

MAY 29 1998

Richard W. Hughes, Attorney at Law
Rothstein, Donatelli, Hughes,
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P.O. Box 8180
Sante Fe, NM 87504-8180


Dear Mr. Hughes:

This letter responds to your request of the National Indian Gaming Commission ("NIGC") to review and approve the Gaming Code of the Pueblo of Santa Clara adopted by the Pueblo of Santa Clara Tribal Council. The Code was adopted by Resolution No. 98-2 on January 29, 1998, and amended by Resolution No. 98-15 on May 18, 1998. Under the Indian Gaming Regulatory Act ("IGRA") and NIGC regulations, the NIGC has 90 days to review a new ordinance and either approve the ordinance or notify the tribe of specific areas of noncompliance with the requirements of 25 C.F.R. Part 522. This letter constitutes an approval of the Gaming Code under the IGRA.

Pursuant to the IGRA and the regulations of the NIGC, the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Furthermore, such approval does not constitute approval of specific games.

Thank you for submitting the ordinance of the Pueblo of Santa Clara for review and approval. The NIGC staff and I look forward to working with you and the Pueblo in implementing the IGRA.

Sincerely yours,

Handwritten signature of Tadd Johnson in cursive, with the initials "by RWB" written below it.

Tadd Johnson
Chairman

SANTA CLARA

POST OFFICE BOX 580
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**INDIAN PUEBLO**

ESPANOLA, NEW MEXICO
87532

OFFICE OF GOVERNOR

MAY 21 1998

RESOLUTION # 98-15

ADOPTING AMENDMENTS TO THE TRIBAL GAMING CODE

WHEREAS, the Pueblo of Santa Clara is a federally recognized Indian tribe having inherent powers of self-government, which powers are exercised pursuant to the Constitution of the Pueblo by and through the Tribal Council; and

WHEREAS, by Resolution 98-2, adopted by the Tribal Council on January 28, 1998, the Tribal Council adopted a revised gaming code to govern Class III gaming on tribal lands; and

WHEREAS, since the adoption of that code, certain minor, technical amendments have found to be necessary, for approval of the code by the National Indian Gaming Commission and for other purposes; and

WHEREAS, after due consideration, the Tribal Council has determined that the adoption of such amendments is warranted and is in the Pueblo's best interests.

NOW, THEREFORE, BE IT RESOLVED BY THE TRIBAL COUNCIL OF SANTA CLARA PUEBLO that the Santa Clara Pueblo Gaming Code as adopted by Resolution No. 98-2 on January 28, 1998, be and the same is hereby amended in the following respects:


1. Section 65.5(C) is amended so as to make clear that the operation of the Pueblo's gaming facility will have no adverse effect on the environment generally, by deleting the word "Pueblo's".
2. Section 65.6(B)(2) is amended to correct a typographical error, by changing the year "1994" to "1974".

3. Section 65.9(C) is amended so as to clarify that the four-hour closure requirement only applies to the gaming activities within the facility, not to the entire facility, by inserting in the second sentence, between the words "The" and "Gaming" the words, "Gaming Devices and areas within the"; and after "Facility", inserting the words, "in which gaming is conducted".


In all other respects, the Santa Clara Pueblo Gaming Code as adopted by Resolution No. 98-2 is hereby reaffirmed in full.

C E R T I F I C A T I O N

I, the undersigned, duly elected Governor of the Pueblo of Santa Clara, do hereby certify that the foregoing resolution was duly adopted by the Tribal Council of the Pueblo of Santa Clara by a vote of 10 for and 2 against, with 0 abstaining, 2 absent, at a duly called meeting of the Tribal Council on 18 day of May, 1998.


Governor

ATTEST:


Secretary

SANTA CLARA

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FEB 23 1993

INDIAN PUEBLO

ESPANOLA, NEW MEXICO
87532

OFFICE OF GOVERNOR

RESOLUTION NO. 498.2

TRIBAL GAMING CODE - AMENDMENT # 1

WHEREAS, the Pueblo of Santa Clara is a federally recognized Indian tribe having inherent powers of self-government, which powers are exercised pursuant to the constitution of the Pueblo by and through the Tribal Council; and

WHEREAS, in accordance with its decision to proceed to establish a gaming enterprise on Santa Clara lands, to generate revenues to support tribal governmental programs and promote economic development, it is necessary that the Tribal Council adopt a comprehensive gaming code, to provide for the effective regulation of gaming activities on Santa Clara land, and to comply with the requirements of the Indian Gaming Regulatory Act and the Tribal/State Class III Gaming Compact entered into between the Pueblo and the State of New Mexico; and

WHEREAS, an earlier Tribal Gaming Code adopted by the Tribal Council in 1993 is outdated, and fails to contain provisions required by the Compact and by IGRA, and has been otherwise determined not to serve the Pueblo's purposes; and

WHEREAS, a new, revised Gaming Code has been prepared by the Tribe's general counsel, and has been reviewed by the Tribe's Officers and the Tribal Council, and the Tribal Council has determined that this Gaming Code is consistent with the requirements of the Compact and IGRA, and is appropriate for the Pueblo's needs at the present time;

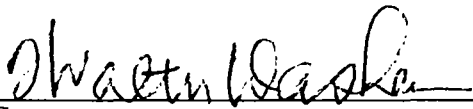
NOW THEREFORE BE IT RESOLVED, by the Tribal Council of the Pueblo of Santa Clara, as follows:

1. That the existing Tribal Gaming Code, adopted by the Tribal Council and by Resolution No. 93-41, and any subsequent amendments or revisions thereto, be and the same are hereby repealed and declared null and void; and

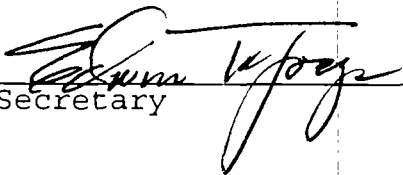
2. That the attached Santa Clara Pueblo Gaming Code is hereby enacted as part of the laws of the Pueblo of Santa Clara, to be codified at Title XXI, Chapter 65 of the Santa Clara Pueblo Code, and the Tribe's officers and general counsel shall take all appropriate steps to obtain approval of the Code by the National Indian Gaming Commission and the Department of the Interior (if necessary), and to provide the Code to the State as required by the Compact.

C E R T I F I C A T I O N

I, the undersigned, as Governor of the Pueblo of Santa Clara, hereby certify that the Santa Clara Tribal Council, at a duly called meeting that was convened with proper notice and was held on the 29th day of January, 1998, at Santa Clara Pueblo, New Mexico, a quorum being present, approved the foregoing Resolution with 9 members voting in favor, 5 opposed, 2 abstaining, and 3 being absent.


Governor

ATTEST:


Secretary

Acting

TRIBAL CODE OF THE PUEBLO OF SANTA CLARA

FEB 23 1998

TITLE XXI - BUSINESS REGULATION

CHAPTER 65: SANTA CLARA PUEBLO GAMING CODE

Section 65.1. SHORT TITLE.

This chapter may be cited as the Santa Clara Pueblo Gaming Code, or, the "Gaming Code."

Section 65.2. DEFINITIONS.

For purposes of this Gaming Code, the following words shall have the following meanings unless the context otherwise requires:

A. "Bingo" means the game of chance commonly known as "bingo" (whether or not electronic, computer, or other technologic 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;

B. "Class II Gaming" means bingo or lotto, and, when played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo and other games similar to bingo.

C. "Class III Gaming" means all forms of gaming that may be operated or conducted on Santa Clara land under the provisions of the Compact.

D. "Commission" means the Pueblo of Santa Clara Gaming

Commission established by this Gaming Code;

E. "Compact" means the approved Tribal-State Class III gaming compact entered into between the Pueblo and the State pursuant to IGRA that is in effect, including any approved amendments and ancillary agreements thereto;

F. "Gaming" and "Games of chance" means Class II 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 connection with, tribal ceremonies or celebrations;

G. "Gaming Device" means any piece of equipment or mechanical, electromechanical or electronic contrivance, component or machine that is utilized directly or remotely in the conduct of gaming.

H. "Gaming Enterprise" means the tribally-owned business entity, whether or not organized so as to have an existence separate from that of the tribal government, that conducts Class II or Class III gaming on Santa Clara lands, whether directly or through a management contract.

I. "Gaming Facility" means any physical structure in which Class II or Class III gaming is conducted on Santa Clara lands by the Gaming Enterprise, including all improved areas appurtenant to such structure.

J. "Governor" means the Governor of the Pueblo;

K. "IGRA" means the Indian Gaming Regulatory Act, as codified at 25 U.S.C. §§2701-2721 and 18 U.S.C. §§1166-1168, and

the regulations issued thereunder by the NIGC at 25 C.F.R. Pts. 501-599;

L. **"Key Employee"** means any person described in 25 C.F.R. §502.14.

M. **"NIGC"** means the National Indian Gaming Commission established by IGRA;

N. **"Person"** means a natural person, trust, association, partnership, public or private corporation, or any other legal entity whatsoever;

O. **"Primary Management Official"** means any person described in 25 C.F.R. §502.19.

P. **"Pueblo" or "Tribe"** means the Pueblo of Santa Clara;

Q. **"Santa Clara Lands"** means all lands within the Santa Clara Indian Reservation and any lands the title to which is held in trust by the United States for the benefit of the Pueblo or a member thereof or that is held by the Pueblo subject to a restriction by the United States against alienation, and over which lands the Pueblo exercises governmental power;

R. **"State"** means the State of New Mexico.

S. **"State Gaming Representative"** means the person designated by the State, pursuant to the Compact, to act on behalf of the State in dealings with the Pueblo, the Commission and the Gaming Enterprise with respect to Class III gaming;

T. **"Tribal Council"** means the Tribal Council of the Pueblo;

U. **"Tribal Court"** means the Tribal Court of the Pueblo.

Section 65.3. PURPOSES.

The purpose of this Gaming Code is to provide for the appropriate regulation of the operation, conduct, and playing of games of chance on Santa Clara land so that revenues may be generated to fund tribal governmental operations and programs to benefit and promote the health, education, and welfare of the Pueblo and its members, and to promote tribal economic development.

Section 65.4. INTERPRETATION.

This Gaming Code is an exercise of the sovereign power of the Pueblo and shall be liberally construed for the accomplishment of its purposes and so as to comply with the Compact and IGRA.

Section 65.5. GAMING POLICY.

A. Games of Chance Prohibited. No person may operate or conduct any games of chance within Santa Clara lands except in accordance with the provisions of this Gaming Code.

B. Ownership of Gaming Enterprise. The Pueblo, either directly or through such wholly-owned corporate or other entities as it may create for the purpose, shall have the sole proprietary interest in the Gaming Enterprise, which shall have responsibility for the operation and conduct of any gaming or games of chance operated or conducted on Santa Clara lands.

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 Pueblo's environment and the public health and safety.

D. Use of Gaming Revenues. Proceeds to the Tribe from Class II and Class III gaming activities on Santa Clara lands shall be used for the following purposes, and no others:

1. Funding of tribal governmental operations and programs;
2. To provide for the general welfare of the Pueblo and its members;
3. Promotion of tribal economic development;
4. Donations to charitable organizations, as determined by the Tribal Council or the Gaming Enterprise;
5. To help fund operations of local governmental agencies, as determined by the Tribal Council or the Gaming Enterprise.

Under no circumstances may the Tribe, the Commission or any management contractor make any contribution, directly or through any agent, representative or employee, of any sums constituting revenue from the Gaming Enterprise, or anything of value acquired with such revenue, to a political candidate, political committee or person holding an office that is elected or is to be elected in an election covered by the State's Campaign Reporting Act.

Section 65.6. PUEBLO OF SANTA CLARA GAMING COMMISSION.

A. Establishment of Commission. The Pueblo of Santa Clara Gaming Commission is hereby established, as the tribal agency responsible for the regulation of gaming and games of chance

within Santa Clara lands and the enforcement of this Gaming Code, the Compact and IGRA with respect to such gaming activity.

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

1. To hire, supervise, train, discipline and dismiss, and to pay, subject to the approval of the Tribal Council as to salaries and benefits, an executive director and such other employees, whether full or part-time, temporary or permanent, as the Commission shall determine are needed for the fulfillment of its purposes; to contract for outside professional and other services as deemed necessary by the Commission; to purchase or lease office furniture, supplies, equipment and space as needed to fulfill its purposes; and to establish and maintain such systems and programs as it deems necessary for the proper administration of and accounting for its activities.

2. To monitor, oversee and regulate the operation and conduct of all gaming and games of chance within Santa Clara lands, and to do such things as it deems necessary to assure that such gaming is conducted in full compliance with this Gaming Code, the Compact, the IGRA, and the regulations of the Commission.

3. To grant, suspend, or revoke licenses for persons or things required to be licensed under the provisions of this Gaming Code, the Compact or IGRA, and, consistent with such provisions, to establish and administer standards and procedures with respect to such licensing as needed to assure the reasonable

and effective regulation of gaming; provided, however, that the Commission shall not have the authority to deny licenses arbitrarily to qualified persons who meet the standards set forth herein or as set forth in regulations properly adopted by the Commission.

4. In connection with its licensing process, to conduct or cause to be conducted background investigations of applicants for licenses to determine their suitability for licensing.

5. To inspect, examine, photocopy, and audit all papers, books, and records respecting gaming activities operated or conducted within Santa Clara lands as necessary to carry out the duties of the Commission under this Gaming Code.

6. To initiate suits in tribal, state or federal courts for such relief as the Commission deems necessary to carry out its duties and enforce its orders and decisions.

7. To prepare and to submit to the Tribal Council, annually, a budget, showing the projected receipts and expenses of the Commission, and the justification therefor.

8. To establish and collect reasonable fees for applications and renewal of licenses and for other Commission actions.

9. To compel by subpoena the attendance and testimony of witnesses and the production of books, papers, documents and other things relating to any matter under consideration or investigation by the Commission, and to bring actions for the

enforcement of such subpoenas.

10. To administer oaths and affirmations to witnesses appearing before the Commission.

11. To hear appeals as provided by this Gaming Code.

12. To keep minutes, records, and books constituting a true, faithful, and complete record of all proceedings and actions of the Commission.

13. To promulgate such rules and regulations, after giving appropriate public notice and opportunity for comment, as it deems necessary to implement the provisions of this Gaming Code, the Compact and the IGRA, to protect the public interest and to assure the effective regulation of gaming within Santa Clara lands, which rules and regulations shall be public documents, available to any member of the public on request.

14. To recommend amendments to this Gaming Code to the Tribal Council.

15. To submit an annual report to the Tribal Council on the activities of the Commission, which shall include information on the funding, income, and expenses of the Commission.

16. To enter into cooperative agreements with regulatory and law enforcement agencies and officials of the State of New Mexico (including cities and counties thereof), the Bureau of Indian Affairs, the United States government, and other Indian Tribes, when the Commission determines that such cooperation is in the best interests of the Pueblo and will help

to ensure enforcement on Santa Clara lands of the IGRA, the Compact, this Gaming Code and the regulations of the Commission.

C. Composition; Staggered Terms. The Commission shall consist of three (3) Commissioners appointed by the Governor with the consent of the Tribal Council. Each Commissioner shall serve for a term of three (3) years; provided, that in order to stagger the terms of Commission members, of the first Commissioners appointed one shall be appointed to a three-year term, one shall be appointed to a two-year term, and the third shall be appointed to a one-year term. A Commissioner may serve beyond the expiration of his or her term of office until a successor has been appointed, unless such Commissioner has been removed for cause under subsection E of this Section. A Commissioner may succeed himself or herself without limitation.

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

1. Has been convicted of any felony, or of any crime relating to gaming, theft or dishonesty;

2. Has, or is related in the first degree of consanguinity to any person who has, any financial interest in any gaming activity, or in any entity engaged in gaming activity in New Mexico;

3. For any other reason, due to previous experience, habits or associations, is a person whose appointment would cause

a loss of public confidence in the effective regulation of gaming on Santa Clara lands.

Prior to submitting to the Tribal Council for approval the name of any nominee for a seat on the Commission, the Governor shall cause a thorough background investigation to be done to determine whether the nominee is qualified as provided in this Section, and a report of such investigation shall be submitted to the Tribal Council with the nomination.

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

1. Removal of a Commissioner may be initiated by a written request specifying the cause of removal, signed by not less than one-third (1/3) of the members of the Tribal Council, which shall be filed with the Secretary of the Tribal Council.

2. The cause or causes specified for removal must include at least one of the following: (1) conviction in any court of a felony or crime involving dishonesty, theft, illegal gambling activity or moral turpitude; (2) failure to meet or maintain the qualifications for Commissioners set forth in subsection D of this Section; (3) gross neglect of duty; or (4) malfeasance in office, or conduct that amounts to gross and intentional disregard of the laws and procedures applicable to the affairs of the Commission.

3. No fewer than twenty (20) nor more than forty (40) days following receipt of the written request for removal, the

Tribal Council shall convene a special meeting for the sole purpose of hearing testimony and receiving evidence pertaining to the causes specified in the request for the removal of the Commissioner. The Commissioner shall be given a full opportunity, either in person or through a representative of his or her choice, to answer or otherwise respond to any and all charges against him or her.

4. The Tribal Council shall, after having heard all of the testimony, vote on whether to remove the Commissioner. The affirmative votes of no fewer than two-thirds (2/3) of the members of the Tribal Council is required for removal.

F. Resignations and Vacancies. Any Commissioner may resign at any time by giving written notice to the other members of the Commission and to the Secretary of the Tribal Council. The resignation shall become effective at the time specified in such notice, and 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 Officers. The Commission shall select annually by majority vote one (1) of its members to serve as Chairman, and one (1) of its members to serve as Vice-Chairman. The Vice-Chairman shall serve as Chairman during meetings of the Commission at which the Chairman is absent.

H. Motions and Resolutions; Meeting; Quorum. All official

actions of the Commission shall be 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 each month. Two (2) members of the Commission shall comprise a quorum for the conduct of business.

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

Section 65.7. LICENSING AND BACKGROUND INVESTIGATIONS.

A. Licensing Requirements. Each of the following shall require a license issued by the Commission:

1. Gaming Employees. Every person employed in any position, whether part-time or full-time, temporary or permanent, by the Gaming Enterprise. A person may be employed by the Gaming Enterprise under a temporary license issued by the Commission for up to 90 days, which period may be extended for an additional sixty (60) days if the Commission determines such extension is necessary to complete a background investigation prior to action on a license application.

2. Management Contractors. Every person involved with any contract with the Tribe or the Gaming Enterprise for management of the Gaming Enterprise or any aspect thereof, each officer and director of each such entity, each person employed by such management contractor in any position having any responsibility with respect to gaming within Santa Clara lands,

and every person having more than a five (5) percent ownership interest in any such management contractor.

3. Gaming Vendors. Each person who proposes to sell, lease or provide under contract to the Gaming Enterprise or to the management contractor for use in the Gaming Enterprise any service that would be used in the conduct of gaming or in the handling and accounting of the proceeds of gaming, or any gaming device.

4. Gaming Devices. Each gaming device that is proposed to be utilized in the conduct of gaming by the Gaming Enterprise.

5. Gaming Facilities. Each gaming facility within Santa Clara lands.

B. Licensing Procedures

1. Each applicant for a license from the Commission (other than a gaming device or gaming facility license) shall submit an application, within the time and on the form prescribed by the Commission, including all of the information required by the Compact and by IGRA, and such additional information as the Commission may determine by regulation to be necessary or helpful to the licensing process.

2. Each application shall be accompanied by a standard form fingerprint card containing clear impressions of the applicant's fingerprints, which impressions shall have been made and certified by a qualified employee of a law enforcement agency; two photographs of the applicant's head and shoulders

taken within one (1) month of the date of submission of the application; any fees required by the Commission; and such additional material as the Commission may require by regulation. Each applicant shall also submit a signed statement in compliance with the Federal Privacy Act of 1994 and a signed statement and notice regarding false statements, all as required by IGRA.

3. Upon receipt of the completed application, the Commission shall proceed in accordance with the requirements of IGRA and the Compact and its own regulations to determine whether the applicant should be licensed. The Commission shall undertake, or cause to be undertaken, a background investigation as to each applicant, and shall by regulation prescribe the matters to be inquired into as to each category of applicant, consistent with the Compact and IGRA. In particular, an investigation undertaken with respect to a prospective key employee or primary management official shall be at least as stringent as those described in 25 C.F.R. Pts. 556 and 558. The Commission shall submit copies of the complete application and of the background investigation report to the NIGC and to the State Gaming Representative, as required by the Compact and IGRA.

4. The Gaming Enterprise shall submit applications for licenses for each gaming device and gaming facility, within the time and in the manner prescribed by the Commission by regulation, and the Commission shall act on such applications in accordance with its regulations.

C. Action on Application. Upon completing its review of

an application for licensing, the completed background investigation and any information or reports received from NIGC, the State Gaming Representative or any other governmental agency consulted with respect to such applicant, the Commission shall determine whether or not to issue the license sought. No person shall be issued a license hereunder if the Commission determines that such person:

1. Knowingly misrepresented a material fact on the license application, or deliberately omitted any material fact called for by the application;

2. Attempted in any way to influence the decision on such person's license application by offering or providing to any member of the Commission or any person employed by the Commission any gift, favor or other thing or service having any value whatsoever;

3. Is not yet twenty-one (21) years of age (except that the Commission may, by regulation, define categories of positions within the Gaming Enterprise as to which persons who are at least eighteen (18) years of age but not yet twenty-one (21) may be licensed and employed).

4. Has, within the five (5) years next preceding the date on which the application was submitted, been convicted in any court, by plea of guilty or of *nolo contendere* or by jury verdict, of any crime involving theft of money or goods having a value in excess of \$100, or of dishonesty, or of any offense involving gaming, or of any felony;

5. Is for any other reason a person whose activities, criminal record, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the danger of unsuitable, inappropriate or illegal practices, methods or activities in the conduct of gaming or the handling of or accounting for the proceeds of gaming. The Commission may by regulation establish stricter standards for licensing as to any particular category of license.

D. **License Terms.** The Commission shall, by regulation, prescribe the term for any license issued under the provisions of the gaming code, provided, however, that under no circumstances shall any license have a term of more than two (2) years from its date of issuance. The Commission shall prescribe procedures for renewal of licenses and any fees applicable thereto.

E. **License Suspension or Revocation.** The Commission may, at any time following notice to the licensee and an opportunity for hearing, suspend or revoke a license that is in effect, if it determines that facts exist that, had they been known at the time the license was issued, would have justified denying the license. Should the Commission come into the possession of information indicating, and make a special finding, that the continued licensing of a particular person poses an immediate threat to the public interest or the effective regulation and control of gaming, the Commission shall suspend such license immediately, and shall provide an opportunity for a hearing within no more

than thirty (30) days from the date of such suspension, and following such hearing shall determine whether the suspension should be made permanent. The Commission shall, by regulation, prescribe such standards and procedures as it deems appropriate with respect to suspension and/or revocation of licenses.

F. Hearings. Whenever the Commission makes any adverse determination on a licensing application, or issues any order suspending or revoking an existing license or setting forth its intention to suspend or revoke an existing license, it shall inform the applicant or licensee of its entitlement to a hearing before the Commission, upon the filing of a written request for such hearing within fifteen (15) days of the date of receiving notice of the Commission action. The applicant or licensee shall be entitled to be represented by counsel at such hearing, and all proceedings at such hearing shall be either transcribed or recorded, by audio or video tape. The Commission shall by regulation prescribe the rules to be observed at such hearings, but the rules with respect to receipt of evidence shall be no more restrictive than the rules that apply in the Tribal Court. Following any such hearing, the Commission shall issue a written decision affirming, modifying, or reversing the order or other action that led to the hearing, and the licensee and his or her representative, if any, shall be provided with a copy of such decision.

G. Appeal. Any party aggrieved by a final decision of the Commission after a hearing may appeal that decision by filing a

written notice of appeal with the Tribal Court within twenty (20) days following the issuance of the Commission's written decision. The appeal in the Tribal Court shall be on the record of the Commission's action, including all testimony and other evidence received at any hearing before the Commission, and the Tribal Court shall not receive any further testimony or any other documentary evidence, unless the party offering such evidence demonstrates that such evidence is relevant and material to the issues on appeal, and was unavailable to the party during the proceedings before the Commission. The Tribal Court shall, on the basis of the record before the Commission and the briefs and arguments of the parties, determine whether or not the Commission abused its discretion in adopting the action complained of. The decision of the Tribal Court in any such appeal shall be final, and no further appeals will be allowed.

Section 65.8. FINANCIAL RECORDS; AUDITS.

A. Maintenance of Books and Records; Commission Access.

The Gaming Enterprise shall maintain complete and accurate books of account on the premises of the Gaming Facility showing the financial condition and transactions of the Gaming Enterprise in the fullest practicable detail, and in accordance with generally accepted accounting principles. The Commission shall have access to such books of account without notice at any time during ordinary business hours of the Gaming Enterprise. All such financial records in whatever medium shall be maintained by the Gaming Enterprise for no less than six (6) years after the year

to which they pertain, and for such longer period as may be ordered by the Commission.

B. Annual Audit. The Gaming Enterprise shall cause an outside independent certified audit of its gaming operations, which shall specifically include any gaming-related contracts for purchases of supplies, services or concessions totalling more than \$25,000.00 in any one calendar year (other than contracts for professional legal or accounting services) to be conducted annually, and shall deliver the audit report to the Tribal Council, the Commission, and the NIGC within ten (10) days of its receipt.

Section 65.9. REGULATION OF GAMING OPERATIONS.

A. Security and Surveillance. The Gaming Enterprise shall at all times maintain a system of security and surveillance of the premises of the Gaming Facility, combining the use of personal and electronic assets, so as to provide for the physical safety of the patrons of the Gaming Facility, the physical safety of personnel employed by the Gaming Enterprise, the physical safe-guarding of assets of the Gaming Enterprise, the protection of the property of patrons of the Gaming Facility from any illegal activity, so as to identify and detain persons who may be involved in any illegal act for the purpose of notifying law enforcement authorities, and to assist in developing and securing evidence of apparently illegal acts for transmission to appropriate law enforcement authorities. The Commission may by regulation prescribe specific measures to be employed by the

Gaming Enterprise in furtherance of the requirements of this subsection.

B. Centralized Computer Monitoring of Electronic Gaming Devices. Every electronic gaming device in use in the Gaming Facility shall be connected to a central computer within the facility, which computer shall continuously record the gaming activity of each device, as well as any unusual conditions or events in the activity of the device. The data collected by the central computer shall be electronically accessible by the State Gaming Representative by modem, upon entry of an appropriate security code, and the Gaming Enterprise shall, in consultation with the Commission, cooperate with the State Gaming Representative to establish protocols and systems to accommodate the State Gaming Representative's access to these data that will avoid any interference with the operations of the Gaming Enterprise or with the security and integrity of the Gaming Devices in use in the Gaming Facility.

C. Hours of Operation. The Gaming Enterprise shall establish the hours of operation of the Gaming Facility, consistent with this Gaming Code and the Compact. The Gaming Facility shall be closed to the public for at least four (4) consecutive hours daily, from 4 a.m. to 8 a.m., Monday through Thursday (except on officially-recognized federal holidays). Nothing herein shall preclude the Gaming Enterprise from conducting maintenance, cleaning, cash handling, accounting, training, security, surveillance and other internal functions at

the Gaming Facility during such closing periods. The Gaming Enterprise shall notify the Commission of its hours of operation and any changes therein.

D. Check Cashing. The Gaming Enterprise shall not cash any check for a patron that is or appears to be a paycheck or a payment by any governmental entity or any form of pension benefit or social security benefit, welfare or other form of entitlement or public assistance payment.

E. Extensions of Credit. The Gaming Enterprise shall not extend credit to any patron by accepting in exchange for cash a note, marker, IOU or any other promise to pay, whether secured or not.

F. Automated Teller Machines. Automated Teller Machines ("ATMs") on the premises of any Gaming Facility shall be programmed so that they will not accept cards issued by state, federal, or tribal public welfare agencies to recipients of any form of state, federal or tribal public assistance benefits to enable the recipient to withdraw benefits, and the Gaming Enterprise shall make this provision an express requirement in any and every agreement with the owner or operator of any ATM situated on the premises of the Gaming Facility.

G. Service of Alcoholic Beverages.

1. No alcoholic beverages may be sold, served, delivered or consumed within the area of a Gaming Facility where gaming activities are conducted.

2. No employee of the Gaming Enterprise, or of any

subcontractor or concessionaire thereof, may sell, serve, give or deliver any alcoholic beverage to an intoxicated person at the Gaming Facility, nor shall any such employee procure or aid in the procurement of any alcoholic beverage for delivery to an intoxicated person at the Gaming Facility.

3. Every employee of the Gaming Enterprise or of any subcontractor thereof who dispenses, sells, serves or delivers alcoholic beverages in the course of his or her employment shall be required by the Gaming Enterprise to attend alcohol server education classes comparable to those required under the New Mexico Liquor Control Act, NMSA (1978) §60-6D-1, **et seq.**, at least annually.

4. The Gaming Enterprise shall maintain liquor liability insurance in force, having coverage limits for personal injury of no less than One Million Dollars (\$1,000,000) per incident and Ten Million Dollars (\$10,000,000) aggregate per policy year.

H. Inducements to Patrons to Gain. The Gaming Enterprise shall not provide or attempt to offer, arrange or contract to provide or to allow any person as an incentive or enticement to that person to engage in gaming at a Gaming Facility any free or reduced price alcoholic beverages, food or lodging, at the Gaming Facility or at any lodging facility.

I. Compulsive Gamblers.

1. The Gaming Enterprise shall require every employee who makes contact with gaming patrons in the course of such

employee's work to undergo training annually in recognizing patrons who may suffer from a compulsive gambling syndrome ("CGS"), and in dealing with such persons in accordance with the policies of the Gaming Enterprise.

2. The Gaming Enterprise shall develop detailed written policies designed to identify persons who suffer from CGS, to discourage such persons from gaming, including, where appropriate, excluding such persons from the Gaming Facility, but in a manner that will minimize any discomfort, embarrassment or inconvenience for the person, and that avoids any personal injury to such person whatsoever. The Gaming Enterprise shall provide the Commission with copies of all such policies, and shall conduct in-house training sessions for employees at least annually to ensure that all employees are fully versed in the policies and the appropriate means of carrying them out.

3. The Gaming Enterprise shall contract with one or more counselors or therapists experienced in treating persons suffering from CGS, and to whom such persons may be referred by the Gaming Enterprise at the expense of the Gaming Enterprise.

4. The Gaming Enterprise shall spend annually an amount that is no less than one-quarter (1/4) of one (1) percent of its net win, as that term is defined in the Revenue Sharing Agreement between the Pueblo and the State, on employee training programs to assist and treat persons suffering from CGS, and to prevent compulsive gambling at the Gaming Facility. Expenditures for the training, referral and other measures required by this

Section shall be considered part of the required expenditures. The Gaming Enterprise shall provide to the Commission an annual accounting of the expenditures required hereunder, by no later than ninety (90) days after the end of each calendar year to which the accounting pertains.

J. Sanitation Requirements. The Gaming Enterprise shall take steps to ensure that all food service operations within a Gaming Facility meet standards and requirements equivalent to those contained in the New Mexico Food Service Sanitation Act, NMSA (1978) §25-1-1, **et seq.**, and the Gaming Enterprise shall permit New Mexico Department of Environment inspectors access to all food preparation, storage and service areas of a Gaming Facility during normal business hours of the Gaming Facility for the purpose of ascertaining whether such standards are being met.

K. Patron Disputes. The Gaming Enterprise shall establish, subject to the Commission's approval, and shall publish in a conspicuous location within each Gaming Facility easily visible to patrons, procedures by which any patron who is dissatisfied with a decision of the Gaming Enterprise with respect to the patron's entitlement to a prize, pot, or other benefit from a gaming activity conducted by the Gaming Enterprise may have his or her complaint heard and decided by the management of the Gaming Enterprise.

L. Gaming Device Standards. Every gaming device in use at a Gaming Facility shall meet technical standards at least as

strict as the comparable standards applicable to such devices within the State of Nevada, and the Commission shall by regulation specifically adopt standards meeting this requirement; provided, however, that each electronic or electromechanical gaming device in use at a Gaming Facility shall be programmed by the manufacturer so that it will pay out a mathematically demonstrable percentage of all amounts wagered, which percentage shall not be less than eighty percent (80%). The Commission shall verify compliance with these requirements before licensing any gaming device.

M. Posting of Odds. The Gaming Enterprise shall post in an obvious location on every electronic and electromechanical gaming device a notice stating the hit frequency of the device, in the following form:

The odds of winning any one of the possible prizes awarded by this machine are ___ in 100.

The blank shall contain the appropriate number so as accurately to disclose the hit frequency for that gaming device as contained in the technical specifications provided by the manufacturer. If the gaming device offers more than one game, the hit frequency must be disclosed for each game, in the following form:

The odds of winning any one of the possible prizes awarded by this machine in the game " _____ " are ___ in 100.

Section 65.10. EMPLOYMENT CONDITIONS

A. Minimum Age Requirements. No person shall be employed

in any position in the Gaming Enterprise that is directly involved in any Class III gaming activity or in handling cash proceeds of a Class III gaming activity who has not attained the age of twenty-one (21) years.

B. Job Discrimination. Neither the Pueblo, the Gaming Enterprise nor any management contractor shall discriminate in the employment of persons by the Gaming Enterprise or in the Gaming Facility on the grounds of race, color, national origin, gender, sexual orientation, age or handicap.

C. Employee Benefits. The Gaming Enterprise shall provide to all of its employees paid sick leave, life insurance, annual leave and medical and dental insurance, as benefits of employment. The Gaming Enterprise shall further take steps to ensure that all of its employees are covered by employment insurance and a workers' compensation insurance program offering benefits at least as favorable as those offered by comparable state programs.

D. Grievance Procedures. The Gaming Enterprise shall establish a written grievance procedure for employees that shall be applicable in cases of disciplinary or other adverse actions taken against an employee, which procedures shall include a process of appeal to at least one supervisory level above the person whose action is the subject of the grievance.

E. Federal Law Standards. The Gaming Enterprise shall establish working conditions and wages and hours of work at least meeting the minimum standards contained in the Federal Fair Labor

Standards Act of 1938, the Federal Occupational and Safety Act of 1970, and any other federal laws relating to wages, hours of work, conditions of work and regulations issued under such laws.

F. Wage Requirements in Certain Construction Projects.

The Gaming Enterprise shall require that workers involved in any construction project involving a Gaming Facility or related structure that is funded in whole or in part with federal funds shall be paid wages meeting or exceeding the standards established for New Mexico under the federal Davis-Bacon Act.

Section 65.11. MANAGEMENT CONTRACTS.

The Commission shall review any management contract entered into or proposed to be entered into by the Pueblo or the Gaming Enterprise, to assure that it complies with the provisions of this Gaming Code, the Compact and IGRA, provided, however, that a management contract that has been approved by the Chairman of the NIGC under the provisions of IGRA shall be conclusively presumed to comply with the Compact and IGRA for purposes of this Section.

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