



December 28, 2007

VIA FACSIMILE AND US MAIL

Charles J. Dorame
Governor
Pueblo of Tesuque
Route 42 Box 360-T
Santa Fe, New Mexico 87506
Fax: (505) 983-2667

RE: Pueblo of Tesuque Gaming Ordinance Amendment

Dear Governor Dorame:

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 Tesuque Gaming Ordinance (Ordinance), which was enacted on December 10, 2007, pursuant to Resolution No. 39-12-07-07. This Ordinance was received by the NIGC on December 12, 2007.

The amendments to the Tribe's previously-approved gaming ordinance do not conflict with the requirements of the Indian Gaming Regulatory Act (IGRA) and the National Indian Gaming Commission's regulations. Therefore, the amended Ordinance is hereby approved. It is important to note that the Gaming Ordinance amendments are approved for gaming only on Indian Lands, as defined in the IGRA, over which the Tribe has jurisdiction.

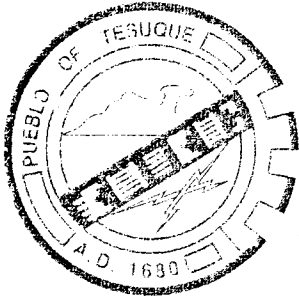
Thank you for submitting the amendment for review and approval. If you have any questions or require assistance, please contact Staff Attorney Esther Dittler at (202) 632-7003.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip N. Hogan".

Philip N. Hogan
Chairman

cc: Amanda Wilbur, General Counsel, Pueblo of Tesuque



Office of the Governor
Pueblo of Tesuque
Route 42 Box 360-T
Santa Fe, New Mexico 87506

DEC 12 2007

RESOLUTION NO. 39-12-07-07

Resolution Rescinding the Amended and Restated Gaming Ordinance Submitted to NIGC on November 7, 2007, and Adopting an Amended 2007 Gaming Ordinance

- WHEREAS** the Pueblo of Tesuque (“Pueblo”), acting in our capacity as a federally recognized sovereign Tribal Government, to preserve for ourselves and our descendents the inherent sovereign rights of our Indian people, do hereby submit the following resolution; and
- WHEREAS** the Pueblo of Tesuque Tribal Council is the duly constituted governing body, acting with the authority of the Pueblo; and
- WHEREAS** in 2001, the Pueblo and the State of New Mexico (the “State”) entered into a tribal-state compact to govern class III gaming on the Pueblo’s lands (the “2001 Compact”); and
- WHEREAS** the Secretary of the Interior (the “Secretary”) approved the 2001 Compact, pursuant to the Indian Gaming Regulatory Act of 1988 (the “IGRA”); and
- WHEREAS** the Tribal Council, by Resolution No. 2002-04-02 (Apr. 30, 2002), adopted an Amended and Restated Pueblo of Tesuque Gaming Ordinance (the “2002 Gaming Ordinance”) to regulate gaming on the Pueblo’s lands; and
- WHEREAS** the chairman of the National Indian Gaming Commission (the “NIGC”) approved and published notice of the approval of the 2002 Gaming Ordinance in the Federal Register; and
- WHEREAS** in 2007, the Pueblo and the State amended certain provisions of the 2001 Compact (the “2007 Compact”); and
- WHEREAS** the Secretary approved and published approval of the 2007 Compact in the Federal Register, pursuant to the IGRA; and
- WHEREAS** the Tribal Council desires to amend and restate the 2002 Gaming Ordinance (the “2007 Gaming Ordinance”) to, among other things, conform the 2007 Gaming Ordinance to the 2007 Compact, restructure the Pueblo gaming commission, and for other purposes.

WHEREAS on November 7, 2007, the Tribal Council submitted an amended ordinance to the NIGC, the 2007 Gaming Ordinance, which was attached to Tribal Council Resolution 33-11-05-2007;

WHEREAS the NIGC subsequently informed the Tribal Council that several provisions, Section 8(e) and Section 13(a), require minor corrections in order to comply with NIGC regulations, and NIGC also recommended that a new section be added to designate an agent for service of process; and

WHEREAS the 2007 Gaming Ordinance has now been amended to comply with the NIGC's regulations and include a section designating the Governor of the Pueblo as the agent for service of process.

NOW THEREFORE BE IT RESOLVED,

That the Tribal Council hereby rescinds in its entirety the 2007 Gaming Ordinance submitted to the NIGC on November 7, 2007, and adopts in its entirety the 2007 Gaming Ordinance as amended to incorporate the NIGC's suggestions.

BE IT FURTHER RESOLVED,

That the 2007 Gaming Ordinance submitted with this resolution shall be effective on the date approved by the chairman of the NIGC, pursuant to the IGRA.

BE IT FURTHER RESOLVED,

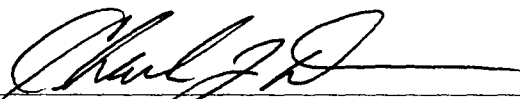
That the Tribal Council hereby authorizes and directs the Governor to submit this Resolution and the amended 2007 Gaming Ordinance to the chairman of the NIGC for review and approval in accordance with the IGRA.

BE IT FINALLY RESOLVED,

That the Tribal Council of the Pueblo of Tesuque hereby authorizes and adopts the aforementioned, subject to future amendments for specific commitments or repeals by subsequent Tribal Councils.

CERTIFICATION

I, the undersigned, as Governor of the Pueblo of Tesuque, hereby certify that at a duly-called meeting of the Tribal Council of Tesuque Pueblo, convened and held on this 10th day of December, 2007, at the Pueblo of Tesuque, New Mexico, approved this Resolution, a quorum being present, with 8 members voting in favor, 0 opposed, and 0 abstaining, and 1 being absent.



Charles J. Dorame

Governor

ATTEST:



Floyd Samuel
Lieutenant Governor

DEC 12 2003

PUEBLO OF TESUQUE GAMING ORDINANCE

Be it enacted by the Tribal Council of the Pueblo of Tesuque, that the Pueblo of Tesuque Gaming Ordinance is hereby amended as follows:

SECTION 1. NAME. This Ordinance may be cited as the Pueblo of Tesuque Gaming Ordinance.

SECTION 2. DEFINITIONS.

(a) When used in this Ordinance, unless the context otherwise requires, the term:

(1) "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.

(2) "Class III Gaming" means all forms of gaming as defined in 25 U.S.C. § 2703(8) and 25 C.F.R. § 502.4.

(3) "Commission" means the Pueblo of Tesuque Gaming Commission.

(4) "Compact" means a tribal-state compact entered into and in effect between the Pueblo and the State pursuant to IGRA.

(5) "Council" means the Pueblo of Tesuque Tribal Council, the governing body of the Pueblo.

(6) "Executive Director" means the executive director of the Commission.

(7) "Games of Chance" means Class II Gaming and Class III Gaming, but shall not include social games played solely for prizes of minimal value, or traditional forms of Indian gaming engaged in by individuals as part of, or in connection with, tribal ceremonies or celebrations.

(8) "Gaming Activity" means the conduct or act of conducting Class II and Class III Games of Chance.

(9) "Gaming Device" means a Gaming Machine or associated equipment, and includes a system for processing information that can alter the normal criteria of random selection that affects the operation of a Class III Game of Chance or determines the outcome of a Class III Game of Chance, but does not include a system or device that affects a Class III Game of Chance solely by stopping its operation so that the outcome remains undetermined.

(10) "Gaming Employee" means any natural person employed in the Gaming Operation (other than a Key Employee or a Primary Management Official) whose duties are directly connected with Gaming Activity or the assets therefrom, or who is regularly required to work in a restricted area of a Gaming Facility, but does not include bartenders, cocktail servers, food and beverage personnel, waitresses, administrative personnel, janitors, or any other non-gaming personnel.

(11) "Gaming Enterprise" means a corporation or other business entity that is wholly owned by the Pueblo and authorized by the Council to conduct and operate Games of Chance on the Reservation.

(12) "Gaming Equipment" means any equipment, device, or contrivance, other than a Gaming Device, used to conduct Games of Chance.

(13) "Gaming Facility" means the buildings or structures in which Gaming Activity is operated on the Reservation pursuant to this Ordinance.

(14) "Gaming Machine" means a mechanical, electromechanical, or electronic contrivance or machine that, upon insertion of a coin, token, or similar object, or upon payment of any consideration, is available to play or operate a Class III Game of Chance, whether the payoff is made automatically from the Gaming Machine or in any other manner.

(15) "Gaming Operation" means the division, department, or unit of a Gaming Enterprise that is responsible for receiving or disbursing the revenues, issuing the prizes, and paying the expenses in connection with the conduct of Gaming Activity. For purposes of the Ordinance, unless the context dictates otherwise, a Gaming Operation includes any Management Contractor having a Management Contract.

(16) "Gaming Services" means any goods, services, or concessions in a contract amount in excess of \$25,000 annually, except legal and accounting services, provided directly in connection with the conduct of Gaming Activity.

(17) "Governor" means the Governor of the Pueblo.

(18) "Gross Receipts" means the total amount of money or the value of other consideration received from conduct of Gaming Activity.

(19) "IGRA" means the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§ 2701-2721, and its implementing regulations.

(20) "Key Employee" means:

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

- (i) Bingo caller;
- (ii) Counting room supervisor;
- (iii) Chief of security;
- (iv) Custodian of gaming supplies or cash;
- (v) Floor manager;
- (vi) Pit boss;
- (vii) Dealer;
- (viii) Croupier;
- (ix) Approver of credit; or
- (x) Custodian of Gaming Devices, including persons with access to cash and accounting records within Gaming Devices;

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

(C) If not otherwise included, the four most highly compensated persons employed in the Gaming Operation.

(21) "License" means a license duly issued by the Commission to any Person required to be licensed under this Ordinance.

(22) "Licensee" means any Person who has been duly licensed by the Commission.

(23) "Management Contract" means a contract within the meaning of 25 U.S.C. §§ 2701(d)(9) and 2711 and as defined in 25 C.F.R. § 502.14.

(24) "Management Contractor" means any person or entity that has entered into a Management Contract.

(25) "NIGC" means the National Indian Gaming Commission established by IGRA.

(26) "Net Revenues" means the gross revenues of a Gaming Operation less amounts paid out as, or paid for prizes and total gaming-related operating expenses, excluding management fees.

(27) "Net Win", as defined in § 11(C)(1) of the Compact, means the total amount wagered in Class III Gaming at a Gaming Facility on all Gaming Machines less the following: (i) the amount paid out in prizes, including the cost of non-cash prizes, won on Gaming Machines; (ii) the amount paid to the State on account of the State's regulatory costs; and (iii) the sum representing tribal regulatory costs, which shall increase by three percent each year beginning on the first day of January occurring after the Compact has been in effect for at least 12 months.

(28) "Non-Gaming Services" means any goods or services in a contract amount in excess of \$100,000 annually, except legal and accounting services, provided to the Gaming Operation directly in connection with the operation of a Gaming Facility, but that do not directly involve the operation of Gaming Activity, such as equipment, transportation, food, beverage, alcohol, linens, janitorial supplies, maintenance, security services, payroll, and records storage.

(29) "Non-Member" means any natural person who is not an enrolled member of the Pueblo.

(30) "Ordinance" means this Pueblo of Tesuque Gaming Ordinance.

(31) "Person" means a natural person, firm, association, partnership, government or political subdivision or agency thereof, joint venture, corporation, or other legal entity.

(32) "Primary Management Official" means:

(A) The person having management responsibility for a Management Contract;

(B) Any person who has authority to:

(i) hire and fire employees; or

(ii) establish working policy for the Gaming Operation;

(C) The chief financial officer or other person who has financial management responsibility; or

(D) The board of directors of the Pueblo of Tesuque Development Corporation or its successors in interest.

(33) “Principal” means any “person having a direct or indirect financial interest in a Management Contract” as defined in 25 C.F.R. § 502.17, and any “person having management responsibility for a Management Contract” as defined in 25 C.F.R. § 502.18.

(34) “Pueblo” means the Pueblo of Tesuque, a federally recognized Indian tribe.

(35) “Reservation” means all lands within the exterior boundaries of the Pueblo of Tesuque Indian Reservation and its confirmed land grants from prior sovereigns and any lands to which title is held in trust by the United States for the benefit of the Pueblo or a member thereof and held by the Pueblo subject to a restriction by the United States against alienation, and over which lands the Pueblo exercises governmental power.

(36) “State” means the State of New Mexico.

(37) “State Gaming Representative” means the person or agency designated by the State to be responsible for actions of the State set out in the Compact.

(38) “Temporary License” means a license for no longer than 90 days issued by the Commission under this Ordinance.

(39) “Tribal Court” means the Pueblo of Tesuque Tribal Court.

SECTION 3. PURPOSES.

(a) Purpose. The purposes of this Ordinance are to:

(1) make lawful the operation, conduct, and playing of Games of Chance on the Reservation;

(2) ensure that Games of Chance are conducted in a fair and honest manner;

(3) afford patrons a fair chance to win Games of Chance in accordance with the nature and rules of the games;

(4) generate revenue to fund tribal governmental operations and programs;

(5) promote the health, education, and welfare of the Pueblo and its members;

- (6) promote tribal economic development and tribal self-sufficiency;
- (7) regulate the operation of all activity taking place within any Gaming Facility;
- (8) protect the public's health and safety; and
- (9) ensure that all Gaming Activity taking place within a Gaming Facility is conducted in compliance with applicable law.

(b) Construction. This Ordinance is enacted as an exercise of the sovereign power of the Pueblo and shall be liberally construed to accomplish its purposes and to comply with applicable federal law, including IGRA, and the Compact.

SECTION 4. GAMING POLICY.

(a) Games of Chance Prohibited. No Person may operate or conduct any Games of Chance within the Reservation except in accordance with the Ordinance.

(b) Ownership of Gaming Enterprise. The Pueblo shall have the sole proprietary interest in and responsibility for all Gaming Activity on the Reservation.

(c) Protection of the Environment, Public and Employee Safety, and Property. The Pueblo shall construct, maintain, and operate all Gaming Facilities, and all activities taking place at a Gaming Facility shall be conducted in a manner that adequately protects the environment and the public health and safety.

(d) Licensing Procedures. The Commission shall adopt and strictly enforce licensing procedures and license all Persons involved in Class II Gaming and Class III Gaming Activity in accordance with IGRA, the Compact, and this Ordinance.

(e) Providers of Class III Gaming Equipment. The Pueblo shall ensure that any Gaming Machines, Gaming Devices, Gaming Equipment, or supplies to be used in conducting Class III Gaming shall comply with the standards imposed by the State of Nevada on Class III Gaming Machines, Gaming Devices, Gaming Equipment, or supplies.

SECTION 5. PUEBLO OF TESUQUE GAMING COMMISSION.

(a) Establishment. The Pueblo of Tesuque Gaming Commission is hereby established as an agency of the Pueblo.

(b) Composition and Appointment; Term; Removal.

(1) The Commission shall consist of three commissioners appointed by the Council. At least two commissioners must be Non-Members.

(2) The Council shall appoint one commissioner for a term of one year, one commissioner for a term of two years, and one commissioner for a term of three years. After these initial appointments expire, the Council shall appoint all commissioners for terms of three years from the expiration date of the previous term so that the commissioners serve staggered terms.

(3) The Council in its discretion may remove any commissioner from office.

(c) Qualifications. The commissioner shall:

(1) not have been convicted of a felony, or a misdemeanor involving a crime of dishonesty or moral turpitude;

(2) not have, directly or indirectly, a financial interest in or business relationship with any Person licensed under this Ordinance; and

(3) have experience in public administration, business management, law, or gaming.

(d) Background Investigation. The Council, before appointing any commissioner, shall cause a background investigation to be performed on each proposed Commissioner for appointment using the standards under this Ordinance. Upon conclusion of the required background investigation, the Council shall decide whether or not the commissioner is suitable for appointment after reviewing the background investigation material gathered in connection with the investigation.

(e) Resignations and Vacancies.

(1) A commissioner may resign at any time by giving written notice to the chairman of the Commission and the Governor. The resignation shall become effective at the time specified in the notice.

(2) The Governor, with the advice and consent of the Council, may appoint a qualified person to fill a vacancy on the Commission for the unexpired portion of the vacated commissioner's term.

(f) Officers. The Commission shall select a chairman and a vice chairman from among its members to serve two-year terms. The vice chairman shall serve as chairman during meetings at which the chairman is absent. No commissioner shall serve as chairman for consecutive terms.

(g) Motions and Resolutions; Meetings; Quorum.

(1) All official actions of the Commission shall be taken by motion or resolution approved by the affirmative vote of a majority of the commissioners.

(2) The Commission shall hold one regular meeting each month and special meetings at the call of the chairman or a majority of its members.

(3) Two members of the Commission shall comprise a quorum.

(h) Annual Budget. The Commission's annual budget shall be funded from the following sources, which shall be reflected as revenues on the annual budget submitted to the Council for approval:

(1) All fees and fines required by this Ordinance, which shall be payable to and retained by the Commission;

(2) The annual regulatory fee permitted by the Compact, which shall be payable by the Gaming Enterprise directly to the Commission in 12 equal monthly installments; and

(3) Other amounts that the Commission may request and the Council may grant.

(i) Stipend. Each commissioner when discharging official duties shall be paid a stipend determined by the Council.

(j) Powers.

(1) The Commission shall have the following powers and duties:

(A) To permit or refuse to permit the operation or conduct of any Games of Chance within the Reservation and to specify the conditions therefore in accordance with this Ordinance, the Compact, or IGRA;

(B) To grant, deny, condition, suspend, reinstate, revoke, or renew any Licenses issued or required to be issued in accordance with this Ordinance, and to decide matters affecting the granting, denying, conditioning, suspending, reinstating, revoking, or renewing of Licenses;

(C) To monitor and oversee on a continuing basis the operation and conduct of all Games of Chance and other activity taking place in any Gaming Facility within the Reservation, including but not limited to ongoing monitoring and oversight of Licensees engaged in the operation and conduct of such games;

(D) To inspect and examine all Gaming Facilities at which Games of Chance are played during all hours of Gaming Activity and to have immediate, unrestricted access to any areas of a Gaming Facility to ensure that all Gaming Facilities are constructed, operated, and maintained in a manner that adequately protects the environment and the public health and safety, and to otherwise ensure compliance with this Ordinance, the Compact, and IGRA;

(E) To enforce regulations promulgated pursuant to this Ordinance, minimum internal control standards, and any other standards required by the Compact or IGRA;

(F) To prepare and provide the Gaming Enterprise with the formula to calculate the monthly minimum bankroll requirement, and to review the Gaming Operation's monthly calculation for the same;

(G) To inspect and make copies of State records concerning all Class III Gaming conducted under the Compact;

(H) To conduct or cause to be conducted background investigations of any Person involved, directly or indirectly, in the operation or conduct of Games of Chance within the Reservation;

(I) To inspect, examine, photocopy, and audit all papers, books, and records respecting Gaming Activities operated or conducted within the Reservation and any other matters necessary to carry out the duties of the Commission under this Ordinance, including all Gaming Activity conducted at a Gaming Facility;

(J) To obtain an order of the Tribal Court to enforce the Commission's authority to inspect, examine, photocopy, and audit all papers, books, and records;

(K) To establish and collect license and permit fees, investigation fees, and regulatory fees to defray the costs associated with the Commission's regulatory activities;

(L) To assess civil administrative fines for violations of this Ordinance, any regulations promulgated hereunder, or the Compact;

(M) To implement and administer a system for investigating and licensing all Persons connected with Gaming Activities and related activities taking

place at a Gaming Facility, including the issuance of Licenses to Gaming Facilities, and the issuance of Temporary Licenses and other Licenses to Persons, and the verification of internal controls, as required by this Ordinance, IGRA, and the Compact or equivalent procedures prescribed by IGRA;

(N) To keep minutes, records, and books in which shall be kept a true, faithful, and correct record of all Commission proceedings;

(O) To require the Gaming Enterprise to provide a copy of the annual audit and certified financial statement, by an independent certified public accountant licensed by the State, covering all financial activities of the Gaming Operation;

(P) To hire and fire employees of the Commission as necessary to discharge the Commission's duties, provided that all Commission employees shall be required to submit to and satisfactorily pass a background investigation;

(Q) To investigate any suspicion of wrongdoing related to any activity conducted at a Gaming Facility, to record and investigate unusual occurrences related to Class II and Class III Gaming at a Gaming Facility, and to cause persons who may be involved in illegal acts to be detained for the purpose of notifying appropriate law enforcement authorities;

(R) To conduct or cause to be conducted an investigation as may be necessary to determine, in connection with any Gaming Activity conducted at a Gaming Facility, compliance with applicable law, including this Ordinance;

(S) To maintain a compilation of all laws and regulations concerning the operation of Games of Chance on the Reservation;

(T) To take such action as may be reasonable and appropriate to enforce this Ordinance and the rules and regulations of the Commission; and

(U) To act as the tribal gaming agency that is responsible for actions of the Pueblo set forth in the Compact.

(2) The Commission shall have the following powers and duties, which may not be delegated:

(A) To hear appeals in accordance with this Ordinance;

(B) To certify Management Contracts in accordance with this Ordinance;

(C) To cooperate with federal, state, and tribal law enforcement officials when necessary to carry out or enforce this Ordinance;

(D) To carry out the responsibilities and exercise the rights of the tribal gaming agency under the Compact;

(E) To obtain any necessary approvals from the Governor or Council, if required by the Ordinance, the Compact, or IGRA;

(F) To recommend amendments to this Ordinance to the Council;

(G) To submit quarterly and annual reports to the Council on the activities of the Commission, which reports shall also include information on funding, revenues, and expenses;

(H) To adopt an annual budget of the Commission and any modifications to the budget, subject to the approval of the Council;

(I) To negotiate and enter into, on behalf of the Pueblo, contracts, memoranda of understanding, and joint powers agreements with tribal, federal, and state governments or agencies for activities necessary to the discharge of the duties of the Commission and to contract with the NIGC for the enforcement of federal regulations governing gaming on Indian lands, subject to the approval of the Council;

(J) To promulgate regulations to implement the provisions of this Ordinance;

(K) To issue subpoenas to require the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under review, consideration, or investigation by the Commission, and to authorize the Executive Director to bring actions in the Tribal Court for the enforcement of subpoenas;

(L) To authorize the Executive Director to bring suit in the Tribal Court seeking temporary and permanent orders closing a Game of Chance or Gaming Facility in accordance with this Ordinance;

(M) To authorize the Executive Director to bring suit in the Tribal Court seeking sanctions, including civil monetary sanctions, for violations of this Ordinance, regulations promulgated hereunder, or the Compact;

(N) To hold such hearings, to sit and act at such times and places, and to take testimony and receive evidence as the Commission deems relevant in fulfilling its duties;

(O) To administer oaths and affirmations to witnesses appearing before the Commission;

(P) To conduct, before appointing the Executive Director, a background investigation of the Executive Director using the standards in this Ordinance; and

(Q) To oversee and monitor the Executive Director in the competent and ethical operation of the Commission.

SECTION 6. EXECUTIVE DIRECTOR.

(a) Appointment. The Commission shall appoint the Executive Director, and the Executive Director shall serve at the will and pleasure of the Commission. No individual currently serving as a member of the Council, or an officer or official of the Pueblo shall be eligible for the appointment of Executive Director.

(b) Qualifications. The Executive Director shall:

(1) have at least five years of experience in public administration, business management, law, or gaming;

(2) devote his entire time and attention to his duties under this Ordinance and the business of the Commission and shall not pursue any other business or occupation or hold any other office;

(3) not have been convicted of a felony, or a misdemeanor involving a crime of dishonesty or moral turpitude; and

(4) not have, directly or indirectly, a financial interest in or a business relationship with any Person licensed under the Ordinance.

(c) Salary. The Executive Director shall be paid an annual salary in the amount specified by the Commission.

(d) Staff. The Executive Director may employ employees who possess training and experience in the fields of investigation, law enforcement, accounting, law, and gaming to assist in carrying out all powers and perform all duties assigned to the Executive Director under the Ordinance.

(e) Powers and Duties. The Executive Director shall manage the day-to-day activities of the Commission and exercise all powers and perform all duties of the Commission, except those that cannot be delegated under Section 5(j)(2) of the Ordinance.

SECTION 7. REGULATIONS.

(a) Procedure. The following procedure shall govern the promulgation of regulations authorized by this Ordinance:

(1) The Commission shall first hold an informal meeting with the Gaming Enterprise to discuss the purpose and substantive content of the proposed regulation. The Gaming Enterprise shall be given an opportunity at that meeting to advise the Commission of any concerns.

(2) After the meeting with Gaming Enterprise and taking into consideration the Gaming Enterprise's concerns, the Commission shall publish the proposed regulation for public comment. The Commission shall allow the public a minimum of 45 days to submit written comments on the proposed regulation.

(3) After considering all public comments, the Commission shall publish the regulation in final form.

(4) The proposed or final regulation shall be effective upon publication when the Commission mails the proposed or final regulation to the Gaming Enterprise and to any Person known by the Commission to be directly affected by the proposed or final regulation, and posts a copy of the proposed or final regulation at the Pueblo's administration office, the Gaming Enterprise's office, and each Gaming Facility.

(5) The Commission shall keep copies of all regulations and Council resolutions and ordinances involving or affecting Gaming Activity in the Commission's office for public inspection and copying during normal office hours, Monday through Friday, excluding holidays.

(b) Council Approval. The Council's approval is not necessary for any regulation to take effect, but the Council shall have the power, prior or subsequent to the effective date of the regulation, to modify or rescind any regulation.

SECTION 8. LICENSES.

(a) Licenses Required. The Commission shall license:

- (1) Each Gaming Facility;
- (2) The Gaming Enterprise;
- (3) Each Key Employee and Primary Management Official;

- (4) Each Gaming Employee;
- (5) Each Management Contractor and Principal;
- (6) Any Person proposing to provide, sell, or lease any Gaming Device, Gaming Equipment, or Gaming Services to a Gaming Enterprise or Management Contractor;
- (7) Any Person proposing to sell, lease, or provide Non-Gaming Services to a Gaming Enterprise or Management Contractor; and
- (8) Any other Person who is directly involved in Gaming Activity that the Commission may require to be licensed to protect the integrity of the Gaming Operation and Gaming Activity and the revenues therefrom.

(b) License Application. Each applicant for a License shall file with the Commission a written application in the form prescribed by the Commission, along with the applicant's fingerprint card, current photograph, and the fee required by the Commission.

- (1) The following notice shall be placed on the application form for all employees before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701, et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a 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 investigation or prosecution or when pursuant to a requirement by a tribe 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 a tribe's 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.

- (2) The Commission shall notify in writing all existing Key Employees, Primary Management Officials and Gaming Employees who have not filled out an application containing a Privacy Act notice that they shall either:

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

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

(3) The following notice shall be placed on the application form for all employees before that form is filled out by an applicant:

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. See 18 U.S.C. § 1001.

(4) The Commission shall notify in writing all existing Key Employees, Primary Management Officials and Gaming Employees who have not filled out an application containing a notice regarding false statements that they shall either:

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

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

(c) Background Investigations.

(1) Upon receipt of a completed application and the required fee, the Commission shall conduct or cause to be conducted a background investigation to ensure that the applicant is qualified for licensing.

(2) The background investigation shall be at least as stringent as is required by the Compact and 25 C.F.R. Parts 537 and 556, and shall provide all available information necessary to the determination required under 25 C.F.R. § 558.2. In particular, the Commission shall cause a thorough criminal history check to be made of each applicant, by having either the State or the NIGC process the applicant's fingerprint card through the Federal Bureau of Investigation.

(3) The Commission shall request from each applicant, and from each Gaming Employee, Principal, Primary Management Official, and Key Employee of each applicant, all of the following information:

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

(B) Currently and for the previous ten years, business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;

(C) The names and current addresses of at least three personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed in Subsection (c)(3)(B) of this Section;

(D) Current business and home telephone numbers;

(E) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses, and a description of any potential or actual conflict of interest between those businesses and Indian tribes;

(F) A description of any existing and previous business relationships in the gaming industry, including but not limited to ownership interests in those businesses;

(G) The name and address of any licensing or regulatory agency with which the applicant has filed an application for a License or permit related to gaming, whether or not the License or permit was granted;

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

(I) For each misdemeanor charge for which there is an ongoing prosecution or conviction (excluding minor traffic charges), the charge, the date of the charge, the name and address of the court involved, and the disposition, if any;

(J) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if the criminal charge is not otherwise listed pursuant to Subsection (c)(3)(H) or (c)(3)(I) of this Section, the criminal charge, the date of the charge, the name and address of the court involved, and the disposition, if any;

(K) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, as an applicant, Principal, Primary Management Official, or Key Employee, and whether or not the license or permit was granted;

(L) A current photograph;

(M) Fingerprints taken by the Commission;

(N) The fee required by the Commission; and

(O) Any other information, including tax returns, financial statements, or other financial information, that the Commission deems relevant.

(4) In conducting a background investigation, the Commission and its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

(5) Background checks of applicants will be performed pursuant to the following procedures:

(A) The Commission will provide applications to applicants upon request, and shall collect and maintain the applications;

(B) The Commission shall investigate or cause to be investigated the information provided in the applications. The investigation shall include: (i) contacting persons or entities identified in the application and verifying by written or oral communication that the information contained in the application is accurate; (ii) interviewing a sufficient number of knowledgeable people, such as former employers, partners, business associates, and others referred to in the application, to provide a basis for the Commission to make a determination on whether the applicant meets applicable eligibility requirements; (iii) reviewing relevant financial records of the applicant for the three years preceding the application; and (iv) contacting any state, federal, or other government agency that is referred to in the application.

(C) The Commission shall document any information obtained that calls into question whether the applicant meets the eligibility requirements under this Ordinance. The disposition of these problem areas shall be documented in detail, indicating the follow-up investigations performed on the problem areas and the result of the investigations.

(D) The Commission will review the results of the investigation for all persons subject to licensing, including a determination as to the scope of the investigation and whether sufficient information was obtained and verified. If the information is found to be insufficient, the Commission will perform additional investigations.

(E) Once the investigation is complete, the Commission will decide whether the applicant meets the eligibility requirements under the Ordinance.

(F) In conducting a background investigation and review, the Commission and its agents and all persons privy to the information shall keep confidential the identity of each person interviewed in the course of investigation.

(d) Temporary License. Within 20 days of the receipt of a completed application for licensing, and upon request by the Gaming Enterprise, the Commission may issue a temporary License to the applicant unless the background investigation undertaken discloses that the applicant has a criminal history, or unless other grounds sufficient to disqualify the applicant are apparent on the face of the application. The Commission may suspend a Temporary License, pending further investigation, if additional information comes to light in the course of the investigation suggesting that the applicant will not qualify for a License or if the applicant has made a false statement or deliberately or substantially failed to provide information to the Commission. The Temporary License shall become void and be of no effect upon either (i) the issuance of the License; (ii) the issuance of a notice of denial; or (iii) 90 days after the Licensee has begun working.

(e) Eligibility Determination. The Commission shall review the person's prior activities, criminal record, if any, and reputation, habit, and associations to make a finding concerning the eligibility of an applicant, including a Principal, Key Employee, or Primary Management Official, for employment or involvement in the Gaming Operation. Upon completion of the investigation, the Commission shall either determine that an applicant is eligible to be licensed or deny the application. If the Commission determines that employment or involvement of any person or applicant poses a threat to the public interest or to the effective regulation of any Gaming Activity, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities of any Gaming Operation, the Commission shall deny the application. Once the Commission has determined that a key employee or primary management official is ineligible, that individual shall no longer be employed as a key employee or primary management official by any gaming facility within the tribe's jurisdiction.

(f) Additional Background Investigations. The Commission may conduct additional background investigations of any person holding a License under this Ordinance at any time while the license is valid.

(g) Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the NIGC and the State Gaming Representative.

(1) When a Key Employee or Primary Management Official begins work at the Gaming Operation, the Commission shall forward to the NIGC and the State Gaming Representative a completed application for employment and conduct the background investigation and make the eligibility determination referred to in Subsection (e) of this Section.

(2) The Commission shall forward the investigative report referred to in Subsection (h) of this Section to the NIGC and the State Gaming Representative within 60 days after an employee begins work.

(3) The Gaming Enterprise shall not employ as a Key Employee or Primary Management Official a person who does not have a License after 90 days.

(h) Report to the NIGC and the State Gaming Representative.

(1) Pursuant to the procedures set out in Subsection (g) of this Section, the Commission shall prepare and forward to the NIGC and to the State Gaming Representative an investigative report on each background investigation on each applicant for a License. The investigative report shall include all of the following:

- (A) steps taken in conducting the background investigation;
- (B) results obtained;
- (C) conclusions reached; and
- (D) the bases for those conclusions.

(2) The Commission shall submit with the report a copy of the eligibility determination made under Subsection (e) of this Section.

(3) If a License is not issued to an applicant, the Commission:

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

(4) With respect to Principals, Key Employees, or Primary Management Officials, the Commission shall retain applications for employment and reports (if any) of background investigations for no less than three years from the date of termination of employment.

(i) Granting of a Gaming License.

(1) If, within a 30 day period after the NIGC receives an investigative report, the NIGC notifies the Commission that it has no objection to the issuance of a License, and the State Gaming Representative has no objections within 30 days following its receipt of an investigative report, the Commission may issue a License to the applicant.

(2) The Commission shall respond to a request for additional information from the Chairman of the NIGC or the State Gaming Representative

concerning a Principal, Key Employee, or Primary Management Official who is the subject of an investigative report. The request shall suspend the 30 day period under Subsection (i)(1) of this Section until the Chairman of the NIGC and/or State Gaming Representative receives the additional information; however, in no event shall the request for additional information by the State Gaming Representative extend the 30 day period under Subsection (i)(1) of this Section for a total period of more than 60 days from the date the State Gaming Representative received the investigative report.

(3) If, within the 30-day period described above, the NIGC or State Gaming Representative provides the Commission with a statement itemizing objections to the issuance of a License to a Principal, Key Employee, or Primary Management Official for whom the Commission has provided an application and investigative report, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC and/or State Gaming Representative, and shall make a final decision whether to issue a License to the applicant.

(j) Duration and Renewal of Licenses. A License shall be effective for a period of two years from the date of its issuance; however, a Licensee that has applied timely for a License renewal may continue to be employed or engaged or to conduct business under an expired License until the Commission takes final action on the renewal application. Applicants seeking renewal of a License shall pay a renewal fee and update information, as requested, on the appropriate renewal forms, but, in the discretion of the Commission, may not be required to resubmit historical data already available to the Commission.

SECTION 9. MANAGEMENT CONTRACT.

(a) Hiring of Management Contractor. The Gaming Enterprise may hire and employ a Management Contractor to manage all or part of the Gaming Operation. The Management Contractor shall be hired pursuant to a written Management Contract. A Management Contract must conform to the requirements of this Ordinance and IGRA. The Gaming Enterprise shall provide the Commission with a copy of the Management Contract.

(b) License Required Upon Approval of Management Contract. Upon certification by the Commission and approval of any Management Contract by the Council and the NIGC, all Principals must obtain a License from the Commission within 60 days.

(c) Standards for Approval. The Management Contract shall contain provisions that address the following:

(1) the adoption and maintenance of adequate accounting procedures and verifiable financial reports to be prepared and submitted to the Council on a monthly basis;

(2) access of the Commission to the Gaming Operation and permission for the Commission to verify the daily gross revenues and income made from Gaming Activity.

(3) a minimum guaranteed payment to the Pueblo, which payment must be made prior to retirement of any development and construction costs;

(4) an agreed ceiling for the repayment of development and construction costs;

(5) a contract term not to exceed five years, except that the Gaming Enterprise may authorize a contract term that exceeds five years but does not exceed seven years if the Gaming Enterprise is satisfied that the investment required and the income projections for the Gaming Operation require the additional time;

(6) grounds and procedures for terminating the contract;

(7) the Management Contractor's lack of authority to waive the Gaming Enterprise's or the Pueblo's sovereign immunity without a duly passed resolution of the Council and the Gaming Enterprise on a contract by contract basis;

(8) all Gaming Activity covered by the Management Contract will be conducted in accordance with this Ordinance, the Compact, if applicable, and IGRA; and

(9) all other provisions required by 25 C.F.R. § 531.1.

(d) Management Contract Fees. The Management Contract may provide for a fee based upon a percentage of the Net Revenues of the Gaming Operation. The fee shall not exceed 30% of the Net Revenues, except that the Gaming Enterprise, subject to the approval of the Council, may approve a Management Contract providing for a fee that exceeds 30% but not more than 40% of the Net Revenues of a Gaming Activity if the capital investment required and income projections for the Gaming Activity require the additional fee.

(e) Grounds for Disapproval. The Commission shall not certify any Management Contract if it determines that:

(1) The Management Contractor, or any Principal, Primary Management Official, or Key Employee of the Management Contractor, is not licensed or is ineligible to be licensed; or

(2) A trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the Management Contract.

(f) Modification and Revocation of Management Contract. The Commission may require appropriate contract modifications and may void any Management Contract if it determines that this Ordinance or the Management Contract has been violated.

(g) Management Contract Binding Upon Approval. No Management Contract, and no modification, revision, or amendment thereto, shall be binding unless and until certified by the Commission and approved by the Council and the Chairman of the NIGC.

SECTION 10. FINANCIAL PRACTICES AND REPORTING.

(a) Monthly Reports. On or before the 25th day of each month, the Gaming Enterprise shall file with the Governor a certified financial reports for the preceding calendar month showing the amount of Gross Receipts derived by the Gaming Operation, the operating expenses incurred or paid, the specific classifications of operating expenses, and the Net Revenues derived from the Gaming Operation, and the financial strength, performance and changes in financial position of the Gaming Enterprise. Within 15 days of receipt, the Governor shall report to the Council on the contents of the reports. Both the chief executive officer and the chief financial officer of the Gaming Enterprise shall sign the monthly reports, certifying that the report is true and correct to the best of their knowledge. It is the duty of the Gaming Enterprise to maintain and keep books and records as may be necessary to substantiate the particulars of each report. If the Gaming Enterprise fails to file a report within the time allowed, or if a report is not properly certified or not fully, accurately, and truthfully completed, the Gaming Enterprise may be fined until the deficiency has been corrected.

(b) Maintenance of Books and Records; Commission Access. Full and accurate books of account, maintained in accordance with generally accepted accounting principles consistently applied, shall be kept on the premises of a Gaming Facility showing the condition of the business and all transactions conducted by the Gaming Operation. The Council shall have access to the books of account of the Gaming Enterprise and shall be entitled to examine them in any form or medium without notice during normal business hours, either in person or by an agent, and the Gaming Enterprise's consent to such access and examination shall not be necessary. The Commission shall have access to the books of account of the Gaming Operation and shall be entitled to examine them in any form or medium without notice during normal business hours, either in person or by an agent, and the Gaming Enterprise's consent to such access and examination shall not be necessary. All records required to be kept by this Section in whatever form or medium shall be maintained for not less than five years. The records shall include:

(1) Revenues, expenses, assets, liabilities, and equity of the Gaming Operation;

(2) Daily cash transactions for Gaming Activity at each Gaming Facility, including but not limited to transactions relating to each gaming table bank, game dropbox, and gaming room bank;

(3) All returned checks, hold checks, or other similar credit instruments.,

(4) Individual and statistical game records (except card games) to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports that show the total amount of cash wagered and the total amount of prizes won;

(5) Contracts, correspondence, and other transaction documents relating to all vendors and contractors;

(6) Records of all Commission enforcement activities;

(7) Audits of the Gaming Operation prepared by or on behalf of the Pueblo or the Gaming Enterprise;

(8) Personnel information on all Gaming Employees, including rotation sheets, hours worked, employee profiles, and background checks, if in the possession of the Gaming Enterprise.

(c) Allowable Operating Expenses. No item of expense shall be incurred or paid in connection with operating or conducting any Gaming Activity by a Gaming Operation except a bona fide expense in a reasonable amount. Expenses may be incurred for the items and purposes that a similar enterprise would incur or pay under generally acceptable accounting principles, including but not limited to the following:

(1) the purchase of goods, wares, and merchandise furnished;

(2) services rendered by a Management Contractor (including repayment of development fees and construction costs, if any) for maintenance or reports of gaming and related equipment, and for operating or conducting Games of Chance;

(3) regulatory fees required to be paid to the Pueblo, the NIGC, or the State under the Compact;

(4) rent, janitorial, and security services;

(5) legal and accounting fees;

(6) taxes and license fees;

- (7) utilities and trash removal costs;
- (8) advertising;
- (9) vehicle expenses;
- (10) insurance;
- (11) the interest portion of any debt payments;
- (12) employee training;
- (13) necessary and appropriate business travel;
- (14) employee wages; and
- (15) prizes for winners of Games of Chance.

(d) Deposit of Gross Receipts; Payment of Operating Expenses. All Gross Receipts shall be deposited in a separate gaming general operating account of the Gaming Enterprise. All operating expenses shall be withdrawn from that account by consecutively numbered checks duly signed by the official or officials designated by the Gaming Enterprise payable to a specific person or organization.

(e) Annual Audit.

(1) The Gaming Enterprise shall retain a certified public accountant, licensed by the State, as the independent outside auditor of the Gaming Operation. The auditor shall conduct an annual outside independent certified audit of all activities conducted by the Gaming Operation. The audit shall be prepared in accordance with generally accepted accounting principles consistently applied. The auditor shall report on the auditor's examination of the books and records of the Gaming Operation and on the auditor's recommendations with respect to the management of the Gaming Operation and any failure to comply with applicable law or contractual obligations. Prior to commencement of the audit, the Gaming Enterprise and the auditor, in consultation with the Council, shall define the scope of the audit. The Council may, in its discretion, require that the scope of the audit be expanded to better reflect the financial operations, condition, and obligations of the Gaming Operation. The Council may designate a representative to observe and maintain communication with the independent auditor once the Gaming Enterprise has selected the auditing firm.

(2) The Gaming Enterprise, within 120 days of the close of the Pueblo's fiscal year, shall deliver the audit and financial statement to the Council and the Commission.

(3) The Commission, within 120 days of receiving the audit and certified financial statement, shall furnish copies of the audit and certified financial statement to the State Gaming Representative, if required by the Compact, and the NIGC, if required by IGRA.

(f) Audit of Contracts. All contracts for Gaming Services shall be specifically included within the audit referred to in Subsection (e) of this Section.

(g) Disposition of Net Revenues. The Net Revenues from Gaming Activity shall be used for the following purposes:

- (1) To fund Pueblo governmental operations and programs;
- (2) To provide for the general welfare of the Pueblo and its members;
- (3) To promote tribal economic development;
- (4) To contribute to charitable organizations; and
- (5) To help fund operations of local Pueblo governmental agencies.

(h) Compliance with Internal Revenue Code. The Gaming Operation shall maintain a permanent record containing the name and address of each player who receives a prize if and as required by, and in accordance with, the Internal Revenue Code.

(i) Compliance with Bank Secrecy Act. The Gaming Operation shall comply with all applicable provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. §§ 5311-5314, and all record-keeping and reporting requirements of the Internal Revenue Service.

SECTION 11. COMPACT COMPLIANCE.

(a) Provisions Required by Compact. The following provisions to the extent required by the Compact shall apply only to Class III Gaming Activities:

- (1) No person under 21 years of age shall participate in Class III Gaming.
- (2) The Gaming Enterprise shall not employ any person in Class III Gaming who is under 21 years of age or who has not been licensed in accordance with this Ordinance.

(3) The Gaming Enterprise shall meet standards and requirements equivalent to or more stringent than those in the Fair Labor Standards Act of 1938, the Occupational Safety and Health Act of 1970, and other federal laws generally applicable to Indian tribes relating to wages, hours and conditions of work, and the regulations issued thereunder; however, the imposition of these standards shall not be construed as a submission by the Pueblo to federal jurisdiction under those laws or as creating under Pueblo law any causes of action available to any person under federal laws.

(4) The Gaming Enterprise shall pay workers on any construction project involving a Gaming Facility to be used for the conduct of Class III Gaming or related structure, which is funded in whole or part by federal funds, wages meeting or exceeding the standards established for the State under the federal Davis-Bacon Act.

(5) The Gaming Enterprise and any Management Contractor shall not discriminate in the employment of persons at the Gaming Facility on the grounds of race, color, national origin, gender, sexual orientation, age, or handicap; except that the Pueblo, the Gaming Enterprise, and Management Contractor shall provide for Pueblo member and other Indian preference in employment in any Gaming Activity as set forth in this Ordinance, consistent with Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.

(6) The Gaming Enterprise shall provide employment benefits to employees of the Gaming Operation, including but not limited to sick leave, life insurance, paid annual leave, medical and dental insurance, unemployment and workers' compensation insurance through programs offering benefits at least as favorable as those provided by comparable programs of the State, and the Pueblo shall ensure that these programs afford the employees due process of law, a means to appeal an adverse decision of an insurance carrier to the Tribal Court, and a timely resolution of the appeal. The Gaming Enterprise shall ensure in any policy covering any program that the insurance carrier cannot raise the defense of sovereign immunity.

(7) The Gaming Enterprise shall provide a grievance process for employees of a Gaming Operation in cases of disciplinary or punitive action taken against an employee that includes a process for appeals to persons of greater authority than the immediate supervisor of the employee.

(8) The Gaming Enterprise shall allow inspectors from the New Mexico Department of Environment or the United States Indian Health Service to inspect the food service operations of a Gaming Facility where Class III Gaming is conducted during the normal business hours of the Gaming Facility to assure that standards and requirements equivalent to the New Mexico Food Service Sanitation Act are maintained.

(9) The Gaming Enterprise shall not cash for patrons any paycheck or any type of government assistance check, including Social Security, TANF, pension, and other similar checks.

(10) The Gaming Enterprise shall not extend credit to patrons by accepting IOUs or markers.

(11) The Gaming Enterprise shall ensure that all automatic teller machines located within a Gaming Facility where Class III Gaming is conducted shall be programmed so that the machines will not accept cards issued by the State to TANF recipients for access to TANF benefits.

(12) The Gaming Enterprise shall require that each Gaming Machine in use at the Gaming Facility pay out a mathematically demonstrable percentage of all amounts wagered, which percentage shall be not less than 80%, and the Gaming Enterprise shall post, in visible locations within the Gaming Facility, a public notice (i) stating that it is in compliance with this requirement, and (ii) explaining the meaning of this requirement in plain comprehensible language.

(13) The Gaming Enterprise shall connect all Gaming Machines on the premises of the Gaming Facility to a central computerized reporting and auditing system on the Gaming Facility's premises, which shall collect on a continual basis the unaltered activity of each Gaming Machine in use. The wager and payout data of each machine, electronically captured by the Gaming Enterprise's central computer, may be accessed and downloaded electronically by the State Gaming Representative by a dedicated telecommunications connection, on a "read-only" basis, upon entry of appropriate security codes; however, in no event shall the State Gaming Representative be able to alter or affect the operation of any Gaming Machine or other device on the premises of the Gaming Facility, or the data provided to the central computer.

(14) If the law of the Pueblo permits alcoholic beverages to be served and consumed at the Gaming Facility:

(A) No employee 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;

(B) Employees of the Gaming Operation that dispense, sell, serve, or deliver alcoholic beverages must attend Alcohol Server Education Classes similar to those classes provided for in the New Mexico Liquor Control Act;

(C) The Gaming Enterprise shall purchase and maintain a liquor liability insurance policy that will provide personal injury coverage of at least one million dollars (\$1,000,000) per incident and two million dollars aggregate per policy year; and

(15) The Gaming Enterprise shall not permit alcoholic beverages to be sold, served, delivered, or consumed in that part of the Gaming Facility where Class III Gaming is allowed.

(16) The Gaming Enterprise shall spend an amount no less than one-quarter of one percent of its Net Win as that term is defined herein annually to fund or support programs for the treatment and assistance of compulsive gamblers in New Mexico or who patronize New Mexico gaming facilities, or for the prevention of compulsive gambling in New Mexico, and shall distribute a substantial portion of such funds to an organization that has expertise in and provides counseling, intervention, or other services for compulsive gamblers in New Mexico, and whose services are available to all persons without regard to race or tribal membership. Any information existing as a result of this subparagraph (except for information identifying a gaming patron) shall not be subject to the confidentiality provisions of the Compact and shall be made available for inspection and publication by the State Gaming Representative without restriction or limitation. The Gaming Enterprise shall provide the Commission with documents sufficient to permit the Commission to verify compliance with this requirement, including but not limited to a detailed budget of amounts spent for this purpose and the recipients of the payments.

(17) The Gaming Enterprise shall not operate any Class III Gaming at the Gaming Facility for at least four consecutive hours daily, Mondays through Thursdays (except federal holidays).

(18) The Pueblo and the Gaming Enterprise shall not provide, allow, contract to provide, or arrange to provide alcoholic beverages for no charge or at reduced prices, or provide, allow, contract to provide, or arrange to provide food or lodging for no charge or at nominal prices, at a Gaming Facility or lodging facility as an incentive or enticement for patrons to participate in Class III Gaming, except that this provision shall not apply to rewards received by gaming patrons in exchange for points or credits accrued under any form of a players club program.

(19) The Gaming Enterprise shall report to the New Mexico secretary of state, in the same manner and at the same times as are required of political committees under the provisions of the New Mexico Campaign Reporting Act (NMSA 1978 §§ 1-19-25 through 1-19-36) any contributions, whether directly or through an agent, representative, or employee, of any moneys derived from revenue from the Gaming Enterprise 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 any election covered by the New Mexico Campaign Reporting Act.

(20) The Commission shall provide true and correct copies of all tribal laws and regulations affecting Class III Gaming to the State Gaming Representative and the NIGC and provide true copies of any amendments thereto or additional laws or regulations affecting Class III Gaming within 30 days after their enactment (or approval, if any); provided that the Commission or the Pueblo shall provide copies of any amendments to this Ordinance to the NIGC within 15 days after the adoption of the amendments.

(21) The Commission shall certify annually to the State Gaming Representative that the Commission has met its regulatory obligations under the Compact in accordance with the Compact.

(22) The Gaming Enterprise will provide annually to the State Gaming Representative a certificate of insurance showing that it is maintaining in effect policies of liability insurance insuring the Gaming Enterprise, the Pueblo, and their agents and employees against claims, demands, or liability for bodily injury and property damages brought by a patron or visitor arising from an occurrence described in the Compact, and that the policies shall provide bodily injury and property damage coverage in an amount required by the Compact and include a provision under which the insurer agrees not to assert the defense of sovereign immunity on behalf of the insured up to the limits of such coverage, provided that such limits of liability insurance coverage shall be subject to increase or decrease as may be required by the Compact.

(23) The Gaming Enterprise shall not operate more than two separate gaming facilities on the Reservation.

(b) Class III Gaming to be Conducted in Accordance with Compact. Any Class III Gaming activities to be conducted by the Gaming Enterprise shall be conducted in accordance with the Compact. If there is a conflict between this Ordinance and the Compact, then the Compact shall control; however, if there is a conflict between the Compact and IGRA or other federal law, then IGRA or other federal law shall control.

(c) Lapse of Compact. If the Compact no longer requires any provision in this Section, then that provision shall lapse unless the Council by resolution or the Commission by regulation continues the provision in force.

SECTION 12. MISCELLEANOUS

(a) Prohibition Against Employees Engaging in Gaming. No Key Employee, Primary Management Official, or Principal may participate in Games of Chance conducted by the Gaming Enterprise.

(b) Preference in Employment. Enrolled members of the Pueblo and their spouses and children shall receive preference in employment and advancement if they meet the qualifications for employment with the Gaming Enterprise or the Management Contractor. If there are no qualified persons from among the enrolled members of the Pueblo and their spouses and children to fill any available positions, the Gaming Enterprise or the Management Contractor shall hire such qualified persons as are available, but shall give preference to qualified enrolled members of other Indian tribes.

(c) Regulation of Food & Beverage, Alcohol, and Cigarettes. The Council, rather than the Commission, shall regulate, through other administrative agencies, all aspects relating to food and beverage, alcohol, and cigarettes in a Gaming Facility.

(d) Public Health and Safety. Each Gaming Facility and additions thereto shall comply with health, safety, and construction standards that are at least as stringent as the current editions of the National Electrical Code, the Uniform Building Code, the Uniform Mechanical Code, the Uniform Fire Code, and the Uniform Plumbing Code. The Pueblo shall cause inspections to be conducted with respect to these standards at least annually. Pursuant to the Compact, the State Gaming Representative may be present during an annual inspection, provided the request to be present is made sufficiently in advance of the inspection. Upon a written request by the State Gaming Representative, the Commission shall provide copies of relevant inspection reports to the State Gaming Representative.

SECTION 13. SUSPENSION OR REVOCATION OF LICENSE.

(a) Grounds for Suspension and Revocation. The Commission may suspend a License if a licensee:

- (1) makes a false statement in any application for a License, in any statement annexed thereto, or in any response to a request by the Commission for information;
- (2) fails to keep sufficient books and records to substantiate the reports required by this Ordinance;
- (3) falsifies any books or records relating to any transaction in connection with the operation or conduct of any Games of Chance;
- (4) is convicted of any felony or gaming offense;
- (5) interferes with or unduly influences or attempts to interfere with or unduly influence any decision or process of the government of the Pueblo relating to gaming, or the Commission;
- (6) deliberately or substantially fails to provide information to or answer relevant questions of the Commission;
- (7) fails to comply with this Ordinance;
- (8) fails to comply with the terms of any License; or

(b) Grounds for Suspension and Revocation. The Commission shall suspend a License if a licensee is the subject of reliable information from the NIGC or any other source indicating that the Licensee does not meet the standard established in Section 8(e) of this Ordinance.

(c) Revocation. After notice and a hearing before the Commission pursuant to this Section, the Commission may revoke the Licensee's License. This sanction is in addition to any other sanction that may be imposed under this Ordinance.

(d) Notice; Immediate Suspension. Proceedings to suspend or revoke a License shall be initiated by the Commission by serving a complaint upon the Licensee. If, in the Commission's judgment, the public interest, the effective regulation and control of gaming, or the safe, fair, and honest operation and conduct of Games of Chance so requires, the Commission may suspend a License immediately pending the holding of a hearing. The immediate suspension shall take effect upon service of the complaint upon the Licensee.

(e) Contents of Complaint; Service. The complaint shall set forth the violations of this Ordinance that the Commission has reasonable cause to believe the Licensee has committed. The Commission shall cause the complaint and notice of hearing to be served personally upon the Licensee or any agent of the Licensee, or to be sent by certified mail to the Licensee at the address shown upon the License, with a copy sent to the Council and the Gaming Enterprise. The complaint shall notify the Licensee of the place and date of a hearing, such date to be not less than 20 days after the Licensee receives a copy of the complaint.

(f) Answer; Subpoenas. Upon receipt of a complaint and notice of hearing, the Licensee shall answer the complaint and shall inform the Commission whether the Licensee desires to present evidence. At the request of the Licensee for good cause shown, or on its own motion, the Commission shall issue subpoenas for the attendance of witnesses and for the production of papers, books, records, and documents.

(g) Hearing; Written Decision. The hearing shall be held and concluded without unreasonable delay. The Commission shall hear the matter and make a decision in writing, including findings of fact in support of its decision. The Commission shall issue its decision within 30 days of the hearing. The Licensee shall be informed immediately of the decision and, in the event of a suspension, revocation, or reinstatement of his or her License, of the effective date of the suspension, revocation, or reinstatement. The Commission shall notify the NIGC, the Gaming Enterprise, the Council, and the State Gaming Representative of its decision.

(h) Appeal. The decision of the Commission suspending or revoking a License may be appealed to the Tribal Court. Written notice of the appeal must be filed with the Tribal Court and served on the Commission within ten days of the Commission's decision. The Tribal Court shall decide the appeal based on the record before the Commission, and shall state in writing the reasons for its decision.

(i) Surrender of License. When the Commission suspends or revokes a License, the Licensee shall surrender the License to the Commission on or before the effective date of the suspension or revocation. No License shall be valid as of the

effective date of the suspension or revocation, whether surrendered or not, or whether the Commission's decision is appealed or not.

(j) Additional Sanctions. Upon its determination to suspend or revoke a License, the Commission, in addition to any other penalties that may be imposed, may declare the Licensee ineligible to operate or conduct Games of Chance, to participate, directly or indirectly, in the operation or conduct of Games of Chance, or to apply for a License for a period up to 12 months.

SECTION 14. PROHIBITED ACTS. In addition to any other act prohibited by this Ordinance, it shall be a violation of this Ordinance for any person:

(a) To conduct or participate in any Class II or Class III Gaming on the Reservation other than at an authorized and licensed Gaming Facility.

(b) To receive, distribute, apply, or divert any property, funds, proceeds, or other assets of the Gaming Operation to or for the benefit of any person except as authorized by this Ordinance, IGRA, or the Compact.

(c) To tamper 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 rules of the Gaming Enterprise.

(d) To do any other act in connection with any Gaming Activity with the intent to affect the outcome of any wager other than in accordance with the publicly announced rules of the Gaming Enterprise.

(e) To alter or misrepresent the outcome of any other event on which wagers have been made after the outcome is made sure but before it is revealed to the players.

(f) To place, increase, or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of a Game of Chance or any event that affects the outcome of the Game of Chance or which is the 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.

(g) To claim, collect or take, or attempt 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 won.

(h) To place or increase a wager or bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including past-posting and pressing bets.

(i) To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of a Game of Chance or other event that is the subject of the bet, including pinching bets.

(j) To manipulate, with the intent to cheat, any component of an electronic Game of Chance or Gaming Device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to manipulating a Gaming Device, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

(k) To knowingly use other than coins or tokens approved by the Commission or other lawful coin or legal tender of the United States, or to use a coin not of the same denomination as the coin intended to be used in the Gaming Device.

(l) To possess, with the intent to use, any device to assist in projecting the outcome of a Game of Chance, in keeping track of the cards played, in analyzing the probability of the occurrence of an event relating to the Game, or in analyzing the strategy for playing or betting to be used in the Game.

(m) To use any device or means to cheat, or to possess any such device while at a Gaming Facility.

(n) To knowingly entice or induce another to go to any place where Games of Chance are being conducted or operated in violation of the provisions of this Ordinance or regulations promulgated hereunder, IGRA, the Compact, or other applicable law and regulation with the intent that the other person play or participate in those Games.

(o) To willfully obstruct any Commission investigation.

SECTION 15. VIOLATIONS, JURISDICTION, ENFORCEMENT OF SUBPOENAS, LIMITED WAIVER OF SOVEREIGN IMMUNITY.

(a) Criminal Penalties.

(1) Except as otherwise provided in Subsection (b) of this Section or federal law, any Non-Member who violates any provision of this Ordinance shall be guilty of a criminal offense punishable by a fine, or by imprisonment, or both, the amount of such fine and the length of such imprisonment to be up to the maximum amount and length that federal law allows Indian tribes to impose.

(2) Pursuant to the Compact, the State may exercise concurrent jurisdiction with the United States to prosecute violations by a Non-Member of any State gambling law on the Reservation, any other crime against the Gaming Enterprise or any employee thereof, or that occurs on the premises of a Gaming Facility. Immediately upon becoming aware of any suspected crime by a Non-Member, the Gaming Enterprise or the

Commission will notify the State Attorney General and the District Attorney for Santa Fe County of the particulars known to the Gaming Enterprise or Commission. Upon any reasonable request by the District Attorney for Santa Fe County, the Pueblo's Law Enforcement Department and the Commission will conduct an additional investigation and cooperate fully with such District Attorney and State law enforcement agencies on the matter. In the event of an emergency involving a possible violation by a Non-Member, the Pueblo and its constituent agencies may act as they see fit in accordance with the laws of the Pueblo in order to protect against any immediate threat to lives or property.

(3) The Pueblo may enter into a Memorandum of Understanding with the District Attorney for Santa Fe County, to which Memorandum of Understanding the United States Attorney also may be a party, to address such matters as the specific procedures by which cases under Subsection (a)(2) of this Section will be referred, participation of the Commission and the Pueblo's Law Enforcement Department in the investigation and prosecution of any such case, and payments by the Pueblo to the Office of the District Attorney for Santa Fe County to defray the costs of handling such cases.

(b) Civil Sanction. Any person who violates any provision of this Ordinance, including the Gaming Enterprise and its employees, shall be liable for civil monetary sanctions not to exceed five thousand dollars for each day such violation occurs, along with any civil damages caused by the commission of such violation. Such person also may be excluded from the Reservation to the extent such exclusion is consistent with the laws of the Pueblo and the United States.

(c) Tribal Court Jurisdiction. The Tribal Court shall have jurisdiction over all violations of this Ordinance and over all persons who are Licensees, including agents, employees, owners, directors, and officers of such persons. In addition to the penalties and civil sanctions prescribed in Subsections (a) and (b) of this Section, the Tribal Court may grant such other legal and equitable 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 in this Ordinance, however, shall be construed to authorize or require the exercise of criminal jurisdiction over Non-Members who are non-Indians, except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision. In any proceeding arising under this Ordinance, the Tribal Court shall state in writing the reasons for its decision.

(d) Appeal from Tribal Court to the Council. Unless specified otherwise by resolution of the Council, a party not satisfied with the decision of the Tribal Court may seek review by the Council. Notice of appeal to the Council shall be filed with the Governor and served on the Commission within seven days from the Tribal Court's written decision, with notice given to the Tribal Court. The Council need not accept an appeal from a decision of the Tribal Court, and its failure to act within 14 days of receiving an appeal shall be deemed summary denial of the appeal. If the Council accepts

an appeal from the Tribal Court, it shall notify both the appellant and the Commission and shall give both the appellant and the Commission the opportunity to be heard.

(e) Enforcement of Orders and Subpoenas. If a Person is ordered by the Commission or the Council to attend or to produce books, accounts, records, or other documents in any investigation or hearing conducted by the Commission or the Council and fails to obey the command of the subpoena without legal cause, or if a person in attendance at any hearing or investigation refuses, without lawful cause, to be examined, to answer a legal and pertinent question, or to exhibit any book, account, record, or other document when ordered to do so by the Commission or the Council, the Commission or the Council may apply to the Tribal Court for an order returnable in not less than five nor more than ten days directing the Person to show cause why he or she should not comply with such order for purposes of this Ordinance. No person shall be excused from testifying or producing any books, accounts, records, or other documents in any investigation or hearing on the ground that such testimony or documentary evidence may tend to incriminate such person, if the Council or the Tribal Court agrees in writing that such person shall not be prosecuted, punished, or subjected to any penalty or forfeiture resulting from such testimony or production, provided that no person shall be exempt from prosecution or punishment for any act of perjury committed by him or her under a grant of immunity under this Subsection.

(f) Limited Waiver of Sovereign Immunity. The Pueblo hereby waives the immunity of the Gaming Enterprise and its employees from suit for the sole and limited purpose of permitting the Tribal Court to hear and determine proceedings initiated by the Commission to enforce this Ordinance against the Gaming Enterprise, including the assessment of fines, sanctions, and injunctive relief.

SECTION 16. PATRON DISPUTES AND VISITOR CLAIMS.

(a) Procedures for Resolving Patron Disputes. Except as otherwise provided in Subsection (b) of this Section, the following procedure applies whenever a patron of any Gaming Activity conducted by the Gaming Enterprise under the provisions of this Ordinance believes that he or she should not have lost any money, or has not received any winnings to which the patron believes he or she was entitled:

(1) the patron shall report the dispute to any Gaming Employee, Key Employee, or Primary Management Official. The Gaming Employee, Key Employee, or Primary Management Official shall refer the patron to the manager of the Gaming Facility.

(2) the manager of the Gaming Facility shall investigate the dispute and attempt to promptly resolve the dispute. If the dispute cannot be resolved promptly, the casino manager shall propose resolution of the dispute to the patron in writing, not more than ten days after the dispute was brought to the attention of the casino manager. The manager of the Gaming Facility shall serve a copy of the proposed resolution (by certified mail) to the patron and the Executive Director.

(3) If the patron is dissatisfied with the proposed resolution by the manager of the Gaming Facility, the patron may appeal the dispute to the Executive Director in writing, within ten days of receipt of the casino manager's proposed resolution.

(4) Upon receipt of the dispute from the patron, the Executive Director shall investigate the facts underlying the dispute and the actions and proposed resolution of the manager of the Gaming Facility. After the investigation, the Executive Director shall issue a written decision of the dispute and serve a copy of the decision (by certified mail) to both the patron and the manager of the Gaming Facility.

(5) If either the patron or the Gaming Enterprise is dissatisfied with the Executive Director's decision, the patron or the Gaming Enterprise may appeal the Executive Director's decision to the Commission.

(b) Resolving Patron and Visitor Claims of Liability for Bodily Injury or Property Damage.

(1) The Tribal Court shall have original jurisdiction over claims of liability by a patron or visitor to a Gaming Facility where Class III Gaming is conducted for bodily injury or property damage proximately caused by the conduct of the Gaming Enterprise.

(2) If a patron or visitor having a claim described in Subsection (b)(1) of this Section pursues that claim in the Tribal Court or, at the option of the patron or visitor, in binding arbitration, the patron or visitor shall make a written election that is final, binding, and unappealable.

(3) The claims brought under Subsection (b)(1) of this Section must be commenced by filing an action in the Tribal Court, or serving a demand for arbitration, within three years of the date that the claim accrues.

(4) The arbitration shall be conducted, pursuant to an election by a patron or visitor under Subsection (b)(2) of this Section, as follows:

(A) The patron or visitor shall submit a written demand for arbitration to the Gaming Enterprise by certified mail, return receipt requested;

(B) The patron or visitor and the Gaming Enterprise shall each designate an arbitrator within 30 days of receipt of the demand by the Gaming Enterprise, and the two arbitrators shall select a third arbitrator, but in the event the two arbitrators cannot agree on the selection of the third arbitrator within 30 days of their appointment, they shall apply to the Tribal Court to appoint the third arbitrator;

(C) The arbitration panel shall permit the parties to engage in reasonable discovery and shall establish other procedures to ensure a full, fair, and expeditious hearing on the claim; and

(D) The award of the arbitration panel shall be final and binding.

(c) Posting of Notice. The Gaming Enterprise shall prominently post a notice, bearing the title, "PATRON DISPUTE AND VISITOR CLAIMS PROCEDURES," to inform patrons and visitors of the remedies set forth in this Section, and to set forth the language of Subsection (a) and (b) of this Section in every room of every Gaming Facility where Gaming Activity occurs.

SECTION 17. SOVEREIGN IMMUNITY.

Nothing in this Ordinance waives the sovereign immunity of the Pueblo, including the Gaming Enterprise and the Commission, except to the extent explicitly set forth in Section 15(f) and Section 16 of this Ordinance.

SECTION 18. SEVERABILITY.

In the event that any provision in this Ordinance or the application thereof to any person or circumstance is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Ordinance.

SECTION 19. AGENT FOR SERVICE OF PROCESS

For purposes of service of process, the agent shall be:

Governor
Pueblo of Tesuque
Route 42, Box 360-T
Santa Fe, New Mexico, 87506

SECTION 20. EFFECTIVE DATE.

This Ordinance shall be effective on the date approved by the chairman of the NIGC.