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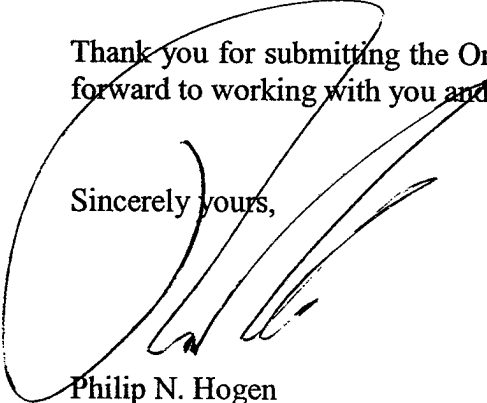
RE: Pueblo of Nambé Gaming Ordinance

Dear Mr. Chestnut:

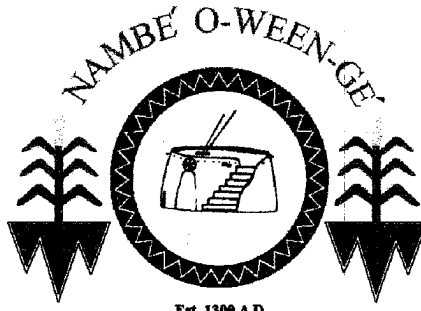
This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve an amendment to the Pueblo of Nambé Gaming Ordinance (Ordinance), Resolution No. NP-2005-01, approved by the Tribal Council on January 26, 2005. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA). It is important to note that the Ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction. Furthermore, gaming on trust lands acquired after 1988 is lawful only if it complies with 25 U.S.C. §2719(a).

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

Sincerely yours,



Philip N. Hogen
Chairman



OFFICE OF THE GOVERNOR

ROUTE 1, BOX 117 – BB *NAMBE PUEBLO* NEW MEXICO 87506 * PHONE 505-455-2036* FAX: 505-455-2038

RESOLUTION

NP-2005-01

APPROVING A GAMING ORDINANCE

WHEREAS, the Pueblo of Nambé, is an Indian Tribe organized under the Indian Reorganization Act of June 18, 1934 (25 U.S.C). The Pueblo of Nambé (“Pueblo”) is a self-governing sovereign Indian Tribe duly recognized by the federal government; and

WHEREAS, the Pueblo, in the exercise of its Tribal sovereignty, remains organized in accordance with Pueblo tradition; and

WHEREAS, the Pueblo of Nambé passed an all member referendum authorizing the Pueblo to develop a Class III Gaming Enterprise on Pueblo land; and

WHEREAS, in order for the Pueblo to participate in Class III Gaming the Pueblo must enact a Gaming Ordinance; and

WHEREAS, the Indian Gaming Regulation Act of 1998 (AIGRA), 25 U.S.C. ' ' 2701-2721 further requires approval of any Gaming Ordinance by the National Indian Gaming Commission (NIGC) Chairman to become effective.

NOW, THEREFORE BE IT RESOLVED THAT the Tribal Council approves the Gaming Ordinance attached to this Resolution.

BE IT FURTHER RESOLVED THAT the Tribal Council authorizes and directs the Governor to request that the NIGC approve the attached Gaming Ordinance as soon as possible.

CERTIFICATION

RESOLUTION

NP-2005-01

APPROVING A GAMING ORDINANCE

The foregoing resolution was considered and adopted at a duly called meeting of the Nambé Pueblo Tribal Council on JANUARY 26, 2005, at which time a quorum was present with 7 in favor and 0 opposed and 1 abstaining and 1 absent.

ATTEST:


Lela Kaskalla, Secretary

EXECUTIVE BRANCH


Tom F. Talache, Jr., Governor

ABSENT

Jennifer L. Vigil, Lieutenant Governor

**TRIBAL COUNCIL
LEGISLATIVE BRANCH**


Joe L. Garcia, Councilman

ABSENT
David Perez, Councilman


Marcus Johnson, Councilman

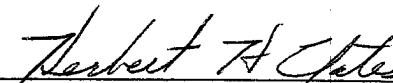

James Porter, Councilman

Shannon L. McKenna, Councilman

ABSTAIN
Carlos O. Vigil, Councilman


Ernest Mirabal, Councilman


Dennis Vigil, Councilman


Herbert H. Yates, Councilman

**PUEBLO OF NAMBÉ
GAMING ORDINANCE**

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**PUEBLO OF NAMBÉ
GAMING ORDINANCE
2004**

Chapter I. GENERAL

1.01 Purpose. The Purpose of the Pueblo of Nambé ("Nambé") Gaming Ordinance is to accomplish the following:

- A. To legalize and regulate the operation, conduct and playing of Class II and Class III Gaming on Nambé Lands;
- B. To produce revenue to support tribal programs which promote the health, education and welfare of the Nambé people;
- C. To promote tribal economic development, self-sufficiency and strong tribal government; and
- D. To assure that gaming conducted on the Nambé Pueblo is licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the Nambé community and its patrons.

1.02 Sovereign Immunity Preserved. Nothing in this Ordinance shall be construed as a waiver of sovereign immunity of the Pueblo of Nambé, nor shall any other entity described in this Ordinance be empowered to grant a waiver of sovereign immunity on behalf of the Pueblo.

1.03 Ownership. The Pueblo of Nambé 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.

1.04 Definitions. In this ordinance, unless the context otherwise requires:

- A. "Class I Gaming" means social games played solely for prizes of minimal value or traditional forms of Indian gaming played by individuals in connection with tribal Pueblo ceremonies or celebrations.
- B. "Class II Gaming" means the game of chance, commonly known as Bingo or Lotto, whether or not electric, computer, or other technological aids are used, in which:
 - 1. Players play for prizes or money with cards bearing numbers or other designations;
 - 2. Players cover numbers or designations when such numbers or designations are drawn or electronically determined; and
 - 3. Players win by being the first person to cover a previously determined arrangement of numbers or designations.
- C. "Class III Gaming" means all forms of Gaming that are not identified as Class II Gaming and are permitted by the Tribal-State Compact including but not limited to house banking games such as Baccarat, Blackjack, Pai Gow; casino games included but not limited to Roulette, Craps, and Keno; Slot machines as defined in §15 USC

1171(a)(1); and parimutual wagering.

- D. "Council" means the Pueblo of Nambé Tribal Council.
- E. "Gaming" means any Class II or Class III gaming as defined in this Ordinance and any other form of gaming within the Scope of Gaming allowed in this Ordinance.
- F. "Gaming Commission" means the Pueblo of Nambé Gaming Commission.
- G. "Gaming Device" or "Gaming Equipment" means any equipment, device or contrivance used to conduct Class III Gaming, including those defined in 15 U.S.C. §1171(a).
- H. "Gaming Enterprise" or "Gaming Operation" means each economic entity licensed by the tribe, which operates games, receives the revenues, issues the prizes and pays the expenses.
- I. "Gaming Manager" means the General Manager of the Gaming Operation.
- J. "Gaming Site(s)" means any facility where gaming other than Class I gaming is operated or conducted, including all buildings, improvements, equipment and facilities used or maintained in connection with such gaming."
- K. "Key Employee(s)" means a person employed by a Gaming Enterprise or Management Contractor or who may have limited supervisory authority within the department in which he/she works, including, but not limited to, performance of any of the following positions:
1. Bingo Employees;
 2. Cage Personnel;
 3. Chief of Security and all other Security Officers;
 4. Custodian of Gaming Supplies or Cash;
 5. Floor Manager;
 6. Pit Boss;
 7. Dealer;
 8. Croupier;
 9. Surveillance Supervisor and other Surveillance Personnel;
 10. Restaurant Manager;
 11. Facilities Manager;
 12. Housekeeping Manager;
 13. Custodian of Gaming Devices, including Persons with access to cash and accounting records within such devices;
 14. Executive Administrative Assistants or other Assistants with access to proprietary information;
 15. Any other Person whose total cash compensation is in excess of \$50,000 per year or the four most highly compensated persons in the Gaming Operation or Management Contractor, whichever number of people is greater and whose

duties are not indicative of a "primary management official".

- L. "Lands" means all lands within the exterior boundaries of the Pueblo of Nambé, including rights-of way, lands owned by or for the benefit of the Pueblo, allotted lands, tribally purchased lands, and lands that may be leased by the Pueblo of Nambé.
- M. "Licensee" means any person holding a valid and current gaming license pursuant to the provision set forth in this ordinance.
- N. "Management Contract" means any contract, subcontract or collateral agreement between the Pueblo and a contractor or between a contractor and a sub-contractor, if such contract or agreement provides for the management of all or part of the gaming operation.
- O. "Management Contractor" means any person who enters into a Management Contract, a collateral agreement relating to gaming activity, with the Pueblo of Nambé.
- P. "Management Fee" means any amount paid from gaming revenue to any person or entity contracted and/or licensed to operate a gaming facility, excluding fees for operating expenses.
- Q. "Net Revenues" means gross gaming revenues of the gaming operation less those amounts paid out as or paid for prizes and total gaming related operating expenses excluding management fees.
- R. "NIGC" means the National Indian Gaming Commission.
- S. "Ordinance" means the Pueblo of Nambé Gaming Ordinance.
- T. "Person" means a natural person, firm, association, corporation or other legal entity, except the Pueblo of Nambé.
- U. "Premises" means any facility where Class II or Class III gaming is being conducted, including all buildings and equipments used in connection with such gaming.
- V. "Primary Management Official" means
1. Any person having management responsibilities for the gaming operation or a management contract possessing the authority and responsibility to manage one or more of the following types of departments of the gaming operation, including but not limited to the following:
 - (a) Accounting Department;
 - (b) Food and Beverage Department;
 - (c) Cage Department;
 - (d) Personnel Department;
 - (e) Sales and Marketing Department;

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- (f) Security Department; and
 - (g) Surveillance Department.

- 2. Any person who has the authority to hire or terminate supervisory casino personnel;
- 3. Any person having a financial management responsibility;
- 4. Any person whose total cash compensation is in excess of \$50,000 and whose duties are not indicative of a key employee.

W. "Pueblo" means the Pueblo of Nambé.

X. "Small Bingo Game" means a bingo game or games conducted or operated by a non-profit organization that is played for prizes of minimal value and approved by the Governor.

Y. "State" means the State of New Mexico.

Z. "Tribal bingo game" means a bingo game or games conducted or operated by the Nambé Pueblo in accordance with the regulatory procedures and all applicable provisions of this Ordinance.

AA. "Tribal-State Gaming Compact" means a gaming compact between the Pueblo of Nambé and the State of New Mexico that is approved by the Secretary of the Interior pursuant to the Indian Gaming Regulatory Act, which is in effect.

Chapter II. NAMBÉ TRIBAL GAMING

2.01 Gaming Limited.

- A. Gaming is limited to games conducted and operated by the Nambé Pueblo in accordance with the provisions of this ordinance.
- B. No person may hold, operate or conduct any Gaming authorized by this Ordinance within the boundaries of the Nambé Pueblo except a small bingo game conducted or operated by a non-profit organization in accordance with the provisions of this ordinance.

2.02 Authorization. The Nambé Pueblo may hold, operate and conduct a Gaming Operation at site(s) that are approved by the Governor and the Tribal Council, for such Gaming Operation(s), provided that the conduct of such games may not reduce, endanger, interfere with or harm tribal revenues, land use, or the public welfare of Nambé Pueblo.

2.03 Site Permits.

- A. Permit Required. Gaming regulated by this Ordinance may take place only at a site which has a Site Permit for gaming at Nambé.

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- B. Issuance. The Governor shall issue a Nambé Gaming Site Permit for each site and premises recommended by the Nambé Gaming Commission and approved by the Tribal Council for gaming at Nambé.
 - C. Appropriate Lands for Gaming Sites. A site permit for a gaming facility can only be issued for lands within the Nambé Pueblo's grant and reservation lands, and other lands held in trust by the United States for the Nambé Pueblo.

2.04 Gaming Manager.

- A. 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 Nambé Gaming Commission which shall be in accordance with, and shall not violate the provisions of this ordinance. The Gaming Manager 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 Nambé Pueblo Tribal Council, the Tribal-State Gaming Compact, and the Indian Gaming Regulatory Act.
- B. Powers and Duties. 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 tribal gaming.
 - 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. 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.
 - 4. To train and educate each gaming employee in the following:
 - (a) 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.

2.05 Management Limited. The Gaming Manager shall manage each tribal gaming operation on Nambé Lands pursuant to the employment policies of the Nambé Pueblo, the Tribal-State Gaming Compact, and the Indian Gaming Regulatory Act (IGRA). The most recent policies applicable to the Pueblo as a whole, or its business enterprises or casino specifically, shall apply to tribal gaming.

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2.06 Records Retention.

- A. Class II Gaming. The Gaming Manager shall maintain adequate written records of bingo, and other Class II gaming activities on the premises for a period of at least four (4) years.
- B. Class III Gaming. Records for Class III gaming activities shall be maintained for a period of at least six (6) 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. Contract.
 6. Net profits.
 7. Payments to Nambé s general fund.
 8. Documents and calculations required to be maintained to satisfy terms of the Tribal-State Gaming Compact and Management Contract.

2.07 Receipts. All moneys collected or received by the Gaming Operation from any Gaming Enterprise on Nambé land shall be deposited in one or more accounts of the Nambé 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 Gaming 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.

2.08 Net Profit Uses.

- A. Net profits derived from Class II and Class III gaming, after payment of operating costs and management fees, if any, and after provisions for reserves, investment in and improvement of Class II and Class III gaming in accordance with the yearly Gaming Operation business plan and budget have been made, shall be used in accordance with Tribal Council directives. The business plan and budget shall be reviewed by the Nambé Gaming Commission and sent to the Governor and Tribal Council for final approval.
- B. Net profits from tribal gaming activity may 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 Nambé and its members;
 3. Promote the economic development for the benefit of the Pueblo of Nambé;
 4. Donate to charitable organizations; or
 5. Help fund operations of local government agencies.

2.09 Age. No person under the age of eighteen (18) shall be allowed within the premises either as a spectator or as a player during any session of tribal gaming. No person under the age of twenty-one

(21) years shall be allowed to work or participate in any Class III gaming activities. 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.

2.10 Alcohol. Any gaming premise serving or selling alcoholic beverages on the Nambé Pueblo shall hold a valid liquor license authorized by the Pueblo. All alcohol service and sales must be in accordance with the Nambé Liquor Ordinance.

2.11 Illegal Substances and Firearms. Illegal substances and firearms are prohibited within the gaming premises at all times.

2.12 Safety. Each gaming facility operated at Nambé Pueblo shall be constructed and maintained in a way that adequately protects the environment and the public health and safety.

2.13 Polygraph Testing. All employees responsible for the holding, operation and conduct of tribal gaming in accordance with the provisions of this ordinance, shall be subject to polygraph testing at any time and without prior notice concerning the handling, collection and/or disbursement of money.

CHAPTER III. NAMBÉ GAMING COMMISSION

3.01 Establishment of the Commission, Appointment and Terms. There is hereby established the Nambé Gaming Commission, consisting of a minimum of three (3) and a maximum of five (5) 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 2006. A second member shall be selected for a term to expire at the end of 2007. The third member's term shall expire at the end of 2008. After the expiration of each initial term, succeeding members of the Nambé Gaming Commission shall be chosen for a full term of three (3) years to succeed those whose terms expire. Each member of the Nambé 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 Nambé Gaming Commission.

3.02 Vacancies. The Tribal Council shall select a new commissioner to fill any vacancy on the Nambé 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.

3.03 Removal. Any Nambé 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.

3.04 Qualification of Commissioners. No individual shall be eligible for any appointment to, or continued service on, the Nambé Gaming Commission, who

- A. Has been convicted of any felony or gaming offense;
 - B. Has any financial interest in, or management responsibility for, any gaming activity;
- or

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- C. Has credit or other problems revealed by a credit check or background investigation.

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

3.05 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. Another 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 Nambé Gaming Commission shall serve as liaison to the Tribal Administration and Tribal Council.

3.06 Procedures of the Gaming Commission.

- A. Meetings. The Nambé Gaming Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least once every month.
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.
- B. Quorum and Voting. Two members of the Nambé 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 Nambé Gaming Commission.
- C. Action by Telephone or Polling. Approval of action telephonically or by polling is also authorized.
- D. 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 ninety (90) days or the suspension shall be discharged automatically.

- E 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 establishment 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.

- F. 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 Nambé Gaming Commission shall be responsible for having gaming at Nambé comply with the Indian Gaming Regulatory Act (IGRA) and regulations of the National Indian Gaming Commission (NIGC), and the Tribal-State Gaming Compact.

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

3.08 Powers and Duties of the Nambé Gaming Commission. The Nambé Gaming Commission shall have the following powers and duties:

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

- B. Inspect and Copy. The Nambé Gaming Commission and its agents may:
 1. Inspect and examine all premises where gaming is conducted or gaming devices or equipment is manufactured, sold or distributed.
 2. Inspect all equipment and supplies in, upon or about such premises.
 3. Summarily seize and remove from such premises and impound any

equipment, supplies, documents or records for the purpose of examination and inspection.

4. 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.
5. 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 Nambé.

C. Audit. The Gaming Commission shall select a certified public accountant (CPA) to conduct audits, at least annually, of each Gaming Enterprise within Nambé Pueblo.

1. Copies of the independent audit reports for each year (including financial statements and management letter) will be provided to the Governor and Nambé Gaming Commission by May 1 of the following year. A copy of each annual report of gaming activities shall be provided to the Nambé 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 Nambé.

D. Witness Testimony. The Nambé Gaming Commission has full power and authority to compel the attendance of witnesses at any place within the Pueblo of Nambé, to administer oaths and to require testimony under oath. The Nambé 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 Nambé Gaming Commission is guilty of perjury.

E. Reports to Governor, Tribal Council, Nambé Public. The Nambé Gaming Commission shall submit written financials and management reports to the Governor each month and to the Tribal Council 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 Nambé Gaming has been completed, the Gaming Commission shall present a summary of its annual report to the Pueblo of Nambé at the next general meeting held after the completion of the audit.

F. Education.

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

- G. 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.
- H. Gaming Regulations. The Gaming Commission may promulgate regulations to govern the operation and management of the each Gaming Enterprises and Gaming Operation.
- I. Technical Standards. The Gaming Commission 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.
- J. Health, Safety and Security Standards. The Nambé Gaming Commission shall enforce and require that all health, safety and security standards applicable to the Gaming Enterprise are met.

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

3.10 Operational Budget. The Gaming Commission shall adopt an annual operating budget for the Nambé 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. The expenses of the Gaming Commission in accordance with such budget shall be appropriated by the Council.

3.11 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 the public interest in gaming.

3.12 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

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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.

3.13 Gaming Compact Regulation.

A. The Nambé Gaming Commission, referred to as the tribal gaming agency in the gaming compact signed with the State of New Mexico, will assure that the Pueblo will:

1. Operate all Class III gaming pursuant to the Tribal-State Gaming Compact, tribal law, the IGRA and other applicable federal law;
2. Provide for the physical safety of patrons in any gaming facility;
3. Provide for the physical safety of personnel employed by the Gaming Enterprise;
4. Provide for the physical safeguarding of assets transported to and from the gaming facility and cashier's cage department;
5. Provide for the protection of the property of the patrons at Gaming Site(s) from illegal activities;
6. Participate in licensing of Primary Management Officials and Key Employees of a Class III Gaming Enterprise;
7. Provide for detention of people who may be involved in illegal acts for the purpose of notifying law enforcement authorities; and
8. Record and investigate any and all unusual occurrences related to Class III gaming within the Pueblo of Nambé.

B. The Commission shall have responsibility for satisfying all regulatory requirements accepted by the Pueblo of Nambé by terms of a gaming compact signed by the Pueblo and in effect under the terms of the IGRA.

3.14 Appeals to Tribal Court. Any person aggrieved by the final action of the Gaming Commission, may file an appeal to the Tribal Court. The Tribal Court shall not take new evidence; it shall base its decision on the record made before the Gaming Commission. The Tribal Court may send any appeal back to the Commission for further fact-finding or reconsideration or both. An action of the Gaming Commission shall not be reversed unless it is arbitrary, capricious or otherwise contrary to law. A person may file a notice of appeal, stating the specific basis of the appeal and pay any court fees. Notice of Appeal shall also be delivered to the Gaming Commission which shall, upon receipt of a Notice of Appeal deliver the administrative record to the Tribal Court for review. Upon receipt of a notice of appeal, the court clerk shall schedule a hearing before the Tribal Court. The final decision of the Tribal Court shall end the tribal appeal process.

3.15 Patron Disputes. Any patron dispute regarding gaming activity or health and welfare of gaming patrons shall be resolved by the Gaming Commission. Upon written notice of dispute by the affected patron, the Gaming Commission shall conduct an investigation and hearing of the dispute. The Gaming Commission shall then, based upon the investigation and hearing, make a determination

as to validity of the dispute and, if appropriate, decide any compensation thereof.

CHAPTER IV. GAMING LICENSES AND INVESTIGATIONS

4.01 Authority. The Gaming Commission has the authority to issue, suspend, and revoke licenses in accordance with this Ordinance. A Nambé Pueblo Gaming License is valid after signature by the Nambé Gaming Commission.

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

4.03 Standards. The Nambé Gaming Commission may not issue a Nambé 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 Nambé. 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 Nambé.

4.04 Gaming Licenses. Every regular employee involved in gaming at Nambé must have a valid gaming license issued by the Nambé Pueblo Gaming Commission within ninety (90) days of their employment. Any person not receiving a Nambé Pueblo Gaming License within that time period shall be terminated. Until an employee receives a Nambé Pueblo Gaming License that individual shall be considered on probation subject to dismissal with or without cause.

4.05 License Conditions.

- A. Term. A Nambé Pueblo Gaming License shall be valid for three (3) years. Application for renewal requires another employment application and background investigation.
- B. Form. Each Nambé Gaming License shall be in the form of an identification badge with a photograph, the name of the license holder, and the words NAMBÉ PUEBLO GAMING LICENSE clearly shown.
- C. Display of License. Every person who holds, operates or conducts, or assists in holding, operating or conducting Class II or Class III Gaming shall wear their license clearly visible while they are working at any Nambé Gaming site permitted pursuant to this Ordinance.

4.06 Procedures. The following procedures must be followed in order to obtain a Nambé Pueblo Gaming License.

A. All Gaming Employees

1. Application of Employment. Every employee within the Nambé Gaming Enterprise shall complete an appropriate employment application form. All applications for employment and reports (if any) of background

investigations shall be available for inspection by the Nambé Gaming Commission and the National Indian Gaming Commission for at least three years from the ending date of employment for each employee.

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

B. Key Employees and Primary Management Officials.

1. Review of Prior Activities. The Nambé Gaming Commission shall review a person's prior activities, criminal record, if any, 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 Nambé 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, Nambé gaming operations shall not employ that person in a key employee or primary management official position.
2. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.
 - (a) When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Nambé 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 above.
 - (b) The Nambé Gaming Commission shall forward a report to the National Indian Gaming Commission within sixty (60) days after a key employee or primary management official begins work or within sixty (60) days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission, whichever is later.
 - (c) The gaming operation shall not employ, as a key employee or primary management official, a person who does not have a license after ninety (90) days of application for a Nambé Gaming License.

- C. Notice to Applicants. 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

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U.S.C.A. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in the Nambé 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 Nambé 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 Nambé Gaming Enterprise 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.)

D. Background Investigations.

- I. The Pueblo shall request from each primary management official and each key employee all of the following information:
 - (a) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
 - (b) Currently and for the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
 - (c) The names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (b) of this section;
 - (d) Current business and residence telephone numbers;
 - (e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
 - (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - (g) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit

related to gaming and any other occupational license or permit, whether or not such license or permit was granted;

- (h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (j) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within (10) years of the date of the application and is not otherwise listed pursuant to paragraph (h) or (i) of this subsection, the criminal charge, the name and address of the court involved and the date and disposition;
- (k) A current photograph;
- (l) Any other information the Nambé Gaming Commission, its designee, or the Nambé Gaming Manager deems relevant; and
- (m) Fingerprints consistent with procedures adopted by the Pueblo according to 25 C.F.R. § 522.2

2. The Nambé Gaming Commission through appropriate law enforcement or other agents shall conduct an investigation sufficient to make a determination under subsection (B)(1) above. In conducting a background investigation, the Nambé Gaming Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

E. Report to the National Indian Gaming Commission.

1. Pursuant to the procedures set out in subsection (B)(2) of this section, the Nambé 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:

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

2. The Nambé Gaming Commission shall submit, with the report, a copy of the

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eligibility determination made under subsection (B)(1) of this section.

3. If a license is not issued to an applicant, the Nambé Gaming Commission:
 - (a) Shall notify the National Indian Gaming Commission; and
 - (b) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.
4. With respect to key employees and primary management officials, the Nambé 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 or his or her designee for no less than three (3) years, from the date of termination of employment.

F. 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 Nambé Gaming Commission may issue a license to such applicant.
2. The Nambé 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 thirty (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 Nambé 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 Nambé Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Nambé Gaming Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Nambé Gaming Commission shall make the final decision whether to issue a license to such applicant.

G. License Suspension and Revocation.

1. If, after the issuance of a gaming license, the Nambé 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 (B)(1) above, the Nambé Gaming Commission shall suspend such license and shall notify the licensee in writing of the suspension and the proposed revocation.

2. The Nambé 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 Nambé Gaming Commission shall decide to revoke or to reinstate a gaming license. The Nambé Gaming Commission shall notify the National Indian Gaming Commission of its decision concerning each key employee or primary management official.
4. Any Nambé Pueblo gaming license may be suspended or revoked for cause.

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

4.08 License Fees. The Nambé Gaming Commission shall set a reasonable fee for processing each license application. A current license fee schedule shall be available from the Commission upon request, and shall be supplied to each applicant as part of the license application papers.

4.09 Temporary License. The Nambé Gaming Commission through its Chair or Executive Director may issue a temporary gaming license to individuals who have completed a notarized Nambé Gaming application and a notarized Release of Information form except where grounds sufficient to disqualify the applicant are apparent on the application. For key employees, a preliminary background check shall be conducted by the Commission before issuing a temporary gaming license. A valid gaming license issued by another tribe or state which permits Class III gaming, and which is in good standing with that jurisdiction, may be used to satisfy this requirement. Any temporary license shall be valid for ninety (90) days, or five (5) days after federal background reports have all been provided to the Commission, whichever the Commission determines is in the best interest of Nambé gaming. A temporary license may be renewed, revoked or suspended by the Commission at any time, for cause.

4.10 Licensing Providers of Gaming Equipment, Devices, or Supplies.

- A. Required. The Nambé Gaming Commission shall have responsibility for licensing providers of gaming devices and supplies, including those required by the Tribal-State Gaming Compact. The Gaming Commission shall obtain sufficient information and identification from the proposed seller or lessor and all persons holding any direct and indirect financial interest in the lessor or the lease/purchase agreement concerning gaming equipment, devices or supplies, to allow the Gaming Commission to make an informed decision.

All providers of supplies, services, and concessions with one or more contracts which in total exceed \$25,000 annually (except contracts for professional legal or

accounting services) relating to Nambé gaming shall be subject to licensure. The Gaming Commission shall also have authority to license a small vendor if that is in the best interest of the Pueblo of Nambé.

- B. Licensing Standards. The Gaming Commission will apply the same standards for the licensing of vendors as are applicable under this ordinance for gaming employee licenses.
- C. License Suspension and Revocation. The provisions of this ordinance applicable to employee license, suspension and revocation shall apply to the suspension and revocation of any vendor's license issued under this subsection.
- D. Vendor License Fee. Each person applying to the Nambé Gaming Commission for a vendor's license shall pay a fee pursuant to a fee schedule established by the Gaming Commission.

CHAPTER V. OPERATION OF GAMES

5.01 Inspections.

- A. The premises where any gaming is being held, operated and conducted shall at all times be open to inspection by the Nambé Gaming Commission and its agents, Nambé Tribal Administration, Council, and upon authorization by the Governor or his designee, by the Nambé Accounting Manager, auditors, National Indian Gaming Commission representatives, and Nambé Police Chief.
- B. Inspection of cash and cash counting activities must take place in the presence of a member of the Nambé Gaming Commission, Tribal Administration or with written authorization of the Governor or Nambé Gaming Commission.
- C. The State Gaming Representative shall have access to inspect all aspects of the gaming operations as provided by the Tribal-State Gaming Compact.

5.02 Hours. Class II and Class III Gaming may be conducted each and every day of the week and at any hour of the day or night, at the discretion of the Gaming Manager except as limited by this ordinance, the regulations of the Nambé Gaming Commission, the Tribal-State Gaming Compact or federal law.

5.03 Prize Limits. There shall be no limit on the size of the prize offered or given in any single game.

5.04 Bingo Operation:

- A. 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 objects 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.

- B. 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 A shall prevail.
- C. 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.
- D. Any players shall be entitled to call for a verification of all numbers drawn at the time a winner is determined.
- E. 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.

5.05 Playing Prohibited. No person who holds, operates or conducts, or assists in holding, operating or conducting gaming may play at the session of the game at which such person is working.

5.06 Applicability. 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 gaming machines, and other gaming allowed by this Ordinance.

5.07 Security. Each Nambé Gaming Enterprise shall have adequate security, which at a minimum shall require at least two (2) security people on duty at all times. Each Class III Gaming Site shall have an electronic and video surveillance system installed and operating. Video tapes from surveillance shall be maintained for a reasonable period of time. The security plan for the Nambé gaming operation shall be reviewed with the Nambé Gaming Commission at least once each year.

CHAPTER VI. SCOPE OF GAMING

6.01 Games Permitted. The Pueblo of Nambé permits the following kinds of public gaming:

- A. Bingo, Pull Tabs, etc. The Pueblo of Nambé 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. Casino gaming, which includes, but is not limited to:

1. Any house banked game, including but not limited to:
 - (a) Card games such as baccarat, chemin de fer, black jack (21) and poker;
 - (b) Casino games such as roulette, craps and keno;
 - (c) Slot machines.
2. Lotteries.

6.02 Tribal-State Gaming Compact. Gaming permitted under this ordinance shall be restricted by the Tribal-State Gaming Compact signed by the Pueblo of Nambé and signed, deemed or otherwise approved by the Secretary of the Interior, pursuant to the Indian Gaming Regulatory Act (IGRA). Class III gaming, as defined in the federal IGRA, is authorized only to the extent that a gaming compact is signed by the Pueblo and signed, deemed or otherwise approved by the Secretary of the Interior.

6.03 Scope of Gaming. The scope of gaming at any licensed site shall be decided by the Gaming Enterprise, after approval by the Nambé Gaming Commission, subject to review by the Nambé Tribal Council.

CHAPTER VII. PROHIBITED ACTS; JURISDICTION.

7.01 Prohibited Acts and Penalties.

- A. Prohibited Acts. It shall be a violation of this Ordinance for any person to perform prohibited acts including, but not limited to:
1. The conduct or participation in any gaming activity on Pueblo Lands other than small bingo games or games conducted at a licensed Gaming Site.
 2. Receiving, distributing, applying or diverting any property, funds, proceeds, or other assets of a Gaming Operation to the benefit of any person except as authorized by this Ordinance, the Tribal-State Gaming Compact, or applicable law.
 3. Any intended act, such as tampering, with any gaming device or gaming equipment used in the conduct of any gaming activity with the intent to cause any person to win or lose any wager other than in accordance with the publicly-announced and approved rules of a gaming operation.
 4. Altering or misrepresenting the outcome of other events on which wagers have been made after the outcome is made sure but before it is revealed to the players.
 5. Placing, increasing or decreasing a bet or determining the course of play after

acquiring knowledge, not available to all players, of the outcome of the game or any events that affects the outcome of the game or which is subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome.

- 6. Claiming, collecting or taking, or attempting to claim, collect or take, money or anything of value in or from a gaming device or gaming equipment, with intent to defraud, without having made a wager thereon, or to claim, collect or take an amount greater than the amount actually won.
- 7. Placing or increasing a wager or bet after acquiring knowledge of the outcome of the game or other event which is subject to the bet, including past-posting and pressing bets.
- 8. Reducing the amount wagered or canceling the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets.
- 9. Manipulating, with the intent to cheat, any gaming device or gaming equipment, including, but not limited to manipulating a gaming device or gaming equipment with knowledge that the manipulation affects the outcome of such device or equipment.
- 10. Knowingly using illegal or unapproved coins or tokens, or using a coin not of the same denomination as the coin intended to be used in the gaming device or gaming equipment.
- 11. Possessing, with the intent to use, any device to assist in projecting the outcome of a game, in keeping track of cards played, in analyzing the probability of the occurrence of an event relating to gaming activity, or in analyzing the strategy for playing or betting to be used in the gaming activity.
- 12. Using any device or means to cheat, or to possess any such device or means while at a gaming premise.

B. Criminal Penalties. 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. No penalty set forth herein shall conflict with federal law regarding the imprisonment of non-Indians.

C. Civil Penalties. 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.

7.02 Jurisdiction. The Nambé 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 sections 7.01(B) and (C) 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 the Tribal-State Gaming compact, any applicable present or future Act of Congress or any applicable federal court decision. The Gaming Commission shall be entitled to recover its costs, including reasonable attorneys' fees in addition to any penalty.

CHAPTER VIII. SEVERABILITY AND AMENDMENT

8.01 Severability. If any part of this Gaming Ordinance is determined to be unlawful by a court of competent jurisdiction, the remainder of the Gaming Ordinance shall remain in full force and effect.

8.02 Amendment. The Nambé Tribal Council may amend this Gaming Ordinance at any time. NIGC approval is required for any amendment to take effect.