



September 23, 2016

**By First Class Mail**

Phillip A. Perez, Governor  
Pueblo of Nambé  
15A NP 102 West  
Nambé Pueblo, NM 87506

**Re: Pueblo of Nambé Gaming Ordinance Amendments,  
Resolution NP2016-29.**

Dear Governor Perez:

This letter responds to your request on behalf of the Pueblo of Nambé for the National Indian Gaming Commission to review and approve the Pueblo's amendments to its gaming ordinance. The amendments were adopted by the Pueblo of Nambé's Tribal Council in Resolution NP2016-29. The amendments execute various revisions to the Gaming Ordinance intended to conform with the 2015 Compact the Pueblo recently entered into with the State of New Mexico.

Thank you for bringing these amendments to our attention and for providing us with a copy. These amendments are approved as they are consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions or require anything further, please contact Staff Attorney Rea Cisneros at 202-632-7003.

Sincerely,

A handwritten signature in blue ink, which appears to read "Jonodev Osceola Chaudhuri".

Jonodev Osceola Chaudhuri  
NIGC Chairman

cc: Thomas J. McReynolds, In-house Legal Counsel (via e-mail)  
tjmcreynolds@nambepueblo.org




est. 1300 A.D.

### *CERTIFICATION OF AUTHENTICITY*

By my signature, I, Philip A. Perez, Governor of the Pueblo of Nambé do hereby certify that I am an authorized official within the meaning of 25 C.F.R. § 522.2(a), and that the attached copies of the (1) Title 14 Gaming 2016 Replacement as enacted by Resolution No. NP2016-29, and (2) Tribal Council Resolution No. NP2016-29 are authentic, true, and correct copies of the Resolution and amended Gaming Ordinance adopted by the Nambé Pueblo Tribal Council at its regularly scheduled meeting held on June 29, 2016.

Certified by:

  
Phillip A. Perez, Governor  
Pueblo of Nambé

**PUEBLO OF NAMBÉ  
LAW AND ORDER CODE 2015**

**TITLE 14  
GAMING**

These laws may be cited by Title, Chapter, Section and Year as "Section or § \_\_\_\_-\_\_\_\_-\_\_\_\_ Pueblo of Nambé Law and Order Code 2015 (2016 Replacement)".

# **TITLE 14**

## **GAMING**

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## TITLE 14

### GAMING

**Origins:** Approved by Tribal Council Resolution NP-2005-01 on January 26, 2005. Amended and replaced by Tribal Council Resolution NP-2005-12. Amended and replaced by Tribal Council Resolution NP-2008-05 on March 6, 2008. Amended and replaced by Tribal Council Resolution NP-2008-21. On September 19, 2008, the National Indian Gaming Commission ("NIGC") approved the 2008 Amendment, also referred to as the Third Amended Gaming Ordinance. This title was amended and restated by Tribal Council Resolution NP2015-12.

#### 14.1. GENERAL

14.1.1. Purpose. The Purpose of the Pueblo of Nambé ("Nambé") Gaming Ordinance is to accomplish the following:

- (1) To legalize and regulate the operation, conduct and playing of Class II and Class III Gaming on Nambé Lands that qualify for gaming under the Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq.* ("IGRA");
- (2) To produce revenue to support tribal programs which promote the health, education and welfare of the Nambé people;
- (3) To promote tribal economic development, self-sufficiency and strong tribal government; and
- (4) To assure that gaming conducted on the Pueblo of Nambé is licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the Nambé community and its patrons.

**Annotation:** In 2008, the phrase, "that qualify for" was added to paragraph (1) above, pursuant to Tribal Council Resolution NP-2008-05.

14.1.2. Sovereign Immunity Preserved. Nothing in this Ordinance shall be construed as a waiver of sovereign immunity of the Pueblo of Nambé, nor shall any other entity described in this Ordinance be empowered to grant a waiver of sovereign immunity on behalf of the Pueblo.

14.1.3. Ownership. The Pueblo of Nambé, or a tribally-owned "Gaming Enterprise" designated by the Pueblo of Nambé Tribal Council, will have the sole proprietary interest and responsibility for the conduct of any federally-regulated gaming activity within Nambé Lands.



**Annotation:** The concluding phrase, "except Small Bingo Games as defined in and allowed by this Ordinance" was deleted by Tribal Council Resolution NP-2008-21. Also, pursuant to NP-2008-21, the definition of Small Bingo Games was removed under section 14.2 of this title.

## 14.2. DEFINITIONS.

In this Ordinance, unless the context otherwise requires:

14.2.1. Class I Gaming means social games played solely for prizes of minimal value or traditional forms of Indian gaming played by individuals in connection with tribal Pueblo ceremonies or celebrations.

14.2.2. Class II Gaming means:

- (1) The game of chance, commonly known as Bingo or Lotto, whether or not electronic, computer, or other technological aids are used, in which:
  - (a) Players play for prizes or money with cards bearing numbers or other designations;
  - (b) Players cover numbers or designations when object, similarly numbered or designated are drawn or electronically determined; and
  - (c) Players win the game by being the first Person to cover a designated pattern on such cards:
- (2) If played in the same location as bingo or lotto, pull-tabs, , punch boards, tip jars, instant bingo, and other games similar to bingo,
- (3) Non-banking card games that:
  - (a) The State of New Mexico laws explicitly authorize and are played legally anywhere in New Mexico, and
  - (b) Players play in conformity with those laws and regulations (if any) of the State regarding hours, periods of operation, and limitations on wagers and pot sizes in such card games.

**Annotation:** Paragraph (2) was added to the definition of "Class II Gaming" pursuant to NP-2008-05.

14.2.3. Class III Gaming means all forms of Gaming that are not class I gaming or Class II gaming, including, but not limited to:

- (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);
  - (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.

14.2.4. Tribal Council means the Pueblo of Nambé Tribal Council.

14.2.5. Gaming means any Class II or Class III gaming as defined in this Ordinance and any other form of gaming within the scope of Gaming allowed in this Ordinance.

14.2.6. Gaming Commission means the Pueblo of Nambé Gaming Commission.

14.2.7. Gaming Device or Gaming Equipment means any equipment, device or contrivance used to conduct Class III Gaming, including those defined in 15 U.S.C. §1171(a).

14.2.8. Gaming Enterprise or Gaming Operation means the Nambé-owned economic entity designated by the Tribal Council and authorized to conduct Gaming as provided at § 2I of the "Tribal-State Gaming Compact" effective December 29, 2015, or successor compact and licensed by the Gaming Commission, to conduct Gaming, receive the revenues, issue the prizes and pay the expenses related to such Gaming pursuant to this Ordinance.

**Annotation:** This definition was replaced in its entirety per Tribal Council Resolution NP2008-05. Former definition read: "'Gaming Enterprise' or 'Gaming Operation' means each economic entity licensed by the tribe, which operates games, receives the revenues, issues the prizes and pays the expenses."

14.2.9. Gaming Employee means a person connected directly with the conduct of Class III Gaming, handling the proceeds thereof, or handling any Gaming Machine; but "Gaming Employee" does not include:

1. Bartenders, cocktail servers or other persons engaged solely in preparing or serving food or beverages;

2. Secretarial or janitorial personnel;
3. Stage, sound and light technicians; or
4. Other nongaming personnel.

- 14.2.10 Gaming Enterprise Board means the Nambé Pueblo Gaming Enterprise Board who oversees the Nambé Pueblo Gaming Enterprise and carries out the duties and powers set out in the Gaming Enterprise Charter. Members of the board are appointed by the Tribal Council. Members of the Gaming Enterprise Board shall not also be members of the Nambe Pueblo Development Corporation.
- 14.2.11 Gaming License means any license required by and issued pursuant to this Gaming Ordinance. A Gaming License is a revocable privilege and no Person holding a Gaming License shall be deemed to have acquired any vested rights therein.

**Annotation:** This definition was added pursuant to Tribal Council Resolution NP-2008-05.

- 14.2.12. Gaming Manager means the General Manager or Management Contractor of a Gaming Operation.
- 14.2.13. Gaming Site or Gaming Facility or Gaming Premises means each separate physical building or structure in which Class II or Class III gaming is operated or conducted on the Nambé Lands. For purposes of the Compact and this Ordinance, Gaming Facility means each separate, physical building or structure in which Class III Gaming is conducted on the Pueblo's lands. With respect to Class III Gaming, the term Gaming Facility only applies to spaces in which Class III gaming actually takes place, to spaces in which Class III gaming-related funds or devices are kept, and to spaces in which other activities directly related to Class III Gaming occur, and to spaces occupied or frequented by employees who work within the confines of the Nambé Gaming Enterprise. Gaming Facility does not apply to businesses or amenities that are ancillary to gaming activities, such as conference centers, restaurants, spas, golf courses, recreational vehicle parks, water parks, marinas, hotels, gift shops, amphitheater, show-rooms, parking lots, even if they are overseen by the Nambé Gaming Enterprise or are located near or adjacent to a Gaming Facility.

**Annotation:** This definition was replaced in its entirety pursuant to Tribal Council Resolution NP-2008-05. Former definition read: "'Gaming Site(s)' 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."

14.2.14. Gaming Vendor means a person that provides Gaming Equipment, Gaming Devices, or Gaming Supplies to the Nambé Pueblo Gaming Enterprise or Management Contractor.

14.2.15 Key Employee(s) means a Person employed by a Gaming Enterprise or Management Contractor or who may have limited supervisory authority within the department in which he/she works, including, but not limited to, performance of any of the following positions:

- (1) Bingo Employees;
- (2) Cage Personnel and Counting Room Supervisors;
- (3) Security Manager and all other Security Officers;
- (4) Custodian of Gaming Supplies or Cash;
- (5) Floor Manager;
- (6) Pit Boss;
- (7) Dealer;
- (8) Croupier;
- (9) Surveillance Manager and all other Surveillance Agents;
- (10) Restaurant Manager;
- (11) Facilities Manager;
- (12) Housekeeping Manager;
- (13) Custodian of Gaming Devices, including Persons with access to cash and accounting records within such devices;
- (14) Executive Administrative Assistants or other Assistants with access to proprietary information;
- (15) Any other Person whose total cash compensation is in excess of \$50,000 per year and the four most highly compensated persons in the Gaming Operation or Management Contractor, and whose duties are not indicative of a "Primary Management Official";
- (16) Approver of credit; and

- (17) And any other person designated by the Gaming Commission as a Key Employee.

**Annotation:** Amended by Tribal Council Resolution NP-2005-12 on June 29, 2005 to add "Approver of credit".

- 14.2.16. Lands means all lands within the exterior boundaries of the Pueblo of Nambé, including rights-of way, lands owned by or for the benefit of the Pueblo, allotted lands, tribally purchased lands, and lands that may be leased by the Pueblo of Nambé, and Nambé Pueblo Reservation lands that qualify for gaming under the IGRA, including in particular, all or any portion of those certain Nambé Pueblo Reservation lands identified as Tract 1 on Exhibit A hereto, which lands were taken into trust on August 20, 1997, were declared reservation lands by proclamation of September 3, 1999, Vol. 64 Fed. Reg. 49819 (September 14, 1999), and which are adjacent to Nambé Pueblo Grant lands over which the Pueblo and the United States have continuously exercised "Indian Country" jurisdiction since 1913, which Tract 1 lands qualify for gaming under the IGRA per 25 U.S.C. § 2719(a)(1).

**Annotation 1:** Amended by Tribal Council Resolution NP-2008-05 on May 6, 2008, to specifically recognize Tract 1 as Indian Lands for gaming purposes.

**Annotation 2:** The reference to Exhibit A can be found at Appendix 1 to this title.

- 14.2.17. Licensee means any Person holding a valid and current Gaming License pursuant to the provision set forth in this Ordinance.
- 14.2.18. Management Contract means any contract, subcontract or collateral agreement between the Pueblo and a contractor or between a contractor and a subcontractor, if such contract or agreement provides for the management of all or part of the gaming operation. "Management Contract" does not include any employment contract under which an individual is employed by the Gaming Enterprise in a management or supervisory position.

**Annotation:** The last sentence to this definition was added per Tribal Council Resolution NP-2008-05.

- 14.2.19. Management Contractor means any Person who enters into a Management Contract, or a collateral agreement relating to Gaming activity, with the Pueblo of Nambé.
- 14.2.20. Management Fee means any amount paid to any Person or entity contracted and licensed to manage a Gaming Facility under a Management Contract. "Management Fee" does not include any amounts paid for the salary or

employment benefits of any individual employed by the Gaming Enterprise in a management or supervisory position.

**Annotation:** This definition was replaced in its entirety per Tribal Council Resolution NP-2008-05. Former definition read: "'Management Fee' means any amount paid from gaming revenue to any person or entity contracted and/or licensed to operate a gaming facility, excluding fees for operating expenses."

14.2.21. Net Revenues means gross gaming revenues of the gaming operation less those amounts paid out as or paid for prizes and less total gaming related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding Management Fees.

14.2.22. NIGC means the National Indian Gaming Commission.

14.2.23. Ordinance means the Pueblo of Nambé Gaming Ordinance.

14.2.24. Person means a natural person, firm, association, corporation or other legal entity, except the Pueblo of Nambé. This term also includes the Nambé Gaming Enterprise.

**Annotation:** The last sentence was added per Tribal Council Resolution NP-2008-05.

14.2.25. Primary Management Official means:

(1) Any Person having management responsibilities for the gaming operation or a Management Contract possessing the authority and responsibility to manage one or more of the following types of departments of the Gaming Operation, including but not limited to the following:

- (a) Accounting Department;
- (b) Food and Beverage Department;
- (c) Cage Department;
- (d) Personnel Department;
- (e) Sales and Marketing Department;
- (f) Security Department; and
- (g) Surveillance Department.
- (h) Gaming Enterprise Board

(2) Any Person who has the authority to hire or terminate casino personnel;

**Annotation:** Amended by Tribal Council Resolution NP-2005-21 on June 29, 2005 to remove "supervisory" after "casino".

- (3) Any Person having financial management responsibility;
- (4) Any Person whose total cash compensation is in excess of \$50,000 and whose duties are not indicative of a Key Employee;
- (5) Any Person who has the authority to set up working policy for the Gaming Operation; and
- (6) Any other Person designated by the Gaming Commission as a Primary Management Official.

14.2.26. Pueblo means the Pueblo of Nambé.

14.2.27. State means the State of New Mexico.

14.2.28. Tribal Bingo Game means a bingo game or games conducted or operated by the Nambé Pueblo in accordance with the regulatory procedures and all applicable provisions of this Ordinance.

14.2.29. Tribal-State Gaming Compact means a gaming compact between the Pueblo of Nambé and the State of New Mexico that is approved by the Secretary of the Interior pursuant to the IGRA, which is in effect.

### 14.3. NAMBÉ TRIBAL GAMING.

#### 14.3.1. Gaming Limited.

14.3.1.1. Gaming is limited to games conducted and operated by the Pueblo of Nambé or a designated Nambé-owned tribal Gaming Enterprise in accordance with the provisions of this Ordinance.

14.3.1.2. No Person may hold, operate or conduct any Gaming authorized by this Ordinance within the boundaries of the Nambé Pueblo.,.

**Annotation:** The phrase "or a designated Nambé-owned tribal Gaming Enterprise," was added per Tribal Council Resolution NP-2008-05.

14.3.2. Authorization. The Pueblo of Nambé or a designated Nambé-owned tribal Gaming Enterprise may hold, operate and conduct a Gaming Operation at site(s) that are approved by the Governor and the Tribal Council, and licensed by the Gaming Commission, for such Gaming Operation(s), provided that the conduct of such games may not reduce, endanger, interfere with or harm tribal revenues, land use, or the public welfare of Nambé Pueblo.

**Annotation:** The phrase "or a designated Nambé-owned tribal Gaming Enterprise" was added per Tribal Council Resolution NP-2008-05. NP-2008-05 also added the phrase "and licensed by the Gaming Commission".

14.3.3. Gaming Manager.

- 14.3.3.1. Subject to the oversight of the Gaming Enterprise and the regulatory control of the Gaming Commission, the Gaming Manager for each Gaming Facility shall manage the Gaming Operations at the Gaming Facility pursuant to rules and regulations governing the holding, operating and conducting of tribal Gaming adopted by the Gaming Commission which shall be in accordance with, and shall not violate the provisions of this Ordinance. The Gaming Manager shall be responsible for making sure that Gaming Operations are conducted in conformity with the provisions of this Ordinance, the rules and regulations of the Gaming Commission, and a Management Contract, if any, approved by the Tribal Council and the National Indian Gaming Commission, the Tribal-State Gaming Compact, and the IGRA.

**Annotation:** Replaced in its entirety by Tribal Council Resolution NP-2008-05. Former section read: "The Gaming Manager shall supervise the administration of this section pursuant to rules and regulations governing the holding, operating and conducting of tribal gaming adopted by the Nambé Gaming Commission which shall be in accordance with, and shall not violate the provisions of this ordinance. The Gaming Manager shall provide that tribal gaming shall be held, operated and conducted in conformity with the provisions of this ordinance, any management contract approved by the Nambé Pueblo Tribal Council, the Tribal-State Gaming Compact, and the Indian Gaming Regulatory Act."

- 14.3.3.2. Powers and Duties. Except to the extent otherwise determined by the Gaming Enterprise Board, the Gaming Manager shall have the following powers and duties:
- (1) To furnish, equip and maintain such premises as shall be required for the operation of Gaming at Nambé.
  - (2) To employ, direct, supervise, manage, control, promote, demote, discharge, fix the compensation and define the power and duties of such employees as shall be required for the operation of the Gaming Facility in accordance with this Ordinance.



- (3) Without in any way limiting or being limited by the foregoing, to do all such things and perform all such acts as are deemed necessary or advisable for the purpose of complying with the provisions of this Ordinance.
- (4) To train and educate each Gaming Employee in the following:
  - (a) Applicable tribal and federal laws, regulations and policies, including this Ordinance and the IGRA; and the specific requirements of the employee's position;
  - (b) Safety procedures for employees and the public; and
  - (c) All applicable policies and procedures of the Gaming Operation.
- (5) All other duties required by the Gaming Manager's job description or contract, if any.
- (6) Reports to Governor, Tribal Council, Gaming Commission. The Gaming Enterprise Board, through its Gaming Manager, shall submit written financials, including but not limited to: 1) Balance Sheet, 2) Statement of Cash Flows and 3) Income Statement, and management reports to the Governor each month and to the Tribal Council on a quarterly basis. The Gaming Enterprise Board shall be available to present those reports in person, as desired by the Governor and Tribal Council. After the annual audit (financial) of Gaming has been completed in compliance with Section 14.4.8.3 of this Ordinance, the Nambé Gaming Enterprise Board shall present a summary of the audit, the complete audit, and the annual report of the Gaming Enterprise to the Pueblo at the next Tribal Council meeting held after the completion of the audit.

**Annotation 1:** NP 2008-05 modified this section by adding the exception clause to the beginning of this section.

**Annotation 2:** NP2008-05 deleted "acquire, lease" before "furnish" to paragraph (1).

**Annotation 3:** NP2008-05 used the general term, "employee" in lieu of "officers, clerks, card sellers, callers, security guards and other employers," in paragraph (2).

**Annotation 4:** NP2008-05 added "regulations" and "and the specific requirements of the employees position" to paragraph (4).

**Annotation 5:** NP2008-05 added a new (4)(c), and added a new paragraph (5).

- 14.3.4. Management Limited. The Gaming Manager shall manage Gaming Operations on Nambé Lands pursuant to the employment policies established by the Gaming Enterprise with notice to the Tribal Council, the Tribal-State Gaming Compact, and the IGRA. The most recent policies applicable to the Gaming Enterprise specifically, shall apply to tribal gaming.

**Annotation:** NP2008-05 replaced "of the Nambé Pueblo" with "established by the Gaming Enterprise" in the first half of the sentence and "Pueblo as a whole or its business employees" with "Gaming Enterprises" in the second half of the sentence.

14.3.5. Records Retention.

- 14.3.5.1. Class II Gaming. The Gaming Manager shall maintain complete and accurate written records of Bingo, and all other Class II Gaming activities conducted by the Gaming Enterprise for a period of at least four (4) years.

**Annotation:** NP2008-05 replaced "adequate" with "complete and accurate" and inserted "conducted by the Gaming Enterprise".

- 14.3.5.2. Class III Gaming. Complete and accurate records for all Class III gaming activities conducted at the Gaming Facility shall be maintained for a period of at least six (6) years.

**Annotation:** NP2008-05 replaced this section. Former section read: Records for Class III gaming activities shall be maintained for a period of at least six (6) years. These records shall include:

1. Gross receipts
2. Records of prizes, maintained pursuant to paragraph E above.
3. Any and all expenses.
4. Capital expenditures.
5. Contract.
6. Net profits.
7. Payments to Nambé's general fund.
8. Documents and calculations required to be maintained to satisfy terms of the Tribal-State Gaming Compact and Management Contract.

- 14.3.5.3. Such records shall include, without limitation:

- (1) Gross receipts.
- (2) Records of prizes, maintained pursuant to paragraphs 14.3.5.1 and 14.3.5.2 above.
- (3) Any and all expenses.
- (4) Capital expenditures.
- (5) Contracts for all goods and services related to gaming.
- (6) Net profits.
- (7) Payments to Nambé's general fund.
- (8) Documents and calculations required to be maintained to satisfy terms of the Tribal-State Gaming Compact and Management Contract.

**Annotation:** NP2008-05 added "for all goods and services related to gaming" at paragraph 5.

- 14.3.6. Receipts. All moneys collected or received by a Gaming Operation from any Gaming Enterprise on Nambé Lands shall be deposited in one or more accounts designated by the Gaming Enterprise with notice to the Tribal Council, which shall contain only such money. All operating expenses, except cash prizes, shall be withdrawn from such account by consecutively numbered checks duly signed by the Gaming Manager or a duly authorized Gaming employee, officer or officers designated by the Pueblo and payable to a specific Person or organization. No check shall be drawn to "cash" or a fictitious payee.

**Annotation:** NP2008-05 replaced "of the Nambé Pueblo" with "designated by the Gaming Enterprise with notice to the Nambé Pueblo Tribal Council,".

14.3.7. Net Profit Uses.

- 14.3.7.1. Net profits derived from Class II and Class III Gaming, after payment of operating costs, debt service, and Management Fees, if any, and after provisions for reserves, investment in and improvement of Class II and Class III Gaming and other expenditures as authorized in the Gaming Enterprise Charter in accordance with the yearly Gaming Operation business plan and budget have been made, shall be used in accordance with Tribal Council directives. The business plan and budget shall be prepared by the Gaming Manager, approved by the Gaming Enterprise Board by July 1 and sent to the Nambé Governor and Tribal Council for final approval no later than July 31

**Annotation:** NP2008-05 added "debt service" and "other expenditures as authorized in the Gaming Enterprise Charter" in the first sentence. NP2008-05 also added "by the Gaming

Manager, approved by the Gaming Enterprise," in the second sentence.

14.3.7.2. Net profits from the Gaming Operation may be used for any of the following purposes, as determined by the Tribal Council:

- (1) Fund tribal governmental operations or programs;
- (2) Provide for the general welfare of the Pueblo of Nambé and its members;
- (3) Promote the economic development for the benefit of the Pueblo of Nambé;
- (4) Donate to charitable organizations; or
- (5) Help fund operations of local government agencies.

**Annotation:** NP2008-05 added "as determined by the Pueblo of Nambé Tribal Council" to this section.

14.3.8. Illegal Substances and Firearms. Illegal substances and firearms are prohibited within the Gaming Premises at all times.

14.3.9. Safety. Each Gaming Facility operated at Nambé Pueblo shall be constructed, maintained, and operated in compliance with all environmental and public health and safety laws, resolutions, codes, policies, standards, and procedures applicable to the Gaming Facility to protect the environment and the public health and safety.

**Annotation:** NP2008-05 replaced this section. Former section read: "Each gaming facility operated at Nambé Pueblo shall be constructed and maintained in a way that adequately protects the environment and the public health and safety."

14.3.10. Polygraph Testing. All Gaming Employees shall be subject to polygraph testing at any time and without prior notice concerning the handling, collection and/or disbursement of money or any other matter that affects the integrity of Gaming Operations.

**Annotation:** NP2008-05 added "or any other matter that affects the integrity of Gaming Operations".

14.3.11. Drug Testing. The Gaming Enterprise Board shall have authority to require all Enterprise employees to submit to drug testing in accordance with a policy which may be established by the Gaming Enterprise Board. All results will be stored and placed in employees file and when requested by the Gaming Commission results will be provided.

**Annotation:** NP2008-05 added this new section.

14.3.12. Regulation of Gaming Operations as Required by the Tribal-State Gaming Compact. Unless otherwise stated in this Gaming Ordinance, the following provisions to the extent required by the Compact shall apply only to Class III Gaming Activities:

- (1) Age. No Person under the age of eighteen (18) shall be allowed within the Gaming Premises either as a spectator or as a player during any session of Gaming at Nambé. No Person under the age of twenty-one (21) years shall be allowed to work or participate in any Class III gaming activities. No person under the age of eighteen (18) shall be allowed to work or participate in any Class II gaming activities.

**Annotation:** NP2008-05 added "Gaming" to the beginning of "Premises".

- (2) Alcohol. Any Gaming Facility serving or selling alcoholic beverages on the Nambé Pueblo shall hold a valid liquor license authorized by the Pueblo.

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

(b) All Gaming Enterprise 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; and

(c) The Gaming Enterprise shall purchase and maintain a liquor liability insurance policy that provides, 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.

(d) No alcoholic beverages shall be sold, served, delivered or consumed in that part of a Gaming Facility where gaming is allowed.

(e) Neither the Gaming Enterprise nor the Tribe shall provide, allow, contract to provide or arrange to provide alcoholic beverages for no charge or at reduced prices within a Gaming Facility.

**Annotation:** NP2008-05 replaced "Premises" with "Facility".

- (3) Federal Law Employment Standards. The Gaming Enterprise shall establish 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 any other federal laws generally applicable to Indian tribes relating to wages, hours of work and conditions of work, and the regulations issued thereunder;
- (4) Wage Requirements in Certain Construction Projects. The Gaming Enterprise shall require that workers involved in any construction project involving any Gaming Facility or related structure that is funded in whole or in part by federal funds shall be paid wages meeting or exceeding the standards established for New Mexico under the federal Davis-Bacon Act;
- (5) Job Discrimination. Neither the Tribe, the Gaming Enterprise nor a Management Contractor shall 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, provided, however, that nothing herein shall be interpreted to prevent the Tribe, the Gaming Enterprise, or Management Contractor from granting preference in employment actions to tribal members or other Indians in accordance with established tribal laws and policies;
- (6) Gaming Employee Benefits. The Tribe, through its Gaming Enterprise or through a third-party entity, shall provide to all employees of the Gaming Enterprise 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 workers' compensation insurance through participation in programs offering benefits at least as favorable as those provided by comparable State programs, 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) the Tribe's Tribal Court, 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; and provided that to fulfill this requirement the Tribe may elect to participate in the State's program upon execution of an appropriate agreement with the State;
- (7) Grievance Procedures. The Gaming Enterprise shall provide a grievance process for an employee of the Gaming Enterprise in cases of 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;

- (8) Food Sanitation and Inspection Requirements. The Gaming Enterprise 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 State's Food Service Sanitation Act [NMSA 1978, § 25-1-1 (1977, as amended through 2014)] are maintained and if such inspections have occurred, the Tribe, through its Gaming Commission, shall provide documentation of the inspections to the State Gaming Representative with the Compliance Report referenced in Section 4(E)(2) of this Compact, or if the Indian Health Service does not conduct such inspections, the Gaming Enterprise shall permit the State Department of Environment to conduct such inspections;
- (9) Check Cashing. Neither the Gaming Enterprise, nor the Tribe in connection with gaming, shall from cash any paycheck or any type of government assistance check, including Social Security, TANF, pension, and other similar checks, for any patron;
- (10) Extensions of Credit. Neither the Gaming Enterprise, nor the Tribe in connection with gaming, shall 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) days); provided that the Tribe complies with all applicable federal law and all provisions of the Appendix related to credit (including the State reporting requirements), and provides a copy of the regulations referenced in the Appendix to the State for review and comment prior to implementation;
- (11) Automated Teller Machines. Automatic teller machines on Gaming Facility premises shall be programmed so that the machines will not accept cards issued by the State to TANF recipients for access to TANF benefits;
- (12) Payout Requirement. Each electronic or electromechanical gaming device in use at the Gaming Facility must pay out a mathematically demonstrable percentage of all amounts wagered, which must not be less than eighty percent (80%), and the Gaming Enterprise shall prominently post in visible locations within the Gaming Facility notices stating that the Gaming Enterprise is in compliance with this requirement, and shall provide a comprehensible explanation of the meaning of this requirement;
- (13) Gaming Machine Reports. All Class III Gaming Machines on the premises of the Gaming Facility shall 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 Gaming Enterprise's central computer shall be constructed and installed at the State's cost, and shall be designed in conjunction with Gaming Enterprise 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;

(14) Compulsive Gambling.

(a). The Gaming Enterprise shall 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 Section 11(C)(1) of the Tribal-State Gaming Compact, to fund or support programs that the Tribe selects 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; and shall require that a substantial portion of such funds 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.. The Tribe shall submit a report accounting for the use of these funds as described in the attached Appendix, and that 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, shall not be subject to the confidentiality provisions of Section 4(E)(4) of the Tribal-State Gaming Compact and shall be made available for inspection and publication without restriction or limitation;

(b) The Gaming Enterprise shall properly address problem gambling per Section 4(F) of the Tribal-State Gaming Compact



through appropriate regulations approved by the Gaming Commission.

- (15) Management Contracts. The Gaming Commission shall review any Management Contract entered into or proposed to be entered into by the Tribe or the Gaming Enterprise regarding its Class III Gaming activity to assure that it conforms to the requirements of tribal law and the IGRA and the regulations issued thereunder;
- (16) Incentive or Enticement to Game. Neither the Gaming Enterprise nor the Tribe shall provide, allow, contract to provide or arrange to provide food or lodging for no charge or at reduced prices, at a Gaming Facility or lodging facility as an incentive or enticement for patrons to game ("Complimentaries"), except that (i) this provision shall not apply to rewards received by patrons in exchange for points or credits accrued under any form of a players' club program; and (ii) the Gaming Enterprise or Tribe 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. The Tribe shall, on a quarterly basis, report to the State the total amount of the discretionary Complimentaries during the previous quarter in dollars and as a percentage of Adjusted Net Win for such quarter. The Tribe shall adopt and follow the minimum internal control standard and policies and procedures set forth in the Appendix, shall comply with all applicable federal law and all provisions of the Appendix related to Complimentaries (including the State reporting requirements), and shall provide a copy of the regulations referenced in the Appendix to the State for review and comment prior to implementation.
- (17) Revenue Sharing. The Tribe, through its Gaming Enterprise, after the Effective Date of the Compact or after July 1, 2015, whichever is later, shall make the quarterly payments provided for in Paragraph C of Section 11 of the Tribal-State Gaming Compact. Each payment shall be made to the State Treasurer for deposit into the General Fund of the State.
- (18) Gaming by Gaming Enterprise Board/Employees/Vendors/Gaming Commission. Gaming by Enterprise Board Members and Gaming Employees of the Gaming Facility shall be prohibited. any Person who holds, operates or conducts, or assists in holding, operating or conducting Gaming at Nambé may not play at any session of gaming at which such Person is licensed or employed. Vendors of gaming machines and equipment shall not play at any session of gaming at which such vendor(s)

is licensed. The Gaming Commission, its agents and employees are prohibited from gaming at any Nambe gaming facility.

- (19) **Hours.** Consistent with the provisions of the Tribal-State Gaming Compact and this Ordinance, the Gaming Commission may by regulation, establish the permissible hours and days of operation of gaming activities. The regulations may authorize the Gaming Enterprise to operate Gaming Facilities and conduct gaming activities twenty-four (24) hours a day, seven (7) days a week. The Gaming Commission may also, by regulation, establish other hours of operation for such Gaming Facilities, as the Gaming Commission deems appropriate.
- (20) **Prize and Wager Limits.** There shall be no limit on the size of the prize offered or given in any single game. Wager limits shall be set by the Gaming Enterprise, after notice to the Tribal Council and approval by the Gaming Commission. Wager limits shall also comply with federal law and conform to any limits set forth in the Tribal-State Gaming Compact.
- (21) **State Regulatory Fees.** The Tribe, through its Gaming Enterprise, shall reimburse the State for the costs the State incurs in carrying out any functions authorized by the terms of the Compact. The amount of reimbursement shall follow the chart and provisions set forth in the Tribal-State Gaming Compact at Section 4(E)(6).

#### 14.4. NAMBÉ GAMING COMMISSION.

- 14.4.1. **Establishment of the Gaming Commission, Appointment and Terms.** The Gaming Commission has been established and shall consist of three (3) members that shall be appointed by Tribal Council. One member shall be selected for an initial term of one year. A second member shall be selected for an initial term of two years. The third and any additional members shall be selected for an initial term of three years. After the expiration of each initial term, succeeding members of the Gaming Commission shall be chosen for a full term of three (3) years to succeed those whose terms expire in order to achieve staggered terms. Each member of the Gaming Commission shall hold office from the date of selection and qualification until a successor shall have been duly selected and qualified, unless earlier removal, resignation, death or incapacity shall occur. An individual may serve more than one consecutive term on the Gaming Commission.

**Annotation:** NP2008-05 removed "the Governor with the approval of" after "appointed by" in the first sentence. NP2008-05 replaced second and third sentences with more general language concerning staggered terms.

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

14.4.3. Removal. Any Gaming Commissioner may be removed from office by the vote of the Tribal Council for neglect of duty, or poor performance in office, or for other good cause shown. The decision of the Tribal Council shall be final and not subject to review or appeal.

**Annotation:** NP2008-05 added the last sentence to this section.

14.4.4. Qualification of Commissioners. No individual shall be eligible for any appointment to, or continued service on, the Gaming Commission, who

- (1) Has been convicted of any felony or gaming offense;
- (2) Has any financial interest in, or management responsibility for, any Gaming activity; or
- (3) Has credit or other problems revealed by a credit check or background investigation.

Each Gaming Commissioner must be open-minded and committed to the best interest of the entire Pueblo of Nambé. Each Commissioner shall complete an employment application form and privacy waiver providing background information and allowing investigation as desired by the Pueblo.

14.4.5. Officers. The Gaming Commission shall select, by majority vote, one of the members of the Commission to serve as Chairman, and another to serve as Vice-Chairman. Another member shall serve as Secretary. The Vice-Chairman shall serve as Chair during meetings of the Commission in the absence of the Chairman. The Chairman of the Gaming Commission shall serve as liaison to the Tribal Administration and Tribal Council.

14.4.6. Procedures of the Gaming Commission.

14.4.6.1 Meetings. The Gaming Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least once every month.

14.4.6.2. Regular Meetings. Regular meetings of the Gaming Commission may be held upon such notice, or without notice, and at such time and place as shall from time to time be fixed by the Gaming Commission. Unless specified by the Gaming Commission, no notice of such regular meetings shall be necessary.

**Annotation:** NP2008-05 added "without notice" to this section.

- 14.4.6.3. Special Meetings. Special meetings of the Gaming Commission may be called by the Chairman or any two Commissioners of the Gaming Commission. The Chairman or Vice-Chair shall fix the time and place of the special meeting and provide written notice of the meeting to all Commissioners. Neither the business to be transacted at, nor the purposes of, any regular or special meeting of the Gaming Commission need to be specified in the notice of the meeting.

**Annotation:** NP2008-05 added "and provide written notice of the meeting to all Commissioners".

- 14.4.6.4. Quorum and Voting. Two members of the Gaming Commission, at least one of which is the Chairman or Vice-Chairman shall constitute a quorum. The vote of a majority of the Commission shall be the act of the Gaming Commission.

- 14.4.6.5. Action by Telephone or Polling. Approval of action telephonically or by polling is also authorized pursuant to procedures to be established by the Gaming Commission.

**Annotation:** NP2008-05 added "pursuant to procedures to be established by the Commission."

- 14.4.6.6. Notice of Gaming Commission Action. No action of the Gaming Commission to impose a penalty pursuant to this Ordinance or to revoke a Gaming License shall be valid unless the Person affected is given at least seven (7) calendar days' notice of the proposed action and opportunity to appear and to be heard before the Gaming Commission, either in person or through a representative or legal counsel, and to submit such evidence as the Commission deems relevant to the matter at issue. Unless otherwise required in this Gaming Ordinance, no notice is necessary to suspend a Gaming License. Unless a shorter timeframe is provided in this Gaming Ordinance, a revocation hearing must be held within ninety (90) days or the suspension shall be discharged automatically.

- 14.4.6.7. Internal Rules and Procedures. The Gaming Commission may adopt any additional procedures and rules as it deems necessary or convenient to govern its affairs and which are consistent with this Ordinance.

- 14.4.7. Compensation. All members of the Gaming 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 Gaming Commission shall be paid at rates approved by the Governor and Tribal Council. Only the Governor and Tribal Council may reduce or modify the payment of any or all of the members of the Gaming Commission.
- 14.4.8. Powers and Duties of the Gaming Commission. The Gaming Commission shall have the following powers and duties:
- 14.4.8.1. Oversight of Gaming Activities. The Gaming Commission shall have primary responsibility for overseeing all Gaming activity to assure the integrity of Gaming at Nambé and shall for that purpose employ a staff including one or more Agents and other employees who shall be under the sole supervision of the Gaming Commission. The Agents and Commissioners shall have immediate access to all areas of any Gaming Facility at all times. Each of the staff shall report to the Gaming Commission regarding any failure by the Gaming Enterprise to comply with any of the provisions of this Ordinance and any other applicable laws and regulations. All Agents and other employees shall be licensed by the Gaming Commission and subject to background investigations.

**Annotation:** NP2008-05 added "and regulations" to the end of the third sentence.

14.4.8.2. Inspect and Copy. The Gaming Commission and its Agents may:

- (1) Inspect and examine all premises where Gaming is conducted or Gaming Devices or Equipment is manufactured, sold, stored, or distributed.
- (2) Inspect all equipment and supplies in, upon or about such premises.
- (3) Summarily seize and remove from any Gaming Premises and impound any equipment, supplies, documents or records for the purpose of examination and inspection.
- (4) Demand access to and inspect, examine, photocopy and audit all papers, books, and records of any Gaming License applicant or Licensee, on his premises, or elsewhere, and in the presence of the applicant or Licensee, or his designee, respecting the gross income produced by any Gaming Device or business, and require verification of income, and

all other matters affecting the enforcement of the policy or any of the provisions of this Ordinance.

- (5) Demand 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 Nambé.

**Annotation:** NP2008-05 added "stored" to paragraph 1 and added "Gaming License" to paragraph 4.

14.4.8.3. Audit.

(a). Not less than annually at the Gaming Enterprise's fiscal year end, the Gaming Commission shall require, at the expense of the Gaming Enterprise, an audit and audit report of the financial statements covering all financial activities of the Gaming Enterprise in the State of New Mexico. The audit and audit report shall be prepared by an independent certified public accountant licensed by the New Mexico Public Accountancy Board. The audit report shall include written verification by the independent certified public accountant of the accuracy of the quarterly Adjusted Net Win calculation as required by Section 11(C) of the Tribal-State Gaming Compact and shall specify the total amount of patron wagers and total amount of payouts made on winning wagers in Class III Gaming on all Gaming Machines at the Tribe's Gaming Facilities for purposes of calculating Adjusted Net Win. The financial statements shall be prepared in accordance with generally accepted accounting principles (GAAP). All books and records relating to Class III Gaming shall be retained for a period of at least five (5) years from the date of creation, as required by 25 C.F.R. § 571.7(c). The independent certified public accountant shall issue a report on audited financial statements of the Tribe's Gaming Enterprise in the State of New Mexico. The independent certified public accountant shall perform the audit in accordance with generally accepted auditing standards published by the American Institute of Certified Public Accountants, and submit the audited financial statements, along with any reports or management letter(s) the accountant has prepared, to the Gaming Commission within one hundred ten (110) days after the Gaming Enterprise's fiscal year end. Promptly upon receipt of the audited financial statements, and in no event later than one hundred twenty (120) days after the fiscal year end, the Gaming Commission shall provide copies of the financial statement and audit report to the State Gaming Representative, along with copies of any and all documents the independent certified public accountant has

provided to the Pueblo, Gaming Enterprise, or the Gaming Commission concerning the audit, including but not limited to copies of any and all reports and management letter(s). If the Gaming Enterprise changes its fiscal year end, it may elect either to prepare financial statements for a short fiscal year or for an extended fiscal year, but in no event shall an extended fiscal year extend more than fifteen (15) months.

(b). The Commission shall ensure that the Gaming Enterprise Board selects an independent certified public accountant (CPA) to conduct audits, at least annually, of its gaming operations.

(1) Copies of the independent audit reports for each year (including financial statements and management letter) will be provided to the Governor and Tribal Council and Nambé Gaming Commission by May 1 of the following year. A copy of each annual report of gaming activities shall be provided to the Nambé Tribal Council, and then to the National Indian Gaming Commission (NIGC).

(2) The scope of such audit or audits shall include but not be limited to all contracts for supplies, services, or concessions for a contract amount in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to Gaming at Nambé and compliance audits as required by the NIGC regulations.

**Annotation 1:** NP2008-05 replaced entire introductory sentence. Former introductory sentence read: "The Gaming Commission shall select a certified public accountant (CPA) to conduct audits, at least annually, of each Gaming Enterprise within Nambé Pueblo."

**Annotation 2:** NP2008-05 also added "and Tribal Council" to paragraph 1. NP2008-05 added "or audits" and "and compliance audits as required by the NIGC regulations" at paragraph 2.

14.4.8.4. **Witness Testimony.** The Gaming Commission has full power and authority to compel by subpoena the attendance of witnesses and the production of books, papers, documents and other things related to any matter under consideration or investigation by the Gaming Commission, and to bring actions for the enforcement of such subpoenas. The Gaming Commission may compel the

attendance or any witness or production of documents at any place within the Pueblo of Nambé, to administer oaths and to require testimony under oath. The Gaming Commission may pay the transportation and other expenses of witnesses, as it may deem reasonable and proper. Any Person who knowingly makes a false statement under oath in any matter before the Gaming Commission shall be prosecuted for perjury.

**Annotation:** NP2008-05 replaced last sentence of this section. Former last sentence read: "The Nambé Gaming Commission has full power and authority to compel the attendance of witnesses at any place within the Pueblo of Nambé, to administer oaths and to require testimony under oath. The Nambé Gaming 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 Nambé Gaming Commission is guilty of perjury."

- 14.4.8.5. Reports to Governor, Tribal Council, Nambé Public. The Gaming Commission shall submit written management reports to the Governor and the Tribal Council on a quarterly basis. The Gaming Commission shall be available to present those reports in person, as desired by the Governor and Tribal Council. After the annual internal (non-financial) audit of Nambé Gaming has been completed, the Gaming Commission shall present a summary of the audit and its annual report to the Pueblo of Nambé at the next Tribal Council meeting held after the completion of the audit.

**Annotation:** NP2008-05 added "of the audit" in the third sentence.

14.4.8.6. Education.

- (1) The Gaming Commission shall review Gaming Operations and regulate as necessary to assure that Nambé's commitment to the education of Nambé people and maintaining Nambé traditions remains strong.
- (2) The Gaming Commission shall budget time and money as needed for training and education of Gaming Commissioners, Gaming Commission staff, and all Gaming employees as needed to be aware of proper Gaming industry practices and applicable laws and regulations.

**Annotation:** NP2008-05 replaced "and all Gaming Staff" with "Gaming Commission Staff, and all Gaming employees" and



added "proper" both at paragraph 2. NP2008-05 also replaced "and good practices" with "and regulations" at paragraph 2.

- 14.4.8.7. Gaming Regulations. The Gaming Commission may promulgate regulations to govern the operation and management of each Gaming Enterprise and Gaming Operation.
- 14.4.8.8. Gaming Device Standards and Technical Standards.
- (a) The Gaming Commission will adopt standards for any and all Class III Gaming equipment, devices or supplies to be used in any Gaming Facility, which standards shall be at least as strict as the comparable standards applicable to Class III Gaming equipment, devices or supplies within the State of Nevada. Any and all Class III Gaming equipment, devices or supplies used by the Tribe shall meet or exceed the standards thereby adopted.
- (b) The Gaming Commission shall promulgate, review, approve, and revise the technical standards and rules of each game operated by the Gaming Enterprise or Management Contractor and shall notify the Gaming Manager and Gaming Enterprise of the rules and of any change to the rules.
- 14.4.8.9. Health, Safety and Security Standards. The Gaming Commission shall enforce and require that all health, safety and security standards applicable to the Gaming Enterprise as set forth in Title 21 of Nambé Pueblo Written Laws.
- 14.4.8.10. Civil and Criminal Actions. The Gaming Commission may in the name of the Pueblo of Nambé bring any civil action or criminal complaint in the courts of the Pueblo of Nambé, the State or the United States to enforce the provisions of this Ordinance, the IGRA, or any Tribal-State Gaming Compact entered into by the Pueblo of Nambé, or to enjoin or otherwise prevent any violation of this Ordinance, the IGRA, or any applicable law or regulation, occurring on Nambé Lands.
- 14.4.8.11. Operational Budget. The Gaming Commission shall adopt an annual operating budget for the Nambé Gaming Commission, which shall be subject to the approval of the Tribal Council. The Gaming Commission may, in accordance with the budget, employ a staff as it deems necessary to fulfill its responsibilities under this Ordinance and may retain legal counsel, consultants, and other professional services, including investigative services, to assist the Gaming Commission with its responsibilities under the Ordinance.

The expenses of the Gaming Commission in accordance with such budget shall be appropriated by the Tribal Council.

- 14.4.8.12 Orders. The Gaming Commission may issue any order or decision, to any Gaming Manager, Gaming Enterprise, or Gaming Employee, or to any other Person within the jurisdiction of the Pueblo, to take any action or cease and desist from any action as may be required to protect the public interest in gaming.

**Annotation:** NP2008-05 added "Gaming Manager" to this section.

- 14.4.8.13 Executive Director. The Gaming Commission shall appoint and retain an individual to serve as Executive Director of the Gaming Commission to administer and enforce its duties and responsibilities under this Ordinance and to oversee the Agents appointed by the Gaming Commission and other staff as the Gaming Commission may employ, and to conduct hearings, investigations, and otherwise act on behalf of the Gaming Commission as authorized by the Gaming Commission. The Executive Director shall be responsible for coordination of the functions of the Gaming Commission and other federal, state, and local agencies as necessary.

14.4.8.14 Gaming Compact Regulation.

14.4.8.14.1 The Gaming Commission, referred to as the Tribal Gaming Agency in the gaming compact signed with the State of New Mexico, will assure that the Pueblo will:

- (1) Operate all Class III gaming pursuant to the Tribal-State Gaming Compact, tribal law, the IGRA and other applicable federal law and regulations;
- (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 cashier's cage department;

- (5) Provide for the protection of the property of the patrons at and the Gaming Enterprise from illegal activities;
- (6) Participate in licensing of Primary Management Officials and Key Employees of a 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;
- (8) Record and investigate any and all unusual occurrences related to Class II and Class III gaming within the Pueblo of Nambé;
- (9) Comply with all applicable provisions of the Bank Secrecy Act, 31 U.S.C. §§ 5311-5314, and all reporting requirements of the Department of the Treasury, the Internal Revenue Service, the Financial Crimes Enforcement Network, and any other related divisions thereof, as applicable, and make all such documentation available to the State Gaming Representative for inspection, scanning, or copying upon request;
- (10) Provide true copies of all tribal laws and regulations affecting Class III Gaming conducted under the provisions of this Compact to the State Gaming Representative within the earlier of: (i) thirty (30) days after the Effective Date of the Tribal-State Gaming Compact, or (ii) thirty (30) days after the Tribe's first day of operation of a Gaming Facility, and will provide true copies of any amendments thereto or additional laws or regulations affecting gaming within thirty (30) days after their enactment or approval, if any;
- (11) Make wager and payout data available to the State Gaming Representative on a monthly basis, by secure transmission through encrypted email communications, file transfer protocol, or other secure means

provided for by the State Gaming Representative. The method of secure transmission must meet industry standards for security sufficient to minimize the possibility of any third party intercepting data transmitted to the State Gaming Representative. Such reports shall be generated to reflect monthly, quarterly, and annual activity, and shall identify, at a minimum:

- i. coin-in;
- ii. coin-out;
- iii. Free Play and Point Play;
- iv. Net Win;
- v. theoretical net win (including Free Play and Point Play);
- vi. actual floor hold percentage; and
- vii. theoretical floor hold percentage.

- (12) Establish for its Gaming Facility health, safety and construction standards that are at least as stringent as the current editions of the National Electrical Code, the Uniform Building Code, the Uniform Mechanical Code, the Uniform Fire Code and the Uniform Public Code, and any and all construction and maintenance of the Gaming Facility shall comply with such standards. Inspections shall be conducted with respect to these standards at least annually. If the State Gaming Representative requests sufficiently in advance of an annual inspection, the State Gaming Representative may be present during such inspection. The Tribe agrees to correct any deficiencies noted in such inspections within a time agreed upon between the State and Tribe. The Gaming Commission will provide copies of such inspection reports to the State

Gaming Representative, if requested to do so in writing;

**Annotation:** NP2008-05 added "and regulations" at paragraph 1.

14.4.8.14.2 The Gaming Commission shall have the responsibility for satisfying all regulatory requirements accepted by the Pueblo of Nambé by terms of a gaming compact signed by the Pueblo and in effect under the terms of the IGRA.

The Gaming Commission will certify annually to the State Gaming Representative that the Tribe has met its obligations under the Tribal-State Gaming Compact in accordance with the instructions and Form A set forth in the Appendix attached to the Tribal-State Gaming Compact. The Gaming Commission shall allow the State Gaming Representative to inspect and verify, and obtain copies (either scanned electronically or in paper form), upon request, of any and all documents related to any item in the Compliance Report, including all source documents and data.

- 14.4.8.15 Licensing Authority. The Gaming Commission shall have the authority to issue, suspend, place conditions or limitations on, and revoke Gaming Licenses as further provided in 14.5 of this Ordinance.
- 14.4.8.16 Amendments to Ordinance. The Gaming Commission may recommend amendments to this Gaming Ordinance to the Tribal Council.
- 14.4.8.17 Contracts. To enter into cooperative agreements with regulatory and law enforcement agencies and officials of the State of New Mexico (including cities and counties thereof), the Bureau of Indian Affairs, the United States government, and other Indian Tribes, when the Gaming Commission determines that such cooperation is in the best interests of the Pueblo and will help to ensure enforcement on Pueblo lands of the IGRA, the Tribal-State Gaming Compact, and the regulations of the Gaming Commission.
- 14.4.8.18 Summary Action and Hearings. If the Gaming Commission deems it necessary to protect the public interest in the integrity of the Gaming activities, and is otherwise authorized under this

Ordinance, the Gaming Commission may take such action with immediate effect as it deems required and shall thereupon provide notice and an opportunity to be heard to the affected Licensee as soon as is reasonably practicable following such action. Any Licensee who is denied a renewal of a Gaming License or who is barred from the Gaming establishment by action of the Gaming Commission may request a hearing before the Gaming Commission by written request submitted within thirty (30) days following receipt of notice of the action of the Gaming Commission. The Gaming Commission shall thereupon afford an opportunity to appear and be heard either in person or through a representative or legal counsel, and to submit such evidence as the Gaming Commission deems relevant to the matter at issue. The Gaming Commission shall either affirm or reconsider its decision. The Gaming Commission may direct the Director or one or more members of the Gaming Commission designated by the Gaming Commission to conduct any hearings. Any Person denied a gaming license upon initial application does not have a right to a hearing.

- 14.4.9. Appeals to Tribal Court. Any Licensee aggrieved by the final action of the Gaming Commission, may file an appeal to the Tribal Court. The Tribal Court shall not take new evidence; it shall base its decision on the record made before the Gaming Commission. The 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, clearly erroneous, not supported by substantial evidence, or otherwise contrary to law. Any Licensee who wishes to appeal shall file a written Notice of Appeal in the Pueblo of Nambé Tribal Court, stating the specific basis of the appeal, within 30 days of the final Commission action being appealed, and shall pay any court fees. Notice of Appeal shall also be delivered to the Gaming Commission which shall, upon receipt of a Notice of Appeal deliver the administrative record to the Tribal Court for review. Upon receipt of a notice of appeal, the court clerk shall schedule a hearing before the Tribal Court. The final decision of the Tribal Court shall end the tribal appeal process.

The decision of the Gaming Commission to deny an applicant a license in the first instance or denying an applicant a temporary license shall not be appealable to the Tribal Court or the Gaming Commission.

**Annotation:** NP2008-05 added "clearly erroneous, not supported by substantial evidence" to standard required to overturn a Gaming License decision NP2008-05 also replaced entire appeal process, in the fifth sentence. Former appeal process read: "A person may file a notice of appeal, stating the specific basis of the appeal and pay any court fees."

- 14.4.10. Patron Disputes. Any patron dispute regarding gaming activity or health and welfare of gaming patrons shall be resolved by the Gaming Commission. Upon written notice of dispute by the affected patron, the Gaming Commission shall conduct an investigation and hearing of the dispute. The Gaming Commission shall then, based upon the investigation and hearing, make a determination as to validity of the dispute and, if appropriate, decide any compensation there for.
- 14.4.11. Agent for Service of Process. The Tribe designates the Chairman of the Gaming Commission as the agent for service of any official determination, order or notice of violation.

#### 14.5. GAMING LICENSES AND INVESTIGATIONS.

- 14.5.1. Authority. The Gaming Commission has the authority to issue, suspend, place conditions or limitations on, and revoke Gaming Licenses in accordance with this Ordinance, the Tribal-State Gaming Compact and the IGRA. A Gaming License is valid after signature by the Gaming Commission. The Gaming Commission shall adopt a form of Gaming License application.

**Annotation:** NP2008-05 added "Gaming" before "Licenses in accordance with this Ordinance" in the first sentence and added the last sentence.

- 14.5.2. Investigations. The Gaming Commission may conduct investigations, hearings, inquiries, compel the production of any information or documents, or otherwise exercise the investigatory powers necessary to carry out its duties under this Ordinance.
- 14.5.3. Standards. The Gaming Commission may not issue a Gaming License to any 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 of Gaming at Nambé. No license shall be issued to any Person who may create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming at Nambé.
- 14.5.4. Gaming Facility Licenses.
- 14.5.4.1. License Required. Gaming regulated by this Ordinance may take place only at a Gaming Site which has a Gaming Facility License for Gaming at Nambé.
- 14.5.4.2. Issuance. The Gaming Commission shall issue a Nambé Gaming Facility License for each Gaming Site recommended by the Nambé Governor and approved by the Tribal Council for Gaming at Nambé in compliance with this Ordinance and applicable federal regulations promulgated under the IGRA.

- 14.5.4.3. Appropriate Lands for Gaming Sites. A Gaming Facility License can only be issued for a Gaming Facility located on lands within the Nambé Pueblo's grant and reservation lands, and other lands held in trust by the United States for the Nambé Pueblo, which qualify for Gaming under the IGRA.
- 14.5.4.4. Term and Renewal. Each Gaming Facility License shall be for a three (3) year term, and shall be renewable upon proper application to the Gaming Commission.
- 14.5.4.5. Submissions to NIGC. The Gaming Commission shall be responsible for submitting to the NIGC all documentation required for issuance of a Gaming Facility License.
- 14.5.4.6 Revocation of a Gaming Facility License. The Gaming Commission shall have the authority to revoke a Gaming Facility License for non-compliance with this Ordinance, the Compact, IGRA and its subsequent regulations and any other Tribal Laws passed for the health, welfare and safety of the employees and patrons of the Gaming Facility. Prior to any revocation of a Gaming Facility License under this section, the Gaming Commission shall provide the Manager of the Gaming Facility a Notice of Concern and provide at least thirty (30) days to cure any areas of concern.

**Annotation:** NP2008-05 replaced section on "Site Permits" with new section on "Gaming Facility Licenses". Former section on "Site Permits" read: "(A) Permit Required. Gaming regulated by this Ordinance may take place only at a site which has a Site Permit for gaming at Nambé. (B) Issuance. The Governor shall issue a Nambé Gaming Site Permit for each site and premises recommended by the Nambé Gaming Commission and approved by the Tribal Council for gaming at Nambé. (C) Appropriate Lands for Gaming Sites. A site permit for a gaming facility can only be issued for lands within the Nambé Pueblo's grant and reservation lands, and other lands held in trust by the United States for the Nambé Pueblo."

- 14.5.5. Gaming Employee Licenses. Every regular employee involved in Gaming at a Nambé Gaming Facility must have a valid temporary Gaming License issued by the Gaming Commission prior to beginning employment, and must have a Gaming License issued by the Nambé Gaming Commission within ninety (90) days of their employment. Any Person, including Key Employees and Primary Management Officials, not receiving a Gaming License within that time period shall be terminated. The Gaming Operation shall not employee, as a Key Employee or Primary Management Official, a Person who does not have a valid



Gaming License within 90 days of beginning employment. Until an employee receives a Gaming License that individual shall be considered on probation subject to dismissal with or without cause.

**Annotation 1:** Amended by Tribal Council Resolution NP-2008-21 on June 18, 2008 to delete "unless the Commission for good cause shown issues a second and final temporary Gaming License" from the end of the first sentence.

**Annotation 2:** NP2008-05 replaced "Nambé" with "a Nambé Gaming Facility", added "temporary" and added "prior to beginning employment, and must have a permanent Gaming License issued by the Nambé Pueblo Gaming Commission" all in the first sentence.

**Annotation 3:** NP2008-05 added "permanent" in the third sentence.

14.5.6. Gaming Employee License Conditions.

14.5.6.1. Term. A Nambé Pueblo Gaming License shall be valid for three (3) years. Application for renewal requires another license application and background investigation.

14.5.6.2. Form. Each Nambé Pueblo Gaming License shall be in the form of an identification badge with a current photograph, the name of the license holder, the position/title of the license holder, the date the license was issued, the date the license expires, a valid gaming license number and the words NAMBÉ PUEBLO GAMING LICENSE clearly shown.

14.5.6.3. Display of License. Every Person who holds, operates or conducts, or assists in holding, operating or conducting Class II or Class III Gaming shall wear their license clearly visible while they are working at any Nambé Gaming Site permitted pursuant to this Ordinance.

14.5.7. Procedures. The following procedures must be followed in order to obtain a Nambé Pueblo Gaming License.

14.5.7.1. All Gaming Employees

(1) Applications of Employment and License. Every employee within the Nambé Gaming Enterprise shall complete an appropriate employment application form and Gaming License application form. All Gaming License applications and reports (if any) of background investigations shall be kept by the Nambé Gaming Commission and available for

inspection by the National Indian Gaming Commission for at least three (3) years from the ending date of employment for each employee.

- (2) Determination. The Nambé Gaming Commission shall make a determination for issuing a temporary Gaming License on the basis of the Gaming License application and any preliminary background investigation report. The Gaming Commission shall make a determination of eligibility for issuing a Gaming License on the basis of the Gaming License application, and all completed background investigation reports.

**Annotation:** NP2008-05 added "and Gaming License application form" to first sentence of paragraph 1. NP2008-05 added "temporary" and "for issuing a permanent Gaming" in paragraph 2.

- (3) License Standard. The Gaming Commission shall review an applicant's prior activities, criminal record, if any, reputation, habits and associations to make a finding concerning the eligibility of a Gaming Employee, including a Key Employee or Primary Management Official for licensing and employment in a Gaming Operation. If the Gaming Commission determines that employment 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 and methods and activities in the conduct of Gaming, such applicant, including any Key Employee or Primary Management Official, shall be denied a Gaming License and Gaming Operations shall not employ that Person in a position that requires a Gaming License under this Ordinance.

**Annotation:** NP2008-05 added "licensing and" in the first sentence. NP2008-05 also added "such Person shall be denied a Gaming License" in the second sentence and replaced "key employee and primary management position" with "position that requires a Gaming License under this Ordinance."

#### 14.5.8. Notice to Applicants.

- 14.5.8.1 Privacy Act Notice. The following notices shall be placed on the license application form for each Gaming Employee, including Key Employees and Primary Management Officials, required to be licensed under this Ordinance before that form is filled out by an

applicant or the applicant must sign a statement that contains the foregoing Privacy Act notice and consent to the routine uses described in that notice:

**Annotation:** NP2008-05 replaced "a Key Employee or a Primary Management Official" with "each Gaming employee required to be licensed under this Ordinance."

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.A. 2701 *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official 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.

14.5.8.2 **False Statement Notice.** The Commission shall require each applicant seeking employment with the Gaming Enterprise to sign and submit a notice regarding false statements on an application form as required by IGRA.

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.)

14.5.9. **Background Investigations.** The Gaming Commission shall require from each applicant for a Gaming License, including those applying as a Primary Management Official or Key Employee, 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) Currently and for the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers' license numbers;

- (3) The names and current addresses of at least three (3) 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 felony, including those for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within (10) years of the date of the application and is not otherwise listed pursuant to paragraph (8) or (9) of this subsection, the criminal charge, 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 Gaming Commission, its designee, or the Nambé Gaming Manager deems relevant;
- (14) Fingerprints consistent with procedures adopted by the Gaming Commission according to 25 C.F.R. § 522.2;

- (15) Consent to Nambe Tribal Court jurisdiction and compliance with applicable law, including Nambe laws without regard to principles of conflict of laws. By submitting the application, the applicant agrees to comply with all of the laws, rules and regulations of the Pueblo of Nambe and expressly consents to the jurisdiction of the Nambe Tribal Court for any action that may arise while on Nambe Lands. Nambe and the Gaming Commission reserve unto themselves the right to seek any available remedy whether provided in this Ordinance or not.

**Annotation:** NP2008-05 replaced "Pueblo shall request" with "Nambé Pueblo Gaming Commission shall require" in the introductory sentence of this section. NP2008-05 added the first sentence to paragraph 8.

- 14.5.10. **Sufficient Investigation.** The Gaming Commission, through appropriate law enforcement, its agents, or other agents, shall conduct a background investigation sufficient to make a determination under subsection 14.5.7.2 above. In conducting a background investigation, the Gaming Commission or its agent shall promise to keep confidential the identity of each Person interviewed in the course of the investigation.

**Annotation:** 2015 restatement supplied the heading.

- 14.5.10.1 **Background Investigative Report.** Pursuant to the procedures set out in subsection 14.5.7.1 of this section, and before issuing a Gaming License to a Key Employee or Primary Management Official, the Gaming Commission shall prepare, or cause to be prepared, and forward to the National Indian Gaming Commission a background investigative report on each applicant, including Key Employees and Primary Management Officials. An investigative report shall include all of the following:

- (1) Steps taken in conducting a background investigation;
- (2) Results obtained;
- (3) Conclusions reached; and
- (4) The basis for those conclusions.

- 14.5.10.2 **Procedure for Fingerprint Submissions.** The Commission is authorized to negotiate and enter into an agreement with the NIGC or a State or federal law enforcement agency for the purpose of processing fingerprint submissions to obtain criminal history record information ("CHRI") of Persons required to be licensed pursuant to this Ordinance and principals of Gaming Vendor applicants required to be licensed under this Ordinance.

The Commission, or other person designated by the Commission in writing, is responsible for obtaining fingerprints of applicants for

licenses, including principals of Gaming Vendor applicants. The Commission is also authorized to negotiate and enter into an agreement with a tribal, State or federal law enforcement agency to take such fingerprints. Such law enforcement agency shall designate an individual for the purpose of communicating with the Commission and the NIGC regarding the taking of fingerprints.

The Commission may impose a fee sufficient to cover the cost of the processing of the fingerprint submissions.

- 14.5.10.3 Procedure for Processing Fingerprint Submissions. Upon receipt of a completed application for a license and the payment arrangement of any required fees, the Commission or other designated entity, is authorized to obtain fingerprints. The Commission, or other designated entity, shall capture the applicant's fingerprints on an established live scan fingerprint processing machine. After obtaining the applicant's fingerprints, the Commission, or other designated entity, shall electronically submit the scans directly to the NIGC via Virtual Private Network for an FBI fingerprint check.

The Commission, or other designated entity, shall also send to the NIGC a check in an amount sufficient to cover the cost of processing each applicant's fingerprint submission.

- 14.5.10.4 Criminal History Record Information. The Commission, or other person designated by the Commission, may use the CHRI for the purpose of making a Suitability Determination and any other lawful purpose permitted by an agreement with the NIGC or a State or federal law enforcement agency. The Commission shall abide by all conditions or limitations imposed by such agreement on the release, dissemination or use of the CHRI. The Commission shall further ensure that the CHRI is restricted to the personnel directly involved in the licensing deliberations. The Commission shall maintain records of the identities of all personnel receiving access to the CHRI and shall furnish such records to the NIGC upon request.

- 14.5.10.5 Applications Retained. With respect to Key Employees and Primary Management Officials, the Gaming Commission shall retain applications for licensing, investigative reports, and eligibility determination for inspection by the chairman of the National Indian Gaming Commission or designee for no less than three (3) years, from the date of termination of employment.

14.5.11. Suitability Determination. Upon receipt of the background investigative report and CHRI information, the Commission shall apply the Licensing Standards as defined in this Ordinance and as interpreted by the Regulations, to each applicant. In general, the Commission shall review a person's prior activities, criminal record, if any, reputation, habits and association to make a finding concerning the eligibility of an applicant, including, but not limited to an applicant for a Key Employee or Primary Management Official for employment in a gaming operation. .

14.5.11.1 Whenever the Gaming Commission is required by federal or tribal law or regulations to provide to the National Indian Gaming Commission any information, document or notice relating to the licensing of any Key Employee or Primary Management Official of the Gaming Enterprise, such information, document or notice shall be made available for inspection by the State Gaming Representative. The State Gaming Representative shall be entitled to the same right to request additional information concerning an applicant licensee, to comment on the proposed licensing of any applicant licensee, and to supply the Gaming Commission with additional information concerning any applicant licensee, as is enjoyed by the Commission.

14.5.11.2 Upon written request by the State to the Tribe, the Gaming Commission will provide information on Primary Management Officials, Key Employees and suppliers, sufficient to allow the State to conduct its own background investigations, as it may deem necessary, so that it may make an independent determination as to the suitability of such individuals, consistent with the standards set forth in Section 5 of the Tribal-State Gaming Compact. The Gaming Commission shall consider any information or recommendations provided to it by the State as to any such person or entity, but the Gaming Enterprise or the Gaming Commission shall have the final say with respect to the hiring or licensing of any such person or entity.

14.5.12. Application Denied. If the Gaming 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 and methods and activities in the conduct of gaming, the Gaming Commission shall not license that applicant, and the Gaming Commission shall proceed with denying the application. If the Gaming Commission denies the application, the Gaming Commission shall give written notice to the applicant and to the Gaming Enterprise informing them of the action, setting forth the grounds for the action, and revoking any temporary license. The initial decision to deny a license is not reviewable. The denial of an application to renew a license is reviewable by Tribal Court.

If a license is not issued to an applicant, the Gaming Commission:

- (1) Shall notify the National Indian Gaming Commission; and
- (2) Shall forward copies of its Notice of Results and Eligibility Determination to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

**Annotation:** 2015 restatement supplied the heading.

14.5.13. Granting a Gaming License.

14.5.13.1 Generally, except for Key Employees and Primary Management Officials, if the Gaming Commission determines that the licensure of the applicant does not pose a threat to the public interest or to the effective regulation of gaming, or does not create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Gaming Commission may license that applicant. The Gaming Commission shall issue a license to the applicant within five (5) business days after approval by the Gaming Commission, at which time the temporary license (if any) shall expire, and the licensee must immediately surrender the temporary license to the Gaming Commission.

14.5.13.2 For Key Employees and Primary Management Officials only, if the Gaming Commission determines that the licensure of the applicant does not pose a threat to the public interest or to the effective regulation of gaming, or does not create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Gaming Commission may issue or maintain a temporary license for a stated period of time, not to exceed 90 days from the date of employment.

- (1) The issuance of a temporary license signals the Key Employee's or Primary Management Official's permission to begin work for the Gaming Enterprise. When a Key Employee or Primary Management Official begins work at the Gaming Enterprise, the Gaming Commission shall maintain a complete application file containing the information listed under 14.5.9 of this Ordinance.
- (2) Before issuing a Gaming License to a Key Employee or Primary Management Official, the Gaming Commission shall create and maintain a background investigation report consistent with 14.5.10.1 of this Ordinance.



- (3) Within 60 days after the Key Employee or Primary Management Official begins work, but before the Gaming Commission issues a Gaming License, the Gaming Commission shall submit a Notice of Results of the applicant's background investigation to the NIGC. As noted elsewhere, the issuance of a temporary license signals the Key Employee's or Primary Management Official's permission to begin work for the Gaming Enterprise. The Notice of Results shall contain:
- (a) Applicant's name, date of birth, and social security number;
  - (b) Date on which applicant began work as a Key Employee or Primary Management Official;
  - (c) A summary of the information presented in the background investigative report, which shall at a minimum include a listing of:
    - 1. Licenses that have previously been denied;
    - 2. Gaming licenses that have been revoked, even if subsequently reinstated;
    - 3. Every known criminal charge brought against the applicant within the last 10 years of the date of application; and
    - 4. Every felony of which the applicant has been convicted or any ongoing prosecution.
  - (d) a copy of the suitability or eligibility determination.
- (4) After the Gaming Commission has provided a Notice of Results of the background check to NIGC, the Gaming Commission may issue a license to the Key Employee or Primary Management Official.
- (5) Upon receipt of a Notice of Results for a Key Employee or Primary Management Official, the NIGC has 30 days to request additional information from the Gaming Commission concerning the applicant or licensee and to object.
- (6) If, within a thirty (30) day period after the National Indian Gaming Commission receives a Notice of Results, the National Indian Gaming Commission notifies the Gaming Commission 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 Gaming Commission may issue a license to such applicant, at which time the temporary license (if any) shall expire.

- (7) If, within the thirty (30) day period described above, the NIGC Chairman requests additional information concerning a Key Employee or Primary Management Official who is the subject of the Notice of Results, the Gaming Commission shall respond to such request for additional information. Such a request shall extend the thirty (30) day period under paragraph (e) of this section until the Chairman or designee of the National Indian Gaming Commission receives the additional information.
- (8) If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Gaming Commission with a statement itemizing objections to the issuance of a license to a Key Employee or to a Primary Management Official, the Gaming Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. If the Gaming Commission has not issued a license, the Gaming Commission shall make the final decision whether to issue a Gaming License to such applicant. If the Gaming Commission has already issued a Gaming License before receiving NIGC's statement of objections, then the Gaming Commission shall provide a notice and hearing to the licensee as provided under Section 14.5.14 of this Ordinance.
- (9) Within thirty (30) days after the issuance of a license to a Key Employee or Primary Management Official, the Gaming Commission shall notify the NIGC of its issuance.

#### 14.5.14. License Suspension and Revocation.

- 14.5.14.1. If, after the issuance of a Gaming License to a Key Employee or Primary Management Official, the NIGC informs the Gaming Commission, pursuant to Section 14.5.13(8) of this Ordinance, that a Key Employee or a Primary Management Official is not eligible for a license, the Gaming Commission shall immediately suspend the license and shall provide the licensee with written notice of suspension and proposed revocation. The Gaming Commission shall notify the licensee of a time and a place for a hearing on the

proposed revocation of a license pursuant to this Ordinance. A right to a hearing under this part shall vest only upon receipt of a license granted under this Ordinance.

14.5.14.2. If, after the issuance of a Gaming License, the Gaming Commission receives or obtains reliable information from any source other than the NIGC indicating that any licensee, especially a Key Employee or a Primary Management Official is not eligible for a license under subsection 14.5.7.2. above, the Gaming Commission shall reopen the background investigation and notify the licensee of the proposed suspension and provide an opportunity to address the information received or basis for suspension. The background investigation shall be limited to the information received or basis for suspension with the intent of verifying the truthfulness of the information received. The Gaming Commission may promulgate regulations for reopening background investigations. If, after the investigation, the Gaming Commission finds sufficient evidence that a licensee is no longer suitable for licensure based on the licensing standards and conditions imposed on the license, the Gaming Commission shall suspend such Gaming License and shall notify the Licensee in writing of the suspension and the proposed revocation.

14.5.14.3. The Nambé Gaming Commission shall notify the Licensee of a time and a place for a hearing on the proposed revocation of a Gaming License pursuant to 14.5.14.1 of this Ordinance or proposed suspension and revocation of a Gaming License pursuant to 14.5.14.2 of this Ordinance. The notice shall identify the information received or basis for suspension or proposed suspension and explain why the Gaming Commission believes that the licensee is no longer suitable for licensure based on the license standards and/or conditions imposed on licensing. The notice of suspension or proposed suspension and revocation shall contain sufficient factual allegations with a citation to the alleged violations. The Gaming Commission shall adopt procedural regulations to govern the procedures to be followed in administrative hearings pursuant to this section. At a minimum, the regulations shall provide:

- (1) For the hearings to be public;
- (2) Procedures for discovery;
- (3) Assurance that procedural due process requirements are satisfied;

(4) For the maintenance of a record of the hearing proceedings and assessment of costs of any transcription of testimony that is required for judicial review purposes; and

(5) For the hearing to be held on Pueblo lands.

Such regulations may also govern notices, delegation of authority to hear a matter, hearing procedures, and any other conduct or activities reasonably related to meet the intent of this Ordinance.

14.5.14.4. After a suspension and/or revocation hearing, the Gaming Commission shall decide to suspend, revoke, place conditions or limitations on, or reinstate a Gaming License. The Gaming Commission shall issue a written decision supported with findings of fact and conclusions of law. The Gaming Commission shall decide whether the licensee's license shall remain suspended or be suspended for a period of time not to exceed 30 days, be revoked, or be permitted to retain a license subject to conditions or limitations (also referred to as a "conditional license"), or be reinstated. The written decision shall be issued not more than fifteen (15) days after the hearing and shall be mailed by certified mail, return receipt requested, to the licensee, and the Gaming Enterprise. The effective date of the decision of the Gaming Commission made under this section is the date the decision is received by the aggrieved party as reflected on the return receipt ("Effective Date"). The Nambé Gaming Commission shall notify the National Indian Gaming Commission of its decision concerning each Key Employee or Primary Management Official within 45 days of receiving notification from the NIGC that a Key Employee or Primary Management Official is not eligible for a license or employment pursuant to Section 14.5.14.1 of this Ordinance.

14.5.14.5. Any Gaming License may be suspended, revoked, or be placed with conditions or limitations and shall be done for cause and supported by substantial evidence in the whole record.

14.5.14.6. The decision of the Gaming Commission revoking a Gaming License may be appealed to the Tribal Court. Written notice of the appeal must be filed with the Tribal Court and served on the Gaming Commission within ten (10) days of the Gaming Commission's decision. The Tribal Court shall decide the appeal based on the record before the Commission, and shall state in writing the reasons for its decision. The Tribal Court shall not take new evidence, unless the party offering new evidence shows that such evidence is relevant and material to the issues on appeal and

was unavailable to the party during the proceedings before the Gaming Commission. The Tribal Court shall base its decision on the whole record. The Tribal Court may send any appeal back to the Gaming Commission for further fact finding or reconsideration or both. An action of the Gaming Commission shall not be reversed unless it is arbitrary or capricious, an abuse of discretion, not supported by substantial evidence in the record, outside the scope of the Gaming Commission's authority, or otherwise contrary to law.

- 14.5.15. Cost of Investigations. Gaming Employees, including Key Employees and Primary Management Officials, and contractors that require a background investigation pursuant to IGRA, or in the judgment of the Gaming Commission, shall pay the full cost of such investigations.
- 14.5.16. License Fees. The Gaming Commission shall set a reasonable fee for processing each Gaming License application. A current license fee schedule shall be available from the Gaming Commission upon request.
- 14.5.17. Temporary License. The Gaming Commission through its Chair or Executive Director may issue a temporary Gaming License to individuals who have completed a notarized Nambé Gaming License application and a notarized Release of Information form, except where grounds sufficient to disqualify the applicant are apparent on the Gaming License application or preliminary background investigation. For Key Employees and Primary Management Officials, a preliminary background investigation shall be conducted by the Gaming 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 ninety (90) days, or five (5) days after no objections letter from the NIGC have all been provided to the Gaming Commission, whichever the Gaming Commission determines is in the best interest of Nambé gaming, unless extended pursuant to Section 14.5.5. A temporary license may be renewed, suspended or revoked by the Gaming Commission at any time, for cause. The suspension or revocation of a temporary license shall not be appealable to the Tribal Court and the decision of the Gaming Commission shall stand.

**Annotation:** NP2008-25 added "unless extended pursuant to Section [14.5.5.]" to the end of the fourth sentence.

- 14.5.18. Gaming Vendors - Licensing Providers of Gaming Equipment, Devices, or Supplies.
- 14.5.18.1. Required. The Gaming Commission shall have responsibility for licensing providers of Gaming Devices and supplies, including

those required by the Tribal-State Gaming Compact. The Gaming 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, to allow the Gaming Commission to make an informed decision.

All providers of supplies, services, and concessions with one or more contracts which in total exceed \$25,000 annually (except contracts for professional legal or accounting services) relating to Nambé Gaming shall be subject to licensure. The Gaming Commission shall also have authority to license a small vendor or Non-Gaming vendor if that is in the best interest of the Pueblo of Nambé.

14.5.18.2. Licensing Standards. The Gaming Commission will apply the same standards for the licensing of vendors as are applicable under this Ordinance for Gaming employee licenses, provided that Gaming Vendors shall also agree to the following:

(1) Agree, that as a condition of its employment, the applicant shall require all of its employees, subcontractors, or agents, who will be working on Pueblo lands on the applicant's behalf, to consent to the jurisdiction of Nambe Pueblo Tribal Court and to the laws, rules and regulations of the Nambe Pueblo. before any such employee, subcontractor or agent is permitted to enter Pueblo Lands, each such person shall separately sign an acknowledgement and consent with the Gaming Commission agreeing to comply with all of the laws, rules and regulations of Nambe Pueblo, and expressly consenting to the jurisdiction of the Nambe Pueblo Tribal Court for any action that may arise while on Pueblo Lands. Nambe Pueblo and the Gaming Commission reserve onto themselves the right to seek any available remedy whether provided in this Ordinance or not.

14.5.19. 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.

14.5.20. Vendor License Fee. Each Person applying to the Gaming Commission for a vendor's license shall pay a fee pursuant to a fee schedule established by the Gaming Commission.

#### 14.6. OPERATION OF GAMES.

##### 14.6.1. Inspections.

- 14.6.1.1. The premises where any Gaming is being held, operated and conducted shall at all times be open to inspection by the Nambé Gaming Commission and its Agents, Nambé Tribal Administration, Tribal Council, and upon authorization by the Governor or his designee, by the Nambé Accounting Manager, auditors, National Indian Gaming Commission representatives, and BIA Police Chief.
- 14.6.1.2. Inspection of cash and cash counting activities must take place in the presence of a member of the Nambé Gaming Commission, or with written authorization of the Governor or Nambé Gaming Commission.
- 14.6.1.3. The State Gaming Representative shall have access to inspect all aspects of the Gaming Operations as provided by the Tribal-State Gaming Compact.
  - (1) Any information, documents or communications provided to the State Gaming Representative, his agents or contractors, or to any other official, agency or entity of the State (all of which are collectively hereinafter referred to as "the State entities") by the Tribe, the Gaming Commission or the Gaming Enterprise, or prepared from information obtained from the Tribe, the Gaming Commission or the Gaming Enterprise, or any information, documents or communications provided to the Tribe, the Tribal Gaming Agency, or the Gaming Enterprise by any State entity, or prepared from information obtained from any State entity, under the provisions of this Compact or under the provisions of any Predecessor Agreement, are confidential. Any State entity that has received any information, documents or communications from the Tribe, the Gaming Commission or the Gaming Enterprise: i) may release or disclose the same only with the prior written consent of the Tribe or pursuant to a lawful court order after timely notice of the proceeding has been given to the Tribe; ii) shall maintain all such information, documents and communications in a secure place accessible only to authorized officials and employees of the State entity that has received the same; and iii) shall adopt procedures and regulations to protect the confidentiality of the information,

documents and communications provided by the Tribe, Gaming Commission or Gaming Enterprise.

(2) These prohibitions shall not be construed to prohibit:

- i) the furnishing of any information to a law enforcement or regulatory agency of the Federal Government;
- ii) the State from making known the names of persons, firms, or corporations conducting Class III Gaming pursuant to the terms of this Compact, locations at which such activities are conducted, or the dates on which such activities are conducted;
- iii) publishing the terms of this Compact;
- iv) disclosing information as necessary to audit, investigate, prosecute or arbitrate violations of this Compact or other applicable laws or to defend suits against the State;
- v) disclosures to other State agencies as required by State law, provided that the confidentiality provisions of this Section shall apply to the agencies receiving such information; and
- vi) complying with subpoenas or court orders issued by courts of competent jurisdiction.

(3) Notwithstanding the foregoing, the Tribe agrees that:

- i) the following documents and information may be released by a State entity to the public: the Gaming Ordinance and regulations of the Tribe or Tribal Gaming Agency; official rulings of the Gaming Commission in matters not subject to a confidentiality order imposed by the Agency; other information and documents of the Gaming Commission or the Gaming Enterprise ordinarily available to the public; quarterly Net Win and Adjusted Net Win figures used as the basis for computation of the Tribe's revenue sharing payment under the provisions of Section 11 of this Compact; information that exists as a result of the requirements in Section 4(B)(16); and



correspondence between the Tribe or a tribal entity and a State entity, unless such correspondence is specifically labeled "Confidential;"

- ii) a State entity may release to the public aggregate figures compiled by totaling comparable figures from the annual financial statements of all of the New Mexico gaming tribes; and
- iii) the report of the annual audit of the Gaming Enterprise that is provided by the Tribe to the State Gaming Representative shall be available to the public to the same extent that similar information that is required to be provided to the State by non-Indian gaming entities is available to the public, pursuant to the provisions of applicable law and the policies and regulations of the Gaming Control Board, at the time the request for the report of the annual audit is made.

#### 14.6.2. Bingo Operation.

- 14.6.2.1. The equipment used in the playing of bingo and the method of play, shall be such that each card shall have an equal opportunity to be a winner. The objects or balls to be drawn shall be essentially the same as to size, shape, weight, balance and all other characteristics that may influence their selection. All objects or balls shall be present in the receptacle before each game is begun. All numbers announced shall be plainly and clearly audible or visible to all the players present. Where more than one room is used for any one game, all numbers announced shall be plainly audible or visible to the players in the room and also audible or visible to the players in the other room or rooms. The cards or sheets of the players shall be part of a deck, group or series of cards, and which deck, group or series shall not be so prepared or arranged as to prefer any card.
- 14.6.2.2. The receptacle, the caller and the Person removing the objects or balls from the receptacle must be visible to all players at all times except where more than one room is used for any one game wherein the provisions of subsection 14.6.4.1. prevail.
- 14.6.2.3. The particular arrangement of numbers required to be covered in order to win the game and the amount of the prize shall be clearly and audibly or visibly described and announced to the players immediately before each game is begun.

14.6.2.4. Any players shall be entitled to call for a verification of all numbers drawn at the time a winner is determined.

14.6.2.5. In the event that more than one Person is a winner in any game, the prize for such game shall be split evenly (to the closest \$.25) between the winners.

14.6.3. Applicability. All provisions limiting and controlling the conduct of Tribal Bingo Games are applicable to installations and use of pull-tab dispensing machines and electronic gaming machines, and other Gaming allowed by this Ordinance. This Ordinance does not apply to community/charity/fundraiser bingo games.

14.6.4. Security. Each Gaming Site shall have adequate security, which at a minimum shall require at least two (2) security people on duty at all times during operating hours and one (1) security person during non gaming hours. Each Class III Gaming Site shall have an electronic and video surveillance system installed and operating. Surveillance footage shall be maintained for a reasonable period of time as approved by the Gaming Commission. The security plan for the Gaming Operation shall be reviewed with and approved by the Nambé Gaming Commission at least once each year.

#### 14.7. SCOPE OF GAMING.

14.7.1. Games Permitted. The Pueblo of Nambé permits the following kinds of public Gaming:

14.7.1.1. Bingo, Pull Tabs, etc. The Pueblo of Nambé hereby allows bingo or lotto, pull tabs, punch boards, tip jars, instant bingo and games similar to bingo, and non-banking card games considered as Class II under federal law, as regulated by this Ordinance.

14.7.1.2. Casino gaming, which includes, but is not limited to:

(1) Any house banked game, including but not limited to:

- (a) Card games such as baccarat, chemin de fer, black jack (21) and poker;
- (b) Casino games such as roulette, craps and keno;
- (c) Slot machines.

(2) Lotteries.

14.7.2. Tribal-State Gaming Compact. Gaming permitted under this Ordinance shall be restricted by the Tribal-State Gaming Compact signed by the Pueblo of Nambé

and signed, deemed or otherwise approved by the Secretary of the Interior, pursuant to the 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.

- 14.7.3. Scope of Gaming. The Gaming Enterprise may conduct only those gaming activities which may lawfully be carried on by the Pueblo of Nambé under applicable provisions of federal law including, but not limited to, the IGRA, subject to any limitations which may be imposed by the Compact and this Ordinance.

#### 14.8. PROHIBITED ACTS; JURISDICTION.

##### 14.8.1. Prohibited Acts and Penalties.

14.8.1.1. Prohibited Acts. It shall be a violation of this Ordinance for any Person to perform prohibited acts including, but not limited to:

- (1) The conduct or participation in any Gaming activity on Pueblo Lands other than games conducted at a licensed Gaming Site.
- (2) Receiving, distributing, applying or diverting any property, funds, proceeds, or other assets of a Gaming Operation to the benefit of any Person except as authorized by this Ordinance, the Tribal-State Gaming Compact, or applicable law.
- (3) Any intended act, such as tampering, with any Gaming Device or Gaming Equipment used in the conduct of any Gaming activity with the intent to cause any Person to win or lose any wager other than in accordance with the publicly-announced and approved rules of a Gaming Operation.
- (4) Altering or misrepresenting the outcome of other events on which wagers have been made after the outcome is made sure but before it is revealed to the players.
- (5) Placing, increasing or decreasing a bet or determining the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any events that affects the outcome of the game or which is subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or

determining the course of play contingent upon that event or outcome.

- (6) Claiming, collecting or taking, or attempting to claim, collect or take, money or anything of value in or from a Gaming Device or Gaming Equipment, with intent to defraud, without having made a wager thereon, or to claim, collect or take an amount greater than the amount actually won.
- (7) Placing or increasing a wager or bet after acquiring knowledge of the outcome of the game or other event which is subject to the bet, including past-posting and pressing bets.
- (8) Reducing the amount wagered or canceling the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets.
- (9) Manipulating, with the intent to cheat, any Gaming Device or Gaming Equipment, including, but not limited to manipulating a Gaming Device or Gaming Equipment with knowledge that the manipulation affects the outcome of such device or equipment.
- (10) Knowingly using illegal or unapproved coins or tokens, or using a coin not of the same denomination as the coin intended to be used in the Gaming Device or Gaming Equipment.
- (11) Possessing, with the intent to use, any device to assist in projecting the outcome of a game, in keeping track of cards played, in analyzing the probability of the occurrence of an event relating to Gaming activity, or in analyzing the strategy for playing or betting to be used in the Gaming activity.
- (12) Using any device or means to cheat, or to possess any such device or means while at a Gaming Premise.
- (13) Threats, threatening behavior, or acts of violence against the Gaming Commission, Gaming Enterprise employees, visitors, or an individual on the Gaming Premises where Gaming Commission and Gaming Enterprise employees are working. This includes physical attacks, verbal or

physical threats, destruction of property, verbal or physical intimidation, or abusive language.

- (14) Members of the Tribal Council, Tribal Administration, Gaming Commission, Gaming Enterprise Board, and employees of each, including their immediate families, shall not receive any personal compensation, reimbursement or payment from any person doing or wishing to do business with the Pueblo of Nambé 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 Nambé and the offending persons shall be prosecuted to the fullest extent possible, under all applicable laws for accepting a bribe. The Gaming 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.

- 14.8.1.2. Criminal Penalties. Any Person who violates any provision of this Ordinance, or any rule or regulation authorized thereunder, shall be guilty of a criminal offense punishable by a fine and not more than five hundred dollars (\$500.00), or by imprisonment for not more than six (6) months, or both. No penalty set forth herein shall conflict with federal law regarding the imprisonment of non-Indians.
- 14.8.1.3. Civil Penalties. Any Person who violates any provision of this Ordinance, or any rule or regulation authorized thereunder, shall be liable for a civil penalty not to exceed five hundred dollars (\$500.00), plus costs, for each violation.
- 14.8.1.4 Non-Indians. Immediately upon becoming aware of any such suspected crime by a non-Indian, the Gaming Enterprise or the Gaming Commission shall notify the State Attorney General and the District Attorney for the district in which the alleged crime occurred, supplying all particulars available to the tribal entity at the time. The Tribe agrees that its law enforcement and gaming agencies shall perform such additional investigation or take such other steps in furtherance of the investigation and prosecution of the violation as the district attorney may reasonably request, and otherwise cooperate fully with the district attorney and any state law enforcement agencies with respect to the matter, but once notice of a suspected violation has been given to the District

Attorney, the matter shall be deemed to be under the jurisdiction of the State; provided, however, that in the event of emergency circumstances involving a possible violation, the Tribe and its constituent agencies shall have the discretion to act as they see fit, and to call upon such other agencies or entities as they deem reasonable or necessary, in order to protect against any immediate threat to lives or property. The State may, in its discretion, refer the matter to federal authorities, but it shall notify the Gaming Commission upon doing so.

- 14.8.2. Jurisdiction. The Nambé Gaming 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 sections 14.8.1.2 and 14.8.1.3 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 Tribal-State Gaming Compact, any applicable present or future Act of Congress or any applicable federal court decision. The Gaming Commission shall be entitled to recover its costs, including reasonable attorneys' fees in addition to any penalty.

#### 14.9. SEVERABILITY AND AMENDMENT.

- 14.9.1. Severability. 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.
- 14.9.2. Amendment. The Tribal Council may amend this Gaming Ordinance at any time. NIGC approval is required for any amendment to take effect.

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# Appendix 1

1418065

Plotted by R  
 Date : 9/19/97

DEPARTMENT OF THE INTERIOR  
 BUREAU OF INDIAN AFFAIRS  
 Albuquerque Area Office  
 Land Titles & Records Office

**T I T L E   S T A T U S   P L A T**

☐ Surveyed   ☒ Projected Sect.   Doc No. 708-NEWLAND  
 (Unsurveyed)

Sec. 28   Tsp. 19N   Rng. 9E

TRACT TRIBAL

ACREAGE 48.29

COUNTY SANTA FE

LAND REMARKS: M&B IN N/2

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9	9		
NE			

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E	W	W	E
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NW			

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SW			

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