



June 24, 2019

Via U.S. Mail & E-mail

Jonathan Nez, President
Navajo Nation
P. O. Box 7440
Window Rock, AZ 86515

Re: Navajo Nation Amended Gaming Ordinance, Resolution No. CO-76-18

Dear President Nez:

This is to inform you that the Navajo Nation Gaming Code enacted by Navajo Nation Council Resolution No. CO-76-18, submitted to the NIGC on March 22, 2019, is approved by operation of law.

Pursuant to the Indian Gaming Regulatory Act, the NIGC Chair has ninety days from the date of submission to either approve or disapprove a gaming ordinance.¹ Any ordinance not acted upon at the end of the ninety day period is considered to have been approved by the Chair to the extent it is consistent with the provisions of IGRA.² Because no action was taken by the Chair within the ninety day period, the Nation's ordinance is considered approved to the extent that it is consistent with IGRA.

It is the opinion of the Office of General Counsel that while the Nation's Gaming Ordinance is substantially compliant with the requirements of IGRA, § 2005 of the Gaming Ordinance regarding sole proprietary interest may result in a violation of the Act if not clarified. Specifically, § 2005 provides for exceptions to the requirement that tribes maintain the sole proprietary interest in, and responsibility for, the conduct of gaming, such as Class I gaming, small bingo, raffles, and lotteries.

IGRA and NIGC regulations, however, only provide for one exception to the sole proprietary interest requirement; and that is for individually owned gaming. If a tribe chooses to allow individually owned gaming, its ordinance must specify as much and include certain requirements for that gaming.³ As currently drafted, the Nation's Gaming Ordinance does not specifically list IGRA's individually owned gaming requirements.

¹ 25 U.S.C. § 2710(e).

² *Id.*

³ 25 U.S.C. §§ 2710(b)(4)(A)&(B) and 25 C.F.R. §§ 522.4; 522.6(c); 522.10; and 522.11.

It is our understanding, though, based on discussions with representatives of the Nation, that the Nation interprets its ordinance as allowing individually owned gaming as the only exception to the sole proprietary interest requirement, and that all of IGRA's and NIGC regulations' requirements for individually owned gaming will be followed. We recommend that the next time the Nation's ordinance is amended, it include IGRA's individually owned gaming requirements. We further strongly recommend that the Nation include the individually owned gaming requirements within its gaming regulations.

If you have any questions, please feel free to contact me or NIGC Associate General Counsel Rea Cisneros.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Hoenig", with a horizontal line extending to the right.

Michael Hoenig
General Counsel

cc: Paulene T. Thomas, Executive Director, Navajo Nation Gaming Regulatory Office
(email: paulenethomas@navajo-nsn.gov)
Brian Parrish, Interim Chief Executive Officer, Navajo Nation Gaming Enterprise
(email: bparrish@nnge.org)
Doreen McPaul, Attorney General, Navajo Nation Department of Justice
(email: dmcpcoul@nndoj.org)

RESOLUTION OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018

AN ACT

RELATING TO LAW AND ORDER, RESOURCES AND DEVELOPMENT,
NAABIK'IYÁTI' COMMITTEES; ADOPTING "THE NAVAJO GAMING ORDINANCE
AMENDMENT ACT OF 2018" AMENDING 5 N.N.C. § 2001 *ET SEQ.*, NAVAJO
GAMING ORDINANCE

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council established the Law and Order Committee (LOC) as a Navajo Nation standing committee; and empowered LOC to review and make recommendations to the Navajo Nation Council on proposed Navajo Nation Code amendments and enactments and empowered LOC with oversight authority over the Navajo Nation Labor Commission, pursuant to 2 N.N.C. §§ 164(A)(9), 600(A), 601(B)(14) and (C)(1).
- B. The Navajo Nation Council established the Resources and Development Committee as a Navajo Nation standing committee that exercises authority over gaming to establish policy, oversee regulation, grant final approval for the plan of operation for NNGRO, and review and make recommendations to the Navajo Nation Council for final approval of resolutions requiring Navajo Nation Council approval to accomplish the committee purposes, pursuant to 2 N.N.C. § 500, 501(B)(2)(g), 501(B)(4)(f).
- C. The Navajo Nation Council established the Naabik'íyáti' Committee as a Navajo Nation standing committee and as such proposed legislation that requires final action by the Navajo Nation Council shall be assigned to the Naabik'íyáti' Committee, pursuant to 2 N.N.C. § 164 (A)(9), 700(A).
- D. The Navajo Nation Council must review and approve enactments or amendments of positive law, pursuant to 2 N.N.C. § 164(A).

SECTION TWO. FINDINGS

- A. On October 16, 2001, the Navajo Nation Council by Resolution CO-75-01 initially approved the Navajo Gaming Ordinance, and the Ordinance was submitted to the National Indian Gaming Commission (hereinafter "NIGC") for approval.
- B. On January 30, 2002, the NIGC disapproved the submitted Navajo Gaming Ordinance because of deficiencies.

- C. On April 18, 2002, the Navajo Nation Council by Resolution CAP-34-02 approved amendments to cure the deficiencies, and on December 9, 2003, the NIGC subsequently approved the Navajo Gaming Ordinance, as amended.
- D. Since the Navajo Gaming Ordinance was approved by the Navajo Nation and NIGC, the Tribal State Gaming Compact between the Navajo Nation and the State of Arizona was amended by the Tribal-State Gaming Compact Amendment, dated December 19, 2008, effective March 25, 2009, and there has been a renegotiated Indian Gaming Compact between the State of New Mexico and the Navajo Nation, dated April 13, 2015, effective June 22, 2015.
- E. Since the Navajo Gaming Ordinance was approved by the Navajo Nation and NIGC, there have been newly enacted and updated federal statutes, regulations and guidance documents, including the Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. § 5361 *et seq.*, amendments to 25 C.F.R. Part 500 *et seq.*, and NIGC Bulletin No. 2018-1.
- F. Since the Navajo Gaming Ordinance was approved by the Navajo Nation and NIGC, many court decisions have been issued that impact, or may impact, Navajo gaming, including *Murphy v. National Collegiate Athletic Association*, 138 S. Ct. 1461, 200 L. Ed. 2d 854 (2018); *Colorado River Indian Tribes v. National Indian Gaming Commission*, 466 F.3d 134 (D.C. Cir. 2006); *State of California v. Iipay Nation of Santa Ysabel*, 898 F.3d 960 (9th Cir. 2018); and *Navajo Nation v. Dalley*, 896 F.3d 1196 (10th Cir. 2018).
- G. Since the Navajo Gaming Ordinance was approved by the Navajo Nation and NIGC, the Navajo Nation has:
 - 1. Established the Navajo Nation Gaming Enterprise (hereinafter "NNGE") to conduct gaming for the Navajo Nation, and the NNGE opened and operates the following Navajo casinos:
 - a. Fire Rock Navajo Casino, opened November 19, 2008,
 - b. Flowing Water Navajo Casino, opened October 13, 2010,
 - c. Northern Edge Navajo Casino, opened January 16, 2012, and
 - d. Twin Arrows Navajo Casino Resort, opened May 24, 2013;

2. Enacted numerous Navajo laws that impact gaming including amendments to 17 N.N.C. § 421 and 422, approval of the Navajo Nation Gaming Distribution Plan by Resolution CJY-30-08 and the Gaming Development Fund by Resolution CO-53-06; and
 3. Changed by reducing the number and authorities of the Navajo Nation standing committees by Resolution No. CAP-10-11.
- H. Overall, the Navajo Gaming Ordinance needs major updates.
- I. It is in the best interest of the Navajo Nation to approve updates to the Navajo Gaming Ordinance.

SECTION THREE. AMENDMENT TO TITLE 5 OF THE NAVAJO NATION CODE

The Navajo Nation Council hereby amends Title 5 of the Navajo Nation Code, as follows:

TITLE 5, NAVAJO NATION CODE

Chapter 10. Ordinance for the Regulation of Gaming Activities within the Navajo Nation

Subchapter 1. Findings and Purposes

§ 2001. Legislative Findings

The Navajo Nation Council ~~of the Navajo Nation~~ hereby finds:

- A. That the orderly and honest conduct of gaming activities within the Navajo Nation (hereinafter "Nation") will be of vital importance to the economy of the Nation, and to the general welfare of its members;
- B. That the growth and success of gaming within the Navajo Nation is dependent upon public confidence and trust that such activities are conducted honestly and that they are free from criminal and corrupt elements, and that the facilities in which such activities are conducted are designed and maintained to assure the safety and comfort of patrons of the gaming activities;
- C. That such public confidence and trust can only be maintained by the comprehensive regulation of all persons, practices, and activities related to the operation of the Nation's gaming facilities;~~and~~
- D. All of the Nation's establishments where gaming is conducted, and all persons holding positions of responsibility with

respect to any such activity, must therefore be licensed, and their activities monitored to assure that the public health, safety and general welfare of the inhabitants of the Nation and the patrons of its gaming facilities are fully protected, and so as to assure the economic success of gaming activities within the Nation-; and

- E. The Nation's territory extends for approximately twenty-seven thousand (27,000) square miles covering three states, and with an unemployment rate in the Nation's territory of approximately fifty percent (50%), the Nation has authorized gaming through this Ordinance for the purpose of creating governmental revenue, and most importantly, jobs.

§ 2002. Purposes

This Ordinance is enacted, and shall be interpreted, so as to accomplish the following purposes:

- A. The maintenance of the highest standards of honesty and integrity in the operation of any and all gaming activities within the Navajo-Nation;
- B. The maintenance of public confidence and trust in the honesty and integrity of such gaming activities, and in the persons engaged in such activities;
- C. The maximum reasonable economic return to the Navajo-Nation as the owner of gaming facilities within the Nation consistent with the fair and reasonable expectations of patrons of such activities and the assurance of their safety and comfort in participating in gaming activities; and
- D. Compliance with all applicable laws of the Navajo-Nation and the United States of America, including but not limited to the Indian Gaming Regulatory Act of 1988-IGRA, as well as the Compacts.

§ 2003. Applicability

Unless specifically indicated otherwise, all provisions of this Ordinance shall apply to Class II and Class III Gaming on the Nation's Indian Lands.

Subchapter 2. Definitions

§ 2004. 2003- Definitions

Terms that are defined in the IGRA, and the NIGC regulations, 25 C.F.R. Part 500 et seq., shall have the same meaning and effect as those same terms are defined in the IGRA or NIGC regulations. Terms that are defined in Compacts with the State of Arizona and

the State of New Mexico shall have the same meaning and effect as those terms are defined in the Compacts. For purposes of this Ordinance:

- A. "Appeals Hearing Officer" means an independent contractor with experience in gaming regulation and operations who serves from time to time as the presiding officer for all appeals of NNGRO decisions. ~~"Act" means the Indian Gaming Regulatory Act of 1988, Public Law 100-497, 25 U.S.C. § 2701-2721 and 18 U.S.C. § 1166 - 1168, and all regulations promulgated pursuant thereto.~~
- B. "Class I Gaming" means all forms of gaming defined as Class I in Section 4(6) of the ~~Act~~ IGRA, 25 U.S.C. § 2703(6), which include:
 - 1. Social games played solely for prizes of minimal value; or
 - 2. Traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.
- C. "Class II Gaming" means all forms of gaming defined as Class II in Section 4(7) of the ~~Act~~ IGRA, 25 U.S.C. § 2703(7), which include:
 - 1. Bingo or lotto (whether or not electronic, computer or other technologic aids are used) when players:
 - a. Play for prizes with cards bearing numbers or other designations;
 - b. Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - c. Win the game by being the first Person to cover a designated pattern on such cards;
 - 2. Pull-tabs, punch boards, tip jars, instant bingo and other games similar to bingo, if played in the same location as bingo or lotto; or
 - 3. Non-banking card games that:
 - a. State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the State; and
 - b. Players play in conformity with State laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.

- D. "Class III Gaming" means all forms of gaming as defined in Section 4(8) of the ~~Act~~ IGRA, 25 U.S.C. § 2703(8), which include:
1. Any house banking game, including but not limited to:
 - a. Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house-banking games); and
 - b. Casino games such as roulette, craps, and keno;
 2. Any slot machines, as defined in 15 U.S.C. § 1171(a)(1), and electronic or electromechanical facsimiles of any game of chance;
 3. Any sports betting and pari-mutuel wagering, including but not limited to, wagering on horse racing, dog racing or jai alai; or
 4. Lotteries.
- E. ~~"Commission"~~ means ~~the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.~~
- ~~E.F.~~ "Compact(s)" means ~~a Tribal State Compact~~ those gaming compacts entered into between the Navajo Nation and the a State of Arizona, the State of New Mexico, and any other State in which the Nation has Indian Lands, and all amendments and modifications thereto, pursuant to Section 11(d) of the Act ~~IGRA~~, 25 U.S.C. § 2710(d), for purposes of regulating Class III Gaming Activities conducted within the Nation, ~~and all amendments and modifications thereto.~~
- F. "Conflict of Interest" means an actual or potential incompatibility between a Person's private interests and his or her official, public, or fiduciary responsibilities.
- G. "Distributor" means a Person that who distributes Class II and Class III Gaming Devices and/or component parts thereof as defined by this Ordinance for use or play in a Gaming Facility.
- H. "Executive Director" means the Executive Director of the Navajo Nation Gaming Regulatory Office.
- I. "Facility License" means a separate license issued by the Nation to each place, facility or location on Indian Lands where the Nation elects to allow Class II or Class III Gaming.
- J. ~~I.~~ "Gaming Activity" means all forms of Class II and Class III Gaming owned and operated by the Nation and conducted within the territorial jurisdiction of the Nation.

- K. "Gaming Device" means a mechanical device, an electro-mechanical device, or a device controlled by an electronic microprocessor, or another manner, that allows a player to play games of chance, whether or not the outcome is also affected in some part by skill, whether the device accepts coins, tokens, bills, coupons, ticket vouchers, pull tabs, smart cards, electronic in-house accounting system credits or other similar forms of consideration and through the application of chance, allows a player to become entitled to a prize, which may be collected through the dispensing of coins, tokens, bills, coupons, ticket voucher, smart card, electronic in-house accounting system credits or other similar forms of value.
- ~~J.~~ ~~"Gaming Device" or "Electronic Game of Chance" means a microprocessor-controlled electronic device which allows a player to play games of chance, some of which are affected by skill, which device is activated by the insertion of a coin, currency, tokens or by the use of a credit, and which awards game credits, cash, tokens or replays, or a receipt that can be redeemed by the player for any or the foregoing. Game play may be displayed by:~~
- ~~1. Video facsimile; or~~
 - ~~2. Mechanical rotating reels whereby the software of the device predetermines the stop positions and the presence, or lack thereof, of a winning combination and pay out, if any.~~
- L.K. "Gaming Employee" means any person employed as a Primary Management Official or Key Employee of a Gaming Operation of the Nation and any other person employed in the operation or management of a gaming operation, including but not limited to, any person who is designated a Gaming Support Employee ~~whose employment duties require or authorize access to restricted areas of a Gaming Facility not otherwise open to the public. Gaming Employee does not mean janitors, cooks, waitresses or waiters, and other employees not directly involved in the Gaming Operation within a Gaming Facility.~~
- M.L. "Gaming Facility" means the building(s) or structures(s) licensed and approved by the ~~Nation~~ NNGRO in which gaming activities are conducted.
- N.M. "Gaming Facility Operator" means the Navajo Nation Gaming Enterprise, which is the ~~a wholly-owned Tribal Enterprise,~~ or such other entity of the Nation as the Nation may from time to time designate as the wholly-owned tribal entity having full authority and responsibility for the operation

and management of Class II or Class III Gaming Activities, or such other Person as the NNGRO may authorize to conduct small bingo or raffle in accordance with the IGRA and this Ordinance.

O. "Gaming Manager" means a Management Contractor or a Primary Management Official.

P.N. "Gaming Operation" means any Gaming Activity conducted within a Gaming Facility.

Q.Ø. "Gaming Ordinance" means this Ordinance which governs the conduct of Gaming Activities within the Navajo Nation, all amendments thereto, and all regulations promulgated thereunder.

R.P. "Gaming Services" means the providing of any goods or services, except for legal services, to a Gaming Facility Operation in connection with the operation of Class II or Class III gaming, including but not limited to, equipment, transportation, food, linens, janitorial supplies, maintenance or security services for the Gaming Facility in an amount in excess of ten thousand dollars (\$10,000) in any single month directly to a Gaming Operation in connection with the operation of Gaming Activities, except for any professional services that are exempt from a corresponding definition in one or more Compacts shall not be included in this definition as it relates to Class III Gaming Activity conducted within the boundaries of the State that is a party to such relevant Compact(s).

S. "Gaming Support Employee" shall mean, except as expressly exempted by NNGRO regulation, the following, excluding management positions:

1. Food and beverage service personnel, such as chefs, cooks, waiters, waitresses, bus persons, dishwashers, food and beverage cashiers, and hosts;
2. Gift shop employees, cashiers, and clerks;
3. Greeters;
4. Wardrobe personnel;
5. Warehouse personnel; and
6. Other non-gaming personnel as may be determined by the NNGRO.

T. "Immediate Family" means spouse, children and members of the household of an employee.

U. "IGRA" means the Indian Gaming Regulatory Act of 1988, Public Law 100-497, 25 U.S.C. § 2701 - 2721 and 18 U.S.C. § 1166 - 1168, and all regulations promulgated pursuant thereto.

V.Q. "Indian Lands" means land as defined in 25 U.S.C. § 2703(4) (A) and (B), subject to the provisions of 25 U.S.C. § 2719.

W. "Investigator" means any Person or independent contractor employed or appointed by the NNGRO to investigate matters regarding compliance under this Ordinance.

X.R. "Key Employee" means a Gaming Employee who performs one or more of the following functions:

1. A Person who performs one or more of the following functions:

a.1. Bingo caller;

b.2. Counting room supervisor;

c.3. Chief of security;

d.4. Custodian of gaming supplies or cash; or

e.5. Floor Manager;

6. ~~Custodian of Gaming Devices, including persons with access to cash and accounting records within such devices~~

7. ~~Dealer;~~

f.8. ~~Pit boss;~~

g. Dealer;

h.9. Croupier;

i.10. ~~Approval Approver of Credit; or~~

j. Custodian of Gaming Devices, including Persons with access to cash and accounting records within such devices;

2. If not otherwise included, any other person whose total cash compensation ~~form~~ from the Gaming Operation is in excess of fifty thousand dollars (\$50,000) per year; or, if of the amount set forth in 25 C.F.R. § 502.14 (b), as may be amended;

3. If not otherwise included, the four most highly compensated persons in the Gaming Operation; or

4. Any other person designated by the NNGRO as a Key Employee.
- Y. "License" means an approval, evidenced in writing, issued by the NNGRO to any Person to be involved in the conduct of Gaming Activity, management of a Gaming Facility, providing Gaming Services to a Gaming Facility, or extending financing to a Gaming Facility.
- Z. "Licensee" means a Gaming Facility Operator, Vendor, Distributor, Management Contractor, Manufacturer, Key Employee, Primary Management Official, or Gaming Employee licensed by the NNGRO under the provisions of this Ordinance.
- AA. "Management Contract" means any contract, subcontract, or collateral agreement between the Nation and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a Gaming Operation.
- ~~S. "Management Contract" means a management contract within the meaning of 25 U.S.C. § 2710(d)(9) and 2711.~~
- BB.T. ~~"Management Contractor" means a natural person or entity~~ Person that has entered into a Management Contract with the Nation or a Gaming Facility Operator NNGE which has been approved pursuant to 25 U.S.C. § 2710(d)(9) and 2711.
- CC.U. ~~"Manufacturer" means a natural person or entity that~~ Person that manufactures Gaming Devices and/or component parts thereof as defined by this Ordinance for use or play in the a Gaming Facility Facilities.
- DD.V. ~~"Nation" means the Navajo Nation.~~
- EE.W. ~~"Navajo Nation Council" means the Navajo Nation Council of the Navajo Nation.~~
- FF. "Navajo Nation Gaming Enterprise" or "NNGE" means the enterprise of the Nation established pursuant to 5 N.N.C. § 1701 et seq., as may be amended, to conduct gaming operations within the Navajo Nation in order to generate gaming revenues and provide a fair return to the Nation in accordance with the IGRA, this Ordinance and all other applicable laws of the Nation.
- GG.X. "Net Revenue" means the gross revenues of any gaming activity less amounts paid out as, or paid for, prizes and total gaming related operating expenses, including all those expenses of the Gaming Activity commonly known as operating

expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

HH. "NIGC" means the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.

II. "NNGRO" means the Navajo Nation Gaming Regulatory Office.

JJ.Y.—"Office of the Attorney General" means the Office of the Attorney General of the Navajo Nation.

KK.Z.—"Person" includes a corporation, company, partnership, firm, association or society as well as a natural person. When "person" is used to designate the violator or offender of any law, it includes a corporation, company, partnership, firm, association, or society of persons.

LL.AA.—"Primary Management Official" means the person having management responsibility under a Management Contract; or any person who has authority to hire and fire employees, or to set up working policy for the a Gaming Operation, or the chief financial officer or other person who has financial management responsibility for a Gaming Operation; or any other Person designated by the Nation or NNGRO as a Primary Management Official.

MM.BB.—"Principal" means with respect to any entity:

1. A director; ~~Each of its officers and directors;~~
2. An officer;
- 3.2. ~~Each of its~~ A principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager;
- 4.3. ~~Each of its owners or partners~~ An owner or partner, if an unincorporated business;
- 5.4. ~~Each of its shareholders who own~~ A shareholder who owns more than ~~five~~ ten percent (~~5~~10%) of the shares of the corporation; ~~and~~
- 6.5. ~~Each person~~ A Person other than a banking institution who has provided financing for the entity constituting more than ~~five~~ ten percent (~~5~~10%) of the entity; and
- 7.6. ~~Each of the beneficiaries~~ A beneficiary or trustee of a trust.

NN.CC.—"Privacy Act" means the Privacy Act of 1974, as amended (P.L. 93-579, as amended; 5 U.S.C. § 552(a)), and the

obligations and responsibilities placed on the United States government under the Privacy Act as applied to the ~~Commission NIGC~~ pursuant to the ~~Indian Gaming Regulatory Act-IGRA~~.

OO.DD. "Public Employee" means a public employee within the meaning of the Navajo Nation Ethics in Government Law, 2 N.N.C. § 3751-3743 (Q).

PP.EE. "Public Official" means a public official within the meaning of the Navajo Nation Ethics in Government Law, 2 N.N.C. § 3751-3743(S).

QQ.FF. "State" means the State of Arizona, State of New Mexico, ~~or State of Utah,~~ or any other state in which the Nation has Indian Lands, and any of their authorized officials, agents and representatives.

RR. "Vendor" means a Person that provides Gaming Services to the NNGE or a Gaming Operation for conducting Gaming Activities in a Gaming Facility.

GG. ~~"Tribal Gaming Enterprise" means the Nation, an enterprise of the Nation, or such other entity of the Nation designated by the Navajo Nation Council to conduct a Gaming Operation.~~

Subchapter 3. Navajo Nation Ownership

Tribal Ownership and Use of Net Revenues

§ 2005.-2004. Tribal Navajo Nation Ownership of Gaming Activities

The Nation shall have the sole proprietary interest in, and responsibility for, the conduct of any Gaming Operation authorized by this Ordinance, with the following exceptions:

- A. Class I Gaming: and
- B. Small bingo games and raffles, as provided in Section 2081 of this Ordinance; and
- C. Lottery conducted at a Gaming Facility, provided that such Gaming Facility be licensed only to NNGE.

~~All Gaming Activities within the Nation shall be owned entirely by the Nation and conducted and operated by a Tribal Gaming Enterprise, with the following exceptions:~~

- ~~A. Class I Gaming; and~~
- ~~B. Small bingo games and raffles as provide in Section 2047 of this Ordinance.~~

§ 2006. ~~2005.~~ Use of Net Revenues

- A. All Net Revenues received by the Nation from all Gaming Activities shall be utilized according to applicable Navajo Nation laws and in accordance with the ~~National Indian Gaming Regulatory Act~~ IGRA and ~~CFR 25~~ its regulations. Gaming revenues shall not be distributed as per capita payment to any member or group of the Nation.
- B. In accordance with the IGRA, Net Revenues from Gaming Operations shall be used only for the following purposes:
1. To fund the Nation's government operations or programs;
 2. To provide for the general welfare of the Nation and its members;
 3. To promote the Nation's economic development;
 4. To donate to charitable organizations; or
 5. To help fund operations of local government agencies.

§ 2007. [Reserved]

§ 2008. [Reserved]

Subchapter 4. Navajo Nation Gaming Regulatory Office

§ 2009. ~~2006.~~ Establishment of the Navajo Nation Gaming Regulatory Office

There is hereby established the ~~Navajo Gaming Regulatory Office~~ NNGRO within the Executive Branch of the Navajo Nation Government, with legislative oversight by the ~~Economic Resources and Development~~ Committee of the Navajo Nation Council. ~~and The NNGRO~~ shall have overall civil regulatory authority over Gaming Activities within the Nation as specifically provided herein.

§ 2010. ~~2007.~~ Personnel

- A. NNGRO Personnel. ~~A. The Navajo Gaming Regulatory Office (hereinafter "the Gaming Regulatory Office"), NNGRO shall consist of an Executive Director, Inspectors and such assistants and other staff employees as the Executive Director shall determine are required from time to time. subject to funding provided by the Navajo Nation Council.~~
- ~~1. No employee of the Gaming Regulatory Office shall:~~
 - ~~a. be employed by a Gaming Facility Operator,~~
 - ~~b. have an immediate family member employed by a Gaming Facility Operator.~~

2. ~~No former employee of the Gaming Regulatory Office shall be employed by a Gaming Facility Operator within six months of leaving employment of the Gaming Regulatory Office.~~
3. ~~No employee of the Gaming Regulatory Office shall be employed by or hold, directly or indirectly, a financial interest in an organization or entity which,~~
 - a. ~~has entered into a Management Contract with the Nation or a Gaming Facility Operator;~~
 - b. ~~is a distributor;~~
 - c. ~~provides gaming services; or~~
 - d. ~~provides financing to the Nation or a Gaming Facility Operator for purposes of conducting gaming operations within the Nation.~~

B. Executive Director.

1. Term. ~~B.~~ The Executive Director of the Gaming Regulatory Office NNGRO shall be retained by contract by the President of the Navajo Nation, such contract being approved by the Navajo Nation Council for a four (4) year term, and such contract being executed by the President. The job performance of the Executive Director shall be reviewed periodically by the President who shall submit a written report of each such review to the Speaker of the Navajo Nation Council. The Executive Director of the ~~Gaming Regulatory Office~~ NNGRO shall be removable only for breach of contract.
2. Character. ~~C.~~ The Executive Director shall be a person of the utmost honesty and integrity, shall not have been convicted of a felony or a misdemeanor involving theft, embezzlement or a crime involving moral turpitude, whose prior activities, reputation, habits and associations shall not pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.
3. Qualifications. ~~D.~~ ~~The contract of the Executive Director shall require the Executive Director to be the Nation's designated agent for service of any official determination, order or notice of the Commission. The contract shall further require the Executive Director to have a bachelor's degree in business administration or related field and at least six (6) years of~~

experience in gaming management and/or regulation; or the contract shall require the Executive Director to have a master's degree in business administration or related field and at least four (4) years of experience in gaming management and/or regulation.

~~E. Inspectors shall act under the authority and supervision of the Executive Director. Inspectors shall have the right to inspect any Gaming Facility at any time and shall have immediate and unrestricted access to any and all areas of a Gaming Facility.~~

C. Gaming License and Background Investigation. Every employee of the NNGRO, including the Executive Director, shall have a background investigation conducted and obtain a gaming license prior to employment. The NNGRO shall promulgate regulations consistent with this Ordinance, the IGRA, and the Compacts to govern the licensing of NNGRO employees.

~~F. The background of every employee, Inspector, and the Executive Director of the Gaming Regulatory Office shall be investigated by the Nation's Personnel Department to ensure qualification for employment in the Gaming Regulatory Office. Except for the Executive Director, who shall be subject to section 2007(C), no person shall be employed by the Gaming Regulatory Office if the Nation's Personnel Department determines that such person:~~

- ~~1. Has been convicted of any felony within the past 10 years or any gaming offense;~~
- ~~2. Has knowingly and willfully provided materially important false statements for information on his or her license application; or~~
- ~~3. Has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.~~

D. Conflicts.

1. No employee or independent contractor of the NNGRO shall:
 - a. Be simultaneously employed or contracted by any Gaming Facility Operator or in a Gaming Facility;

- b. Be a current Public Official of the Nation; or
 - c. Have direct audit or regulatory authority over an Immediate Family member employed by any Gaming Facility Operator or in a Gaming Facility.
- 2. No former employee or independent contractor of the NNGRO shall be employed by any Gaming Facility Operator within forty-five (45) calendar days of leaving employment of the NNGRO.
- 3. No employee or independent contractor of the NNGRO shall be employed by or hold, directly or indirectly, a financial interest in an organization or entity which:
 - a. Has entered into a Management Contract with any Gaming Facility Operator;
 - b. Vendor (including Manufacturers and Distributors); or
 - c. Provides financing to any Gaming Facility Operator for purposes of conducting Gaming Operations within the Nation.
- 4. No employee or independent contractor of the NNGRO is permitted to game in any Gaming Operation within the Nation.
- 5. No employee or independent contractor of the NNGRO shall solicit or accept complimentary items from any Gaming Facility Operator or Gaming Employee, except food, beverages, and promotional items of non-substantial value made available to all employees or independent contractors of the NNGRO through the employee dining room or during special events.

§ 2011. 2008. Powers and Duties of the Navajo Nation Gaming Regulatory Office

In addition to those powers and duties otherwise expressly provided for in this Ordinance, and subject ~~Subject~~ to all of the provisions of this Ordinance, the Gaming Regulatory Office NNGRO shall have the following powers and duties, which it may exercise directly or through such agents or employees as it deems appropriate:

- A. To have and to exercise full authority and responsibility for the regulation of all Gaming Activities within the Nation, as provided in this Ordinance, the IGRA, and the ~~Aet~~ Compacts;

- B. To enter at any time any Gaming Facility or other location within the Nation where Gaming Activities are conducted for the purpose of inspecting the facility, its employees and operations, its equipment and supplies, and its business records, books of account, and any and all other financial records or documents pertaining to the business operations of the facility, and to make such summaries or copies of any and all such documents or other records for the purpose of ensuring compliance with the provisions of this Ordinance ~~or the Act, the IGRA, and the Compacts;~~
- C. To issue subpoenas and compel the attendance of witnesses at any place within the Nation, to administer oaths and to require testimony under oath;
- D. To seize, ~~and remove from any Gaming Facility~~ location where any Gaming Activities are conducted, and impound any equipment, supplies, documents or records for the purpose of examination in connection with an investigation, including but not limited to, the power to confiscate or shut down any Gaming Device, other equipment, or gaming supplies that fail to comply with any standards required by this Ordinance, the IGRA, the Compacts, and regulations of the NNGRO;
- E. To review for compliance with all applicable laws and regulations and to make recommendations thereon to the ~~Department of Justice~~ Office of the Attorney General for ~~their approval:~~
1. the terms of any and all proposed contracts between ~~the Navajo or a Tribal Gaming Enterprise~~ a Gaming Facility Operator and any person ~~or entity which~~ that provides for the management or operation of any Gaming Activity or Gaming Facility within the Nation; and
 2. ~~the provisions of any and all gaming services; and~~
 - 2.3. ~~the terms of any lease of land which is the site or proposed site of such~~ a Gaming Facility;
- F. To investigate any aspect of any Gaming Activities within the Nation in order to protect the public interest in the integrity of such Gaming Activities and to prevent improper or unlawful conduct in the course of such Gaming Activities, and to investigate any report of a failure ~~any Gaming Operation~~ of any Person (including any Gaming Facility Operator) within the Nation to comply with the provisions of this Ordinance, ~~or the Act-IGRA, or the Compacts,~~ and to require such ~~Gaming Operation Person~~ to take any corrective action deemed necessary by the ~~Gaming Regulatory Office-NNGRO~~

- upon such terms and conditions as the ~~Gaming Regulatory Office~~ NNGRO may determine appropriate, including but not limited to, disciplinary action and legal action;
- G. To establish a list of persons who, because of their criminal history or association with career offenders or career offender organizations, pose a threat to the integrity of the Gaming Activities of the Nation, or are barred from any Gaming Operation within the Nation pursuant to ~~§ 2049(f)~~ § 2085(F) of this ~~the~~ Ordinance;
- H. To approve the rules of each game of chance operated by the Nation pursuant to ~~Section 2004~~ of this Ordinance;
- ~~I. To require that all contracts for supplies, services, of concessions in an amount in excess of ten thousand dollars (\$10,000) annually (except contracts for professional legal or accounting services) relating to such gaming be subject to annual audits by an independent certified public accountant licensed in a state;~~
- ~~I.J. To perform background investigations as may be required on License applicants in accordance with this Ordinance, the IGRA, and the Compacts; on every applicant for a Gaming Facility Operator's License, a Gaming Manager's License, a Manufacturer's/Supplier's License, a Gaming Employee License and every applicant for a position of Primary Management Official or Key Employee with a Gaming Facility Operator;~~
- ~~J.K. To approve or deny applications for licenses or to limit, condition, restrict, revoke or suspend any license which it has granted;~~
- ~~K.L. To issue licenses and employee identification cards on such forms as may be designated by the Gaming Regulatory Office NNGRO;~~
- ~~L.M. To issue a notice of violation to, or impose a civil penalty upon, any person or entity for violation(s) of any provision(s) of this Ordinance or the Act IGRA;~~
- ~~M.N. To detain any persons who may be involved in illegal activities for purposes of notifying and summoning appropriate law enforcement authorities; and~~
- ~~N. To license the operation or conduct, in whole or in part, of Gaming Activities within the Nation, and to specify conditions thereof in accordance with this Ordinance, the IGRA, and the Compacts;~~

- ~~O.~~ ~~To do all other things reasonably necessary for the proper and efficient fulfillment of the powers and responsibilities of the Gaming Regulatory Office under this Ordinance or the Act.~~
- O. To bring suit in the courts of the Nation to enforce this Ordinance, including seeking temporary and permanent orders to cease any Gaming Activities not licensed or otherwise authorized by this Ordinance;
- P. To enter into agreements with tribal, federal, state and private entities in accordance with Navajo law for activities and services necessary to carry out the duties of the NNGRO under this Ordinance;
- Q. To cooperate with other tribal gaming offices, State gaming agencies and the NIGC for the enforcement of applicable federal and tribal regulation of Gaming Activities conducted with the Nation;
- R. To hire employees, professionals, or independent contractors necessary for the effective and efficient operation and conduct of all gaming regulated pursuant to this Ordinance, including, but not limited to, an Appeals Hearing Officer;
- S. To issue regulations and establish internal controls in accordance with this Ordinance, the IGRA, and the Compacts;
- T.P. To create and establish a revolving account proprietary fund to deposit the license fees collected from the license applicants and fines assessed by the NNGRO. The account proprietary fund shall be used to pay for the expenses of operating the office NNGRO including, but not limited to the salaries of additional personnel employees, training, equipment, vehicles, travel, program items, and other expenses related to the operation of the office NNGRO. The plan of operation for the revolving account Fund Management Plan for the proprietary fund shall be approved by the Economic Resources and Development Committee and Budget and Finance Committee of the Navajo Nation Council; and
- U. To do all other things reasonably necessary for the proper and efficient fulfillment of the powers and responsibilities of the NNGRO under this Ordinance or the IGRA.

§ 2012. ~~2009.~~ Issuance of Regulation

- . The Gaming Regulatory Official NNGRO shall from time to time promulgate and issue regulations governing any aspect of its responsibilities or the conduct of Gaming Activities, in each case to the maximum extent permitted under this Ordinance,

~~which so long as they are in furtherance of and not in conflict with any provision of this Ordinance, regulations shall have the force of law. Without limitation, the matters to be addressed by such regulations may include the following:~~

1. License eligibility determinations and the process and application requirements to apply for any License, including information necessary for adequate assessment of the applicant's eligibility and determination;
 - ~~1. The time and manner for applying for a Gaming Operator's License under this Ordinance, and the specific information to be provided in connection with such application, including information necessary for adequate assessment of the applicant's background, and the manner in which such applications will be processed;~~
 - ~~2. The procedure by which applicants for licenses under this Ordinance shall apply for such licenses, including the information to be provided by the applicant necessary for adequate assessment of the applicant's background, and the manner in which such applications will be processed; and~~
 - 2.3. The specific types of accounting, security, record keeping and reporting measures required by this Ordinance or the Act IGRA to be in place and functioning at any Gaming Facility licensed under this Ordinance;
 3. Specific Gaming Activities allowed, with applicable minimum internal control and technical standards and safeguards required to assure the integrity of the games and the security of the gaming proceeds; and
 - . Any and all other standards required under federal law or any Compact and necessary to carry out the duties under this Ordinance.
- B. Except in emergency situations addressed in Subsection (C) ~~below of this Section~~, prior to promulgating a final regulation, ~~the Gaming Regulatory Office NNGRO~~ shall publish the regulation in proposed form, which form shall include strikethrough and underline. The proposed regulation shall be provided directly to the President of the Nation, the Speaker of the Navajo Nation Council, ~~the Chairperson and each member of the Economic Development Committee of the Navajo Nation Council~~, the Office of the Attorney General, and the NNGE ~~to any other interested person or interested office or agency of the Nation~~. The proposed regulation shall

be accompanied by a notice stating that the ~~Gaming Regulatory Office NNGRO~~ will accept written comments for no less than thirty (30) calendar days following the date of publication. ~~As provided in this Section, "publish" shall mean publication in newspaper(s) of general circulation within the Nation.~~ In the event of significant public interest with respect to any regulation, the ~~Gaming Regulatory Office NNGRO~~ may hold a public hearing prior to issuing a final regulation. Notice of such hearing, if any, shall be given as set forth above, and in addition~~al~~ shall be mailed directly to any Person submitting comments on the proposed regulation. Except as provided in Subsection (C) of this Section, no final regulation shall be issued until the ~~Gaming Regulatory Office NNGRO~~ has reviewed all comments received by the close of the comment period, as well as all presentations made at any hearing held pursuant to this Subsection.

- C. In the event the ~~Gaming Regulatory Office NNGRO~~ determines that an immediate rule-making is necessary to avoid serious jeopardy to the integrity of any Gaming Activity within the Nation, or otherwise to deal with an emergency situation affecting the responsibilities of the ~~Gaming Regulatory Office NNGRO~~, the ~~Gaming Regulatory Office NNGRO~~ may, upon making an express written finding as to such emergency, issue a final regulation to take effect immediately; provided, that the ~~Gaming Regulatory Office NNGRO~~ shall publish notice and request comments on such regulation in the same manner as is provided above and upon consideration of any comments received, shall make such amendments to such final regulation as the ~~Gaming Regulatory Office NNGRO~~ deems appropriate.
- D. All final regulations adopted by the ~~Gaming Regulatory Office NNGRO~~ shall be officially ~~filed with the~~ delivered to Reporting Section of the Navajo Nation Council, the Office of the Navajo President, the Office of the Attorney General, and the ~~NNGE Records and Communications~~.

§ 2013. Internal Controls

- A. The NNGRO shall by regulation establish, and all applicable Gaming Facility Operators shall implement, minimum standards of internal controls to be in place at each Gaming Facility, which shall include systems of accounting and administrative controls. Internal controls include the plan of organization and all of the coordinate methods and measures adopted within a Gaming Operation to safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency and encourage adherence to prescribed managerial policies.

- B. The system of accounting controls shall provide a plan of organization and a description of procedures and records that will permit reasonable assurance that the following objectives will be maintained:
1. Safeguarding of assets;
 2. Reliability of financial records;
 3. Execution of transactions in accordance with management's general or specific authorization;
 4. Recording of transactions as necessary to permit recording of gaming revenue and to maintain accountability for assets;
 5. Access to assets only in accordance with management's authorization; and
 6. Comparison of records of assets with existing assets at reasonable intervals with provision for appropriate action with respect to any differences.
- C. The system of administrative controls shall include a complete plan of organization that will provide appropriate segregation of functional responsibilities and sound practices to be followed in the performance of those duties by competent and qualified personnel. The plan of organization shall be diagrammatic and narrative describing the interrelationship of functions and the division of responsibilities upon which the system of internal control relative to Gaming Operations is based.
- D. Upon written application to the NNGRO, the NNGE may request any material change in the internal control system it determines appropriate. The NNGRO shall notify the NNGE in writing that such application is accepted or rejected, within thirty (30) calendar days of receiving such application. The written decision of the NNGRO shall constitute final action of the NNGRO.
- E. The system of accounting controls shall include a detailed system for counting cash receipts at least daily, and shall be appropriate to the types of Gaming Activities carried on at the Gaming Facility and the physical characteristics of the system utilized for collecting cash.
- F. The NNGRO shall require that all bank accounts maintained by the operators of the Gaming Facility shall be identified by bank and account number and that all signatories to such accounts be identified by name.

G. By approval of the Executive Director, the NNGRO may establish tribal internal control standards ("TICS") that provide an equal or greater level of control than the minimum standards of internal controls. Upon making a determination that additional internal controls would be beneficial to the Gaming Operations, the NNGRO will propose TICS for Gaming Operations to the NNGE. TICS will not be implemented by the NNGRO without consultation and cooperation with the NNGE. If the NNGE opposes proposed TICS, and the NNGRO continues to believe that the proposed TICS are necessary for effective Gaming Operations and the protection of the Nation's assets, the NNGRO shall utilize the process for adopting minimum internal controls codified in Subsection 2013(A) of this Ordinance.

§ 2014. 2010. Petition for Self-Regulation

Upon the ~~Gaming Regulatory Office's~~ NNGRO's determination that the Nation is eligible therefore, the ~~Gaming Regulatory Office~~ NNGRO may submit to the ~~Commission~~ NIGC an application for a certificate of self-regulation, under the provisions of 25 U.S.C. § 2710(C)(4). The ~~Gaming Regulatory Office~~ NNGRO shall do everything necessary and appropriate to obtain such certificate and to maintain the certificate in good standing.

§ 2015. 2011. Independence of Navajo Nation Gaming Regulatory Office

The ~~Gaming Regulatory Office~~ NNGRO is constituted as an independent regulatory agency of the Nation. The ~~Gaming Regulatory Office~~ NNGRO shall not be subject to political direction or influence in the performance of its duties from any Public Official or Public Employee of the Nation.

§ 2016. 2012. Relation to Gaming Management

Neither the Executive Director ~~of the Gaming Regulatory Office~~ nor any other Public Official or Public Employee of the Nation (individually or collectively) shall have any role in the management of any Gaming Facility ~~licensed gaming establishment~~. Aside from the specific duties of the Executive Director, as defined in this ordinance, all decisions, policies, and actions with regard to the operation of any Gaming Facility ~~licensed gaming establishment~~ are the prerogative and responsibility of the gaming management as described in ~~Subchapters 5 and 6~~ of this Ordinance.

§ 2017. Agent for Service of Process

The Nation designates the Executive Director to be the agent for service of any official determination, order or notice of violation from the NIGC or any State gaming regulatory agency.

§ 2018. [Reserved]

§ 2019. [Reserved]

§ 2020. [Reserved]

Subchapter 5. Navajo Nation Gaming Enterprise

Gaming Facility Operator's License

§ 2021. Gaming Facility and Gaming Facility Operator's Licenses.

- A. Pursuant to 5 N.N.C. § 1701 et seq., the NNGE was established by the Nation to conduct Gaming Operations within the Nation, and shall obtain a Facility License from the NNGRO, in accordance with Subchapter 12, before the NNGE may commence a Gaming Operation.
- B. In accordance with applicable requirements under 5 N.N.C. § 1707, each appointee for the position of member of the board of directors of NNGE shall obtain a Gaming Facility Operator's License from the NNGRO.

~~§ 2013. Requirement of License~~

~~Each Tribal Gaming Enterprise established by the Navajo Nation Council to conduct a Gaming operation within the territorial jurisdiction of the Nation shall obtain a Gaming Facility Operator's License from the Gaming Regulatory Office before the Tribal Gaming Enterprise may commence operation of a Gaming Activity. Each appointee for the position of member of the Board of Directors of such Tribal Gaming Enterprise shall also obtain a Gaming Facility Operator's License from the Gaming Regulatory Office before submission of the appointment to the Navajo Nation Council for approval.~~

~~§ 2014. Standards of Suitability~~

- ~~A. Tribal Gaming Enterprise. No Tribal Gaming Enterprise shall be issued a Gaming Facility Operator's license by the Gaming Regulatory Office unless the Gaming Regulatory Office is satisfied that the Tribal Gaming Enterprise is established and organized pursuant to a plan of operation adopted by the Navajo Nation Council.~~
- ~~B. Board of Directors. No member of the Board of Directors of a Tribal Gaming Enterprise established by the Navajo Nation Council to conduct a gaming operation shall be issued a Gaming Facility Operator's license or have his license re-~~

~~need by the Gaming Regulatory Office if the Gaming Regulatory Office determines that such person:~~

- ~~1. Has been convicted of any felony or gaming offense;~~
- ~~2. Has knowingly and willfully provided materially important false statements or information on his license application;~~
- ~~3. Has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest or to the effective regulation and control gaming or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; or~~
- ~~4. Has a conflict of interest or a potential for a conflict of interest if a member of the Board of Directors. Any public official or public employee of the Nation shall be deemed to have a conflict of interest.~~

§ 2022. Navajo Nation Gaming Enterprise Employment Standards

- A. The NNGE shall be subject to standards and requirements equivalent to or more stringent than those contained in the federal Fair Labor Standards Act of 1938, the federal Occupational Safety and Health Act of 1970, and other federal laws relating to wages, hours of work and conditions of work, and the regulations issued thereunder.
- B. The NNGE shall not discriminate in the employment of Persons to work for the NNGE or in a Gaming Facility on the grounds of race, color, national origin, gender, sexual orientation, age or handicap; provided, however, that nothing herein shall prevent the NNGE from granting preference in employment in accordance with the Nation's laws and policies, including the Navajo Preference in Employment Act, 15 N.N.C. § 601 et seq.
- C. The NNGE shall ensure that all NNGE employees are provided with employment benefits including, at a minimum, sick leave, life insurance, paid annual leave or paid time off and medical and dental insurance as well as providing unemployment insurance and worker's compensation insurance, through participation in programs offering benefits at least as favorable as those provided by comparable State programs, to the extent required by the applicable Compact(s), and which programs shall afford the employees due process of law

and shall include an effective means for an employee to appeal an adverse determination by the insurer to an impartial forum, such as (but not limited to) courts of the Nation, which appeal shall be decided in a timely manner and in an administrative or judicial proceeding and as to which no defense of tribal sovereign immunity would be available.

§ 2023. [Reserved]

§ 2024. [Reserved]

§ 2025. [Reserved]

Subchapter 6. Management Contractor License

Gaming Manager's License

§ 2026.2015. Requirement for Management Contractor License

- A. No person, corporation, partnership, or other entity shall manage any gaming operation as the general manager of a Tribal Gaming Enterprise without first obtaining a Gaming Manager's License from the Gaming Regulatory Office. No Person, corporation, partnership, or other entity shall manage a Gaming Operation, in whole or in part, as a Management Contractor without first obtaining a Gaming Manager's License from the NNGRO. In the case of a corporation, partnership or other entity, each Principal of the corporation, partnership or other entity must also obtain a Gaming Manager's License from the Gaming Regulatory Office NNGRO.
- B. As a condition of any Gaming Manager's License, the NNGRO shall require that any licensed entity maintain an office within the Nation.

§ 2016. Standards of Suitability

- A. Individuals. No person shall be issued a Gaming Manager's License or have his license renewed under the Chapter if the Gaming Regulatory Office determines that such person:
1. Has been convicted of any felony or gaming offense;
 2. Has knowingly and willfully provided materially important false statements or information on his license application.
 3. Has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable,

~~unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; or~~

- ~~4. Has a conflict of interest or a potential for a conflict of interest if a gaming manager. Any public official or public employee of the Nation shall be deemed to have a conflict of interest.~~

~~B. Corporations, Partnerships, and other Entities.~~

~~1. No corporation, partnership, or other entity shall be issued a Gaming Manager's License or have its license renewed by the Gaming Regulatory Office unless the Gaming Regulatory Office is satisfied that such corporation, partnership or other entity.~~

- ~~a. Is an organization and in good standing under the laws of the jurisdiction where it was established, and is qualified to do business within the Nation and the State;~~
- ~~b. Is in sound financial condition, as shown by a financial status;~~
- ~~c. Is not now and has not been in the past five years the subject of any criminal investigation by any tribal, federal, or state law enforcement authority, as shown by an affidavit of principals of the organization having personal knowledge thereof;~~
- ~~d. Has established a reputation for financial integrity and sound business practices, or if the organization was recently formed, that all persons having any role in its formation, including persons supplying financing, are Persons qualified to be licensed individually under the terms of this Chapter.~~
- ~~e. Has established that any person having a role in the formation or acting as a principal of the organization is not a Public Official or Public Employee of the Nation; and~~
- ~~f. In all other respects will be reliable and trustworthy, and whose involvement in Gaming Activities within the Nation will be in the best interests of the Nation.~~

2. ~~As a condition of any such license, the Gaming Regulatory Office shall require that any licensed corporation, partnership or other entity:~~
 - a. ~~Maintain an office within the Nation; and~~
 - b. ~~Give notice to the Gaming Regulatory Office within 10 days of any material change in any information disclosed in the application for which prior notice was not feasible, including but not limited to, any change in its Principals.~~

~~Subchapter 7. Manufacturers/Suppliers License~~

~~§ 2017. Requirement of License~~

~~Each Manufacturer and each distributor of gaming devices, and each supplier of gaming services shall be licensed by the Gaming Regulatory Office prior to the sale or lease of any gaming devices or gaming services to a Gaming Facility Operator licensed under this Ordinance. In addition, any person, corporation, partnership or other entity extending or guarantying financing for the gaming operation or the gaming facilities shall be licensed by the Gaming Regulatory Office, unless such person, corporation, partnership or entity is an agency of the United States or a lending institution licensed and regulated by the State or the United States.~~

~~§ 2018. Standard of Suitability~~

- A. ~~Individuals. No person shall be issued a license or have his license renewed under this chapter if the Gaming Regulatory Office determines that such person:~~
 1. ~~Has been convicted of any felony or gaming offense;~~
 2. ~~Has knowingly and willfully provided materially important false statements or information on his license application;~~
 3. ~~Has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulations and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or carrying on of the business and financial arrangements incidental hereto; or~~
 4. ~~Has a conflict of interest or a potential for a conflict of interest. Any public official or public employee of the Nation shall be deemed to have a conflict of~~

~~interest.~~

~~B. Corporations, Partnerships, and Other Entities.~~

- ~~1. No corporation, partnership, or other entity shall be issued a license or have its license renewed under this Chapter unless the Gaming Regulatory Office is satisfied that such corporation, partnership or other entity:~~
 - ~~a. Is organized and in good standing under the laws of the jurisdiction where it was established, and is qualified to do business within the Nation and the State;~~
 - ~~b. Is in sound financial condition, as shown by a financial statement certified by a certified public accountant to be a current, complete and accurate depiction of the organization's financial status;~~
 - ~~c. Is not now and has not been in the past five years the subject of any criminal investigation by an tribal, federal, or state law enforcement authorities, as shown by an affidavit of principals of the organization having personal knowledge thereof;~~
 - ~~d. Has established a reputation for financial integrity and sound business practices, or, if the organization was recently formed, that all persons having any role in its formation, including persons supplying financing, are persons qualified to be licensed individually under the terms of this sub Chapter;~~
 - ~~e. Has established that any person having a role in the formation or acting as a principal of the organization is not a public official or public employee of the Nation; and~~
 - ~~f. Is in all other respects reliable and trustworthy, and whose involvement in Gaming Activities within the Nation will be in the best interests of the Nation as set forth in this Ordinance.~~
- ~~2. As a condition of any such license, the Gaming Regulatory Office shall require that any licensed corporation, partnership or other entity give notice to the Gaming Regulatory Office within 10 days of any material change in any information disclosed in the application for which prior notice was not feasible,~~

~~including but not limited to, any change in its Principals.~~

§ 2027. [Reserved]

§ 2028. [Reserved]

Subchapter 7. ~~8.~~ Gaming Employee's License

§ 2029. 2019. Requirement of ~~for~~ Gaming Employee License

- A. ~~Every Gaming Employee of a Gaming Facility Operator shall be licensed by the Gaming Regulatory Office prior to commencement of employment. No Person shall be employed as a Gaming Employee in any applicable Gaming Operation without first obtaining a gaming license from the NNGRO, unless an exemption or exception applies to such Gaming Employee in an applicable Compact and/or NNGRO regulations; provided, however, that any such exemption or exception must be consistent with the IGRA.~~
- B. ~~The NNGRO shall issue licensing standards for Gaming Employees that are consistent with this Ordinance, regulations promulgated by the NNGRO, and the Compacts.~~

§ 2020. Standards of Suitability

~~No person shall be issued a Gaming Employee's License or have his license renewed under this Chapter if the Gaming Regulatory Office determines that such Person:~~

- A. ~~Has been convicted of any felony within the past ten years or any gaming offense;~~
- B. ~~Has knowingly and willfully provided materially important false statements or information on his or her license or employment application; or~~
- C. ~~Has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.~~
- D. ~~Has a conflict of interest or a potential for a conflict of interest if a Gaming Employee. Any Public Official or Public Employee of the Nation shall be deemed to have a conflict of interest.~~

§ 2030. [Reserved]

§ 2031. [Reserved]Subchapter 8. Vendor License§ 2032. Requirement for Vendor License

Each Vendor shall be licensed by the NNGRO in accordance with this Ordinance, regulations promulgated by the NNGRO, and the Compacts. In addition, any Person extending or guarantying financing for the Gaming Operation or the Gaming Facilities shall be licensed by the NNGRO, unless such Person is exempt pursuant to Section 2034.

§ 2033. Vendor Classifications

- A. Management Contractors, Manufacturers, Distributors and financial service providers subject to licensing shall be deemed a class of vendors subject to the NNGRO's most rigorous background investigation.
- B. Vendors who provide goods and services related to security devices, surveillance systems, currency handling, check cashing and gaming data analysis shall be deemed a class of vendors subject to heightened scrutiny by the NNGRO.
- C. All other Vendors shall be subject to a proper level of scrutiny under the circumstances. Accordingly, notwithstanding the requirements of Subchapter 9, and in accordance with federal law and the applicable Compact(s), the NNGRO may elect to require (i) only individual licensing applications from such a Vendor's key executive officer and sales representative or other individual who will have direct contact with the Gaming Operation, or (ii) no individual licensing applications; provided that the NNGRO may increase the scope of investigation in the event the NNGRO has any reason to believe a Vendor may not satisfy the Standard of Suitability set forth in Section 2037.
- D. The following two types of Vendor employees shall be required to obtain a Vendor license prior to commencing any work in connection with the Gaming Operation: (i) employees of Management Contractors, and (ii) employees who have unescorted access to secure areas.

§ 2034. Exemption for Certain Vendors

The Nation has determined that, except as required under the Compacts, the following types of Vendors are not required to be licensed by the NNGRO, subject to the requirements of the Compacts and regulations adopted by the NNGRO:

- A. Entertainers;

- B. Publicly traded companies;
- C. Providers of training services;
- D. Providers of travel services;
- E. Automobile dealerships;
- F. Companies, including financial sources, regulated or licensed by the federal, state, or Nation governments; and
- G. Any other Vendors that are exempt or excepted from licensing requirements under the applicable Compact(s).

§ 2035. [Reserved]

§ 2036. [Reserved]

**Subchapter 9. Standards of Suitability ~~License Application~~
Procedures**

§ 2037. Standards of Suitability

- A. Individuals. No Person shall be issued a license or have his or her license renewed under this Subchapter if the NNGRO determines that such Person:
 - 1. Has been convicted of any felony or gaming offense;
 - 2. Has knowingly and willfully provided materially important false statements or information on his or her license application;
 - 3. Has been determined to be a Person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or carrying on of the business and financial arrangements incidental hereto; or
 - 4. Will have a conflict of interest or a potential conflict of interest if licensed. Any Public Official or Public Employee of the Nation shall be deemed to have a conflict of interest.
- B. Corporations, Partnerships, and Other Entities.
 - 1. No corporation, partnership, or other entity shall be issued a license or have its license renewed under this Subchapter unless the NNGRO is satisfied that such corporation, partnership or other entity:

- a. Is organized and in good standing under the laws of the jurisdiction where it was established, and is qualified to do business within the Nation and the applicable State;
 - b. Has not been:
 - i. Convicted of a felony, or
 - ii. Convicted of any misdemeanor involving moral turpitude within the ten (10) year period immediately preceding the submission of the application;
 - c. Has not associated with criminal profiteering activity or organized crime;
 - d. Has not been in contumacious defiance of any legislative investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling, criminal profiteering activity, or organized crime;
 - e. Has established a reputation for financial integrity and sound business practices, or, if the organization was recently formed, that all applicable Persons having a role in its formation, including Persons supplying financing, are Persons qualified to be licensed individually under the terms of this Subchapter; and
 - f. Has established that any Person having a role in the formation or acting as a Principal of the organization is not a Public Official or Public Employee of the Nation.
2. After a corporation, partnership or other entity is licensed by the NNGRO, it shall file a report of each change of Principals with the NNGRO. Subject to NNGRO regulations and licensing standards, the NNGRO may require each new Principal to file a complete application within thirty (30) calendar days of appointment or election. The corporation, partnership or other entity's license shall remain valid unless the NNGRO disapproves of the change in ownership of Principals or denies the application.

§ 2038. [Reserved]

§ 2039. [Reserved]

Subchapter 10. License Application Procedures§ 2040. 2021. Application Requirements; Processing

- A. Each application for a license under ~~Subchapters 5, 6, 7 or 8 of~~ required to be issued under this Ordinance must be submitted to the ~~Gaming Regulatory Office NNGRO~~ on forms prescribed by the ~~Gaming Regulatory Office NNGRO~~, and must be accompanied by the required fee, if any, and such supporting information as the ~~Gaming Regulatory Office NNGRO~~ may prescribe by regulation. ~~which shall include:~~
1. ~~In the case of individual persons:~~
 - a. ~~Full name, including any aliases by which applicant has ever been known;~~
 - b. ~~Social security number;~~
 - c. ~~Date and place of birth, gender, current citizenship, and all languages spoken or written;~~
 - d. ~~Currently and for the previous five years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;~~
 - e. ~~The names and current addresses of at least three personal references, including one personal reference who was acquainted with, the applicant during each period of residence listed under Paragraph 1(d) of this Subsection (A);~~
 - f. ~~Education history;~~
 - g. ~~Current business or employment and residence telephone numbers;~~
 - h. ~~A description of any existing and previous business relationships with Indian tribes including ownership interests in those businesses;~~
 - i. ~~Description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;~~
 - j. ~~The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;~~

- ~~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, whether or not such license or permit was granted;~~
 - ~~l. All criminal proceedings, except for minor traffic offenses, to which the applicant has been a party including description of the charge, the name and address of the court involved and the date and disposition;~~
 - ~~m. A set of fingerprints;~~
 - ~~n. A current photograph; and~~
 - ~~o. A complete and current financial disclosure statement.~~
- ~~2. In the case of corporations, partnerships or other entities applying for a license under Subchapters 5, 6, 7 or 8 of this Ordinance:~~
 - ~~a. The name, address, and other additional pertinent background information on each the principals;~~
 - ~~b. The name, address, and other additional pertinent background information on each of its related, associated, affiliated, parent or subsidiary corporations, partnerships, entities or individuals;~~
 - ~~c. A description of any previous experience that each Principal has had with other Indian tribes involving gaming, any management contract, or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had contact relating to gaming; and~~
 - ~~d. A complete financial statement of each Principal.~~
- B. The Gaming Regulatory Office NNGRO and its staff may assist any applicant in assembling all information required for processing of the application, but no application will be processed until it is complete. The Gaming Regulatory Office NNGRO staff may at any time after an application is submitted request the applicant in writing to supply additional information to enable the Gaming Regulatory Office NNGRO to complete the processing of the application, which request must be complied with forthwith.

- C. The issuance of a license by the NNGRO does not create or imply a right of employment or continued employment.
- ~~C. The application forms used by the Gaming Regulatory Office shall contain the Privacy Act notice and the notice regarding false statements, and in the form required by the Commission, pursuant to 25 C.F.R. Part 556, and each applicant shall consent in writing to the release of any information that may be relevant to the Gaming Regulatory Office's inquiry into the applicant's background from any person or entity. Any and all information obtained by the Gaming Regulatory Office in the course of reviewing an application with remain confidential, and will not be released by the Gaming Regulatory Office to any other person or agency (other than the commission if disclosure is required under the Act) without the applicant's consent, or pursuant to an order of court or other body of competent jurisdiction.~~
- ~~D. The Gaming Regulatory Office shall issue a decision on the application in writing. The written decision of the Gaming Regulatory Office shall constitute final action of the Gaming Regulatory Office on such application. In the event any application for a license is denied, the decision shall specify the reason for such denial.~~

~~§ 2022. Fees~~

~~The Gaming Regulatory Office shall collect the following fees in connection with the processing of applications and the issuance of licenses:~~

- ~~A. Gaming Facility Operator's License:~~
- ~~1. Initial application fee:~~
 - ~~a. Tribal Gaming Enterprise:
fifty thousand dollars (\$50,000).~~
 - ~~b. Member, Board of Directors:
five hundred dollars (\$500).~~
 - ~~2. Annual renewal fee:~~
 - ~~a. Tribal Gaming Enterprise;
fifteen thousand dollars (\$15,000).~~
 - ~~b. Member, Board of Directors:
one hundred dollars (\$100.00).~~
- ~~B. Gaming Manager's License:~~

1. ~~Initial application fee:~~
~~one thousand dollars~~ ~~(\$1,000).~~
 2. ~~Annual renewal fee:~~
~~five hundred dollars~~ ~~(\$500.00).~~
- C. ~~Manufacturer's/Supplier's License:~~
1. ~~Initial application fee:~~
 - a. ~~Manufacturer/Distributor of Gaming Devices:~~
~~one thousand dollars~~ ~~(\$1,000).~~
 - b. ~~Supplier of Gaming Services:~~
~~one hundred dollars~~ ~~(\$100.00).~~
 - c. ~~Third Party Financier~~
~~one thousand dollars~~ ~~(\$1,000).~~
 2. ~~Annual renewal fee:~~
 - a. ~~Manufacturer/Distributor of Gaming Devices:~~
~~five hundred dollars~~ ~~(\$500.00).~~
 - b. ~~Supplier of Gaming Services:~~
~~fifty dollars~~ ~~(\$50.00).~~
 - c. ~~Third Party Financier:~~
~~five hundred dollars~~ ~~(\$500.00).~~
- D. ~~Gaming Employee License:~~
1. ~~Initial application fee of~~
~~twenty-five dollars~~ ~~(\$25.00)~~
 2. ~~Annual renewal fee of~~
~~ten dollars~~ ~~(\$10.00).~~
- E. ~~Other Fees. The Gaming Regulatory Office may be regulation~~
~~prescribe such other fees as it deems appropriate.~~

~~§ 2023. License Terms: Renewal~~

- A. ~~Each Gaming Facility Operator's license, Gaming Manager's License, Manufacturers/suppliers license and Gaming Employee License issued by the Gaming Regulatory Office hereunder shall have a primary term of one year. Such license may be renewed for subsequent one-year periods upon proper application therefor, on forms specified by the Gaming Regulatory Office, but no licensee shall have any vested right to renewal of any license issued hereunder.~~
- B. ~~The Gaming Regulatory Office shall issue a temporary license~~

~~within 60 days of the receipt of a completed application for licensing pursuant to Subchapters 5, 6, 7 and 8 of this Ordinance unless the background investigation undertaken by the Gaming Regulatory Office discloses that the applicant has a criminal history, or unless other grounds sufficient to disqualify the applicant pursuant to this Ordinance are apparent on the face of the application. The temporary license shall become void and be of no effect upon either the issuance of a license or upon the issuance of notice of denial of the license in accordance with the provisions of this Ordinance.~~

~~§ 2024. [Reserved]~~

~~§ 2041. 2025. Non-transferability of License~~

~~Each Gaming Facility Operator's license, Gaming Manager's License, Manufacturer's/Supplier's license, and Gaming Employees License issued by the Gaming Regulatory Office NNGRO hereunder is valid only for the Person or entity at the place of business shown on the license. The license is not transferable or otherwise assignable without prior approval from the Gaming Regulatory Office NNGRO.~~

§ 2042. License Application Forms

- A. The following notice shall be placed on the NNGRO's license application forms for individual Persons before the 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 NNGRO authorities and by the NIGC members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Nation 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 being unable to license you for a Primary Management Official or Key Employee position.

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

- B. The following additional notice shall be placed on the application form for a Key Employee or a Primary Management Official before it 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).

§ 2043. License Fees

The Nation may charge a reasonable license fee, to be set by the NNGRO, to cover its expenses in investigating and considering license applications.

Subchapter 10. Background Investigations; Notifications

§ 2044. 2026. Background Investigations

- A. The NNGRO shall perform a background investigation for each Primary Management Official and Key Employee in a Gaming Operation. The investigation must be sufficient to allow the NNGRO to make an eligibility determination under Section 2046 of this Ordinance, and any additional investigation reasonably deemed necessary and proper by the NNGRO to comply with this Ordinance, the IGRA, and the Compacts.
- A. ~~Unless otherwise provided in a tribal-state compact entered into between the Navajo Nation and a state, the Gaming Regulatory Office shall at all times have in place, and shall regularly update and improve, a system for conducting background investigations of every applicant for licensing under the Ordinance. Such system shall comply with the requirements of this Ordinance and the Act, and shall include, at a minimum, utilization of records of all available, tribal, state and federal law enforcement agencies, resources of the Commission, communications with other Indian tribes engaged in Gaming Activities, and any and all other sources of information accessible to the Gaming Regulatory Office for this purpose. Such system shall ensure that all applicants are notified of their rights under the Privacy Act as specified in 25 C.F.R. Part 556.~~
- B. The NNGRO is responsible for conducting the background investigations of Primary Management Officials and Key Employees. The background investigation shall include a check

of criminal history records information maintained by the Federal Bureau of Investigation.

- B. ~~Every applicant for licensing under this Ordinance shall be subjected to a thorough background investigation, and such investigations shall be updated upon application for renewal of a license, and at such other times as the Gaming Regulatory Office may determine appropriate.~~
- C. The NNGRO shall request fingerprints from each Primary Management Official and Key Employee, and shall take such fingerprints or cause such fingerprints to be taken in accordance with the requirements of the IGRA. The fingerprints will then be forwarded to the NIGC for processing through the Federal Bureau of Investigation and the National Criminal Information Center to determine the applicant's criminal history, if any. Navajo Nation Department of Public Safety will review tribal and state court records to further determine the applicant's criminal history, if any. The NNGRO may request and process fingerprints from any other license applicant in accordance with NNGRO regulations and the Compacts.
- C. ~~The Gaming Regulatory Office shall prepare a background investigation report on every applicant for licensing under the Ordinance which shall include all of the following:~~
- ~~1. Steps taken in conducting a background investigation;~~
 - ~~2. Results obtained;~~
 - ~~3. Conclusions reached; and~~
 - ~~4. The bases for those conclusions.~~
- D. The NNGRO shall request from each Primary Management Official and Key Employee all of the following information:
1. Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender and all languages (spoken and/or written);
 2. Currently, and for the previous five (5) years; business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
 3. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during

each period of residence listed under Paragraph (D)(2) of this Section;

4. Current business and residential telephone numbers, and all cell phone numbers;
5. A description of any existing and previous business relationships with other tribes, including any ownership interests in those businesses;
6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
7. The name and address of any licensing or regulatory agency with which the Person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date of disposition, if any;
9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date of disposition, if any;
10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application, and is not otherwise listed pursuant to Paragraphs (D)(8) or (D)(9) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;
11. The name and address of any licensing or regulatory agency with which the Person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
12. A current photograph;
13. Any other information the NNGRO deems relevant; and
14. Fingerprints obtained in accordance with procedures adopted by the NNGRO.

- ~~D. The cost of performing the background investigations on Gaming Employees shall be an expense of the Gaming Facility Operator who has hired or proposes to hire the employee.~~
- ~~E. When a Primary Management Official or Key Employee is employed by any Gaming Facility Operator, a complete application file, containing all of the information listed in Sections 2044(D) and 2045 shall be maintained.~~
- ~~E. The Gaming Regulatory Office shall at all times maintain files containing the results of any background investigations conducted by it. Such files shall be retained for no less than three years from the date of termination of employment or expiration of the license. Such files shall contain systems designed to safeguard the identities of confidential informants from inadvertent disclosure.~~
- ~~F. The NNGRO, and its investigators, shall keep confidential the identity of each Person interviewed in the course of conducting a background investigation.~~

§ 2045. Investigative Reports

- ~~A. The NNGRO shall create and maintain an investigative report for each background investigation of a Primary Management Official or Key Employee.~~
- ~~B. Investigative reports shall include all of the following information:

 - ~~1. Steps taken in conducting the investigation;~~
 - ~~2. Results obtained;~~
 - ~~3. Conclusions reached; and~~
 - ~~4. The basis for those conclusions.~~~~

§ 2027. Criminal History Checks

- ~~A. Unless otherwise provided in a tribal-state compact entered into between the Navajo Nation and the State of New Mexico or the State of Arizona, the Navajo Nation Department of Public Safety will take fingerprints when required and send them to the NIGC. The NIGC will send the fingerprints to the FBI which will review them for any federal criminal activity including all felonies and misdemeanors. The FBI will send the fingerprints back to the NIGC along with a report stating any recorded federal criminal activity, and the NIGC will return the reviewed fingerprints with the FBI report to the Navajo Nation Department of Public Safety.~~

- ~~B. As part of the background investigation, the applicant will be required to disclose whether they have ever been prosecuted or convicted of a felony or a misdemeanor. In addition, unless otherwise provided in a tribal-state compact entered into between the Navajo Nation and the State of New Mexico or the State of Arizona, the Navajo Nation Department of Public Safety will review the records of the Tribal Court and also the statewide district, supreme and superior courts for New Mexico and Arizona for any criminal records as prospective employee may have.~~

§ 2046. Eligibility Determinations

- A. Before the NNGRO issues any license to a Person under this Ordinance, it shall make a finding concerning the eligibility of a Person to receive a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations.
- B. If the NNGRO, in applying the standards adopted in this Ordinance, determines that licensing the Person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, the NNGRO shall not license that Person in a Primary Management Official or Key Employee position.
- C. Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a Primary Management Official or Key Employee.

§ 2047. Notice of Results of Background Investigations

- A. Before issuing a license to a Primary Management Official or Key Employee, the NNGRO shall prepare a notice of results of the applicant's background investigation to submit to the NIGC. The notice of results must be submitted to the NIGC no later than sixty (60) calendar days after the applicant begins working for a Gaming Facility Operator.
- B. The notice of results shall include the following information:
1. The applicant's name, date of birth, and social security number;
 2. The date on which the applicant began, or will begin, working as a Primary Management Official or Key Employee;

3. A summary of the information presented in the investigative report, including:
 - a. Licenses that have previously been denied;
 - b. Gaming licenses that have been revoked, even if subsequently reinstated;
 - c. Every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
 - d. Every felony offense, or Nation equivalent thereof, of which the applicant has been convicted or any ongoing prosecution; and
4. A copy of the eligibility determination made in accordance with Section 2046.

§ 2048.—2028. Notification to the Gaming Commission NIGC and States

- A. Within the time requirements established by the ~~Commission,~~ the ~~Gaming Regulatory Office—NIGC,~~ the NNGRO shall transmit to the ~~Commission—NIGC~~ a complete copy of license applications or such other information of Primary Management Officials and Key Employees as may be required by the ~~Commission IGRA.~~ After completion of the background check of ~~the—such~~ applicant, and within the time requirements established by the ~~Commission—NIGC,~~ the ~~Gaming Regulatory Office—NNGRO~~ shall provide to the ~~Commission—NIGC~~ a complete report on the results of such ~~the—~~ background investigation. In the event the ~~Gaming Regulatory Office—NNGRO~~ receives any information from the ~~Commission—NIGC~~ concerning ~~the—such~~ applicant, such information shall be taken into account by the ~~Gaming Regulatory Office—NNGRO~~ in its action on the application. The ~~Gaming Regulatory Office—NNGRO~~ shall notify the ~~Commission—NIGC~~ if the ~~Gaming Regulatory Office—NNGRO~~ does not license ~~an—such~~ applicant.
- B. Upon issuance of a Primary Management Official or Key Employee license under this Ordinance, the ~~Gaming Regulatory Office—NNGRO~~ shall give notice thereof to the ~~Commission NIGC,~~ as may be required by the IGRA. Should the ~~Gaming Regulatory Office—NNGRO~~ receive information from the ~~Commission—NIGC~~ indicating that a Primary Management Official or Key Employee does not meet the standard established in this Ordinance or in the ~~Act—IGRA~~ for issuance of such a license, the ~~Gaming Regulatory Office—NNGRO~~ shall immediately suspend such license and give written notice thereof to the

~~licensee take action in accordance with Section 2051. The Gaming Regulatory Office shall also notify the licensee that the licensee has 15 days following receipt of the notice of suspension to request that the Gaming Regulatory Office reconsider the notice of suspension. Upon such request for reconsideration, the Gaming Regulatory Office shall consider such oral statement(s) or written documentation as the licensee may present to the Gaming Regulatory Office at the time and place designated by the Gaming Regulatory Office. Within 15 days of receipt of such statement(s) or documentation, or the licensee's request for reconsideration, whichever is later, the Gaming Regulatory Office shall issue a written decision. The written decision of the Gaming Regulatory Office shall constitute final action of the Gaming Regulatory Office. The Gaming Regulatory Office shall notify the Commission of its decision.~~

- C. The NNGRO shall transmit to the applicable State(s) a complete copy of license applications or such other information of potential Licensees as may be required by the applicable Compact(s); and upon issuance of a license under this Ordinance, the NNGRO shall give notice thereof to the applicable State(s) as may be required under the applicable Compact(s).

§ 2049. Granting Gaming Licenses

- A. All Primary Management Officials and Key Employees of a Gaming Operation must have a gaming license issued by the NNGRO.
- B. The NNGRO is responsible for granting and issuing gaming licenses to Primary Management Officials and Key Employees.
- C. The NNGRO may license a Primary Management Official or Key Employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC as required by Section 2047.
- D. The NNGRO shall notify the NIGC of the issuance of a license to a Primary Management Official or Key Employee within thirty (30) calendar days of issuance.
- E. A Gaming Facility Operator shall not employ an individual in a Primary Management Official or Key Employee position who does not have a license after ninety (90) calendar days of beginning work at the Gaming Operation.
- F. The NNGRO must reconsider a license application for a Primary Management Official or Key Employee if it receives a

statement of itemized objections to issuing such a license from the NIGC, and those objections are received within thirty (30) calendar days of the NIGC receiving a notice of results of the applicant's background investigation.

- G. The NNGRO shall take the NIGC's objections into account when reconsidering a license application.
- H. The NNGRO will make the final decision whether to issue a license to an applicant for a Primary Management Official or Key Employee position.
- I. If the NNGRO has issued a license to a Primary Management Official or Key Employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the Licensee, as required by Section 2051.

§ 2050. Denying Gaming Licenses

- A. The NNGRO shall not license a Primary Management Official or Key Employee, or any other applicant, if the Person:
 - 1. Poses a threat to the public interest;
 - 2. Poses a threat to the effective regulation of gaming;
or
 - 3. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.
- B. When the NNGRO does not issue a license to an applicant for a Primary Management Official or Key Employee position, or revokes a previously issued license after reconsideration, it shall:
 - 1. Notify the applicant and the NIGC; and
 - 2. Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.
- C. An applicant may appeal the NNGRO's final decision in accordance with Subchapter 11. The NNGRO's final decision whether to issue a license cannot be appealed by the applicant to the Office of Navajo Labor Relations, the Navajo Nation Labor Commission, any non-Nation administrative body, or any court.

§ 2051. NIGC: Gaming License Suspensions and Revocations

- A. If, after a license is issued to a Primary Management Official or Key Employee, the NNGRO receives notice from the NIGC that the Primary Management Official or Key Employee is not eligible for employment, the NNGRO shall do the following:
1. Immediately suspend the license;
 2. Provide the Licensee with written notice of the suspension and proposed revocation; and
 3. Provide the Licensee with notice of a time and place for a hearing on the proposed revocation of the license.
- B. Following a revocation hearing, the NNGRO shall decide whether to revoke or reinstate the license at issue. The written decision of the NNGRO shall constitute final action of the NNGRO. A Licensee may appeal a written decision issued by the NNGRO in accordance with Subchapter 11. No Licensee may file a request for reconsideration with the Office of Navajo Labor Relations, Navajo Nation Labor Commission, any non-Nation administrative body, or any court.
- C. The NNGRO shall notify the NIGC of its decision to revoke or reinstate a license within forty-five (45) calendar days of receiving notification from the NIGC that a Primary Management Official or Key Employee is not eligible for employment.

§ 2052. General: License Revocation, Suspension or Denial

- A. Grounds for Revocation, Suspension or Denial of License. The NNGRO may revoke or suspend a License or deny an application for a License when the Licensee or applicant:
1. Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of this Ordinance, the relevant Compact or state gaming agency rule, or when such violation has occurred upon any premises occupied or operated by any such Person over which he or she has substantial control;
 2. Knowingly causes, aids, abets, or conspires with another to cause any Person to violate any of the laws of the Nation or NNGRO regulations, or the provisions of the relevant Compact;
 3. Has obtained his or her License or a State Certification by fraud, misrepresentation, concealment or through inadvertence or mistake;

4. Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payment or reports to any tribal, state or United States governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses or of bribing or otherwise unlawfully influencing a public official or employee of a tribe, any state of the United States or of any crime, whether a felony or misdemeanor, involving any Gaming Activity or physical harm to individuals or moral turpitude;
5. Makes misrepresentation of, or fails to disclose, a material fact to the Nation, the NNGRO, or a state gaming agency;
6. Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this Section;
7. Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under Section 2052(A)(4);
8. Has had a gaming license issued by any state or tribe in the United States revoked or denied, unless such revocation or denial is shown to have been made for reasons unrelated to licensure suitability;
9. Has demonstrated a willful disregard for compliance with a gaming regulatory authority in any jurisdiction, including suspension, revocation, denial of application or forfeiture of license;
10. Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal laws of any state if such pursuit created probable cause to believe that the participation of such Person in gaming or related activities would be detrimental to the proper operation of an authorized gaming or related activity in the Nation. For the purposes of this paragraph, occupational manner or context shall be defined as the systematic planning, administration, management or execution of any activity for financial gain;
11. Is a career offender or member of a career offender organization or an associate of a career offender or career offender organization in such a manner which creates probable cause to believe that the association

is of such a nature as to be detrimental to the proper operation of the authorized gaming or related activities in the Nation. For the purposes of this paragraph, career offender shall be defined as any Person whose behavior is pursued in an occupational manner or context for the purposes of economic gain utilizing such methods as are deemed criminal violations of tribal law, federal law or state law. A career offender organization shall be defined as any group of Persons who operate together as career offenders;

12. Is a Person whose prior activities, criminal record, if any, reputation, habits and associations pose a threat to the public interest of the Nation or a state or to the effective regulation and control of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming, or the carrying on of the business and financial arrangements incidental thereto; or
13. Fails to provide any information requested by the NNGRO within fourteen (14) working days of the request for the information.

- B. Revocation, Suspension or Denial of License. The NNGRO shall notify an applicant or Licensee and the applicable Gaming Facility Operator in writing of its determination to revoke or suspend a License or deny an application for a License. Such a decision shall specify the reason, including the applicable grounds from subsection A of this Section, for such denial. An applicant may appeal any adverse licensing decision pursuant to Subchapter 11. No applicant or Licensee may appeal any adverse licensing decision to the Office of Navajo Labor Relations, Navajo Nation Labor Commission, any non-Nation administrative body, or any court.
- C. Summary Suspension of License. The NNGRO, pursuant to the laws and regulations of the Nation, may summarily suspend any License if the continued licensing of a Person constitutes an immediate threat to the public health, safety or welfare.

§ 2053. Records Retention

The NNGRO shall retain, for no less than three (3) years from the date a Primary Management Official or Key Employee is terminated from employment with the Nation, the following documentation:

- A. Applications for licensing;

- B. Investigative reports; and
- C. Eligibility determinations.

§ 2054. [Reserved]

§ 2055. [Reserved]

**Subchapter 11. Administrative Review of Adverse Licensing
Decisions Gaming Facility License**

§ 2056. NNGRO Review

- A. An applicant or Licensee may appeal an adverse licensing decision of the NNGRO by submitting by certified mail, return receipt requested, a written notice of appeal of the adverse licensing decision to the Executive Director within ten (10) calendar days after receipt of the adverse licensing decision, evidenced by certified mail receipt. The notice of appeal shall clearly state the reason(s) why the Licensee contests the adverse licensing decision.
- B. Upon receipt of the notice of appeal, the NNGRO shall notify the Appeals Hearing Officer to schedule a hearing to be conducted within thirty (30) calendar days of the NNGRO's receipt of the appellant's notice of appeal. Written notice of the time, date, and place of the appeal hearing shall be delivered, by certified mail, return receipt requested, to the appellant no later than fifteen (15) calendar days prior to the scheduled date of the hearing.
- C. The appellant, at appellant's own cost, and the NNGRO may be represented by legal counsel at the appeal hearing. The appellant and the NNGRO may present witnesses and relevant evidence and cross examine witnesses presented by the opposing side. All matters presented at the appeal hearing shall be limited to the scope of the adverse licensing decision and reasons set forth by the NNGRO for such licensing decision.
- D. The Appeals Hearing Officer shall issue a written decision to both parties, by certified mail, return receipt requested, no later than ten (10) working days after the date of the appeals hearing. The decision of the Appeals Hearing Officer shall be final and conclusive.

§ 2057. Stay Upon Request for Review

The filing of a request for review with the NNGRO shall not stay the enforcement of the determination. A stay may be granted where justice so requires, and upon such terms and conditions as are just and proper. An order granting a stay shall be in writing and

shall state the grounds therefore and the terms and conditions thereof.

§ 2058. [Reserved]

§ 2059. [Reserved]

Subchapter 12. 11. ~~Gaming Facility License~~

§ 2060. ~~2029. Requirement of License~~

- A. The NNGRO shall issue a separate license to each place, facility or location on Indian Lands where Gaming Activity is conducted under this Ordinance.
- B. The NNGRO is responsible for issuing new or renewed Facility Licenses to each place, facility or location.
- C. No Person ~~or entity~~ may commence any Gaming Activities subject to regulation hereunder at any facility or location within the Nation until such facility or location has received a Gaming Facility License under the provisions of this Ordinance-Subchapter, nor shall any person ~~or entity~~ offer any new or different Gaming Activities, as defined by regulations to be issued by the ~~Gaming Regulatory Office~~ NNGRO, at any facility or location that is already licensed, without first obtaining an amended license for such new and different Gaming Activities from the ~~Gaming Regulatory Office~~ NNGRO.

§ 2061. ~~2030. Standards for Issuance of License~~

~~The Gaming Regulatory Office~~ NNGRO shall not issue a Gaming Facility License for any facility or location at which Gaming Activities are to be offered within the Nation unless the Gaming Facility meets the following requirements:

- A. The physical facility within which the Gaming Activities are to be conducted is constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety;
- B. The Gaming Activities to be conducted within the facility will lawfully be carried on by the ~~Nation~~ prospective Licensee under the ~~Act~~ IGRA, and ~~that~~ the facilities are appropriate to the carrying on of such activities;
- C. The ~~Gaming Facility Operator~~ prospective Licensee will adequately staff and equip the facility to ensure the safety, comfort and convenience of the patrons thereof, and ~~that~~ the ~~Gaming Facility Operator~~ prospective Licensee has taken adequate measures to provide for traffic, emergency service

accessibility, food, drink and sanitary needs for patrons and employees, security, and law enforcement and other concerns raised by the type of Gaming Activity proposed to be undertaken in compliance with this Ordinance, the IGRA, and the Compacts Act;

- D. The Nation or ~~Tribal Gaming Enterprise~~ NNGE has agreed to a Management Contract or has made provision for management of the facility under terms and provisions that ensure that the activities will be carried out in a manner consistent with the requirements of this Ordinance, ~~that~~ the contracting party or parties have received appropriate licenses issued under the provisions of this Ordinance, and ~~that~~ all applicable employees hold Gaming Employee Licenses issued under the provisions of this Ordinance; and
- E. In all other relevant respects, the facility will be operated in a way that is fully consistent with the provisions of this Ordinance, and ~~that~~ its operation will further the interests of the Nation with respect to its operation of gaming activities.

§ 2062. ~~2031.~~ Application for a New or Amended Gaming Facility License Procedure; Inspection

- A. An application for a new or amended ~~Gaming Facility License~~ shall be submitted by the ~~Tribal Gaming Enterprise~~ applicable Licensee prior to the commencement of operations at the facility or the commencement of the new Gaming activity at the facility for which an amended license is required.
- B. The ~~Gaming Regulatory Office~~ NNGRO shall by regulations prescribe the information required to be submitted with such applications. ~~, but at a minimum, such application for licensing a new facility shall include the following:~~
1. ~~The name, specific position and job descriptions of all persons to be employed as Primary Management Officials or Key Employees at the facility;~~
 2. ~~Job descriptions for every other position in which persons will be employed at the facility;~~
 3. ~~A detailed description of each Gaming Activity to be engaged in at the facility, together with expected payouts to winners.~~
 4. ~~A description of the internal controls, plan of organization and all coordination methods and measures for the safeguarding of assets, ensuring the accuracy and reliability of its accounting data, promoting~~

~~operational efficiency and encouraging adherence to prescribed managerial policies;~~

- ~~5. Detailed plans for the facility, including landscaping, traffic controls, parking, food and drink services, and other physical aspects of the building.~~
 - ~~6. A detailed description of how security will be maintained at the facility, identifying the persons, agencies or entities that will provide such security;~~
 - ~~7. A detailed description of how gaming proceeds will be accounted for and disposed of on a daily basis;~~
 - ~~8. A copy of any proposed Management Contract or other contractual arrangement by which the activities at the facility are to be managed.~~
 - ~~9. A description of provisions for dealing with fire or other potential emergencies at the facility;~~
 - ~~10. A detailed description of how sewage and other waste products from the facility will be handled and disposed of; and~~
 - ~~11. Any other information relevant to the proposed operation of the facility or requested by the Gaming Regulatory Office as part of the application.~~
- C. An application for an amended license to conduct new or different Gaming Activities at a licensed location or to otherwise alter the terms or conditions of an existing license, shall, at a minimum, include the following information:
1. Any change in information previously provided in the original license application or any previous application for an amended license for the facility;
 2. A detailed description of the changes in the facility or in the Gaming activities to be carried on therein for which the amended license is required, together with a statement of the reasons for such change;
 3. If a proposed change will require any change in the existing Management Contract with respect ~~for~~ to the facility, a copy of the proposed amendment to such contract or new contract; and
 4. Any other information relevant to the changes or new activities requiring the amendment.

- D. In its decision to license any facility, or to amend any existing license to permit the conduct of new or different Gaming Activities at a licensed Gaming facility, the ~~Gaming Regulatory Office~~ NNGRO may specify, consistent with the provisions of the Ordinance, terms or conditions it believes necessary or appropriate to ensure the health and safety of patrons and employees of any such facility, the integrity of the Gaming Activities carried on at such facility, and the security of gaming proceeds. If dissatisfied with any such condition, the applicant may request that the ~~Gaming Regulatory Office~~ NNGRO reconsider its determination. Upon such request for reconsideration, the ~~Gaming Regulatory Office~~ NNGRO shall issue a written decision within fifteen (15) calendar days of its receipt of the request for reconsideration. A decision by NNGRO with regard to a Facility License may not be appealed to any court, tribunal, or administrative body. ~~The written decision of the Gaming Regulatory Office shall constitute final action of the Gaming Regulatory Office.~~
- E. The NNGRO shall submit to the NIGC Chair a notice that issuance of a Facility License is under consideration by the NNGRO. This notice must be submitted at least one hundred twenty (120) calendar days before the opening of any new place, facility or location on Indian Lands where Gaming Activities will occur.
- F. The NNGRO shall submit a copy of each newly issued or renewed Facility License to the NIGC Chair within thirty (30) calendar days of issuance, along with any other required documentation.

~~§ 2032. Fees~~

~~The Gaming Regulatory Office shall collect the following fees in connection with the processing of application and the issuance of licenses:~~

~~A. Gaming Facility License:~~

- ~~1. Annual fee of thirty thousand (\$30,000).~~
- ~~2. Application for amendment of an existing Gaming Facility license: \$15,000).~~

- ~~B. The annual fee shall be payable in equal quarterly installments, the first of which shall be payable within 15 days of receipt of notice of approval of the Gaming Facility license. The remaining installments shall be paid on the first day of each succeeding calendar quarter.~~

~~C. The Gaming Regulatory Office may be regulation prescribe such other fees as it deems appropriate.~~

§ 2063. 2033. License Terms; Renewal

~~Except as may be required by a Compact or NNGRO regulations, Each gaming—Facility License issued to the NNGE by the Gaming Regulatory Office—NNGRO shall be for a term of two (2) years. Such license may be renewed for subsequent three year two (2) year terms upon proper application on forms specified by the Gaming Regulatory Office—NNGRO. Facility Licenses for any Gaming Facility Operator other than NNGE shall be for an appropriate term under the circumstances, to be determined by the NNGRO, provided that such term shall not exceed one (1) year.~~

§ 2064. Facility Inspection

~~The NNGRO shall, in cooperation with the Licensee and no less than annually, cause detailed inspections to be made of each Gaming Facility licensed under the provisions of this Ordinance, to assure that such facility is being operated in accordance with the terms of the license and of the provisions of this Ordinance, the IGRA, and the Compacts.~~

§ 2065. [Reserved]

§ 2066. [Reserved]

Subchapter 13. [Reserved]—Gaming Operation

§ 2067. [Reserved]

§ 2068. [Reserved]

§ 2069. [Reserved]

Subchapter 14. 12. Facility Inspection; Notices of Violation of License Requirements; Complaints; Judicial Review

§ 2034. Facility Inspection

~~The Gaming Regulatory Office shall, no less than monthly and at such other times as it believes are warranted, cause detailed inspections to be made of each Gaming Facility licensed under the provisions of this Ordinance, to assure that such facility is being operated in accordance with the terms of the license and of the provisions of this Ordinance and the Act.~~

§ 2070. 2035. Notice of Violation of License Requirements

~~A. The Executive Director of the Gaming Regulatory Office—NNGRO shall issue a notice of violation to any person or entity who has been determined by the Gaming Regulatory Office—NNGRO~~

to be in violation of any provision of this Ordinance, NNGRO regulations, or the ~~Act~~ IGRA. B. A notice of violation shall contain:

1. A citation to ~~the~~ this Ordinance, ~~regulation of federal law regulations of the NNGRO~~, or the IGRA that has been or is being violated;
2. A description of the circumstances surrounding the violation, set forth in common and concise language;
3. The action that must be taken to correct the violation;
4. Notice of the time-frame in which the violation must be corrected; ~~Notice that the violation must be corrected within 15 days from receipt of the notice of violation~~;
5. Notice of a civil fine or other enforcement action that will or may be imposed if the violation is not corrected;
6. Notice ~~than~~ that a written response to the notice of violation must be submitted to, and received by, the ~~Gaming Regulatory Office~~ NNGRO within fifteen (15) calendar days of the receipt of the notice of violation; and
7. Notice that the cited violation shall be the written decision of the ~~Gaming Regulatory Office~~ NNGRO if no written response to the notice of violation is submitted to the ~~Gaming Regulatory Office~~ NNGRO within fifteen (15) calendar days ~~the time prescribed in Section 2035(B)(6)~~.

B. With regard to notices of violation issued to an entity that has been granted a Facility License, such Licensee shall work diligently and immediately to resolve the NNGRO's concerns identified in the notice of violation and if such concerns are not satisfactorily and timely resolved, the NNGRO may issue to the Gaming Facility a notice of temporary closure, seize the Gaming Facility and all equipment, records, and Gaming Activity proceeds, and take any other actions necessary to protect the health, safety and welfare of employees, patrons, or the Nation.

C. With regard to notices of violation issued to a Person other than an entity that has been granted a Facility License, the NNGRO may take one or more of the following actions: In the event the violation is not corrected, or a written response to the notice of violation is not made within 15 days following receipt of the notice of violation, the Gaming

~~Regulator Office may take one or more of the following actions:~~

1. Consistent with Section 2052, suspend or revoke the license of the person ~~or entity~~ to whom the notice of violation was directed;
 2. Assess a civil penalty in accordance with the provisions of this Ordinance;
 3. Forcibly eject the violator from the premises of the Gaming Facility;
 4. Seize the Gaming Facility and all equipment, records, and proceeds of Gaming Activities located within the Gaming Facility; or
 5. Upon consultation with the Nation's Attorney General, initiate in the District Court of the Navajo Nation a civil action or criminal complaint to enforce ~~the this~~ Ordinance, ~~regulations of the Gaming Regulatory Office~~ NNGRO regulations, or the IGRA Act.
- D. Each Person ~~or entity~~ to whom a notice of violation is issued shall submit a written response to the ~~Gaming Regulatory Office~~ NNGRO together with any additional written information the person believes the ~~Gaming Regulatory Office~~ NNGRO should consider. Such response and supporting documentation must be received by the ~~Gaming Regulatory Office~~ NNGRO within fifteen (15) calendar days of the receipt of the notice of violation. Upon receipt of the written response, the ~~Gaming Regulatory Office~~ NNGRO shall issue a written decision within fifteen (15) working days. Such written decision shall constitute final action of the ~~Gaming Regulatory Office~~ NNGRO with respect to such notice of violation. No Person may apply to the Office of Navajo Labor Relations, Navajo Nation Labor Commission, NIGC, any non-Indian administrative body, or any court for review of a notice of violation. No action to enforce the notice of violation shall be taken by the Gaming Regulatory Office until the Gaming Regulatory Office issues its written decision; provided that, the Gaming Regulatory Office may summarily suspend any license issued under this Ordinance or take such other immediate action if the continued licensing of, or conduct by, a person or entity constitutes an immediate threat to the public health, safety or welfare. The notice of violation is the final action of the Gaming Regulatory Office if no written response to the notice of violation is submitted to the Gaming Regulatory Office within the time prescribed in Section 2035(B) (6).

- E. ~~The Gaming Regulatory Office may employ a Hearing Officer to hear and decide matters to be heard by the Gaming Regulatory Office in accordance with the provisions of this Ordinance; provided, sufficient funds are appropriated or made available for a Hearing Office and appropriate staff.~~

§ 2071. 2036. Investigation of Complaints

- A. ~~The Gaming Regulatory Office NNGRO shall investigate all sworn complaints that are filed lodged with the Gaming Regulatory Office NNGRO alleging that a licensee is acting in violation of the terms of any license, or a Gaming Facility is not being maintained in accordance with the terms of any license or does not adequately protect the health, safety and welfare of the employees or patrons.~~
- B. ~~The Gaming Regulatory Office NNGRO shall give provide to the Licensee written notice of and provide all complaints, together with copy of the sworn any written complaint to the licensee and a detailed description of any non-written complaint. The copy provided to the Licensee may redact the name of the individual filing the complaint or other witnesses. The Licensee shall file with the Gaming Regulatory Office NNGRO a written reply to the complaint within fifteen (15) working days of receipt of the notice and complaint.~~
- C. ~~Following receipt of the Licensee's response to the complaint, the Gaming Regulatory Office NNGRO shall cause a full investigation to be made of the allegations. If the Gaming Regulatory Office NNGRO determines that a violation of the this Ordinance, NNGRO regulations, or the IGRA Act has occurred or is occurring, the Executive Director shall issue a notice of violation or commence license revocation or suspension procedures in accordance with this Ordinance the provisions of the Chapter.~~

§ 2037. Judicial Review

- A. ~~Any person or entity who has been issued a notice of violation by the Executive Director of the Gaming Regulatory Office and who has submitted a written response to the Gaming Regulatory Office in compliance with the provisions of Section 2035(D) of this Chapter, may apply to the District Court of the Navajo Nation for review of such notice of violation. Any applicant for a license under this Ordinance, any person or entity licensed pursuant to this Ordinance, and any patrol of a gaming operation may apply to this District Court of the Navajo Nation for review of a final action of the Gaming Regulatory Office.~~

- B. ~~Any such application for court review must be made within 15 days of receipt of notice of the final action of the Gaming Regulatory Office. The person or entity requesting judicial review shall be the moving party and shall have the burden of proof by clear and convincing evidence.~~
- C. ~~The reviewing court shall decide all relevant questions of law presented, interpret statutory provisions, and determine the basis for the action of the Gaming Regulatory Office. The reviewing court shall uphold the action of the Gaming Regulatory Office unless the court determines that such action was:~~
- ~~1. Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;~~
 - ~~2. Contrary to statutory right, power, privilege, or immunity;~~
 - ~~3. In excess of statutory jurisdiction, authority, or limitations, or in violation of statutory right;~~
 - ~~4. Without observance of procedure required by law; or~~
 - ~~5. Unsupported by substantial evidence.~~

§ 2072. [Reserved]

§ 2073. [Reserved]

Subchapter 15. 13: Gaming Operations

§ 2074. 2038. Scope of Permissible Gaming

All Gaming Activity, including, small bingo games and raffles, and Class I Gaming, are authorized to be conducted on the Nation's Indian Lands, if such gaming is conducted in accordance with this Ordinance, the IGRA, the applicable Compacts, and any other applicable laws and regulations. This Ordinance, however, shall not apply to Gaming Activity owned or operated by the Nation or the NNGE that occurs outside of the boundaries of the Nation's Indian Lands. The Gaming Activity permitted to be conducted in a licensed Gaming Facility are those which may lawfully be carried on by the Nation under applicable provisions of federal law including, but not limited to the Act, subject to any limitations which may be imposed by this Ordinance.

§ 2039. Hours. Days. Other Standards

- A. ~~For all activities on Indian lands located outside the State of New Mexico the Gaming Regulatory Office may be regulation establish the permissible hours and days of operation of Gaming Activities. The regulations may authorize a licensed~~

~~gaming facility to remain open and conduct Gaming Activities 24 hours a day, seven days a week. The Gaming Regulatory may also, by regulation, establish other standards of operation for such facilities, as the Gaming Regulatory Office deems appropriate.~~

~~B. For all activities on Indian lands located within the State of New Mexico, the following standards shall apply:~~

- ~~1. The Navajo Nation shall take all necessary action to impose on its gaming operation standards and requirements equivalent to or more stringent than those contained in the federal Fair Labor Standards Act of 1938, the federal Occupation Safety and health Act of 1970, and any other federal laws relating to wages, hours of work and conditions of work, and the regulations issued thereunder;~~
- ~~2. On any construction project involving any Gaming Facility or related structure that is funded in whole or in part by federal funds, all workers will be paid wages meeting or exceeding the standards established for New Mexico under the federal DavisBacon Act;~~
- ~~3. The Navajo Nation, the gaming enterprise and a management contractor shall not discriminate in the employment of persons to work for the gaming enterprise or in the Gaming Facility on the grounds of race, color, national origin, gender, sexual orientation, age or handicap. This provision shall not be deemed to prohibit the application of the Navajo Preference in Employment Act.~~
- ~~4. All employees of a gaming establishment shall be provided employment benefits, including, at a minimum, sick leave, life insurance, paid annual leave and medical and dental insurance as well as providing unemployment insurance and workers compensation insurance through participation in programs offering benefits at least as favorable as those provided by comparable programs of the State of New Mexico.~~
- ~~5. A grievance process shall be provided for an employee in cases disciplinary or punitive action taken against an employee that includes a process for appeals to persons of greater authority than the immediate supervisor of the employee;~~
- ~~6. New Mexico State Department of Environment inspectors shall be permitted to inspect gaming facilities\$ food~~

~~service operations during normal Gaming Facility business hours to assure that standards and requirements equivalent to New Mexico's Food Service Sanitation Act are maintained;~~

- ~~7. Gaming enterprises are prohibited from cashing any paycheck or any type of government assistance check, including Social Security, AFDC, pension and other similar checks, for any patron.~~
- ~~8. Gaming enterprise are prohibited from extending credit by accepting IOUs or markers from its patrons;~~
- ~~9. Odds shall be posted on each electronic and eletronmechanical gaming device.~~
- ~~10. Automatic teller machines on Gaming Facility premises shall be programmed so that the machines will not accept cards issued by New Mexico to AFDC recipients for access to AFDC benefits.~~
- ~~11. Each electronic or electromechnical gaming device in use at the Gaming Facility shall pay out a mathematically demonstrable percentage of all amounts wagered, which must not be less than eighty percent (80%);~~
- ~~12. No later than ninety days after this compact takes effect, all gaming machines on the premises of the Gaming Facility will be connected to a central computerized reporting and auditing system on the Gaming Facility premises, which shall collect on a continual basis the activity of each gaming machine in use at the Gaming Facility, and that such data shall be electronically accessible to New Mexico gaming representative upon entry of appropriate security codes;~~
- ~~13. Employees of a Gaming Facility are prohibited from selling, serving, giving or delivering and alcoholic beverage to an intoxicated person or from procuring or aiding in the procurement of any alcoholic beverage for an intoxicated person at the Gaming Facility.~~
- ~~14. Gaming Facility employees that dispense, sell, serve or deliver alcoholic beverages shall attend alcohol server education classes similar to those classes provided for in the New Mexico Liquor Control Act;~~
- ~~15. Gaming Facility Operators shall purchase and maintain in liquor liability insurance policy that will provide,~~

~~at a minimum, personal injury coverage of one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) aggregate per policy year;~~

- ~~16. Alcoholic beverages shall not be sold, served, delivered or consumed in that part of a Gaming Facility where gaming is allowed;~~
- ~~17. The Tribal Gaming Enterprise shall spend an amount that is no less than one-quarter of one percent (25%) of its net win as that term is defined herein annually to fund or support programs for the treatment and assistance of compulsive gambling;~~
- ~~18. Governing any management contract regarding its Class III Gaming Activity such that it conforms to the requirements of tribal law and the IGRA and the regulations issued thereunder;~~
- ~~19. The operation of any class III Gaming shall be prohibited for at least four consecutive hours daily, Monday through Thursdays (except federal holidays);~~
- ~~20. Gaming Facility Operators and the Navajo Nation shall not provide, allow, contract to provide or arrange to provide alcoholic beverages, 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; and~~
- ~~21. The Navajo Nation, the Navajo Gaming Regulatory Office or a management contractor shall be prohibited from contributing directly, or through an agent, representative or employee, revenue for a gaming enterprise owned by the Navajo Nation, or anything of value acquired with that revenue, to a candidate, political committee or person holding an office elected or to be elected at an election covered by New Mexico's Campaign Reporting Act.~~

§ 2075. State Gaming Compact

For all Class III Gaming Operations conducted by the NNGE, the NNGRO shall by regulations establish the requirements and conduct of Class III Gaming Operations in accordance with the applicable Compact(s).

§ 2076. 2040. Employee and Player Age Limit

No Person under twenty-one (21) years of age shall be permitted to place any wager, directly or indirectly, in any Class III

~~Gaming Activity.—No person under 18 years of age shall be employed by a Gaming Facility Operator or by the Gaming Regulatory Office. Neither a Gaming Facility Operator nor NNGRO shall employ any Person under the minimum age set forth in the IGRA and the applicable Compact(s). The Gaming Regulatory Office—NNGRO shall by regulation establish measures by which Licensees shall enforce the provisions of this Section.~~

~~§ 2041. Management Security~~

- ~~A. The Gaming Facility Operator shall have the responsibility for the on-site operation, management and security of the Gaming Facility, and shall comply with all requirements of this Ordinance and the Act. The Gaming Facility Operator shall adopt reasonable procedures, consistent with this Ordinance and the Act, designed to provide for the following: the physical safety of this employees; the physical safety of patrons in the Gaming Facility; the physical safeguarding of assets transported to and from the Gaming Facility and cashier's cage department; and the protection of the patrons § and the gaming operation's property from illegal activity.~~
- ~~B. The Gaming Facility Operator shall designate an agent for service of any official determination, order or notice of the Commission.~~

~~§ 2042. Internal Controls~~

- ~~A. The Gaming Regulatory Office shall by regulation establish and the Gaming Facility Operators shall implement minimum standards of internal controls to be in place at each licensed Gaming Facility, which shall include systems of accounting and administrative controls. Internal controls include the plan of organization and all of the coordinate methods and measures adopted within a gaming operation to safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency and encourage adherence to prescribed managerial policies.~~
- ~~B. The system of accounting controls shall provide a plan of organization and a description of procedures and records that will permit reasonable assurance that the following objectives will be maintained:~~
 - ~~1. Safeguarding of assets;~~
 - ~~2. Reliability of financial records;~~
 - ~~3. Execution of transaction in accordance with management's general or specific authorization;~~

4. ~~Recording of transactions as necessary to permit recording of gaming revenue and to maintain accountability for assets;~~
 5. ~~Access to assets only in accordance with management's authorization; and~~
 6. ~~Comparison of records of assets with existing assets at reasonable intervals with provision for appropriate action with respect to any differences.~~
- C. ~~The system of administrative controls shall include a complete plan of organization that will provide appropriate segregation of functional responsibilities and sound practices to be followed in the performance of those duties by competent and qualified personnel. The plan of organization shall be diagrammatic and narrative describing the interrelationship of functions and the division of responsibilities upon which the system of internal control relative to gaming operations is based.~~
- D. ~~Upon written application to the Gaming Regulatory Office, the licensee may request any material change in the internal control system it determines appropriate. The Gaming Regulatory Office shall notify the licensee in writing that such application is accepted or rejected, within thirty days of receiving such application. The written decision of the Gaming Regulatory Office shall constitute final action of the Gaming Regulatory Office.~~
- E. ~~The system of accounting controls shall include a detailed system for counting cash receipts at least daily, and shall be appropriate to the types of Gaming Activities carried on at the facility and the physical characteristics of the system utilized for collecting cash.~~
- F. ~~The Gaming Regulatory Office shall require that all bank accounts maintained by the operators of the Gaming Facility shall be identified by bank and account number and that all signatories to such accounts be identified by name.~~

§ 2077. Internet Gaming

Internet gaming under this Ordinance shall be permitted to the extent that all bets or wagers are placed, received or otherwise made exclusively within the Nation's Indian Lands, or between the Indian Lands of two or more Indian tribes, provided that any Class III Gaming over the internet shall be subject to the applicable Compact(s). NNGRO shall promulgate regulations that include:

- A. Age and location verification requirements reasonably designed to block access to Persons under twenty-one (21) years of age and Persons located out of the applicable Indian Lands, and
- B. Appropriate data security standards to prevent unauthorized access by any Person whose age and current location has not been verified in accordance with this Ordinance.

§ 2078. 2043. ~~Annual Independent Audit~~

- A. ~~Each licensed Gaming Facility Operator shall provide at its own expense an audited financial statement for each of its licensed Gaming facility Facilities to the Gaming Regulatory Office NNGRO at least annually, on a date to be established by the Gaming Regulatory Office NNGRO, and at such other times as the Gaming Regulatory Office NNGRO may require.~~
- B. The audit shall be conducted by an independent certified public accountant licensed in a state, who shall submit an audit report expressing an unqualified or qualified opinion or if appropriate, disclaim an opinion on the statement taken as a whole in accordance with generally accepted auditing principles of the accounting profession. The examination and audit shall disclose whether the accounts, records, and internal controls and accounting procedures maintained by the licensed Gaming Facility are in compliance with this Ordinance and the IGRA Act. To facilitate the completion of such audits, each ~~licensed~~ Gaming Facility Operator shall make and maintain complete, accurate and legible records of all transactions pertaining to any Gaming Activities and any other revenue producing activities conducted by the Licensee at or in conjunction with any licensed Gaming Facility. Such records as well as all original entry transaction records shall be maintained for at least five (5) years from the date on which they are made, and during the pendency of any litigation arising thereunder. Annual audits shall conform to generally accepted auditing principles. Such records shall be maintained on the licensed premises or at a location approved by the ~~Gaming Regulatory Office NNGRO~~.
- C. To the extent required by the IGRA, all gaming-related contracts that result in the purchase of supplies, services or concessions for more than twenty-five thousand dollars (\$25,000) in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit.
- ~~D.C.~~ ~~Each licensed Gaming Facility Operator shall maintain general accounting records on a double entry system of accounting~~

with detailed, supporting subsidiary, records sufficient to furnish the information required for the standard financial reports to adequately reflect gross income and expenses related to gaming and subsidiary operations.

E.D. ~~The Gaming Regulatory Office NNGRO~~ shall from time to time prescribe a uniform chart of accounts and accounting classifications in order to assure consistent and effective disclosure of financial information.

F.E. ~~The Gaming Regulatory Office NNGRO~~, when it deems necessary, may request additional information from either the Licensee, or its independent accountant through the licensee, regarding either the financial statements, the audit or both. The Licensee shall provide to the ~~Gaming Regulatory Office NNGRO~~ copies of all letters from the independent accountant to the licensee regarding internal control matters within thirty (30) calendar days after receipt by the licensee.

G.F. ~~The Gaming Regulatory Office shall provide copies of all annual audits of Gaming Activities and licensees to the Commission as required under the Act, within the time requirements established by the Commission, and shall cooperate with the Commission with respect to any additional information required. The NNGRO shall provide copies of all annual audits of each Gaming Operation and each audit for supplies, services, concessions for each Gaming Operation to the NIGC within one hundred and twenty (120) calendar days after the end of each fiscal year of the Gaming Operation.~~

H. Navajo Nation Office of the Controller shall provide to NNGRO a report from an independent certified public accountant that examines audited proceeds received pursuant to any pooling or transfer agreement entered into by the Nation in accordance with the Compact between the Nation and State of Arizona. The NNGRO shall submit an agreed upon procedures report relating to all pooling and transfer agreements to the Arizona Department of Gaming in accordance with the applicable Compact requirements.

§ 2079. 2044. Public Disclosure of Payouts

A schedule of payout information as to all Gaming Activities carried on within a ~~licensed~~ Gaming Facility shall be displayed at all times within the facility at a location clearly visible to ~~patrons~~ patrons, and shall be updated regularly.

§ 2080. Patron Disputes

Unless otherwise required under the express terms of a Compact, the following procedure shall apply with respect to patron complaints against a Gaming Facility:

A. With respect to the payout of gaming prizes or amounts and promotional prizes and activities:

1. Any such patron complaint must be submitted to the NNGRO, by certified mail, return receipt requested, within thirty (30) calendar days of the incident giving rise to the complaint. All claims by a patron shall be limited to a patron's entitlement to a game prize or promotion, which shall be limited to the amount of such prize or promotion.
2. If the dispute involves less than five hundred dollars (\$500), the following procedures must be followed:
 - a. The Gaming Facility Operator will attempt to initially resolve any such complaints, which must be in writing, against the Gaming Facility lodged by a patron.
 - b. If the Gaming Facility Operator cannot resolve any such complaint, the complaining patron shall have as their sole remedy the right to request in writing, by certified mail, return receipt requested, that the NNGRO conduct an investigation.
 - c. Within thirty (30) calendar days of such written request, the NNGRO shall inform the patron and the Gaming Facility Operator of its final determination in writing, by certified mail, return receipt requested, which shall not be appealable in any event to any court or administrative body.
3. If the dispute involves five hundred dollars (\$500) or more, the following procedures must be followed:
 - a. The Gaming Facility Operator will notify the NNGRO of the dispute and attempt to initially resolve all such complaints, which must be in writing, against the Gaming Facility lodged by a patron.
 - b. If the Gaming Facility Operator cannot resolve any such complaint, the complaining patron shall have as their sole remedy the right to request in writing, by certified mail, return receipt

requested, that the NNGRO conduct an investigation.

- c. Within thirty (30) calendar days of such written request, the NNGRO shall inform the patron and the Gaming Facility Operator of its determination in writing, by certified mail, return receipt requested, regarding the patron's request.
- d. If the patron objects to the determination of the NNGRO, the patron may appeal the determination of the NNGRO by sending to the Executive Director, by certified mail, return receipt requested, a written notice of appeal within thirty (30) calendar days of the date the patron received the NNGRO's written determination. The notice of appeal shall clearly state the reason(s) why the patron contests the determination.
- e. Upon receipt of the notice of appeal, the NNGRO shall notify the Appeals Hearing Officer to schedule a hearing to be conducted within thirty (30) calendar days of the NNGRO's receipt of the patron's notice of appeal. Written notice of the time, date, and place of the hearing shall be delivered, by certified mail, return receipt requested, to the patron no later than fifteen (15) calendar days prior to the scheduled date of the hearing.
- f. The patron, at the patron's own expense, and the NNGRO may be represented by legal counsel at the appeal hearing. The patron and the NNGRO may present witnesses and relevant evidence and cross examine witnesses presented by the opposing side. All matters presented at the appeal hearing shall be limited to the scope of the NNGRO's determination and reasons set forth by the NNGRO for such determination.
- g. The Appeals Hearing Officer shall issue a written decision to both parties, by certified mail, return receipt requested, no later than ten (10) working days after the date of the appeal hearing. The decision of the Appeals Hearing Officer shall be final and conclusive.
- h. The patron may, within sixty (60) calendar days of receipt of the Appeals Hearing Officer's written decision, appeal the decision to the Navajo Nation

Supreme Court in accordance with the Navajo Nation Rules of Civil Appellate Procedure. The Court shall review the decision of the Appeals Hearing Officer on the administrative record only. The decision shall not be subject to de novo review on appeal. The Court may substitute its judgment on those questions of law within its special competence but shall otherwise uphold the decision of the hearing officer where reasonable.

- B. With respect to tort claims arising from personal injury or property damage alleged to have been suffered by a patron, all such claims may only be brought pursuant to the Navajo Sovereign Immunity Act, 1 N.N.C. § 551 et seq., and provided that, if the alleged tort claim arose from activity in a Gaming Facility in a State in which the NNGE operates Gaming Activity pursuant to a Compact, then the claim shall be made and adjudicated consistent with the applicable Compact.

§ 2045. Patron Disputes

- ~~A. Refusal to Pay Winnings. Whenever the Gaming Facility Operator refuses payment of alleged winnings to a patron, and the Gaming Facility Operator and the patron are unable to resolve the dispute to the satisfaction of the patron and if the dispute involves:~~
- ~~1. At least five hundred dollars (\$500), the Gaming Facility Operator shall notify the Gaming Regulatory Office as soon as possible; or~~
 - ~~2. Less than five hundred dollars (\$500), the Gaming Facility Operator shall inform the patron of his or her right to request that the Gaming Regulatory Office conduct an investigation. The Gaming Regulatory Office shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.~~
- ~~B. Notice to Patrons. The Gaming Regulatory Office shall mail written notice by certified mail, return receipt requested, to the Gaming Facility Operator and the patron of its decision resolving the dispute within 30 days after the date that the Gaming Regulatory Office first receives notification from the Gaming Facility Operator or a request to conduct an investigation from the patron.~~
- ~~C. Effective Date of Decision. The decision of the Gaming Regulatory Office is effective on the date it is received by the aggrieved party as reflected on the return receipt.~~

~~D. Review of Decision. Within 30 days after the date of receipt of the written decision, the aggrieved party may file a petition with the Gaming Regulatory Office requesting a review of the decision. The Gaming Regulatory Office may set a hearing on the matter or may make a decision based solely upon the prior decision and other documentation provided to it by the patrol and the Gaming Facility Operator. The Gaming Regulatory Office shall then issue a written decision and mail it to the parties pursuant to the procedures set forth in Section 2045 (B). The written decision of the Gaming Regulatory Office shall be the final decision of the Gaming Regulatory Office.~~

~~§ 2046. Play by Employees~~

~~No Primary Management Official, Key Employee, member or staff of the board of directors of a Tribal Gaming Enterprise, management contractor, employee of a Gaming Facility, and no employee of the Gaming Regulatory Office shall play or be permitted to play either in person or through an agent in any Gaming Activity carried on in any Gaming Facility licensed by the Gaming Regulatory Office pursuant to this Ordinance.~~

~~§ 2081. 2047. Small Bingo Games and Raffles~~

~~Any Person non-profit organization, upon proper application to the NNGRO Gaming Regulatory Office, may conduct or operate a small bingo game or raffle within the territorial jurisdiction of the Nation, in accordance with the regulatory provisions of the IGRA (including 25 C.F.R. § 542.6) Indian Gaming Regulatory Act and the regulations issued by the NNGRO Gaming Regulatory Office specifying the manner in which such games may be conducted.~~

~~§ 2048. Processing of Contracts~~

~~The Department of Justice shall review the recommendation of the Gaming Regulatory Office and, if in compliance with applicable law and regulation, approve the terms of any and all proposed contracts between the Nation or a Tribal Gaming Enterprise and any person or entity which provide for the management or operation of any Gaming Facility within the Nation, the provision of any and all games services, as well as the terms of any lease of land which is the site or proposed site of such Gaming Facility.~~

~~§ 2082. [Reserved]~~

~~§ 2083. [Reserved]~~

~~§ 2084. [Reserved]~~

Subchapter 16. 14. Violations of this Ordinance and Remedies

§ 2085. ~~2049.~~ Violations of this Ordinance

It shall be a violation of this Ordinance for any person to:

- A. Conduct or operate any Gaming Activities within the Nation except as provided in this Ordinance;
- B. Receive, distribute, apply or direct any property, funds, proceeds or other asset of any Gaming Activity to the benefit of any individual or other person except as authorized by this Ordinance or by any duly enacted resolution of the Navajo Nation Council;
- C. Tamper with any equipment used in the conduct of Gaming Activities with the intent to cause any person to win or lose any wager other than in accordance with the publicly announced rules of such Gaming Activities;
- D. Do any other act in connection with the conduct of any Gaming Activities with the intent to affect the outcome of any wager other than in accordance with the publicly announced rules of such Gaming Activities;
- E. Participate as a player in any Gaming Activities if such Person is prohibited under Section 2046 ~~this Ordinance~~ from participating in such Gaming Activities; or
- F. Participate as a player in any Gaming Activities while such person is listed as a person barred ~~from~~ from the Nation's Gaming Facilities as provided in § 2008-2011(G).

§ 2086. ~~2050.~~ Civil Penalties

Any person who violates any provision of this Ordinance or the ~~Act~~ IGRA shall be subject to civil penalties, including exclusion from employment by any Gaming Facility Operator, exclusion from attendance at any Gaming Facility, exclusion ~~from~~ from the Nation if the person is a nonmember of the Nation, or a civil fine of not more than ten-thousand dollars (\$10,000) for each such violation.

§ 2087. ~~2051.~~ Civil Remedies

The ~~Gaming Regulatory Office~~ NNGRO may, in the name of the Nation, bring a civil action in the courts of the Nation to enforce the provisions of this Ordinance or the IGRA ~~Act~~ or to enjoin or otherwise prevent any violation of this Ordinance or the IGRA ~~Act~~ occurring within the territorial jurisdiction of the Nation.

§ 2088. [Reserved]**§ 2089. [Reserved]**

Subchapter 17. ~~15~~.—Amendments; Compliance with Applicable Laws, etc.

§ 2090.—~~2052~~. Amendments

This Ordinance may be amended by action of the Navajo Nation Council upon recommendations from the Resources and Development Committee, NNGRO, and NNGE, and shall take effect immediately upon its approval by the Chair of the NIGC.

§ 2091.—~~2053~~. Compliance with the IGRA—~~Aet~~

All Gaming Activities conducted pursuant to this Ordinance shall comply with the terms and conditions of the IGRA Act.

§ 2092. ~~2054~~.—Severability

If any Section, provision, or portion of this Ordinance is adjudged to be invalid by a court of competent jurisdiction, the remainder of this Ordinance will remain valid.

§ 2093.—~~2055~~. Non-liability

The Nation declares that there is no liability on the part of the Nation, its agencies, agents, or employees for any damages which may occur as a result of reliance upon or conformity with the requirements of this Ordinance. The Nation by adoption of this Ordinance does not waive its sovereign immunity in any respect.

§ 2094. ~~2056~~. Navajo Preference

Preference in employment and contracting by the NNGE and at each licensed ~~gambling establishments~~ Gaming Facility shall be in compliance with the Navajo Preference in Employment Act, 15 N.N.C. § 601 et- seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. § 201 et- seq.

§ 2095. Compliance with Federal Law and Compacts

- A. The Nation shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 et seq., and all reporting requirements of the Department of Treasury, the Internal Revenue Service, the Financial Crimes Enforcement Network, and any other related divisions thereof, as applicable.
- B. This Ordinance shall be construed to the extent possible to be consistent with the applicable Compact(s).
- C. To the extent this Ordinance is inconsistent with federal law or a Compact, federal law or the respective Compact shall supersede.

- D. Neither the NNGE nor the Nation, in connection with Class III Gaming Activity, will cash any paycheck or any type of government assistance check issued pursuant to a State or federal program to provide for needy families or individuals, including federal Social Security, Temporary Assistance for Needy Families, pension, other similar checks, and other non-cash items, for any patron.
- E. Automatic teller machines on Gaming Facility premises where Class III Gaming Activity is conducted shall be programmed so the machines do not accept electronic benefit transfer cards issued pursuant to a State or federal program intended to provide for needy families or individuals, including, but not limited to, cards issued by the State to Temporary Assistance for Needy Families recipients for access to Temporary Assistance for Needy Families benefits.
- F. To the extent prohibited by the 2003 Navajo Nation and State of Arizona Compact, as may be amended or modified from time to time, the following provisions apply to Class III Gaming Activity in the State of Arizona, in accordance with the Compact:
1. Automatic teller machines may not be located adjacent to, or in close proximity to, any Gaming Device; and
 2. Neither the NNGE nor the Nation, in connection with gaming, will extend credit to any patron.
- G. To the extent required or prohibited, as applicable, by the 2015 Indian Gaming Compact between the State of New Mexico and the Nation, as may be amended or modified from time to time, the following provisions apply to Class III Gaming Activity in the State of New Mexico, and capitalized terms in this Section 2095(G) not defined in this Ordinance have the meanings given to them in such Compact:
1. On any construction project involving any Gaming Facility or related structure that is funded in whole or in part by federal funds, all workers will be paid wages meeting or exceeding the standards established for New Mexico under the federal Davis-Bacon Act;
 2. The NNGE shall permit inspectors from the Indian Health Service, a federal agency within the Department of Health and Human Services, to inspect the Gaming Facility's food service operations during normal Gaming Facility business hours to assure that standards and requirements equivalent to the New Mexico Food Service Sanitation Act [NMSA 1978, § 25-1-1 1977, as amended

through 2014] are maintained, and if such inspections have occurred, the NNGE, through the NNGRO, shall provide documentation of the inspection to the State Gaming Representative with the Compliance Report (as such terms are defined in the applicable Compact), provided that if the Indian Health Service does not conduct such inspections, the State Department of Environment shall be permitted to conduct such inspections;

3. Neither the NNGE nor the Nation, in connection with gaming, will extend 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) calendar days); provided that the extension of such credit shall comply with all applicable federal law and all provisions of the applicable Compact appendix related to credit (including reporting requirements to the State of New Mexico) and a copy of the regulations referenced in the appendix shall be provided by the NNGRO for review and comment prior to implementation;
4. Each electronic or electromechanically gaming device in use at a Gaming Facility must pay out a mathematically demonstrable percentage of all amounts wagered, which must not be less than eighty percent (80%); and the NNGE will prominently post in visible locations within the Gaming Facility notices stating that the NNGE is in compliance with this requirement, and providing a comprehensible explanation of the meaning of this requirement;
5. All Class III Gaming Machines on the premises of a Gaming Facility will be connected to a central computerized monitoring and control system on the Gaming Facility premises, which shall collect on a continual basis the unaltered activity of each Gaming Machine in use at the Gaming Facility, and that 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; but provided that 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 the Gaming Facility, or the data provided to the central computer, and provided further that the system for electronic access to the machine wager and payout data collected by the NNGE's central computer shall be constructed and installed at the State's cost, and shall be designed in conjunction with NNGE technical staff so as to preserve the integrity of the system and the data contained therein, to minimize any possibility of unauthorized access to the system or tampering with the data, and to minimize any access by the State Gaming Representative to information other than machine wager and payout data residing in the central monitoring and control system;

6. NNGE employees will not 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;
7. NNGE employees that dispense, sell, serve or deliver alcoholic beverages will attend Alcohol Server Education Classes similar to those classes provided for in the New Mexico Liquor Control Act;
8. NNGE will purchase and maintain a liquor liability insurance policy that will provide, at a minimum, personal injury coverage of one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) aggregate per policy year;
9. Alcoholic beverages will not be sold, served, delivered, or consumed in that part of a Gaming Facility where gaming is allowed;
10. The NNGE will spend, annually, an amount that is no less than one-quarter of one percent (.25%) of its Adjusted Net Win as that term is defined in the applicable Compact, to fund or support programs that the Nation will select for the treatment and assistance of compulsive gamblers in New Mexico or who patronize New Mexico gaming facilities, and for the prevention of compulsive gambling in New Mexico; a substantial portion of such funds shall be distributed 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; and the NNGE will submit a report accounting for the

use of these funds as set forth in an appendix to the Compact, and this report and any other information existing as a result of this paragraph, not including information that may identify or contain information referring to any gaming patron, will be made available for inspection and publication without restriction or limitation;

11. Any Management Contract regarding Class III Gaming Activity will conform to the requirements of this Ordinance and the IGRA;
12. Neither the NNGE nor the Nation will provide, allow, contract to provide or arrange to provide alcoholic beverages for no charge or at reduced prices within a Gaming Facility;
13. Neither the NNGE nor the Nation will 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 NNGE 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 Tribe's annual Adjusted Net Win for the same year, which amounts are subject to quarterly reports to the State of New Mexico in accordance with Compact requirements;
14. The NNGRO's adoption of minimum internal control standards and policies and procedures set forth in the Compact appendix shall comply with all applicable federal law and provisions of the appendix related to Complimentaries (including the State reporting requirements), and NNGRO shall provide a copy of the regulations referenced in the appendix to the State of New Mexico for review and comment prior to implementation.

§ 2096. ~~2057.~~ Prior Inconsistent Law

All prior laws inconsistent with this Ordinance are, hereby expressly repealed to the extent of their inconsistency.

Section Four. Effective Date

This Ordinance shall take effect in accordance with 2 N.N.C. § 221, and immediately upon subsequent approval by the NIGC Chair as set forth in 25 C.F.R. § 522.2

Section Five. Codification

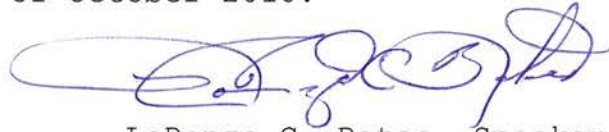
The provisions of this Act which amend sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel.

Section Six. Savings Clause

Should any provisions of this Act be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, or any other court of competent jurisdiction, those portions of this Act which are not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 14 in favor and 03 opposed, on this 18th day of October 2018.



LoRenzo C. Bates, Speaker
23rd Navajo Nation Council

11-1-18

Date

Motion: Honorable Kee Allen Begay, Jr.
Second: Honorable Leonard H. Pete

Speaker LoRenzo C. Bates not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (c)(10), on this 5th day of November 2018.



Russell Begaye, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (c)(11), on this _____ day of _____ 2018 for reason(s) expressed in the attached letter to the Speaker

Russell Begaye, President
Navajo Nation