



VIA FIRST CLASS MAIL

March 29, 2019

Governor Frederick Vigil
Office of the Governor
Pueblo of Tesuque
Route 42 Box 360-T
Santa Fe, NM 87506

Re: Pueblo of Tesuque's Amendments to Gaming Ordinance No. 43-0927-2018

Dear Governor Vigil:

This letter responds to your December 27, 2018 request on behalf of the Pueblo of Tesuque for the National Indian Gaming Commission Chairman to review and approve a gaming ordinance amendment. This ordinance amends the Pueblo of Tesuque Code of Ordinances Chapter 8.

Ordinance Number 43-0927-2018 makes changes to the Community's Gaming Ordinance by revising the licensing provisions.

The gaming ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations. If you have any questions concerning this letter or the ordinance review process, please contact Suzanne Nunn at (202) 632-7003.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonodev O. Chaudhuri".

Jonodev O. Chaudhuri
Chairman

PUEBLO OF TESUQUE GAMING ORDINANCE

Be it enacted by the Tribal Council of the Pueblo of Tesuque, that the Pueblo of Tesuque Gaming Ordinance is hereby amended by Resolution 43-0927-201818 and approved by the Chairman of the National Indian Gaming Commission on {{DATE}} as follows:

SECTION 1. NAME. This Ordinance may be cited as the Pueblo of Tesuque Gaming Ordinance.

SECTION 2. DEFINITIONS.

(a) When used in this Ordinance, unless the context requires otherwise, the term:

(1) “Adjusted Net Win” is Net Win with certain deductions for purposes of calculating revenue sharing as set forth in Section 11(C) of the 2015 Compact.

(2) “Class II Gaming” means all forms of gaming as defined in 25 U.S.C. § 2703(7)(A) and 25 C.F.R. § 502.3.

(3) “Class II Technologic Aid” means an electronic, computer, or other device or aid used in conjunction with Class II gaming as defined by IGRA.

(4) “Class III Gaming” means all forms of gaming as defined in 25 U.S.C. § 2703(8) and 25 C.F.R. § 502.4.

(5) “Commission” means the Pueblo of Tesuque Gaming Commission.

(6) “Compact” means a tribal-state compact entered into and in effect between the Pueblo and the State pursuant to IGRA.

(7) “Compliance Report” is the report submitted annually to the State Gaming Representative by the Commission according to the requirements set forth in the Appendix attached to the 2015 Compact.

(8) “Council” or “Tribal Council” means the Pueblo of Tesuque Tribal Council, the governing body of the Pueblo.

(9) “Discretionary Complimentaries” means food or lodging provided by the Gaming Enterprise or the Pueblo for no charge or at reduced prices at a Gaming Facility or lodging facility as an incentive or enticement for patrons to game, except for food or lodging received as rewards by patrons in exchange for points or credits accrued under any form of a players’ club program.

(10) “Executive Director” means the executive director of the Commission.

(11) "Free Play" means play on a Class III Gaming Machine initiated by points or credits provided to patrons without monetary consideration, and which have no cash redemption value.

(12) "Games of Chance" means Class II Gaming and Class III Gaming, but shall not include social games played solely for prizes of minimal value, or traditional forms of Indian gaming engaged in by individuals as part of, or in connection with, tribal ceremonies or celebrations.

(13) "Gaming Activity" means the conduct or act of conducting Class II and Class III Games of Chance.

(14) "Gaming Device" means a Gaming Machine or associated Gaming Equipment, and includes a system for processing information that can alter the normal criteria of random selection that affects the operation of a Class III Game of Chance or determines the outcome of a Class III Game of Chance, but does not include a system or device that affects a Class III Game of Chance solely by stopping its operation so that the outcome remains undetermined.

(15) "Gaming Employee" means any natural person employed by a Gaming Operation or the Gaming Enterprise (other than a Key Employee or a Primary Management Official) whose duties are directly connected with any Gaming Activity or Gaming Revenues, or who is regularly required to work in a Sensitive Area or other restricted area of a Gaming Facility.

(16) "Gaming Enterprise" means a corporation or other business entity that is wholly owned by the Pueblo and authorized by the Council to conduct and operate Games of Chance on the Reservation.

(17) "Gaming Equipment" means any equipment, device, or contrivance, whether mechanical, electromechanical, computerized, communications, or networking, other than a Gaming Device, used to conduct Games of Chance.

(18) "Gaming Facility" means each separate physical building or structure in which Gaming Activity is conducted by a Gaming Operation.

(19) "Gaming Machine" or "Class III Gaming Machine" means a mechanical, electromechanical, or electronic contrivance or machine that, upon insertion of a coin, token, or similar object, or upon payment of any consideration, is available to play or operate a Class III Game of Chance, whether the payoff is made automatically from the Gaming Machine or in any other manner; but Gaming Machine does not include a Class II Technologic Aid, a Card Minder, or a Table Game or any devices utilized in Table Games.

(20) "Gaming Operation" means the subsidiary, division, department, or unit of a Gaming Enterprise that is responsible for receiving or disbursing the revenues, issuing the prizes, and paying the expenses in connection with the conduct of

Gaming Activity. For purposes of the Ordinance, unless the context dictates otherwise, a Gaming Operation includes any Management Contractor having a Management Contract.

(21) "Gaming Revenues" means all revenues of a Gaming Operation earned or collected from Gaming Activity. Gaming Enterprise and Gaming Operation revenues are to be differentiated between gaming and non-gaming activities in accordance with generally accepted accounting principles. If a Gaming Enterprise or Gaming Operation does not do so, undifferentiated revenue shall be considered Gaming Revenues.

(22) "Gaming Services" means any goods, services, or concessions in a contract amount in excess of \$10,000 annually, except legal and accounting services, provided directly in connection with Gaming Activity or Gaming Systems.

(23) "Gaming Systems" means computer hardware and software, including networking and communication components, used directly in the operation, monitoring, or surveillance of Gaming Activity, or the accounting or management of Gaming Revenues, excepting applications and data maintained by a government-regulated financial institution.

(24) "Governor" means the Governor of the Pueblo.

(25) "Gross Receipts" means the total amount of money or the value of other consideration received from conduct of Gaming Activity.

(26) "IGRA" means the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§ 2701-2721, and its implementing regulations.

(27) "Key Employee" means:

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

- (i) Bingo caller;
- (ii) Counting room supervisor;
- (iii) Chief of security;
- (iv) Custodian of gaming supplies or cash;
- (v) Floor manager;
- (vi) Pit boss;
- (vii) Dealer;
- (viii) Croupier;
- (ix) Approver of credit; or
- (x) Custodian of Gaming Devices, including persons with access to cash and accounting records within Gaming Devices;

(B) If not otherwise included, any other person employed by or on behalf of the Gaming Operation whose total cash compensation is in excess of \$50,000 per year; or

(C) If not otherwise included, the four most highly compensated persons employed by the Gaming Operation; or

(D) Any other Person designated by the Commission as a key employee.

(28) "License" means a license duly issued by the Commission to any Person required to be licensed under this Ordinance.

(29) "Licensee" means any Person who has been duly licensed by the Commission.

(30) "Management Contract" means a contract within the meaning of 25 U.S.C. §§ 2701(d)(9) and 2711 and as defined in 25 C.F.R. § 502.14.

(31) "Management Contractor" means any person or entity that has entered into a Management Contract.

(32) "NIGC" means the National Indian Gaming Commission established by IGRA.

(33) "Net Revenues" means the gross revenues of a Gaming Operation less amounts paid out as, or paid for prizes and total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and nonoperating expenses consistent with professional accounting pronouncements, excluding management fees.

(34) "Net Win", as defined in the 2015 Compact, means "Net Win" means the win from Class III gaming activities, which is the difference between gaming wins and losses before deducting costs and expenses or deducting incentives or adjusting for changes in progressive jackpot liability accruals. Generally, Net Win is the difference between patron wagers and payouts made on winning wagers.

(35) "Non-Gaming Services" means any goods or services in a contract amount in excess of \$25,000 annually, except legal and accounting services, provided to the Gaming Operation directly in connection with the operation of a Gaming Facility, but that do not directly involve the operation of Gaming Activity, such as equipment, transportation, food, non-alcoholic beverage, linens, janitorial supplies, maintenance, security services, payroll, and records storage.

(36) "Non-Member" means any natural person who is not an enrolled member of the Pueblo.

(37) "Ordinance" means this Pueblo of Tesuque Gaming Ordinance.

(38) "Person" means a natural person, firm, association, partnership, government or political subdivision or agency thereof, joint venture, corporation, or other legal entity.

(39) "Point Play" means play on a Class III Gaming Machine initiated by points earned or accrued by a player through previous Gaming Machine play, players' clubs, or any other method, and which have no cash redemption value.

(40) "Primary Management Official" means:

(A) The person having management responsibility for a Management Contract;

(B) Any person who has authority to:

(i) hire and fire employees; or

(ii) establish working policy for the Gaming Operation;

(C) The chief financial officer or other person who has financial management responsibility; or

(D) The board of directors of the Pueblo of Tesuque Development Corporation or its successors in interest.

(41) "Principal" means any "person having a direct or indirect financial interest in a Management Contract" as defined in 25 C.F.R. § 502.17, and any "person having management responsibility for a Management Contract" as defined in 25 C.F.R. § 502.18.

(42) "Pueblo" means the Pueblo of Tesuque, a federally recognized Indian tribe.

(43) "Reservation" means all lands within the exterior boundaries of the Pueblo of Tesuque Indian Reservation and its confirmed land grants from prior sovereigns, any lands to which title is held in trust by the United States for the benefit of the Pueblo or a member thereof, and any lands held by the Pueblo or a member thereof subject to a restriction by the United States against alienation, and over which lands the Pueblo exercises governmental power.

(44) "Sensitive Area" means an area in which Gaming Machines, Gaming Equipment, Gaming Systems, Gaming Revenues, and other potentially vulnerable Gaming Activity-related assets are located, including but not limited to cage, pit, drop and count room, poker room, card and dice room, surveillance, administrative office, server rooms and information technology facilities, player's club room, shipping

and receiving, and similar areas as designated by the Commission either temporarily or permanently.

(45) "State" means the State of New Mexico.

(46) "State Gaming Representative" means the person or agency designated by the State to be responsible for actions of the State set out in the Compact.

(47) "Temporary License" means a license for no longer than 90 days, unless extended, issued by the Commission under this Ordinance while the licensing process is completed.

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

SECTION 3. PURPOSES.

(a) Purpose. The purposes of this Ordinance are to:

- (1) make lawful the operation, conduct, and playing of Games of Chance on the Reservation;
- (2) ensure that Games of Chance are conducted in a fair and honest manner;
- (3) afford patrons a fair chance to win Games of Chance in accordance with the nature and rules of the games;
- (4) generate revenue to fund tribal governmental operations and programs;
- (5) promote the health, education, and welfare of the Pueblo and its members;
- (6) promote tribal economic development and tribal self-sufficiency;
- (7) regulate the operation of all activity taking place within any Gaming Facility;
- (8) protect the public's health and safety; and
- (9) ensure that all Gaming Activity taking place within a Gaming Facility is conducted in compliance with applicable law
- (10) ensure that all Class III Gaming Activity is conducted in compliance with any Tribal-State Compact or alternative Secretarial procedures that are in place under 25 U.S.C. 2710(d)(7) or federal regulations.

(b) Construction. This Ordinance is enacted as an exercise of the sovereign power of the Pueblo and shall be liberally construed to accomplish its purposes and to comply with applicable federal law, including IGRA, and the Compact.

SECTION 4. GAMING POLICY.

(a) Games of Chance Prohibited. Unless permitted by Commission regulation and conducted in compliance with otherwise applicable law, no Person may operate or conduct any Games of Chance within the Reservation except in accordance with the Ordinance.

(b) Ownership of Gaming Enterprise. The Pueblo shall have the sole proprietary interest in and ultimate responsibility for all Gaming Activity conducted by its Gaming Enterprise on the Reservation.

(c) Protection of the Environment, Public and Employee Safety, and Property. The Pueblo and its Gaming Enterprise shall construct, maintain, and operate all Gaming Facilities, and all activities taking place at a Gaming Facility shall be conducted in a manner that adequately protects the environment and the public health and safety.

(d) Licensing Procedures. The Commission shall adopt and strictly enforce licensing procedures and license all Persons involved in Class II Gaming and Class III Gaming Activity in accordance with IGRA, the Compact, and this Ordinance.

(e) Providers of Class III Gaming Devices and Equipment. The Commission shall ensure that any Class III Gaming equipment, devices, and supplies complies with standards at least as strict as those imposed by the State of Nevada, which are adopted hereby unless and until replaced by the Commission.

(f) Hours of Operation; Number of Games of Chance. Games of Chance may be offered at any hour and on any day as determined by the Gaming Enterprise, with advance notice to the Commission of any change in hours of operation. With prior notice to the Commission, the Gaming Enterprise may also determine the number of each type of Game of Chance, including the allocation among Class III Gaming Machines, Table Games, Class II Technologic Aids, and other lawful games.

SECTION 5. PUEBLO OF TESUQUE GAMING COMMISSION.

(a) Establishment. The Pueblo of Tesuque Gaming Commission is hereby established as an agency of the Pueblo.

(b) Composition and Appointment; Term; Removal.

(1) The Commission shall consist of three commissioners appointed by the Council. At least two commissioners must be Non-Members.

(2) The Council shall appoint one commissioner for a term of one year, one commissioner for a term of two years, and one commissioner for a term of three years. After these initial appointments expire, the Council shall appoint all commissioners for terms of three years from the expiration date of the previous term so that the commissioners serve staggered terms.

(3) The Council in its discretion may remove any commissioner from office.

(c) Qualifications. Each commissioner shall:

(1) not have been convicted of a felony, or a misdemeanor involving a crime of dishonesty or moral turpitude;

(2) not have, directly or indirectly, a financial interest in or business relationship with any Person licensed under this Ordinance; and

(3) have experience in public administration, business management, law, or gaming; and

(4) be approved for employment by the Pueblo following a background investigation process by the Pueblo deemed sufficient by the Commission, which shall include both a criminal history check (based on fingerprints or similar identifying information if possible), and a credit and financial history check. Each three years, the Pueblo shall perform an additional background investigation to ensure that the Commissioner continues to meet the standards for employment.

(d) Background Investigation. Upon appointment by the Council but before beginning his or her term, each commissioner shall meet the requirement in paragraph (c)(4) of this Section. If the background investigation leads to a conclusion by the Pueblo that approval of employment cannot be given, the Council will be informed of the reasons for the lack of approval, and the seat shall be considered vacant and must be filled by the Council if more than two years remain in the term for that seat or if the Commission would otherwise be unable to have a quorum.

(e) Resignations and Vacancies.

(1) A commissioner may resign at any time by giving written notice to the Commission and the Governor. The resignation shall become effective at the time specified in the notice.

(2) The Governor, with the advice and consent of the Council, may appoint a qualified person to fill a vacancy on the Commission for the unexpired portion of the vacated commissioner's term. If the Commission would otherwise be left without a quorum, the Governor may make an interim appointment pending consultation with the Council.

(f) Officers. The Commission shall select a chairman and a vice chairman from among its members to serve two-year terms. The vice chairman shall serve as chairman during meetings at which the chairman is absent. No commissioner shall serve as chairman for consecutive terms.

(g) Motions and Resolutions; Meetings; Quorum.

(1) All official actions of the Commission shall be taken by motion or resolution approved by the affirmative vote of a majority of the commissioners.

(2) The Commission shall hold one regular meeting each month and special meetings at the call of the chairman or a majority of its members.

(3) Two members of the Commission shall comprise a quorum.

(4) The Commission shall by regulation establish reasonable requirements for the method and protocols for its meetings.

(h) Annual Budget. The Commission's annual budget shall be funded from the following sources, which shall be reflected as revenues on the annual budget submitted to the Council for approval:

(1) All fees and fines required by this Ordinance, which shall be payable to and retained by the Commission;

(2) The annual regulatory fee permitted by the Compact, which shall be payable by the Gaming Enterprise directly to the Commission in 12 equal monthly installments; and

(3) Other amounts that the Commission may request and the Council may grant.

(i) Stipend. Each commissioner when discharging official duties shall be paid a stipend determined by the Council.

(j) Powers.

(1) The Commission shall have the following powers and duties:

(A) To permit or refuse to permit the operation or conduct of any Games of Chance within the Reservation and to specify the conditions therefore in accordance with this Ordinance, the Compact, or IGRA;

(B) To grant, deny, condition, suspend, reinstate, revoke, or renew any Licenses issued or required to be issued in accordance with this Ordinance, and to decide matters affecting the granting, denying, conditioning, suspending, reinstating, revoking, or renewing of Licenses;

(C) To monitor and oversee on a continuing basis the operation and conduct of all Games of Chance and other activity taking place in any Gaming Facility within the Reservation, including but not limited to ongoing monitoring and oversight of Licensees engaged in the operation and conduct of such games;

(D) To inspect and examine all Gaming Facilities at which Games of Chance are played during all hours of Gaming Activity and to have immediate, unrestricted access to any areas of a Gaming Facility to ensure that all Gaming Facilities are constructed, operated, and maintained in a manner that adequately protects the environment and the public health and safety, and to otherwise ensure compliance with this Ordinance, the Compact, and IGRA;

(E) To enforce regulations promulgated pursuant to this Ordinance, minimum tribal internal control standards (consistent with NIGC requirements and, to the extent deemed prudent by the Commission, NIGC guidance), and any other standards required by the Compact or IGRA and its implementing regulations;

(F) To prepare and provide the Gaming Enterprise with the formula to calculate the monthly minimum bankroll requirement, and to review the Gaming Operation's monthly calculation for the same;

(G) To inspect and make copies of State records concerning all Class III Gaming conducted under the Compact;

(H) To conduct or cause to be conducted background investigations of any Person involved, directly or indirectly, in the operation or conduct of Games of Chance within the Reservation;

(I) To inspect, examine, copy, and audit all papers, books, data, and records respecting Gaming Activities operated or conducted within the Reservation and any other matters necessary to carry out the duties of the Commission under this Ordinance, including all Gaming Activity conducted at a Gaming Facility;

(J) To obtain an order of the Tribal Court to enforce the Commission's authority to inspect, examine, copy, and audit all papers, books, data, and records;

(K) To establish and collect license and permit fees, investigation fees, and regulatory fees, which may be used to defray the costs associated with the Commission's regulatory activities;

(L) To assess civil administrative fines commensurate with and based on violations of this Ordinance, any regulations promulgated hereunder, IGRA, its implementing regulations, Gaming Operation and Gaming Enterprise policies directly related to the integrity of Gaming Activity or Gaming Revenues, or the Compact;

(M) To implement and administer a system for investigating and licensing all Persons connected with Gaming Activities and related activities taking place at a Gaming Facility, including the issuance of Licenses to Gaming Facilities and the issuance of Licenses and Temporary Licenses to Persons, all as set forth in this Ordinance, IGRA, and the Compact or equivalent procedures prescribed by IGRA;

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

(O) To require the Gaming Enterprise to provide a copy of the annual audit and certified financial statement, by an independent certified public accountant licensed by the State, covering all financial activities of the Gaming Operation;

(P) To hire and fire employees of the Commission as necessary to discharge the Commission's duties, provided that all Commission employees shall be required to submit to and satisfactorily pass a background investigation;

(Q) To investigate any suspicion of wrongdoing related to any activity conducted at a Gaming Facility, to record and investigate unusual occurrences related to Class II and Class III Gaming at a Gaming Facility, and to cause persons who may be involved in illegal acts to be detained for the purpose of notifying appropriate law enforcement authorities;

(R) To conduct or cause to be conducted an investigation as may be necessary to determine, in connection with any Gaming Activity conducted at a Gaming Facility, compliance with applicable law, including this Ordinance;

(S) To maintain a compilation of all laws and regulations concerning the operation of Games of Chance on the Reservation;

(T) To take such action as may be reasonable and appropriate to enforce this Ordinance and the rules and regulations of the Commission; and

(U) To act as the tribal gaming agency that is responsible for actions of the Pueblo set forth in the Compact.

(V) To require reporting by the Gaming Enterprise of suspicious, unusual, or potentially dangerous or harmful activities in connection with any Gaming Activity or Gaming Revenues.

(W) To cooperate with federal, state, and tribal law enforcement officials when necessary to carry out or enforce this Ordinance;

(X) To carry out the responsibilities and exercise the rights of the tribal gaming agency under the Compact;

(2) The Commission shall have the following powers and duties, which may not be delegated:

- (A) To hear appeals in accordance with this Ordinance;
- (B) To certify Management Contracts in accordance with this Ordinance;
- (C) To obtain any necessary approvals from the Governor or Council, if required by the Ordinance, the Compact, or IGRA;
- (D) To recommend amendments to this Ordinance to the Council;
- (E) To submit quarterly and annual reports to the Council on the activities of the Commission, which reports shall also include information on funding, revenues, and expenses;
- (F) To adopt an annual budget of the Commission and any modifications to the budget, subject to the approval of the Council;
- (G) To negotiate and enter into, on behalf of the Pueblo, contracts, memoranda of understanding, and joint powers agreements with tribal, federal, and state governments or agencies for activities necessary to the discharge of the duties of the Commission and to contract with the NIGC for the enforcement of federal regulations governing gaming on Indian lands, subject to the approval of the Council;
- (H) To promulgate regulations to implement the provisions of this Ordinance;
- (I) To issue subpoenas to require the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under review, consideration, or investigation by the Commission, and to authorize the Executive Director to bring actions in the Tribal Court for the enforcement of subpoenas;
- (J) To authorize the Executive Director to bring suit in the Tribal Court seeking temporary and permanent orders closing a Game of Chance or Gaming Facility in accordance with this Ordinance;
- (K) To authorize the Executive Director to bring suit in the Tribal Court seeking sanctions, including civil monetary sanctions, for violations of this Ordinance, regulations promulgated hereunder, or the Compact;
- (L) To hold such hearings, to sit and act at such times and places, and to take testimony and receive evidence as the Commission deems relevant in fulfilling its duties;

(M) To administer oaths and affirmations to witnesses appearing before the Commission;

(N) To review, before appointing the Executive Director, a background investigation of the Executive Director conducted by the Pueblo; and

(O) To oversee and monitor the Executive Director in the competent and ethical operation of the Commission, provided that the Governor's Office may fulfill day-to-day administrative responsibilities regarding the Executive Director such as PTO approval.

SECTION 6. EXECUTIVE DIRECTOR AND COMMISSION STAFF.

(a) Appointment. The Commission shall appoint the Executive Director, and the Executive Director shall serve at the will and pleasure of the Commission. No individual currently serving as a member of the Council, or an officer or official of the Pueblo shall be eligible for the appointment of Executive Director.

(b) Qualifications. The Executive Director shall:

(1) have at least five years of combined relevant experience in public administration, business management, law, or gaming;

(2) devote full time and attention to the duties under this Ordinance and the business of the Commission, and shall not pursue any other business or occupation or hold any other office;

(3) not have been convicted of a felony, or a misdemeanor involving a crime of dishonesty or moral turpitude;

(4) not have, directly or indirectly, a financial interest in or a business relationship with any Person licensed under the Ordinance; and

(5) be approved for employment by the Pueblo following a background investigation process by the Pueblo deemed sufficient by the Commission, which shall include both a criminal history check (based on fingerprints or similar identifying information if possible), and a credit and financial history check. Each three years, the Pueblo shall perform an additional background investigation of the Executive Director to ensure that the Executive Director continues to meet the standards for employment.

(c) Salary. The Executive Director shall be paid an annual salary in the amount specified by the Commission.

(d) Staff. The Executive Director may employ employees who possess training and experience in the fields of investigation, law enforcement, accounting, law, and gaming to assist in carrying out all powers and perform all duties assigned to the

Executive Director under the Ordinance. Each employee must be approved for employment by the Pueblo following a background check process by the Pueblo deemed sufficient by the Commission, which shall include both a criminal history check (based on fingerprints or similar identifying information if possible), and a credit and financial history check. Each three years, the Pueblo shall perform an additional background investigation of the each Commission employee to ensure that the employee continues to meet the standards for employment.

(e) Powers and Duties. The Executive Director shall manage the day-to-day activities of the Commission and exercise all delegated powers and perform all delegated duties of the Commission, except those that cannot be delegated under Section 5(j)(2) of the Ordinance.

SECTION 7. REGULATIONS.

(a) Procedure. The following procedure shall govern the promulgation of regulations authorized by this Ordinance:

(1) The Commission shall first hold an informal meeting with the Gaming Enterprise to discuss the purpose and substantive content of the proposed regulation. The Gaming Enterprise shall be given an opportunity at that meeting to advise the Commission of any concerns.

(2) After the meeting with Gaming Enterprise and taking into consideration the Gaming Enterprise's concerns, the Commission shall publish the proposed regulation for public comment. The Commission shall allow the public a minimum of 45 days to submit written comments on the proposed regulation.

(3) After considering all public comments, the Commission shall publish the regulation in final form.

(4) The final regulation shall be effective upon publication when the Commission mails the final regulation to the Gaming Enterprise and to any Person known by the Commission to be directly affected by the final regulation, and posts a copy of the final regulation at the Pueblo's administration office, the Gaming Enterprise's office, and each Gaming Facility.

(5) The Commission shall keep copies of all regulations and Council resolutions and ordinances involving or affecting Gaming Activity in the Commission's office for public inspection and copying during normal office hours, Monday through Friday, excluding holidays.

(b) Council Approval. The Council's approval is not necessary for any regulation to take effect, but the Council shall have the power, prior or subsequent to the effective date of the regulation, to modify or rescind any regulation.

(c) Upon making written findings, the Commission may issue emergency regulations to take effect immediately in order to deal with an emergency situation, to comply with applicable law, or to avoid serious jeopardy to the public safety or the integrity of gaming or revenues from gaming. However, the Commission shall publish notice and request comments from interested parties pertaining to the emergency regulations in the same manner as provided in Subsection 7(a), and upon consideration of any comments received, shall make any amendments to the emergency regulations as the Commission deems appropriate before final promulgation under Paragraph (a)(4).

SECTION 8. LICENSES.

(a) Licenses Required. The Commission shall license:

- (1) Each Gaming Facility;
- (2) The Gaming Enterprise;
- (3) Each Key Employee and Primary Management Official;
- (4) Each Gaming Employee;
- (5) Each Management Contractor and Principal;
- (6) Any Person proposing to provide, sell, or lease any Gaming Device, Gaming Equipment, Gaming Systems, or Gaming Services to a Gaming Enterprise or Management Contractor;
- (7) Any Person proposing to sell, lease, or provide Non-Gaming Services to a Gaming Enterprise or Management Contractor; and
- (8) Any other Person who is directly involved in Gaming Activity that the Commission may require to be licensed to protect the integrity of the Gaming Operation, Gaming Activity, or Gaming Revenues.

(b) Exemptions. By regulation or decision, the Commission may exempt a Person, or a category of subcategory of Persons who or which would otherwise be licensed under subsection (a) if the Commission concludes that licensing is not likely significantly to protect the integrity of Gaming Activity or to safeguard Gaming Revenues. As possible examples, the Commission may conclude that exemptions should be provided to a major provider of operating system software purchased at retail, to major national retail chains, or to entities well-regulated by other sovereigns. Persons required by IGRA, NIGC regulations, or the Compact may not receive an exemption under this Subsection.

(c) License Application. Each applicant for a License shall file with the Commission a written application in the form prescribed by the Commission, along with

(as applicable) the applicant's fingerprint card, current photograph, and the fee required by the Commission.

(1) The following notice, or the most current notice prescribed by the NIGC, shall be placed on the application form for all employees before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official, key employee, or other gaming-related position or license.

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) The Commission shall notify in writing all existing Key Employees, Primary Management Officials, and Gaming Employees who have not filled out an application containing a Privacy Act notice 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, or the most current notice prescribed by the NIGC, shall be placed on the application form for all employees before that form is filled out by an applicant:

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

(4) The Commission shall notify in writing all existing Key Employees, Primary Management Officials and Gaming Employees who have not filled out an application containing a notice regarding false statements 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.

(d) Background Investigations.

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

(2) The background investigation for Key Employees and Primary Management Officials shall be at least as stringent as is required by the Compact, 25 C.F.R. Parts 537 and 556, and any other applicable law, and shall provide all available information necessary to the determination required under 25 C.F.R. § 558.2. In particular, the Commission shall cause a thorough criminal history check to be made of each applicant, by having the applicant's fingerprints processed through the Federal Bureau of Investigation, whether directly or through a reliable intermediary. The background investigation for other Licensees shall be as stringent as the Commission deems necessary to safeguard the integrity of Gaming Activity and Gaming Revenues.

(3) The Commission shall request from each applicant, and from each Gaming Employee, Principal, Primary Management Official, and Key Employee of each applicant, all of the following information:

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

(B) Currently and for the previous ten years, business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;

(C) The names and current addresses of at least three personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed in Subsection (c)(3)(B) of this Section;

(D) Current business and personal 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 those businesses and Indian tribes;

(F) A description of any existing and previous business relationships in 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 applicant has filed an application for a License or permit related to gaming, whether or not the 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 conviction (excluding minor traffic charges), 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 the criminal charge is not otherwise listed pursuant to Subsection (c)(3)(H) or (c)(3)(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 the license or permit was granted;

(L) A current photograph;

(M) Fingerprints taken by the Commission;

(N) The fee required by the Commission; and

(O) Any other information, including tax returns, financial statements, or other financial information, that the Commission deems relevant.

The Commission shall maintain a complete application file containing the information required in this Paragraph (3) and 25 C.F.R. § 556.4(a)(1)-(14), at a minimum for Primary Management Officials and Key Employees.

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

(5) Background checks of applicants will be performed pursuant to the following procedures:

(A) The Commission will provide applications to applicants upon request, and shall collect and maintain the applications;

(B) The Commission shall investigate or cause to be investigated the information provided in the applications. The investigation shall include: (i) contacting persons or entities identified in the application and verifying by written or oral communication that the information contained in the application is accurate; (ii) 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 on whether the applicant meets applicable eligibility requirements; (iii) reviewing relevant financial records of the applicant for the three years preceding the application; and (iv) contacting any state, federal, or other government agency that is referred to in the application.

(C) The Commission shall document any information obtained that calls into question whether the applicant meets the eligibility requirements under this Ordinance. The disposition of these problem areas shall be documented in detail, indicating the follow-up investigations performed on the problem areas and the result of the investigations.

(D) The Commission will review the results of the investigation for all persons subject to licensing, including a determination as to the scope of the investigation and whether sufficient information was obtained and verified. If the information is found to be insufficient, the Commission will perform additional investigations. If an applicant fails to provide information reasonably requested by the Commission, the application may be denied.

(E) Once the investigation is complete, the Commission will decide whether the applicant meets the eligibility requirements under the Ordinance.

(F) In conducting a background investigation and review, the Commission, its agents, and all persons privy to the information shall keep confidential the identity of each person interviewed in the course of investigation.

(e) Temporary License. Within 20 days of the receipt of the criminal history information provided for in Paragraph 8(c)(2), and upon request by the Gaming Enterprise, the Commission may issue a Temporary License to the applicant unless the initial background investigation undertaken discloses that the applicant has potentially disqualifying criminal history, or unless other grounds sufficient to disqualify the applicant are apparent on the face of the application. The Commission may summarily suspend a Temporary License without process, pending further investigation, if additional information comes to light in the course of the investigation suggesting that the applicant will not qualify for a License or if the applicant has made a false statement, or deliberately or substantially failed to provide information to the Commission. The Temporary License shall become void and be of no effect upon either (i) the issuance of

the License; (ii) the issuance of a notice of denial; or (iii) 90 days after the Licensee has begun working.

(f) Eligibility Determination. The Commission shall review the person's prior activities, criminal record, if any, and reputation, habit, and associations to make a finding concerning the eligibility of an applicant, including a Principal, Key Employee, or Primary Management Official, for employment or involvement in the Gaming Operation. The Commission shall also consider any information or objections received from the NIGC or the State Gaming Representative prior to the decision to grant or deny a License. Upon completion of the investigation and after submitting a Notice of Results or any other documentation required by the NIGC (see 25 C.F.R. § 556.6(b)(2) and Subsection (i)), the Commission shall either determine that an applicant is eligible to be licensed or deny the application. If the Commission determines that employment or involvement of any person or applicant poses a threat to the public interest or to the effective regulation of any Gaming Activity, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities of any Gaming Operation, the Commission shall deny the application. Once the Commission has determined that a License applicant will not receive a License, that individual shall no longer be employed in a position requiring a License by any Gaming Operation within the Pueblo's jurisdiction.

(g) Additional Background Investigations. The Commission may conduct additional background investigations of any person holding a License under this Ordinance at any time while the license is valid.

(h) Procedures for Forwarding Notice of Results for Key Employees and Primary Management Officials to the NIGC; Access of the State Gaming Representative.

(1) After a Key Employee or Primary Management Official has submitted a completed application for a License, the employee may begin work if the Commission issues a temporary License. The Commission shall proceed to complete the background investigation and make the eligibility determination referred to in Subsection (f) of this Section. Unless required by federal law, the Commission need not forward the application to the NIGC but may do so in furtherance of its duties.

(2) The Commission shall forward the Notice of Results referred to in Subsection (i) of this Section, in the form and containing all information required by NIGC regulations (currently including a "Notice of Results" under 25 C.F.R. § 556.6(b)(2)), to the NIGC within 60 days after an employee begins work. The State Gaming Representative may inspect the Notice of Results and shall be entitled to the same right to request additional information concerning an applicant licensee, to comment on the proposed licensing of any applicant licensee, and to supply the Commission with additional information concerning any applicant licensee, as is enjoyed by the NIGC. Any information or recommendation received from the State Gaming Representative shall be considered but is only determinative if it requires mandatory denial or revocation of a License.

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

(i) Reports; Provision to the NIGC and the State Gaming Representative.

(1) Pursuant to the procedures set out in Subsection (d) of this Section, the Commission shall prepare and maintain an investigative report on each background investigation on each applicant for a License. The investigative report shall include all of the following:

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

(2) The Commission shall also prepare a "Notice of Results" in accordance with 25 C.F.R. § 556.6(b)(2), or in any subsequent form required by the NIGC, for submission to the NIGC, which shall include at least the information required by the NIGC, currently:

- (A) The applicant's name, date of birth, and social security number;
- (B) The date on which applicant began or will begin work as key employee or primary management official;
- (C) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:
 - (i) Licenses that have previously been denied;
 - (ii) Gaming licenses that have been revoked, even if subsequently reinstated;
 - (iii) Every known criminal charge brought against the applicant within the last 10 years of the date of application; and
 - (iv) Every felony of which the applicant has been convicted or any ongoing prosecution.
- (D) A copy of the eligibility determination made under Subsection (e) of this Section; and
- (E) Any other information required by the NIGC.

(3) If a License is not issued to an applicant, the Commission:

and (A) Shall notify the NIGC and State Gaming Representative;

(B) Shall forward copies of its eligibility determination and notice of results to the NIGC for inclusion in the Indian Gaming Individuals Records System.

(4) With respect to Principals, Key Employees, or Primary Management Officials, the Commission shall retain applications for employment, reports (if any) of background investigations, and eligibility determinations for no less than three years from the date of termination of employment.

(j) Granting and Reconsideration of a Gaming License.

(1) Upon making the eligibility determination described in Subsection (f), the Commission may accordingly grant or deny an application for a License. Within 30 days after issuance of a License to a Key Employee or Primary Management Official, and to other Licensees as may be required by the NIGC or deemed appropriate by the Commission, the Commission shall notify the NIGC of its issuance.

(2) The Commission shall respond to a timely and lawful request for additional information from the Chairman of the NIGC or the State Gaming Representative concerning a Principal, Key Employee, or Primary Management Official applicant or Licensee.

(3) If the NIGC or State Gaming Representative provides the Commission with a statement itemizing objections to the previous issuance of a License to a Principal, Key Employee, or Primary Management Official, the Commission shall reconsider the application if the objections are received within 30 days of the NIGC's receipt of a complete Notice of Results, taking into account the objections itemized by the NIGC. The Commission may reconsider the issuance of a License if the objections are received after the 30-day period. Regardless, the Commission shall make a final decision whether to issue a License to the applicant.

(4) If, within 30 days of receiving a Notice of Results, the NIGC provides to the Commission reliable information, in the form of an objection or otherwise, that a Key Employee or a Primary Management Official who has already been granted a License is not eligible for a gaming license under 25 C.F.R. § 556.5 (or any successor provision), the Commission shall suspend the License immediately and propose revocation of the License. The Licensee is entitled to a hearing under this Ordinance and the Commission's regulations. After the opportunity for hearing, the Commission shall decide to revoke or reinstate the License. The Commission shall notify the NIGC of its decision within 45 days of receiving notification from the NIGC of the objection or other reliable information. If the Commission receives such reliable information more than 30 days after the NIGC receives the Notice of Results, it shall nevertheless reconsider the grant of or application for a License, although the Commission shall have discretion, to the extent consistent with applicable law (including

regulations), whether to suspend a License already granted pending the Commission's decision.

(5) If the Commission receives information from the State Gaming Representative that, if received by the NIGC under Paragraph (3) or (4) of this Subsection would invoke either Paragraph, the Commission shall reconsider the grant of or application for a License, although the Commission shall have discretion, to the extent consistent with applicable law (including regulations), whether to suspend a License already granted pending the Commission's decision.

(k) Duration and Renewal of Licenses. A License shall be effective for a period of two years from the date of its issuance; however, a Licensee that has applied timely for a License renewal may continue to be employed or engaged or to conduct business under an expired License until the Commission takes final action on the renewal application. Applicants seeking renewal of a License shall pay a renewal fee and update information, as requested, on the appropriate renewal forms, but, in the discretion of the Commission, may not be required to resubmit historical data already available to the Commission.

(l) Nature of Licenses; Pueblo Jurisdiction. A License is a privilege and not a right. A Licensee holds no property interest in a License issued under this Ordinance. By submitting a License application or receiving a License, a person voluntarily enters into a legal relationship with the Pueblo that necessarily entails an agreement to be bound by Pueblo law and to submit to the jurisdiction of the Pueblo and its court.

SECTION 9. MANAGEMENT CONTRACT.

(a) Hiring of Management Contractor. The Gaming Enterprise may hire and employ a Management Contractor to manage all or part of the Gaming Operation. The Management Contractor shall be hired pursuant to a written Management Contract. A Management Contract must conform to the requirements of this Ordinance and IGRA. The Gaming Enterprise shall provide the Commission with a copy of the Management Contract.

(b) License Required Upon Approval of Management Contract. Upon certification by the Commission and approval of any Management Contract by the Council and the NIGC, all Principals must obtain a License from the Commission within 60 days.

(c) Standards for Approval. The Management Contract shall contain provisions that address the following:

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

(2) access of the Commission to the Gaming Operation and permission for the Commission to verify the daily gross revenues and income made from Gaming Activity.

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

(4) an agreed ceiling for the repayment of development and construction costs;

(5) a contract term not to exceed five years, except that the Gaming Enterprise may authorize a contract term that exceeds five years but does not exceed seven years if the Gaming Enterprise is satisfied that the investment required and the income projections for the Gaming Operation require the additional time;

(6) grounds and procedures for terminating the contract;

(7) the Management Contractor's lack of authority to waive the Gaming Enterprise's or the Pueblo's sovereign immunity without a duly passed resolution of the Council and the Gaming Enterprise on a contract by contract basis;

(8) all Gaming Activity covered by the Management Contract will be conducted in accordance with this Ordinance, the Compact, if applicable, and IGRA; and

(9) all other provisions required by 25 C.F.R. § 531.1.

(d) Management Contract Fees. The Management Contract may provide for a fee based upon a percentage of the Net Revenues of the Gaming Operation. The fee shall not exceed 30% of the Net Revenues, except that the Gaming Enterprise, subject to the approval of the Council, may approve a Management Contract providing for a fee that exceeds 30% but not more than 40% of the Net Revenues of a Gaming Activity if the capital investment required and income projections for the Gaming Activity require the additional fee.

(e) Grounds for Disapproval. The Commission shall not certify any Management Contract if it determines that:

(1) The Management Contractor, or any Principal, Primary Management Official, or Key Employee of the Management Contractor, 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.

(f) Modification and Revocation of Management Contract. The Commission may require appropriate contract modifications and may void any Management Contract if it determines that this Ordinance or the Management Contract has been violated.

(g) Management Contract Binding Upon Approval. No Management Contract, and no modification, revision, or amendment thereto, shall be binding unless and until

certified by the Commission and approved by the Council and the Chairman of the NIGC.

SECTION 10. FINANCIAL PRACTICES AND REPORTING.

(a) Monthly Reports. On or before the 25th day of each month, the Gaming Enterprise shall file with the Governor a certified financial report for the preceding calendar month showing the amount of Gross Receipts derived by the Gaming Operation, the operating expenses incurred or paid, the specific classifications of operating expenses, the Net Revenues derived from the Gaming Operation, and the financial strength, performance and changes in financial position of the Gaming Enterprise. Within 15 days of receipt, the Governor shall report to the Council on the contents of the reports. Both the chief executive officer and the chief financial officer of the Gaming Enterprise shall sign the monthly reports, certifying that the report is true and correct to the best of their knowledge. It is the duty of the Gaming Enterprise to maintain and keep books and records as may be necessary to substantiate the particulars of each report. If the Gaming Enterprise 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 Gaming Enterprise may be fined until the deficiency has been corrected.

(b) Maintenance of Books and Records; Commission Access. Full and accurate books of account, maintained in accordance with generally accepted accounting principles consistently applied, shall be kept on the premises of a Gaming Facility showing the condition of the business and all transactions conducted by the Gaming Operation. The Council shall have access to the books of account of the Gaming Enterprise and shall be entitled to examine them in any form or medium without notice during normal business hours, either in person or by an agent, and the Gaming Enterprise's consent to such access and examination shall not be necessary. The Commission shall have access to the books of account of the Gaming Operation and gaming-related records of the Gaming Enterprise, and shall be entitled to examine them in any form or medium without notice during normal business hours, either in person or by an agent, and the consent of the Gaming Operation or Gaming Enterprise to such access and examination shall not be necessary. All records required to be kept by this Section in whatever form or medium shall be maintained for not less than five years. The records shall include:

- (1) Revenues, expenses, assets, liabilities, and equity of the Gaming Operation;
- (2) Daily cash transactions for Gaming Activity at each Gaming Facility, including but not limited to transactions relating to each gaming table bank, game dropbox, and gaming room bank;
- (3) All returned checks, hold checks, 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 that 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 Commission enforcement activities;

(7) Audits of the Gaming Operation prepared by or on behalf of the Pueblo or the Gaming Enterprise;

(8) Personnel information on all Gaming Employees, including rotation sheets, hours worked, employee profiles, and background checks, if in the possession of the Gaming Enterprise; and

(9) Records documenting compliance with the terms of this Ordinance, Commission regulations, the Compact, and other applicable law, including specifically but not limited to all books and records relating to Class III Gaming, as required by 25 C.F.R. § 571.7(c).

(c) Allowable Operating Expenses. No item of expense shall be incurred or paid in connection with operating or conducting any Gaming Activity by a Gaming Operation except a bona fide expense in a reasonable amount. Expenses may be incurred for the items and purposes that a similar enterprise would incur or pay under generally acceptable accounting principles, including but not limited to the following:

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

(2) services rendered by a Management Contractor (including repayment of development fees and construction costs, if any) for maintenance or reports of gaming and related equipment, and for operating or conducting Games of Chance;

(3) regulatory fees required to be paid to the Pueblo, the NIGC, or the State under the Compact;

(4) rent, janitorial, and security services;

(5) legal and accounting fees;

(6) taxes and license fees;

(7) utilities and trash removal costs;

(8) advertising;

(9) vehicle expenses;

- (10) insurance;
- (11) the interest portion of any debt payments;
- (12) employee training;
- (13) necessary and appropriate business travel;
- (14) employee wages; and
- (15) 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 account or accounts. All operating expenses shall be withdrawn from Gaming Revenue account(s) by consecutively numbered checks duly signed or electronic funds transfers duly approved and recorded by the official or officials designated by the Gaming Enterprise and payable to a specific person or organization.

(e) Annual Audit.

(1) The Gaming Enterprise shall retain at its own expense a certified public accountant, licensed by the New Mexico Public Accountancy Board, as the independent outside auditor of the Gaming Operation.

(2) “Gaming Enterprise”. In this Subsection, “Gaming Enterprise” is hereafter used, but shall be interpreted to mean a “Gaming Operation” as appropriate if the Gaming Enterprise reasonably concludes and the Tribal Council has concurred that separate financial statements should be prepared for a Gaming Operation.

(3) Selection and Scope. The Gaming Enterprise shall select its proposed auditor and provide reasonable supporting materials for that selection to the Commission and the Governor’s Office, which shall have not less than 21 days to review the selection and the scope of the audit. The Commission may recommend that a different auditor be used. The Commission may also propose changes to the scope of the audit, which shall not be unreasonably denied by the Gaming Enterprise. If the Gaming Enterprise and Commission cannot agree on the auditor or scope of the audit after consultation, any differences shall be presented to the Tribal Council for resolution. The Council may, in addition and in its discretion, require that the scope of the audit be expanded to better reflect the financial operations, condition, and obligations of the Gaming Enterprise. The Council may designate a representative to observe and maintain communication with the independent auditor

(4) Audit Requirements. The auditor shall conduct an annual outside independent certified audit and audit report of the financial statements covering all financial activities of the Gaming Operation. The audit report shall include written verification by the independent certified public accountant of the accuracy of the

quarterly Adjusted Net Win calculation as required by Section 11(C) and shall specify the total amount of patron wagers and total amount of payouts made on winning wagers in Class III Gaming on all Gaming Machines at the Tribe's Gaming Facilities for purposes of calculating Adjusted Net Win. The financial statements shall be prepared in accordance with generally accepted accounting principles (GAAP). The auditor shall report on the auditor's examination of the books and records of the Gaming Operation and on the auditor's recommendations with respect to the management of the Gaming Operation and any failure to comply with applicable law or contractual obligations. The independent certified public accountant shall perform the audit in accordance with generally accepted auditing standards published by the American Institute of Certified Public Accountants, and submit the audited financial statements, along with any reports or management letter(s) the accountant has prepared, to the Commission within one hundred twenty (120) days after the Gaming Enterprise's fiscal year end. Promptly upon receipt of the audited financial statements, and in no event later than one hundred twenty (120) days after the fiscal year end, the Commission shall provide copies of the financial statement and audit report to the State Gaming Representative, along with copies of any and all documents the independent certified public accountant has provided to the Pueblo or the Commission concerning the audit, including but not limited to copies of any and all reports and management letter(s). If the Gaming Enterprise changes its fiscal year end, it may elect either to prepare financial statements for a short fiscal year or for an extended fiscal year, but in no event shall an extended fiscal year extend more than fifteen (15) months.

(5) The Gaming Enterprise, within 98 days of the close of the Gaming Enterprise's fiscal year, shall deliver drafts of the audit and financial statement to the Governor's Office, Tribal Council, and the Commission. Any resulting consultation, comments, auditor meetings, and final resolution must be completed within 21 days to meet the NIGC and Compact deadline, as stated in Subparagraph (7) below.

(6) The Gaming Enterprise, within 119 days of the close of the Gaming Enterprise's fiscal year, shall deliver the final audit and certified financial statement to the Governor's Office, Tribal Council, and the Commission.

(7) The Commission, within 120 days of the close of the Gaming Enterprise's fiscal year, shall furnish copies of the audit and certified financial statement to the State Gaming Representative, if required by the Compact, and the NIGC, as required by IGRA or NIGC regulation.

(f) Audit of Contracts. All contracts for Gaming Services shall be specifically included within the audit referred to in Subsection (e) of this Section.

(g) Disposition of Net Revenues. The Net Revenues from Gaming Activity shall be used for the following purposes:

- (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;
- (4) To contribute to charitable organizations; and
- (5) To help fund operations of local Pueblo governmental agencies.

(h) Compliance with Internal Revenue Code. The Gaming Operation 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.

(i) Compliance with Bank Secrecy Act. The Gaming Operation shall comply with all applicable provisions of the Bank Secrecy Act, 31 U.S.C. §§ 5311-5314, and all reporting requirements of the Department of the Treasury, the Internal Revenue Service, the Financial Crimes Enforcement Network, and any other related divisions thereof, as applicable, and make all such documentation available to the State Gaming Representative for inspection, scanning, or copying upon request.

SECTION 11. COMPACT COMPLIANCE.

(a) Provisions Required by Compact. The following provisions to the extent required by the Compact shall apply only to Class III Gaming Activities:

- (1) No person under 21 years of age shall participate in Class III Gaming.
- (2) The Gaming Enterprise shall not employ any person in Class III Gaming who is under 21 years of age or who has not been licensed in accordance with this Ordinance.
- (3) The Gaming Enterprise shall meet standards and requirements equivalent to or more stringent than those in the Fair Labor Standards Act of 1938, the Occupational Safety and Health Act of 1970, and other federal laws generally applicable to Indian tribes relating to wages, hours and conditions of work, and the regulations issued thereunder; however, the imposition of these standards shall not be construed as a submission by the Pueblo to federal jurisdiction under those laws or as creating under Pueblo law any causes of action available to any person under federal laws. A federal law is "generally applicable to Indian tribes" if the law is not susceptible to a good faith argument that it does not apply to Indian tribes, the United States Court of Appeals for the Tenth Circuit or the United States Supreme Court has held in an opinion that has not been reversed or overruled that the law is generally applicable to Indian tribes, or a court of competent jurisdiction has held that the law is applicable to the Gaming Enterprise specifically.
- (4) The Gaming Enterprise shall pay workers on any construction project involving a Gaming Facility to be used for the conduct of Class III Gaming or related structure and which is funded in whole or part by federal funds, wages meeting or exceeding the standards established for the State under the federal Davis-Bacon Act.

(5) The Gaming Enterprise and any Management Contractor shall not discriminate in the employment of persons at a Gaming Facility on the grounds of race, color, national origin, gender, sexual orientation, age, or handicap; except that the Pueblo, the Gaming Enterprise, and Management Contractor shall provide for Pueblo members and other Indians preference in employment in any Gaming Activity, consistent with Pueblo Law, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq. and any other applicable law

(6) The Gaming Enterprise shall provide employment benefits to employees of the Gaming Operation, including but not limited to sick leave and paid annual leave, or paid time off, medical and dental insurance, and life insurance. The Gaming Enterprise shall also provide unemployment and workers' compensation insurance through programs offering benefits at least as favorable as those provided by comparable programs of the State, and the Pueblo shall ensure that these programs afford the employees due process of law, a means to appeal an adverse decision of an insurance carrier to the Tribal Court, and a timely resolution of the appeal. The Gaming Enterprise shall ensure in any policy covering any such programs that the insurance carrier cannot raise the defense of sovereign immunity.

(7) The Gaming Enterprise shall provide a grievance process for all employees of a Gaming Operation in cases of disciplinary or punitive action taken against such an employee that includes a process for appeals to persons of greater authority than the immediate supervisor of the employee.

(8) The Gaming Enterprise shall allow inspectors from the United States Indian Health Service to inspect the food service operations of a Gaming Facility where Class III Gaming is conducted during the normal business hours of a Gaming Facility to assure that standards and requirements equivalent to the New Mexico Food Service Sanitation Act, as amended through 2014, are maintained; and the Gaming Enterprise shall provide documentation of such inspections to the Commission to be included with the annual Compliance Report. If the Indian Health Service refuses to make such inspections, the Gaming Enterprise shall allow the State Department of Environment to inspect such food service operations upon reasonable notice after any IHS refusal.

(9) The Gaming Enterprise, and the Pueblo in connection with gaming, shall not cash for patrons any paycheck or any type of government assistance check, including Social Security, TANF, pension, and other similar checks.

(10) The Gaming Enterprise is prohibited from extending credit by accepting IOUs or markers from its patrons, except that short-term credit may be extended to certain qualified patrons with sufficient demonstrated available cash balances to cover the amount of the credit extended (not less than ten thousand dollars (\$10,000) to be repaid within thirty (30) days); provided that the Gaming Enterprise and the Pueblo comply with all applicable federal law and all provisions of the Appendix to the 2015 Compact related to credit (including the State reporting requirements); and provided further that no such credit shall be extended unless and until the Gaming Commission

promulgates the regulations referenced in the Appendix to 2015 Compact and provides a copy to the State for review and comment prior to implementation.

(11) The Gaming Enterprise shall ensure that all automatic teller machines located within a Gaming Facility where Class III Gaming is conducted shall be programmed so that the machines will not accept cards issued by the State to TANF recipients for access to TANF benefits.

(12) The Gaming Enterprise shall require that each Class III Gaming Machine in use at a Gaming Facility pays out a mathematically demonstrable percentage of all amounts wagered, which percentage shall be not less than 80%, and the Gaming Enterprise shall post, in visible locations within each Gaming Facility, a public notice (i) stating that it is in compliance with this requirement, and (ii) explaining the meaning of this requirement in plain comprehensible language.

(13) The Gaming Enterprise shall connect all Class III Gaming Machines on the premises of each Gaming Facility to a central computerized monitoring and control system on each Gaming Facility's premises, which shall collect on a continual basis the unaltered activity of each Gaming Machine in use. The wager and payout data of each machine, electronically captured by the Gaming Enterprise's central computer, may be accessed and downloaded electronically by the State Gaming Representative by a dedicated telecommunications connection, on a "read-only" basis, upon entry of appropriate security codes; however, in no event shall the State Gaming Representative be able to alter or affect the operation of any Gaming Machine or other device on the premises of each Gaming Facility, or the data provided to the central computer. The Commission shall at all times designate a person as the contact and alternate to address issues regarding these matters and shall ensure that the State Gaming Representative or designee is notified promptly either by electronic mail or telephone of any technical problems related to the generation, transfer or access of the Class III Gaming Machine accounting data. The Commission shall also ensure that the SGR has access to the Class III Gaming Machine accounting data on a periodic basis as determined from time to time by the State Gaming Representative, but in no event shall access be more often than once in a 24 hour period.

(14) Regardless of whether the State exercises the option to use a direct electronic connection to obtain wager and payment data under the preceding paragraph, the Gaming Enterprise, through the Commission, shall make wager and payout data available to the State Gaming Representative on a monthly basis, by secure transmission through encrypted email communications, file transfer protocol, or other secure means provided for by the State Gaming Representative. The method of secure transmission must meet industry standards for security sufficient to minimize the possibility of any third party intercepting data transmitted to the State Gaming Representative. Such reports shall be generated to reflect monthly, quarterly, and annual activity, and shall identify, at a minimum:

- (i) coin-in;
- (ii) coin-out;
- (iii) Free Play and Point Play;
- (iv) Net Win;

- (v) theoretical net win (including Free Play and Point Play);
- (vi) actual floor hold percentage; and
- (vii) theoretical floor hold percentage.

(15) If the law of the Pueblo permits alcoholic beverages to be served and consumed at a Gaming Facility:

(A) No employee of the Gaming Operation shall sell, serve, give, or deliver an alcoholic beverage to an intoxicated person or procure or aid in the procurement of any alcoholic beverage for an intoxicated person at a Gaming Facility;

(B) Employees of the Gaming Operation that dispense, sell, serve, or deliver alcoholic beverages must attend Alcohol Server Education Classes similar to those classes provided for in the New Mexico Liquor Control Act;

(C) The Gaming Enterprise shall purchase and maintain a liquor liability insurance policy that will provide personal injury coverage of at least one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) aggregate per policy year; and

(16) The Gaming Enterprise shall not permit alcoholic beverages to be sold, served, delivered, or consumed in that part of a Gaming Facility where Class III Gaming is allowed.

(17) The Gaming Enterprise shall spend an amount no less than one-quarter of one percent of its Adjusted Net Win as that term is defined herein annually to fund or support programs for the treatment and assistance of compulsive gamblers in New Mexico or who patronize New Mexico gaming facilities, or for the prevention of compulsive gambling in New Mexico, and shall distribute a substantial portion of such funds to an organization that has expertise in and provides counseling, intervention, or other services for compulsive gamblers in New Mexico, and whose services are available to all persons without regard to race or tribal membership. The Gaming Enterprise shall submit a report accounting for the use of these funds as described in the Appendix to the Compact to the Commission, which shall provide it to the State. This report and any other information existing as a result of this subparagraph (except for information identifying a gaming patron) shall not be subject to the confidentiality provisions of the Compact and shall be made available for inspection and publication by the State Gaming Representative without restriction or limitation. The Gaming Enterprise shall provide the Commission with documents sufficient to permit the Commission to verify compliance with this requirement, including but not limited to a detailed budget of amounts spent for this purpose and the recipients of the payments.

(18) The Pueblo and the Gaming Enterprise shall not provide, allow, contract to provide, or arrange to provide alcoholic beverages for no charge or at reduced prices within a Gaming Facility.

(19) The Gaming Enterprise and the Pueblo shall not provide, allow, contract to provide or arrange to provide food or lodging for no charge or at reduced prices at a Gaming Facility or lodging facility as an incentive or enticement for patrons to

game (“Complimentaries”), except that (i) this provision shall not apply to rewards received by patrons in exchange for points or credits accrued under any form of a players’ club program; and (ii) the Gaming Enterprise or Pueblo may provide Discretionary Complimentaries provided that the cumulative market value of all Discretionary Complimentaries, on an annual basis, does not exceed three percent (3%) of the Pueblo’s annual Adjusted Net Win for the same year. The Commission shall, on a quarterly basis, report to the State the total amount of the Discretionary Complimentaries during the previous quarter in dollars and as a percentage of Adjusted Net Win for such quarter based on information provided timely by the Gaming Enterprise. Any such Complimentaries shall be issued subject to the minimum internal control standards, policies and procedures, and other provisions set forth in the Appendix to the Compact, and shall comply with all applicable federal law.

(20) Tribal Minimum Internal Control Standard. If the Gaming Enterprise elects to provide Discretionary Complimentaries, all such Complimentaries shall comply with any and all applicable federal law and also be provided in accordance with the minimum internal control standard set forth in 25 C.F.R. § 542.17 (as of 2015), as may be amended from time to time, or with the regulations promulgated by the Commission in compliance with this Ordinance, the Compact, and federal law (including § 542.17) (§ 542.17 and/or the Commission’s regulations, if any, are the “Tribal Complimentaries MICS”). If the Commission promulgates such regulations, the Commission shall provide a copy of the regulations referenced in the Appendix to the State for review and comment prior to implementation. The Commission may amend or add to the Tribal Complimentaries MICS in order to continue efficient regulation and address future circumstances; provided that: (i) any amendments or additional standards shall be at least as stringent as the 25 C.F.R. § 542.17 in its current form as of the Effective Date of the Compact; and (ii) the Commission provides a copy of the amendments and/or additional standards to the State for review and comment prior to implementation. The Gaming Enterprise shall offer any Discretionary Complimentaries pursuant to written internal policies and procedures. The internal policies and procedures shall implement the minimum internal control standard.

(A) Calculation of Complimentaries. The “cumulative market value” shall be calculated based on the average daily rate (ADR) for lodging and the menu pricing for food.

(B) Compliance and Reporting. The Commission shall audit compliance annually of policies and procedures for Discretionary Complimentaries consistent with the MICS Audit Checklist – Complimentary Services and Items promulgated by the National Indian Gaming Commission,² a copy of which shall be provided to the SGR. In addition, on a quarterly basis, the Commission shall report the following to the State Gaming Representative for the previous quarter: the total amount of the Discretionary Complimentaries during the previous quarter (and a cumulative total of the previous quarters for the year) in dollars and as a percentage of Adjusted Net Win for such quarter. To the extent necessary to comply with this paragraph 5, the Gaming Enterprise and the Pueblo shall require any and all relevant information to the Commission.

(C) Applicability. The requirements of this paragraph 5 shall only apply in the event that the Pueblo or the Gaming Enterprise offers Discretionary Complimentaries as permitted in Section 4(B)(19) of the Compact. In the event that neither the Pueblo nor the Gaming Enterprise offers Discretionary Complimentaries, the requirements of paragraph 5 shall not apply.

(21) The Commission shall provide true and correct copies of all tribal laws and regulations affecting Class III Gaming to the State Gaming Representative and the NIGC (not already in the possession of each), and provide true copies of any amendments thereto or additional laws or regulations affecting Class III Gaming within 30 days after their enactment or final approval, as appropriate; provided that the Commission or the Pueblo shall provide copies of any amendments to this Ordinance to the NIGC within 15 days after the adoption of the amendments.

(22) The Commission shall certify annually to the State Gaming Representative that the Commission has met its regulatory obligations under the Compact in the form required by and in accordance with the terms and requirements of the 2015 Compact and is specifically authorized to gather, access, inspect, copy, and compile all information necessary to do so from the Gaming Enterprise, the Pueblo, or any other Person. The Commission shall allow the State Gaming Representative to inspect and verify, and obtain copies (either scanned electronically or in paper form), upon request, of any and all documents related to any item in such Compliance Reports, including all source documents and data.

(23) The Gaming Enterprise will provide annually to the State Gaming Representative a certificate of insurance showing that it is maintaining in effect policies of liability insurance insuring the Gaming Enterprise, the Pueblo, and their agents and employees against claims, demands, or liability for bodily injury and property damages brought by a patron or visitor arising from an occurrence described in the Compact, and that the policies shall provide bodily injury and property damage coverage in an amount required by the Compact and include a provision under which the insurer agrees not to assert the defense of sovereign immunity on behalf of the insured up to the limits of such coverage, provided that such limits of liability insurance coverage shall be subject to increase or decrease as may be required by the Compact.

(24) The Gaming Enterprise shall not operate more than two separate gaming facilities on the Reservation.

(25) The Commission shall ensure that the Pueblo, or if directed by the Pueblo the Gaming Enterprise, makes the regulatory reimbursement payment to the State under Section 4(E)(6) of the Compact.

(26) The Gaming Enterprise shall post at all public entrances and exits of each Gaming Facility, signs in both English and Spanish, stating that help is available if a person has a problem with gambling and, at a minimum, provide an appropriate toll-free crisis hotline telephone number and information on the availability of a statewide self-exclusion program with the State Gaming Representative;

(27) The Commission shall:

(A) require the Gaming Enterprise to train appropriate gaming personnel for the identification of self-excluded persons who enter or attempt to enter a Gaming Facility and take reasonable steps to identify the self-excluded person and to promptly escort the self-excluded person from the Gaming Facility;

(B) require the Gaming Enterprise to remove self-excluded persons from mailing lists for advertisements or promotions and any players' club or other similar membership-type promotions, and return the cashable value, if any, of the self-excluded person's membership in the players' club or other similar membership-type promotions;

(C) require that the self-excluded person forfeit all winnings (whether cash, property, or in any other form), credits, tokens or vouchers received from a Gaming Facility while excluded, and that all money or other property forfeited shall be used by the Gaming Enterprise to fund or support programs for the treatment and assistance of compulsive gamblers pursuant to Section 4(B)(16) of this Compact (this amount is in addition to the percentage of Adjusted Net Win already required under Section 4(B)(16) of the Compact); and

(D) require that, for jackpots requiring the patron to complete, prior to the pay-out of the jackpot, paperwork required by the Internal Revenue Service, the Gaming Enterprise shall verify that the patron is not on the self-exclusion list and such certification shall be recorded in the appropriate documentation. In the event the patron is listed on the self-exclusion list, the Gaming Enterprise shall comply with Section 4(F)(2)(b)(iii) of the Compact regarding forfeiture of all winnings.

(E) if a self-excluded person is removed from a Gaming Facility, report to the State Gaming Representative, at a minimum, the name of the self-excluded person, security staff involved, date of removal, amount of money forfeited, if any, and any other action taken. This written report shall be provided to the State Gaming Representative.

(F) ensure that the self-exclusion list remains confidential except for its use by (1) appropriate law enforcement agencies, if needed in the conduct of an official investigation or ordered by a court of competent jurisdiction; and (2) persons designated by either the Commission or the State Gaming Representative for the purposes of administrating and implementing the self-exclusion program

(28) The Gaming Enterprise, including its employees or agents, shall report immediately to the Commission any suspected violation of this Compact, the Ordinance, or regulations of the Commission by the Gaming Enterprise, Management Contractor, or any person, whether or not associated with Class III Gaming.

(b) Class III Gaming to be Conducted in Accordance with Compact. Any Class III Gaming activities to be conducted by the Gaming Enterprise shall be conducted in accordance with the Compact, including any Secretarial Procedures that may be in place

in lieu of a Compact. This Ordinance shall be interpreted in a manner consistent with the Compact. If there is a conflict between this Ordinance and the Compact, then the Compact shall control; however, if there is a conflict between the Compact and IGRA or other applicable federal law, then IGRA or other applicable federal law shall control.

(c) Gaming to be Conducted in Accordance with IGRA and Lawful NIGC Regulations. Any Gaming activities to be conducted by the Gaming Enterprise shall be conducted in accordance with federal law, including lawful regulations issued by the NIGC at any time. This Ordinance shall be interpreted in a manner consistent with federal law. If there is a conflict between this Ordinance and federal law, then federal law shall control; however, if there is a conflict between the Compact and IGRA or other applicable federal law, then IGRA or other applicable federal law shall control.

(d) Lapse of Compact. If a Compact or Secretarial Procedures no longer requires any provision in this Section, then that provision shall lapse 90 days thereafter unless the Council by resolution or the Commission by regulation continues the provision in force.

SECTION 12. MISCELLEANOUS

(a) Prohibition Against Employees Engaging in Gaming. No Key Employee, Primary Management Official, or Principal may participate in Games of Chance conducted by the Gaming Enterprise.

(b) Preference in Employment. Enrolled 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 Gaming Enterprise or the Management Contractor. If there are no qualified persons from among the enrolled members of the Pueblo and their spouses and children to fill any available positions, the Gaming Enterprise or the Management Contractor shall hire such qualified persons as are available, but shall give preference to qualified enrolled members of other Indian tribes.

(c) Regulation of Food & Beverage, Alcohol, and Cigarettes. Notwithstanding any other provision of this Ordinance, the Tribal Council, rather than the Commission, shall regulate, through other administrative agencies, most aspects relating to food and beverage operations, alcohol sales, and cigarette sales in a Gaming Facility or in proximity to a Gaming Facility. However, the Commission shall retain regulatory authority only to the extent necessary to ensure compliance with specific provisions in the Compact. The Commission and other Pueblo government agencies (such as the Gaming Commission, Liquor Commission, and Tax Commission, but expressly excluding any Pueblo economic enterprise) shall cooperate to resolve jurisdictional issues and shall coordinate where concurrent jurisdiction exists to ensure that regulations and policies are not inconsistent and that concurrent regulatory actions result in penalties or actions that are both commensurate with any violation(s) and consistent with the goal of promoting future compliance. If a dispute as to regulatory jurisdiction cannot be resolved in good faith by the involved government agencies, the Tribal Council shall resolve the dispute. Because it involves matters of Pueblo policy and Compact compliance but not matters regulated by the NIGC, the allocation of jurisdiction in this Subsection (c) may

be amended or supplemented by the Tribal Council through a subsequent Ordinance without formal amendment of this Ordinance and approval by the NIGC Chairman so long as the resulting Pueblo law complies with applicable law.

(d) Public Health and Safety. Each Gaming Facility and additions thereto shall comply with 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. The Pueblo shall cause inspections to be conducted with respect to these standards at least annually. Pursuant to the Compact, the State Gaming Representative may be present during an annual inspection, provided the request to be present is made sufficiently in advance of the inspection. Upon a written request by the State Gaming Representative, the Commission shall provide copies of relevant inspection reports to the State Gaming Representative.

SECTION 13. SUSPENSION OR REVOCATION OF LICENSE; CIVIL FINES.

(a) Grounds for Suspension and Revocation. The Commission may suspend a License if a Licensee:

- (1) 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;
- (2) fails to keep sufficient books and records to substantiate the reports required by this Ordinance;
- (3) falsifies any books or records relating to any transaction in connection with the operation or conduct of any Games of Chance;
- (4) is convicted of any felony or gaming offense;
- (5) interferes with or unduly influences or attempts to interfere with or unduly influence any decision or process of the government of the Pueblo relating to gaming, or the Commission;
- (6) deliberately or substantially fails to provide information to or answer relevant questions of the Commission;
- (7) fails to comply with this Ordinance; or
- (8) fails to comply with the terms of any License.

(b) Grounds for Suspension and Revocation. The Commission shall suspend a License if a licensee is the subject of reliable information from the NIGC or any other source indicating that the Licensee does not meet the standard established in Section 8(f) of this Ordinance.

(c) Revocation. After notice and a hearing before the Commission pursuant to this Section, the Commission may revoke, affirm a revocation by the Executive Director, or reinstate the Licensee's License. This sanction is in addition to any other sanction that may be imposed under this Ordinance.

(d) 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 requires, the Commission may suspend a License immediately pending the holding of a hearing. The immediate suspension shall take effect upon service of the complaint upon the Licensee.

(e) Contents of Complaint; Service. The complaint shall set forth with reasonable specificity the violations of this Ordinance that the Commission has reasonable cause to believe the Licensee has committed as the basis for a civil fine, License suspension, and/or License revocation. 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 to the Licensee at the Licensee's last address provided to the Commission, with a copy sent to the Council and the Gaming Enterprise. The complaint shall notify the Licensee of the place and date of a hearing, such date to be not less than 20 days after the Licensee receives a copy of the complaint.

(f) 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. If the Licensee does not answer, the Commission may proceed to a decision without a hearing.

(g) 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 30 days of the hearing. The Licensee shall be informed immediately of the decision and, in the event of a suspension, revocation, or reinstatement of his or her License, of the effective date of the suspension, revocation, or reinstatement. The Commission shall notify the NIGC, the Gaming Enterprise, the Council, and the State Gaming Representative of its decision. The Commission may affirm, reverse, or adjust any civil fine assessed by the Executive Director.

(h) Appeal. The decision of the Commission suspending or revoking a License, or assessing a civil fine, may be appealed to the Tribal Court. Written notice of the appeal must be filed with the Tribal Court and served on the Commission within ten days of the Commission's decision. The Tribal Court shall decide the appeal based on the record before the Commission, and shall state in writing the reasons for its decision.

(i) 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, or whether the Commission's decision is appealed or not.

(j) 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 up to 12 months.

SECTION 14. PROHIBITED ACTS.

In addition to any other act prohibited by this Ordinance, it shall be a violation of this Ordinance for any person:

(a) To conduct or participate in any Class II or Class III Gaming on the Reservation other than at an authorized and licensed Gaming Facility.

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

(c) To tamper with any Gaming Device or Gaming Equipment used or intended for use 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) To do any other act in connection with any Gaming Activity with the intent to affect the outcome of any wager other than in accordance with the publicly announced rules of the 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 a Game of Chance or any event that affects the outcome of the Game of Chance 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 that 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 a Game of Chance or other event that 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) To knowingly use other than coins or tokens approved by the Commission or other lawful coin or legal tender of the United States, 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 a Game of Chance, 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 a Gaming Facility.

(n) To knowingly entice or induce another to go to any place where Games of Chance are being conducted or operated in violation of the provisions of this Ordinance or regulations promulgated hereunder, IGRA, the Compact, or other applicable law and regulation with the intent that the other person play or participate in those Games.

(o) To willfully obstruct any Commission investigation.

SECTION 15. VIOLATIONS, JURISDICTION, ENFORCEMENT OF SUBPOENAS, LIMITED WAIVER OF SOVEREIGN IMMUNITY.

(a) Criminal Penalties.

(1) Except as otherwise provided in Subsection (b) of this Section or federal law, any Non-Member who violates any provision of this 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.

(2) Pursuant to the Compact, the State may exercise concurrent jurisdiction with the United States to prosecute violations by a Non-Member of any State gambling law on the Reservation, any other crime against the Gaming Enterprise or any

employee thereof, or that occurs on the premises of a Gaming Facility. Immediately upon becoming aware of any suspected crime by a Non-Member, the Gaming Enterprise or the Commission will notify the State Attorney General and the District Attorney for Santa Fe County of the particulars known to the Gaming Enterprise or Commission. Upon any reasonable request by the District Attorney for Santa Fe County, the Pueblo's Law Enforcement Department and the Commission will conduct an additional investigation and cooperate fully with such District Attorney and State law enforcement agencies on the matter. In the event of an emergency involving a possible violation by a Non-Member, the Pueblo and its constituent agencies may act as they see fit in accordance with the laws of the Pueblo in order to protect against any immediate threat to lives or property.

(3) The Pueblo may enter into a Memorandum of Understanding with the District Attorney for Santa Fe County, to which Memorandum of Understanding the United States Attorney also may be a party, to address such matters as the specific procedures by which cases under Paragraph (2) of this Subsection will be referred, participation of the Commission and the Pueblo's Law Enforcement Department in the investigation and prosecution of any such case, and payments by the Pueblo to the Office of the District Attorney for Santa Fe County to defray the costs of handling such cases.

(b) Civil Sanction. Any Person who violates any provision of this Ordinance, including the Gaming Enterprise and its employees, shall be liable for civil monetary sanctions not to exceed five thousand dollars for each day such violation occurs, along with any civil damages caused by the commission of such violation. Such person also may be excluded from the Reservation to the extent such exclusion is consistent with the laws of the Pueblo and not inconsistent with the laws of the United States.

(c) Tribal Court Jurisdiction. The Tribal Court shall have jurisdiction over all violations of this Ordinance and over all Persons who are Licensees, including agents, employees, owners, directors, and officers of such Persons. In addition to the penalties and civil sanctions prescribed in Subsections (a) and (b) of this Section, the Tribal Court may grant such other legal and equitable relief as is necessary and proper for the enforcement of this Ordinance and of the provisions of any Management Contract entered pursuant thereto, including but not limited to injunctive relief against acts in violation thereof. Nothing in this Ordinance, however, shall be construed to authorize or require the exercise of criminal jurisdiction over Non-Members who are non-Indians, except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision. In any proceeding arising under this Ordinance, the Tribal Court shall state in writing the reasons for its decision.

(d) Enforcement of Orders and Subpoenas. If a Person is ordered by the Commission or the Council to attend or to produce books, accounts, records, or other documents in any investigation or hearing conducted by the Commission or the Council and fails to obey the command of the subpoena without legal 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 Commission or the Council, the Commission or the Council may apply to the Tribal Court for an order returnable in not less than five nor

more than ten days directing the Person to show cause why he or she should not comply with such order for purposes of this 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 such person, if the Council 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 or her under a grant of immunity under this Subsection.

(e) Limited Waiver of Sovereign Immunity. The Pueblo hereby waives the immunity of the Gaming Enterprise and its employees from suit for the sole and limited purpose of permitting the Tribal Court to hear and determine proceedings initiated by the Commission to enforce this Ordinance against the Gaming Enterprise, including the assessment of fines, sanctions, and injunctive relief.

SECTION 16. PATRON DISPUTES AND VISITOR CLAIMS.

(a) Procedures for Resolving Patron Disputes. Except as otherwise provided in Subsection (b) of this Section, the following procedure applies whenever a patron of any Gaming Activity conducted by the Gaming Enterprise under the provisions of this Ordinance believes that he or she should not have lost any money, or has not received any winnings to which the patron believes he or she was entitled:

(1) The patron shall report the dispute to any Gaming Employee, Key Employee, or Primary Management Official. The Gaming Employee, Key Employee, or Primary Management Official shall refer the patron to the manager of the Gaming Facility.

(2) The manager of the Gaming Facility shall investigate the dispute, preserve all evidence related to the dispute, and attempt to promptly resolve the dispute. If the dispute cannot be resolved promptly, the casino manager shall propose resolution of the dispute to the patron in writing, not more than ten days after the dispute was brought to the attention of the casino manager. The manager of the Gaming Facility shall serve a copy of the proposed resolution (by certified mail) to the patron and the Executive Director.

(3) If the patron is dissatisfied with the proposed resolution by the manager of the Gaming Facility, the patron may appeal the dispute to the Executive Director in writing, within ten days of receipt of the casino manager's proposed resolution.

(4) Upon receipt of the dispute from the patron, the Executive Director shall investigate the facts underlying the dispute and the actions and proposed resolution of the manager of the Gaming Facility. After the investigation, the Executive Director shall issue a written decision of the dispute and serve a copy of the decision (by certified mail) to both the patron and the manager of the Gaming Facility.

(5) If either the patron or the Gaming Enterprise is dissatisfied with the Executive Director's decision, the patron or the Gaming Enterprise may appeal the Executive Director's decision to the Commission.

(b) Resolving Patron and Visitor Claims of Liability for Bodily Injury or Property Damage.

(1) The Tribal Court shall have original jurisdiction over claims of liability by a visitor to a Gaming Facility where Class III Gaming is conducted for bodily injury or property damage proximately caused by the conduct of the Gaming Enterprise. A visitor or visitor's legal representative shall be provided with the Tribal Court's procedures upon request.

(2) If a patron or visitor having a claim described in Paragraph (1) of this Subsection pursues that claim in the Tribal Court or, at the option of the patron or visitor, in binding arbitration or any other available forum of competent jurisdiction, the patron or visitor shall make a written election that is final, binding, and unappealable.

(3) The claims brought under Paragraph (1) of this Subsection must be commenced by filing an action in the Tribal Court or any other available forum of competent jurisdiction, or serving a demand for arbitration, within three years of the date that the claim accrues.

(4) The arbitration shall be conducted, pursuant to an election by a patron or visitor under Paragraph (2) of this Subsection, as follows:

(A) The patron or visitor shall submit a written demand for arbitration to the Gaming Enterprise by certified mail, return receipt requested;

(B) Unless the parties agree, in writing, to the appointment of a single arbitrator, the patron or visitor and the Gaming Enterprise shall each designate an arbitrator within 30 days of receipt of the demand by the Gaming Enterprise, and the two arbitrators shall select a third arbitrator, but in the event that either party fails to designate an arbitrator within thirty (30) days, or the two arbitrators cannot agree on the selection of the third arbitrator within 30 days of their appointment, the existing arbitrator(s) shall apply to the American Arbitration Association to appoint the third arbitrator;

(C) The arbitration panel shall permit the parties to engage in reasonable discovery and shall establish other procedures to ensure a full, fair, and expeditious hearing on the claim; and

(D) The award of the arbitration panel shall be final and binding.

(c) Posting of Notice. The Gaming Enterprise shall prominently post a notice, bearing the title, "PATRON DISPUTE AND VISITOR CLAIMS PROCEDURES," to

inform patrons and visitors of the remedies set forth in this Section, and to set forth the language of Subsection (a) and (b) of this Section in every room of every Gaming Facility where Gaming Activity occurs.

SECTION 17. SOVEREIGN IMMUNITY.

Nothing in this Ordinance waives the sovereign immunity of the Pueblo, including the Gaming Enterprise and the Commission, except to the extent explicitly set forth in Section 15(f) and Section 16 of this Ordinance.

SECTION 18. SEVERABILITY.

In the event that any provision in this Ordinance or the application thereof to any person or circumstance is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Ordinance.

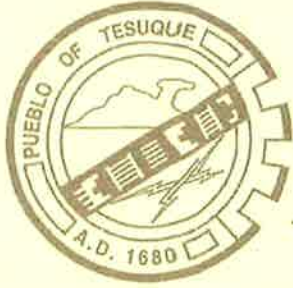
SECTION 19. AGENT FOR SERVICE OF PROCESS

For purposes of service of process, the agent shall be:

Governor
Pueblo of Tesuque
20 TP828
Santa Fe, NM 87506-5512

SECTION 20. EFFECTIVE DATE.

This Ordinance shall be effective on the date approved by the chairman of the NIGC.



Office of the Governor
Pueblo of Tesuque
Route 42 Box 360-T
Santa Fe, New Mexico 87506

RESOLUTION NO. 43-0927-2018

**Resolution Rescinding the Amended and Restated Gaming Ordinance
Approved by the NIGC on December 28, 2009, and Adopting an Amended and
Restated 2018 Gaming Ordinance**

At a duly called meeting of the Pueblo of Tesuque Tribal Council (“Tribal Council”) the following Resolution was adopted:

WHEREAS, the Pueblo of Tesuque (“Pueblo”), acting in our capacity as a federally recognized sovereign Tribal Government, to preserve for ourselves and our descendants the inherent sovereign rights of our Indian people, do hereby submit the following resolution; and

WHEREAS, the Pueblo of Tesuque Tribal Council is the duly constituted governing body, acting with the authority of the Pueblo; and

WHEREAS, in 2001, the Pueblo and the State of New Mexico (the “State”) entered into a tribal-state compact to govern class III gaming on the Pueblo’s lands (the “2001 Compact”); and

WHEREAS, the Secretary of the Interior (the “Secretary”) approved the 2001 Compact, pursuant to the Indian Gaming Regulatory Act of 1988 (the “IGRA”); and

WHEREAS, the Tribal Council, by Resolution No. 2002-04-02 (Apr. 30, 2002), adopted an Amended and Restated Pueblo of Tesuque Gaming Ordinance (the “2002 Gaming Ordinance”) to regulate gaming on the Pueblo’s lands; and

WHEREAS, the Chairman of the National Indian Gaming Commission (the “NIGC”) approved and published notice of the approval of the 2002 Gaming Ordinance in the Federal Register; and

WHEREAS, in 2007, the Pueblo and the State amended certain provisions of the 2001 Compact (the “2007 Compact”); and

WHEREAS, the Secretary approved and published approval of the 2007 Compact in the Federal Register, pursuant to the IGRA; and

WHEREAS, the Tribal Council, by Resolution No. 39-12-07-07 (Dec. 7, 2007), adopted an Amended and Restated Pueblo of Tesuque Gaming Ordinance (the “2007 Gaming Ordinance”) to regulate gaming on the Pueblo’s lands; and

WHEREAS, in 2015, the State and several New Mexico tribes agreed to an amended compact (the "2015 Compact"), which 2015 Compact is available to all New Mexico tribes (but without amendment) under the New Mexico Compact Negotiation Act; and

WHEREAS, despite its inability to negotiate with the State, the Pueblo elected to enter into the 2015 Compact with the State, which was executed on August 14, 2015; and

WHEREAS, the Secretary published a notice in the Federal Register on October 23, 2015, pursuant to IGRA Section 25 U.S.C. § 2710(d)(8)(C), that the 2015 Compact became effective on that date and "is considered to have been approved, but only to the extent the Compact is consistent with IGRA"; and

WHEREAS, the Tribal Council desires to amend and restate the 2007 Gaming Ordinance to, among other things, conform the Pueblo's law to the 2015 Compact, build on the experience of the Pueblo and its Gaming Commission, reflect intervening regulations promulgated by the NIGC, and for other purposes; and

WHEREAS, the resulting 2015 Gaming Ordinance, attached, has now been amended to accomplish those purposes; and

WHEREAS, the Tribal Council recognizes that time is of the essence because it would be Council's preference to have the 2018 Gaming Ordinance in place before the Pueblo's new gaming facility opens, likely in late November, and therefore below empowers the Governor, in consultation with the Lieutenant Governor, to make non-material revisions to the ordinance, at the suggestion of the NIGC or otherwise.

NOW, THEREFORE, BE IT RESOLVED THAT the Tribal Council hereby rescinds in its entirety the 2007 Gaming Ordinance approved by the December 28, 2007, and enacts in its entirety the 2018 Gaming Ordinance, attached, both actions to be effective on the date of the NIGC Chairman's approval of the 2018 Gaming Ordinance.

BE IT FURTHER RESOLVED THAT, the Tribal Council hereby authorizes and directs the Governor to submit this Resolution and the amended 2007 Gaming Ordinance to the Chairman of the NIGC for review and approval in accordance with the IGRA.

BE IT FURTHER RESOLVED THAT, the Tribal Council hereby authorizes and directs the Governor to make any technical and non-material revisions to the 2018 Gaming Ordinance prior to or after its submission to the NIGC if the Governor and Lieutenant Governor concur, in writing and after consultation with legal counsel, that the revisions are not material but will lead to the sound regulation of gaming and approval of the ordinance by the NIGC Chairman.

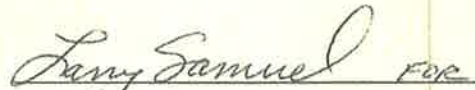
BE IT FINALLY RESOLVED THAT, the Tribal Council of the Pueblo of Tesuque hereby authorizes and adopts the aforementioned, subject to future amendments for specific commitments or repeals by subsequent Tribal Councils.

CERTIFICATION

We, the undersigned, respectively as the Pueblo of Tesuque Tribal Council, certify the foregoing Resolution No. 43-0927-2018 was adopted at a duly called meeting of the Pueblo of Tesuque Tribal Council at which a quorum was present and held on the 27th day of SEPTEMBER 2018, with a vote of 6 in favor, 0 in opposition, 0 abstained, and 3 absent.

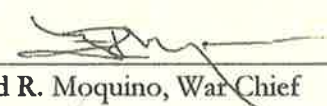

Frederick Vigil, Governor

Roman J. Duran, Lt. Governor


Floyd Samuel, Tribal Sheriff

Calvin Woods, Head Fiscale


Norbert Leno, Fiscale


Floyd R. Moquino, War Chief


Michael Vigil, War Captain


Virgil Vigil, War Captain

Leland Vigil, War Captain

