (6) months, or both.

B. Any person who violates any provision of this ordinance, or any rule or regulation authorized thereunder, shall be liable for a civil penalty not to exceed Five Hundred Dollars (\$500.00), plus costs, for each violation.

C. The Acoma Gaming Commission shall have jurisdiction over all civil violations of this ordinance and over all persons who are parties to a management contract entered pursuant thereto, and may, in addition to the penalties prescribed in Subsections (A) and (B) above, grant such other relief as is necessary and proper for the enforcement of this ordinance and of the provisions of any management contract entered pursuant thereto, including but not limited to injunctive relief against acts in violation thereof. Nothing, however, in this ordinance shall be construed to authorize or require the criminal trial and punishment of non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.

Section 9. Scope of Gaming

The Pueblo of Acoma permits the following kinds of public gaming:

A. Bingo, Pull Tabs, etc. The Pueblo of Acoma hereby allows bingo or lotto, pull tabs, punch boards, tip jars, instant bingo and games similar to bingo, and nonbanking card games considered as Class II under federal law, as regulated by this Ordinance.

B. Video Gaming. Video gaming machines are hereby authorized at gaming facilities under Pueblo of Acoma law.

C. Casino Gaming which includes but is not limited to:

1. Any house banking game, including but not limited to:
 - a. Card games such as baccarat, chemin defer, blackjack (21) and poker;
 - b. Casino games such as roulette, craps, and keno;
2. Any sports betting and parimutuel wagering;
3. Lotteries.

D. **Gaming Compact.** The Scope of Gaming permitted under this Ordinance may be restricted by a Gaming Compact signed and approved by the Secretary of the Interior, pursuant to the Indian Gaming Regulatory Act. Class III gaming, as defined in the Federal Indian Gaming Regulatory Act, is authorized only to the extent that a Gaming Compact is signed and approved by the Secretary of the Interior.

E. **Scope of Gaming** at any licensed site shall be decided by the Acoma Gaming Commission, subject to review by the Acoma Tribal Council.

Section 10. Ownership, Revenue Uses, Audit and Safety

A. **Ownership.** The Pueblo of Acoma will have the sole proprietary interest and responsibility for the conduct of any federally-regulated gaming activity within Pueblo boundaries, except small bingo games as allowed by this Ordinance.

B. **Revenue Uses.** Net revenues from tribal gaming activity must be used for any of the following purposes

1. fund tribal governmental operations or programs;
2. provide for the general welfare of the Pueblo of Acoma and its members;
3. promote the economic development for the benefit of the Pueblo of Acoma;
4. Donate to charitable organizations; or
5. Help fund operations of local government agencies.

C. **Audits.** The Acoma gaming operation shall be audited at least annually by a certified public accountant (CPA) selected by the Acoma Gaming Commission.

1. Copies of the independent audit reports for each year (including financial statements and management letter) will be provided to the Governor and Acoma Gaming Commission by May 15 of the following year. A copy of each annual report of gaming activities shall be provided to the Acoma Tribal Council, and then to the National Indian Gaming Commission (NIGC).

2. The scope of each audit shall include but not be limited to all contracts for supplies, services, or concessions for a contract amount in excess of \$25,000 annually (except contracts for professional, legal or accounting services) relating to gaming at Acoma.

D. **Safety.** Each gaming facility operated at Acoma shall be built and maintained in a way that adequately protects the environment and the public health and safety.

Section 11. Acoma Gaming Commission

A. **Establishment of the Commission, appointment and terms.** There is hereby established the Acoma Gaming Commission, consisting of a minimum of three (3) and a maximum of five members that shall be appointed by the Governor with the approval of Tribal

Council. One member shall be selected for a term to expire at the end of 1995. A second member shall be selected for a term to expire at the end of 1996. The third member's term shall expire at the end of 1997. After the expiration of each initial term, succeeding members of the Acoma Gaming Commission shall be chosen for a full term of three years to succeed those whose terms expire. Each member of the Acoma Gaming Commission shall hold office from the date of election and qualification until a successor shall have been duly elected and qualified, unless earlier removal, resignation, death or incapacity shall occur. An individual may serve more than one consecutive term on the Acoma Gaming Commission.

B. Vacancies. The Tribal Council shall select a new commissioner to fill any vacancy on the Acoma Gaming Commission in the same way and subject to the same restrictions as applied to the election of the Commissioner whose removal, resignation, or death created the vacancy.

C. Removal. Any Acoma Gaming Commissioner may be removed from office by the vote of the Tribal Council for neglect of duty, or poor performance in office, or for other good cause shown.

D. Qualification of Commissioners. No individual shall be eligible for any appointment to, or continue service on, the Acoma Gaming Commission, who

1. Has been convicted of any felony or gaming offense;
2. Has any financial interest in, or management responsibility for, any gaming activity; or
3. Has credit or other problems revealed by a credit check or background investigation.

Each Acoma Gaming Commissioner must be open-minded and committed to the best interest of the entire Pueblo of Acoma. Each Commissioner shall complete an Employment Application form and privacy waiver providing background information and allowing investigation as desired by the Pueblo.

E. Quorum and Voting. Two members of the Acoma Gaming Commission, at least one of which is the Chairman or Vice-Chairman shall constitute a quorum. The vote of a majority of the Commission shall be the act of the Acoma Gaming Commission.

F. Officers. The Commission shall select, by majority vote, one of the members of the Commission to serve as Chairman, and another to serve as Vice-Chairman. The third member shall serve as Secretary. The Vice-Chairman shall serve as Chair during meetings of the Commission in the absence of the Chairman. The Chairman of the Acoma Gaming Commission shall serve as liaison to the Tribal Administration and Tribal Council.

G. Meetings. The Acoma Gaming Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least once every month.

H. Compensation. All members of the Acoma Gaming Commission shall be

reimbursed for travel, and other necessary expenses incurred by them in the performance of their duties. Members of the Acoma Gaming Commission shall be paid at rates approved by the Governor and Tribal Council.

I. Powers and Duties of the Acoma Gaming Commission. The Acoma Gaming Commission shall have the following powers and duties:

1. Oversight of gaming activities. The Acoma Gaming Commission shall have primary responsibility for overseeing all gaming activity to assure the integrity of gaming activity at Acoma and shall for that purpose employ one or more inspectors who shall be under the sole supervision of the Acoma Gaming Commission. The Inspectors and Commissioners shall access to all areas of any gaming facility at all times. The Inspector shall report to the Acoma Gaming Commission regarding any failure by the Acoma Gaming Enterprise to comply with sound gaming business practices, any of the provisions of this Ordinance and any other applicable laws. All Inspectors shall be licensed by the Acoma Gaming Commission and subject to background investigations.

2. Inspect and Copy. The Acoma Gaming Commission and its agents may:

a. Inspect and examine all premises where gaming is conducted or gaming devices or equipment is manufactured, sold or distributed.

b. Inspect all equipment and supplies in, upon or about such premises.

c. Summarily seize and remove from such premises and impound any equipment, supplies, documents or records for the purpose of examination and inspection.

d. Demand access to and inspect, examine, photocopy and audit all papers, books, and records of any applicant or licensee, on his premises, or elsewhere, and in the presence of the applicant or licensee, or his agent, respecting the gross income produced by any gaming device or business, and require verification of income, and all other matters affecting the enforcement of the policy or any of the provisions of this Gaming Ordinance.

e. Demand access to and inspect, examine, photocopy and audit all papers, books and records of any entity whom the Gaming Commission knows or reasonably suspects is involved in the financing, operation or management of gaming at Acoma.

3. Audit. Conduct audits, at least annually, of each gaming activity within the Pueblo of Acoma.

4. Witness Testimony. The Acoma Gaming Commission has full power and authority to compel the attendance of witnesses at any place within this Pueblo of Acoma, to administer oaths and to require testimony under oath. The Acoma Gaming Commission may pay the transportation and other expenses of witnesses as it may deem reasonable and proper. Any person making a false statement under oath in any matter before the Acoma Gaming Commission is guilty to perjury.

5. Reports to Governor, Tribal Council, Acoma Public. The Acoma Gaming Commission shall submit reports to the Governor and Tribal Council of the Pueblo of Acoma at least quarterly. The Commission shall be available to present those reports in person, as desired by the Governor and Tribal Council. After the annual audit of Acoma Gaming has been completed, the Gaming Commission shall present a summary of its annual report to the Pueblo of Acoma at the next general meeting held after the completion of the audit.

6. Education.

A. The Acoma Gaming Commission shall review Acoma Gaming operations and regulate as necessary to assure that Acoma's commitment to education of our people and maintaining our traditions remains strong.

B. The Acoma Gaming Commission shall budget time and money as needed for training and education of Gaming Commissioners, and all Gaming staff as needed to be aware of the Gaming industry and applicable law and good practices.

7. Review of Plans. The Gaming Commission shall review and approve floor plans, surveillance systems, and other plans needed for each Gaming Facility and may confer with other organizations regarding the adequacy of such plans and systems. The Gaming Commission shall ensure that the Gaming Enterprise or Management Contractor shall prepare and submit for the review and approval of the Gaming Commission a satisfactory plan for the protection of the public in any Gaming Facility.

8. Regulations. The Gaming Commission may promulgate regulations to govern the operation and management of the gaming activity.

9. Licenses. The Gaming Commission may issue, suspend, and revoke licenses in accordance with this Ordinance.

10. Standards. The Board shall promulgate, review, approve, and revise the technical standards and rules of each game operated by the Gaming Enterprise or Management Contractor and shall notify the Gaming Enterprise of the rules and of any change to the rules.

11. Health, Safety and Security Standards. The Acoma Gaming Commission shall enforce and require that all health, safety and security standards applicable to the Gaming Facilities are met.

12. Civil and Criminal Actions. The Gaming Commission may in the name of the Pueblo of Acoma bring any civil action or criminal complaint in the courts of the Pueblo of Acoma, the State or the United States to enforce the provisions of this ordinance, the Indian Gaming Regulatory Act, or any Compact entered into by the Pueblo of Acoma, or to enjoin or otherwise prevent any violation of this ordinance, the Act, or a applicable law, occurring on Pueblo lands.

13. Operational Budget. The Gaming Commission shall adopt an annual

operating budget for the Acoma Gaming Commission which shall be subject to the approval of the Tribal Council. The Gaming Commission may, in accordance with the budget, employ a staff as it deems necessary to fulfill its responsibilities under this ordinance and may retain legal counsel, consultants, and other professional services, including investigative services, to assist the Gaming Commission with its responsibilities under the ordinance and may retain legal counsel, consultants, and other professional services, including investigative services, to assist the Gaming Commission with its responsibilities under the ordinance. The expenses of the Gaming Commission in accordance with such budget shall be appropriated by the Council.

14. Orders. The Gaming Commission may issue any order or decision, to any Gaming Enterprise, or Gaming Employee, or to any other person within the jurisdiction of the Pueblo, to take any action or cease and desist from any action as may be required to protect to the public interest in gaming.

15. Hearings. The Gaming Commission may conduct hearings, investigations, inquiries, compel the production of any information or documents, or otherwise exercise the investigatory powers necessary to carry out its duties under this ordinance.

16. Director. The Gaming Commission may appoint and retain an individual to serve as Director of the Gaming Commission to administer and enforce its duties and responsibilities under this Ordinance and to oversee the inspectors appointed by the Gaming Commission and other staff as the Gaming Commission may employ, and to conduct hearings, investigations, and otherwise act on behalf of the Gaming Commission as authorized by the Gaming Commission. The Director shall be responsible for coordination of the functions of the Gaming Commission and other federal, state, and local agencies as necessary.

J. Procedures of the Gaming Commission.

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

2. Special Meetings. Special meetings of the Gaming Commission may be called by the Chairman or any two Commissioners of the Gaming Commission. The Chairman or Vice-Chair shall fix the time and place of the special meeting. Neither the business to be transacted at, nor the purposes of, any regular or special meeting of the Gaming Commission need to be specified in the notice of the meeting.

3. Action by Telephone or Polling. Approval of action telephonically or by polling is also authorized.

4. Notice of Gaming Commission Action. No action of the Gaming Commission to impose a penalty pursuant to this ordinance or to revoke a gaming license shall be valid unless the person affected is given at least seven (7) calendar days' notice of the

proposed action and opportunity to appear and to be heard before the Gaming Commission, either in person or through a representative or legal counsel, and to submit such evidence as the Commission deems relevant to the matter at issue. No notice is necessary to suspend a gaming license, but a revocation hearing must be held within nine (9) days or the suspension shall be discharged automatically.

5. Hearings. If the Gaming Commission deems it necessary to protect the public interest in the integrity of the gaming activities, the Gaming Commission may take such action with immediate effect as it deems required and shall thereupon provide notice and an opportunity to be heard to the affected person as soon as it reasonably practicable following such action. Any person who is denied a gaming license or who is barred from the Gaming Facilities by action of the Gaming commission may request a hearing before the Gaming Commission by written request submitted within thirty (30) days following receipt of notice of the action of the Gaming Commission. The Gaming Commission shall thereupon afford an opportunity to appear and be heard either in person or through a representative or legal counsel, and to submit such evidence as the Gaming Commission deems relevant to the matter at issue. The Gaming Commission shall either affirm or reconsider its decision. The Gaming Commission may direct the Director or one or more members of the Gaming Commission designated by the Gaming Commission to conduct any hearings.

6. Rules and Procedures. The Gaming Commission may adopt any additional procedures and rules as it deems necessary or convenient to govern its affairs and which are consistent with this Ordinance. The Acoma Gaming Commission shall be responsible for having Gaming at Acoma comply with the Indian Gaming Regulatory Act (IGRA) and regulations of the National Indian Gaming Commission (NIGC).

K. Appeals to Tribal Court. Any person aggrieved by the final action of the Gaming Commission may file an appeal to the Tribal Court. The person shall file a notice of appeal, stating the specific basis of the appeal and pay any court fees. Upon receipt of a notice of appeal, the court clerk shall schedule a hearing before the Tribal Court. The decision of the Tribal Court shall be final.

Section 12. Gaming Licenses and Investigations

Every regular employee involved in gaming at Acoma must have a valid Acoma Pueblo Gaming License. Until an employee received an Acoma Pueblo Gaming License that individual shall be considered on probation subject to dismissal with or without cause.

A. Authority. An Acoma Pueblo Gaming License is valid after signature by the Acoma Gaming Commission.

B. Standards. The Acoma Gaming Commission may not issue an Acoma Pueblo Gaming License to any 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 of gaming at Acoma. No license shall be issued to any person who may create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming at Acoma.

C. License Conditions.

1. Term. An Acoma Pueblo Gaming License shall be valid for three years. Application for renewal requires another employment application and background investigation.

2. Form. Each Acoma Gaming License shall be in the form of an identification badge with a photograph, and the name of the license holder, and the words ACOMA Pueblo Gaming License clearly shown.

3. Must be Worn. Every holder of an Acoma Pueblo Gaming License must have their license clearly visible while they are working at any Acoma Gaming site permitted pursuant to this Ordinance.

D. License Required. Every employee and primary management official of the Acoma Pueblo Gaming Enterprise must have a valid Acoma Pueblo Gaming License within 90 days of their employment. Any person not receiving an Acoma Pueblo Gaming License within that time period shall be terminated.

E. Procedures. The following procedures must be followed in order to obtain an Acoma Pueblo Gaming License.

1. All Gaming Employees

a. Application of Employment. Every employee within the Acoma Gaming Enterprise shall complete an appropriate employment application form. All applications for employment and reports (if any) of background investigations shall be available for inspections by the Acoma Gaming Commission and the National Indian Gaming Commission for at least three years from the ending date of employment for each employee.

b. Eligibility. The Acoma Gaming Commission shall make a determination of eligibility for issuing a gaming license on the basis of the application and any background investigation report.

2. Key Employees and Primary Management Officials.

The policies and procedures set out in this section shall be implemented with respect to key employees and primary management officials employed at any gaming enterprise operated on Acoma lands:

a. Definitions. For the purposes of this section, the following definitions apply:

(1) Key employee means:

(i) A person who performs one or more of the following

functions:

- Bingo caller;
- Counting room supervisor
- Chief of security;
- Custodian of gaming supplies or cash;
- Floor manager;
- Pit boss;
- Dealer;
- Croupier;
- Approver of credit; or
- Custodian of gambling devices including

persons with access to cash and accounting records within such devices;

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

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

(2) Primary management official means

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

(ii) Any person who has authority to hire and fire employees; or

(ii) to set up working policy for the gaming operation;

or

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

b. Application Forms - Notices

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

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in the Acoma gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State,

local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by the Pueblo of Acoma or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in The Pueblo of Acoma Gaming being unable to hire you in a primary management official or key employee position.

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

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment.

(U.S. Code, title 18, section 1001.)

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

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

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

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

(4) The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

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

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

c. Background Investigations

(1) The Pueblo shall request from each primary management official and from each key employee all of the following information:

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

written);

(ii) Currently and for the previous 5 years: business and employment position held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;

(iii) 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 (1) (b) of this section;

(iv) Current business and residence telephone numbers;

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

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

(vii) 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;

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

(ix) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;

(x) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1) (viii) or (1) (ix) of this subsection, the criminal charge, the name and address of the court involved and the date and disposition;

(xi) 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;

(xii) A current photograph;

(xiii) Any other information the Acoma Gaming Commission, his designee, or the Acoma Gaming Manager deems relevant; and

(xiv) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2 (h).

(2) The Acoma Gaming Commission through appropriate law enforcement or other agents shall conduct an investigation sufficient to make a determination under subsection D. below. In conducting a background investigation, the Acoma Gaming

Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

d. Eligibility Determination. The Acoma Gaming Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Acoma Gaming Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, Acoma gaming operation shall not employ that person in a key employee or primary management official position.

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

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

(2) The Acoma Gaming Commission shall forward the report referred to in subsection (f.) of this section to the National Indian Gaming Commission within 60 days after a key employee or primary management official begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission, whichever is later.

(3) The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days of application for an Acoma Gaming License.

f. Report to the National Indian Gaming Commission

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

- Steps taken in conducting a background investigation;
- Results obtained;
- Conclusions reached; and
- The bases for those conclusions.

(2) The Acoma Gaming Commission shall submit, with the report, a copy of the eligibility determination made under subsection (d.) of this section.

(3) If a license is not issued to an applicant, the Acoma Gaming

Commission:

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

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

g. Granting a Gaming License

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

(2) The Acoma Gaming Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (g.1.) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

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

h. License Suspension and Revocation

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

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

(3) After a revocation hearing, the Acoma Gaming Commission shall decide to revoke or to reinstate a gaming license. The Acoma Gaming Commission shall notify the National Indian Gaming Commission of its decision concerning each key employee or primary management official.

(4) Any Acoma Pueblo gaming license may be suspended or revoked for cause.

F. Cost of Investigations. Key employees, primary management officials, and contractors which require background investigation pursuant to IGRA or in the judgment of the Pueblo shall pay the full cost of such investigations.

G. License Fees. The fee for an Acoma Pueblo Gaming License shall be \$50 for each regular employee and \$200 for each key employee or primary management official.

H. License Issuance by Governor's Office.

Each Acoma Pueblo Gaming License shall be issued by the Acoma Gaming Commission.

Section 13. Site Permits for Gaming

A. Issuance. The Governor shall issue an Acoma Gaming Site Permit for each site and premises recommended by the Acoma Gaming Commission and approved by the Tribal Council for gaming at Acoma. Each permit shall describe specifically the scope and extent of gaming allowed at that site, including but no limited to the maximum number of video gaming machines allowed on the premises.

B. Required. Gaming regulated by this Ordinance may take place only at a site which has a Site Permit for Gaming at Acoma.

Section 14. Severability and Amendment

If any part of this Gaming Ordinance is determined to be unlawful by a court of competent jurisdiction, the remainder of the Gaming Code shall remain in full forces and effect. This Gaming Ordinance may be changed from time to time by the Tribal Council of the Pueblo of Acoma.