



TAOS PUEBLO AMENDED

GAMING ORDINANCE

May 26, 1995

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TAOS PUEBLO AMENDED GAMING ORDINANCE

WHEREAS, The Taos Pueblo ("the Pueblo") is a duly recognized sovereign Indian tribe whose traditional law empowers the Tribal Council to enact ordinances; and

WHEREAS, The Pueblo's previously adopted gaming ordinances need amendment to place the relevant requirements in one ordinance and to include provisions required by the Taos Pueblo-New Mexico Gaming Compact and Revenue Sharing Agreement which became effective March 22 upon approval by the Secretary of the Interior's designate;

NOW THEREFORE BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE TAOS PUEBLO:

Section 1. Name.

The name of this Ordinance shall be the "Taos Pueblo Amended Gaming Ordinance".

Section 2. Definitions.

The following words shall have the following meanings under this Ordinance, 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 or 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 bingo as defined above and non-banking card games that New Mexico law explicitly authorizes, or does not explicitly prohibit, and that are played legally anywhere in New Mexico; provided that players on the Reservation play in conformity with New Mexico law and regulations concerning hours, periods of operation and limitations on wagers and pot sizes;

C. **"Class III gaming"** means all forms of gaming that may be operated or conducted only in conformance with a Tribal-State Compact negotiated and entered into pursuant to Section 11(d) of the IGRA;

D. **"Commission"** means the Taos Pueblo Gaming Commission established by this Ordinance;

E. **"Games of chance"** includes 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;

F. **"Gaming Device" or "Gaming Equipment"** means any equipment or mechanical, electro-mechanical, or electronic contrivance, component, or machine used remotely or directly in connection with gaming.

G. **"Gaming Employee"** means any natural person employed by a Gaming Enterprise or Management Contractor.

H. **"Gaming Enterprise"** means an enterprise, including Taos Pueblo Enterprises, Inc. ("TPE"), owned by the Pueblo for the conduct of the gaming in any gaming facility on the Reservation.

I. **"Gaming Facility"** means the building location or room in which Class II and/or Class III gaming is conducted on the Reservation.

J. **"Gaming Services"** means the provision or sale of any goods, services or concessions by contract to the Pueblo, Gaming Enterprise, or Management Contractor in connection with the operation of gaming in a Gaming Facility in an amount in excess of \$10,000 in any one month, except for professional, legal or accounting services. No contract may be broken up into parts for the purpose of avoiding this definition or any requirement of licensing or certification.

K. **"Governor"** means the Governor of Taos Pueblo;

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. **"IGRA"** means the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Sections 2701-2721 and 18 U.S.C. Sections 1166-1168.

N. **"Joint Powers Agreement"** means an agreement concerning games of chance on the Reservation entered into under the Joint Powers Agreements Act, Sections 11-1-7, N.M.S.A. 1978 (1994 Repl.).

O. **"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 total cash compensation is in excess of \$50,000 per year; or
3. If not otherwise included, the four (4) most highly compensated persons in the gaming operation.

P. **"License"** means a license duly issued by the Commission to principals, primary management officials and key employees of any gaming enterprise conducted on the Reservation and to others pursuant to this Gaming Ordinance;

Q. **"Licensee"** means any entity or person who has been duly licensed by the Commission;

R. **"Manager"** means the Manager of gaming for TPE, and if TPE enters into a Management Contract, the chief Management Contractor shall be the Manager.

S. **"Management Contract"** means a contract within the meaning of IGRA, 25 U.S.C. §§ 2710(D)(9) and 2711, as defined in 25 C.F.R. Sec. 502.15: any contract, subcontract, or collateral agreement between the Pueblo (or TPE) and a contractor or between a contractor and a subcontractor if such contract or agreement

provides for the management of all or part of a gaming operation.

T. **"Management Contractor"** means any person or entity that has entered into a Management Contract with TPE.

U. **"Member of the Pueblo"** means an enrolled member of Taos Pueblo;

V. **"National Indian Gaming Commission" and "NIGC"** mean the National Indian Gaming Commission established by the IGRA;

W. **"Net revenues"** means the gross receipts less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

X. **"Occasion"** means a gathering at which a game of chance is played;

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

Z. **"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.

AA. **"Premises"** means any room, hall, building, enclosure, or outdoor or other area used for the purpose of playing a game of chance;

BB. **"Pueblo"** means the Pueblo of Taos;

CC. **"Reservation"** means the Taos Indian Reservation and includes any lands title to which is held in trust by the United States for the benefit of the Pueblo of Taos or held by the Pueblo of Taos subject to a restriction by the United States against alienation, and over which lands the Pueblo of Taos exercises governmental power;

DD. **"Site License"** means a license duly issued by the Commission for each Gaming Facility at each location at which games of chance are permitted to be conducted on the Reservation;

EE. **"State Gaming Representative"** means that person designated by the Governor of the State of New Mexico who will be responsible for actions of the State set out in the Tribal-State Compact;

FF. **"TPE"** means Taos Pueblo Enterprises, Inc., chartered by the Pueblo.

GG. **"Temporary License"** means a license for no longer than 90 days issued by the Commission to an applicant who has filed with the Commission a completed application, pending the results of background checks required by this Ordinance. Such temporary licenses shall be issued only when needed to acquire necessary personnel for the conduct of games of chance on the Reservation and they shall not be issued if the background investigation undertaken discloses that the applicant has a criminal history or if other grounds sufficient to disqualify the applicant are apparent on the face of the application. The temporary license shall become void

and of no effect upon 1) the issuance of a license; 2) the issuance of a notice of denial; or 3) ninety (90) days after the temporary license is issued, whichever occurs earlier;

HH. **"This Gaming Ordinance"** and **"this Ordinance"** mean this Taos Pueblo Gaming Ordinance, any amendments thereto, and any rules or regulations promulgated hereunder;

II. **"Tribal Council"** means the Tribal Council of the Pueblo of Taos, the governing body of the Pueblo;

JJ. **"Tribal Court"** means the Taos Pueblo Tribal Court; and

KK. **"Tribal-State Compact"** and **"Compact"** mean any compact entered into by the Pueblo and the State of New Mexico under Section 11(d) of the IGRA.

LL. **"WarChief"** means the WarChief of Taos Pueblo.

Section 3. Purposes.

The purposes of this Gaming Ordinance are to make lawful and provide for the regulation of all playing of games of chance on the Reservation, to protect the integrity of all such gaming, to prevent improper or unlawful conduct in gaming, to strengthen tribal government and promote tribal economic self-sufficiency and land acquisition.

Section 4. Interpretation.

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

Section 5. Gaming Policy.

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

B. **Ownership of Gaming Enterprise.** The Pueblo of Taos, acting through the Tribal Council and Taos Pueblo Enterprises, Inc., an enterprise wholly owned by the Pueblo, shall have the sole proprietary interest in and responsibility for the operation and conduct of any games of chance operated or conducted on the Reservation.

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.

D. **Age Restrictions.** No person under 18 years of age may participate in any Class III gaming on the Reservation and no person under 18 may be a key employee or primary management official of any gaming enterprise on the Reservation.

Section 6. Taos Pueblo Gaming Commission.

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

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

1. To recommend to the Tribal Council whether it should permit or refuse to permit the operation or conduct of any games of chance within the Reservation, and to specify the conditions for the operation or conduct of any permitted games of chance within the Reservation.

2. To inspect and examine all premises within the Reservation at which games of chance are played to insure that all gaming facilities are constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety as required by Section 5(C) above.

3. To issue separate site licenses to each Gaming Facility or location on the Reservation where the Tribal Council permits gaming to occur.

4. Subject to final approval by the Tribal Council to negotiate and enter into Tribal-State compacts on behalf of the Pueblo.

5. Subject to final approval by the Tribal Council to negotiate and enter into, on behalf of the Pueblo, Joint Powers Agreements related to games of chance on the Reservation.

6. To implement and administer a system, including the promulgation of regulations, for investigating, licensing and monitoring management, employees, vendors and others connected with gaming activities, including the issuance of site licenses to gaming facilities, and the issuance of temporary licenses and licenses to individuals and entities and the verification of internal controls, as required under this Ordinance, IGRA, and any

Tribal-State compact or equivalent procedures prescribed by the Secretary of the Interior.

7. To conduct background investigations regarding any person or entity in any way connected with any gaming activity and issue licenses to, at minimum, all qualified gaming enterprise key employees and primary management officials under requirements at least as strict as those established in Section 8(E)(3) of this Gaming Ordinance; and grant, condition, suspend, revoke, and renew licenses and hear and decide matters affecting such granting, conditioning, suspension, revocation, or renewal of licenses.

8. Promulgate rules for any Class II or Class III gaming activity on the Reservation, except that rules for Class III activities shall not be in conflict with rules, if any, adopted under any Tribal-State compact.

9. To make such reports regarding Class III gaming to the State Gaming Representative as are required by the Tribal-State Compact and to inspect and copy New Mexico state records concerning all Class III gaming conducted under this Ordinance.

10. To inspect, examine, photocopy, and audit all papers, books, and records respecting gaming activities conducted within the Reservation and any other matters necessary to carry out the duties of the Commission under this Gaming Ordinance.

11. To investigate any suspicion of wrongdoing in connection with any gaming activity.

12. To conduct or cause to be conducted such investigations as may be necessary to determine in connection with

any gaming activity, compliance with law, including this Gaming Ordinance, or with any contracts or agreements related to gaming activities.

13. To hold such hearings, sit and act at such times and places, take testimony, and receive such evidence as the Gaming Commission deems relevant in fulfilling its duties.

14. 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.

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

16. To bring suit in the Tribal Court seeking temporary and permanent orders closing a game of chance in accordance with this Gaming Ordinance.

17. 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 Indian reservations, provided that the Commission may not employ any person who would be disqualified from being a Commissioner under one or more of the four (4) prohibitions in subsection 6(E) below, and provided further that the Commission shall utilize the Tribal Attorney unless the Commission requests and the Tribal Council approves a contract with another attorney or

law firm.

18. Subject to the approval of the Tribal Council, to adopt the budget of the Commission at least annually and to adopt modifications in such budget.

19. To establish and collect license, investigation and regulatory fees to cover or help cover the costs connected therewith.

20. To approve management contracts in accordance with this Gaming Ordinance.

21. To hear appeals in accordance with this Gaming Ordinance.

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

23. To promulgate rules and regulations, in addition to those required by subsection B(8) above, as it deems appropriate to implement the provisions of this Gaming Ordinance.

24. To recommend amendments to this Gaming Ordinance to the Tribal Council.

25. To insure that net revenues from any gaming activities on the Reservation deposited in the general fund of the Pueblo are used only in accordance with Section 11(G) of this Gaming Ordinance.

26. To submit an annual report to the Tribal Council, Governor and WarChief on the activities of the Commission, such report to include information on the funding, income and expenses

of the Commission.

27. To take any other action as may be reasonable and appropriate to enforce this Ordinance and the rules and regulations of the Commission.

C. **Composition; Staggered Terms.** The Commission shall consist of three (3) Commissioners appointed by the Tribal Council. Each Commissioner shall serve for a term of four (4) years; provided that, in order to stagger the expiration of terms of office, the first Commissioner appointed shall serve a four-year term, the second Commissioner appointed shall serve a three-year term, and the third Commissioner appointed shall serve a two-year term. A Commissioner may serve after 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 F of this Section. Commissioners may serve for more than one term. No Commissioner may play any games of chance on the Reservation or win any prize or thing of value on the Reservation during his or her term as Commissioner or for ninety (90) days thereafter.

D. **Initial Commissioners.** The initial Commission shall consist of the following persons whose terms shall be as described:

Eileen Lujan (____ years)

Vicente J. Lujan, Sr. (____ years)

Hubert Mirabal (____ years)

E. **Qualifications of Commissioners.** At least one (1) Commissioner must be a 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. Is a Director of TPE;
3. Is an employee of any gaming enterprise on the Reservation;
4. Has any financial interest in, or responsibility for, any gaming activity; or
5. Has any financial interest in, or responsibility for, any gaming-related contract on the Reservation.

F. **Removal of Commissioners.** A Commissioner may be involuntarily removed from office prior to the expiration of his/her 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 (1/2) of the members of the Tribal Council.

2. The cause for removal shall be limited to:
(a) conviction in any court of a felony or crime involving moral turpitude; (b) failure to meet or maintain the qualifications for Commissioners set forth in subsection E of this Section; (c) gross neglect of duty; or (d) 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 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.

G. Resignations 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 and WarChief with the consent of the Tribal Council. If the Governor and WarChief cannot agree on a joint appointment, each of those officials shall submit his choice for the Commission vacancy to the Tribal Council, which shall decide between the two nominees.

H. Selection of Chairman. At the first meeting of the Commission and annually thereafter on the anniversary of the first meeting, the Commission shall select by majority vote one (1) of its members to serve as Chairman, one (1) of its members to serve as Vice Chairman, one (1) of its members to serve as Secretary. Officers may serve more than one one-year term in an office. The Vice Chairman shall serve as Chairman during meetings of the

Commission at which the Chairman is absent.

I. Motions and Resolutions; Meetings; 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 of a majority of its members but shall meet at least once every month. Two (2) members of the Commission shall comprise a quorum.

J. Notice.

1. Notice of meetings stating the time and date shall be given in writing by letter properly addressed to each Commissioner no fewer than five (5) days before the meeting, excluding the day of the meeting.

2. Notice may be waived in writing signed by all Commissioners entitled to such notices, whether before or after the meeting begins, and such waiver shall be deemed equivalent to the giving of such notice. Attendance of any Commissioner at a Commission meeting shall constitute his or her waiver of notice, except where a Commissioner attends the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

K. 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 Investigation, and other law enforcement agencies, when such cooperation is in the best interests of the Pueblo and will help to

insure that fair, honest, and efficient games of chance are operated and conducted within the Reservation.

L. Compensation for Service; Reimbursement of Expenses.

Commissioners shall be compensated for serving on the Commission in accordance with rates established in the budget of the Commission as approved by the Tribal Council. In accordance with the Commission's budget approved by the Tribal Council, Commissioners shall be reimbursed for reasonable expenses incurred in connection with the performance of their Commission duties.

Section 7. Gaming Commission's Relationship to Tribal Government.

A. Agency of Tribal Government. The Gaming Commission shall be an agency of the Tribal Government and as such shall adopt personnel and administrative policies.

B. Independent Decision-Making Authority. Notwithstanding the fact that the Gaming Commission is an agency of Tribal Government, the decisions of the Commission regarding licensing, suitability, compliance with applicable law and other regulatory matters shall be within the exclusive province of the Commission provided, that any person or entity adversely affected by a ruling of the Commission may petition the Tribal Court for review of such decision, in accordance with Section 12(H) below.

Section 8. Licenses for Operating and Conducting Games of Chance.

A. Licenses Required.

1. Gaming Enterprise. Each Gaming Enterprise shall be licensed by the Commission.

2. Gaming Facility. Each Gaming Facility shall be licensed by the Commission.

3. Gaming Employees. All Gaming Employees shall be licensed by the Commission and subject to background investigations.

4. Management Contractors. All Management Contractors, including their principals, or shareholders having in excess of five percent (5%) ownership, officers, directors and employees, shall be licensed by the Commission and subject to background investigations.

5. Sales of Gaming Devices, equipment or services. Any person proposing to sell or lease any Gaming Device, Gaming Equipment, or provide Gaming Services to a Gaming Enterprise shall be licensed by the Commission and subject to a background investigation before being permitted to sell or lease any Gaming Device or Gaming Equipment or provide any Gaming Services to any Gaming Enterprise, Gaming Facility, or Management Contractor.

B. License Application. Each applicant for a license shall file with the Commission a written application in the form prescribed by the Commission, duly executed and verified, along with any fees required by the Commission. At a minimum, the application form shall contain all of the following information and requests for information:

1. The following notice ("Privacy Act Notice") shall be placed on the application form before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by members and staff of the Taos Gaming Commission and of the National Indian Gaming Commission ("NIGC") who have need for the information in 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 Pueblo or the NIGC, the information is relevant to the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Pueblo's being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number ("SSN") is voluntary. However, failure to supply a SSN may result in errors in processing your application.

2. Any existing persons or entities required to be licensed by subsection 8(A) above shall be notified in writing that they shall either:

- a. Complete a new application 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 ("False Statement Notice") shall be placed on the application form before that form is filled out by an applicant:

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. See 18 U.S. Code, Section 1001.

4. The Commission shall notify in writing any persons or entities required to be licensed that they shall either:

- a. Complete a new application form that contains a False Statement Notice; or
- b. Sign a statement that contains the Notice.

5. The Commission shall request from each person or entity required by subsection 8(A) above to be licensed all of the following information:

- a. Full name, other names used (oral or written), Social Security Number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- b. Currently and for the previous 10 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers; provided, that any applicant who is a principal, primary management official, key employee, Management Contractor, manufacturer or supplier of gaming devices, and/or a person providing gaming services, must provide such information currently, and from the age of eighteen (18);
- 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 under paragraph B (5) (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 interests between such businesses and Indian tribes;
- f. A description of any existing and previous business relationships with the gaming industry, including, but not limited to, ownership interests in those businesses;
- g. The name and address of any licensing or regulatory

agency with which the 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 name and address of the court involved, and the date and 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 B (5) (h) or B (5) (i) of this section, the criminal charge, the date of the charge, the name and address of the court involved, and the disposition, if any;
- k. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, as an applicant, principal, primary management official or key employee, and whether or not such license or permit was granted;
- l. A current photograph;
- m. Fingerprints which shall be taken by officers of the tribal police department. Pursuant to a Memorandum of Understanding between the Pueblo and the NIGC, Pueblo police officers shall forward the fingerprint cards directly to the NIGC.
- n. The fee required by the Commission; and
- o. Any other information which the Commission deems relevant.

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. Background checks of applicants will be performed pursuant to the following procedures:

- (a) The Commission will provide applications to potential applicants upon request, and shall collect and maintain the applications;
- (b) Pursuant to a Memorandum of Understanding between the Pueblo and the NIGC, Pueblo Police Officers will collect fingerprints from all applicants and forward the fingerprint cards directly to the NIGC. The NIGC will obtain a criminal history record from the Federal Bureau of Investigation on each applicant and forward such information to the Commission.
- (c) The Commission shall investigate the information provided in the applications. This investigation will include:
 - (1) contacting persons or entities identified in the application, and verifying by written or oral communication that the information contained in the application is accurate;
 - (2) interviewing a sufficient number of knowledgeable people, such as former employers, partners, business associates, and others referred to in the application, to provide a basis for the Commission to make a determination concerning whether the applicant meets applicable eligibility requirements;
 - (3) reviewing relevant financial records of the applicant for the three (3) years preceding the application; and
 - (4) contacting any state, federal, or other government agency that is referred to in the application.
- (d) The Commission shall document any information it obtains that calls into question whether the applicant would meet the eligibility requirements under this Ordinance. The Commission shall then document in detail the disposition of these problem areas, indicating the follow-up investigations performed on the problem areas and the result of such investigations.

- (e) The Commission will review the results of the investigation. This review will include a determination as to the scope of the investigation and whether sufficient information was obtained and verified. If such information is found not sufficient, the Commission will perform additional investigations.
- (f) Once the investigation is complete, the Commission will decide whether the applicant meets the eligibility criteria under this Ordinance.

3. In conducting a background investigation, the Commission and its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

4. The Commission shall retain the right to conduct additional background investigations of any person required to be licensed at any time while the license is valid.

5. With respect to principals, key employees and primary management officials, the Commission shall retain applications for employment and reports (if any) of background investigations for no less than three (3) years from the date of termination of employment.

D. Procedures for Forwarding Applications and Reports.

1. When a key employee or primary management official begins work at a gaming enterprise authorized by the Tribal-State Compact, the Commission shall forward to the NIGC and to the State Gaming Representative a completed application for employment.

2. The Commission shall forward the report referred to in Paragraph D(4) to the NIGC and the State Gaming Representative within sixty (60) days after an employee begins work, or within sixty (60) days of the approval of the Tribal-State Compact by the

Secretary of the Interior.

3. A key employee or primary management official who does not have a license shall not be employed after ninety (90) days.

4. The Commission shall prepare and forward to the NIGC and the State Gaming Representative a report on each background investigation ("Investigative Report"). 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 basis for those conclusions.

5. The Commission shall submit with the report a copy of the eligibility determination made under Paragraph C(5) of this Section.

6. If a license is not issued to an applicant, the Commission shall notify the NIGC and the State Gaming Representative.

E. Granting a Gaming License; Standards.

1. 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 grounds sufficient to disqualify the applicant are apparent on the face of the application.

2. If within thirty (30) days after it receives an

Investigative Report, neither the NIGC nor the State Gaming Representative has notified the Commission that it has an objection to the issuance of a license pursuant to a license application filed by a principal, key employee or a primary management official, the Commission may issue a License to such applicant.

3. 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 or suitability of an applicant, or a principal, key employee or primary management official of an applicant, for employment or involvement in a gaming enterprise. After such consultation, the Commission shall either issue a license or deny the application. If the Commission determines that employment or involvement of the applicant poses a threat to the public interest, or to the effective regulation of gaming or creates or enhances dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming, the Commission shall deny the application.

The Commission may issue a license to any person or entity who:

(a) Has provided a complete and accurate application and complied fully with any and all requests by the Commission for information concerning the background and activities of the applicant;

(b) If a natural person, has attained the age of eighteen (18) years;

(c) Has not been convicted of any felony or gaming

offense;

(d) Is not a person whose prior activities, criminal record, if any, 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 conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; and

(e) Has not attempted to interfere or to influence, and has not interfered or influenced, unduly for its gain or advantage, any decision or process relating to gaming or the government of the Pueblo.

4. The Commission shall respond to any request for additional information from the NIGC or the State Gaming Representative concerning a principal, key employee or primary management official who is the subject of an Investigative Report. Such a request shall suspend the thirty (30) day period under Paragraph E(1) of this Section until the NIGC or the State Gaming Representative receives the additional information.

5. If, within the thirty (30) day period described above, the NIGC or the State Gaming Representative provides the Commission with a statement itemizing objections to the issuance of a license to a principal, key employee or primary management official for whom the Commission has provided an application and Investigative Report, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC and/or the State

Gaming Representative, and make a final decision whether to issue a license to such applicant.

F. **Fees for Licensing.** The fees for gaming licenses and background investigations shall be set by the Commission from time to time and made available at any time upon request. If the actual costs incurred by the Commission for a background investigation exceed the amount deposited by the applicant, those costs may be assessed to the applicant in the discretion of the Commission. In such cases, the Commission shall submit a detailed billing of the costs and an explanation as to why the excess costs were incurred. Payment in full of any required fee is required before a license is issued.

G. **Duration and Renewal of Licenses.** All licenses issued by the Commission shall be valid for one year from the date of issuance. Any person or entity applying for renewal of a license that has submitted the required application and any other information required by the Commission at least 60 days before the expiration of the license may continue to be employed under the expired license until the Commission or NIGC if required by the IGRA, takes final action on the renewal application. Any person renewing a gaming license shall provide updated material and information as requested on the renewal application form, but shall not be required to resubmit historical data already provided to the Commission.

Section 9. Management Contract.

A. **License Required.** If TPE chooses to enter into any

Management Contract(s), all Management Contractors, including their principals, or shareholders having more than 10 percent ownership, their officers, directors and employees shall be licensed.

B. Contract Requirements. TPE may enter into a Management Contract only if the Management Contract:

- (1) Provides that all gaming covered by the contract will be conducted in accordance with the IGRA, governing tribal ordinance(s), and the Tribal-State compact.
- (2) Enumerates the responsibilities of each of the parties for each identifiable function, including:
 - (a) Maintaining and improving the Gaming Facility;
 - (b) Providing operating capital;
 - (c) Establishing operating days and hours;
 - (d) Hiring, firing, training and promoting employees;
 - (e) Maintaining the gaming enterprise's books and records;
 - (f) Preparing the gaming enterprise's financial statements and reports;
 - (g) Paying for the services of the independent auditor engaged pursuant to 25 C.F.R. Sec. 571.12;
 - (h) Hiring and supervising security personnel;
 - (i) Providing fire protection services;
 - (j) Setting advertising budget and placing advertising;
 - (k) Paying bills and expenses;
 - (l) Establishing and administering employment practices;

- (m) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage;
- (n) Complying with all applicable provisions of the Internal Revenue Code;
- (o) Paying the cost of public safety services; and
- (p) If applicable, supplying the NIGC with all information necessary for the NIGC to comply with the National Environmental Policy Act.

(3) Provides for the establishment and maintenance of satisfactory accounting systems and procedures that shall, at a minimum:

- (a) Include an adequate system of internal controls;
- (b) Permit the preparation of financial statements in accordance with generally accepted accounting principles;
- (c) Be susceptible to audit;
- (d) Permit the calculation and payment of the Management Contractor's fee; and
- (e) Provide for the allocation of operating expenses or overhead expenses among TPE, the Management Contractor, and any other user of shared gaming facilities and services.

(4) Requires the Management Contractor to provide TPE, not less frequently than monthly, verifiable financial reports or all information necessary to prepare such reports.

(5) Requires the Management Contractor to provide immediate access to the Gaming Facility, including its books and records, by appropriate Pueblo officials, who shall have:

- (a) The right to verify the daily gross revenues and income from the gaming enterprise; and

(b) Access to any other gaming-related information the Pueblo deems appropriate.

(6) Provides for a minimum guaranteed monthly payment to the Pueblo in a sum certain that has preference over the retirement of development and construction costs.

(7) Provides an agreed upon maximum dollar amount for the recoupment of development and construction costs.

(8) Provides for a term not to exceed the period allowed by IGRA.

(9) Details the method of compensating and reimbursing the Management Contractor. If a Management Contract provides for a percentage fee, such fee shall be either:

- (a) Not more than thirty percent (30%) of the net revenues of the Gaming Operation if the Chairman of the NIGC determines that such percentage is reasonable considering the circumstances; or
- (b) Not more than forty percent (40%) of the net revenues if the Chairman of the NIGC is satisfied that the capital investment required and income projections for the gaming enterprise require the additional fee.

(10) Provides the grounds and mechanisms for modifying or terminating the Management Contract.

(11) Contains a mechanism to resolve disputes between:

- (a) The Management Contractor and customers, consistent with the procedures in this Ordinance;
- (b) The Management Contractor and TPE; and
- (c) The Management Contractor and the gaming enterprise employees.

(12) Indicates whether and to what extent contract assignments and subcontracting are permissible.

(13) Indicates whether and to what extent changes in the ownership interest in the Management Contract require advance approval by TPE.

(14) Includes no transfer or any type of conveyance of any interest in land or other real property, unless such transfer or conveyance is clearly specified in writing in the Management Contract.

(15) States that the Management Contract shall not be effective unless and until it is approved by the Commission and the Chairman of the NIGC, date of signature of the parties notwithstanding.

C. Standards for Disapproval. The Commission shall not approve any Management Contract if the Commission determines that:

1. The Manager or any of its individuals required to be licensed by Section 9A above is not licensed or is ineligible to be licensed; or

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

D. 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 Tribal Council and TPE, in writing, of the reason for the extension.

E. Modification and Revocation of Management Contract. The

Commission, after notice and hearing, shall have the authority to require appropriate contract modifications and may void any Management Contract if it determines that IGRA, this Gaming Ordinance or the Management Contract has been violated.

SECTION 10. Providers of Class III Gaming Equipment or Supplies.

A. Within thirty (30) days after the effective date of the Tribal-State Compact, the Commission will adopt standards for any and all Class III gaming equipment, devices or supplies to be purchased, leased or otherwise acquired by the TPE or the Manager after the effective date of the Compact for use in any Class III gaming, which standards shall be at least as strict as the comparable standards applicable to Class III gaming equipment, devices or supplies within the States of Nevada ^S ~~or New Jersey~~. Any and all Class III gaming equipment, devices or supplies acquired by TPE or the Manager after the effective date of the Compact shall meet or exceed the standards thereby adopted, and any and all Class III gaming equipment, devices, or supplies utilized by TPE or the Manager in its gaming activities as of the effective date of the Compact shall be upgraded or replaced, if necessary, so as to comply with such standards, by no later than one (1) year after the effective date of the Compact.

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B. Prior to entering into any future lease or purchase agreement for Class III gaming equipment, TPE or the Manager shall obtain sufficient information and identification from the proposed seller or lessor and all persons holding any direct or indirect financial interest in the lessor or the lease/purchase agreement to

permit the Commission to license those persons in accordance with Section 8 above.

C. The seller, lessor, manufacturer, or distributor shall provide, assemble and install all Class III gaming equipment, devices and supplies in a manner approved and licensed by the Commission.

Section 11. Financial Practices and Reporting.

A. **Monthly Reports.** On or before the 10th day of each month, TPE and the Manager shall file with the Commission, the Governor, the WarChief 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 classifications of such expenses, the names and addresses of each person to whom have been paid Six Hundred Dollars (\$600.00) or more in the aggregate and the purpose of such payments, and the net revenues derived from games of chance. It is the duty of TPE and the Manager to maintain and keep such books and records as may be necessary to substantiate the particulars of each report. If TPE or the Manager fails to file a report within the time allowed, or if a report is not properly certified or not fully, accurately, and truthfully completed, the license of TPE or the Manager may be suspended by the Commission until such time as the deficiency has 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 TPE or the Manager, showing the condition of the

business and all transactions relating to games of chance on the Reservation. Persons authorized by written resolution of the Tribal Council and Commissioners or their authorized representatives 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 books and records shall be maintained for at least six (6) years, including:

1. Revenues, expenses, assets, liabilities and equity for each Gaming Facility;
2. Daily cash transactions for each Class III Gaming at each Gaming Facility, including but not limited to transactions relating to each gaming table bank, game drop box, and gaming room bank;
3. All markers, IOU's, returned checks, hold check or other similar credit instruments;
4. Individual and statistical game records (except card games) to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;
5. Contracts, correspondence, and other transaction documents relating to all vendors and contractors;
6. Records of all tribal gaming enforcement activities;

7. Audits prepared by or on behalf of the Tribe; and
8. Personnel information on all Class III Gaming employees or agents, including rotation sheets, hours worked, employee profiles, and background checks.

C. **Allowable Operating Expenses.** 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. Expenses may be incurred only for the following purposes:

1. If there is a Management Contract, for Management fees of the Management Contractor, and any expenses permitted to be reimbursed by the Management Contract;

2. If there is no Management Contract:

- a. For the purchase of goods, wares, and merchandise furnished;
- b. For services rendered by the Manager (including repayment of development fees and construction costs, if any) for maintenance or repairs of gaming and related equipment, and for operating or conducting a game of chance (including salaries, wages, fringe benefits, training, compensation and reimbursement of expenses to Directors of any Entity and its administrative staff, and such Directors' and employees' gaming-related travel);
- c. For rent, lease payments, janitorial, and security services;
- d. For legal and accounting fees;
- e. For taxes and license fees;
- f. For utilities;
- g. For trade association dues;
- h. For insurance;
- i. For advertising and promotion;
- j. For prizes for winners of games of chance; and
- k. For revenue sharing under the Revenue Sharing Agreement with the State of New Mexico.

D. **Deposit of Gross Receipts; Payment of Operating Expenses.**

All gross receipts shall be deposited in a special account of TPE, which account shall contain only gross receipts. All withdrawals from such account shall be made by consecutively numbered checks

duly signed by the Manager or his designated representative, and by the Treasurer of TPE or other representatives duly authorized by TPE's Board of Directors, payable to a specific person or organization. No check shall be drawn to "cash" or a fictitious payee.

E. **Annual Audit.** TPE and the Manager 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 \$25,000.00 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 (less any management fees required by a Management Contract), after allocation by TPE's Board of Directors between surplus reserve of that entity and dividends to the Pueblo, shall be deposited accordingly at least quarterly into TPE's surplus reserve accounts and into the general fund of the Pueblo. Net revenues deposited into the general fund of the Pueblo 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;
3. To promote tribal economic development, including land

acquisition; and

4. To protect and preserve the traditions and culture of the Pueblo.

H. **Compliance with Bank Secrecy Act and Internal Revenue Code.** The Manager shall take all steps necessary to comply with the applicable provisions of the Bank Secrecy Act, P.L. 91-508, Act of October 26, 1970, 31 U.S.C. §§ 5311-314 and all record-keeping and reporting requirements of the Internal Revenue Code.

Section 12. Protection of Patrons.

A. **Liability to Patrons.** The Pueblo or TPE shall at all times maintain in effect a policy of public liability insurance, insuring the Pueblo, TPE, its agents and employees against any claims, demands or liability that may arise as a result of personal injury to any person (other than an employee of the gaming establishment) occurring anywhere on the premises of any gaming establishment operated on the Reservation, or as a result of any act or omission of any agent or employee of such gaming establishment while in the course of his or her employment, which policy shall provide personal injury coverage of no less than One Million Dollars (\$1,000,000) per injured person.

In the event of any claim made against the Pueblo or TPE or its gaming enterprise, or any agent or employee thereof, arising out of any personal injury as described above, neither the Pueblo nor its insurer will assert any defense of immunity from suit as to such claim for compensatory damages up to the amount of One Million Dollars (\$1,000,000) per injured person, in any action filed in a court of competent jurisdiction to be tried to the court; provided, however, that this agreement not to assert such defense shall be

strictly limited as provided herein, and shall not apply to any claim for punitive damages, or to any claim for which a jury trial is demanded, or to any claim for any loss or damages other than that arising from actual bodily injury or death, or to any claim for damages in excess of the amount set forth herein. Nothing herein shall be construed as stating or implying that the Pueblo or TPE has waived or agreed not to assert its immunity from suit for any other purpose or in any other circumstance other than the limited purposes and circumstances expressly set forth herein, nor shall anything herein be construed as an admission of liability as to any claim for damages or as an agreement or indication of willingness to pay any amount as damages absent a judicial determination of fault, and the Pueblo or TPE or its insurer, or all three, shall in every instance have the right to defend any such claim fully on the merits.

The Pueblo or TPE shall provide to the State Gaming Representative annually a certificate of insurance showing that its gaming enterprise and its agents and employees engaged therein, are insured to the extent and in the circumstances required by this Section, or that it is self-insured to such extent and in such circumstances. If the State Gaming Representative so requests in writing, the certificate of insurance may be furnished directly to the State Gaming Representative from the insurance carrier or the insuring agency for the insured Pueblo.

B. Public Health and Safety. The Commission shall establish for its Gaming Facilities health, safety, and construction standards that are at least as stringent as the current editions of the National Electrical Code, the Uniform Building Code, the

Uniform Mechanical code, the Uniform Fire Code, and the Uniform Plumbing Code, and any and all gaming facilities or additions thereto constructed by TPE or the Management Contractor hereafter shall be constructed and all facilities shall be maintained so as to comply with such standards. Inspections will be conducted by the Commission with respect to these standards at least annually. If the State Gaming Representative requests sufficiently in advance of an annual inspection, the representative may be present during such inspection. TPE or the Management Contractor shall correct any deficiencies noted in such inspections within a reasonable period of time. The Commission shall provide copies of such inspection reports to the State Gaming Representative, if requested to do so in writing.

Section 13. Class II and Class III Games.

A. **Class II Games.** TPE shall have authority to establish, equip, operate and maintain bingo and Class II card games on premises located at such places on the Reservation as the Tribal Council has designated or may designate.

B. **Class III Games; Tribal - State Compact Required.** Once a Compact is in effect or the Secretary of the Interior has established procedures for Class III gaming on the Reservation in place of a compact, TPE shall have authority to establish, equip, operate, and maintain a Class III gaming operation on premises located at such places on the Reservation as the Tribal Council has designated or may designate.

C. **Designation of Officer in Charge.** The Manager 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 Class II gaming or Class III gaming on that occasion. The officer in charge must have obtained a license from the Commission at least five (5) 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, Class II card 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.

D. **Premises Open to Commission.** Premises where any Class II or Class III gaming is being operated or conducted, or where it is intended that a Class II 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.

E. **Merchandise Prizes.** When any merchandise is awarded as a prize in a Class II 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.

F. **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.

G. **Limits on Prizes.** The size of the prizes offered or given in any Class II 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.

H. **Rules of Play for Bingo Games.**

1. Operations. 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.

I. **Employees; Prohibition Against Employees Playing.** All persons who operate or conduct, or assist in operating or conducting, Class II or Class III gaming shall be employed by the TPE or the Manager and shall wear legible tags evidencing their names and the legend of the enterprise. No employee of TPE or the Manager may play any Class II or Class III gaming or win any gaming prize or thing of value on the Reservation during his or her employment and for ninety (90) days after termination of such employment.

J. **Qualification For Employment; Testing.** Employees of TPE and the Manager shall be of good moral character, shall not have been convicted of any felony or 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 without prior notice, concerning the handling, collection and/or disbursement of gross receipts. No person shall be employed by TPE or the Manager, 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.

K. **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 the Entity and the Manager.

L. **Personnel Policies.** TPE and the Manager shall adopt written personnel policies that shall be provided to each employee; and shall provide a formal grievance procedure and shall provide for an employee's right to receive a written statement of reasons for dismissal in the event such employee is dismissed.

M. **Hiring and Training of Employees.** TPE and the Manager shall provide sufficient training to all employees and shall provide for employees, who are members of the Pueblo, training programs with specific timelines which will enable members of the Pueblo to acquire the experience and skills necessary to become managers and supervisors in Class II and Class III gaming on the Reservation.

N. **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 the Taos Pueblo gaming enterprise.

Section 14. Suspension or Revocation of Licenses.

A. Grounds.

1. NIGC Information.

- a. If, after the issuance of a gaming license, the Commission receives from the NIGC reliable information indicating that a key employee or a primary management office is not eligible for employment under subsection 8(E)(3) above, the Commission shall suspend such license under the provisions of subsection 14(B) below and follow the procedures in subsections 14(C) through (H) as applicable.
- b. After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license, and the Commission shall notify the NIGC of its decision.

2. Other grounds.

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; 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 which may be imposed under this Gaming Ordinance.

B. Notice; Immediate Suspension. Proceedings to suspend or revoke a license shall be initiated by the Commission by serving a complaint upon the licensee. If, in the Commission's judgment, the public interest; the effective regulation and control of gaming; or the safe, fair and honest operation and conduct of games of chance so 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 violations 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 a complaint and notice of hearing, the licensee shall answer the complaint and shall inform the Commission whether the licensee desires to present evidence. At the request of the licensee for good cause shown, or on its own motion, the Commission shall issue subpoenas for the attendance of witnesses and for the production of papers, books, records and documents.

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, of 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 officials, key employees, 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, 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 applicable 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.

Section 15. Prohibited Acts.

In addition to the acts prohibited above, it shall be a violation of this Ordinance for any person to:

(a) Conduct or participate in any gambling on the Reservation other than at an authorized and licensed Gaming Facility.

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

(c) Tamper with any Gaming Device or Gaming Equipment used in the conduct of any gaming activity with the intent to cause any person to win or lose any wager other than in accordance with the publicly-announced rules of the Gaming Enterprise.

(d) Do any other act in connection with the conduct of any Gaming Enterprise with the intent to affect the outcome of any wager other than in accordance with the publicly-announced rules of such Gaming Enterprise.

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

(f) To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome.

(g) To claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a Gaming Device or Gaming Equipment, with intent to defraud, without having made a wager thereon, or to claim, collect or take an amount greater than the amount won.

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

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

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

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

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

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

(n) Knowingly to entice or induce another to go to any place where gaming is being conducted or operated in violation of the provisions of this Ordinance, IGRA, the Compact, or other applicable law and regulation with the intent that the other person play or participate in that gaming.

Section 16. Penalties. Any person who violates any provision of this Ordinance shall be subject to civil penalties, termination of employment by TPE, denial or revocation of a gaming license, exclusion from attendance at any Gaming Facility, or exclusion from the Reservation if a non-member of the Pueblo. The Commission may impose a fine of not more than \$500.00 for each violation. The Commission shall have the jurisdiction to impose any penalties on any person within the jurisdiction of the Pueblo.

Section 17. Enforcement; Jurisdiction; Subpoenas.

A. **Civil Remedies in Court.** The Commission 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. 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 (\$1,000.00), whichever is greater. The Tribal Court may order a

civil penalty not to exceed five thousand dollars (\$5,000.00) 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 Reservation 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 other laws 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 Reservation suspended or terminated. Nothing in this 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 IGRA, as it 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, accounts, 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 purposes of this Gaming Ordinance, no person shall be excused from testifying or producing any books, accounts, records, or other documents in any investigation or hearing on the ground that such testimony or documentary evidence may tend to incriminate him or her, if the Commission or the Tribal Court agrees in writing that such person shall not be prosecuted, punished, or subjected to any penalty or forfeiture resulting from such testimony or production, provided that no person shall be exempt from prosecution or punishment for any act of perjury committed by him under a grant of immunity under this subsection.

Section 18. Severability. In the event any section or provision of this Ordinance or its application to any particular activity is held to be invalid, the remaining sections and provisions of this ordinance and the remaining applications of such section or provision shall continue in full force and effect.

Section 19. Sovereign Immunity. The Pueblo does not in any way waive its sovereign immunity from suit in any court to contest the validity of this ordinance.

Section 20. Amendments. This Ordinance may be amended by majority vote of the Council.

Section 21. Effective Date.

This Gaming Ordinance shall be effective as of the 26th day of May, 1995, the date of its adoption by the Tribal Council.

CERTIFICATION

The foregoing Taos Pueblo Amended Gaming Ordinance was adopted at a duly called meeting of the Taos Pueblo Tribal Council held on the 26 day of May, 1995 at which time a quorum was present by a vote of 27 in favor and 0 opposed.

Mike Concha
Governor Mike Concha

John A. Mirabal
WarChief John A. Mirabal

Agapito Concha
Cacique

Joe C. Dandoval
Senior Councilman

Paul J. Bernal
Paul J. Bernal, Tribal Council Secretary

Betty D. Lujan
Senior Councilman

ATTEST:

[Signature]
Governor's Secretary

[Signature]
WarChief's Secretary

Fred C. Lujan
Tribal Council Member

Fred C. Lujan Sr.
Tribal Council Member

