



MAR 16 2012

VIA FACSIMILE and
FIRST CLASS MAIL

Mr. George Rivera, Governor
Pueblo of Pojoaque
78 Cities of Gold
Santa Fe, NM 87506
Fax: 505-819-2299

Re: Amended Gaming Ordinance

Dear Governor Rivera:

This letter responds to your request for the National Indian Gaming Commission to review and approve the Third amended and restated Gaming Ordinance of the Pueblo of Pojoaque (Pueblo).

The Pueblo's Gaming Ordinance (Ordinance) was authorized by Resolution No. 2011-107 on December 15, 2011, No. 2012-006 on February 7, 2012, and Resolution No. 2012-017 on March 8, 2012. The Ordinance was amended and restated in its entirety.

Thank you for bringing the amended ordinance to our attention. The Ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions, please feel free to contact Staff Attorney Heather McMillan Nakai at (202) 632-7003.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tracie L. Stevens".

Tracie L. Stevens
Chairwoman

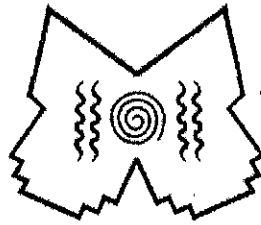
cc: Frank Demolli, Pueblo of Pojoaque General Counsel

GOVERNOR

George Rivera

TRIBAL SECRETARY

Stephanie J. Crosby



LIEUTENANT GOVERNOR

Joseph M. Talachy

TRIBAL TREASURER

Mary Ann K. Fierro

PUEBLO OF POJOAQUE

OFFICE OF THE GOVERNOR

78 CITIES OF GOLD ROAD

SANTA FE, NEW MEXICO 87506

Tel: (505)819-2276 Fax (505)819-2299

PUEBLO OF POJOAQUE TRIBAL COUNCIL RESOLUTION 2012 - 017

FIFTH AMENDMENT TO THE THIRD AMENDED AND RESTATED GAMING ORDINANCE OF THE PUEBLO OF POJOAQUE

WHEREAS, the Pueblo of Pojoaque ("Pueblo") is a sovereign and federally recognized Indian Tribe, with the authority to govern its people, lands and other resources; and

WHEREAS, the Pueblo operates as a traditional government with no written constitution; and

WHEREAS, the Pueblo of Pojoaque Tribal Council ("Tribal Council") is the governing body acting with authority for the Pueblo and responsible for the Pueblo in its exercise of its sovereign governmental powers; and

WHEREAS, the Tribal Council wishes to protect the health, safety and welfare of the Pueblo; and

WHEREAS, on November 15, 2006, the Tribal Council adopted the Third Amended and Restated Gaming Ordinance ("Third Gaming Ordinance") of the Pueblo of Pojoaque, and made further amendments on February 6, 2007, December 15, 2011, and February 7, 2012; and

WHEREAS, after consultation with the National Indian Gaming Commission ("NIGC"), the Pueblo wishes to make a further amendment to the Third Gaming Ordinance and to adopt the NIGC definition of "net revenues," as reflected in 25 C.F.R. § 502.16, as amended in 2009.

NOW, THEREFORE, BE IT RESOLVED, by the Tribal Council of the Pueblo of Pojoaque that the Third Gaming Ordinance shall be amended by updating the definition of "net revenues" in Section 10-8-2(S) as follows: "total gaming related operating expenses" shall be replaced with "total gaming-related operating expenses, including all those expenses of the

gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees”.

BE IT FURTHER RESOLVED, that the Governor and the General Counsel of the Pueblo of Pojoaque are hereby authorized and directed to submit this Fifth Amendment to the Third Amended and Restated Gaming Ordinance to the National Indian Gaming Commission, along with a complete Third Amended Gaming Ordinance, as amended, for approval in accordance with the provisions of the Indian Gaming Regulatory Act.

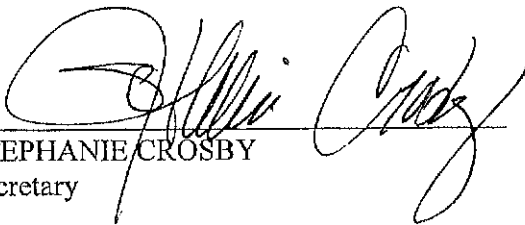
CERTIFICATION

The foregoing **FIFTH AMENDMENT TO THE THIRD AMENDED AND RESTATED GAMING ORDINANCE OF THE PUEBLO OF POJOAQUE** was adopted by the Pueblo of Pojoaque Tribal Council, at a duly-called meeting on March 8, 2012 by the affirmative vote of 17 to 0, with 0 abstentions.



GEORGE RIVERA
Governor

ATTEST:



STEPHANIE CROSBY
Secretary

Chapter 10
BUSINESS AND COMMERCIAL LAW
ARTICLE VIII

THIRD AMENDED AND RESTATED
GAMING ORDINANCE OF THE PUEBLO OF POJOAQUE

February 6, 1992

Amended and Restated January 20, 1994 by Resolution No. 1994-04

Amended and Restated May 26, 1994 by Resolution No. 1994-24

Amended September 19, 1997 by Resolution No. 1997-69

Amended and Restated November 15, 2006 by Resolution 2006-123

Amended February 6, 2007 by Resolution 2007-020

Amended December 15, 2011 by Resolution 2011-107

Amended December 15, 2011 by Resolution 2011-108

Amended February 7, 2012 by Resolution 2012-006

Amended March 8, 2012 by Resolution 2012-017

TABLE OF CONTENTS

PREAMBLE	1
10-8-1. Name	2
10-8-2. Definitions	2
10-8-3. Purposes	7
10-8-4. Interpretation	7
10-8-5. Gaming Policy	7
A. Games of Chance Prohibited.....	7
B. Ownership of Gaming Enterprise.....	7
C. Protection of Environment; Public Health and Safety	8
10-8-6. Pueblo of Pojoaque Gaming Commission	8
A. Establishment of Commission.....	8
B. Powers and Duties.....	8
C. Composition; Staggered Terms.....	10
D. Qualification of Commissioners.....	11
E. Removal of Commissioners	11
F. Resignation and Vacancies.....	12
G. Selection of Chairman.....	12
H. Motions and Resolutions; Meeting; Quorum.....	12
I. Cooperation with Law Enforcement Agencies	12
J. Compensation.....	13
10-8-7. License for Operating and Conducting Games of Chance	13
A. License Required.....	13
B. License Application.....	13
C. Background Investigations.....	15
D. Temporary License.....	17
E. Eligibility Determination.....	18
F. Additional Background Investigations.....	18
G. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.....	18
H. Report to the National Indian Gaming Commission.....	19
I. Granting a Gaming License.....	20
10-8-8. Management Contract	20
A. Recommendation of Managers.....	20
B. Management Contract	21

C.	License Required for Approval of Management Contract	21
D.	Standards for Approval	21
E.	Management Contract Fees	22
F.	Standards for Disapproval	22
G.	Action by Commission	22
H.	Modification and Revocation of Management Contract	23
I.	No Transfer of Real Property	23
J.	Approval by Council	23
K.	Management Contract Binding Upon Approval	23
10-8-9.	Financial Practices and Reporting.....	23
A.	Monthly Reports	23
B.	Maintenance of Books and Records; Commission Access	24
C.	Allowable Operating Expense.....	24
D.	Deposit of Gross Receipts; Payments	25
E.	Annual Audit	25
F.	Audit of Contracts	26
G.	Disposition of Net Revenues.....	26
H.	Compliance with Internal Revenue Code.....	26
10-8-10.	Bingo and Class III Games.	26
A.	Bingo	26
B.	Provisions Applicable to Class III Activities.	26
C.	Action by the Governor.....	27
D.	Designation of Officer In Charge.....	27
E.	Premises Open to Commission	28
F.	Merchandise Prizes	28
G.	Usual Prices.....	28
H.	Limits on Prizes.....	28
I.	Rules of Play for Bingo Games.....	28
J.	Employees; Prohibition Against Employees Playing.....	29
K.	Qualification for Employment; Testing	30
L.	Preference in Employment	30
M.	Personnel Policies	31
N.	Hiring and Training of Employees.....	31
O.	Expenses of Training Employees.....	31
P.	Patron Disputes.	31
10-8-11.	Suspension or Revocation of License.	32
A.	Grounds for Suspension and Revocation	32
B.	Notice; Immediate Suspension.....	33
C.	Contents of Complaint; Service	33
D.	Answer; Subpoenas	34
E.	Hearing; Written Decision	34
F.	Surrender of License	34

G.	Additional Sanctions	34
H.	Appeal to Tribal Court	35
I.	Recusal of Commissioners; Appointment of Hearing Officer	35
10-8-12.	Enforcement; Jurisdiction; Subpoenas.....	35
A.	Civil Remedies	35
B.	Tribal Court Jurisdiction	36
C.	Enforcement of Commission Subpoenas	37
10-8-13.	Effective Date.	37
10-8-14.	Agent for Service of Process.....	37

PREAMBLE

On December 15, 2011, the Pueblo of Pojoaque Tribal Council (“Tribal Council”) unanimously passed Tribal Council Resolution 2011-108 to clarify the intent of the Third Amended and Restated Gaming Ordinance in light of Pueblo of Pojoaque customs and traditions. On February 7, 2012, the Tribal Council unanimously passed Tribal Council Resolution 2012-006. Resolution 2012-006 replaced a provision of Resolution 2011-108. The provision had stated that: “Upon termination of employment or a contract, the gaming license is immediately void and is to be surrendered within five days of the termination.” The new provision states that: “The term of the gaming license expires at the termination of employment and the gaming license is to be surrendered within five days of the termination.”

The operative provisions of those resolutions are reproduced in this preamble:

[1] The Pueblo of Pojoaque Gaming Commission’s primary duty is to protect gaming assets; and

[2] The Executive Director of the Pueblo of Pojoaque Gaming commission shall have the power and authority to make any decision on behalf of the PPGC as long as the decision is ratified by the PPGC during a scheduled PPGC meeting or the decision is ratified by a quorum of the PPGC commissioners; and

[3] There are no property rights in a gaming license at any time; and

[4] The issuance of a gaming license is a revocable privilege and Section 10-8-11 of the Third Gaming Ordinance, as may be amended from time to time, only applies to revocations when there is an allegation of wrongdoing and a complaint has been filed with the PPGC requesting revocation; and

[5] The term of the gaming license expires at the termination of employment and the gaming license is to be surrendered within five days of the termination; and

[6] Any party may appeal a decision of the PPGC to the tribal court and any subsequent tribal court decision may be appealed to the Tribal Council; and

[7] Any PPGC licensing decision that is appealed from the Tribal Court to Tribal Council shall be filed and heard in accord with Pueblo of Pojoaque Tribal Council Resolution 98-52, Pojoaque Pueblo Appellate Procedure.

BE IT ENACTED BY THE COUNCIL OF THE PUEBLO OF POJOAQUE:

An Ordinance to Govern, Regulate, and Control Gaming Activities on the Pueblo of Pojoaque.

10-8-1. Name.

The name of this Ordinance shall be the Gaming Ordinance of the Pueblo of Pojoaque.

10-8-2. Definitions.

The following words shall have the following meanings under this Ordinance, unless the context otherwise requires:

A. "Bingo game" means the game of chance commonly known as "bingo"(whether or not electronic, computer, or other technological aids are used in connection therewith) which is played for prizes, including monetary prizes, with cards bearing numbers and other designations in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo;

B. "Class II gaming" means all forms of gaming as defined in Section 4(7) of the Indian Gaming Regulatory Act, 25 U.S.C. § 2703(7) and 25 C.F.R. § 502.3;

C. "Class III gaming" means all forms of gaming as defined in Section 4(8) of the Indian Gaming Regulatory Act, 25 U.S.C. § 502.4;

D. "Commission" means the Pueblo of Pojoaque Gaming Commission established by this Ordinance;

E. “Equipment” includes, with respect to bingo games, the receptacle and numbered objects drawn from it, the master board upon which such objects are placed as drawn; the cards or sheets bearing or other designations to be covered and the objects used to covers them; the board or signs, however operated, used to announce or display the numbers or designations as they are drawn; the public address system; and all other articles essential to the operations, conduct, and playing of bingo games;

F. “Games of chance” means bingo and Class III gaming, but does not include social games played solely for prizes of minimal value, or traditional forms of Indian gaming engaged in by individuals as a part of, or in connections with, tribal ceremonies or celebrations;

G. “Gaming Device” means

(1) Any so-called “slot machine” or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and (A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(2) Any other machine or mechanical device (including but not limited to roulette wheels and similar devices) designed and manufactured primarily for use in connection with gambling, and (A) which when operated may deliver, as the result of the application of an element of chance, and money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(3) Any subassembly or essential part intended to be use in connection with any

such machine or mechanical device, but which is not attached to any such machine or mechanical device as a constituent part.

H. “Gaming Facilities” means the place, facility, or location on Indian lands in which Class II or Class III gaming is conducted with Indian lands being defined per the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2703(4), 2719;

I. “Gaming Ordinance” means this Gaming Ordinance of the Pueblo of Pojoaque and any rules or regulation promulgated hereunder;

J. “Gaming Services” means the providing of any goods or services, except for legal services, to the Pueblo in connection with the operation of Class II or Class III gaming in a Gaming Facility, including but not limited to equipment, transportation, food, linens, janitorial supplies, maintenance, or security services for the Gaming Facility, in an amount of excess of \$10,000 in any single month;

K. “Governor” means the Governor of the Pueblo of Pojoaque;

L. “Gross receipts” means receipts from the sale of shares, tickets, or rights in any manner connected with participation or the right to participate in any game of chance, including but not limited to any admission fee or charge, the sale of merchandise, refreshments, souvenirs, services, equipment, or supplies, interest earned on deposits, and all other miscellaneous receipts;

M. “Key Employee” means

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

- a. Bingo caller;
- b. Counting room supervisor;
- c. Chief of security;

- d. Custodian of gaming supplies or cash;
- e. Floor manager;
- f. Pit boss;
- g. Dealer;
- h. Croupier;
- i. Approver of credit; or
- j. Custodian of gambling devices including persons with access to

cash and accounting records within such devices;

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

(3) If not otherwise included, the four most highly compensated persons in the gaming operation;

N. “License” means a license duly issued to primary management officials and key employees of any gaming enterprise conducted on the Pueblo of Pojoaque by the Tribal Council pursuant to this Gaming Ordinance;

O. “Licensee” means any person who has been duly licensed by the Tribal Council;

P. “Manager” means the Manager of Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations, hired pursuant to Section 8 of this Gaming Ordinance;

Q. “Member of the Pueblo” means an enrolled member of the Pueblo of Pojoaque;

R. “National Indian Gaming Commission” means the National Indian Gaming Commission established by the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-21, 18 U.S.C.

§§1166-68;

S. “Net revenues” means the gross receipts less (a) amounts paid out as, or paid for, prizes, and (b) total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees;

T. “Occasion” means a gathering at which a game of chance is played;

U. “Person” means an individual, trust, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other legal entity whatsoever;

V. “Premises” means any room, hall, building, enclosure, or outdoor or other area used for the purpose of playing a game of chance;

W. “Primary Management Official” means

- (1) The person having management responsibility for a management contract;
- (2) Any person who has authority;
 - a. To hire and fire employees, or
 - b. To set up working policy for the gaming operation; or
- (3) The chief financial officer or other person who has financial management responsibility.

X. “Pueblo” means the Pueblo of Pojoaque;

Y. “Pueblo of Pojoaque” means the Pueblo of Pojoaque and any lands title to which is held in trust by the United States for the benefit of the Pueblo of Pojoaque or a member thereof or held by the Pueblo of Pojoaque subject to a restriction by the United States against alienation, and other which lands the Pueblo of Pojoaque exercises governmental power;

Z. “Tribal Council” means the Tribal Council of the Pueblo of Pojoaque, the governing body of the Pueblo; and

AA. “Tribal Court” means the Pueblo of Pojoaque Tribal Court.

10-8-3. Purposes.

The purposes of this Gaming Ordinance are to make lawful and to regulate the operation, conduct, and playing of games of chance on the Pueblo of Pojoaque so that revenue may be produced to fund tribal governmental operations and programs which promote the health, education, and welfare of the Pueblo and its members and which promote tribal economic development.

10-8-4. Interpretation.

This Gaming Ordinance is an exercise of the sovereign power of the Pueblo of Pojoaque and shall be liberally construed for the accomplishment of its purposes and to comply with the Indian Gaming Regulatory Act.

10-8-5. Gaming Policy.

A. Games of Chance Prohibited. No person may operate or conduct any games of chance within the boundaries of the Pueblo of Pojoaque except in accordance with the provisions of this Gaming Ordinance.

B. Ownership of Gaming Enterprise. The Pueblo of Pojoaque, acting through the Tribal Council and such Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations as the Pueblo of Pojoaque may find necessary and convenient to form, shall have the sole proprietary interest in and responsibility for the operation and conduct of any games of chance operated or conducted on the Pueblo of Pojoaque.

C. Protection of Environment; Public Health and Safety. The construction and maintenance of any gaming facility, and the operation and conduct of any and all games of chance, shall be done in a manner that adequately protects the environment and the public health and safety.

10-8-6. Pueblo of Pojoaque Gaming Commission.

A. Establishment of Commission. There hereby is established the Pueblo of Pojoaque Gaming Commission for the purposes of regulating all games of chance within the Pueblo of Pojoaque and enforcing this Gaming Ordinance.

B. Powers and Duties. The Commission shall have the following powers and duties:

(1) The Pueblo of Pojoaque Gaming Commission shall promulgate any and all regulations it deems necessary or appropriate for the regulation of gaming activity within the Pueblo of Pojoaque, so as to fulfill the purposes of this Ordinance, and in particular shall promulgate any and all regulations necessary or appropriate to assure full compliance by the Pueblo and its gaming enterprises with any and all provisions of the Act and the Compact that is in effect, and all such regulations properly promulgated by the Commission within the scope of its powers granted herein shall have the full force of law within the Pueblo of Pojoaque.

(2) To grant, suspend, or revoke licenses to primary management officials and key employees of Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations, in accordance with this Gaming Ordinance.

(3) To monitor and oversee the operation and conduct of all games of chance within the exterior boundaries of the Pueblo of Pojoaque on a continuing but not limited to ongoing monitoring and oversight of licensees engaged in the operation and conduct of such

games.

(4) To inspect and examine all premises within the Pueblo of Pojoaque at which games of chance are played.

(5) To conduct or cause to be conducted background investigations of persons involved, directly or indirectly, in the operation or conduct of games of chance within the Pueblo of Pojoaque.

(6) To inspect, examine, photocopy, and audit all papers, books, and records respecting gross receipts of gaming activities operated or conducted within the Pueblo of Pojoaque and any other matters necessary to carry out the duties of the Commission under this Gaming Ordinance.

(7) To bring suits in the Tribal Court seeking temporary and permanent orders closing a game of chance in accordance with this Gaming Ordinance.

(8) To enter into contracts with tribal, federal, state and private entities for activities necessary to the discharge of the duties of the Commission and to contract with the National Indian Gaming Commission for the enforcement of federal regulations governing gaming on the Pueblo of Pojoaque.

(9) Subject to the approval of the Tribal Council, to adopt the budget of the Commission annually.

(10) Subject to the approval of the Tribal Council, to establish fees for applications for licensees and fees for licensees based on a percentage of the gross receipts of games of chance operated or conducted by such licensees.

(11) To require by subpoena the attendance and testimony of witnesses and the

production of all books, papers, and documents relating to any matter under consideration or investigation by the Commission, and to bring actions in the Tribal Court for the enforcement of such subpoenas.

(12) To administer oaths and affirmations to witnesses appearing before the Commission.

(13) Subject to the approval of the Tribal Council, to approve gaming management contracts in accordance with this Gaming Ordinance.

(14) To hear appeals in accordance with this Gaming Ordinance.

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

(16) To promulgate rules and regulations as it deems appropriate to implement the provisions of this Gaming Ordinance.

(17) To recommend amendments this Gaming Ordinance to the Tribal Council.

(18) To submit an annual report to the Tribal Council on the activities of the Commission, such report to include information on the funding, income, and expenses of the Commission.

C. Composition; Staggered Terms. The Commission shall consist of three (3) Commissioners appointed by the Governor of the Pueblo, with the consent of the Tribal Council. Each Commissioner shall serve for a terms of three (3) years; provided that, in order to stagger the expiration of terms of office, the first Commissioner appointed shall serve a three-year term, the second Commissioner appointed shall serve a two-year term, and the third Commissioner appointed shall serve a one-year term. A Commissioner may serve after the expiration of his

term of office until a successor has been appointed, unless such Commissioner had been removed for cause under Subsection E of this Section.

D. Qualification of Commissioners. At least one (1) Commissioner must be an enrolled member of the Pueblo. No person shall be eligible or qualified to serve or continue to serve as a Commissioner, who;

(1) Has been convicted of a felony or gaming offense;

(2) Has any financial interest in, or management responsibility for, any gaming activity; or

(3) Has a financial interest in, or management responsibility for, any bingo management contract submitted to the Commission for review or approval.

E. Removal of Commissioners. A Commissioner may be involuntarily removed from office prior to the expiration of his term in accordance with the following procedures:

(1) Removal of a Commissioner may be initiated by providing the Secretary of the Tribal Council with a written request specifying the cause for removal, signed by not less than one-half (½) of the members of the Tribal Council.

(2) The cause for removal shall be limited to: (1) conviction in any court of a felony or crime involving moral turpitude; (2) failure to meet or maintain the qualification for Commissioners set forth in Subsection D of this Section; (3) gross neglect of duty; or (4) malfeasance in office, or conduct which amounts to gross and intentional disregard of the laws and procedures applicable to the affairs of the Commission.

(3) Not less than twenty (20) nor more than thirty (30) days following receipt of the written request for removal, the Tribal Council shall convene a special meeting for the sole

purpose of voting on the removal of the Commissioner. Before any vote is taken, the Commissioner shall be given a full opportunity, either in person or through a representative of his choice, to answer or otherwise respond to any and all charges against him or her.

(4) To remove a Commissioner from office, the affirmative vote of no less than two-thirds (2/3) of the members of the Tribal Council is required.

F. Resignation and Vacancies. Any Commissioner may resign at any time by giving written notice of such to the Secretary of the Commission and to the Secretary of the Tribal Council. The resignation shall become effective at the time specified in such notice, and the acceptance of such resignation shall not be necessary to make it effective. Any vacancy on the Commission, howsoever caused, shall be filled for the unexpired portion of the vacated Commissioner's term by a qualified person appointed by the Governor with the consent of the Tribal Council.

G. Selection of Chairman. The Commission shall select annually by majority vote one (1) of its members to serve as Chairman, one (1) of its members to serve as Vice Chairman, and one (1) of its members to serve as Secretary. The Vice Chairman shall serve as Chairman during meetings of the Commission at which the Chairman is absent.

H. Motions and Resolutions; Meeting; Quorum. The powers of the Commission are vested in the Commissioners. All official actions of the Commission shall be taken by motion or resolution approved by the affirmative vote of a majority of the Commission. The Commission shall meet at the call of the Chairman or a majority of its members but shall meet at least once every three (3) months. Two (2) members of the Commission shall comprise a quorum.

I. Cooperation with Law Enforcement Agencies. The Commission may cooperate

with law enforcement officials of the State of New Mexico, the Bureau of Indian Affairs, the Federal Bureau of Investigations, and other law enforcement agencies, when such cooperation is in the best interest of the Pueblo and will help to insure that fair, honest, and efficient games of chance are operated and conducted within the Pueblo of Pojoaque.

J. Compensation. Commissioners shall be compensated as determined by the Tribal Council and in accordance with the annual budget of the Commission.

10-8-7. License for Operating and Conducting Games of Chance.

A. License Required. The Gaming Facility Operator, including its principals; Primary Management Officials, and Key Employees; the Manager and its principals; any person, corporation, or other entity that has supplied or proposes to supply any Gaming Devices to Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations or the Managers; and each Person providing Gaming Services within or without a Gaming Facility shall apply for and receive a license from the Commission before their participation in any way in the operation or conduct of any Gaming Activities within the Pueblo of Pojoaque. A separate facility license shall be issued to each place, facility, or location at which Class II or III gaming is conducted.

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 a Key Employee or a Primary Management Official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance, denial, 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 license you for 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) Existing Key Employees and Primary Management Officials shall be notified in writing that they shall either;

- a. Complete a new application form that contains a 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 a Key Employee or a Primary Management Official before that form is filled out by an applicant:

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

(4) The Commission shall notify in writing existing Key Employees and Primary Management Officials 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 required fee for licensing, the Commission shall conduct or cause to be conducted a background investigation to ensure that the applicant is qualified for licensing.

(2) The Commission shall request from each applicant, and from each 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(s), birth date, place of birth, citizenship, gender, and all languages spoken or written;
- b. Currently and for the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license number; provided that any applicant who is a Primary Management Official, Key Employee, Management Contract, Manufacturer and Supplier of Gaming Devices, and/or a Person providing Gaming Services, must provide such information currently and from the age of eighteen;
- c. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed in paragraph (1)(b) of this section;

- d. Current business and residence telephone numbers;
- e. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses, and a description of any potential or actual conflict of interest between such businesses and Indian tribes;
- f. A description of any existing and previous business relationships in the gaming industry, including but not limited to ownership interest in those businesses;
- g. The name and address of any licensing or regulatory agency with which in the Person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the date of the charge, the name and address of the court involved, and the disposition, if any;
- i. For each misdemeanor for which there is an ongoing prosecution or conviction (excluding minor traffic violations), 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 such criminal charge is not otherwise listed pursuant to paragraph (2)(h) or (2)(1) 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, Primary Management Official, or Key Employee, and whether or not such license or permit was

granted;

l. A current photograph;

m. Fingerprints consistent with procedures adopted by the Pueblo according to 25 C.F.R § 522.2(h);

n. the fee required by the Commission; and

o. Any other information the Commission deems relevant.

(3) 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.

(4) At all times, the Commission shall perform background investigations and issue licenses according to requirements as stringent as 25 C.F.R. and 558; as required by 25 C.F.R. § 522.4(b)(5).

(5) The Commission shall use the NIGC electronic fingerprint program to fulfill the requirements of 25 C.F.R. (h). The criminal history check shall include a check of criminal history records information maintained by the Federal Bureau of Investigation.

D. Temporary License. Within twenty (20) days of the receipt of a completed application for licensing, and upon request of an applicant, 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 ground sufficient to disqualify the applicant are apparent on the face of the application. The temporary license shall become void and be of no effect upon either (1) the issuance of the license; (2) the issuance of a notice of denial; or (3) ninety (90) days after the licensee has begun working.

E. Eligibility Determination. The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of an applicant, Key Employee, or Primary Management Official for granting of a gaming license. If the Commission, in applying the standards in this Gaming Ordinance, determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Commission shall deny the license application.

F. Additional Background Investigations. The Commission retains the right to conduct additional background investigations of any Person required to be licensed at any time while the license is valid.

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

(1) When a Key Employee or Primary Management Official begins work at a Gaming Operation authorized by this Gaming Ordinance, the Commission shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Subsection (E) of this Section.

(2) The Commission shall forward the report referred to in Subsection (H) of this Section to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this Gaming Ordinance by the Chairman of the National Indian Gaming Commission.

(3) The Gaming Operation shall not employ as a Key Employee or Primary Management Official a Person who does not have a license after ninety (90) days.

H. Report to the National Indian Gaming Commission.

(1) Pursuant to the procedures set out in Subsection (G) of this Section, the Commission shall prepare and forward to the National Indian Gaming Commission (“NIGC”) an investigative report on each background investigation. An 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 National Indian Gaming Commission; and
- b. may forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

(4) With respect to Key Employees and Primary Management Officials, the Commission shall retain applications for employment and report (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

I. Granting a Gaming License.

(1) If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Commission that it has no objection to the issuance of a license pursuant to a license application filed by a Key Employee or a Primary Management Official for whom the Commission had provided an application and investigative report to the National Indian Gaming Commission, the Commission may issue a license to such applicant.

(2) The Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a Key Employee or a Primary Management Official who is the subject of a report. Such a request shall suspend the 30-day period under Paragraph (I) (1) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

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

10-8-8. Management Contract.

A. Recommendation of Managers. The Board of Directors of Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations shall

recommend to the Tribal Council a person to serve as Managers of Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations. Upon receiving a recommendation from the Board of Directors, the Tribal Council shall either approve or disapprove the person recommended.

B. Management Contract. Upon approval by the Tribal Council of the person recommended to serve as Managers, the Board of Directors of Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations shall execute a management contract with the Managers, such management contract to be subject to the approval of the Commission and the Tribal Council in accordance with this Section. For purposes of this Gaming Ordinance, any reference to the management contract shall be considered to include all collateral agreements to such contract as related to the gaming activity.

C. License Required for Approval of Management Contract. Before approving any management contract, the Commission shall require that all primary management officials and key employees of the Managers be licensed by the Tribal Council.

D. Standards for Approval. The Commission may approve a gaming management contract only if the contract provides:

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

(2) For access of Commission officials to the daily operations of the gaming and for permission for such officials to verify the daily gross revenues and income made from the licensed gaming activity;

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

(4) For an agreed ceiling for the repayment of development and construction costs, if any;

(5) For a contract term not to exceed three (3) years;

(6) For ground and procedures for terminating such contract, but actual contract termination shall not require the approval of the Commission; and

(7) The Commission shall not approve a management contract unless it contains all of the provisions required by 25 C.F.R § 531.1.

E. Management Contract Fees. The Commission may approve a management contract providing for a fee based upon a percentage of the net revenues. Such fee shall not exceed thirty percent (30%) of the net revenues.

F. Standards for Disapproval. The Commission shall not approve any management contract if the Commission determines that:

(1) The Managers or any primary management official or key employee of the Managers 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 contract.

G. Action by Commission. The Commission shall approve or disapprove a management contract within thirty (30) days after it is submitted to the Commission for approval. The Commission may extend the thirty (30) day period by not more than thirty (30) days if it notifies the Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-

owned gaming corporations and the Tribal Council in writing of the reason for the extension.

H. Modification and Revocation of Management Contract. The Commission, after notice and hearing, shall have the authority to require appropriate contract modification and may void any management contract if it determines that this Gaming Ordinance or the management contract has been violated.

I. No Transfer of Real Property. No management contract for the operation and management of a gaming activity regulated by this Gaming Ordinance shall transfer or in any other manner convey any interest in land or other real property, unless specific statutory authority exists, therefor and unless clearly specified in writing in said management contract.

J. Approval by Council. Upon the approval of a management contract by the Commission, the management contract shall be submitted to the Tribal Council for approval or disapproval. The Tribal Council shall approve or disapprove the management contract within thirty (30) days of its submission.

K. Management Contract Binding Upon Approval. No management contract, and no modification, revision, or amendment thereto, shall be binding upon Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations unless and until approved by the Commission and the Tribal Council.

10-8-9. Financial Practices and Reporting.

A. Monthly Reports. On or before the tenth day of each month, Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations and the Managers shall file with the Commission and the Tribal Council a certified financial report for the preceding calendar month showing the amount of gross receipts derived from games of

chance, the operating expenses incurred or paid, the specific classification of such expenses, the names and addresses of each person to whom has been paid Six Hundred Dollars (\$600.00) or more in the aggregate and the purposes of such payments, and the net revenues derived from games of chance. It is the duty of Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations and the Managers to maintain and keep such books and records as may be necessary to substantiate the particulars of each report. If Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations or the Managers fail to file a report within the time allowed, or if a report is not properly certified or not fully, accurately, and truthfully completed, the license of Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations or the Managers may be suspended by the Commission until such time as the deficiency had been corrected.

B. Maintenance of Books and Records; Commission Access. Full and accurate books of account shall be kept at the places of business of Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations and the Managers, showing the condition of the business and all transaction relating to games of chance on the Pueblo of Pojoaque. The Commission and the Governor of the Pueblo shall have access to such books of account and shall be entitled to examine them without notice at any time during ordinary business hours or during games of chance either in person or by an agent. All records of games of chance in whatever medium shall be maintained for five (5) years.

C. Allowable Operating Expense. No item of expense shall be incurred or paid in connection with operating or conducting any game of chance except a bona fide expense in a reasonable amount. Expense may be incurred only for the following purposes:

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

(2) For services rendered by the Managers (including repayment of development fees and construction cost, if any) for maintenance or repairs of gaming and related equipment, and for operating or conducting a game of chance;

(3) For rent, janitorial, and security services;

(4) For legal and accounting fees;

(5) For taxes and license fees;

(6) For utilities;

(7) For insurance; and

(8) For prizes for winners of games of chance.

D. Deposit of Gross Receipts; Payments. All gross receipts shall be deposited in a special account of the Pueblo which shall contain only gross receipts. All prizes, operating expenses, debt service payments, satisfaction of other contractual obligations to which gaming revenues are pledged, shall be withdrawn from such account by consecutively numbered checks fully signed by the Managers or an official or officials thereof designated by the Managers, and the Governor or an employee or employees thereof designated by the Governor, payable to a specific person or organization. No check shall be drawn to “cash” or a fictitious payee.

E. Annual Audit. Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations and the Managers shall cause to be produced an annual outside independent certified audit of all gaming activities and shall deliver the same to the Tribal Council, the Commission, and the National Indian Gaming Commission in accordance with all applicable regulations.

F. Audit of Contracts. Any contract for supplies, services, or merchandise in an amount greater than \$25,000 annually, except contracts for professional legal or accounting services, which contract relates to gaming activities, shall be subject to annual outside independent certified audits on the order of the Tribal Council or the Commission.

G. Disposition of Net Revenues. The net revenues derived from games of chance shall be deposited into a specified fund by the Pueblo on a quarterly basis and shall not be used for purposes other than;

- (1) To fund Pueblo governmental operations and programs;
- (2) To provide for the general welfare of the Pueblo and its members; and
- (3) To promote tribal economic development.

H. Compliance with Internal Revenue Code. The Managers 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.

10-8-10. Bingo and Class III Games.

A. Bingo. Upon the Tribal Council's approval of a management contract, Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations shall have authority to establish, equip, operate, and maintain a bingo operation on premises located at such places on the Pueblo of Pojoaque as the Tribal Council may designate.

B. Provisions Applicable to Class III Activities.

(1) Gaming to be Conducted Pursuant to Compact. Any and all Class III Gaming Activities to be conducted on the Pueblo of Pojoaque shall be conducted in accordance with the Indian Gaming Regulatory Act, a Compact entered into between the Pueblo and the State of New

Mexico and/or procedures approved by the Secretary of the Interior.

(2) Vendor Licensing. Any person, corporation, or other entity that has supplied or proposes to supply any gaming equipment or devices to any entity on the Pueblo of Pojoaque for use in conjunction with any Class III gaming activity must be licensed by the Commission and shall be subject to a full background investigation in accordance with the provisions of Section 10-8-7 of this Ordinance, and the Commission shall prescribe appropriate forms, procedures, and standards for such licensing.

(3) Class III Gaming Rules. The Commission shall have the authority to prescribe rules and procedures to govern any Class III gaming authorized to be conducted pursuant to this ordinance not inconsistent with the provisions of the Compact or with this Ordinance, as the Commission deems reasonable and appropriate.

C. Action by the Governor. The Governor may, at his or her discretion and on his or her own behalf, based on reasonable grounds or on reliable complaint made, and after written notice giving Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations and the Managers thirty (30) days to cure an alleged violation, seek such relief from the Tribal Court as is authorized in this Gaming Ordinance, against Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations. The Managers or their primary management official, key employees, officers, directors, or employees having duties to perform respecting the operation and conduct of bingo and/or Class III gaming, as may be necessary in the judgment of the Governor for the proper enforcement of this Gaming Ordinance or any management contract.

D. Designation of Officer In Charge. The Managers shall designate a person to be

the officer in charge for each occasion. The officer in charge shall be primarily responsible for the operation and conduct of bingo games or Class III Gaming on that occasion. The officer in charge must have obtained a license from the Commission at least ten (10) days prior to the occasion. The officer in charge shall supervise all activities on the occasion and shall be present on the premises continuously during the playing of bingo games or Class III Gaming and for a period of at least one (1) hour after the last bingo game of the occasion has been completed.

E. Premises Open to Commission. Premises where any bingo game or Class III Gaming is being operated or conducted, or where it is intended that a bingo game or Class III Gaming will be operated or conducted, shall at all times be open to inspection by the Commission and its agents and employees.

F. Merchandise Prizes. When any merchandise is awarded as a prize in a bingo game or Class III Gaming, the value of such merchandise shall be its current retail price. Merchandise awarded as a prize shall not be redeemable or convertible into cash, directly or indirectly.

G. Usual Prices. Equipment, prizes, and supplies for games of chance shall not be purchased or sold at prices in excess of the usual price thereof.

H. Limits on Prizes. The size of the prizes offered or given in any bingo game or Class III Gaming or on any occasion shall be subject to such limits as may be established by regulations duly promulgated by the Commission or a Tribal-State Compact entered into pursuant to Section 11(d) of the Indian Gaming Regulatory Act.

I. Rules of Play for Bingo Games.

(1) The equipment used in playing bingo games and the method of play shall be

such that each card shall have an equal opportunity to win. The objects or balls to be drawn shall be essentially the same as to size, shape, weight, balance, and all other characteristics that may influence their selection. All objects or balls shall be present in the receptacle before each game is begun. All numbers or designations drawn shall be announced plainly and clearly, and shall be audible or visible to all the players present including, where more than one room is used for any bingo game, all players present in each room. The receptacle, the caller, and the person removing the objects or balls from the receptacle must be visible to all the players at all times, except that where more than one room is used for any bingo game, the receptacle and the caller must be present in the room where the greatest number of players are present. The cards or sheets of the players shall be part of a deck, group, or series of cards, no two of which shall be alike, and which deck, group, or series shall not be so prepared or arranged as to prefer any card. The particular arrangement of numbers or designations required to be covered in order to win the game and the amount of the prize shall be plainly and clearly described, and audibly or visibly announced to the players immediately before each game is begun.

(2) Players Entitled to Verification. Any player shall be entitled to call for a verification of all numbers or designations drawn at the time a winner is determined, and for a verification of the objects or balls remaining in the receptacle and not yet drawn. The verification shall be made in the immediate presence of the officer in charge on the occasion.

(3) Players Required To Be Present. Only persons physically present on the premises where a bingo game is actually operated and conducted may participate as players in the game.

J. Employees; Prohibition Against Employees Playing. All persons who operate or

conduct, or assist in operating or conducting, a bingo game or Class III gaming shall be employees of Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations or the Managers shall wear legible tags evidencing their names and the legend of the Pueblo. The Commission shall establish policies to regulate the playing of bingo, Class II and Class III games by employees of Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations. Under no circumstances shall surveillance employees be allowed to play any casino games.

K. Qualification for Employment; Testing. Employees of Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations and the Managers shall be of good moral character, shall not have been convicted of any gaming offense, and as a condition of their contract of employment, shall agree to any lawful means of testing for truthfulness, including but not limited to polygraph testing, at any time and without prior notice, concerning the handling, collection, and/or disbursement of gross receipts. No person shall be employed by Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations or the Managers, whose prior activities, criminal record if any, reputation, habits, or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the operation or conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

L. Preference in Employment. Members of the Pueblo and their spouses and children shall receive preference in employment and advancement if they meet the qualifications for employment with Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of

Pojoaque-owned gaming corporations and the Managers.

M. Personnel Policies. Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations and the Managers shall adopt written personnel policies that shall be provided to each employee; these shall provide an informal grievance procedure and shall provide for an employee's right to receive a written statement of reason for dismissal in the event such employee is dismissed.

N. Hiring and Training of Employees. Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations and their Managers shall provide sufficient training to all employees and shall provide for employees who are members of the Pueblo training programs with specified timelines which will enable members of the Pueblo to acquire the experience and skills necessary to become Managers and supervisors in bingo games and Class III Gaming operated by Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations.

O. Expenses of Training Employees. The expense of providing training to members of the Pueblo and to their spouses and children shall be an operating expense of Pueblo of Pojoaque-owned gaming instrumentalities or Pueblo of Pojoaque-owned gaming corporations.

P. Patron Disputes.

(1) Refusal to Pay Winnings. Whenever the Managers refuses payment of alleged winnings to a patron, the Managers and the patron are unable to resolve the dispute to the satisfaction of the patron and the dispute involves:

a. At least five hundred dollars (\$500), the Managers shall immediately notify the Commission, the Commission shall conduct whatever investigation it deems necessary

and shall determine whether payment should be made; or

b. Less than five hundred dollars (\$500), the Managers shall inform the patron of his or her right to request that the Commission conduct an investigation. Upon request of the patron, the Commission shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.

(2) Notice to Patron. The Commission shall mail written notice by certified mail, return receipt requested, to the Managers and the patron of the decision resolving the dispute within thirty (30) days after the date that the Commission first receives notification from the Managers or a request to conduct an investigation from the patron.

(3) Effective Date of Decision. The decision of the Commission is effective on the date it is received by the aggrieved party as reflected on the return receipt.

(4) Review of Decision. Within thirty (30) days after the date of receipt of the written decision, the aggrieved party may file a petition with the Commission requesting a review of the decision. The Commission may set a hearing on the matter or may make a decision based solely upon the prior decision and other documentation provided to it by the patron and the Managers. The Commission shall then issue a written decision and mail it to the parties. The decision of the Commission shall be final and binding upon the patron and the Managers and shall not be subject to judicial review, dispute resolution, or other legal action.

10-8-11. Suspension or Revocation of License.

A. Grounds for Suspension and Revocation. If a licensee 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; fails to keep sufficient books and records to substantiate the

reports required by this Gaming Ordinance; falsifies any books or records relating to any transaction connected with the operation or conduct of any game of chance; is convicted of any felony or gaming offense; interferes with or unduly influences or attempts to interfere or unduly to influence any decision or process of the government of the Pueblo relating to gaming; or deliberately or substantially fails to provide information to or answer relevant questions of the Commission or otherwise fails to comply with this Gaming Ordinance or the terms of any license granted pursuant hereto; or if the Commission receives reliable information from the National Indian Gaming Commission or any other source that the licensee does not meet the standards established in Subsection 10-8-7(E); his or her license may be suspended and, after notice and a hearing before the commission pursuant to this Section, such license may be revoked. This sanction is in addition to any other sanction that may be imposed under this Gaming Ordinance.

B. Notice; Immediate Suspension. Proceeding 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 require, the Commission may suspend a license immediately pending the holding of a hearing. Such an immediate suspension shall take effect upon service of the complaint upon the licensee.

C. Contents of Complaint; Service. The complaint shall set forth the violation of this Gaming Ordinance which 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 or overnight delivery to the licensee at the address shown upon the license. The complaint shall

notify the licensee of the place and date of a hearing, such date to be not less than twenty (20) days after the licensee receives a copy of the complaint.

D. Answer; Subpoenas. Upon receipt of the complaint and notice of hearing, the licensee shall answer the complaint and shall inform the Commission whether the licensee desires to present evidence. 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.

E. 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 thirty (30) days of the hearing. The licensee shall be informed immediately of the decision and, in the event of a suspension or revocation of his or her license, or the effective date of the suspension or revocation.

F. 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.

G. 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 not exceeding twelve (12) months. Such declaration of ineligibility may be extended to include any primary

management official, key employee, owners, officers, or directors of the licensee, and any of its subsidiary organizations, parent organizations, or affiliates.

H. Appeal to Tribal Court. Any licensee aggrieved by a decision of the Commission, within thirty (30) days after receipt of a copy of the order of the Commission, may appeal the order to the Tribal Court, and the Tribal Court shall have jurisdiction to consider and resolve such appeal. The Tribal Court shall affirm the order of the Commission unless such order was entered in violation of due process, was arbitrary or capricious, or was otherwise in contravention of law. The Tribal Court may reverse, vacate, or modify the order of the Commission if the Tribal Court determines that the order was unlawful. In reaching its decision, the Tribal Court shall consider only such evidence relating to the order from which appeal is taken as appears in the records of the Commission and was available to the Commission at the time of its decision.

I. Recusal of Commissioners; Appointment of Hearing Officer. Any Commissioner may recuse themselves from hearing and deciding a case concerning suspension or revocation of license. In the event that the entire Commission recuses themselves, the entire Commission shall appoint a hearing officer to hear and decide the case. The appointed hearing officer shall be a licensed attorney in any State, shall have knowledge of Federal Indian Law and Tribal Indian Law, shall have knowledge of the Indian Gaming Regulatory Act, and shall acquaint themselves with the Pueblo of Pojoaque Tribal Gaming Ordinance and Rules and Regulations.

10-8-12. Enforcement; Jurisdiction; Subpoenas.

A. Civil Remedies. Except as otherwise provided in this Gaming Ordinance, any person authorized to enforce this Gaming Ordinance may bring a civil action in the Tribal Court

against any person who violates this Gaming Ordinance or engages in an activity or activities prohibited herein and recover monetary damages, attorney fees, injunctive relief, and/or any other relief that is just and equitable under the circumstances from the Tribal Court. The Tribal Court may order a person who commits an intentional or willful violation to pay punitive damages, which shall be assessed in an amount not to exceed three (3) times the actual damages or one thousand dollars (\$1,000), whichever is greater. The Tribal Court may order a civil penalty not to exceed five thousand dollars (\$5,000) for each day that a violation occurs and for each separate violation. For good and sufficient cause found, the Tribal Court may exclude from the Pueblo of Pojoaque any person who engages in an activity or activities in violation of this Gaming Ordinance to the extent such exclusion is not inconsistent with the Code of the Pueblo. Any person who violates this Gaming Ordinance, or whose employees or agents in the course of their employment or agency violate this Gaming Ordinance, may have the right to engage in business on the Pueblo of Pojoaque suspended or terminated. Nothing in the Gaming Ordinance shall be construed to authorize or require the exercise of criminal jurisdiction over non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.

B. Tribal Court Jurisdiction. Except as otherwise provided in this Gaming Ordinance, the Tribal Court shall have exclusive jurisdiction over all matters concerning the administration and enforcement of this Gaming Ordinance; provided, however, that nothing in this Gaming Ordinance is intended nor shall it be interpreted to preclude prosecution in federal court pursuant to the Indian Gaming Regulatory Act, as may be amended from time to time, or any regulations promulgated thereunder, or any other applicable federal or tribal law.

C. Enforcement of Commission Subpoenas. If a person subpoenaed to attend or to produce books, account, records, or other documents in any investigation or hearing conducted by the Commission fails to obey the command of the subpoena without reasonable 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 representative of the commission conducting such investigation or hearing, the Commission may apply to the tribal court for an order returnable in not less than five (5) nor more than ten (10) days directing the person to show cause why he should not comply with such subpoena. For the purposes of this Gaming Ordinance, no person shall be excused from testifying or producing any books, accounts, records, or other documentary evidence may tend to incriminate him or her, if the Commission or the Tribal Court agree 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 under a grant of immunity under this Subsection.

10-8-13. Effective Date.

This Third Amended and Restated Gaming Ordinance, as amended, shall be effective as of the date of approval by the Chairman of the National Indian Gaming Commission.

10-8-14. Agent for Service of Process.

The Agent for Service of Process for the Commission shall be: General Counsel, Pueblo of Pojoaque Gaming Commission; 2 Petroglyph Circle; Santa Fe, NM 87506; telephone 505-455-4500, fax 505-455-4510.