



DEC 18 2008

Carleen Chino, Executive Director
Pueblo of Acoma Gaming Commission
P.O. Box 454
Acoma, New Mexico 87034

Re: 2008 Amended Pueblo of Acoma Gaming Ordinance

Dear Ms. Chino:

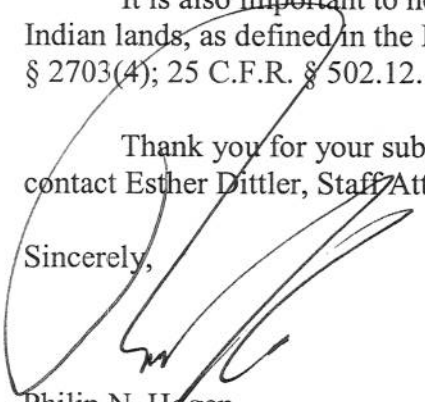
This letter responds to your request to the National Indian Gaming Commission (NIGC) to review and approve the tribal gaming ordinance of the Pueblo of Acoma (Pueblo). The Pueblo approved resolution No. TC-OCT-31-08-VIa amending the ordinance on October 31, 2008. The NIGC received the ordinance amendment on November 13, 2008. As the ordinance is consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) and NIGC's regulations, it is therefore approved.

The ordinance suggests that non-employees – specifically independent contractors or consultants may be primary management officials: "all primary management officials must receive an approved gaming license before beginning employment in any capacity including as an independent contractor or consultant." Ordinance, § 13(K). I understand this requirement to complement the requirements set forth in 25 C.F.R. Part 533. A consultant or independent contractor who exerts management control must do so under an approved management contract even if the individual has been licensed as a primary management official by a tribal gaming commission.

It is also important to note that the gaming ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Pueblo has jurisdiction. 25 U.S.C. § 2703(4); 25 C.F.R. § 502.12.

Thank you for your submission. If you have any questions or require assistance, please contact Esther Dittler, Staff Attorney, in the Office of the General Counsel, at 202-632-7003.

Sincerely,


Philip N. Hogen
Chairman



NOV 24 2008

P.O. BOX 454
ACOMA, NEW MEXICO 87034

**PUEBLO OF ACOMA
GAMING COMMISSION**

TELEPHONE 505/552-7411
FAX 505/552-7507

November 13, 2008

Mr. Philip N. Hogen, Chairman
NATIONAL INDIAN GAMING COMMISSION
1441 L Street NW Suite 9100
Washington, DC 20005-3585


RE: 2008 AMENDED PUEBLO OF ACOMA GAMING ORDINANCE

Dear Chairman Hogen:

The Pueblo of Acoma Gaming Commission is submitting in final form the 2008 Amended Pueblo of Acoma Gaming Ordinance for approval. As you know, we were consulted by Ms. Esther Dittler, NIGC Staff Attorney on October 15, 2008 regarding several deficiencies in the first submittal of the amended 2008 Ordinance. The deficiencies were corrected and confirmation of the corrections was settled with Ms. Dittler on October 30, 2008, enclosed also is an accompanying Acoma Tribal Council Resolution No. TC-OCT-31-08-VIa supporting those corrected deficiencies.

Lastly, you recall the Acoma Gaming Commissioners discussed with you our intentions to correct the deficiencies and asked for your support as we understand the NIGC Chairman will publish final approval in the Federal Register. We look forward to a favorable response. Should you have any questions or comments, please contact Lorraine R. Vallo, AGC Vice Chairperson at 505-552-9319 or Carleen Chino, Executive Director at 505-552-7411.

Respectfully,


Carleen Chino
Executive Director

Cc w/attachments: Ken Billingsley, Region Chief
AGC file

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GAMING COMMISSION
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P.O. BOX 309
ACOMA, NEW MEXICO 87034

PUEBLO OF ACOMA
OFFICE OF THE GOVERNOR

TELEPHONE: 505/552-6604
FAX: 505/552-7204

RESOLUTION NO. TC-OCT-31-08-VIa

**APPROVAL BY THE PUEBLO OF ACOMA TRIBAL COUNCIL TO AMEND TITLE 11
OF THE PUEBLO OF ACOMA LAW AND ORDER CODE:
"ACOMA GAMING ORDINANCE"**

At a duly called meeting of the Tribal Council of the Pueblo of Acoma held on this 31TH day
of October, 2008, the following resolution was adopted:

WHEREAS:

- Section No. 1 The Pueblo of Acoma is a sovereign Indian nation, recognized as such by the federal government of the United States of America, and in the exercise of its tribal sovereignty remains organized in accordance with Pueblo tradition; and
- Section No. 2 The Pueblo of Acoma accepted the terms of the Indian Reorganization Act (Congressional Act of June 18, 1934, Chapter 576, Codified at 25 United States Code § 461-479 ("IRA")). However, the Pueblo is not organized under the IRA and has no written Constitution; and
- Section No. 3 The Tribal Council is the legislative authority for the Pueblo Of Acoma and has the responsibility to adopt laws applicable on the lands of the Pueblo. This Resolution is passed in exercising the responsibilities and authorities of the Tribal Council for and in the best interest of the Pueblo of Acoma; and
- Section No. 4 The Pueblo of Acoma Tribal Council desires to continue to regulate gaming within its Grant and Reservation lands owned by or otherwise subject to the jurisdiction of the Pueblo (Pueblo Lands) for the purpose of generating revenue; promoting tribal economic development, Pueblo self-sufficiency and a strong Tribal government; and,
- Section No. 5 The Pueblo of Acoma adopted a Bingo Ordinance for the Pueblo of Acoma through Resolution No. TC-July-28-83-2-4, and amended as such that Ordinance by Resolution No. TC-Sept-28-83-1-09 and TC-Mar-7-85-3. The Bingo Ordinance, as amended, provided for conduct of a bingo game, the use

of electronic video machines and mechanical pull-tab dispensers. Resolution No. TC-MAR-24-93-01 amended the Acoma Tribal gaming laws to allow additional gaming and address Federal law requirements created since the prior Acoma gaming legislation. Resolution No. TC-Aug-3-93-01 codified the Acoma Gaming Laws. A Resolution was passed on July 19, 1994 to further amend the Acoma Gaming Ordinance as Title 11 of the Pueblo of Acoma Law and Order Code; and,

- Section No. 6 The Congress of the United State enacted the Indian Gaming Regulatory Act (IGRA) in 1988. That law imposed specific requirements of Tribal Gaming Ordinances, and created the National Indian Gaming Commission (NIGC) which has the power to develop regulations, and also regulate gaming on Indian Lands; and,
- Section No. 7 Federal Law (IGRA) recognizes three classes of gaming: "Class I Gaming" involves "traditional forms of Indian gaming" which are part of "Tribal ceremonies or celebrations"; "Class II Gaming" means "bingo, pull-tabs, punch board, tip jars, instant bingo, and other games similar to bingo"; "Class III gaming" means "all forms of gaming that are not Class I or Class II gaming." 25 U.S.C. §2703(6) through (8); and,
- Section No. 8 The Pueblo of Acoma has continuously since 1983 conducted Class II Gaming operations inclusive of Class III video gaming machines as introduced in 1985, which are currently in operation at the Pueblo of Acoma Sky City Casino & Hotel; and,
- Section No. 9 In Section 2712 of the IGRA requires the National Indian Gaming Commission to review "existing tribal ordinances" which authorize Class II and Class III Gaming in order to confirm and comply with Section 2710(b) of the IGRA; and,
- Section No. 10 After consultation and discussion with the Pueblo of Acoma Tribal Council, the Pueblo of Acoma Gaming Commission recommends that the Title 11 of the Pueblo of Acoma Law and Order Code entitled "Acoma Gaming Ordinance" be amended to comply with current federal laws and regulations, and;
- Section No. 11 The Pueblo of Acoma Tribal Council approved Resolution No. TC-JUL-16-08-VIa which amended Title 11 of the Pueblo of Acoma Law and Order Code: "Acoma Gaming Ordinance," however the National Indian Gaming Commission (NIGC) discovered discrepancies with the Acoma Gaming Ordinance; and,
- Section No. 12 The Acoma Gaming Commission has reviewed and made the necessary amendments to the Acoma Gaming Ordinance as required by the NIGC regulations.

NOW THEREFORE BE IT RESOLVED THAT:

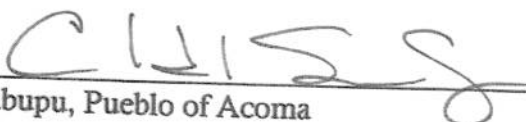
- Section No. 1 The Pueblo of Acoma Gaming Ordinance attached to this Resolution hereby amends and ratifies the existing Gaming Ordinance as found under Title 11 of the Pueblo of Acoma Law and Order Code, effective upon the signing of this Resolution.
- Section No. 2 The Pueblo of Acoma Gaming Ordinance has been amended to include the changes, Attachment 1, in order to confirm and comply with the National Indian Gaming Commission. All prior versions of the Acoma Gaming Ordinance are superseded by this amended version.

BE IT FURTHER RESOLVED THAT:


The Tribal Administration and the Acoma Gaming Commission are directed to enforce and implement the amended Acoma Gaming Ordinance, and to achieve compliance with applicable Tribal, State, and Federal law(s), including the Indian Gaming Regulatory Act.

BE IT FURTHER RESOLVED THAT:

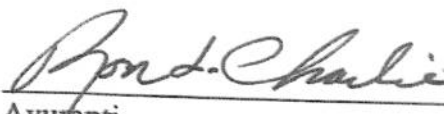
The Governor and/or his designee, in consultation with the Acoma Gaming Commission are hereby authorized to negotiate further with the National Indian Gaming Commission any further amendment or provide clarification as necessary.



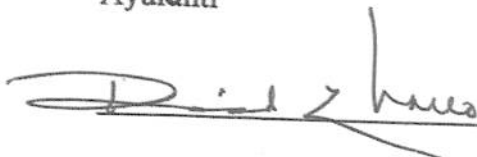
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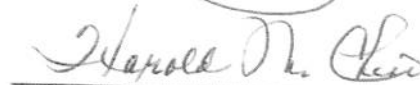


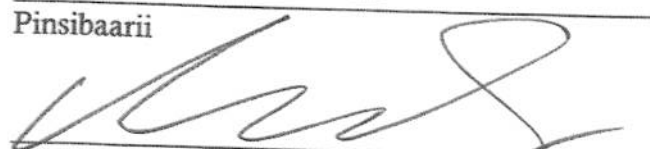

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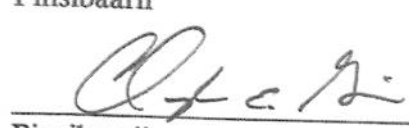
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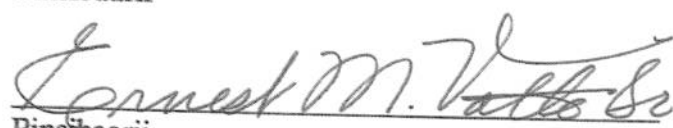

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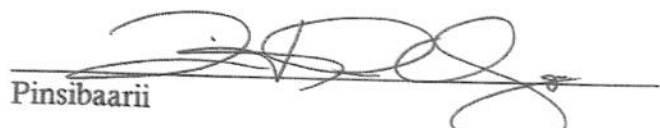

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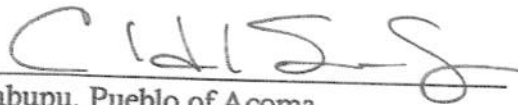


ATTEST:


Kudyaat'ita, Pueblo of Acoma

CERTIFICATION

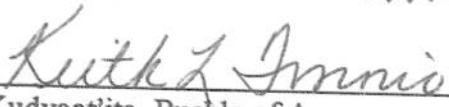
I, the undersigned as Governor of the Pueblo of Acoma, "Sky City", hereby certify that the Pueblo of Acoma Tribal Council, at a duly called meeting, held on the 31th day of October, 2008, at the Pueblo of Acoma, New Mexico, approved this resolution, a quorum being present, that 10 voted for, 0 opposed, and 0 abstained, with 2 absent.



Daabupu, Pueblo of Acoma

ATTEST:





Kudyaat'ita, Pueblo of Acoma

PUEBLO OF ACOMA GAMING COMMISSION



**2008 Amendments to the
Pueblo of Acoma Gaming Ordinance
Approved on July 16, 2008
By Resolution No. TC-JUL-16-08-VIa**

**Amended October 31, 2008
By Resolution No. TC-OCT-31-08-VIa**

Title 11 – Acoma Gaming Ordinance
(as amended October 31, 2008)
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Title 11

Chapter 1 - ACOMA GAMING ORDINANCE

STATEMENT OF PURPOSE

The purpose of this Ordinance is to regulate the operation, conduct and playing of games of chance including Bingo on the Pueblo of Acoma, and to produce revenue for (1) supporting programs which promote the health, education and welfare of the Acoma people; (2) promoting tribal economic development, self-sufficiency and strong tribal government. This Ordinance has the further purpose of: (3) assuring that gaming at Acoma is licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the ACOMA people and the players; (4) conducting games honestly, competitively and free of criminal and corruptive elements.

Gaming Authorized

Class II and Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 USC Sect. 2703 (7)(a) IGRA, and by the regulations declared by the NIGC at 25 CFR Sect. 502.3, is hereby authorized.

BE IT ENACTED by the Tribal Council of the Pueblo of Acoma on the Acoma Reservation, as follows:

Section 1. Short Title

This Ordinance may be cited as the Gaming Ordinance of the PUEBLO OF ACOMA.

Section 2. Interpretation, No Waiver of Sovereign Immunity

This Ordinance shall be deemed as an exercise of the police power of the Pueblo of Acoma for the protection of the public welfare, health, peace and morals of the people of the Pueblo of Acoma and all provisions of this Ordinance shall be liberally construed for the accomplishment of this purpose.

Nothing in this Ordinance shall be construed so as to enable, empower or otherwise allow the Gaming Commission, the Business Board or any other entity or person to grant a Waiver of Sovereign Immunity either expressed or implied on behalf of the Pueblo of Acoma.

Section 3. Definitions

- A. In this Ordinance, unless the context otherwise requires, the following definitions shall apply:
1. "Acoma Gaming Enterprise" means the Sky City Casino, the gaming facility including the surrounding premises.

2. “Bylaws” means the operating document of the Commission.
3. “Business Board” means the Acoma Business Board as defined under Title 1 of the Pueblo of Acoma Laws. The Business Board manages the Acoma Business Enterprises, including the Pueblo’s Gaming Operations.
4. “Chairman” means the Chairman of the Commission, unless otherwise specifically stated to be the Chairman of National Indian Gaming Commission.
5. “Class I Gaming” means the initial games played solely for prizes of minimal value or traditional forms of Indian Gaming played by individuals in connection with Pueblo ceremonies or celebrations.
6. “Class II Gaming” means the conduct of gaming as defined in 25 CFR Sect. 502.3, specifically:
 - a. Bingo or lotto (whether or not electronic computer or technological aids are used).
 - (1) When players play for prizes with cards bearing numbers or other designations.
 - (2) Cover numbers or designations when objects, similarly numbered or designated are drawn or electronically determined.
 - (3) Win the game by being the first person to cover a designated pattern on such card.
 - b. If played in the same location as bingo or lotto, pull tabs, punch boards, tip jars, instant bingo or other games similar to bingo.
 - c. Non Banking card games that State law explicitly authorizes or does not explicitly prohibit and are played legally in the state; players play in conformity with state laws and regulations concerning hours, periods of operation and limitations on wagers and cash awards.
7. “Class III Gaming” means all forms of gaming not classified Class I or Class II and are permitted under the Pueblo of Acoma/State of New Mexico Gaming Compact, including but not limited to, any house banking game including but not limited to, card games such as Baccarat, Blackjack, Pai Gow (if played as house banking game); casino games such as Roulette, Craps and Keno; Slot machines as defined in 15 USC 1171 (a)(1) and electronic or electromechanical facsimiles of any game of chance; any sports betting and pari-mutuel wagering, including but not limited to wagering on horse racing, dog racing, Jai Alai; or the lotteries.

8. Commission means “The Acoma Gaming Commission.”
9. “Compact, Tribal/State Compact” or “Gaming Compact” means that compact negotiated and executed by the Pueblo of Acoma and the State of New Mexico and deemed or otherwise approved by the Secretary of the Interior pursuant to 25 USC 2710 (7)(B)(vii), governing the conduct of Class III Gaming on Indian Lands.
10. “Drugs” means a chemical substance, such as a narcotic or hallucinogen that affects the central nervous system, causing changes in behavior and often addiction.
11. “Tribal Council” means the Acoma Tribal Council.
12. “Facility License” means a separate license issued by a tribe to each facility, on Indian lands where the tribe elects to allow Class II or Class III gaming.
13. “Site License” means a separate license issued by a tribe to each site, place, or location on Indian lands where the tribe elects to allow Class II or Class III gaming.
14. “Gaming” means any Class II or Class III gaming as defined herein and any other form of gaming defined in Section 5 of this Ordinance entitled Scope of Gaming.
15. “Gaming establishment or premises” means any facility where gaming other than Class I gaming is operated or conducted, including all buildings, improvements, equipment and facilities used or maintained in connection with such gaming.
16. “Gaming Manager” means the General Manager of the Gaming Operation.
17. “Gaming Operation” means each economic entity licensed by the tribe, which operates games, receives the revenues, issues the prizes and pays the expenses.
18. “Gross Receipts” means the total monetary value due any operator of a gaming activity for any chance taken, for any table fees, or card playing or other fee for participation or admittance, as evidenced by required records. The value shall be stated in US currency before any deductions or allowances for prizes, payout of winnings, cost of operation, taxes, labor expenses, equipment or materials used or any other expenses. In the absence of records,

gross receipts shall be the maximum that shall be due to an operator from that particular gaming activity if operated at maximum capacity.

19. "IGRA" means the Indian Gaming Regulatory Act.
20. "Key Employee" means a person performing one or more of the following:
 - a. Bingo employees;
 - b. Cage personnel;
 - c. Counting Room Supervisor and Count Room Personnel;
 - d. Chief of Security and all other security officers;
 - e. Custodian of Gaming Supplies or Cash;
 - f. Floor Manager;
 - g. Pit Boss;
 - h. Dealer;
 - i. Croupier;
 - j. Approver of Credit;
 - k. Surveillance Supervisor and all other surveillance personnel;
 - l. Custodian of Gambling Devices, including persons with access to cash and accounting records within such devices;
 - m. Restaurant manager;
 - n. Facilities manager;
 - o. Housekeeping manager;
 - p. Executive administrative assistants or assistants with access to proprietary information;
 - q. Any other person whose total cash compensation is in excess of \$50,000.00 per year or the five most highly compensated persons in the gaming operation, whichever number of people is greater and whose duties are not indicative of a "primary management official."
 - r. Information Systems personnel
21. "Licensee" means any person who holds a valid license pursuant to the provisions of this Gaming Ordinance.
22. "Management Contract" means any contract, subcontract or collateral agreement between the Pueblo and a contractor or between a contractor and a sub contractor, if such contract or agreement provides for the management of all or part of the gaming operation.
23. "Management Fee" means any amount paid from gaming revenue to any person or entity contracted and/or licensed to operate a gaming facility. In no event shall the management fee include amounts for operating expenses.
24. "NIGC" means the National Indian Gaming Commission.

25. "Non Profit Organization" means a legally constituted organization whose objective is to support or engage in activities of public or private interest without any commercial or monetary profit.
26. "Net Revenues" means gross gaming revenues of the gaming operation less a.) amounts paid out as or paid for prizes; b.) total gaming related operating expenses excluding management fees.
27. "Occasion" means a gathering at which bingo games are played.
28. "Pueblo/Tribe" means Pueblo of Acoma.
29. "Person" means a natural person, firm association, corporation or other legal entity except the Pueblo of Acoma.
30. "Primary Management Official" means:
- a. A person having management responsibilities for the gaming operation or a management contract;
 - b. The general manager;
 - c. The operations manager;
 - d. The chief executive officer;
 - e. The chief operations officer;
 - f. The chief financial officer;
 - g. The human resources director
 - h. The marketing director;
 - i. Any person who has the authority:
 - 1) To hire and fire employees or
 - 2) To set up working policy for the gaming operation; or
 - j. Any other person who has financial management responsibility or any other person working with or for the casino whose total cash compensation is in excess of \$50,000.00 per year and whose duties are not indicative of a key employee;
31. "Small Bingo Game" means a bingo game or games conducted or operated by a non-profit organization in accordance with the provisions of Sections 5 and 9 of this Ordinance and which is expressly permitted by the Commission.
32. "Tribal Bingo Game" means a bingo game or games conducted or operated by the ACOMA Tribe in accordance with the regulatory procedures and all applicable sections of this Ordinance.
33. "Video gaming" or "video games of chance" means electronic or electromechanical video devices that simulate games of chance commonly referred to as poker, blackjack, craps, roulette, line-up symbols and/or

numbers, or other common gambling forms which are activated by the insertion of a coin, token, or currency, and which award game credits, cash, tokens, or replays, and contain meters or devices to record credits received and paid out, and unplayed credits or replays.

- 34. "Weapons" means any object(s) that can be used to inflict bodily harm or injury but not limited to knives, tasers, mace, pepper spray and firearms.
- 35. "Firearms" means any handgun, rifle or device that can be used as a weapon that discharges a single or multiple projectiles propelled at high velocity.

Section 4. Gaming Limited

No person may hold, operate or conduct any Class II or Class III gaming within the boundaries of the Pueblo of Acoma except (1) a small bingo game conducted or operated by a non-profit organization in accordance with the provisions of this Ordinance, or (2) unless such gaming is owned, conducted or operated by the Pueblo of Acoma in accordance with the provisions of this Ordinance.

Section 5. Scope of Gaming

The Pueblo of Acoma permits the following kinds of public gaming:

A. Bingo, Pull Tabs, etc. The Pueblo of Acoma hereby allows bingo or lotto, pull tabs, punch boards, tip jars, instant bingo and games similar to bingo, and nonbanking card games considered as Class II under federal law, as regulated by this Ordinance and applicable regulations.

B. Video Gaming. Video gaming machines are hereby authorized at gaming facilities as regulated by this Ordinance and applicable regulations.

C. Casino Gaming. Casino gaming, in any and all forms, includes, but is not limited to, slot machines and other forms of electronic gaming devices; all forms of poker, blackjack and other card games, both banked and unbanked; roulette; craps; keno; wheel of fortune, pai gow; simulcasting, and other games played in casino settings; and any form of a lottery.

D. Gaming Compact. The scope of Gaming permitted under this Ordinance shall be restricted by the gaming compact signed by the Pueblo of Acoma and signed, deemed or otherwise approved by the Secretary of the Interior, pursuant to the Indian Gaming Regulatory Act (IGRA). Class III gaming, as defined in the federal IGRA, is authorized only to the extent that a gaming compact is signed by the Pueblo and signed, deemed or otherwise approved by the Secretary of the Interior.

E. Scope of Gaming. The Commission shall determine the scope of gaming at any licensed site and is subject to review by the Council of the Pueblo of Acoma.

Section 6. Small Bingo Games

A non-profit organization or an individually owned gaming operation may conduct or operate a small bingo game within the boundaries of the Pueblo of Acoma in accordance with the provisions of this Ordinance, subject to the following restrictions:

A. Such gaming operation must be licensed and regulated under this Ordinance or resolution approved by the Chairman;

B. Income to the Pueblo from any individually-owned gaming operation may be used only for the purposes listed in 25 C.F.R. § 522.4(b)(2);

C. Not less than sixty percent of the net revenues from such activity must be paid as income to the Pueblo;

D. The owner of any such operation must pay an assessment to the NIGC pursuant to 25 C.F.R. § 514.1.

E. Such operation must meet or exceed licensing standards that are at least as restrictive as those established by New Mexico State law governing similar gaming; and

F. Any Person that would not be eligible to receive a New Mexico State license to conduct the same activity within its jurisdiction shall be denied a license. State law standards shall apply with respect to purpose, entity, pot limits, and hours of operation.

G. No Pecuniary Benefit. The non-profit organization shall maintain such status and no member, director, officer, employee or agent of the non-profit organization may receive any direct or indirect pecuniary benefit other than being able to participate in the game on a basis equal to all other participants.

H. Conduct of Game. No person except a bona fide local member of the sponsoring organization may participate directly or indirectly in the conduct or operation of the game. All persons who hold, operate, conduct or assist in holding or conducting a small bingo game shall be bona fide local members of the sponsoring organization.

Section 7. Tribal Gaming

A. Authorization. The Pueblo of Acoma is authorized to hold, operate and conduct 1) Class II gaming as set forth in this Ordinance and applicable federal law; and 2) Class III gaming as

set forth in the Gaming Compact, provided that the Pueblo of Acoma find suitable sites for gaming operations and that the conduct of such games will not reduce, endanger, interfere with, or harm tribal revenues, land use, or the public welfare of Pueblo of Acoma.

B. Gifts Prohibited. Members of the Council, Administration, Commission, Business Board, and employees of each, including their immediate families, shall receive no personal compensation reimbursement or payment from any person doing or wishing to do business with the Pueblo of Acoma relating to gaming or from any person wishing to obtain an unfair advantage in any authorized wager on gaming. This prohibition of gifts does not include the acceptance of meals. Any property received in violation of this provision, including cash payments, shall be immediately forfeited to the Pueblo of Acoma and the offending person shall be prosecuted to the fullest extent possible, under all applicable laws for accepting a bribe. The Commission shall cooperate to the fullest extent with any tribal, state or federal law enforcement agencies to pursue prosecution under applicable tribal, state or federal law.

C. Gaming Manager. The Gaming Manager shall supervise the administration of this section pursuant to rules and regulations governing the holding, operating and conducting of gaming adopted by the Commission which shall be in accordance with, and shall not violate the provisions of this Ordinance. The Gaming Manager or his designee, shall insure that all gaming activity shall be held, operated and conducted in conformity with the provisions of this Ordinance, any management contract as approved by the Council of the Pueblo of Acoma, the Compact, and the Indian Gaming Regulatory Act ("IGRA") (25 U.S.C. 2701-2721) [Public Law 100-497, 102 Stat. 2467-2488].

D. Management Requirements. The Gaming Manager shall manage each tribal gaming operation on Pueblo of Acoma Land pursuant to the employment policies of the Pueblo of Acoma, the Compact and the Indian Gaming Regulatory Act (IGRA) or, to the extent such are not applicable, as with the consent directed by the Tribal Council or the Commission as approved by the Tribal Council or its designee. Tribal employees assigned to work at the gaming operation shall be subject to the laws of this Ordinance and the Compact.

E. Roles and Responsibilities. The Gaming Manager shall have the following roles and responsibilities:

1. To furnish, equip and maintain the gaming premises as shall be required for the operation under this Ordinance. The acquisition of all gaming devices is subject to Acoma Business Enterprise's Procurement Policies and Procedures.
2. To employ, direct, supervise, manage, control, promote, demote, discharge, fix the compensation and define the roles and responsibilities of such officers, clerks, card sellers, callers, security guards and other employees as shall be required for the operation of this Ordinance and in accordance with this Ordinance.

3. To hold, operate and conduct gaming in accordance with the provisions of this Ordinance, Tribal-State Gaming Compact, IGRA and other applicable federal law.
4. To train and educate each gaming employee in the applicable tribal, state, and federal laws and policies, including this Ordinance, Tribal-State Gaming Compact and IGRA.
5. To train and educate Acoma employees to promote their ability for advancement in their respective department and in all levels of upper management in the Casino and to develop a training guide for such advancement.

F. Environmental, Public Health, Safety and Welfare.

1. Safety Training. The Gaming Manager shall assure that a committee or department is assigned the responsibility to protect the environmental, public health, safety and welfare of its patrons and employees.
2. Weapons/Firearms prohibited. Prohibition of weapons/firearms with the exception of federal, state, county, municipal or Tribal law enforcement agents or officers, authorized as such, no person shall possess firearms, and/or other concealable weapons, within the Gaming Facility or its premises.
3. The gaming operation shall take all reasonable measures to assure that the Acoma gaming facilities are operated, built and maintained in a way that adequately protects the environment, public health, safety and welfare of the public. Such measures and assurance includes compliance with the following:
 - a. Emergency Preparedness
 - b. Construction and Maintenance
 - c. Hazardous Materials
 - d. Food and Water
 - e. Sanitation
 - f. Traffic Control Plan

G. Net profits derived from all Class II and Class III gaming activity shall be deposited in a segregated account which shall contain only such money.

H. Service of Alcohol.

1. All employees of the gaming operation are prohibited from possessing, selling, serving, delivering or permitting the consumption of any alcoholic beverage anywhere on the Pueblo of Acoma land and/or within the gaming establishment or premises.

I. Audit and Records Retention. The Gaming Manager shall maintain written records of all Class II and Class III gaming activities on the premises for a period of at least six (6) years. Such Class II and Class III records shall include:

1. Gross Receipts;
2. Records of Prizes, maintain pursuant to paragraph I above;
3. Any and all expenses;
4. Capital expenditures;
5. Contracts for procurement of all items;
6. Net Profits;
7. Payments to Acoma's general fund; and
8. Documents and calculations required to be maintained to satisfy terms of the gaming compact.

J. Use of Net profits. Net profits derived from all Class II and Class III gaming activity, after payment of operating costs and management fees, if any, and after provisions for reserves, investment in and improvement of gaming operations in accordance with the yearly Gaming Business Plan and Budget have been made, reviewed by the Commission and sent to the Governor and Council for final approval. Use of such funds shall be consistent with Section 13 (B) of this Ordinance.

K. Polygraph Testing. All employees responsible for the holding, operation and conduct of tribal gaming, including restaurant employees, in accordance with the provisions of this Ordinance, shall be subject to polygraph testing at any time and without notice concerning the handling, collection and/or disbursement of money.

Section 8. Operation of Games

A. Inspections.

1. The premises where any gaming is being held, operated and conducted shall at approved times be open to inspection by the Commission and its staff. Upon reasonable notification to the Commission, the following groups may inspect the premises: the Pueblo of Acoma Tribal Council, Tribal Administration, the external auditors, the Acoma Fire Chief, Chief of Police, and the Indian Health Service Environmental Health representatives.

2. National Indian Gaming Commission (NIGC) representatives upon presentation of proper identification, shall have access to and allow for photocopying, all papers, books, and records (including computer records) concerning Class II gaming or any other matters for which the NIGC requires such access to carry out its duties.

If such papers, books, and records are not available at the location of the gaming operation, the gaming operation shall make them available at a time and place convenient to the NIGC's authorized representative.

3. Upon reasonable notification to the Commission, the State Gaming Representative shall have access to inspect those areas of the gaming operations as provided by the Compact.

B. Compliance. The operation of all Class II or Class III games shall be conducted in strict accord with the regulatory policies and procedures for such games in this Ordinance or as directed by the Commission.

C. Wager and Prize limit. There shall be no limit on the wager (bet) or on the size of the prize offered or given in any single Class II or Class III game, except as may be outlined in the Acoma Gaming Regulations and displayed on any particular game.

D. Identification. Each person who holds, operates or conducts, or assists in the holding or conducting of any Class II or Class III gaming activity shall wear, in plain view, a legible gaming license showing the person's name and all other information as required by the Commission, including color codes indicating general information regarding each department.

E. Employee Gambling. Any person who holds, operates or conducts, or assists in holding, operating or conducting, any Class II or Class III game, or any other employee of the gaming operation shall be prohibited from gambling in the department which such person is working except as may be outlined in the Acoma Gaming Regulations.

F. Age of Patrons. No person under the age of twenty-one (21) shall be allowed to participate in any Class III gaming activity. No person under the age of eighteen (18) shall be allowed on the gaming floor either as a spectator or for any other reason. Any person age eighteen (18) or older may participate in Class II gaming activity. Any person under the age of eighteen (18) may be present and play at small bingo games if accompanied by a parent or legal guardian.

G. Security. All security requirements shall be maintained in strict accord with the requirements and standards set forth in this Ordinance, the regulatory procedures or as further directed by the Commission. The security plan for the gaming operation shall be reviewed with the Commission at least once each year.

Section 9. Violations; Jurisdiction

A. Criminal Penalties. Any person(s) who violate any provision of this Ordinance, or any rule or regulation authorized thereunder, shall be guilty of a criminal offense punishable by a fine of not more than Five Thousand Dollars (\$5000.00) per offense, or by imprisonment for not more than one (1) year, or both. No penalty set forth herein shall conflict with federal law regarding the imprisonment of non-Indians.

B. Civil Penalties. Any person(s) who violate any provision of this Ordinance, or any rule or regulation authorized thereunder, may be subject to a civil penalty not to exceed Five Thousand Dollars (\$5000.00), plus costs, for each violation. Each 24-hour period for which a person fails to cease or correct such violation after being ordered to do so, shall constitute a separate violation.

C. Jurisdiction. The Commission shall have jurisdiction over all civil violations of this Ordinance and over all persons who are parties to a management contract entered pursuant thereto, and may, in addition to the penalties prescribed in Subsections (A) and (B) above, grant such other relief as is necessary and proper for the enforcement of this Ordinance and of the provisions of any management contract entered pursuant thereto, including, but not limited to, injunctive relief against acts in violation thereof. Nothing, however, in this Ordinance shall be construed to authorize or require the criminal trial and punishment of non-Indians except to the extent allowed by the Gaming Compact, any applicable present or future Act of Congress or any applicable federal court decision. The Commission shall be entitled to recover its costs including reasonable attorneys' fees in addition to any penalty.

D. Disciplinary Proceedings. All disciplinary proceedings shall be administered under the Disciplinary Proceedings Regulations.

Section 10. Agent for Service of Process

The Agent for Service of Process shall be the Executive Director and the Chairperson of the Acoma Gaming Commission and may be contacted at:

Pueblo of Acoma Gaming Commission
Interstate 40, Exit 102
San Fidel, NM 87049

Or at the mailing address of:
PO Box 454
Pueblo of Acoma, NM 87034
505-552-7411

Section 11. Acoma Gaming Commission (AGC)

A. Establishment of the Commission, appointment and terms. There is hereby established the Commission. The Commission shall consist of a minimum of three (3) and a maximum of five (5) members that shall be recommended by the Governor. Each candidate shall be approved by a majority vote of the Tribal Council. In order to establish staggered terms, the council appointed the first three (3) members of the AGC with terms which expired in 1995, 1996 and 1997.

Succeeding members of the Commission shall be chosen for a term of four (4) years or the remainder of the term being filled. Each member of the Commission shall hold office from the date of appointment and qualification until the successor shall have been duly appointed by the Tribal Council and qualified, unless earlier removal, resignation, death, or incapacity shall occur. An individual may serve more than one (1) consecutive term on the Commission.

B. Vacancies. The Tribal Council shall select a new commissioner to fill any vacancy on the Commission in the same way and subject to the same restrictions as applied to the appointment of a Commissioner whose removal, resignation, or death created the vacancy.

C. Removal. A commissioner's seat shall be immediately vacated upon conviction of any misdemeanor or felony related to illegal gambling or bribery or having three (3) consecutive unexcused absences from Commission meetings. Cause for removal of a commissioner shall include, but not limited to, use of alcohol or drugs, which impairs performance of his/her duties, use of tribal position for personal gain, failure to perform commission duties according to this Ordinance and violation of any law of the Pueblo of Acoma of such nature as to bring discredit or disgrace to the Commission or the Pueblo.

D. Qualification of Commissioners. No individual shall be eligible for any appointment to, or continue service on, the Commission, who:

1. Has been convicted of a misdemeanor or felony, gaming related offense or bribery;
2. Has any financial interest in, or management responsibility for, any gaming activity; or
3. Has serious credit or other problems revealed by a credit check or background investigation.

Each Commissioner shall complete a Gaming License Application form, Confidentiality Agreement and Ethical Principles form and provide all requested background information as may be required by this Ordinance, the council or any other proper authority of the Pueblo of Acoma. All commissioners shall be subject to a background investigation and standards as primary management officials. Suitability determinations may be made upon appointment and reappointment.

E. Compensation. All members of the Commission shall be reimbursed for all reasonable costs of travel, and other necessary expenses incurred by them in the performance of their duties. Members of the Commission may be granted stipends at rates approved by the Tribal Council. Only the Tribal Council may reduce or modify the stipend of any or all of the members of the Commission.

F. Conduct of Business. The Commission shall adopt Bylaws for the conduct of business, which shall include the following provisions:

1. The election of officers including a chairperson, a vice-chairperson and executive secretary; as well as the powers and duties delegated to each;
2. Conduct of meeting;
3. The Commission may go into executive session but may only take official action while in executive session on matters concerning Commission personnel, licensing, and litigation;
4. A quorum shall consist of the Chairman or Vice-Chairman and any 2 members of the Commission. All decisions shall be made by a majority vote, unless indicated otherwise in this Ordinance or Bylaws.
5. The Commission shall issue monthly and/or quarterly reports as required by the Tribal Administration and Council within 10 days at the end of each quarter regarding the status of licensing, enforcement activity, and other matters handled by the Commission.

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

1. Oversight of gaming activities. The Commission shall have primary responsibility for overseeing all gaming activity to assure the integrity of gaming at Acoma and shall for that purpose employ at a minimum, the following employees: an executive director, auditor, lead compliance officer, and a licensing administrator. Any duly appointed inspectors, auditors, executive director or other authorized agents of the Commission shall have access to all areas of any gaming facility at all times. Such authorized personnel shall report to the Commission regarding any failure by the Acoma Gaming Enterprise to comply with the provisions of this Ordinance and any other applicable laws, rules or regulations. All authorized personnel shall be licensed by the Commission and subject to background investigations.
2. Inspect and Copy. The Commission and its staff will:

- a. Inspect and examine all premises where gaming is conducted or gaming devices or equipment is manufactured, sold or distributed.
 - b. Inspect all equipment and supplies in, upon or about such premises.
 - c. Seize and remove from such premises and impound any equipment, supplies, documents or records for the purpose of examination and inspection.
 - d. Have access to and inspect, examine, photocopy and audit all papers, books, and records of any applicant or licensee, on his premises, or elsewhere, and in the presence of the applicant or licensee, or his agent, respecting the gross income produced by any gaming device or business, and require verification of income, and all other matters affecting the enforcement of any of the provisions of this Gaming Ordinance.
 - e. Have access to and inspect, examine, photocopy and audit all papers, books and records of any entity whom the Gaming Commission knows or reasonably suspects is involved in the financing, operation or management of gaming at Acoma.
3. Audit. Conduct internal and external audits, at least annually, of each gaming activity within the Pueblo of Acoma.
4. Witness Testimony. The Commission has full power and authority to compel the attendance of witnesses at any place within the Pueblo of Acoma, to administer oaths and to require testimony under oath. The Commission may pay the transportation and other expenses of witnesses as it may deem reasonable and proper. Any person making a false statement under oath in any matter before the Commission is guilty of perjury.
5. Reports to Governor, Tribal Council, and the Pueblo of Acoma general public. The Commission shall submit reports to the Governor and Tribal Council at least monthly and/or quarterly. Such reports shall be submitted within 10 days at the end of each month or quarter. The Commission shall be available to present the reports in person, as desired by the Governor and Tribal Council. The Gaming Commission shall present a summary of the financial statement of the annual audit to the Pueblo of Acoma general public at a general meeting or public forum.
6. Education.

- a. The Commission shall review the Acoma gaming operations and regulate as necessary to assure the Pueblo of Acoma is committed to educating its people and preserving its traditions.
 - b. The Commission shall budget time and money as necessary for training and education of the Gaming Commissioners and all Commission staff as may be necessary to provide for the competent regulation of gaming and maintain an awareness of applicable law and good practices of the gaming industry.
- 7. Review of Plans. The Commission shall review and approve floor plans, surveillance systems, and other plans needed for each Gaming Facility and may confer with other organizations regarding the adequacy of such plans and systems. The Commission shall ensure that Gaming Enterprise or Management Contractor shall prepare and submit for review and approval by the Commission a satisfactory plan for the protection of the public in any Gaming Facility in conjunction with the NIGC's Facility Licensing Standards.
- 8. Regulations. The Commission shall enact substantive and procedural regulations and from time to time, promulgate, amend and repeal such regulations consistent with the policies, objectives and purposes of the gaming Ordinance and other applicable laws as it may deem necessary or desirable in carrying out the policy and provision of those laws.
 - a. Comment period. The Commission shall send for comment a draft of the proposed regulation to the tribal administration, gaming manager, business board, and any person known to be directly affected by the proposed regulation, and shall make copies available to the public upon request. A reasonable copy fee may be assigned for copies requested by the public. The comment period shall be 30 days beginning with date of mailing or hand-delivery to tribal administration and Gaming Manager. After the comment period, the Commission may take final action after considering comments received.
- 9. Licenses. The Gaming Commission may issue, suspend, revoke and/or place conditions upon any licenses in accordance with this Ordinance and take any and all necessary measures it deems appropriate in association with the licensing process, including but not limited to the following:
 - a. Processing all license applications, making determinations of the suitability of persons and vendors for licensing, issuing licenses to

qualified persons and notifying the NIGC of the issuance of such license as required by the IGRA.

- b. Denial, limitation, revocation, or suspension of any license deemed necessary under the provisions of this Ordinance or any violations of tribal, federal or state law.
 - c. Conduct background investigations on all primary management officials, key employees, non-key employees, casino/gaming related vendors, Commissioners, Commission staff and Business Board members.
 - d. Printing and making available all necessary license application forms and appropriate licenses.
 - e. Collection of employee and vendor license application fees imposed pursuant to this Ordinance.
10. Standards. The Commission shall promulgate, review, approve, and revise the technical standards, game rules and minimum internal control standards as needed. Any changes must be at least as stringent as those set forth by the NIGC. The Commission shall notify the Gaming Enterprise of such rules and any changes thereto.
11. Civil and Criminal Actions. The Commission is hereby authorized in the name of the Pueblo of Acoma to bring any civil action or criminal complaint in the courts of the Pueblo of Acoma, the State of New Mexico or the United States District Court to enforce the provisions of this Ordinance, the IGRA, the Compact or to enjoin or otherwise prevent any violation of this Ordinance, the Act, or an applicable law, on Pueblo lands. The Commission shall be entitled to recover its costs, including reasonable attorneys fees in any action it brings which results in any benefit to the Pueblo of Acoma.
12. Operational Budget. The Commission shall establish its own budget for operations and acquire such furnishings, equipment, supplies, books and other items it may deem necessary or desirable in carrying out its functions and incur such other expenses within the limit of funds available to it as it may deem necessary. The Commission may, in accordance with the budget, employ a staff as it deems necessary to fulfill its responsibilities under this Ordinance. The Commission may retain legal counsel, consultants, and other professional services, including investigative services, to assist the Gaming Commission with its responsibilities under the Ordinance. The budget of the Commission shall be approved and appropriated by the Council.

13. Orders. The Commission may issue an order or decision, to any Gaming Enterprise, or Gaming Employee, or to any other person within the jurisdiction of the Pueblo of Acoma and to take any action, cease and desist from any action as may be required to maintain the public trust and protect the integrity of gaming. Accordingly, the Commission may seize and remove, without notice or hearing, any gaming device or supplies from the gaming operation and impound the same for the purpose of examination and inspection.
14. Hearings. The Commission may conduct hearings, investigations, inquiries, ~~compel the production of any information or documents,~~ or otherwise exercise the investigatory powers necessary to carry out its duties under this Ordinance and applicable procedural regulations.
15. Excluded Persons. The Commission shall compose a list containing all persons who are to be excluded from any association or patronage with the gaming operation in accordance with the regulations entitled "List of Excluded Persons".
16. Gaming Compact and Regulations.
 - a. The Commission, referred to as the tribal gaming agency in the Compact signed with the State of New Mexico, shall assure that the Pueblo of Acoma will:
 - (1) operate all Class III gaming pursuant to the Compact, this Ordinance, regulatory procedures and policies, the IGRA and other applicable tribal, state or federal law;
 - (2) provide for the physical safety of patrons in any gaming facility;
 - (3) provide for the physical safety of personnel employed by the gaming enterprise;
 - (4) provide for the physical safeguarding of assets transported to and from the gaming facility and cashiers cage department;
 - (5) provide for the protection of the property of the patrons in the gaming enterprise from illegal activities;
 - (6) participate in licensing of primary management officials and key employees of the Class III gaming enterprise;

- (7) provide for detention of people who may be involved in illegal acts for the purpose of notifying law enforcement authorities; and
 - (8) record and investigate any and all unusual occurrences related to Class III gaming within the Pueblo of Acoma.
 - b. The Commission shall have responsibility for the enforcement of all regulatory requirements accepted by the Pueblo of Acoma by terms of the Compact signed by the Pueblo of Acoma and in effect under the terms of the IGRA.
- 17. Restaurant. The Commission shall have regulatory oversight of the restaurant. All employees of and vendors conducting business with the restaurant and any other food establishment within the gaming facility must be licensed according to the Gaming Ordinance.

H. Review of Commission Decisions.

- 1. Licensing. Licensing decisions of the commission shall be final and non-reviewable by any other body.
 - a. The Commission may, upon motion made within seven (7) days after the decision is served on all parties, order a rehearing upon such terms and conditions as it may deem just and proper.
 - b. A motion for rehearing must not be granted except upon a showing that:
 - (1) The Commission has misconstrued applicable law; or
 - (2) There exists additional evidence that is material and reasonably calculated to change the decision, and sufficient reason existed for the party's failure to present such additional evidence at the hearing.
 - c. On rehearing under subsection (1)(b)(2) above of this section, rebuttal evidence to the additional evidence may be admitted and considered by the Commission.
 - d. After rehearing, the Commission may modify the decision consistent with applicable law or any additional evidence and rebuttal evidence taken.

2. Mediation. Decisions of the Commission in other areas, including, but not limited to, the application of regulations to management decisions may be sent to mediation upon request of the Governor, Business Board or Gaming Manager. The request for mediation shall be written, and state the decision made and the reason for requesting mediation. The Tribal Council shall select three mediators who shall be attorneys who are licensed members in good standing of the State Bar of New Mexico or of the bar of another state to consider the request and work with the parties to attempt to resolve the problem. All costs related to the mediation process shall be split equally between the requesting party and the aggrieved party.
3. Appeal to the Pueblo of Acoma Tribal Court. Any person aggrieved by the final action of the Commission, except for actions involving licensing, or which have been mediated may file an appeal to the Pueblo of Acoma Tribal Court within 10 days after receiving notice of the hearing results. The Pueblo of Acoma Tribal Court shall not take new evidence; it shall base its decision on the record made before the Commission. The Pueblo of Acoma Tribal Court may send any appeal back to the Commission for further fact finding or reconsideration or both. An action of the Gaming Commission shall not be reversed unless it is arbitrary, capricious or otherwise contrary to law. The person shall file a notice of appeal, stating the specific basis of the appeal and pay any court fees. A written Notice of Appeal shall also be delivered to the Commission who shall, upon receipt of a written Notice of Appeal, deliver the administrative record to the Tribal Court for review. Upon receipt of the written Notice of Appeal, the court clerk shall schedule a hearing before the Pueblo of Acoma Tribal Court. The final decision of the Pueblo of Acoma Tribal Court shall end the appeal process.

Section 12. Executive Director

A. Appointment. The Commission shall appoint an executive director, hereinafter known as the Director, who shall be responsible for the day to day monitoring of gaming activities. The Commission shall assure that the Director's qualifications meet the minimum of the job description. The Commission shall provide the Director with adequate training to fulfill the duties and obligations regarding the enforcement of this Ordinance. The Director shall have no personal financial interest in any gambling or in any person or patron relating to the gaming establishment.

B. Termination. The Director shall be terminated automatically and immediately upon the Director's conviction in a tribal, state, or federal court of competent jurisdiction of any misdemeanor or any felony related to illegal gambling or bribery. If the Director is convicted of violating any part of this Ordinance or of any crime the Commission finds to be related to the Director's honesty, integrity, and ability to fulfill his/her duties, the Director shall be immediately terminated.

C. Duties. The Director shall, subject to the approval of the Commission, perform all duties, exercise all powers, assume and discharge all responsibilities and carry out and affect all purposes of this Ordinance related to the establishment and conduct of all gaming activity. All decisions of the Director shall promote and assure the honesty, security, integrity, ability and fairness of the operation and the administration of all gaming activity. The duties of the Director shall include, but not be limited to the following:

1. Ensure that management carry out all responsibilities as provided for in this Ordinance, regulatory procedures and management contract, if one exists;
2. Conduct correspondence with the NIGC and do whatever is necessary to comply with the rules and regulations of that agency that are consistent with IGRA. This shall include assuring an annual independent audit of authorized gaming be performed as required by the IGRA and providing the same to the NIGC in a timely and appropriate manner.
3. Assure there is an adequate process for background investigations of employees of any Pueblo of Acoma gaming establishment and that oversight of such officials and management is conducted on an ongoing basis. The Director will assure all applications and background investigations are complete so no person shall be eligible for employment in or with any part of the Acoma gaming establishment if that person's prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or effect of regulation of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods or activities in the conduct of gaming. The director shall assure that the NIGC is given results of such background checks.
4. Review all records, documents or any other materials necessary and pertinent to the enforcement of any provision of this Ordinance.
5. Recommend to the Commission whether sanctions should be imposed on any person subject to the jurisdiction of this Ordinance.
6. Perform other duties outlined in the Acoma Gaming Regulations.

Section 13. Ownership, Revenue Uses and Audit

A. Ownership. The Pueblo of Acoma will have the sole proprietary interest and responsibility for the conduct of all Class II and Class III gaming operations authorized by this Ordinance, except small bingo games as described in Section 6 of this Ordinance.

B. Revenue Uses. Net revenues from tribal gaming activity must be used for any of the following purposes:

1. fund tribal governmental operations or programs;
2. provide for the general welfare of the Pueblo of Acoma and its members;
3. promote the economic development for the benefit of the Pueblo of Acoma;
4. donate to charitable organizations; or
5. help fund operations of local government agencies.

C. Audits. The Pueblo of Acoma gaming enterprise shall be audited at least annually by an independent certified public accounting firm selected by the Commission.

1. Copies of the independent audit reports for each year (including financial statements and management letter) will be provided to the Acoma Tribal Council, Governor and Commission by April 15th of the following year. A copy of the year-end audit shall be provided to the National Indian Gaming Commission (NIGC) within 120 days after the end of each fiscal year.
2. The scope of each audit shall include but not be limited to all contracts resulting in the purchase of supplies, services, or concessions with any vendor whose total annual contract amount with the Acoma gaming establishment exceeds \$15,000.00 annually. This subsection shall not apply to contracts for professional, legal or accounting services relating to gaming at Pueblo of Acoma.

Section 14. Gaming Licenses and Investigations

A. Authority. In accordance with this gaming ordinance, the Commission has the authority to make licensing, suitability, and approval determinations pertaining to applications brought before the Commission for consideration. The Commission may approve, deny or place conditions or limitations upon its approval or denial of a specific application. The Commission is charged with a critical and sensitive task, and has the authority to seek, obtain and consider any and all information deemed relevant to the determinations made hereunder. Such information is recognized as sensitive, and the Commission may place restrictions on the release or disclosure of such information as it deems necessary.

B. Declaration of Policy.

1. It is declared policy of the Commission that all establishments where Class II or Class III games are conducted or operated, as defined in this Ordinance are regulated so as to better protect the public health, safety, morals, good order and welfare of the members of the Pueblo of Acoma and patrons of the Acoma gaming establishment. Any gaming license which is issued, or finding of suitability, or approval by the Commission shall be deemed a revocable privilege and no person holding such a license, finding of suitability, or approval by the Commission is deemed to have acquired any vested rights therein.
2. An applicant for a gaming license is seeking the granting of a privilege, and the burden of proving the applicant's qualification to receive any license is at all times on the applicant. An applicant is subject to and must accept any risk of adverse public notice, embarrassment, criticism, or other action or financial loss, which may result from action with respect to an application and expressly waive any claim for damages as a result thereof. Moreover, in making its licensing determination, the Commission has broad authority to seek, obtain, and consider any information to making such determinations. In doing so, the Commission may obtain information on the condition that the source of such information remain confidential and not be disclosed to the applicant or any other parties. The Commission may rely on such information in making its determination whether to approve or deny the applicant. By making such application, the applicant acknowledges that the Commission may obtain and rely on such information. The applicant will have no right to see or otherwise obtain or have access to such information without providing a written request to the Commission. The Commission may, under its discretion, redact any information that may reveal the source of the information.
3. An application for a license or determination of suitability, besides any other factor attached to such an application by virtue of this Ordinance and regulations thereunder, shall constitute a request to the Commission for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in, or be associated with, the gaming facility in the manner or position sought by the application, or the manner or position generally similar thereto; and, by filing an application with the Commission, the applicant specifically consents to the making of such a decision by the Commission at their election when the application, after filing, becomes moot for any reason other than death.
4. Any person seeking to conduct, operate, or manage any gaming activity on Pueblo of Acoma lands prior to engaging in such gaming activities, whether as an employee, owner, operator, or within the scope of a contractual agreement, shall apply for all required licenses from the Commission.

Engaging in such gaming activities without first obtaining licensure shall be deemed a violation of this Ordinance and shall be punishable in accordance with Section 9.

C. Background Investigation Information. The Acoma Gaming Commission is responsible for conducting the background investigations and licensing suitability determinations on all applicants for an Acoma Gaming License. The Commission shall request from each licensee all of the following information:

- (1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (2) Current and for the previous 10 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (3) 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 (2) of this section;
- (4) Current business and residence telephone numbers;
- (5) A description of any existing and previous business relationships with Indian tribes, including 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 misdemeanor 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 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;
- (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, and is not otherwise listed pursuant to paragraph (8) and (9) of this subsection; the name and address of the court involved and the date and disposition;
- (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 Commission, his designee, or the Gaming Manager deems relevant; and
- (14) Fingerprints consistent with procedures relating only to gaming and licensing of employees. The tribe recognizes the Commission as the law enforcement agency who has the authority to take, process and submit fingerprints of prospective employees for a criminal history check to the Federal Bureau of Investigations.

D. Background Investigation Procedures. In considering whether to approve an application of an Acoma Gaming License for a primary management official, or any other employee, the Commission shall conduct a background investigation on each applicant. The background investigation shall include taking and processing fingerprints to conduct criminal history checks with federal, state and tribal law enforcement agencies including a check of criminal history records maintained by the Federal Bureau of Investigation.

The background investigation report shall be sufficient to allow the Commission to make an eligibility determination and shall include the following:

- a. Verification of the applicant through a social security card, driver's license, birth certificate or passport;
- b. Contact with each personal and business reference provided in the license application when possible;
- c. A personal credit check;

- d. For each misdemeanor 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;
- e. 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;
- f. A conviction of the applicant for any gambling related offense in any jurisdiction;
- g. A civil judgment against the applicant, based in whole or in part upon conduct that allegedly constitutes a misdemeanor and/or felony offense;
- h. Contact with any previous or existing business relationships with the gaming industry and Indian tribes;
- i. Verification of the applicant's history and status with any licensing agencies;

E. Class II or Class III Gaming Facility Operators License.

- 1. Suitability. In determining suitability of an applicant for a gaming operation's facility license, the Tribal Council shall consider the following:
 - a. The applicant's business competence and gaming experience.
 - b. Adequacy of proposed funding for the entire operation and suitability of the funding source.
 - c. Any other factors it deems necessary to determine the suitability or appropriateness of the application being considered.
 - d. In undertaking consideration of the above factors, the Commission may seek and obtain information on the condition that such information remain confidential and not be disclosed to the applicant or any other parties. The Commission may rely on such information in making its determination. The Commission shall not make such information available to the applicant or to any other party, except where required by order of a court of competent jurisdiction. Such information will remain sealed in a file and shall be clearly marked "privileged" or "confidential" and shall be available only to the Commission, Commission staff, and Commission legal counsel.

2. Performance Assurance. The Commission may require the holder of a Gaming Facility Operator's license to provide security for the payment of future wages, salaries, or other obligations, either as a condition precedent to issuance or renewal of any license or at any time the Commission may determine that such requirement would be in the best interest of the public. The security required shall be in such a form and amount as the Commission may, from time to time, determine.
3. Review. The Class II or Class III gaming facility operator's license shall be reviewed every third anniversary date from original licensure. An update investigation will be performed by the Director and an investigative report rendered which will address, at a minimum, the following issues:
 - a. The licensee's compliance with the Gaming Regulations and Minimum Internal Control Standards;
 - b. The licensee's compliance with all applicable tribal, state and federal regulations and statutes;
 - c. An analysis of the licensee's financial position; and
 - d. Any other issues which may reflect on the suitability of the gaming enterprise to remain licensed.
4. Issuance. A gaming facility license shall be issued within ten (10) days of licensure or license renewal and such license shall be conspicuously displayed and be available for public inspection. Said license shall identify the licensee, the authority by which the Commission has to issue such license and the license expiration date.

F. Employee Licenses. Every employee involved in gaming at Pueblo of Acoma must have a valid, temporary or permanent, Pueblo of Acoma Gaming License.

1. Suitability. No license, finding of suitability, or approval shall be granted unless and until the applicant has satisfied the Commission that the applicant:
 - a. Is a person of good character, honesty and integrity;
 - b. Is a person whose background, reputation and associations will not result in adverse publicity for the Pueblo of Acoma and its gaming enterprise;

- c. Is a person whose background, reputation and associations will not result in adverse performance and/or misconduct and/or misbehavior, the result of which would be adverse publicity for the Pueblo of Acoma and its gaming enterprise;

In undertaking consideration of the above factors, the Commission may seek and obtain information on the condition that such information remain confidential and not be disclosed to the applicant or any other parties, or information that is otherwise protected from disclosure to the applicant or any other parties. The Commission may rely on such information in making its determination.

G. Considerations before Denial. In evaluating whether to deny licensing to a primary management, key, or non-key applicant, the Commission may consider the following factors:

1. The nature and severity of the conduct that constituted the offense or crime;
2. The time that has passed since satisfactory completion of the sentence, probation, or payment of the fine imposed;
3. The number of offenses or crimes; and
4. Any extenuating circumstances that enhance or reduce the impact of the offense or crime on the security, integrity, honesty, and fairness of the gaming enterprise;
5. A failure to disclose any material fact to the Commission, or other authorized agencies during initial or subsequent background or security investigations;
6. A misstatement or untrue statement of material fact as determined by the Commission;
7. In undertaking consideration of the above factors, the Commission may seek and obtain information on the condition that the source of such information remain confidential and not be disclosed to the applicant or any other parties. The Commission may rely on such information in making its determination.

H. License Application Forms.

1. The investigation, license determination, and notice of results shall be completed on all key, and primary management employees within sixty (60) days of the submission of a completed license application form.

2. All Key Employees and Primary Management Officials. The policies and procedures set out in this Ordinance shall be implemented with respect to licensing of all key employees and primary management officials employed at any gaming enterprise operated on Acoma lands:
3. Application for Employment. Any person seeking employment with the Acoma Gaming Enterprise shall complete an appropriate gaming license application form. All applications for employment and reports (if any) of background investigations shall be available for inspection by the Commission and the National Indian Gaming Commission for at least three years from the ending date of employment for each employee.
4. Application Forms
 - a. Notices
 - (1) The following notices shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

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

- (2) Existing key employees and primary management officials shall be notified in writing that they shall either:
 - (a) Complete a new application form that contains a Privacy Act notice and notice regarding false statements; or
 - (b) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.
- (3) Fingerprints
 - (a) The Commission is the law enforcement agency that will take all fingerprints,

I. Investigation Confidentiality. In conducting a background investigation, the Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

J. Determination of Suitability. The Commission shall review the investigative report of a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the suitability of a key employee or primary management official for employment in a gaming operation with an Acoma Gaming License. The following criteria may aid in determining suitability for an Acoma Gaming License:

- 1. Any associations in a direct business relationship, whether as a partner, joint venture or employer, with any other person who has committed a felony other than a traffic offense, or a crime involving unlawful gambling, under the law of any tribal, state or federal jurisdiction;
- 2. Was employed by any other person who has committed a felony other than a traffic offense, or a crime involving unlawful gambling, under the law of any tribal, state or federal jurisdiction, if the prospective employee or official was in any way involved in the criminal activity as it occurred;
- 3. Any associations with persons or businesses of known criminal background, or persons of disreputable character, that may adversely affect the honesty, security, integrity, ability, and fairness or reputation of the Pueblo of Acoma;
- 4. Any material aspect of the applicant's past conduct that the Commission determines would adversely affect the honesty, security, integrity, ability, and fairness of gaming;

In undertaking consideration of the above factors, the Commission may seek and obtain information on the condition that such information remain confidential and not be disclosed to the applicant or any other parties, or information that is otherwise protected from disclosure to the applicant or any other parties. If the Commission determines that the licensure of the applicant poses a threat to the public interest or to the effective regulation of gaming or creates or enhances dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming, such applicant shall be deemed unsuitable. The Acoma gaming establishment shall not employ that person in a key employee or primary management official position. The finding of suitability relates only to the specified involvement and employment an applicant has applied. If the nature of the involvement changes from that for which the applicant is found suitable, the applicant will be required to submit to a determination by the Commission of his/her suitability in any new capacity.

K. Primary Management license approval before employment begins. All primary management officials must receive an approved gaming license before beginning employment in any capacity including as an independent contractor or consultant. Any violation of this provision of the Ordinance may be grounds for denying the applicant a gaming license.

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

1. The Commission shall conduct a background investigation and make the determination referred to in subsection (J) above on all key and primary management employees and forward a Notice of Results or other applicable reports to the National Indian Gaming Commission.
2. The Commission shall forward the investigative report referred to in subsection (K) above of this section to the National Indian Gaming Commission within 60 days after a key employee or primary management official begins employment with the gaming operation.
3. The gaming operation shall not employ as a key employee or primary management official, a person who does not have a gaming license approval after 90 days of application for an Acoma Gaming License.

M. Report to the National Indian Gaming Commission.

1. Pursuant to the procedures set out in subsection (K) of this section, the Commission shall receive or prepare and forward to the National Indian Gaming Commission an investigative report on each key or primary management official. An investigative report shall include all of the following:

-Steps taken in conducting a background investigation;

- Results obtained;
- Conclusions reached; and
- Basis for those conclusions.

2. The Commission shall submit, with the report, a copy of the eligibility determination made under subsection (J) of this section.
3. If a license is not issued to an applicant, the Commission:
 - Shall notify the National Indian Gaming Commission; and
 - May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.
4. With respect to key employees and primary management officials, the Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

N. Granting a Gaming License.

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the tribe has provided an application and investigative report to the National Indian Gaming Commission, the Commission may issue a license to such applicant.
2. The Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (N)(1) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Commission with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Commission has provided an application and investigative report to the National Indian Gaming Commission, the Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The

Commission shall make the final decision whether to issue a license to such applicant.

O. Denial of Application.

1. Any person whose application has been denied is not eligible to apply again for licensing until after the expiration of one year from the date of such denial, unless the Commission advises that the denial is without prejudice as to the delay in reapplication. If the application was denied with prejudice, the applicant may not reapply until expiration of said one-year period.

P. License Suspension and Revocation.

1. If, after the issuance of a gaming license, the Commission receives from the National Indian Gaming Commission or elsewhere reliable information indicating that any employee, especially a key employee or a primary management official is not eligible for employment under subsection (J) above, the Commission shall suspend such license before licensee's next work shift and shall notify in writing the licensee of the nature of suspension and the proposed revocation.
2. The Commission shall notify the licensee by first class mail at licensee's last known address of a time and a place for a hearing on the proposed revocation of a license.
3. After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the National Indian Gaming Commission of its decision concerning each key employee or primary management official.
4. Any Pueblo of Acoma gaming license may be suspended or revoked for cause. Any persons whose license has been revoked, is not eligible to apply again for licensing until after the expiration of one year from the date of such revocation, unless specifically permitted by the Commission.

Q. License Fees. The Commission shall set a reasonable fee for processing each license application. A current license fee schedule shall be available from the Commission upon request, and shall be supplied to each applicant as part of the license application papers.

R. Withdrawal of application.

1. A Licensee may request a withdrawal of their application at any time prior to a final decision by the Commission on the license by filing a written request to withdraw with the Director.

2. The Commission, in its discretion, may deny the request, or grant the request with or without prejudice.
3. If the request for withdrawal is granted with prejudice, the applicant is not eligible to apply again for licensing or approval after expiration of one year from the date of such withdrawal.
4. All licensing fees are non-refundable.

S. Temporary Licenses. The Commission through its Chairman or Executive Director may issue a temporary gaming license to individuals who have completed a notarized Acoma Gaming license application and a notarized Release of Information form except where grounds sufficient to disqualify the applicant are apparent on the application. For primary management employees, a preliminary background check shall be conducted by the Commission before issuing a temporary gaming license. A valid gaming license issued by another tribe or state which permits Class III gaming, and which is in good standing with that jurisdiction, may be used to satisfy this requirement. Any temporary license shall be valid for 90 days, or 5 days after federal background reports have all been provided to the Commission, whichever the Commission determines is in the best interest of Acoma gaming. A temporary license may be renewed, revoked or suspended by the Commission at any time, for cause.

T. License Issuance by Commission. Each Acoma Gaming License shall be issued by the Commission in accordance to the Acoma Regulations.

U. Licensing Providers of Gaming Equipment, Devices, or Supplies.

1. Required. The Commission shall have responsibility for licensing providers of gaming devices and supplies, or permitting all vendors (except for contracts for professional legal or accounting services) including those required by the gaming compact, that provide goods and services to the Casino. The Commission shall obtain sufficient information and identification from the proposed seller or lessor and all persons holding any direct and indirect financial interest in the lessor or the lease/purchase agreement concerning gaming equipment, devices or supplies. The Commission reserves the right to exempt any non-gaming vendor from these licensing requirements if the exemption serves the best interests of the Pueblo of Acoma.
2. Licensing Standards. The Gaming Commission will apply the same standards for the licensing of vendors as are applicable under this Ordinance for primary management officials.

3. License Suspension and Revocation. The provisions of this Ordinance applicable to employee license, suspension and revocation shall apply to the suspension and revocation of any vendor's license issued under this subsection.
4. Cost of Investigations. Vendors/contractors which require background investigation pursuant to IGRA or in the judgment of the Commission shall pay the cost of such investigations.

Section 15. Site License for Gaming

A. Issuance. The Governor shall issue an Acoma Gaming Site License for each site and premises recommended by the Commission and approved by the Tribal Council for gaming at Acoma. Each license shall describe specifically the scope and extent of gaming allowed at that site, including but not limited to the maximum number of video gaming machines allowed on the premises. Each site license must be reissued or renewed at least once every three (3) years upon certification by the Commission that the gaming facility is in compliance with the identified environment, public health and safety laws.

B. Required. Gaming regulated by this Ordinance may take place only at a site which has a Site License for Gaming at Acoma.

C. Appropriate Lands for Gaming Sites. A site license for a gaming facility can only be issued for lands within the Pueblo of Acoma's grant and reservation lands, and other lands held in trust by the United States Government on behalf of the Pueblo of Acoma subject to restrictions against alienation imposed by the United States and over which the tribe exercises jurisdiction and governmental authority as those boundaries existed on October 17, 1988.

Section 16. Severability and Amendment

If any part of this Gaming Ordinance is determined to be unlawful by a court of competent jurisdiction, the remainder of the Gaming Ordinance shall remain in full force and effect. This Gaming Ordinance may be changed from time to time by the Acoma Gaming Commission and approved by the Pueblo of Acoma Tribal Council.

Section 17. Surveillance- [RESERVED]

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