

NATIONAL  
INDIAN  
GAMING  
COMMISSION

Paul Swazo, Governor  
Pueblo of Tesuque  
Route 11, Box 1  
Santa Fe, New Mexico 87501

Dear Governor Swazo:

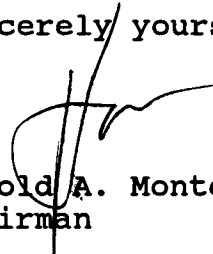
This letter responds to your request to review and approve the tribal gaming ordinance adopted on December 16, 1989, and amended on August 24, 1994, by the Pueblo of Tesuque (Pueblo). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the 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. Also, such approval does not constitute approval of specific games. It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Pueblo's gaming ordinance, the Pueblo is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

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

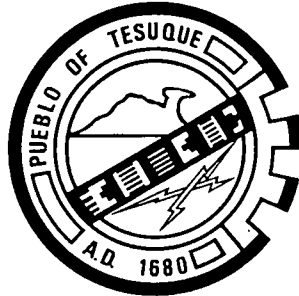
Sincerely yours,



Harold A. Monteau  
Chairman

cc: Richard W. Hughes, Esq.

TESUQUE PUEBLO  
ROUTE 11, BOX 1  
SANTA FE, NEW MEXICO 87501



**PUEBLO OF TESUQUE TRIBAL COUNCIL**

**RESOLUTION NO. 1994-08-1**

**Amending Pueblo of Tesuque Gaming Ordinance; Appointing  
Agent for Service of Process**

**WHEREAS:**

1. On or about December 16, 1989, the Tribal Council of the Pueblo of Tesuque adopted a Gaming Ordinance for the Pueblo of Tesuque; and
2. Expansion of gaming activities by the Pueblo of Tesuque, and the imposition of new requirements by the National Indian Commission, have necessitated various amendments to the ordinance to provide for proper authorization and regulation of new and different gaming activities than were contemplated under the original ordinance, and to add other provisions required by regulations of the Commission; and
3. The Pueblo's counsel has drafted amendments to accomplish these purposes and the Tribal Council has reviewed the proposed amendments and determined that they should be adopted as part of the Pueblo's Gaming Ordinance; and
4. The Pueblo is also required to designate an agent for service of official communications from the Commission;

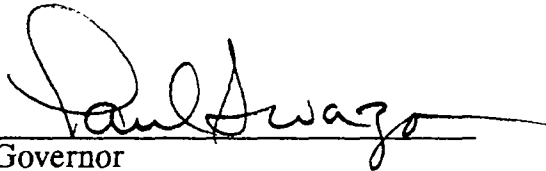
NOW, THEREFORE, BE IT RESOLVED, by the Tribal Council of the Pueblo of Tesuque, that the attached Amendments to the Pueblo of Tesuque Gaming Ordinance, amending Sections 2, 3, 5, 7, 8, 10 and 11 of that ordinance and adding a new Section 13, is hereby adopted, and the Gaming Ordinance is hereby amended as set forth in that Amendment.

AND BE IT FURTHER RESOLVED, that in accordance with the provisions of 25 C.F.R. § 519.1, the Tribal Council hereby formally designates the Governor of the


Pueblo, who at the present time is Paul Swazo, as agent for service of any official determination, order or notice of violation on the Pueblo by the National Indian Gaming Commission.

CERTIFICATION

I, the undersigned, as Governor of the Pueblo of Tesuque, hereby certify that the foregoing Resolution was passed at a duly called meeting held at Tesuque Pueblo, on the 24th day of August, 1994, a quorum being present, and that 9 voted for the Resolution and that 0 opposed it.

  
Governor

ATTEST:

  
Council Member

JRWH8944

## AMENDMENTS TO PUEBLO OF TESUQUE GAMING ORDINANCE

The Gaming Ordinance of the Pueblo of Tesuque, adopted on or about December 16, 1989, is hereby amended as follows:

1. Section 2 of the Ordinance, "Definitions," is hereby amended by adding the following additional paragraphs (t), (u) and (v):

(t) "Class II gaming" means those games described in 25 C.F.R. § 502.3.

(u) "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 most highly compensated persons in the gaming operation.
- (v) "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.

2. Section 3 of the Ordinance, "Purposes," is hereby amended to read as follows:

**SECTION 3. PURPOSES.** The purposes of this Gaming Ordinance are to make lawful and to regulate the operation, conduct, and playing of games of chance on the Reservation so that such games are

conducted in a fair and honest manner, affording patrons a fair chance to win in accordance with the nature of the games, and so that revenue may be generated by such games to fund tribal governmental operations and programs that promote the health, education and welfare of the Pueblo of Tesuque and its members and that promote tribal economic development.

3. Section 5 of the Ordinance, "Gaming Policy," paragraph (c), is hereby amended to read as follows:

**SECTION 5. GAMING POLICY.**

....

(c) Protection of Environment; Integrity of Gaming; Public Health and Safety. The construction and maintenance of any gaming facility, and the operation and conduct of any and all games of chance under the provisions of this Ordinance, shall be done in a manner that adequately protects the environment, protects and enhances the confidence of the gaming public in the integrity and honesty of the games, and protects the public health and safety.

4. Section 7 of the Ordinance, "License for Operating and Conducting Games of Chance," is deleted in its entirety and the following is inserted in its place:

**SECTION 5. LICENSES FOR OPERATING AND CONDUCTING  
GAMES OF CHANCE.**

(a) License Required. Every Key Employee and Primary Management Official of the Gaming Enterprise, the Principals of the Management Contractor, (if the Enterprise is managed under a management contract), Manufacturer or Supplier of Gaming Devices, and each person providing Gaming Services within or without a Gaming Facility shall apply for and receive a license from the Monitor, as required by the provisions of this Section. A separate license shall be required for each location of a Gaming Facility.

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

(1) The following notice shall be placed on the application form for a Key Employee and Primary Management Official before that form is filled out by an Applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§2701, **et seq.** The purpose of the requested information is to determine the eligibility of individuals to be employed in a Gaming Operation. The information will be used by members and

staff of the Tesuque Gaming Monitor and the National Indian Gaming Commission who have need for the information in the performance of their official duties. The information may be disclosed to appropriate federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigation or prosecutions or when, pursuant to a requirement by a tribe or the National Indian Gaming Commission, 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 a tribe's being unable to hire you in a primary management official or key employee position with a tribal gaming enterprise.

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

(2) Existing Key Employees and Primary Management Officials shall be notified in writing that they shall either:

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

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

(3) The following notice shall be placed on the application form for a Key Employee and Primary Management Official before that form is filled out by an Applicant:

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

See 18 U.S.C. §1001.

(4) The Monitor shall notify existing Key Employees and Primary Management Officials in writing that they shall either:

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

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

(5) Each Applicant shall provide in his or her Application all of the following information:

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

(B) Current and for the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers; **provided** that all Applicants for positions as Primary Management Official, Key Employee, Management Contractor, Manufacturer and Supplier of Gaming Devices, and/or a person providing Gaming Services, must provide such information currently and from the age of eighteen;

(C) The names and current addresses of at least three personal references, including one personal reference who was acquired with the Applicant during each period of residence listed under paragraph 2(b) of this Section;

(D) Current business and residence telephone numbers;

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

(F) A description of any existing and previous business relationships in the gaming industry, including 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 relating to gaming, whether or not such license or permit was granted;

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

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

(J) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is not otherwise listed pursuant to paragraph 2(h) or 2(i) of this Section, the criminal 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 a Primary Management Official or Key Employee, and whether or not such license or permit was granted;

(L) a current photograph;

(M) Any other information the Monitor deems relevant;

(N) Fingerprints taken by the Tesuque Police Department or the Bureau of Indian Affairs Law Enforcement Agency; and

(O) The fee required by the Monitor.

(c) Background Investigations

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

(2) The background investigation shall be at least as stringent as is required by 25 C.F.R. Pt. 556, and shall provide the Monitor with all available information necessary to the determination required under 25 C.F.R. §558.2. In particular, the Monitor shall cause a thorough criminal history check to be made of each Applicant, by having the National Indian Gaming Commission process the Applicant's fingerprint card through the Federal Bureau of Investigation.

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

(d) Temporary License. Within twenty (20) days of the receipt of a completed Application for licensing, and upon request of an Applicant, the Monitor may issue a temporary license to the Applicant unless the background investigation undertaken discloses that the Applicant has a criminal history, or unless other grounds sufficient to disqualify the Applicant are apparent on the face of the Application. The temporary license shall become void and be of no effect upon either (1) the issuance of



the license; (2) the issuance of a notice of denial; or (3) ninety days after the Licensee has begun working.

(e) Eligibility Determination. The Monitor shall review a person's prior activities, criminal record, if any, and reputation, habit, and associations to make a finding concerning the eligibility of an Applicant, Key Employee or Primary Management Official of an Applicant, for employment or involvement in a Gaming Operation. Upon completion of the investigation, the Monitor shall either issue a license or deny the Application. If the Monitor determines that employment or involvement of the person or Applicant poses a threat to the public interest or to the effective regulation of a Gaming Activity, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming Activities, the Monitor shall deny the Application.

(f) Additional Background Investigations. The Monitor retains the right to conduct additional background investigations of any person required to be licensed at any time while the license is valid.

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

(1) When a Key Employee or Primary Management Official begins work at the Gaming Enterprise, the Monitor shall forward to the National Indian Gaming Commission a completed application for employment and conduct the

background investigation and make the determination referred to in subsection (e) of this Section.

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

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

(h) Report to the National Indian Gaming Commission.

(1) Pursuant to the procedures set out in subsection (g) of this Section, the Monitor shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

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

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

(3) If a license is not issued to an Applicant the Monitor:

(A) shall notify the National Indian Gaming Commission;

(B) may forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

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

(i) Granting of a Gaming License.

(1) If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notified the Monitor that it has no objection to the issuance of a License pursuant to a license application and investigative report to the National Indian Gaming Commission, the Monitor may issue a License to such Applicant.

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

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

5.(a) Section 8 of the Ordinance, "Management Contract," paragraph (a), is hereby amended to read as follows:

(a) Hiring of Manager. The Council may hire and employ a Manager to manage and direct the day-to-day business affairs of the Gaming Enterprise established by this Ordinance. The Manager may be hired directly as an employee of the Tribe, or pursuant to a written contract, but any such contract must be approved by the Council in accordance with the provisions of this Section, and must further be approved by the Chairman of the National Indian Gaming Commission in accordance with the provisions of 25 C.F.R. §533.

5.(b) Section 8 of the Ordinance is further amended by adding to paragraph (c) a new subparagraph (7) that reads as follows:

(7) All other provisions required by 25 C.F.R. §531.1.

6. Section 10 of the Ordinance, "Bingo" is hereby amended by deleting the text of that section in its entirety, and inserting the following in its place:

**SECTION 10. TESUQUE GAMING ENTERPRISE**

(a) Establishment of the Enterprise. There is hereby established, as a wholly owned enterprise of the Pueblo of Tesuque, the Tesuque Gaming Enterprise, which enterprise shall have the authority to establish, equip, operate, and maintain gaming operations on premises located at such places on the reservation as the Council may designate. The Tesuque Gaming Enterprise shall have the following powers and duties:

(1) To acquire, construct, lease, modify, furnish, equip and maintain such facilities and premises as the Enterprise determines are necessary or appropriate for the operation and conduct of gaming operations in accordance with this Gaming Ordinance.

(2) To employ, direct, supervise, manage, control, promote, demote, discharge, fix the compensation of and define the powers and duties of such officers and other employees as the Enterprise determines are required for the operation and conduct of gaming activities in accordance with this Gaming Ordinance.

(3) To operate and conduct gaming activities in accordance with this Gaming Ordinance, provided that the Enterprise may conduct any Class II gaming activities it chooses, but only such Class III Gaming activities as are authorized by a Class III Gaming Compact entered into by and between the Pueblo and the State of New Mexico and approved by the Secretary of the Interior.

(4) Without in any way limiting or being limited by the foregoing, to do all other lawful things and perform all other lawful acts as the Enterprise determines are necessary or appropriate for the purpose of operating and conducting gaming activities, and all other activities reasonably related thereto, in accordance with this Gaming Ordinance.

(b) Supervision of Gaming Activities. The Enterprise shall be under the overall direction of the Council, which shall act as the Board of Directors of the Enterprise. The day-to-day operations of the Enterprise shall be under the direction of the Manager, who shall be hired by the Council in accordance with the provisions of Section 8 of this Ordinance. The Manager shall hire and supervise the other employees of the Enterprise, and subject to the guidance and direction of the Council (acting

as Board of the Enterprise), shall have and perform all of the powers and duties of the Enterprise.

(c) Officer in Charge. The Manager shall designate an employee of the Enterprise to be the Officer in Charge on each day during which any gaming activities are being conducted by the Enterprise, provided that no person shall be designated Officer in Charge unless such person has held a valid gaming license issued by the Monitor under the provisions of this Ordinance for no fewer than ten (10) days prior to the date on which such person is designated Officer in Charge. The Officer in Charge shall have direct responsibility for the operation and conduct of all gaming activities on that day. The Officer in Charge shall supervise all activities and shall be present on the premises continuously throughout the period during which gaming activities are being conducted and for a period of at least one hour after such activities have been concluded for the day.

(d) Premises Open to Monitor. The premises where any gaming activities are being conducted or operated hereunder, or where it is intended that such activities will be operated or conducted, shall at all times be open to inspection by the Monitor and the Council, and their agents specifically appointed for any such inspection.

(e) Provisions Applicable to Bingo. The following provisions shall apply to the conduct of Bingo games at any gaming facility operated by the Enterprise:

(1) **Merchandise Prizes.** When any merchandise is awarded as a prize in a Bingo game, 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.

(2) **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.

(3) **No Limit on Prizes.** There shall be no limit on the size of the prize offered or given in any Bingo game.

(4) **Rules of Play.** The equipment used in playing Bingo 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 has 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 is 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 has begun.

(5) **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.

(6) **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.

(7) **Additional Rules.** The Monitor shall have the authority to promulgate additional rules, not inconsistent with this Gaming Ordinance, governing Bingo games conducted hereunder, to protect the players and assure the fairness of such games.

(f) Provisions Applicable to Class III Gaming Activities. The following provisions shall apply to the conduct of any Class III Gaming activities operated by the Enterprise.

(1) **Gaming to be Conducted in Accordance With Compact.** Any and all Class III Gaming activities to be conducted by the Enterprise shall be conducted in accordance with a Compact entered into between the Pueblo and the State of New Mexico and approved by the Secretary of Interior pursuant to the Indian Gaming Regulatory Act, 25

U.S.C. §§2701 et seq., and in the event of any inconsistency between this Ordinance and such Compact, the Compact shall control.

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

(3) Class III Gaming Rules. The Monitor shall have the authority to prescribe such rules and procedures to govern any Class III Gaming authorized to be conducted under the terms of an approved Tribal/State Class III Gaming Compact and this Ordinance, and not inconsistent with the provisions of the Compact or with this Ordinance, as the Monitor deems reasonable and appropriate.

(g) Employees; Prohibition Against Employees Engaging in Gaming. Any and all persons who operate or conduct or assist in

operating or conducting any gaming activity hereunder shall be employees of the Enterprise and shall wear legible identification tags, issued by the Monitor, showing their names, and photographs and the name of the Enterprise. No employee of the Enterprise or the Manager may engage in any gaming activity conducted by the Enterprise or win any prize or thing of value from the Enterprise during his or her employment and for a period of 90 days after the termination of such employment.

(h) Qualifications for Employment. Employees of the Enterprise 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 and without prior notice, concerning the handling, collection, and/or disbursement of gross receipts. No person shall be employed by the Enterprise 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 any danger of unsuitable, unfair, or illegal practices, methods, or activities in the operation or conduct of gaming by the Enterprise or the carrying on of any business or financial arrangements incidental thereto.

(i) Preference in Employment. Members of the Pueblo of Tesuque and their spouses and children shall receive preference in employment and advancement if they meet the qualifications for employment with the Enterprise and the Manager. If there are not qualified persons from among the members of the Pueblo of Tesuque and their spouses and children to fill any available positions, the Enterprise shall hire such qualified persons as are available, but it shall give preference to qualified members of other Indian tribes.

(j) Advertisement of Positions. Notice of the availability of any positions with the Gaming Enterprise shall be posted on the premises of the gaming facility where such vacancy exists, and at least two other locations selected by the Council, for at least fifteen (15) days prior to the filling of the position, unless special circumstances exist as determined by the Council that warrant dispensing with such notice or posting for a shorter period. The notice shall contain a description of the minimum job qualifications, duties, hours of work, compensation, and the application procedure, including the application deadline.

(k) Personnel Policies. The Manager shall adopt written personnel policies for the Enterprise, which shall be provided to each employee and which shall be subject to the approval of the Council. The policies shall include an informal 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.

(l) Hiring and Training of Employees. The Enterprise and the Manager shall provide sufficient training to all employees to enable them to perform their jobs properly, and shall provide employees who are members of the Pueblo of Tesuque with training specifically designed to enable such employees to acquire the experience and skills necessary to advance within the Enterprise.

(m) Expenses of Training Employees. The expense of providing training to members of the Pueblo of Tesuque and of their spouses and children shall be an allowable operating expense of the Enterprise.

7. Section 11(a) is amended to delete the following phrase: "if the Council receives reliable information from the National Indian Gaming Commission or any other source that the licensee does not meet the standard established in subsection C(4) of Section 7" and to insert the following phrase in its place: "if the Council or Monitor receives reliable information from the National Indian Gaming Commission or any other source that the licensee does not meet the standard established in subsection Section 7(e)".

8. A new Section 13, "Patron Disputes," is hereby added to the Ordinance, which shall read as follows:

### **SECTION 13. PATRON DISPUTES.**

(a) Procedures for Resolving Patron Disputes. Whenever any patron of any gaming activity being conducted by the Enterprise under the provisions of this Ordinance believes that he or she has lost any money unfairly, or has not received any winnings to which the patron believes he or she was entitled, or in any other respect was treated wrongly or unfairly, any employee to whom the patron communicates the complaint shall refer the patron to the Manager. The Manager shall investigate the matter thoroughly, and shall attempt to resolve the complaint amicably and promptly and in keeping with the spirit of this Ordinance. The Manager's proposed action shall be communicated to the patron in writing, no less than ten (10) days after the complaint is brought to the Manager. If the patron is dissatisfied with the resolution proposed by the Manager, the patron may, within ten (10) days of receipt of the Manager's decision, appeal to the Monitor. The Monitor shall investigate the facts underlying the complaint and the actions of the Manager thereon, and shall make a final decision, in writing, either to affirm the Manager's proposed resolution, or to take some different action (but in no case shall the Monitor's decision be less favorable to the patron than the Manager's proposal). If the patron is still dissatisfied, he or she may request that the dispute be referred to binding arbitration, either by a single arbitrator (if the parties agree on one) or by a panel of three arbitrators, one appointed by the patron, one appointed by the Manager, and a third appointed by the other two; provided, that if the arbitration results in a decision that is no more favorable to the patron than the decision

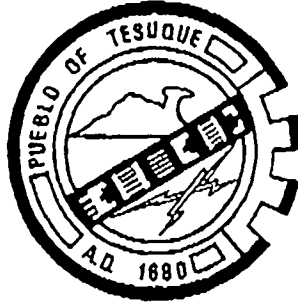
of the Monitor, the patron shall bear one-half of the costs of the arbitration. The arbitration shall proceed in accordance with the rules of the American Arbitration Association, unless the patron and the Enterprise agree to follow different procedures.

(b) Posting of Notice. The Enterprise shall prominently post a notice, bearing the title, "PATRON DISPUTE PROCEDURES," informing patrons of the remedies set forth in this section, and setting forth the language of paragraph (a) of this section, in every room of every facility where gaming is conducted under the provisions of this Ordinance.

RRWH1060



TESUQUE PUEBLO  
ROUTE 11, BOX 1  
SANTA FE, NEW MEXICO 87501



RESOLUTION #1989 - 12 - 04

TESUQUE PUEBLO BINGO ORDINANCE

- WHEREAS: 1. The Pueblo of Tesuque ("Pueblo") Tribal Council ("Council") is the governing body of the Pueblo of Tesuque and is responsible for the development and operation of business enterprises on the Tesuque Indian Reservation ("Reservation"); and
2. The Council enacted a Bingo Ordinance on May 10, 1984, to govern the conduct and operation of bingo games on the Reservation, under which Bingo Ordinance the Pueblo has operated a bingo enterprise since 1984; and
3. The Pueblo wishes to continue to operate bingo games on the Reservation; and
4. The Indian Gaming Regulatory Act, Public Law 100-497 ("Act"), was enacted by the Congress of the United States and signed into law on October 17, 1988; and
5. The Bingo Ordinance does not comply with the requirements of Act, and the Council wishes to enact a new ordinance that complies with the Act and that clarifies the rights, duties, and responsibilities of persons changed with operating and regulating games of chance on the Reservation; and
6. At the Council's direction, the Tribal Attorneys have prepared a revised Gaming Ordinance of the Pueblo of Tesuque ("Ordinance"), a copy of which is attached to this Resolution, to govern the conduct of all games of chance within the exterior boundaries of the Reservation and to establish the Pueblo of Tesuque Gaming Monitor; and
7. The proposed Ordinance provides, among other things, that--
- (1) the Pueblo shall have the sole proprietary interest and responsibility for the conduct of gaming activities on the Reservation; and
  - (2) net revenues from gaming activities on the Reservation are to be used to fund tribal governmental operations and programs that promote the health, education, and welfare of the Pueblo and its members and that promote economic development; and
  - (3) annual outside audits of the gaming will be provided to the National Indian Gaming Commission; and

- ( 4 ) all contracts for services, supplies, and concessions for a contract amount in excess of \$25,000.00 annually--except contracts for professional legal or accounting services--relating to such gaming shall be subject to independent audits; and
- ( 5 ) the construction and maintenance of gaming facilities and the operation of gaming activities shall be conducted in a manner that adequately protects the environment and the public health and safety; and
- ( 6 ) background investigations are conducted on the primary management officials and key employees of gaming enterprises and that oversight of such officials and their management is conducted on an ongoing basis; and
- ( 7 ) a system be established to provide for mandatory tribal licenses for key employees of gaming enterprises, a standard whereby unsuitable persons are not eligible for employment at gaming enterprises, and mandatory advance notice to the National Indian Gaming Commission of the results of background checks and of licenses issued; and

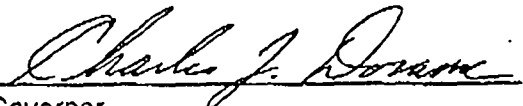
8. The Council finds that the proposed Ordinance is in the best interests of the Pueblo and will help ensure the safe, fair, and honest operation of games of chance on the Reservation.

**NOW THEREFORE BE IT RESOLVED:**

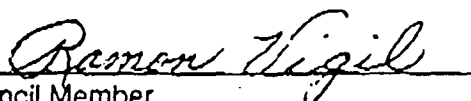
That the Council hereby approved, adopts, an enacts the Gaming Ordinance of the Pueblo of Tesuque.

**CERTIFICATION**

I, the undersign, as Governor of the Pueblo of Tesuque hereby certify that the Tesuque Pueblo Council, at a duly called meeting, which was convened and held on December 16, 1989, at Tesuque Pueblo, approved this Resolution, a quorum being present, and 9 voted for and 0 opposed.

  
 \_\_\_\_\_  
 Governor

**ATTEST:**

  
 \_\_\_\_\_  
 Council Member

GSWW/DRAFT  
December 18, 1989  
BKGT\21GAMING.ORD

GAMING ORDINANCE OF THE PUEBLO OF TESUQUE

December \_\_\_\_, 1989

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GAMING ORDINANCE OF THE PUEBLO OF TESUQUE

Ordinance No. \_\_\_\_\_

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

An Ordinance to Govern, Regulate, and Control Gaming Activities on the Pueblo of Tesuque Indian Reservation.

SECTION 1. NAME. The name of this Ordinance shall be the Gaming Ordinance of the Pueblo of Tesuque.

SECTION 2. DEFINITIONS. In this Ordinance, unless the context otherwise requires:

(a) "Bingo game" means the game of chance commonly known as "bingo" (whether or not electronic, computer, or other 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, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo.

(b) "Class III Gaming" means all forms of gaming that may be operated or conducted only in conformity with a Tribal-State Compact negotiated and entered into pursuant to Section 11(d) of the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-21, 18 U.S.C. §§ 1166-68.

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

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

(e) "Gaming Ordinance" means this Gaming Ordinance of the Pueblo of Tesuque.

(f) "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.

(g) "License" means a license duly issued to primary management officials and key employees of any gaming enterprise conducted on the Reservation by the Monitor pursuant to this Gaming Ordinance.

(h) "Licensee" means any person who has been duly licensed by the Monitor.

(i) "Manager" means the Manager of the Pueblo of Tesuque Bingo Enterprise hired pursuant to Section 8 of this Gaming Ordinance.

(j) "Member of the Pueblo of Tesuque" means an enrolled member of the Pueblo of Tesuque.

(k) "Monitor" means the Pueblo of Tesuque Gaming Monitor established by this Ordinance.

(l) "National Indian Gaming Commission" means the National Indian Gaming Commission established by the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-21, 18 U.S.C. §§ 1166-68.

(m) "Net revenues" means the gross receipts less the operating expenses, which expenses include but are not limited to wages, prizes, utilities costs, insurance costs, advertising costs, repair costs, maintenance costs, costs of supplies, security services costs, janitorial services costs, trash removal costs, taxes, rent, lawyers' and accountants' fees, and such other deductions or charges as may be specifically authorized hereunder.

(n) "Occasion" means a gathering at which a game of chance is played.

(o) "Person" means a natural person, firm, association, partnership, joint venture, corporation, or other legal entity.

(p) "Premises" means any room, hall, building, enclosure, or outdoor or other area used for the purpose of playing a game of chance.

(q) "Reservation" means the Pueblo of Tesuque Indian Reservation and any lands title to which is held in trust by the United States for the benefit of the Pueblo of Tesuque or a member thereof or held by the Pueblo of Tesuque subject to a restriction by the United States against alienation, and over which lands the Pueblo of Tesuque exercises governmental power.

(r) "Treasurer" means the Treasurer of the Pueblo of Tesuque.

(s) "Tribal Court" means the Pueblo of Tesuque Tribal Court.



SECTION 3. PURPOSES. The purposes of this Gaming Ordinance are to make lawful and to regulate the operation, conduct, and playing of games of chance on the Reservation so that revenue may be produced to fund tribal governmental operations and programs which promote the health, education, and welfare of the Pueblo of Tesuque and its members and which promote tribal economic development.

SECTION 4. INTERPRETATION. This Gaming Ordinance is an exercise of the sovereign power of the Pueblo of Tesuque 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, including but not limited to any bingo game or any Class III gaming, within the boundaries of the Reservation except in accordance with the provisions of this Gaming Ordinance. For purposes of this Gaming Ordinance, "games of chance" shall 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.

(b) Ownership of Gaming Enterprise. The Pueblo of Tesuque, acting through the Council, shall have the sole proprietary interest in and responsibility for the operation and conduct of any game 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 which adequately protects the environment and the public health and safety.

SECTION 6. PUEBLO OF TESUQUE GAMING MONITOR.

(a) Establishment of Monitor. The Tribal Administrator hereby is appointed as the Pueblo of Tesuque Gaming Monitor for the purpose of monitoring all games of chance within the exterior boundaries of the Reservation.

(b) Powers and Duties. The Monitor shall have the following powers and duties:

- (1) To permit or refuse to permit the operation or conduct of any games of chance within the exterior boundaries of the Reservation and to specify the conditions therefor, provided, that the operation or conduct of any games of chance must be approved by a Resolution of the Council.
- (2) Subject to approval of the Council, to grant, suspend, or revoke licenses to primary management officials and key employees of the Pueblo of Tesuque Bingo Enterprise in accordance with this Gaming Ordinance.
- (3) To monitor and oversee the operation and conduct of all games of chance within the exterior boundaries of the Reservation on a continuing basis, including but not limited to ongoing monitoring and oversight of licensees engaged in the operation and conduct of such games.

- (4) To inspect and examine all premises within the exterior boundaries of the Reservation at which games of chance are played.
- (5) To conduct or cause to be conducted background investigations of persons involved, directly or indirectly, in the operation or conduct of games of chance within the exterior boundaries of the Reservation.
- (6) To inspect, examine, photocopy, and audit all papers, books, and records respecting gross receipts of gaming activities operated or conducted within the exterior boundaries of the Reservation and any other matters necessary to carry out the duties of the Monitor under this Gaming Ordinance.
- (7) Subject to the approval of the Council, to enter into contracts with tribal, federal, state, and private entities for activities necessary to the discharge of the duties of the Monitor and to contract with the National Indian Gaming Commission for the enforcement of federal regulations governing gaming on Indian reservations.
- (8) Subject to the approval of the Council, to establish fees for applications for licenses and fees for licensees based on a percentage of the gross receipts of games of chance operated or conducted by such licensees.

- (9) To require by written order 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 Monitor, and, subject to approval of the Council, to bring actions in the Tribal Court for the enforcement of such order.
- (10) To administer oaths and affirmations to witnesses appearing before the Monitor.
- (11) To keep minutes, records, and books in which shall be kept a true, faithful, and correct record of all proceedings before the Monitor.
- (12) To recommend amendments to this Gaming Ordinance to the Council.
- (13) To submit an annual report to the Council on the activities of the Monitor.

(c) Term. The Monitor shall serve until a successor has been appointed.

(d) Qualification of Monitor. No person shall be eligible or qualified to serve or continue to serve as the Monitor who:

- (1) Has been convicted of a felony or gaming offense;
- (2) Has any financial interest in, or management responsibility for, any gaming activity; or
- (3) Has a financial interest in, or management responsibility for, any bingo management contract submitted to the Council for review or approval.

(e) Resignations. The Monitor may resign at any time by giving written notice of such to the Secretary of the Commission and to the 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, howsoever caused, shall be filled by a qualified person appointed by the Governor with the consent of the Council.

(f) Cooperation With Law Enforcement Agencies. The Monitor 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 of Tesuque and will assist in assuring that fair, honest, and efficient games of chance are operated and conducted within the Reservation.

(g) Compensation. The Monitor shall be compensated as determined by the Council.

**SECTION 7. LICENSE FOR OPERATING AND CONDUCTING GAMES OF CHANCE.**

(a) License Required. The Manager, all primary management officials and key employees of the Manager, and any person having any interest in or duty to perform with respect to any game of chance operated or conducted within the exterior boundaries of the Reservation, whether that interest or duty is direct or indirect, shall apply for and receive a license from the Monitor prior to their participation in any way in the operation or conduct of any game of chance within the exterior boundaries of the Reservation. Persons engaged in such activities as of December \_\_\_\_, 1989, shall apply for and receive from the Monitor on or before February 28,

1990. A separate license shall be required for each location at which games of chance are operated or conducted.

(b) License Application. Each applicant for a license shall file with the Monitor a written application in the form prescribed by the Monitor, duly executed and verified, in which he shall certify:

- (1) The name and address of the applicant, the address of each principal residence and each place of business of the applicant since 1975, and the names and addresses of all employers of the applicant since 1975;
- (2) If the applicant is not a natural person, sufficient facts relating to the applicant's business form and organization to enable the Monitor to determine the identity of all primary management officials and key employees of the applicant;
- (3) If the applicant is not a natural person, the names and addresses of its primary management officials, key employees, persons having a direct financial interest in or management responsibility for the applicant, and, if applicable, each person who serves on the board of directors and each of its stockholders who holds ten percent (10%) or more of its issued and outstanding stock, whether such stock is held directly or indirectly;

- (4) A complete financial statement of the applicant and, if applicable, each person listed pursuant to Paragraph (3) of this Subsection;
- (5) A complete description of any previous experience or involvement of the applicant and, if applicable, of each person listed pursuant to Paragraph (3) of this Subsection, with gaming contracts or with the gaming industry in general, including specifically the name and address of any party with which such person has had a contract related to gaming, and any licensing or regulatory agency to which such person has applied for a license or permit to perform any activity associated in any way with games of chance, whether or not such license or permit was granted.
- (6) The specific kinds of games of chance to be operated and conducted by the applicant;
- (7) The place where the games of chance will be operated and conducted by the applicant under the license applied for;
- (8) The items of expense intended to be incurred or paid in connection with the operation and conduct of such games of chance, the names and addresses of the persons to whom payments will be made, if known, and the purposes for which payments will be made;
- (9) A sworn statement that no commission, salary, compensation, reward, or recompense of any kind

shall be paid to any person for operating or conducting such games of chance or for assisting therein, except as provided in this Gaming Ordinance;

- (10) A sworn statement from the applicant and, if the applicant is not a natural person, from each person listed pursuant to Paragraph (3) of this Subsection, that he or they will be responsible for the operation and conduct of games of chance in accordance with the terms of their licenses and the provisions of this Gaming Ordinance; and
- (11) All such other information determined by the Monitor to be relevant to ensuring that the applicant qualifies as a licensee.

(c) Background Investigation; Issuance of License. The Monitor shall conduct or cause to be conducted a thorough investigation of the background of the applicant including, if applicable, the backgrounds of all persons listed in the application pursuant to Paragraph (b)(3) of this Section. The Commission may issue a license to any person who:

- (1) Has provided a complete and accurate application and complied fully with any and all requests by the Monitor for information concerning the background and activities of the applicant;
- (2) If a natural person, has attained the age of twenty-one (21) years;
- (3) If a natural person, is not a member of the Council;



- (4) Has not been convicted of any felony or gaming offense;
- (5) 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
- (6) 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 of the government of the Pueblo of Tesuque.

(d) Notice to National Indian Gaming Commission. If the National Indian Gaming Commission is organized and has issued regulations at the time a license is to be issued by the Monitor, the Monitor shall notify the National Indian Gaming Commission of the results of the background check of the applicant at least thirty (30) days prior to the issuance of a license.

**SECTION 8. MANAGEMENT CONTRACT.**

(a) Hiring of Manager. The Council may hire and employ a Manager to manage its day-to-day business affairs. A Manager may be hired and employed only pursuant to a written contract approved by the Council in accordance with this Section.

(b) License Required for Approval of Management Contract.

Upon approval of any management contract, the Council shall require that all primary management officials and key employees of the Manager be licensed by the Monitor within sixty (60) days.

(c) Standards for Approval. The Council may approve a gaming management contract only if the contract provides:

- (1) For the adoption and maintenance of adequate accounting procedures and for verifiable financial reports to be prepared and submitted to the Council on a monthly basis;
- (2) For access of the Monitor to the daily operations of the gaming and for permission for the Monitor to verify the daily gross revenues and income made from the licensed gaming activity.
- (3) For a minimum guaranteed payment to the Pueblo of Tesuque, which payment must be made prior to retirement of any development and construction costs;
- (4) For an agreed ceiling for the repayment of development and construction costs;
- (5) For a contract term not to exceed five (5) years, except that the Council may authorize a contract term that exceeds five (5) years but does not exceed seven (7) years if the Council is satisfied that the capital investment required and the income

projections for the particular gaming activity require the additional time; and

(6) For grounds and procedures for terminating such contract.

(d) Management Contract Fees. The Council may approve a management contract providing for a fee based upon a percentage of the net revenues. Such fee shall not exceed thirty percent (30%) of the net revenues, except that the Council may approve a management contract providing for a fee that exceeds thirty percent (30%) but not forty percent (40%) of the net revenues of a gaming activity if the Council is satisfied that the capital investment required and the income projections for, such gaming activity require the additional fee.

(e) Grounds for Disapproval. The Council shall not approve any management contract if the Council determines that:

- (1) The Manager or any primary management official or key employee of the Manager is not licensed or is ineligible to be licensed; or
- (2) A trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

(f) Modification and Revocation of Management Contract. The Council shall have the authority to require appropriate contract modifications and may void any management contract if it determines that this Gaming Ordinance or the management contract has been violated.

(g) No Transfer of Real Property. No management contract for the operation and management of a gaming activity regulated by this Gaming

Ordinance shall transfer or in any other manner convey any interest in land or other real property, unless specific statutory authority exists therefor and unless clearly specified in writing in said management contract.

(h) Management Contract Binding Upon Approval. No management contract, and no modification, revision, or amendment thereto, shall be binding upon the Pueblo unless and until approved by the Council.

**SECTION 9. FINANCIAL PRACTICES AND REPORTING.**

(a) Monthly Reports. On or before the twentieth day of each month, the Manager shall file with the Monitor and the 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, and the net revenues derived from games of chance. It is the duty of the Manager to maintain and keep such books and records as may be necessary to substantiate the particulars of each report. If 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 the Manager may be suspended until such time as the deficiency has been corrected.

(b) Maintenance of Books and Records; Monitor Access. Full and accurate books of account shall be kept at the Premises showing the condition of the business and all transactions relating to games of chance on the Reservation. The Monitor and the Council shall have access to such books of account and shall be entitled to examine them without notice at any time during ordinary business hours or during games of chance either in person or by an agent. All records of games of chance in whatever medium shall be maintained for seven (7) years.

(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) For the purchase of goods, wares, and merchandise furnished;
- (2) 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;
- (3) For rent, janitorial, and security services;
- (4) For legal and accounting fees;
- (5) For taxes and license fees;
- (6) For utilities;
- (7) For advertising;
- (8) For vehicle expenses;
- (9) For insurance; and
- (10) For prizes for winners of games of chance.

(d) Deposit of Gross Receipts; Payment of Operating Expenses.

All gross receipts shall be deposited in a separate Bingo General Operating Account of the Pueblo of Tesuque which shall contain only gross receipts. All operating expenses shall be withdrawn from such account by consecutively numbered checks duly signed by the Manager or an official or officials thereof designated by the Manager payable to a specific person or organization.

(e) Annual Audit. The Manager shall cause to be produced an annual outside independent certified audit of all gaming activities and shall deliver the same to the Council, the Monitor, and the National Indian Gaming Commission in accordance with all applicable regulations.

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

(g) Disposition of Net Revenues. The net revenues derived from games of chance shall be deposited into the general fund of the Pueblo of Tesuque and shall not be used for purposes other than:

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

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

#### SECTION 10. BINGO.

(a) General Authority of the Monitor. Upon the Council's approval of a management contract, the Pueblo shall have authority to

establish, equip, operate, and maintain a bingo operation on premises located at such places on the Reservation as the Council may designate. The Pueblo of Tesuque Bingo Enterprise shall have the following powers and duties:

- (1) To acquire, lease furnish, equip, and maintain such premises as shall be required for the operation and conduct of bingo games in accordance with this Gaming Ordinance.
- (2) To employ, direct, supervise, manage, control, promote, demote, discharge, fix the compensation, and define the power and duties of such officers, clerks, card sellers, callers, security guards, and other employees as shall be required for the operation and conduct of bingo in accordance with this Gaming Ordinance.
- (3) To operate and conduct bingo games in accordance with this Gaming Ordinance.
- (4) Without in any way limiting or being limited by the foregoing, to do all such things and perform all such lawful acts as are necessary or advisable for the purpose of operating and conducting bingo games in accordance with this Gaming Ordinance.

(b) 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 games of chance on that occasion. The officer in charge must

have obtained a license from the Monitor at least ten (10) days prior to the occasion. The officer in charge shall supervise all activities on the occasion and shall be present on the premises continuously during the playing of games of chance and for a period of at least one (1) hour after the last bingo game of the occasion has been completed.

(c) Premises Open to Monitor. Premises where any bingo game is being operated or conducted, or where it is intended that a bingo game will be operated or conducted, shall at all times be open to inspection by the Monitor and the Council, their agents, and their employees.

(d) Merchandise Prizes. When any merchandise is awarded as a prize in a bingo game, 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.

(e) 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.

(f) No Limit on Prizes. There shall be no limit on the size of the prize offered or given in any bingo game or on any occasion.

(g) Rules of Play. The equipment used in playing games of chance 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.

(h) 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.

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

(j) Employees; Prohibition Against Employees Playing Bingo. All persons who operate or conduct, or assist in operating or conducting, a bingo game shall be employees of the Pueblo of Tesuque Bingo Enterprise or the Manager and shall wear legible tags evidencing their names and the legend of the Pueblo of Tesuque. No employee of the Pueblo of Tesuque Bingo Enterprise or the Manager may play any bingo game or win any prize or thing

of value during his or her employment and for ninety (90) days after termination of such employment.

(k) Qualification for Employment; Testing. Employees of the Pueblo of Tesuque Bingo Enterprise 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 and without prior notice, concerning the handling, collection, and/or disbursement of gross receipts. No person shall be employed by the Pueblo of Tesuque Bingo Enterprise 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.

(l) Preference in Employment. Members of the Pueblo of Tesuque and their spouses and children shall receive preference in employment and advancement if they meet the qualifications for employment with the Pueblo of Tesuque Bingo Enterprise and the Manager. If sufficient numbers of qualified members of the Pueblo of Tesuque and their spouses and children are not available to fill all available positions, the Pueblo of Tesuque Bingo Enterprise shall hire members of other Indian tribes whenever possible.

(m) Advertisement of Positions. All positions and vacancies with the Pueblo of Tesuque Bingo Enterprise and the Manager shall be posted

on the Premises and at least two (2) other locations selected by the Council for at least fifteen days prior to filling the position or vacancy, if reasonably practicable. The notices shall contain a description of the minimum job qualifications, job duties, hours of work, compensation, and the application procedure, including the application deadline.

(n) Personnel Policies. The Manager shall adopt written personnel policies which shall be provided to each employee and which shall be subject to approval of the Council. The personnel policies shall provide an informal 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.

(o) Hiring and Training of Employees. The Pueblo of Tesuque Bingo Enterprise and the Manager shall provide sufficient training to all employees, and shall provide for employees who are members of the Pueblo of Tesuque training programs with specified timelines which will enable members of the Pueblo of Tesuque to acquire the experience and skills necessary to become managers and supervisors of Bingo games operated by the Pueblo of Tesuque Bingo Enterprise.

(p) Expenses of Training Employees. The expense of providing training to members of the Pueblo of Tesuque and to their spouses and children shall be an allowable operating expense of the Pueblo of Tesuque Bingo Enterprise and the Manager.

#### SECTION 11. SUSPENSION OR REVOCATION OF LICENSE.

(a) Grounds for Suspension and Revocation. If a licensee makes a false statement in any application for a license, in any statement annexed thereto, or in any response to a request by the Monitor or the Council 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 of Tesuque relating to gaming; or deliberately or substantially fails to provide information to or answer relevant questions of the Monitor or the Council or otherwise fails to comply with this Gaming Ordinance or the terms of any license granted pursuant hereto; or if the Council receives reliable information from the National Indian Gaming Commission or any other source that the licensee does not meet the standard established in Subsection (c)(4) of Section 7; his license may be suspended and, after notice and a hearing before the Council 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 Council by serving a complaint upon the licensee. If, in the Council's judgment, the public interest; the effective regulation and control of gaming; or the safe, fair, and honest operation and conduct of games of chance so requires, the Council 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 Council has

reasonable cause to believe the licensee has committed. The Council shall cause the complaint and notice of hearing to be served personally upon the licensee or any agent of the licensee, or to be sent by certified mail to the licensee at the address shown upon the license. 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; Written Orders. Upon receipt of a complaint and notice of hearing, the licensee shall answer the complaint and shall inform the Council whether the licensee desires to present evidence. At the request of the licensee for good cause shown, or on its own motion, the Council shall issue written orders 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 Council shall hear the matter and make a decision in writing, including findings of fact in support of its decision. The Council 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 Council suspends or revokes a license, the licensee shall surrender the license to the Monitor 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 Council, in addition to any other penalties which 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.

**SECTION 12. VIOLATIONS; JURISDICTION; ENFORCEMENT OF SUBPOENAS.**

(a) Criminal Penalties. Any person who violates any provision of this Gaming Ordinance shall be guilty of a criminal offense punishable by a fine, or by imprisonment, or both, the amount of such fine and the length of such imprisonment to be up to the maximum amount and length that federal law allows Indian tribes to impose.

(b) Civil Sanction. Any person who violates any provision of this Gaming Ordinance shall be liable for civil monetary sanctions equal to the actual damages. Any person who commits an intentional or wilful violation may be liable for punitive damages, which shall be assessed in an amount not to exceed three times the actual damages or one thousand dollars (\$1,000), whichever is greater.

(c) Tribal Court Jurisdiction. The Tribal Court shall have jurisdiction over all violations of this Gaming Ordinance and over all persons who are parties to a management contract entered pursuant thereto, including agents, employees, owners, directors, and officers of such parties, and may, in addition to the penalties prescribed in Subsections

(a) and (b) of this Section, grant such other legal and equitable relief as is necessary and proper for the enforcement of this Gaming Ordinance and of the provisions of any management contract entered pursuant thereto, including but not limited to injunctive relief against acts in violation thereof. Nothing in this Gaming Ordinance, however, 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.

(d) Enforcement of Council and Monitor Orders. If a person is ordered by the Monitor or the Council to attend or to produce books, accounts, records, or other documents in any investigation or hearing conducted by the Monitor or the Council 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 Monitor or the Council, the Monitor or the Council 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 order. 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, if the Council or the Tribal Court agree in writing that such person shall not be prosecuted, punished, or subjected to any penalty or forfeiture resulting from such testimony or production, provided that no person shall be exempt from

prosecution or punishment for any act of perjury committed by him under a grant of immunity under this Subsection.