

**NATIONAL
INDIAN
GAMING
COMMISSION**

JAN 20 1998

Honorable Ron Shutiva, Governor
Pueblo of Acoma
P.O. Box 309
Acoma, New Mexico 87034

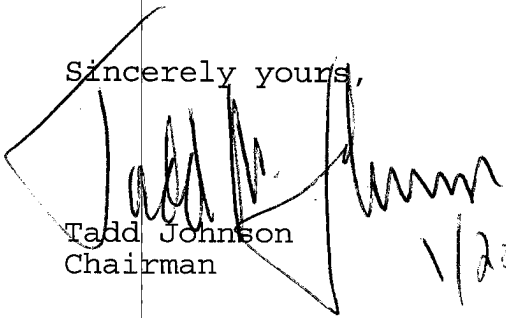
Dear Governor Shutiva:

This letter is in response to Lance Callo's request to review and approve the amendment to the tribal gaming ordinance of the Pueblo of Acoma (Tribe). The amendment to the ordinance was adopted by the Tribe by Resolution No. TC-SEPT-24-97-6A on September 24, 1997. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the NIGC Chairman is directed to review amendments to ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the NIGC Chairman's review and approval is limited to the requirements of the IGRA and NIGC regulations. Pursuant to the authority delegated to me in Part II Chapter 1 Section 2 of the NIGC Policies and Procedures Manual (1997), I hereby approve the Tribe's ordinance amendment.

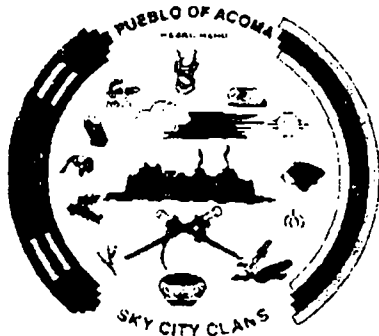
Thank you for submitting the amendments to the tribal gaming ordinance of the Pueblo of Acoma. The NIGC staff and I continue to look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,


Tadd Johnson
Chairman

1/20/98

cc: Lance C. Vallo
Vice-Chairman
Pueblo of Acoma Gaming Commission
Box 313 Lake Shore Drive
Brimley, Michigan 49715



P.O. BOX 309
ACOMA, NEW MEXICO 87034

PUEBLO OF ACOMA
OFFICE OF THE GOVERNOR

TELEPHONE 505/552-6604
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RESOLUTION NO. TC-SEPT-24-97-6A

APPROVING 1997 AMENDMENTS TO ACOMA GAMING LAW, TITLE II

At a duly called meeting of the Tribal Council of the Pueblo of Acoma held on this 24th day of September, 1997, the following resolution was adopted:

WHEREAS:

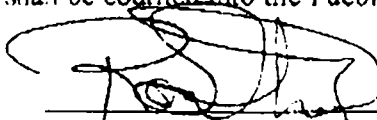
- Section No. 1 The Pueblo of Acoma is a sovereign Indian nation, recognized as such by the federal government of the United States of America, and in the exercise of its tribal sovereignty remains organized in accordance with Pueblo tradition; and
- Section No. 2 The Pueblo of Acoma accepted the terms of the Indian Reorganization Act (Congressional Act of June 18, 1934, Chapter 576, Codified at 25 United States Code Sections 461-479 (IRA)). However, the Pueblo is not organized under the IRA and has no written Constitution; and
- Section No. 3 The Tribal Council is the legislative authority for the Pueblo of Acoma. This resolution is passed in exercising the responsibilities and authorities of the Tribal Council for and in the best interest of the Pueblo of Acoma; and
- Section No. 4 The federal Indian Gaming Regulatory Act (IGRA) of 1988 requires an approved tribal-state gaming compact in order for an Indian tribe to conduct Class III gaming activity on tribal land; and
- Section No. 5 The 1994 Acoma Tribal Council Resolution No. TC-JUL-19-94-1-5b enacts the Acoma Gaming Ordinance into law and is codified in Title II of Pueblo of Acoma Laws - 1995; and
- Section No. 6 The 1997 New Mexico Legislature enacted a form compact and revenue sharing agreement which the State Governor is authorized to sign, by authority of Chapter 190, New Mexico Laws - 1997; and

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- Section No. 7 The 1997 compact requires the Pueblo of Acoma to identify a Tribal Gaming Agency to the State Gaming Representative.
- Section No. 8 Resolution No. TC-JUL-07-97 APPROVING AUTHORIZING 1997 TRIBAL-STATE GAMING COMPACT approved and enacted into Acoma laws the 1997 Compacts.
- Section No. 9 Secretary of the Interior Babbitt allowed the 1997 Compacts to go into effect as allowed by IGRA and as shown by Notice published in the Federal Register on August 29, 1997; and
- Section No. 10 The Secretary made the Pueblo aware of the Department's "concerns about two provisions in the Compact that appear inconsistent with IGRA, i.e. the revenue sharing provision and the regulatory fee structure".
- Section No. 11 The 1997 Amendments have been reviewed by the Acoma Gaming Commission, the Administration, Casino management and Business Board; and
- Section No. 12 IGRA requires the Tribal Council and the National Indian Gaming Commission chairman approve "an ordinance or resolution" authorizing Class III casino gaming.

NOW, THEREFORE, BE IT RESOLVED THAT:

- Section No. 1 The 1997 Gaming Amendments attached to this resolution are approved and enacted into Acoma law; and
- Section No. 2 The Governor and Commission shall work with the National Indian Gaming Commission for approval of these Amendments, are required by IGRA.
- Section No. 3 The Governor shall notify the State Gaming Representative that Acoma Gaming Commission is the Tribal Gaming Agency for purposes of regulation and contact required or allowed by the 1997 Gaming Compact
- Section No. 4 The Gaming Amendments shall be codified into the Pueblo of Acoma laws.



Daabupu, Pueblo of Acoma

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Page Three

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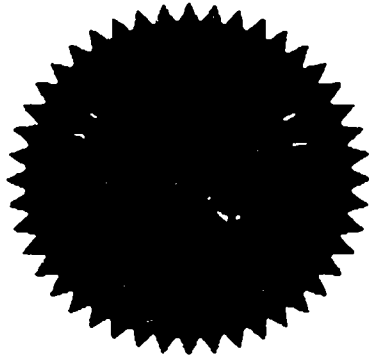
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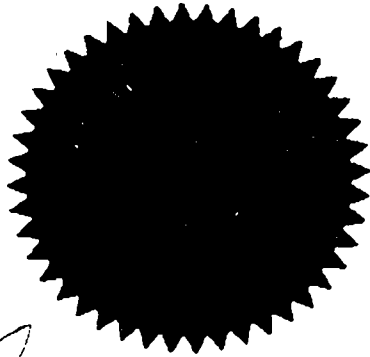


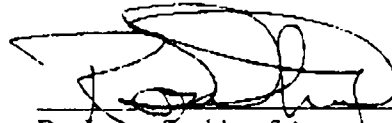
ATTEST:

[Signature]
Kudyas'ita, Pueblo of Acoma

CERTIFICATION

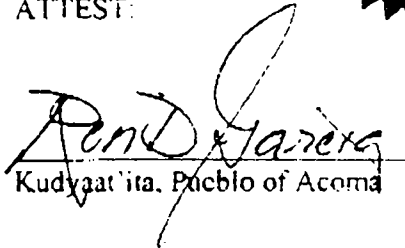
I, the undersigned as Governor of the Pueblo of Acoma, "Sky City", hereby certify that the Acoma Tribal Council at a duly called meeting of the Tribal Council held on the 24th day of September, 1997, at Acoma Pueblo, New Mexico, approved this resolution, a quorum being present and that 8 voted for and 0 opposed.





 Daabupa, Pueblo of Acoma

ATTEST:



 Kudyat'ita, Pueblo of Acoma

OCT 20 1997

1997 Amendments to Acoma Gaming Ordinance

The 1994 Acoma Gaming Ordinance codified as Title 11 Gaming Ordinance in Pueblo of Acoma Laws - 1995 is hereby amended to the following extent (new language is shown in italics; deletions are shown by striking through the deleted language):

1. Section 3. **Definitions**, is changed by adding the following new subsection:

K. "Gaming" means any tribal bingo game, video gaming, and any other forms of gaming defined in Section 9 of this Ordinance entitled **Scope of Gaming**.

L. "Gaming Compact" means a gaming compact signed by the Pueblo of Acoma and *deemed* or otherwise approved by the Secretary of the Interior, pursuant to the Indian Gaming Regulatory Act ("IGRA") (25 U.S.C. §§ 2701-2721) [Public Law 100-497, 102 Stat. 2467-2488].

2. Section 6. **Tribal Gaming**, subsection B is changed to read

B. The Gaming Manager shall supervise the administration of this section pursuant to rules and regulations governing the holding, operating and conducting of tribal gaming adopted by the Acoma Gaming Commission which shall be in accordance with, and shall not violate the provisions of this ordinance. The Gaming Manager or his designee shall provide for the rental or purchase of premises and equipment required for the operation of tribal gaming, and shall provide that tribal gaming shall be held, operated and conducted in conformity with the provisions of this ordinance, any management contract approved by the ACOMA Pueblo Tribal Council, *the Gaming Compact*, and the Indian Gaming Regulatory Act ("IGRA") (25 U.S.C. §§ 2701-2721) [Public Law 100-497, 102 Stat. 2467-2488].

3. Section 6. **Tribal Gaming**, subsection C is changed to read

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

The most recent policies applicable to the Pueblo as a whole, or its business enterprises or casino specifically shall apply to tribal gaming.

4. Section 6. **Tribal Gaming**, subsection H is changed to read

H. Records Retention. The gaming manager shall maintain adequate written

records of bingo, and other Class II gaming activities on the premises for period of at least 4 years. *Records for Class III gaming activities shall be maintained for period of at least 6 years.* These records shall include:

1. Gross Receipts
2. Records of prizes, maintain pursuant to paragraph E above
3. Any and all expenses
4. Capital expenditures
5. Contract
6. Net profits
7. Payments to Acoma's general fund.
8. *Documents and calculations required to be maintained to satisfy terms of the gaming compact.*

5. Section 7. **Operations of Games**, shall be amended to read

Subsection C is revised to read

C. Games of bingo and ~~video~~ other gaming may be conducted each and every day of the week and at any hour of the ~~date~~ day or night, at the discretion of the Gaming Manager *except as limited by this ordinance, the regulations of the Acoma Gaming Commission, the gaming compact or federal law.*

6. Subsection H is revised to read

H. 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.

7. Subsection K. Security is revised to read

K. Security. Acoma Gaming Enterprise shall adequate security, which at a minimum shall require at least two security people on duty at all times. Video gaming *and all Class III gaming* 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 Acoma gaming operation shall be review with the Acoma Gaming Commission at least once each year.

8. Section 8. **Violations; Jurisdiction**, subsection C is changed to read

C. The Acoma Gaming Commission shall have jurisdiction over all civil

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

9. Section 9. **Scope of Gaming**, shall be revised as follows:

Subsection C. Casino gaming is amended by adding slot machines and deleting the phrase "sports betting and pari-mutuel wagering" from the scope of permissible gaming. The revised subsection shall read.

C. 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. Any sports betting and parimutuel wagering;~~

3.2 Lotteries.

10. Subsection D is changed to read:

D. Gaming compact. The ~~scope of~~ Gaming permitted under this ordinance ~~may~~ shall be restricted by gaming compact signed *by the Pueblo of Acoma* 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.

11. Section 11. **Acoma Gaming Commission**,

Subsection I. Powers and duty of the Acoma Gaming Commission is amended by

adding a new Sub-Section 17 - Compact regulation

Section 17 - Gaming Compact Regulation.

a. The Acoma 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 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 in the gaming enterprise 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 Acoma.

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

12. Subsection K is changed to read

K. Appeals to Tribal Court. Any person aggrieved by the final action of the Gaming Commission may file an appeal to the Tribal Court. *The Tribal Court shall not take new evidence; it shall base its decision on the record made before the Gaming Commission. An action of the Gaming Commission shall not be reversed unless it is arbitrary, capricious or otherwise contrary to law.* The person shall 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 decision of the Tribal Court shall be final.

13. Section 12. **Gaming Licenses and Investigations** shall be amended as follows:

Subsection G. License fees is changed to read

G. License fees. The Acoma Gaming Commission shall set a reasonable fee for processing each license applications. 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.

14. Subsection H. License Issuance shall be amended to read

H. License issuance by ~~governor's office~~ Acoma Gaming Commission. Each Acoma Pueblo gaming license shall be issued by the Acoma Gaming Commission.

15. A new subsection I. Temporary License shall be added to Section 12, and shall read

I. Temporary License. The Acoma Gaming Commission through its chair or Executive Director may issue a temporary gaming license to individuals who have completed a notarized Acoma Gaming application and a notarized Release of Information form. 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 90 days, or 5 days after federal background reports have all been provided to the Commission, whichever the Commission determines is in the best interest of Acoma gaming. A temporary license may be revoked or suspended by the Commission at any time, for good cause.

16. A new subsection J. Licensing Providers of Gaming Equipment Devices or Supplies shall be added to Section 12, and shall read:

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

I. The Acoma Gaming Commission shall have responsibility for licensing providers of gaming devices and supplies, including those required by the gaming compact. The 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 permit the Commission to license those people.

All contracts and accounts for supplies, services, and concession for a contract amount is excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to Acoma gaming shall be subject to licensure. The Commission shall also have authority to license a small vendor if that is in the best interest of the Pueblo of Acoma.

2. 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.*

3. 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.*

4. License Fee. *Each person applying to the Acoma Gaming Commission for a vendor's license shall pay a fee pursuant to a fee schedule established by the Acoma Gaming Commission.*

17. Section 13. **Site Permits for Gaming** needs to be changed to limit the Pueblo lands where a gaming facility can be situated. A new subsection C is added

C. Appropriate Lands for Gaming Sites. A site permit for a gaming facility can only be issued for lands within the ACOMA Pueblo's grant and reservation lands, and other lands held in trust be the United States for the ACOMA Pueblo or owned by the ACOMA Pueblo subject to restrictions against alienation imposed by the United States and over which the tribe exercises jurisdiction and governmental authority as those boundaries existed on October 17, 1988.

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