



APR - 6 2005

Paul S. Chinana
Governor
Pueblo of Jemez
P.O. Box 100
Jemex Pueblo, NM 87024

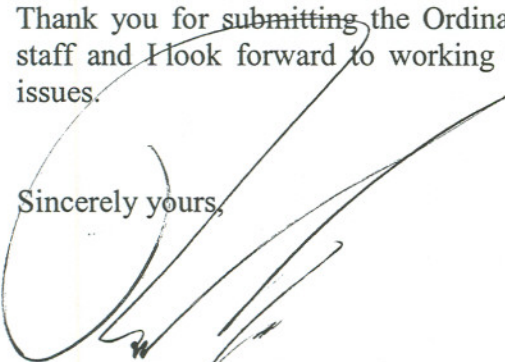
RE: Pueblo of Jemez Tribal Gaming Ordinance

Dear Governor:

This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve an amendment to the Pueblo of Jemez Tribal Gaming Ordinance (Ordinance), Resolution No. 2004-65, approved by the Jemez Tribal Council on December 17, 2004. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA). It is important to note that the Ordinance Amendment is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction.

Thank you for submitting the Ordinance Amendment for review and approval. The NIGC staff and I look forward to working with you and the Pueblo of Jemez on future gaming issues.

Sincerely yours,



Philip N. Hogen
Chairman



June 16, 2005

Michael Toledo
Governor
Pueblo of Jemez
P.O. Box 100
Jemez Pueblo, NM 87024

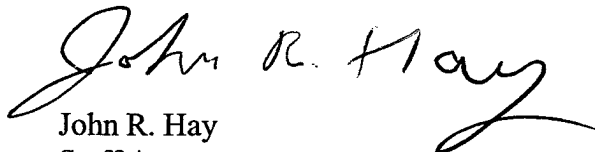
Re: Pueblo of Jemez Tribal Gaming Ordinance

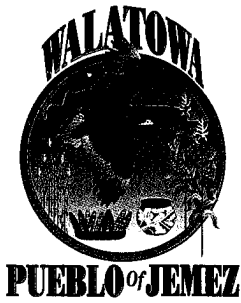
Dear Governor Toledo:

On April 6, 2005, the Chairman of the National Indian Gaming Commission (NIGC) approved the Pueblo of Jemez Tribal Gaming Ordinance (Ordinance). The approval letter erroneously refers to the Ordinance as an "amendment" to the Ordinance. We are writing to clarify that the Chairman approved the Ordinance that was approved by the Jemez Tribal Council on December 17, 2004, in Resolution No. 2004-65.

We apologize for this error. If you have any questions, please call me.

Sincerely,


John R. Hay
Staff Attorney



JAN - 3 2005

**TRIBAL COUNCIL
RESOLUTION 2004- 65**

**RESOLUTION ADOPTING AN ORDINANCE AUTHORIZING GAMING ON
JEMEZ TRIBAL LANDS AND ESTABLISHING
THE PUEBLO OF JEMEZ TRIBAL GAMING COMMISSION**

At a duly called meeting of the Tribal Council of the Pueblo of Jemez, the following resolution was passed:

WHEREAS, the Pueblo of Jemez is a federally recognized Indian tribe with inherent powers of self-government and implicit in those powers is the power to enact laws, ordinances, rules and regulations to govern and carry on its governmental functions, and;

WHEREAS, the Pueblo is pursuing the establishment of an off-reservation Indian casino in Anthony, New Mexico, to conduct Class II and Class III gaming; and,

WHEREAS, the Indian Gaming Regulatory Act, 25 U.S.C. §2701 *et seq.*, requires a Tribe to enact a tribal ordinance to authorize the types of gaming that may be conducted on tribal lands, to set out the authority to regulate, control and license the operation of all gaming, and to establish a regulatory entity to regulate and ensure compliance with the federal, tribal and compact requirements; and

WHEREAS, the Pueblo of Jemez Tribal Council has been presented with an Ordinance to authorize gaming activities on Pueblo of Jemez lands and establish the Pueblo of Jemez Tribal Gaming Commission, and members of the Tribal Council have carefully reviewed and considered the terms and provisions in said ordinance.

NOW THEREFORE BE IT RESOLVED, that the Pueblo of Jemez Tribal Gaming Ordinance attached hereto as Exhibit "A" is hereby approved and adopted; and

BE IT FURTHER RESOLVED that the Pueblo of Jemez Tribal Gaming Commission is established as governmental subdivision of the Tribe for the exclusive purpose of regulating and monitoring gaming activities on behalf of the Tribe at the Jemez/Anthony Casino

Office of the Governor

PO Box 100 • Jemez Pueblo • New Mexico 87024
(505) 834-7359 • Fax (505) 834-7331

BE IT FURTHER RESOLVED that the Pueblo of Jemez Governor and Legal Counsel are hereby authorized and directed to take all necessary action to secure the approval of the Pueblo of Jemez Tribal Gaming Ordinance from the National Indian Gaming Commission.

CERTIFICATION

I, the undersigned, as the Governor of the Pueblo of Jemez do hereby certify that the Jemez Tribal Council at a duly called meeting, convened on the 17th day of December, 2004, at the Pueblo of Jemez approved the foregoing resolution that a quorum was present and that 9 voted for and 0 opposed.

Paul S. Chirano
Governor

ATTEST:

Joshua Madaleno

Frank Loretto
Councilman

Gregory Soria
Councilman

Joe V. Capen
Councilman

Raymond Buckley
Councilman

J. Leonard Loretto
Councilman

Jose E. Magallon
Councilman

Joe L. Beers
Councilman

Joe L. Beers
Councilman

Candida Arriaga
Councilman

Councilman

JAN 14 3 2005

PUEBLO OF JEMEZ



TRIBAL GAMING ORDINANCE

APPROVED BY PUEBLO OF JEMEZ
TRIBAL COUNCIL
DECEMBER 17, 2004

**PUEBLO OF JEMEZ
TRIBAL GAMING ORDINANCE
TABLE OF CONTENTS**

Section 1. Authority and Purpose	1
A. Authority.....	1
B. Purpose.....	1
Section 2. Definitions	1
Section 3. Authorized Gaming	3
A. Authorized Gaming.....	3
B. Subject to Applicable Laws and Regulations.....	3
Section 4. Ownership of Gaming	3
Section 5. Use of Revenue	3
A. Use of Revenue	3
Section 6. Tribal Gaming Commission	4
A. Establishment of Commission	4
B. Attributes.....	4
C. Membership.....	4
D. Term of Office	5
E. Budget.....	5
F. Meetings	5
G. Vacancies and Removal of Commissioners.....	5
H. Conflict of Interest	6
I. Scope of Authority and Responsibility.....	6
J. Regulations.....	8
K. Quarterly Reports.....	8
L. Commission Reports to Other Entities.....	8
M. Executive Director.....	8
Section 7. Hearings	8
A. Generally.....	8
B. Hearing Request	8
C. No Hearing Requested, Commission Determination	8
D. Hearing Procedure.....	8
E. Decisions	9
F. Appeals	9
Section 8. Gaming Licenses	9
A. Generally.....	9

B. Gaming Employee Licenses.....	9
C. Application for Gaming Employee License.....	10
D. Facility License.....	12
E. Vendor License.....	12
F. Review Procedure for License Applications.....	12
G. License or Permit Conditions.....	14
H. License Suspension.....	15
I. License Revocation.....	15
Section 9. Audit Requirements.....	15
A. Annual Audit.....	15
B. Audit of Contracts.....	15
C. Retention of Accounting Records.....	16
Section 10. Public Safety Standards.....	16
A. Protection of Environment, Public Health and Safety.....	16
B. Building Codes.....	16
C. Facility Inspections.....	16
Section 11. General Operating Requirements.....	16
A. Underage Gaming Patrons and Employees.....	16
B. Hours of Operation.....	16
C. Security Reports.....	16
D. Security of Cash Assets.....	16
E. Reporting Suspected Crime by Nonmember.....	16
F. Prohibitions of Cashing Certain Checks, and Other Banking Transactions.....	17
G. Prohibition on the Extension of Credit to Patrons, or Other Enticements to Game.....	17
H. Prohibition on Employment Discrimination.....	17
I. Mandatory Employee Benefits, Wage and Safety Standards.....	17
J. Service of Alcoholic Beverages.....	18
K. Food Service Operations.....	18
L. Funding Compulsive Gamblers' Assistance.....	18
M. Minimum Liability Insurance.....	18
N. Construction Wages.....	19
O. Campaign Contribution Limitations.....	19
Section 12. Enforcement.....	19
A. Generally.....	19
B. Types of Enforcement Action.....	19
C. Civil Violation Penalties.....	20
Section 13. Severability.....	20

**PUEBLO OF JEMEZ
TRIBAL GAMING ORDINANCE**

Section 1. Authority and Purpose.

A. Authority. The Pueblo of Jemez Tribal Council, as the governing body of the Pueblo of Jemez (“Tribe”), a federally recognized Indian tribe with powers of self-government over its lands, hereby enacts this Ordinance to authorize, license and regulate all gaming activities on lands within the jurisdiction of the Pueblo of Jemez.

B. Purpose. The purpose of this Ordinance is to:

1. Regulate, control, and license the operation of all gaming within the jurisdiction of the Tribe.
2. Ensure that tribally regulated gaming is conducted fairly and honestly by both gaming operators and players.
3. Ensure that the operation of tribally regulated gaming will continue as a means of generating tribal revenue to strengthen and improve tribal self-government and the provision of tribal governmental services.
4. Promote and strengthen tribal economic development and self-determination and enhance employment opportunities.
5. Ensure that gaming revenue is used for the benefit of the Tribe, its members and its community.
6. Ensure compliance with all applicable federal and tribal gaming laws and regulations and Tribal-State Compact requirements.

Section 2. Definitions.

For purposes of this Ordinance:

A. “Act” means the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168. Also referred to as “**IGRA.**”

B. “Class II gaming” means all forms of gaming as defined in 25 U.S.C. § 2703(7)(A) and 25 C.F.R. §502.3.

C. “Class III gaming” means all forms of gaming as defined in 25 U.S.C. §2703(8) and 25 U.S.C. §2703(8) and 25 C.F.R. §502.4 and that are not Class I or Class II games.

D. “Commission” means the Pueblo of Jemez Tribal Gaming Commission established under the Ordinance. Also referred to as “Gaming Commission.”

E. “Compact” means the Tribal-State Compact regarding Class III gaming on tribal lands in the State of New Mexico. Also referred to as “Tribal-State Compact.”

F. “Gaming Enterprise” means the business enterprise that is authorized by the Tribe pursuant to Ordinance 2004-001 to develop, finance, oversee and operate Class II and Class III gaming on the Tribe’s lands.

G. “Gaming Facility” means the building or structure in which gaming activities are conducted.

H. “Gaming goods and services” means any goods or services pertaining to any gaming activity that are provided separately or by contract to the Tribe or gaming operation in a gaming facility regardless of dollar amount, except contracts for professional legal or accounting services.

I. “Gaming operation” means the business operation that is licensed by the Pueblo, runs the games, receives the revenues, issues the prizes and pays the expenses.

J. “Governor” means the Governor of the Pueblo of Jemez.

K. “Key Employee” means any person who comes within the definition of that term under 25 C.F.R. §§ 502.14.

L. “License” means any official, legal and revocable permission issued by the Commission pursuant to the Ordinance and regulations.

M. “NIGC” means the National Indian Gaming Commission as established under the Act.

N. “Ordinance” means the Pueblo of Jemez Tribal Gaming Ordinance.

O. “Primary Management Official” means any person who comes within the definition of that term under 25 C.F.R. §§ 502.19.

P. “Regulations” means regulations promulgated by the Commission.

Q. “State” means the State of New Mexico.

R. “Temporary Permit” means a temporary permit issued by the Commission to a license applicant pending completion of a background investigation and a suitability determination on the applicant. A temporary permit is only issued as a means to allow the

applicant to work or provide services to the gaming operation pending completion of the background investigation and suitability determination for the issuance of a gaming license.

S. **“Tribal Council”** means the Tribal Council which is the governing body of the Pueblo of Jemez.

T. **“Tribal Lands”** means for purposes of this Ordinance, any lands title to which is held in trust by the United States for the benefit of the Pueblo of Jemez subject to restriction by the United States against alienation and over which the Pueblo exercises governmental power. Also referred to as lands within the jurisdiction of the Pueblo.

U. **“Tribe”** means the Pueblo of Jemez, a federally recognized Indian tribe. Also referred to as “Pueblo.”

V. **“Vendor”** means any provider of gaming devices, gaming goods and services related to Class II or Class III gaming or such non-gaming goods and related services as may be defined in Regulations. Can also be referred to as “gaming vendor” or “non-gaming vendor”.

Section 3. Authorized Gaming.

A. **Authorized Gaming.** The Tribe is authorized to perform, supervise, license, operate and conduct on lands within its jurisdiction any and all Class II and Class III gaming as defined in the IGRA and regulations promulgated by the NIGC, and with regard to Class III gaming, those games authorized and permitted pursuant to the Tribal-State Compact.

B. **Subject to Applicable Laws and Regulations.** All authorized gaming on the lands under the jurisdiction of the Pueblo of Jemez shall be conducted in accordance with applicable federal and tribal laws and regulations and the requirements of the Tribal-State Compact.

Section 4. Ownership of Gaming.

The Tribe shall have sole proprietary interest in and responsibility for the conduct of any gaming operations authorized by this Ordinance.

Section 5. Use of Revenue.

A. **Use of Revenue.** In compliance with 25 U.S.C. §2710 (b)(2)(A), net revenues from gaming conducted under this Ordinance shall only be expended for the following purposes:

1. To fund tribal government operations or programs;
2. To provide for the general welfare of the Tribe and its members;
3. To promote tribal economic development;
4. Donate to charitable organizations; or

5. To help fund operations of local government agencies.

Section 6. Tribal Gaming Commission.

A. Establishment of Commission. There shall be established the Pueblo of Jemez Tribal Gaming Commission as a governmental subdivision of the Tribe for the exclusive purpose of regulating and monitoring gaming activities on behalf of the Tribe. The purpose of the Commission is regulatory, not managerial.

B. Attributes. As a governmental subdivision of the Tribe, the Commission has been delegated the right to exercise one or more of the substantial governmental functions of the Tribe, including the regulation of tribal gaming pursuant to the IGRA, the Compact and tribal law. As a governmental subdivision of the Tribe, the Commission is vested with the sovereign immunity of the Tribe, except as specifically limited by this Ordinance or other tribal law.

C. Membership.

1. Composition of Commission. The Commission shall consist of five (5) Tribal Gaming Commissioners made up of a Chairman and four other members. Members shall be appointed by the Tribal Council. The Chairman and at least two of the Commissioners shall be members of the Tribe. None of the Commissioners shall be employees of the gaming operation, members of the Pueblo of Jemez Gaming Enterprise Board or its staff, or members of the Tribal Council.

2. Background Investigation. Prior to the time that any Commissioner takes office on the Commission, the Tribe shall perform or arrange to perform a comprehensive background check on each prospective member. No person shall serve as Commissioner if:

a. his/her prior activities, criminal record, if any, or reputation, habits or associations:

(i) pose a threat to the public interest; or

(ii) threaten the effective regulation and control of gaming; or

(iii) enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming; or

b. he/she has been convicted of or entered a plea of *nolo contendere* to a felony or any gaming offense in any jurisdiction or to a misdemeanor involving dishonesty or moral turpitude; or

c. he/she or any members of his immediate family has a financial interest in any gaming activity or facility.

D. Term of Office. The first Tribal Commission shall be appointed as follows: The Chairman shall be appointed for four (4) years; two Commissioners shall be appointed for three (3) years; one Commissioner shall be appointed for (2) years and one Commission shall be appointed for one (1) year. Upon the expiration of the first terms, each Commissioner thereafter shall be appointed for four (4) year staggered terms.

E. Budget. The Commission shall prepare an annual operating budget for all Commission activities, including personnel, and present it to the Tribal Council on the requisite date.

F. Meetings.

1. **Regular Meetings.** The Commission shall hold regular meetings at least once a month at such times and places it deems necessary upon verbal or written notice of the time and place of such meetings. Commission meetings may be held by teleconference as deemed appropriate.

2. **Special Meetings.** Where matters must be addressed by the Commission before the next regular meeting, or where in the discretion of the Chairman, a matter is of such importance to require a special meeting, the Chairman may call a special meeting upon verbal or written notice to the Commissioners of the purpose, date, time, and place of such special meeting.

3. **Minutes.** Minutes of all Commission meetings, whether regular or special, shall be maintained.

4. **Quorum and Voting.** At any meeting of the Commission, a majority of the Commissioners shall constitute a quorum for the transaction of business. The vote of the majority of the Commissioners present at a meeting with a quorum shall be the act of the Commission.

G. Vacancies and Removal of Commissioners.

1. **Vacancies.** If a Commissioner becomes disabled or is unable to perform in the capacity of a Commissioner, or resigns before the expiration of his or her term, the Tribal Council shall select a successor to serve for the balance of the term. In the case of resignation, a Commissioner shall continue in office until the Tribal Council has appointed a successor.

2. **Removal.** A Commissioner may be removed by the Tribal Council for the good cause only. The following are examples of good cause for removal: neglect of duty, malfeasance, misconduct in office or any conduct which threatens the honesty and integrity of the Commission, renders a Commission unqualified for his or her position, or

otherwise violates this Ordinance. No Commissioner may be removed without notice and an opportunity for a hearing before the Tribal Council upon at least ten (10) days prior before the scheduled hearing. Such notice shall also state the specific reason(s) for the removal action. The decision of the Tribal Council on the removal of the Commissioner shall be final.

3. Immediate Suspension. If the Tribal Council determines that immediate suspension of a Commissioner is necessary to protect the interests of the Tribe, the Tribal Council may hold a hearing with the Commissioner to suspend the Commissioner temporarily, and the question of permanent removal shall be determined thereafter pursuant to the hearing procedures of Section 8.G.2 of this section.

H. Conflict of Interest.

1. Gaming Prohibition. A Commissioner shall not gamble or participate in any gaming activity in any Pueblo of Jemez gaming facility at any time while serving as a Commissioner.

2. Conflict with Duties and Responsibilities. No person shall be appointed or continue serving as a Commissioner if he has any personal, business, financial or legal relationship that creates a conflict of interest with his or her duties and responsibilities as a Commissioner.

3. Commission Policy. The Commission shall enact and comply with its own conflict of interest and professional ethics policy to ensure that there is no conflict of interest on behalf of the Commission or its employees with the persons, organizations and gaming activities that they regulate and to ensure that all activities of the Commission and its employees comply with appropriate professional ethics and standards required for proper and effective regulation of gaming activities.

I. Scope of Authority and Responsibility. In furtherance of, but not in limitation of, the Commission's purposes and responsibilities, the Commission shall have the authority and responsibility to do the following, in addition to all authorities and responsibilities already conferred by this Ordinance:

1. Inspect, monitor and regulate all gaming activities on tribal lands authorized by this Ordinance.

2. Perform the regulatory functions and responsibilities required of the Tribe and the Commission, as the tribal gaming regulatory agency, under the IGRA, NIGC regulations, federal and tribal laws and regulations, and the Compact, and ensure compliance with the same.

3. Enforce and administer the provisions of this Ordinance and any regulations promulgated by the Commission.

4. Investigate any reported or discovered violations of this Ordinance, the IGRA, NIGC regulations, federal or tribal law or regulations or the Compact regarding gaming within the jurisdiction of the Tribe.
5. Have immediate and unrestricted access to all areas of the gaming facility during all hours of gaming activities, including the books and records of the gaming operation, to carry out the Commission's regulatory functions.
6. Develop procedures and any supplementary criteria for licensing for all persons, entities or gaming facilities required to be licensed under the IGRA, NIGC regulations, tribal laws and regulations, and the Compact.
7. Issue or renew tribal gaming licenses for employees, vendors and gaming facilities.
8. Issue or revoke temporary permits to employees or vendors pending a determination of licensing suitability.
9. Conduct background investigations and render suitability determinations for individuals or entities required to obtain a gaming license.
10. Revoke, suspend or condition a gaming license for violations of the Act, NIGC regulations, tribal laws and regulations, and the Compact.
11. Conduct hearings as provided for in this Ordinance and regulations promulgated by the Commission.
12. Inspect and examine any Tribal gaming facility constructed, maintained, and operated on tribal lands to determine compliance with applicable requirements as to the environment, public health and safety.
13. Adopt standards for all Class III gaming equipment, devices or supplies to be used in the gaming facility.
14. Establish or approve minimum internal control standards (MICS) for the gaming operation.
15. Establish and collect license application fees to cover the costs for investigation and licensing.
16. Levy and collect penalties and fines that may be provided for in this Ordinance and regulations promulgated by the Commission.
17. Establish or approve the gaming operation's policy and procedure for handling patron disputes.

18. Consult with and make recommendations to Tribal Council regarding changes in tribal gaming laws and policies.

19. Take such other actions as the Commission may deem necessary to fully and properly perform its duties and responsibilities under this Ordinance.

J. Regulations. The Commission is authorized to adopt, amend and repeal regulations as necessary to effectuate the provisions of this Ordinance, other applicable federal and tribal laws and regulations, and the provisions of the Compact.

K. Quarterly Reports. The Commission shall submit to the Tribal Council quarterly written reports of the activities of the Commission, including a summary of all licensing and enforcement actions, within thirty (30) days of the end of the quarter, or at such times as directed by the Tribal Council.

L. Commission Reports to Other Entities. The Commission is responsible for the submission of all reports required by the Compact, including a annual certification to the State Gaming Representative that the Commission has met its obligations under the Compact, and monitoring compliance with the Act or regulations promulgated thereunder.

M. Executive Director. The Commission may hire an Executive Director to be responsible for day-to-day operations of Commission activities and the exercise of such authorities and responsibilities as delegated by the Commission or Chairman.

Section 7. Hearings.

A. Generally. The Commission shall hold a hearing on any action, actual or proposed, of the Commission that is required by this Ordinance or regulation if such hearing is properly requested. The Commission may also hold any hearings it deems reasonably required in the administration of its powers and duties under this Ordinance. No hearing shall be held without affording proper due process rights.

B. Hearing Request. A hearing must be requested in writing within five (5) business days after receipt of the written notice on the proposed or actual action of the Commission, except where a different time period to request a hearing is specified.

C. No Hearing Requested, Commission Determination. If no hearing is requested within the specified time period, the actual Commission action shall stand, or in the case of proposed action, the Commission shall determine whether to take the action proposed.

D. Hearing Procedure. Hearings shall be conducted in a formal manner. The Commission shall record the hearing and costs shall be paid by any party requesting a transcript of the hearing. The parties to the hearing shall be entitled to submit sworn testimony, documents, or other evidence relevant to the specific item under consideration. The technical rules of evidence shall not control introduction of evidence but the Commission shall use its discretion to assure the evidence submitted is competent, relevant and material to the matters at

issue, and reasonably trustworthy. All persons appearing before the Commission to present testimony relevant to specific item under consideration shall be administered an oath of truthful testimony. Hearings will be closed and confidential.

E. Decisions. The Commission shall render a written decision on the merits. The Commission may, in its discretion, require the parties to provide additional testimony or other evidence before deciding a case on the merits. Copies of the decision will be provided to all parties, and other persons as the Commission deems appropriate.

F. Appeals. Decisions of the Commission may not be appealed except as provided herein. A person has a right to appeal any decision of the Commission by filing a Request for Reconsideration to the Commission within five (5) business days of the Commission decision, stating in detail the reason for reconsideration and submission of any new or pertinent documents in support of the request. Upon the receipt of the Request for Reconsideration, the Commission shall, within twenty-one (21) business days, review the written reconsideration request, along with any documents that may have been submitted by the requestor, to determine if good cause exists to reconsider the decision. Good cause shall be deemed to exist if there is additional evidence, which is material and reasonably calculated to change the decision, and sufficient reason existed for the applicant's failure to present such evidence at the time of the initial application. If the Commission determines there is not sufficient cause to reconsider its decision, the decision shall stand and the requestor shall be notified of the Commission's decision not to reconsider its initial decision. No further appeal of the denial or initial decision is allowed.

If the Commission determines that good cause exists to reconsider its decision, the Commission shall notify the requestor that the Commission will reconsider its initial decision and that the requestor will be notified in writing of the Commission's reconsideration decision. The Commission shall reconsider all documents and information reviewed when making the initial decision, along with the reconsideration request and any submitted documents, and render a decision. The Commission may, in its discretion, hold another hearing on the reconsideration request upon reasonable notice to the requesting party. The reconsideration decision of the Commission shall be final.

Section 8. Gaming Licenses.

A. Generally. A gaming license is a revocable privilege and no holder of a tribal gaming license shall be deemed to have acquired any vested right or property interest as a result of the license. The burden of proving qualifications to hold any license rests at all times on the licensee or applicant. Application for a license pursuant to this Ordinance and acceptance of a gaming license or renewal constitutes an agreement on the part of a licensee to be bound by the tribal gaming laws and regulation, applicable federal law and regulations and the Compact.

B. Gaming Employee Licenses.

1. Employees of Class II and Class III Gaming. Every primary management official and every key employee of any Class II or Class III gaming activity subject to this Ordinance shall possess a current, valid gaming employee license.

2. Other Employees Required to be Licensed. Such other employees of the gaming operation or gaming facility, other than those employees identified in B1. of this section, whom the Commission may deem as requiring a gaming license, shall be required to possess a current, valid gaming license.

3. License or Permit Required. No employee may be employed by the gaming operation who does not have a license after ninety (90) days or has not been issued a temporary permit pending their background investigation and suitability determination.

C. Application for Gaming Employee License.

1. Requirements. A person seeking a gaming employee license must be at least twenty-one (21) years of age. All applicants for primary management official and key employee positions, and such other positions as deemed necessary for licensure by the Commission, shall submit an application to the Commission on such form and in such manner as the Commission may require.

2. Required Information. Such application shall include the following information:

✓ **a.** The applicant's name, including all other names used, current home and work addresses and telephone numbers, social security number, date of birth, place of birth, citizenship, gender, all languages spoken or written, driver's license number, address of personal residences over the past five years;

✓ **b.** A list of the applicant's previous jobs held currently and for the preceding five (5) years, including the name, address and telephone number of the employer, and the position held;

c. The names and addresses and a brief description of all businesses in which the applicant currently holds, or has held within the last five (5) years, an ownership or legal interest;

✓ **d.** 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 (a) of this section;

✓ **e.** A description of any current or past non-employee business relationship or arrangement that the applicant has had with an Indian tribe, including ownership interests in those businesses, and including the name of the tribe involved and the name and address of a person who can attest to the accuracy of the information provided;

✓ **f.** A description of any current or past employment with or ownership interest in, any gaming business. If so, the applicant shall provide a description of his position, dates during when the position was held, a description of applicant's ownership interest or job responsibilities, name, address and phone number of business, and the name of a person who can attest to the accuracy of the information provided;

✓ **g.** A list of all gaming-related licenses the individual has ever applied for, whether or not such license or permit was granted, and the name, address and telephone number of the licensing or regulatory agency;

h. A list of all professional, occupational or business licenses the individual has ever applied for, whether or not such license or permit was granted, and the name, address and telephone number of the licensing or regulatory agency;

✓ **i.** For each felony for which there is an ongoing prosecution or a conviction for a felony the charge, the name and address of the court involved, and the date and disposition if any;

✓ **j.** 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;

✓ **k.** For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph (i) or (j) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

✓ **l.** A current photograph;

✓ **m.** Fingerprints taken in compliance with procedures adopted by the Commission in accordance with the requirement of 25 C.F.R. § 522.2(h) or comparable tribal procedures.

✓ **n.** Any other information the Commission deems necessary and relevant for making a license suitability determination.

3. Privacy Notice. The license application shall also include or be accompanied by a Privacy Act notice in accordance with 25 C.F.R. §556.2 to be signed by persons applying for a gaming license.

4. **False Statements.** The license application shall also include or be accompanied by a notice regarding false statements in accordance with 25 C.F.R. 556.3 to be signed by persons applying for a gaming license.

5. **License Application Fee.** The Commission may require a non-refundable license application fee be submitted with any application.

D. **Facility License.** The Commission shall issue a separate license to each place, facility, or location on lands within the Tribe's jurisdiction where Class II and Class III gaming is conducted under this Ordinance.

1. **License Application Fee.** No license application fee shall be required for a tribally owned and operated gaming facility.

E. **Vendor License.** The Commission shall require the following to be licensed before conducting any business with the gaming operation or gaming facility:

1. Any person, corporation, or other entity that has supplied or proposes to supply any gaming device;

2. Any person, corporation, or other entity that has supplied or proposes to supply any gaming goods or services, regardless of the dollar amount involved in the transaction;

3. Any person, corporation, or other entity doing business or proposing to do business with the gaming operation that the Commission deems necessary.

4. **Application form.** The Commission shall develop a vendor application form that shall request such information, including but not limited to financial records, on the owner(s) or principle(s) of a corporation or business sufficient to allow the Commission to conduct a background investigation and make a suitability determination for licensure of vendors under this section.

F. **Review Procedure for License Applications.** Before issuing a gaming license, the Commission shall:

1. **Background Investigation.** Perform or arrange to have performed the background investigation of the applicant as required by IGRA, NIGC regulations and this Ordinance. Such investigation shall be sufficient to make a suitability determination for the applicant. The background investigation shall, at a minimum, include an inquiry into the applicant's prior activities, including criminal record, if any, reputation, habits and associations; contacting references in the application; reviewing relevant financial records of the applicant for three (3) years preceding the application; and such other steps necessary to verify the information contained in the application.

a. Confidentiality of Records and Information. The Commission shall ensure that all records and information obtained as a result of the background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process. This restriction does not apply to requests for information or records from any tribal, federal or state law enforcement or regulatory agency, or for the use of such information or records by the Commission and staff in the performance of their official duties.

b. Confidentiality of Interviewed Persons. The Commission or its agent shall keep confidential the identity of each person interviewed in the course of the background investigation.

2. Suitability Determination.

a. Generally. The Commission shall review an applicant's prior activities, criminal record, if any, and reputation, habits and associations, and such other relevant information or documents to make a finding concerning the suitability for licensure. If the Commission determines that licensure of the applicant 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, the Commission shall not license that applicant.

b. Additional Limitations or Conditions. The Commission may, by regulation, add additional limitations and conditions for denial of gaming licenses.

3. Temporary Permit. Employees or vendors required to be licensed may be issued a temporary permit until the background investigation is completed and a suitability determination rendered, regardless of the time involved. Issuance of a temporary permit to a license applicant does not confer any vested rights or constitute a promise to continued employment, licensure or continued contracting with the gaming operation. The temporary permit is intended to be temporary and revocable at the discretion of the Commission. The Commission shall not issue a temporary work or vendor permit where the application on its face or an initial investigation discloses information sufficient to disqualify the applicant under federal, state or tribal law or regulations.

4. Forwarding Employee Applications, Investigative Reports and Suitability Determinations to the NIGC.

a. Upon completion of the background investigation and a determination of suitability, the Commission shall forward a copy to the NIGC of the application, the investigative report and a copy of the suitability determination within sixty (60) days after a licensee begins work. The investigative report to the NIGC on each background investigation shall include all of the following:

- (i) Steps taken in conducting a background investigation;
- (ii) Results obtained;
- (iii) Conclusions reached; and
- (iv) The basis for those conclusions.

b. If, within thirty (30) days after NIGC receives an investigative report, the NIGC does not object to the issuance of a license, the Commission's suitability determination shall be deemed conclusive.

c. The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning an individual who is the subject of an investigative report. Such a request shall toll the 30-day period under paragraph b. of this section until the Chairman of the NIGC receives the additional information.

d. If, within the thirty (30) day period under paragraph b. above, the NIGC provides the Commission with a statement itemizing objections to the issuance of a license to the individual for whom the Commission has provided an application and investigative report to the NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such applicant.

e. If a license is not issued to an applicant, the Commission:

- (i) shall notify the NIGC; and
- (ii) may forward copies of its suitability determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

f. The Commission shall retain applications for licensure, background investigation reports and suitability determinations employment and reports (if any) of background investigations for no less than five (5) years from the date of termination of employment of the licensee. These records will be made available to the NIGC consistent with federal regulations and the State Gaming Representative consistent with the Compact.

G. License or Permit Conditions.

1. **Generally.** The Commission, in its discretion, may issue a license or temporary permit with conditions or impose conditions on an existing license. Such conditions shall be specific to allow proper monitoring by the Commission to ensure the

licensee is complying with the conditions imposed by the Commission. Failure of the licensee to comply with the conditions may result in immediate suspension or revocation of the license or permit, depending upon the facts surrounding the failure to comply.

2. **Notice of Conditions.** If the Commission issues a conditional license or permit or imposes conditions on an existing license, the Commission shall give the licensee written notice specifying the grounds for the conditions and that the licensee's continued licensure is contingent upon compliance with the imposed conditions.

H. License Suspension.

1. The Commission may suspend a gaming license for a specified period, after notice an opportunity for a hearing, upon a determination that a temporary suspension is warranted or that a licensee is unsuitable for continued licensure based on reliable information from any source, including, but not limited to the NIGC.

2. If the Commission determines that immediate temporary suspension of the gaming license is necessary based upon the facts before it, the Commission may immediately suspend the license and give notice to the licensee of the immediate suspension and an opportunity for a hearing.

3. In some instances of a serious nature, the Commission may determine that suspension is a preliminary step toward revocation and take actions toward revoking the license.

I. License Revocation.

1. The Commission may revoke a gaming license, after notice an opportunity for a hearing, upon a determination that a licensee is unsuitable for continued licensing based on reliable information from any source, including, but not limited to the NIGC.

2. If the Commission determines that immediate revocation of a license is necessary based upon the facts before it, the Commission may immediately revoke the license and is not required to suspend the license prior to taking any revocation action. The Commission shall provide notice of the immediate revocation to the licensee and an opportunity for a hearing.

Section 9. Audit Requirements.

A. Annual Audit. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the NIGC, and in accordance with the Compact, to the State Gaming Representative.

B. Audit of Contracts. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000 annually, except contracts for

professional legal and accounting services, shall be specifically included within the scope of the audit described in subsection A. above.

C. Retention of Accounting Records. All books and records relating to Class III gaming shall be retained for at least five (5) years from the date of creation as required under 25 C.F.R. § 571.7(c).

Section 10. Public Safety Standards.

A. Protection of Environment, Public Health and Safety. The Tribe's gaming facility shall be constructed, maintained and operated in a manner which protects the environment, public health and safety.

B. Building Codes. The Tribe adopts the standards established in the most current editions of the Uniform Building Code, the National Electrical Code, the Uniform Mechanical Code, the Uniform Plumbing Code and the Uniform Fire Code and all gaming facilities and additions thereto shall be constructed and maintained to comply with these standards.

C. Facility Inspections. Inspections will be conducted with respect to these standards at least annually.

Section 11. General Operating Requirements.

A. Underage Gaming Patrons and Employees. No person under eighteen (18) years of age shall be permitted in a gaming area. No person under twenty-one (21) years of age shall be permitted to participate in Class III gaming or be permitted to enter into any gaming area where Class III gaming is being conducted unless that person is employed in a clerical function, food or nonalcoholic beverage preparation or dispensing operation, or maintenance function of the gaming facility that does not involve participation in Class III gaming activities.

B. Hours of Operation. The gaming facility must close for four (4) consecutive hours each day, Monday through Thursday, except federal holidays.

C. Security Reports. Every incident known to security at the gaming operation shall be reported on an incident report, recorded on a summary log, and retained in the records of the gaming operation.

D. Security of Cash Assets. The gaming operation shall provide through its system of internal controls, adequate, appropriate security of cash assets.

E. Reporting Suspected Crime by Nonmember. The gaming operation or the Commission shall immediately notify the New Mexico Attorney General and the District Attorney upon becoming aware of any suspected violation of any State gambling law on lands within the jurisdiction of Jemez Pueblo or any other crime against the gaming operation or any employee thereof or that occurs on the premises of the gaming facility committed by a nonmember of the Pueblo of Jemez.

F. Prohibitions on Cashing Certain Checks, and Other Banking Transactions.

1. No gaming operation shall cash any check for any patron which on its face appears to be a paycheck or any type of government assistance or benefits check including Social Security, TANF, pensions or other similar checks.

2. To the extent technically feasible, automated teller machines on the premises of a gaming facility will be programmed to not accept cards issued by the State of New Mexico to TANF recipients for access to TANF benefits.

G. Prohibition on the Extension of Credit to Patrons, or Other Enticements to Game.

1. No gaming operation shall extend credit to patrons by accepting IOU's, markers or any promise to pay in the future such as a promissory note.

2. A gaming operation shall not provide, allow, or contract to provide or arrange for a patron to receive alcoholic beverages, food, or lodging for no charge or at reduced prices at a gaming facility or lodging facility as an incentive or enticement to engage in class III gaming.

H. Prohibition on Employment Discrimination. No gaming operation shall discriminate in the employment of persons to work for the gaming operation or in the gaming facility on the grounds of race, color, national origin, gender, sexual orientation, age or handicap. Notwithstanding the foregoing, other factors being equal, a gaming operation on tribal lands can employ a tribal preference in employment.

I. Mandatory Employee Benefits, Wage and Safety Standards.

1. The gaming operation shall provide the following minimum benefits for its employees, consistent with tribal law, including but not limited to the Compact:

- a. Sick leave
- b. Paid annual leave
- c. Medical, dental and life insurance
- d. Workers compensation and unemployment benefits availability

2. The employee handbook for the gaming operation shall provide a grievance process for an employee to challenge any disciplinary or punitive action taken against the employee which shall include, at a minimum, at least one level of appeal beyond and above the employee's immediate supervisor.

3. The gaming operation shall provide for wage and work condition standards equivalent to or more stringent than those of the federal Fair Labor Standards Act of 1938, the federal Occupational Safety and Health Act of 1970, and other federal laws, and the regulations issued thereunder, generally applicable to tribes relating to wages, hours of work and conditions of work.

J. Service of Alcoholic Beverages

1. No employee, contractor or agent of the gaming operation shall sell, serve, deliver or allow alcoholic beverages to be consumed in any area of a gaming facility where gaming is conducted.

2. No employee, contractor or agent of the gaming operation shall sell, serve, give or deliver an alcoholic beverage to an intoxicated person or procure or aid in the procurement of any alcoholic beverage for an intoxicated person at the gaming facility.

3. Any gaming operation employee that dispenses, sells, serves or delivers alcoholic beverages must have attended Alcohol Server Education Classes. Proof of such attendance must be provided to the Commission.

4. Any gaming operation that sells, serves, gives, or otherwise dispenses alcoholic beverages must purchase and maintain a liquor liability insurance policy that will provide, at a minimum, person injury coverage of one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) aggregate per policy year. The gaming operation shall provide a certification of this insurance to the Commission on an annual basis.

K. Food Service Operations. All food service operations at the gaming facility shall be inspected to ensure that such operations meet the standards and requirements equal to the State's Food Service Sanitation Act, §25-1-1 et seq. NMSA 1978.

L. Funding Compulsive Gamblers' Assistance. Each gaming operation shall spend an amount not less than one-quarter of one percent (.25%) of its net win (as that term is defined in the Compact), annually to fund or support programs for the treatment and assistance of compulsive gamblers in New Mexico or who patronize New Mexico gaming facilities and for the prevention of compulsive gambling in New Mexico.

M. Minimum Liability Insurance. In addition to any other insurance required by these regulations, each gaming operation shall obtain and maintain in effect a liability insurance policy insuring the Tribe, its employees and agents against claims, demands or liability for bodily injury and property damages brought by a visitor or patron of a gaming facility. The policy must provide bodily injury and property damage coverage in an amount of at least fifty million dollars (\$50,000,000) per occurrence and fifty million dollars (\$50,000,000) annual aggregate. The liability insurance coverage requirements shall increase in accordance with the Compact provisions on the fifth anniversary of the Compact and on five-year intervals thereafter. The gaming operation or the Tribe shall provide a certificate of insurance to the Commission

showing that this minimum liability insurance has been obtained and is maintained within thirty days after the beginning of each business year. The Commission shall annually provide the State Gaming Representative a copy of a certificate of insurance showing compliance with this provision.

N. Construction Wages. The Commission shall not approve any proposed construction at a gaming facility funded in whole or in part with federal monies unless the contractor proposes to pay wages meeting or exceeding the standard for New Mexico under the federal Davis-Bacon Act.

O. Campaign Contribution Limitations. Pursuant to the Compact, the Pueblo of Jemez or the Commission must report to the Secretary of State, in the same manner and at the same times as are required of political committees under the provisions of the State's Campaign Reporting Act (1-19-15 to 1-19-36 NMSA 1978) any and all contributions, whether directly or through an agent, representative or employee, of any moneys derived from revenue from the gaming operation, or of anything of value acquired with that revenue, to a candidate, political committee or person holding an office elected or to be elected at an election covered by the State's Campaign Report Act and provided that in the event any report required to be made hereunder is not made within the time specified herein, or is false or incomplete in any respect, the Tribe shall be liable to pay to the Secretary of State a penalty in the amount of fifty dollars (\$50) for each working day after the day on which the report was due until the day on which the complete or true report is filed, up to a maximum of five thousand dollars (\$5000), except that with respect to the report due on the Friday before an election the penalty shall be five hundred dollars (\$500) for the first working day after the due date and fifty dollars (\$50) per working day thereafter, up to a maximum of five thousand dollars. (\$5000).

Section 12. Enforcement.

A. Generally. Any person or licensee who is violation of this Ordinance or any applicable federal, tribal and state law or regulation, shall be subject to enforcement action by the Commission.

B. Types of Enforcement Action. The Commission may issue the following types of action against a person or licensee, but is not required to follow any particular succession when taking disciplinary action and may issue more than one type of enforcement action depending on the violation:

- a. Conditions Placed on License;
- b. Suspension of License;
- c. Revocation of License;
- d. Civil Penalties;
- e. Exclusion from the gaming facility or operation.

C. Civil Violation Penalties.

a. Generally. In addition to other enforcement actions, the Commission may impose appropriate civil penalties against any person who violates or fails to comply with any provision of applicable federal, state or tribal laws and regulations, or who fails to neglects to comply with any order of the Commission, in an amount not to exceed \$5,000 for each violation thereof. Each day during which such violation or failure to comply continues shall constitute a separate violation.

b. Purpose. The civil fines imposed under this Ordinance are intended to be remedial and not punitive, and are designed to compensate the Tribe for the damage done to the peace, security, economy and general welfare of the Tribe and to compensate the Tribe for costs incurred by the Tribe for enforcing this Ordinance. The civil fines under this Ordinance are also intended to coerce persons into complying with this Ordinance and Commission regulations and not to punish such persons for violation of such laws and regulations.

Section 13. Severability. In the event that any section or provision of this Ordinance is held invalid, it is the intent of the Tribal Council that the remaining sections or provisions of this Ordinance shall continue in full force and effect.