



APR 29 2004

Harold Candelaria, Governor
Pueblo of San Felipe
P.O. Box 4339
San Felipe Pueblo, NM 87001

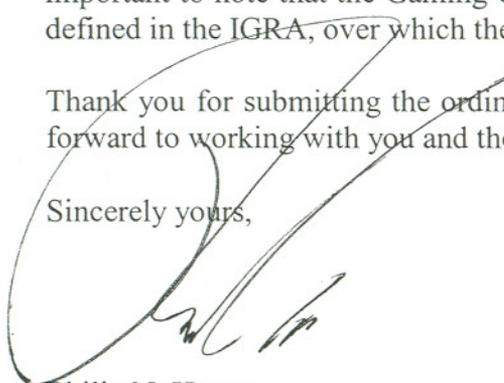
RE: Third Amended and Restated Gaming Ordinance of the Pueblo of San Felipe

Dear Governor Candelaria:

This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve the Third Amended and Restated Gaming Ordinance of the Pueblo of San Felipe (Gaming Ordinance), approved by Tribal Council Resolution No. 2004-04. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA). It is important to note that the Gaming Ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction.

Thank you for submitting the ordinance for review and approval. The NIGC staff and I look forward to working with you and the Pueblo of San Felipe on future gaming issues.

Sincerely yours,



Philip N. Hogen
Chairman

P.O. Box 4339
San Felipe Pueblo, NM 87001



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Office of the Governor

MAR 19 2004

TRIBAL COUNCIL RESOLUTION No. 2004 – 04

AUTHORIZATION TO AMEND AND RESTATE, AND SUBMIT THE PUEBLO OF SAN FELIPE GAMING ORDINANCE

At a duly called meeting of the Pueblo of San Felipe Tribal Council, the following resolution was adopted:

WHEREAS, the Pueblo of San Felipe is a sovereign government and a federally recognized Indian tribe existing and acting pursuant to its inherent and retained sovereignty; and,

WHEREAS, the Pueblo of San Felipe is governed by a traditional Tribal Council and is empowered to act in all matters that concern the general welfare of San Felipe Pueblo tribal members; and,

WHERE AS, the Pueblo of San Felipe Tribal Council on July 21, 1994 adopted Tribal Resolution No. 94-22, ratifying the San Felipe Class II and Class III Gaming Ordinance ("the Gaming Ordinance"), which set the terms for the Class II and Class III gaming operations on Pueblo lands and was duly approved by the National Indian Gaming Commission (NIGC); and,

WHERE AS, the Tribal Council passed Resolution 2002-34 adopting the latest amendments to the Gaming Ordinance on November 27, 2002 to comply with the changes due to the 2001 State Gaming Compact and subsequently was approved by the NIGC, and,

WHERE AS, the Pueblo of San Felipe Tribal Council believes it is in the best interest of the Pueblo to amend the Gaming Ordinance to support an efficient and cost effective Regulatory Gaming Commission Operation.

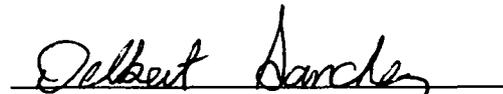
NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Pueblo of San Felipe Tribal Council hereby adopts, enacts, amends, and restates the Pueblo of San Felipe Gaming Ordinance ("Gaming Ordinance"), in the form attached hereto.
2. The amended and restated Gaming Ordinance shall become effective upon approval by the Tribal Council and, to the extent required, by the NIGC.
3. Upon taking effect and upon becoming effective, and only then, shall operate to repeal all prior inconsistent laws, including but not limited to the San Felipe Class II and Class III Gaming Ordinance, No. 94-22, adopted by the Council on July 21, 1994, and the latest Amended and Restated Gaming Ordinance adopted by the Tribal Council through Resolution 2002-34 on November 27, 2002.
4. The Tribal Administration is directed to submit this Resolution and the attached amended and restated Gaming Ordinance adopted herein to the National Indian Gaming Commission for approval of these amendments, as required by IGRA, 25 U.S.C. §§ 2710(b)1(B) and 2710(d)(1)(A)(iii).
5. Pursuant to Section 4(B) of the Tribal-State Class III Gaming Compact between the Pueblo of San Felipe and the State of New Mexico ("the Compact"), the Pueblo's Gaming Regulatory Commission is directed to submit the attached amended and restated Gaming Ordinance to the State gaming Representative within thirty (30) days after its approval by the National Indian Gaming Commission.
5. In connection with Section 24 of the amended and restated Gaming Ordinance and any other provision required by the Compact, the Tribal Council hereby explicitly reserves any and all rights of the Pueblo to challenge the lawfulness of any duties, requirements, responsibilities, or limitations imposed on the Pueblo by the 2001 Gaming Compact regarding Class III gaming conducted by the Pueblo, and any duties, responsibilities, rights, and powers granted to the State of New Mexico by the 2001 Gaming Compact regarding Class III gaming conducted by the Pueblo.

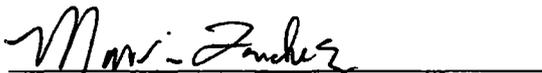
CERTIFICATION

We, the undersigned, respectively as Governor and Lt. Governor, certify that the foregoing resolution was adopted at a duly called meeting of the San Felipe Tribal Council held on the 12th day of February 2004, by a vote of 25 in favor and 0 opposed.


Governor, Harold Candelaria


Lt. Governor Delbert Sanchez

ATTEST:


Tribal Council Member


Tribal Council Member

Ordinance No. SFG3-04

MAR 19 2005

THIRD AMENDED AND RESTATED
GAMING ORDINANCE

REVIEWED AND RATIFIED
AT A DULY CALLED SAN FELIPE TRIBAL COUNCIL MEETING
ON
FEBRUARY 12, 2004

SAN FELIPE PUEBLO

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SAN FELIPE PUEBLO THIRD AMENDED AND RESTATED GAMING ORDINANCE

WHEREAS, The San Felipe Pueblo ("the Pueblo") is a duly recognized sovereign Indian tribe whose traditional law empowers the Tribal Council to enact ordinances;

WHEREAS, the San Felipe Pueblo Gaming Ordinance adopted July 21, 1994 contained the minimum requirements under federal law for a tribal gaming ordinance, which Ordinance was approved by the National Indian Gaming Commission on November 17, 1994;

WHEREAS, the Pueblo adopted the San Felipe Pueblo Amended and Restated Gaming Ordinance, dated July 20, 1999, amending the San Felipe Pueblo Class Gaming Ordinance adopted July 21, 1994;

WHEREAS, the San Felipe Pueblo Amended and Restated Gaming Ordinance adopted July 20, 1999 was disapproved by the National Indian Gaming Commission on January 21, 2000;

WHEREAS, the Pueblo of San Felipe entered into a Tribal-State Compact with the State of New Mexico on October 12, 2001 ("2001 Compact"), which Compact became effective on December 14, 2001 (66 *Federal Register* 64856); and

WHEREAS, to incorporate the National Indian Gaming Commission requirements, the 2001 Compact provisions, and the Pueblo's experience with gaming, the Pueblo of San Felipe approved its Second Amended and Restated Gaming Ordinance on November 27, 2002, which Ordinance was approved by the National Indian Gaming Commission; and

WHEREAS, the Pueblo now wishes to make limited amendments to the Gaming Ordinance to reduce the number of commissioners on the San Felipe Pueblo Gaming Regulatory Commission from five to three to streamline regulatory operations.

NOW THEREFORE BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE SAN FELIPE PUEBLO:

SECTION 1. NAME.

The name of this Ordinance shall be the "San Felipe Pueblo Third Amended and Restated Gaming Ordinance."

SECTION 2. DEFINITIONS.

The following words shall have the following meanings under this Ordinance, unless the context otherwise requires.

A. **"Bingo"** means:

1. The game of chance commonly known as "bingo" or lotto (whether or not electronic, computer, or other technologic aids are used in connection) when players:

- a. Play for prizes with cards bearing numbers or other designations;
- b. Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
- c. Win the game by being the first person to cover a designated pattern on such cards; and,

2. If played in the same location as bingo, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo.

B. **"Class II gaming"** means:

1. "Bingo," as defined inclusively above, or lotto:

2. Nonbanking card games that:

- a. New Mexico law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
- b. Players play in conformity with New Mexico laws and regulations (if any) concerning hours, periods of operation, and limitations on wagers and pot sizes; and

3. Individually owned Class II gaming operations that were operating on September 1, 1986, and

- a. That meet the requirements of 25 U.S.C. 2710(b)(4)(B) ;
- b. Where the nature and scope of the game remains as it was on October 17, 1988; and,
- c. Where the ownership interest or interests are the same as on October 17, 1988.

C. **"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 parimutuel wagering including but not limited to wagering on horse racing, or jai alai; or
 4. Lotteries, in any form.

D. **"Commission"** means the San Felipe Pueblo Gaming Regulatory Commission authorized and governed by this Ordinance.

E. **"Games of Chance"** includes Class II and Class III gaming, but does not include social games played solely for prizes of minimal value, or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

F. **"Gaming Machine"** means any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine that, upon insertion of a coin, token, or similar object, or upon payment of any consideration, is available to play or operate a game, whether the payoff is made automatically from the Gaming Machine or in any other manner, but does not include a technological aid to a lawful Class II game.

G. **"Gaming Employee"** means a person connected directly with the conduct or management of Class II or III Gaming, or handling the proceeds thereof or handling any Gaming Machine, but "Gaming Employee" shall 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.

H. **"Gaming Enterprise"** means the San Felipe Pueblo Gaming Enterprise, a separately-chartered tribal enterprise created by Charter dated July 21, 1994, as amended from time to time, or any other tribal enterprise as the Tribal Council may in the future designate to conduct gaming on behalf of San Felipe Pueblo.

I. **"Gaming Enterprise Board"** means the Board of Directors of the San Felipe Pueblo Gaming Enterprise and the managing body of any such other tribal enterprise as the Tribal Council may in the future designate to conduct gaming on behalf of San Felipe Pueblo.

J. **"Gaming Establishment"** means San Felipe's Casino Hollywood and any other casino, bingo hall, or other operational branch of a Gaming Enterprise that the Tribal Council may in the future designate to operate Games of Chance.

K. **"Gaming Facility,"** for the purposes of this Ordinance, means a building, structure, or premises in which Class II and/or Class III gaming is conducted on the Reservation.

L. **"Gaming Ordinance" and "Ordinance"** mean this San Felipe Pueblo Third Amended and Restated Gaming Ordinance and any amendments thereto.

M. **"Gaming Services"** means the provision or sale of any gaming device, games of chance, cards, dice, coins, tokens, gaming related goods, poker tables, blackjack tables, equipment or any mechanical, electromechanical, electronic device, machine, including training and consulting services for table games, slots, cage, accounting, hard and soft count, surveillance, and management to the Pueblo, Gaming Enterprise, or Management Contractor in connection with the operation of gaming in a Gaming Facility.

N. **"General Manager"** means the Manager of gaming for a Gaming Enterprise or, if a Gaming Enterprise enters into a Management Contract, the chief Management Contractor shall be the General Manager.

O. **"Governor"** means the Governor of San Felipe Pueblo.

P. **"Gross receipts"** means receipts from the sale of shares, tickets, or rights in any manner connected with participation or the right to participate in any game of chance, including but not limited to, any admission fee or charge, the sale of merchandise, refreshments, souvenirs, services, equipment, or supplies, interest earned on deposits, and all other miscellaneous receipts.

Q. **"IGRA"** means the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168, as amended at any point in time.

R. **"Joint Powers Agreement"** means an agreement related to gaming and games of chance on the Reservation entered into with the state of New Mexico or any other New Mexico governmental entity under the New Mexico Joint Powers Agreements Act, § 11-1-1 to -7, N.M.S.A. 1978 (1994 Repl.).

S. **"Key Employee"** means:

1. A person who performs one or more of the following functions: Bingo caller; Counting room supervisor; Chief of security; Custodian of gaming supplies or cash; Floor

manager; Pit boss; Dealer; Croupier; Approver of credit; or Custodian of gambling devices including persons with access to cash and accounting records within such devices; and,

2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or

3. If not otherwise included, the four most highly compensated persons in a gaming operation.

T. **"License"** means a license duly issued by the San Felipe Pueblo Gaming Regulatory Commission to principals, primary management officials and key employees of any gaming enterprise conducted on the Reservation and to others pursuant to this Gaming Ordinance.

U. **"Licensee"** means any entity or person who has been duly licensed by the San Felipe Pueblo Gaming Regulatory Commission.

V. **"Management Contract"** means a contract within the meaning of IGRA, 25 U.S.C. §§ 2710(D) (9) and 2711, as defined in 25 C.F.R. Sec. 502.15: any contract, subcontract, or collateral agreement between the Pueblo (or a Gaming Enterprise) and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

W. **"Management Contractor"** means any person or entity that has entered into a Management Contract with the Gaming Enterprise Board.

X. **"Member of the Pueblo"** and **"Pueblo Member"** mean an enrolled member of the San Felipe Pueblo or any person who meets the eligibility requirements for enrollment under San Felipe Tribal law.

Y. **"National Indian Gaming Commission"** and **"NIGC"** mean the National Indian Gaming Commission established by the IGRA.

Z. **"Net revenues"** means gross gaming revenues of an Indian gaming operation less:

1. Amounts paid out as, or paid for, prizes; and

2. Total gaming-related operating expenses, including tribal taxes and excluding management fees.

AA. **"Net Win"** as defined in Section 11(C) of the 2001 Compact means the annual total amount wagered in a Class III Gaming Facility on all Gaming Machines less the following amounts:

1. The annual amount paid out in prizes, including the cost to the Pueblo of noncash prizes, won on Gaming Machines; and

2. The amount paid to the State by the Pueblo under the provisions of Section 4(E)(5) of the 2001 Compact;

3. The sum of two hundred seventy-five thousand dollars (\$275,000) per year as an amount representing tribal regulatory costs, which amount shall increase by three percent (3%) each year beginning on January 01, 2003.

BB. **"Person"** means an individual, trust, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other legal entity whatsoever.

CC. **"Premises"** means any room, hall, building, enclosure, or outdoor or other area used for the purpose of playing a Game of Chance.

DD. **"Primary Management Official"** means:

1. The person having management responsibility for a management contract;

2. Any person who has authority:

a. To hire and fire employees; or

b. To set up working policy for the gaming operation; or

3. The chief financial officer or other person who has financial management responsibility.

EE. **"Pueblo"** means the Pueblo of San Felipe.

FF. **"Reservation"** means the San Felipe Indian Pueblo lands and includes any lands title to which is held in trust by the United States for the benefit of the Pueblo of San Felipe or held by the Pueblo of San Felipe subject to a restriction by the United States against alienation, and over which lands the Pueblo of San Felipe exercises governmental power.

GG. **"Site License"** means a license duly issued by the San Felipe Pueblo Gaming Regulatory Commission for each Gaming Facility at each location at which games of chance are permitted to be conducted on the Reservation.

HH. **"State Gaming Representative"** means that person designated by New Mexico State law who will be responsible for actions of the state set out in the Tribal-State Compact.

II. **"Temporary License"** means a license for no longer than 90 days issued by the San Felipe Pueblo Gaming Regulatory Commission pursuant to the provisions of this Gaming Ordinance.

JJ. **"Tribal Council"** means the Tribal Council of San Felipe Pueblo, the governing body of the Pueblo.

KK. **"Tribal Court"** means the San Felipe Pueblo Tribal Court.

LL. **"Tribal-State Compact"** means any compact, including amendments thereto, entered into by the Pueblo and the State of New Mexico under Section 11(d) of the IGRA (25 U.S.C. § 2710(d)).

SECTION 3. Purposes.

The purposes of this Gaming Ordinance are:

- A. To make lawful and to regulate the operation, conduct, and playing of Games of Chance on the Reservation, so that such games are conducted in a fair and honest manner, affording patrons a fair chance to win in accordance with the nature of the games;
- B. To protect the integrity of all such gaming;
- C. To prevent improper or unlawful conduct in gaming; and
- D. To generate revenue to fund tribal governmental operations and programs that promote the health, education, and welfare of the Pueblo of San Felipe and its members and to promote tribal economic development.

SECTION 4. Interpretation.

This Gaming Ordinance is an exercise of the sovereign power of the Pueblo and shall be liberally construed for the accomplishment of its purposes and to comply with the Indian Gaming Regulatory Act and any applicable Tribal-State Compact.

SECTION 5. San Felipe Pueblo Gaming Enterprise.

All gaming conducted on behalf of the San Felipe Pueblo shall be operated by the San Felipe Gaming Enterprise, a separately-chartered tribal enterprise created by Charter dated July 21, 1994, as amended from time to time, or by any other tribal enterprise as the Tribal Council may in the future designate by duly adopted Resolution or Ordinance. A Gaming Enterprise shall conduct all gaming in compliance with this Gaming Ordinance, other applicable Pueblo law, the IGRA, any applicable Tribal-State Compact, and any regulations adopted pursuant thereto.

SECTION 6. Gaming Policy.

- A. **Games of Chance Prohibited.** No person may operate or conduct any Games of Chance

within the boundaries of the Reservation except in accordance with the provisions of this Gaming Ordinance.

B. Ownership of Gaming Enterprise. The Pueblo of San Felipe, acting through the Tribal Council and the Gaming Enterprise, an enterprise wholly owned by the Pueblo, shall have the sole proprietary interest in, and responsibility for, the operation and conduct of any Games of Chance operated or conducted on the Reservation.

C. Protection of Environment; Public Health and Safety. The Pueblo shall construct, maintain, and operate any Gaming Facility in a manner that adequately protects the environment and the public health and safety and in a manner that meets the requirements of Section 14(C) of this Ordinance.

D. Age Restrictions. No person under 21 years of age may participate in any Class III gaming on the Reservation, and no person under 21 years of age may be employed as a Gaming Employee, or be a key employee or primary management official of any gaming enterprise on the Reservation.

E. Persons Barred from Personal Participation in Gaming. None of the following persons serving in the following categories of employment or office may personally engage in gaming, play any Games of Chance, or win any prizes awarded by the Gaming Enterprise, in the Pueblo until 90 days after the termination of such employment or office:

1. Members of any Gaming Enterprise Board;
2. Members of the San Felipe Pueblo Gaming Regulatory Commission;
3. General Manager of any Gaming Enterprise;
4. Primary Management officials;
5. Employees of any Gaming Enterprise and the San Felipe Pueblo Gaming Regulatory Commission; *provided*, however, each of the Gaming Enterprise Board and the San Felipe Pueblo Gaming Regulatory Commission is authorized to exempt classes of its employees from the prohibition of this section.

SECTION 7. Class II and Class III Games Authorized.

A. Class II Games. A Gaming Enterprise shall have authority to establish, equip, operate and maintain Class II games on premises located at such places as the Tribal Council has designated or may designate.

B. Class III Games; Tribal-State Compact Required. No person may conduct Class III gaming on the Reservation unless there is either a Tribal-State Compact in effect or Secretarial

Procedures authorizing such Class III gaming. Once a Compact is in effect or the Secretary of the Interior has established procedures for Class III gaming on the Reservation in place of a Compact, a Gaming Enterprise shall have authority to establish, equip, operate, and maintain a Class III gaming operation on premises located at such places on the Reservation as the Tribal Council has designated or may designate.

C. **Designation of Manager in Charge.** The General Manager shall designate a primary management official to be the manager in charge on each day during which any gaming activities are being conducted by a Gaming Enterprise. The manager in charge shall be primarily responsible for the operation and/or conduct of Class II gaming and/or Class III gaming on that day. The manager in charge must have obtained a license from the San Felipe Pueblo Gaming Regulatory Commission at least 5 days prior to the date on which such person is designated manager in charge. The manager in charge shall supervise all activities and shall be present on the premises continuously throughout the period during which gaming activities are being conducted and for a period of at least 1 hour after such activities have been concluded for the day. Where Class II or Class III gaming is conducted on a daily basis by a Gaming Enterprise, the Manager of the Day (MOD), or shift manager shall be the Manager in Charge in the absence of the General Manager, unless otherwise designated by the General Manager.

D. **Premises Open to San Felipe Pueblo Gaming Regulatory Commission.** All areas of any premises in which any Class II or Class III gaming is being operated or conducted, or where it is intended that a Class II or Class III gaming will be operated or conducted, shall at all times be open to inspection by the San Felipe Pueblo Gaming Regulatory Commission and its agents and employees, and, consistent with the terms of a Tribal-State Compact, the premises shall be open to the State Gaming Representative.

E. **Employees.** All persons who operate or conduct, or assist in operating or conducting, Class II or Class III gaming shall be employed by a Gaming Enterprise. All Gaming Enterprise employees shall wear a gaming license badge evidencing their names and the legend of the Gaming Enterprise.

F. **Qualification For Employment; Testing.** Employees of the Gaming Enterprise shall be of good moral character and, as a condition of their employment, shall agree to any lawful means of testing for truthfulness, at any time without prior notice, concerning the handling, collection and/or disbursement of gross receipts. A Gaming Enterprise shall not employ any person whose prior activities, criminal record if any, reputation, habits, or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the operation or conduct of gaming or the carrying on of business and financial arrangements incidental thereto. All Gaming Enterprise employees must consent to lawful drug and alcohol testing consistent with the regulations, policies, and procedures of the Gaming Enterprise and the San Felipe Pueblo Gaming Regulatory Commission. Agreement to undergo such testing is a condition of employment, and the Gaming Enterprise has the absolute right to refuse to employ, or to terminate existing employment, for refusal to agree to such testing.

G. Preference in Employment. Pueblo members must receive preference in employment and advancement if they meet the qualifications for employment with the Gaming Enterprise. Entry-level positions do not require a GED or high school diploma for employment.

H. Personnel Policies. A Gaming Enterprise must adopt written personnel policies that shall be provided to each employee. These personnel policies shall provide a formal grievance procedure, including appeal to persons of greater authority than the employee's immediate supervisor, and these policies shall provide for an employee's right to receive a written statement of reasons for dismissal in the event such employee is dismissed. Nothing in the personnel policies shall create or be deemed to create any vested right to continued employment.

I. Hiring and Training of Employees.

1. A Gaming Enterprise must provide sufficient training to all employees to enable them to perform their jobs properly.

2. A Gaming Enterprise shall, in addition, provide special management training programs for employees who are Pueblo Members, to enable Pueblo Members to become managers and supervisors in Class II and Class III gaming operated by the Gaming Enterprise. Such special management training programs shall include specific time lines indicating when a Pueblo Member who meets all training standards shall become eligible for a managerial or supervisory position. The expense of providing such special management training to Pueblo Members shall be a separately budgeted operating expense of the Gaming Enterprise.

SECTION 8. San Felipe Pueblo Gaming Regulatory Commission.

A. Establishment of San Felipe Pueblo Gaming Regulatory Commission. There is hereby established the San Felipe Pueblo Gaming Regulatory Commission for the purposes of regulating all games of chance within the Reservation and enforcing this Gaming Ordinance. All acts of the Commission prior to the date of enactment of this Ordinance are ratified by the Tribal Council.

B. Powers and Duties. The San Felipe Pueblo Gaming Regulatory Commission shall have the following powers and duties:

1. To recommend to the Tribal Council whether it should permit or refuse to permit the operation or conduct of any Games of Chance within the Reservation, and to specify the recommendations for the operation or conduct of any permitted Games of Chance within the Reservation.

2. To inspect and examine all premises within the Reservation at which Games of Chance are played to insure that all Gaming Facilities are constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety as required by Sections 6(C) and 14(C).

3. To adopt by regulation and to enforce compliance with internal control standards not less stringent than those lawfully required under this Gaming Ordinance and any regulations promulgated hereunder, IGRA and its implementing regulations, the Compact, or equivalent procedures lawfully prescribed by the Secretary of the Interior.

4. To issue separate site licenses to each Gaming Facility or specific location on the Reservation where the Tribal Council permits gaming to occur.

5. Subject to final approval by the Tribal Council, to negotiate and enter into, on behalf of the Pueblo, Joint Powers Agreements related to Games of Chance on the Reservation.

6. To implement and administer a system, including the promulgation of regulations, for investigating, licensing and monitoring management, employees, vendors, and others connected with gaming activities, including the issuance of site licenses to Gaming Facilities, and the issuance of temporary licenses and licenses to individuals and entities and the verification of internal controls, as required under the Ordinance, IGRA, and any Tribal-State Compact or equivalent procedures prescribed by the Secretary of the Interior.

7. To conduct background investigations regarding any person or entity in any way connected with any gaming activity and to issue licenses to, at minimum, all qualified Gaming Enterprise Key Employees and Primary Management Officials under requirements at least as strict as those established in Section 10(E)(6) of this Ordinance; and to grant, condition, suspend, revoke, and renew licenses and hear and decide matters affecting such granting, conditioning, suspension, revocation, or renewal of licenses.

8. To promulgate rules for any Class II or Class III gaming activity on the Reservation consistent with this Ordinance and with the IGRA and implementing federal regulations, provided that rules for Class III activities shall not be in conflict with rules, if any, adopted under any Tribal-State Compact.

9. To serve as the Tribal Gaming Agency for purposes of implementing a Tribal-State Compact entered into between the Pueblo and the State of New Mexico, to make such reports regarding Class III gaming to the State Gaming Representative as required by the Tribal-State Compact, and to inspect and make copies of New Mexico state records concerning all Class III gaming conducted under this Gaming Ordinance.

10. To inspect, examine, photocopy, and audit all papers, books, and records regarding gaming activities conducted within the Reservation and any other matters as necessary to carry out the duties of the San Felipe Pueblo Gaming Regulatory Commission under this Gaming Ordinance.

11. To record and investigate any suspicion of wrongdoing related to any gaming activity.

12. To conduct or cause to be conducted such investigations as may be necessary to

determine, in connection with any gaming activity, compliance with law, including this Gaming Ordinance, or with any contracts or agreements related to gaming activities.

13. To hold such hearings, sit and act at such times and places, take testimony, and receive such evidence as the San Felipe Pueblo Gaming Regulatory Commission deems relevant in fulfilling its duties.

14. To require by subpoena the attendance and testimony of witnesses and the production of books, papers, and documents relating to any matter under consideration or investigation by the San Felipe Pueblo Gaming Regulatory Commission, and to bring actions in the Tribal Court for the enforcement of such subpoenas.

15. To administer oaths and affirmations to witnesses appearing before the San Felipe Pueblo Gaming Regulatory Commission.

16. To suspend any gaming activity if, in the opinion of the San Felipe Pueblo Gaming Regulatory Commission, the public health and safety is threatened or a violation of IGRA, a Tribal-State Compact, this Ordinance, Pueblo law, or applicable federal, state, or tribal regulations warranting suspension is occurring or is reasonably likely to occur. Any suspension of longer than twenty-four (24) hours shall be subject to review by the Tribal Court. Pending review, the suspension shall remain in effect until vacated or stayed by the reviewing body

17. To enter into contracts and memoranda of understanding with tribal, federal, state and private entities for activities necessary to the discharge of the duties of the San Felipe Pueblo Gaming Regulatory Commission and to contract with the National Indian Gaming Commission for the enforcement of federal regulations governing gaming on Indian reservations, *provided* that the San Felipe Pueblo Gaming Regulatory Commission may not employ any person who would be disqualified from being a Commissioner under one or more of the four prohibitions in Section 8(E) below.

18. Subject to the approval of the Tribal Council, to adopt the budget of the San Felipe Pueblo Gaming Regulatory Commission at least annually and to adopt modifications in such budget. The San Felipe Pueblo Gaming Regulatory Commission shall submit a quarterly financial report to the Tribal Council.

19. To establish and collect license, investigation and regulatory fees to cover or help cover the costs connected therewith.

20. To certify Management Contracts in accordance with this Gaming Ordinance.

21. To hear appeals in accordance with this Gaming Ordinance.

22. To keep minutes, records, and books in which shall be kept a true, faithful, and correct record of all proceedings of the San Felipe Pueblo Gaming Regulatory Commission.

23. To promulgate rules and regulations, in addition to those required by Section 8(B)(7) above, as it deems appropriate to protect the integrity and safety of gaming activities on the Reservation or to implement the provisions of this Gaming Ordinance or any applicable Tribal-State Compact.

24. To recommend amendments to this Gaming Ordinance to the Tribal Council.

25. To insure that net revenues from any gaming activities on the Reservation deposited in the general fund of the Pueblo are used only in accordance with Section 13(G) of this Gaming Ordinance.

26. To submit an annual report to the Tribal Council and Governor on the activities of the San Felipe Pueblo Gaming Regulatory Commission. Such reports must include information on the funding, income and expenses of the San Felipe Pueblo Gaming Regulatory Commission.

27. To manage, hire, and fire all employees of the San Felipe Pueblo Gaming Regulatory Commission at its discretion and consistent with applicable laws, regulations, policies, and procedures.

28. To take action as may be reasonable and appropriate to enforce this Gaming Ordinance and the rules and regulations of the San Felipe Pueblo Gaming Regulatory Commission, including the reasonable application of this Ordinance to any Class II gaming activities that may be authorized.

C. Procedure for Promulgation of Regulations. Where the San Felipe Pueblo Gaming Regulatory Commission is authorized to promulgate regulations, the following procedure shall be followed:

1. First, the San Felipe Pueblo Gaming Regulatory Commission shall hold an informational meeting with each affected Gaming Enterprise Board to discuss the purpose of the proposed regulation and its substantive content. Each affected Gaming Enterprise Board and General Manager shall be given an opportunity to advise the San Felipe Pueblo Gaming Regulatory Commission of any policy concerns.

2. After each affected Gaming Enterprise has had an opportunity to advise the San Felipe Pueblo Gaming Regulatory Commission of its concerns, the San Felipe Pueblo Gaming Regulatory Commission shall put the proposed regulation in a form for formal circulation and comment. At a minimum, the proposed regulation shall be mailed to each affected Gaming Enterprise Board and General Manager, and to each party known by the San Felipe Pueblo Gaming Regulatory Commission to be directly affected by the proposed regulation (other than patrons and Gaming Enterprise employees and applicants for such employment), and copies of the proposed regulation shall be posted at the tribal administration offices, at the Gaming Enterprise Board's office, and at each Gaming Establishment. The San Felipe Pueblo Gaming Regulatory Commission shall allow a minimum of 14 and a maximum of 30 days for comment.

3. The San Felipe Pueblo Gaming Regulatory Commission may receive comments from all interested parties. After considering all comments, the San Felipe Pueblo Gaming Regulatory Commission shall publish the regulation in final form by posting a copy of the final regulation in the tribal administration offices and by sending a copy of the final regulation to each Gaming Enterprise Board and General Manager, and to each party known by the San Felipe Pueblo Gaming Regulatory Commission to be directly interested in the subject of the proposed regulation (other than patrons and Gaming Enterprise employees and applicants for such employment).

4. The regulation shall become final 14 days after publication by posting and circulation as specified in Section 8(C)(3) above.

5. Copies of all regulations enacted by the Commission shall be kept in the Commission's offices for public inspection and copying during normal office hours, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays. Actions by the Tribal Council, including copies of all resolutions involving gaming or which affect gaming, shall be kept with documents in the Commission offices showing tribal laws and regulations in effect.

6. The Tribal Council shall have the power, prior or subsequent to the effective date of the regulation, to modify or rescind any regulation.

D. Composition. The San Felipe Pueblo Gaming Regulatory Commission shall consist of three (3) Commissioners hired by the Tribal Council after consideration of the recommendation of a selection committee, appointed by the Governor who may also participate in the interview process. Each Commissioner shall serve until that Commissioner resigns or is terminated for cause under Section 8(G). A Commissioner who resigns may continue to serve until a new Commissioner is hired by the Tribal Council. A Commissioner who is terminated for cause under Section 8(G) shall serve until the effective date of termination agreed upon by the Tribal Council.

E. Qualifications of Commissioners. At least two (2) Commissioners must be Pueblo members. No person shall be eligible or qualified to serve, or continue to serve, as a Commissioner who:

1. Has been convicted of a felony or gaming offense;
2. Would be an employee of any Gaming Enterprise on the Reservation while serving as a Commissioner;
3. Has any financial interest in, or responsibility for, any gaming activity (except that marriage to an individual who is an employee or management official of the Gaming Enterprise shall be permitted); or
4. Has any financial interest in, or responsibility for, any gaming-related contract.

F. Licensing of Commissioners. Each Commissioner hired by the Tribal Council must submit a License application to the San Felipe Pueblo Gaming Regulatory Commission as provided in Section 10. Upon conclusion of the required background investigation and after making its suitability determination, the San Felipe Pueblo Gaming Regulatory Commission shall grant or deny a License. If a License application is denied, the selection committee shall select another Commissioner. No Commissioner may begin service without a License. The Governor, together with the other members of the Tribal Administration (specifically, the Lt. Governor, War Chief, Assistant War Chief, Fiscale, and Assistant Fiscale), may review the background investigation material gathered by the Gaming Regulatory Commission, provided that each such tribal official shall first sign a confidentiality agreement (or any other agreement required by an applicable federal agency) expressly agreeing that he shall not disclose the background information to any other person.

G. Termination of Commissioners. A Commissioner may be terminated only for cause and only in accordance with the following procedures:

1. Termination of a Commissioner shall be initiated by the San Felipe Pueblo Gaming Regulatory Commission with written notice to the Commissioner, specifying the cause for termination.

2. The cause for termination shall be limited to:

a. conviction in any court of a felony or crime involving dishonesty;

b. failure to meet or maintain the qualifications for San Felipe Pueblo Gaming Regulatory Commissioners set forth in Section 8(E);

c. gross neglect of duty; or

d. malfeasance in office, or conduct which amounts to gross and intentional disregard of the laws and procedures applicable to the affairs of the San Felipe Pueblo Gaming Regulatory Commission.

3. The Governor shall convene a special meeting of the Tribal Council for the sole purpose of approving or disapproving the termination of the Commissioner. Before any action is taken by the Tribal Council, the Commissioner shall be given a full opportunity, either in person or through a representative of his/her choice and at his or her sole expense, to answer or otherwise respond to any and all charges against him or her.

4. To terminate a Commissioner, the affirmative action of a consensus of the members of the Tribal Council present at such meeting is required.

5. Constructive termination and termination for reasons other than those listed above is prohibited.

H. Resignations and Vacancies. Any Commissioner may resign at any time by giving written notice of such to the Secretary of the San Felipe Pueblo Gaming Regulatory Commission and to the Tribal Council. The resignation shall become effective at the time specified in such notice, and the acceptance of such resignation shall not be necessary to make it effective. Any vacancy on the San Felipe Pueblo Gaming Regulatory Commission, howsoever caused, shall be filled in accordance with this Ordinance.

I. Selection of Chairman. At the first meeting of the San Felipe Pueblo Gaming Regulatory Commission and annually thereafter on or about the anniversary of the first meeting, the San Felipe Pueblo Gaming Regulatory Commission shall select by majority vote one of its members to serve as Chairman, one of its members to serve as Vice Chairman, and one of its members to serve as Secretary. By a majority vote, the Commission may change the officer selections for the remainder of the annual term, but each Commissioner must serve as an officer. The Vice Chairman shall serve as Chairman during meetings of the San Felipe Pueblo Gaming Regulatory Commission at which the Chairman is absent.

J. Motions and Resolutions; Meetings; Quorum. The powers of the San Felipe Pueblo Gaming Regulatory Commission are vested in the Commissioners. Except as otherwise provided herein or as sound regulatory practice may require under the circumstances, all official actions of the San Felipe Pueblo Gaming Regulatory Commission shall be taken by motion or resolution approved by the affirmative vote of a majority of the San Felipe Pueblo Gaming Regulatory Commission members present at a meeting with a quorum. The San Felipe Pueblo Gaming Regulatory Commission shall meet at the call of the Chairman or of a majority of its members but shall meet at least once every month. Two members of the San Felipe Pueblo Gaming Regulatory Commission shall comprise a quorum. If exigent circumstances require, a resolution may be approved by polling the Commissioners without a meeting and shall be recorded in writing. Any such action shall be reviewed at the next meeting of the Commission.

K. Notice.

1. Notice of regular meetings stating the time, date, and tentative agenda shall be given in writing by letter properly addressed to each Commissioner no fewer than three days before the meeting, excluding the day of the meeting, provided, however, that no written notice shall be required of meetings scheduled at a previous meeting, so long as such schedule or setting is made known to all members.

2. The Commission may meet in special session provided that reasonable and good faith efforts are made to notify each Commissioner. Any Commissioner present at a special session may object to the consideration of a specific matter, in which case consideration of that matter shall be delayed until a regular meeting is scheduled and noticed pursuant to Section 8(K)(1). Any action taken at a special session may be reviewed at the next regular meeting at the request of any Commissioner.

L. Cooperation with Other Law Enforcement Agencies. The San Felipe Pueblo Gaming

Regulatory Commission may cooperate with law enforcement officials of the State of New Mexico, the Bureau of Indian Affairs, the Federal Bureau of Investigation, and other law enforcement agencies, when such cooperation is in the best interests of the Pueblo and will help to insure that fair, honest, and efficient Games of Chance are operated and conducted within the Reservation.

M. Compensation for Service; Reimbursement of Expenses. Commissioners shall be compensated for serving on the San Felipe Pueblo Gaming Regulatory Commission in accordance with the budget of the San Felipe Pueblo Gaming Regulatory Commission as approved by the Tribal Council. In accordance with the San Felipe Pueblo Gaming Regulatory Commission's budget approved by the Tribal Council, Commissioners shall additionally be reimbursed for reasonable expenses incurred in connection with the performance of their San Felipe Pueblo Gaming Regulatory Commission duties at the rate at which such expenses are customarily reimbursed.

SECTION 9. San Felipe Pueblo Gaming Regulatory Commission's Relationship to Tribal Government.

A. Agency of Tribal Government. The San Felipe Pueblo Gaming Regulatory Commission shall be an agency of the Tribal Government and as such shall adopt personnel and administrative policies. The Commission is the Tribal Gaming Agency for purposes of any applicable Tribal-State Compact.

B. Independent Decision-Making Authority. Notwithstanding the fact that the San Felipe Pueblo Gaming Regulatory Commission is an agency of Tribal Government, the decisions of the San Felipe Pueblo Gaming Regulatory Commission regarding licensing, suitability, compliance with applicable law and other regulatory matters shall be within the exclusive province of the San Felipe Pueblo Gaming Regulatory Commission provided, that any person or entity adversely affected by a ruling of the San Felipe Pueblo Gaming Regulatory Commission, including, but not limited to the San Felipe Gaming Enterprise or any employee thereof, may petition the Tribal Court for review of such decision, in accordance with Section 15(H) below.

C. Compact Responsibilities. The Commission shall assure that each Gaming Enterprise:

1. Operates all Class III gaming in accordance with Pueblo laws, the IGRA and other applicable federal law, and the Tribal-State Compact between the Pueblo and the State of New Mexico;

2. Provides for the physical safety of patrons in every Gaming Facility;

3. Provides for the physical safety of employees of each Gaming Enterprise;

4. Provides for the physical safeguarding of assets transported to and from a Gaming Facility and the cashier's cage department;

5. Provides for the reasonable protection of the property of patrons and each Gaming Enterprise from illegal activities;

6. Participates in licensing of primary management officials and key employees of a Class III Gaming Enterprise;

7. Detains persons who may be involved in illegal acts for the purpose of notifying law enforcement authorities; and

8. Records and investigates any and all unusual occurrences related to Class III Gaming within the Gaming Facility.

SECTION 10. Licenses for Operating and Conducting Games of Chance.

A. Licenses Required.

1. **Gaming Commissioners.** Each member of the San Felipe Pueblo Gaming Regulatory Commission shall be licensed by the Commission, and be subject to a background investigation.

2. **Gaming Facility and Gaming Establishment.** The Commission shall issue a separate license to each place, facility, or location in the Reservation where the Pueblo elects to allow Class II or Class III Gaming. Prior to issuance of a license to a Gaming Facility or Gaming Establishment, the Commission shall:

a. determine that the facility is constructed in conformance with all applicable building codes.

b. determine that security and surveillance systems are in place to adequately provide for the safety and security of employees and patrons and for the protection of tribal assets.

c. ensure that all employees are properly licensed and that the facility is otherwise in compliance with all applicable gaming laws and regulations.

3. **Gaming Enterprise Board Members.** Each member of a Gaming Enterprise Board shall be licensed by the San Felipe Pueblo Gaming Regulatory Commission and subject to a background investigation.

4. **Gaming Employees.** All Gaming Employees shall be licensed by the San Felipe Pueblo Gaming Regulatory Commission and subject to background investigations.

5. **Management Contractors.** All Management Contractors, including their principals, primary management officials, key employees, and shareholders having in excess of

5% ownership, shall be licensed by the San Felipe Pueblo Gaming Regulatory Commission and subject to background investigations.

6. **Sales of Gaming Devices, Equipment or Services.** Any person proposing to sell or lease any device or supplies used in Class III gaming, or provide Gaming Services to a Gaming Enterprise shall be licensed by the San Felipe Pueblo Gaming Regulatory Commission and subject to a background investigation before being permitted to sell or lease any devices or supplies used in Class III gaming, or to provide any Gaming Services to any Gaming Enterprise, Gaming Facility, or Management Contractor.

7. **Lenders, Investors and Providers of Financial Services.** Lenders, investors, and providers of investment services, and such agents, employees and major shareholders of such person as required by the San Felipe Pueblo Gaming Regulatory Commission, shall be licensed by the San Felipe Pueblo Gaming Regulatory Commission and subject to background investigation; provided that this provision shall not apply to the Pueblo, its officers, and the Tribal Council if the Pueblo serves as a lender, investor, or provider of investment services.

B. **License Application.** Each applicant for a license shall file with the San Felipe Pueblo Gaming Regulatory Commission a written application in the form prescribed by the San Felipe Pueblo Gaming Regulatory Commission, duly executed and verified, along with the applicant's fingerprint card, current photograph and any fees required by the San Felipe Pueblo Gaming Regulatory Commission. At a minimum, the application form shall contain all of the following information and requests for information:

1. The following notice ("Privacy Act Notice") shall be provided to the applicant with the application form, with instructions to the applicant to read and sign the Privacy Act Notice before the application is executed and returned:

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

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

2. Any existing persons or entities required to be licensed by Section 10(A) above whose licensing process did not include notice of the Privacy Act shall be notified in writing that they shall either:

- a. Complete a new application that contains a Privacy Act Notice; or
- b. Sign a statement that contains the Privacy Act Notice and consent to the routine uses of information described in that Notice.

3. The following notice ("False Statement Notice") shall be placed on the application form before that form is filled out by any applicant:

A false statement on any part of your application may be grounds for not hiring you, denying you any license or for firing you after you begin work, or revoking any license previously issued. Also, you may be punished by fine or imprisonment. See 18 U.S. Code, §1001.

4. The San Felipe Pueblo Gaming Regulatory Commission shall notify in writing any persons or entities required to be licensed whose licensing process did not include a False Statement Notice that they shall either:

- a. Complete a new application form that contains a False Statement Notice; or
- b. Sign a statement that contains the Notice.

5. The San Felipe Pueblo Gaming Regulatory Commission shall request from each person or entity required by Section 10(A) above to be licensed all of the following information:

- a. Full name, other names used (oral or written), Social Security Number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- b. Currently and for the previous 10 years: business and employment positions, ownership interests in those businesses, business and residence addresses, and driver's license numbers; provided, that any applicant who is a primary management official, key employee, management contractor, manufacturer or supplier of gaming devices and/or a person providing gaming services, must provide such information from the age of 18;

- c. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under Section 10(B)(5)(b) above;
- d. Current business and residence telephone numbers;
- e. A description of existing or previous business relationships with Indian tribes, including ownership interests in those businesses, and a description of any potential or actual conflict of interest between the businesses and Indian tribes;
- f. A description of any existing and previous business relationships with the gaming industry, including, but not limited to, ownership interests in those businesses;
- g. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, and whether or not such license or permit was granted;
- h. For each felony for which there is a conviction or an ongoing prosecution, the charge, the name and address of the court involved, and the date and disposition, if any;
- i. For each misdemeanor for which there is a conviction or an ongoing prosecution (excluding minor traffic violations) since age 18 years, the charge, the date of the charge, the name and address of the court involved, and the disposition, if any;
- j. For each criminal charge (excluding only minor traffic charges but expressly including any alcohol-related traffic charge), whether or not there is a conviction, if such criminal charge occurred since age 18 years and is not otherwise listed pursuant to Section 10(B)(5)(h) or Section 10(B)(5)(i), the criminal charge, the date of the charge, the name and address of the court involved, and the disposition, if any;
- k. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, as an applicant, principal, primary management official or key employee, and whether or not such license or permit was granted;
- l. A current photograph;
- m. Fingerprints shall be taken by the San Felipe Pueblo Gaming Regulatory Commission, consistent with 25 C.F.R. § 522.2(h), or by any other qualified law enforcement agency as may in the future be agreed upon in writing by the San Felipe Pueblo Gaming Regulatory Commission and the NIGC;

n. The fee required by the San Felipe Pueblo Gaming Regulatory Commission; and

o. Any other information which the San Felipe Pueblo Gaming Regulatory Commission deems relevant.

C. Background Investigations to Determine Eligibility to Work in Gaming Enterprises.

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

2. Background checks of applicants will be performed pursuant to the following procedures:

a. The San Felipe Pueblo Gaming Regulatory Commission will provide applications to applicants upon request, and shall collect and maintain the applications;

b. Fingerprints shall be taken pursuant to 10(B)(5)(m) above. The NIGC (or another designated agency accepted in writing by the NIGC) will obtain a criminal history record from the Federal Bureau of Investigation on each applicant and forward such information to the San Felipe Pueblo Gaming Regulatory Commission.

c. The San Felipe Pueblo Gaming Regulatory Commission shall investigate the information provided in the applications. This investigation will include:

i. contacting persons or entities identified in the application, and verifying by written or oral communication that the information contained in the application is accurate;

ii. interviewing a sufficient number of knowledgeable people, such as former employers, partners, business associates, and others referred to in the application, to provide a basis for the San Felipe Pueblo Gaming Regulatory Commission to make a determination concerning whether the applicant meets applicable eligibility requirements;

iii. reviewing relevant financial records of the applicant for the 3 years preceding the application;

iv. contacting any state, federal, or other government agency that is referred to in the application; and

v. reviewing relevant criminal history information obtained from any law enforcement agency.

d. The San Felipe Pueblo Gaming Regulatory Commission shall document any information it obtains that calls into question whether the applicant would meet the eligibility requirements under this Ordinance. The San Felipe Pueblo Gaming Regulatory Commission shall then document in detail the disposition of these problem areas, indicating the follow-up investigations performed on the problem areas and the result of such investigations.

e. The San Felipe Pueblo Gaming Regulatory Commission will review the results of the investigation. This review will include a determination as to the scope of the investigation and whether sufficient information was obtained and verified. If such information is found not sufficient, the San Felipe Pueblo Gaming Regulatory Commission will perform additional investigations.

3. In conducting a background investigation, the San Felipe Pueblo Gaming Regulatory Commission and its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

4. The San Felipe Pueblo Gaming Regulatory Commission shall retain the right to conduct additional background investigations of any person required to be licensed at any time while the license is valid.

5. With respect to principals, key employees and primary management officials, the San Felipe Pueblo Gaming Regulatory Commission shall retain applications for employment and reports (if any) of background investigations for no less than 6 years from the date of termination of employment.

6. Once the investigation is complete, the San Felipe Pueblo Gaming Regulatory Commission will decide whether the applicant meets the eligibility criteria under this Ordinance.

7. All background investigations and reports shall remain confidential.

D. Procedures for Forwarding Applications and Reports.

1. When a key employee or primary management official begins work at a Gaming Enterprise authorized by an applicable Tribal-State Compact, this Gaming Ordinance, and other Pueblo law, the San Felipe Pueblo Gaming Regulatory Commission shall forward to the NIGC and, as required by a Tribal-State Compact, to the State Gaming Representative a completed application for employment.

2. The San Felipe Pueblo Gaming Regulatory Commission shall forward the report referred to in Section 10(D)(4) to the NIGC and, as required, to the State Gaming Representative within 60 days after an employee begins work.

3. Subject to renewal of a temporary license pursuant to Section 10(E)(2) below, a key employee or primary management official who does not have a license shall not be employed after 90 days.

4. The San Felipe Pueblo Gaming Regulatory Commission shall prepare and forward to the NIGC and, as required, to the State Gaming Representative a report on each background investigation ("Investigative Report"). An Investigative Report shall include all of the following:

- a. steps taken in conducting the background investigation;
- b. results obtained;
- c. conclusions reached; and
- d. the basis for those conclusions.

5. The San Felipe Pueblo Gaming Regulatory Commission shall submit with the report a copy of the eligibility determination made under Section 10(C)(6).

6. If a license is not issued to an applicant, the San Felipe Pueblo Gaming Regulatory Commission shall notify the NIGC and the State Gaming Representative.

E. Granting a Gaming License; Standards.

1. Temporary License Renewal. A temporary license may be renewed for good cause.

2. Temporary License. Within 20 days of the receipt of a completed application for licensing, and upon request of an applicant, the San Felipe Pueblo Gaming Regulatory Commission may issue a Temporary License to the applicant, unless the background investigation undertaken discloses that the applicant has a criminal history, or unless other grounds sufficient to disqualify the applicant are apparent on the face of the application.

3. Temporary License - limited validity. The temporary license shall become void and be of no effect upon either:

- a. the issuance of the license; or
- b. the issuance of a notice of denial; or
- c. the end of the temporary licensee's employment by the Gaming Enterprise; or

d. 90 days after the temporary license is issued, whichever occurs first.

4. If within 30 days after it receives an Investigative Report, neither the NIGC nor the State Gaming Representative has notified the San Felipe Pueblo Gaming Regulatory Commission that it has an objection to the issuance of a license pursuant to a license application filed by a principal, key employee or a primary management official, the San Felipe Pueblo Gaming Regulatory Commission may issue a license to such applicant.

5. The San Felipe Pueblo Gaming Regulatory Commission shall review a person's prior activities, criminal record, if any, and reputation, habits, and associations to make a finding concerning the eligibility or suitability of an applicant, or a principal, key employee or primary management official of an applicant, for employment or involvement in a Gaming Enterprise. After such consultation, the San Felipe Pueblo Gaming Regulatory Commission shall either issue a license or deny the application. If the San Felipe Pueblo Gaming Regulatory Commission determines that employment or involvement of the applicant poses a threat to the public interest, or to the effective regulation of gaming or creates or enhances the danger of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming, the San Felipe Pueblo Gaming Regulatory Commission shall deny the application.

6. The San Felipe Pueblo Gaming Regulatory Commission may issue a license to any person or entity who:

a. Has provided a complete and accurate application and complied fully with any and all requests by the San Felipe Pueblo Gaming Regulatory Commission for information concerning the background and activities of the applicant;

b. If a natural person, has attained the age of 21 years (provided this requirement applies only to Gaming Employees connected directly with the conduct or management of Class III Gaming);

c. Is not a person whose prior activities, criminal record, if any, habits, or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the danger of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; and

d. Has not attempted to interfere or to influence, and has not interfered or influenced, unduly for personal or business gain or advantage, any decision or process relating to gaming or the government of the Pueblo.

7. The San Felipe Pueblo Gaming Regulatory Commission shall respond to any request for additional information from the NIGC or the State Gaming Representative concerning a principal, key employee or primary management official who is the subject of an Investigative Report. Such a request shall suspend the 30-day period under Section 10(E)(4) until the NIGC or the State Gaming Representative receives the additional information.

However, in no event shall a request for additional information by the State Gaming Representative extend the 30-day period under Section 10(E)(4) of this Ordinance for a total period of more than 60 days from the date the State Gaming Representative received the Investigative Report.

8. If, within the relevant period described above, the NIGC or the State Gaming Representative provides the San Felipe Gaming Commission with a statement itemizing objections to the issuance of a license to a principal, key employee or primary management official for whom the San Felipe Pueblo Gaming Regulatory Commission has provided an application and Investigative Report, the San Felipe Pueblo Gaming Regulatory Commission shall reconsider the application, taking into account the objections itemized by the NIGC and/or the State Gaming Representative, and make a final decision whether to issue a license to such applicant.

F. **Fees for Licensing.** The fees for gaming licenses and background investigations shall be set by the San Felipe Pueblo Gaming Regulatory Commission from time to time and made available at any time upon request. Payment in full of any required fee is required before a license is issued.

G. **Duration and Renewal of Licenses.** Unless surrendered, suspended, or revoked, all employee gaming licenses issued by the San Felipe Pueblo Gaming Regulatory Commission (other than temporary licenses) shall be valid for a period of one to three years from the date of issuance. The Commission shall set the term of licenses by regulation, provided that the term shall not vary by individual license but may vary by category of license. In the absence of a Commission regulation regarding the term of a category of licenses, the term shall be three years. Any employee applying for renewal of a license that has submitted the required application and any other information required by the San Felipe Pueblo Gaming Regulatory Commission at least 60 days before the expiration of the license may continue to be employed under the expired license until the San Felipe Pueblo Gaming Regulatory Commission or NIGC, if required by the IGRA, takes final action on the renewal application. Any person renewing a gaming license shall provide updated material and information as requested on the renewal application form, but shall not be required to resubmit historical data already provided to the San Felipe Pueblo Gaming Regulatory Commission.

SECTION 11. Management Contract.

A. **License Required for Approval of Management Contract.** If the Pueblo or a Gaming Enterprise chooses to enter into any Management Contract(s), all Management Contractors, including their principals, or shareholders having more than 10 percent ownership, their officers, directors and key employees shall be licensed.

B. **Contract Requirements.** The Gaming Enterprise may enter into a Management Contract only if the Management Contract:

1. Provides that all gaming covered by the contract will be conducted in accordance with the IGRA, governing tribal ordinances, and any applicable Tribal-State Compact.

2. Enumerates the responsibilities of each of the parties for each identifiable function, including;

- a. Maintaining and improving the Gaming Facility;
- b. Providing operating capital;
- c. Establishing operating days and hours;
- d. Hiring, firing, training and promoting employees;
- e. Maintaining the Gaming Enterprise's books and records;
- f. Preparing the Gaming Enterprise's financial statements and reports;
- g. Paying for the services of the independent auditor engaged pursuant to 25 C.F.R. Sec. 571.12;
- h. Hiring and supervising security personnel;
- i. Providing fire protection services;
- j. Setting advertising budget and placing advertising;
- k. Paying bills and expenses;
- l. Establishing and administering employment practices;
- m. Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage;
- n. Complying with all applicable provisions of the Internal Revenue Service;
- o. Paying the cost of public safety services; and
- p. If applicable, supplying the NIGC with all information necessary for the NIGC to comply with the National Environmental Policy Act.

3. Provides for the establishment and maintenance of satisfactory accounting systems and procedures that shall, at a minimum:

- a. Include an adequate system of internal controls that are satisfactory to the

Commission and that are no less stringent than those lawfully required by regulation of the NIGC;

b. Permit the preparation of financial statements in accordance with generally accepted accounting principles;

c. Be susceptible to audit;

d. Permit the calculation and payment of the Management Contractor's fee; and

e. Provide for the allocation of operating expenses or overhead expenses among the Enterprise, the Management Contractor, and any other user of shared Gaming Facilities and services.

4. Requires the Management Contractor to provide the Gaming Enterprise, not less frequently than monthly, verifiable financial reports or all information necessary to prepare such reports.

5. Requires the Management Contractor to provide immediate access to the Gaming Facility, including its books and records, by appropriate members of the Gaming Enterprise Board, San Felipe Pueblo Gaming Regulatory Commission and the Pueblo Governor, Lieutenant Governor and their designees, who shall have:

a. The right to verify the daily gross revenues and income from the gaming enterprise; and

b. Access to any other gaming-related information the Gaming Enterprise, San Felipe Pueblo Gaming Regulatory Commission or Pueblo deems appropriate.

6. Provides for a minimum guaranteed payment to the Pueblo in a sum certain that has preference over the retirement of development and construction costs.

7. Provides an agreed upon maximum dollar amount for the recoupment of development and construction costs.

8. Provides for a term not to exceed the period allowed by IGRA.

9. Details the method of compensating and reimbursing the Management Contractor. If a Management Contract provides for a percentage fee, such fee shall be either:

a. Not more than 30% of the net revenues of the Gaming Operation if the Chairman of the NIGC determines that such percentage is reasonable considering the circumstances; or

b. Not more than 40% of the net revenues if the Chairman of the NIGC is

satisfied that the capital investment required and income projections for the gaming enterprise require the additional fee.

10. Provides the grounds and mechanisms for modifying or terminating the Management Contract.

11. Contains a mechanism to resolve disputes between:

a. The Management Contractor and customers, consistent with the procedures in this Gaming Ordinance and the Tribal-State Compact;

b. The Management Contractor and the Gaming Enterprise; and

c. The Management Contractor and the Gaming Enterprise employees.

12. Indicates whether and to what extent contract assignments and subcontracting are permissible.

13. Indicates whether and to what extent changes in the ownership interest in the Management Contractor require advance approval by the Gaming Enterprise.

14. Includes no transfer or any type of conveyance of any interest in land or other real property, unless such transfer or conveyance is clearly specified in writing in the Management Contract.

15. States that the Management Contract shall not be effective unless and until it is approved by the San Felipe Pueblo Gaming Regulatory Commission and the Chairman of the NIGC, date of signature of the parties notwithstanding, and has been approved by the Pueblo Tribal Council and the Secretary of the Interior or the Secretary's designee, as required by tribal and federal law.

C. Standards for Disapproval. The San Felipe Pueblo Gaming Regulatory Commission shall not approve any Management Contract if the San Felipe Pueblo Gaming Regulatory Commission determines that:

1. The General Manager or any of its individuals required to be licensed by Section 11(A) above is not licensed or is ineligible to be licensed; or

2. The contract does not meet the requirements of this Section 11.

D. Action by San Felipe Pueblo Gaming Regulatory Commission. The San Felipe Pueblo Gaming Regulatory Commission shall approve or disapprove a Management Contract within 30 days after it is submitted to the Commission for approval. The San Felipe Pueblo Gaming Regulatory Commission may extend the 30-day period by not more than 30 days if it notifies a Gaming Enterprise, in writing, of the reason for the extension.

E. **Modification and Revocation of Management Contract.** The San Felipe Pueblo Gaming Regulatory Commission, after notice and hearing, shall have the authority to require appropriate contract modifications and may void any Management Contract if it determines that IGRA, this Gaming Ordinance or the Management Contract has been violated.

SECTION 12. Providers of Class III Gaming Machines or Supplies.

A. **Standards.** Within 30 days after the effective date of this Ordinance, the San Felipe Pueblo Gaming Regulatory Commission shall adopt standards for any and all Class III gaming equipment, devices or supplies to be purchased, leased or otherwise acquired by the Gaming Enterprise after the effective date of this Ordinance for use in any Class III gaming, 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 acquired by a Gaming Enterprise after the effective date of any applicable Tribal-State Compact shall meet or exceed the standards thereby adopted, and any and all Class III gaming equipment, devices, or supplies utilized by a Gaming Enterprise in its gaming activities as of the effective date of any applicable Tribal-State Compact shall be upgraded or replaced, if necessary, so as to comply with such standards, by no later than 1 year after the effective date of any applicable Tribal-State Compact.

B. **License Required.** Prior to entering into any future lease or purchase agreement for Class III gaming equipment, the Gaming Enterprise shall obtain sufficient information and identification from the proposed seller or lessor and all persons holding any direct or indirect financial interest in the lessor or the lease/purchase agreement to permit the San Felipe Pueblo Gaming Regulatory Commission to license those persons in accordance with Section 10 above.

C. **Installation.** The seller, lessor, manufacturer, or distributor shall provide, assemble and install all Class III gaming equipment, devices and supplies in a manner approved and licensed by the San Felipe Pueblo Gaming Regulatory Commission.

D. **Class II Gaming.** To any extent required by federal or Pueblo law, this Section 12 shall also apply to Class II gaming equipment.

SECTION 13. Financial Practices and Reporting.

A. **Monthly Reports.** On or before the 20th day of each month, each Gaming Enterprise Board and each Gaming Establishment shall file with the San Felipe Pueblo Gaming Regulatory Commission and the Tribal Council a financial report for the preceding calendar month showing the amount of gross receipts derived from Games of Chance, the operating expenses incurred or paid, including the itemized expenses of the Gaming Enterprise Board, and the net revenues derived from Games of Chance. It is the duty of each Gaming Enterprise Board and Gaming Establishment to maintain and keep such books and records as may be necessary to substantiate the particulars of each report. If a Gaming Establishment fails to file a report within the time

allowed, or if a report is not accurate and fully completed, the license of the Gaming Establishment may be suspended by the San Felipe Pueblo Gaming Regulatory Commission until such time as the deficiency has been corrected.

B. Maintenance of Books and Records; San Felipe Pueblo Gaming Regulatory Commission Access. Full and accurate books of account, in accordance with generally accepted accounting principles shall be kept at the places of business of each Gaming Enterprise, showing the condition of the business and all transactions. Each Gaming Enterprise Board is authorized to open and maintain bank accounts pursuant to Bank Resolutions. All books and records shall be maintained for at least five (5) years by a Gaming Enterprise and any other tribal agency holding such records, including:

1. Revenues, expenses, assets, liabilities and equity for each Gaming Facility;
2. Daily cash transactions for each Gaming Facility, including but not limited to transactions relating to each gaming table bank, game drop box, and gaming room bank;
3. Returned checks, hold checks, or other similar credit instruments;
4. Individual and statistical game records (except card games) to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;
5. Contracts, correspondence, and other transaction documents relating to all vendors and contractors;
6. Records of all tribal gaming enforcement activities;
7. Audits prepared by or on behalf of the Pueblo; and
8. Personnel information on all Gaming Enterprise employees or agents, hours worked, employee profiles, and background checks.

C. Allowable Operating Expenses. No item of expense shall be incurred or paid in connection with operating or conducting any Game of Chance except a bona fide expense, which is related to and necessary for the operation of each Gaming Enterprise.

D. Deposit of Gross Receipts; Payment of Operating Expenses. All gross receipts shall be deposited in an operating account of each Gaming Enterprise. Withdrawals from such account shall be made, with two signatures and payable to a specific person or organization, by consecutively numbered checks; by wire transfer, or automated clearing house (ACH) with Board approval; or by officers of a Gaming Enterprise Board and other representatives duly authorized by the Gaming Enterprise Board in writing, with a copy of such authorization provided to the Commission within 10 days of authorization.

E. **Audits.** The Commission shall retain, at the Gaming Enterprise's expense, an independent certified public accountant licensed by the State to prepare an audit and Certified Financial Statement of all financial activities of the Gaming Enterprise prepared in accordance with generally accepted accounting principles. The auditor shall not less frequently than annually (but more frequently as the Commission may require) report to the Gaming Enterprise Board on the auditor's examination of the books and records of the Gaming Enterprise, including a separate report on spending for the Gaming Enterprise Board, and on the auditor's recommendations with respect to management of the Gaming Enterprise and any failure to comply with applicable law or contractual obligations. The Commission, the Enterprise Board, and the General Manager may participate in the exit review for any audit. Copies of all audits shall be promptly provided to the Governor, Tribal Council, the San Felipe Pueblo Gaming Regulatory Commission, and the Enterprise Board. Unless no longer required by an applicable Tribal-State Compact or by federal law, the Commission shall provide copies of annual audits to the National Indian Gaming Commission, the State Gaming Representative, and the State Treasurer.

F. **Audit of Contracts.** Any contract for supplies, services, or merchandise in an amount greater than \$25,000 annually, which contract relates to gaming activities, shall be subject to annual outside independent certified audits on the order of the Tribal Council or the San Felipe Pueblo Gaming Regulatory Commission.

G. **Disposition of Net Revenues.** The net revenues derived from Games of Chance, after allocation by a Gaming Enterprise Board between surplus reserve of the Gaming Enterprise and dividends to the Pueblo, shall be deposited accordingly on a quarterly basis into the Gaming Enterprise's surplus reserve accounts and into the general fund of the Pueblo.

1. Net revenues deposited into the general fund of the Pueblo shall not be used for purposes other than:

- a. To fund Pueblo governmental operations and programs;
- b. To provide for the general welfare of the Pueblo and its members;
- c. To promote tribal economic development, including land acquisition;
- d. To protect and preserve the traditions and culture of the Pueblo;
- e. To donate to charitable organizations; or
- f. To help fund operations of local government agencies.

2. If the Pueblo elects to make per capita payments to Pueblo members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3).

H. Compliance with Bank Secrecy Act and Internal Revenue Service. Each Gaming Enterprise shall take all steps necessary to comply with the applicable provisions of the Bank Secrecy Act, P.L. 91-508, Act of October 26, 1970, 31 U.S.C. §§ 5311-314, and all record-keeping and reporting requirements of the Internal Revenue Service.

SECTION 14. Protection of Patrons.

A. Liability to Patrons. The Pueblo or each Gaming Enterprise shall at all times maintain in effect policies of liability insurance insuring the Pueblo, the Gaming Enterprise, the Gaming Enterprise Board, the San Felipe Pueblo Gaming Regulatory Commission, and their agents and employees against any claims, demands or liability for bodily injury and property damages, made by a visitor, which claims were proximately caused by the conduct of the Gaming Enterprise. For purposes of this Section, any such claims may be brought in either the Tribal Court or state court unless it is finally determined by a state or federal court that IGRA does not permit the shifting of jurisdiction over visitors' personal injury suits to state court, in which case jurisdiction over such claims shall be exclusively in the Tribal Court.

The policies shall provide bodily injury and property damage coverage in an amount specified in an applicable Tribal-State Compact, currently at least fifty million dollars (\$50,000,000) per person and fifty million dollars (\$50,000,000) per occurrence. Such liability limits are subject to increase as set forth in Section 8(G) of the 2001 Compact. A Gaming Enterprise Board shall provide the San Felipe Pueblo Gaming Regulatory Commission annually a Certificate of Insurance showing that the Pueblo, and its agents and employees, are insured to the extent and in the circumstances described in this Section. The Commission shall provide the State Gaming Representative a copy of each Certificate of Insurance. If the State Gaming Representative so requests in writing, the Certificate of Insurance may be furnished directly to the State Gaming Representative from the insurance carrier or the insuring agency.

B. Specific and Limited Waiver of Immunity.

1. The Pueblo of San Felipe, by entering into a Tribal-State Gaming Compact with the State of New Mexico, waives its defense of sovereign immunity to any extent required by any Compact that is in effect in connection with any claims for compensatory damages up to the amount of insurance required in Section 14(A) above, currently fifty million dollars (\$50,000,000) per occurrence. This is a limited waiver, does not waive the Pueblo's immunity from suit for any other purpose, and the provision in this paragraph shall be effective only so long as required by a Compact that is in effect. The Pueblo shall ensure that a Policy of Insurance acquired to fulfill the requirements of this Section shall include a provision under which the insurer agrees not to assert the defense of sovereign immunity on behalf of the insured up to the limits of liability set forth in this Paragraph. In any claim brought under the provisions

of this Section, New Mexico law shall govern the substantive rights of the claimant, and shall be applied as applicable by the forum in which the claim is heard, except that the Tribal Court shall not be required to apply New Mexico law to a claim brought by a member of the Pueblo.

2. Nothing in this Ordinance shall be construed as an admission of liability as to any claim for damages or as an agreement or indication of willingness to pay any amount as damages absent a judicial determination of fault, and the Pueblo, the San Felipe Pueblo Gaming Regulatory Commission, each Gaming Enterprise Board, each Gaming Enterprise, their insurer(s), or any of them, shall in every instance have the right to fully defend such claims.

C. **Public Health and Safety.** The San Felipe Pueblo Gaming Regulatory Commission shall establish for every Gaming Facility on the San Felipe Reservation health, safety, and construction standards that are at least as stringent as the current editions of the National Electrical Code, the Uniform Building Code, the Uniform Mechanical Code, the Uniform Fire Code, and the Uniform Plumbing Code, and any and all Gaming Facilities or additions thereto constructed by the Gaming Enterprise or the Management Contractor hereafter shall be constructed and all facilities shall be maintained so as to comply with such standards. Inspections shall be conducted by the San Felipe Pueblo Gaming Regulatory Commission with respect to these standards at least annually. If the State Gaming Representative requests sufficiently in advance of an annual inspection, the representative may be present during such inspection. Each Gaming Enterprise or Management Contractor shall correct any deficiencies noted in such inspections within a reasonable period of time. The San Felipe Pueblo Gaming Regulatory Commission shall provide copies of such inspection reports to the State Gaming Representative, if requested to do so in writing.

D. **Patron Dispute Resolution Procedures.** The Policy of the Pueblo is to encourage resolution of disputes at the lowest possible level, and as quickly as possible. These provisions should only be followed when the dispute cannot be resolved "on the floor" or by the General Manager.

1. Whenever a patron of the Gaming Facility disputes the resolution of a conflict by the General Manager of the Gaming Facility or its employees, whether such dispute concerns payment of alleged winnings to a patron or any other matter not within the limited scope of Section 14(A), and the General Manager and the patron are unable to resolve the dispute to the satisfaction of the patron, the General Manager shall inform the patron of his/her right to request that the San Felipe Pueblo Gaming Regulatory Commission conduct an investigation.

2. Upon request of the patron, the San Felipe Pueblo Gaming Regulatory Commission, through an inspector, shall conduct whatever investigation it deems necessary and shall determine its recommendation for resolution of the dispute.

3. Within 30 days after the date that the San Felipe Pueblo Gaming Regulatory Commission first receives notification from the General Manager or a request to conduct an investigation from the patron, the San Felipe Pueblo Gaming Regulatory Commission shall make a recommendation to resolve the dispute. If the recommendation concerns law enforcement

action, then the San Felipe Pueblo Gaming Regulatory Commission shall take action to initiate the enforcement action by the appropriate authority. If the recommendation concerns action to be taken by the Gaming Enterprise, the San Felipe Pueblo Gaming Regulatory Commission shall transmit its recommendation to the Gaming Enterprise Board and General Manager with a copy to the patron.

4. In the case of a recommended decision referred to the Gaming Enterprise Board, the aggrieved party shall have 15 days after the date of receipt of the recommended decision of the San Felipe Pueblo Gaming Regulatory Commission to file a statement of position with the San Felipe Gaming Enterprise Board. The Gaming Enterprise Board may set a hearing on the matter or may make a decision based solely upon the San Felipe Pueblo Gaming Regulatory Commission's recommendation and other documentation provided to it by the patron and the General Manager. The Gaming Enterprise Board shall then issue a written decision and mail it to the parties. The decision of the San Felipe Pueblo Gaming Enterprise Board shall be final and binding upon the patron and the General Manager and shall not be subject to judicial review or to other legal action in federal, state or tribal court.

SECTION 15. Suspension or Revocation of Licenses.

A. Grounds

1. NIGC Information.

a. If, after the issuance of a gaming license, the San Felipe Pueblo Gaming Regulatory Commission receives from the NIGC reliable information indicating that a key employee or a primary management official is not eligible for employment under Section 10(E)(6) above, the San Felipe Pueblo Gaming Regulatory Commission shall suspend such license under the provisions of Section 15(B) below and follow the procedures in Section 15 (B) through (H) as applicable.

b. After a revocation hearing, the San Felipe Pueblo Gaming Regulatory Commission shall decide to revoke or to reinstate a gaming license, and the San Felipe Pueblo Gaming Regulatory Commission shall notify the NIGC of its decision.

2. Other grounds.

a. If a licensee makes a false statement in any application for a license, in any statement annexed thereto, or in any response to a request by the San Felipe Pueblo Gaming Regulatory Commission for information; is determined to have engaged in any activity unknown to the Commission at the time of licensing which, if known, would have been grounds for disapproval of a license (regardless of whether the activity occurred before or after the licensing process);

fails to keep sufficient books and records to substantiate the reports required by this Gaming Ordinance; falsifies any books or records relating to any transaction connected with the operation or conduct of any game of chance; is convicted of any felony or gaming offense; interferes with, unduly influences, or attempts to interfere or unduly influence any decision or process of the government of the Pueblo relating to gaming; fails to submit to lawful testing for truthfulness; or deliberately or substantially fails to provide information to or answer relevant questions of the San Felipe Pueblo Gaming Regulatory Commission or otherwise fails to comply with this Gaming Ordinance or the terms of any license granted pursuant hereto; his or her license may be suspended and, after notice and a hearing before the San Felipe Pueblo Gaming Regulatory Commission pursuant to this Section, such license may be revoked. This sanction is in addition to any other sanction which may be imposed under this Gaming Ordinance.

b. In addition, if a licensee is charged with any crime, whether a felony or misdemeanor, that reflects on the licensee's honesty or integrity or poses a threat to the public safety (including but not limited to theft, embezzlement, and assault), the San Felipe Pueblo Gaming Regulatory Commission may suspend the licensee's license pending resolution of the criminal charge. The licensee shall be entitled to a hearing before the Commission regarding the suspension. After resolution of the criminal charge, the licensee shall notify the San Felipe Pueblo Gaming Regulatory Commission of the outcome and may seek to have the suspension lifted. If the charge is dropped or if the licensee is acquitted, the San Felipe Pueblo Gaming Regulatory Commission may lift the suspension without further review. Regardless of the outcome relating to the charge, the Commission may, upon notice, hold a hearing, after which it may lift the suspension, revoke the license, or take other authorized action as appropriate.

B. Notice; Immediate Suspension. Proceedings to suspend or revoke a license shall be initiated by the San Felipe Pueblo Gaming Regulatory Commission by serving a complaint upon the licensee. If, in the San Felipe Pueblo Gaming Regulatory Commission's judgment, the public interest; the effective regulation and control of gaming; or the safe, fair and honest operation and conduct of Games of Chance so require, the San Felipe Pueblo Gaming Regulatory Commission may suspend a license immediately, pending the holding of a hearing. Only a reasonable belief by the Commission that a licensee has committed an act or omission that, if proven, would warrant suspension or revocation is required for an immediate suspension pending a hearing. Such an immediate suspension shall take effect upon service of the complaint upon the licensee.

C. Contents of Complaint; Service. The complaint shall set forth the violations of this Gaming Ordinance which the San Felipe Pueblo Gaming Regulatory Commission has reasonable cause to believe the licensee has committed. The San Felipe Pueblo Gaming Regulatory Commission shall cause the complaint and notice of hearing to be served personally upon the licensee or any agent of the licensee, or to be sent by certified mail or overnight delivery to the licensee at the address shown upon the license. The complaint shall notify the licensee of the place and date of a hearing, such date to be not less than 20 days nor more than 30 days after the

licensee receives a copy of the complaint.

D. Answer; Subpoenas. Upon receipt of a complaint and notice of hearing, the licensee shall answer the complaint and shall inform the San Felipe Pueblo Gaming Regulatory Commission whether the licensee desires to present evidence. At the request of the licensee for good cause shown, or on its own motion, the San Felipe Pueblo Gaming Regulatory Commission shall issue subpoenas for the attendance of witnesses and for the production of papers, books, records and documents of any kind.

E. Hearing; Written Decision; Notification to NIGC. The hearing shall be held and concluded without unreasonable delay. The San Felipe Pueblo Gaming Regulatory Commission shall hear the matter and make a decision in writing, including findings of fact in support of its decision. The San Felipe Pueblo Gaming Regulatory Commission shall issue its decision within 30 days either of the hearing or of the conclusion of any post-hearing briefing, whichever is later. The licensee shall be informed immediately of the decision and, in the event of a suspension or revocation of his/her license, of the effective date of the suspension or revocation.

F. Surrender of License. When the San Felipe Pueblo Gaming Regulatory Commission suspends or revokes a license, the licensee shall surrender the license to the San Felipe Pueblo Gaming Regulatory Commission on or before the effective date of the suspension or revocation. No license shall be valid as of the effective date of the suspension or revocation, whether surrendered or not.

G. Additional Sanctions. Upon a determination to suspend or revoke a license, the San Felipe Pueblo Gaming Regulatory Commission, in addition to any other penalties that may be imposed, may declare the licensee ineligible to operate or conduct Games of Chance, to participate, directly or indirectly, in the operation or conduct of Games of Chance, or to apply for a license for a period not exceeding 12 months. Such declaration of ineligibility may be extended to include any primary management officials, key employees, owners, officers, or directors of the licensee, and any of its subsidiary organizations, parent organizations, or affiliates.

H. Appeal to Tribal Court. Any licensee aggrieved by a decision of the San Felipe Pueblo Gaming Regulatory Commission, may appeal the order to the Tribal Court, and the Tribal Court shall have jurisdiction to consider and resolve such appeal. The Tribal Court shall affirm the order of the San Felipe Pueblo Gaming Regulatory Commission unless such order was entered in violation of due process, was arbitrary or capricious, or was otherwise in contravention of applicable law. The Tribal Court may reverse, vacate, or modify the order of the San Felipe Pueblo Gaming Regulatory Commission if the Tribal Court determines that the order was unlawful. In reaching its decision, the Tribal Court shall consider only such evidence relating to the order from which appeal is taken as appears in the records of the San Felipe Pueblo Gaming Regulatory Commission and was available to the San Felipe Pueblo Gaming Regulatory Commission at the time of its decision. Any reversal or modification of the San Felipe Pueblo Gaming Regulatory Commission's prior determination shall be reported to the NIGC.

SECTION 16. Prohibited Acts.

In addition to the acts prohibited above, it shall be a violation of this Ordinance for any person to:

- A. Conduct or participate in any gambling on the Reservation other than at an authorized and licensed Gaming Facility;
- B. Receive, distribute, apply or divert any property, funds, proceeds, or other assets of the Gaming Enterprise to the benefit of any person except as authorized by this Gaming Ordinance, the Tribal-State Compact, NIGC Regulations, or IGRA.
- C. Take or attempt to take any chip(s), coin(s), token(s), or machine credits belonging to the Pueblo, a Gaming Enterprise, or another person not properly won, earned, or given.
- D. Tamper 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 rules of the Gaming Enterprise.
- E. Possess in a licensed Gaming Facility any chips, tokens, cards, device, paraphernalia that reasonably could be reasonably be used in cheating, defrauding, manipulating or altering any game, gaming device, equipment, machine, computer or supplies
- F. Do any other act in connection with the conduct of any Gaming Enterprise with the intent to affect the outcome of any wager other than in accordance with the publicly-announced rules of such Gaming Enterprise.
- G. Alter or misrepresent the outcome of any other event on which wagers have been made after the outcome is made sure but before it is revealed to the players.
- H. Place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome.
- I. Claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a Gaming Device or Gaming Equipment, with intent to defraud, without having made a wager thereon, or to claim, collect or take an amount greater than the amount won.
- J. Place or increase a wager or bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets.
- K. Reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome

of the game or other event which is the subject of the bet, including pinching bets.

L. Manipulate, with the intent to cheat, any component of an electronic Game of Chance or Gaming Device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to manipulating a Gaming Device, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

M. Knowingly use other than coins or tokens approved by the San Felipe Pueblo Gaming Regulatory Commission or other lawful coin or legal tender of the United States of America, or to use a coin not of the same denomination as the coin intended to be used in the Gaming Machine.

N. Possess, with the intent to use, any device to assist in projecting the outcome of the game, in keeping track of the cards played, in analyzing the probability of the occurrence of an event relating to the game, or in analyzing the strategy for playing or betting to be used in the game.

O. Use any device or means to cheat, or to possess any such device while at a Gaming Facility.

P. Knowingly entice or induce another to go to any place where gaming is being conducted or operated in violation of the provisions of this Ordinance, IGRA, any applicable Tribe-State Compact, or other applicable law and regulation with the intent that the other person play or participate in that gaming.

Q. Commit any act or omission that endangers the security and integrity of any Game of Chance.

R. Intentionally damage or attempt to damage any property, gaming device or equipment, or any article belonging to the Pueblo, a patron, employee, or tribal corporation.

S. Intentionally cause injury or harm to any patron, employee, or other person, or threaten to do so.

T. Willfully obstruct any Commission investigation.

U. Violate any regulation validly promulgated by the San Felipe Pueblo Gaming Regulatory Commission, including any regulation prohibiting or allowing damages to be assessed based on intentional, reckless, and negligent actions of any person.

SECTION 17. Civil Penalties.

Any person who violates any provision of this Gaming Ordinance shall be subject to civil penalties (including restitution and compensatory, consequential, and punitive damages),

termination of employment by any Gaming Enterprise, denial, suspension, or revocation of a gaming license, exclusion from attendance at any Gaming Facility, criminal prosecution when applicable, and/or exclusion from the Reservation if a non-member of the Pueblo. The San Felipe Pueblo Gaming Regulatory Commission may impose a fine and may require restitution. The San Felipe Pueblo Gaming Regulatory Commission shall have the jurisdiction to impose any penalties on any person within the jurisdiction of the Pueblo. Civil penalties may include requiring any person who violates this Gaming Ordinance to pay the expenses and fees incurred by the Gaming Enterprise, the Commission or the Pueblo in enforcement activities of any kind connected to the person found to have violated any provision of this Gaming Ordinance. The Commission may take appropriate action, including but not limited to suspension of a license or exclusion from the Reservation (if a non-member), during the pendency of any proceedings.

SECTION 18. Enforcement; Jurisdiction; Subpoenas.

A. **Civil Remedies in Court.** The San Felipe Pueblo Gaming Regulatory Commission may bring a civil action in the Tribal Court against any person who violates this Gaming Ordinance or engages in an activity or activities prohibited herein and recover monetary damages, attorney fees, injunctive relief, and/or any other relief that is just and equitable under the circumstances. The Tribal Court may order a person who commits an intentional or willful violation to pay punitive damages. The Tribal Court may order a civil penalty not to exceed \$5,000.00 for each day that a violation occurs and for each separate violation. Any person who violates this Gaming Ordinance, or whose employees or agents in the course of their employment or agency violate this Gaming Ordinance, may have the right to engage in business on the Reservation suspended or terminated. Nothing in this Gaming Ordinance shall be construed to authorize or require the exercise of criminal jurisdiction over non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.

B. **Tribal Court Jurisdiction.** Except as otherwise provided in this Gaming Ordinance, the Tribal Court shall have exclusive jurisdiction over all matters concerning the administration and enforcement of this Gaming Ordinance; provided, however, that the Tribal Court shall defer the exercise of its jurisdiction until any applicable administrative remedies have been exhausted, and provided further that nothing in this Gaming Ordinance is intended nor shall it be interpreted to preclude prosecution in federal court pursuant to the IGRA, as it may be amended from time to time, any regulations promulgated thereunder, any other applicable federal or tribal law, or prosecution in state court pursuant to an effective memorandum of understanding with the District Attorney for the Thirteenth Judicial District pursuant to the terms of the Tribal-State Compact.

C. **Enforcement of San Felipe Pueblo Gaming Regulatory Commission Subpoenas.** If a person subpoenaed to attend or to produce books, accounts, records, or other documents in any investigation or hearing conducted by the San Felipe Pueblo Gaming Regulatory Commission fails to obey the command of the subpoena without reasonable cause, or if a person in attendance at any hearing or investigation refuses, without lawful cause, to be examined, to answer a legal and pertinent question, or to exhibit any book, account, record, or other document when ordered

to do so by the representative of the San Felipe Pueblo Gaming Regulatory Commission conducting such investigation or hearing, the San Felipe Pueblo Gaming Regulatory Commission may apply to the Tribal Court for an order directing the person to show cause why he should not comply with such subpoena. For purposes of this Gaming Ordinance, if granted immunity by the Commission or the Tribal Court in writing no person shall be excused from testifying or producing any books, accounts, records, or other documents in any investigation or hearing on the ground that such testimony or documentary evidence may tend to incriminate him or her. "Immunity" means that a person shall not be prosecuted, punished, and/or subjected to penalty or forfeiture resulting from such testimony or production (or shall be subjected to an agreed-upon lesser punishment), provided that no person shall be exempt from prosecution or punishment for committing perjury under a grant of immunity.

SECTION 19. Severability.

In the event any section or provision of this Gaming Ordinance or its application to any particular activity is held to be invalid, the remaining sections and provisions of this Gaming Ordinance and the remaining applications of such section or provision shall continue in full force and effect.

SECTION 20. Sovereign Immunity.

The Pueblo does not in any way waive its sovereign immunity from suit in any court to contest the validity of this Gaming Ordinance or in any other matter, except to the limited extent explicitly set out in Section 14, Protection of Patrons, in the Charter of a Gaming Enterprise, or in other applicable Pueblo law.

SECTION 21. Amendments.

This Gaming Ordinance may be amended by official action of the Tribal Council.

SECTION 22. Repeal of Prior Laws.

This Gaming Ordinance, upon becoming effective, and only then, shall operate to repeal all prior inconsistent laws, including but not limited to the San Felipe Pueblo Class II and Class III Gaming Ordinance, No. 94-22, adopted by the Council on July 21, 1994, the Amended and Restated Gaming Ordinance adopted by the Tribal Council on May 5, 1999, and the Amended and Restated Gaming Ordinance (Revised), adopted by the Tribal Council on July 20, 1999, and the Second Amended and Restated Gaming Ordinance, adopted by the Tribal Council on November 27, 2002.. In the event of any inconsistency between this Gaming Ordinance and the San Felipe Pueblo Charter for the San Felipe Pueblo Gaming Enterprise, approved July 21, 1994 and as amended from time to time, the provisions of this Gaming Ordinance shall govern.

SECTION 23. Effective Date.

To the extent permitted by Pueblo and federal law and by the Tribal-State Compact, this Gaming Ordinance shall be effective as of the date of its approval by the Tribal Council. To any remaining extent, this Gaming Ordinance shall be effective as of the date of its approval by the National Indian Gaming Commission.

SECTION 24. Compact Compliance - Additional Requirements.

This section adds to the San Felipe Gaming Ordinance the following provisions required by Section 4 of the 2001 Compact. In the event a Tribal-State Compact no longer requires a provision in this Section, such provision shall lapse 60 days later unless the Council by resolution or the Commission by regulation continues such provision in force.

- A. Participation in any Class III gaming is prohibited for any person under the age of 21.
- B. Employment of any person under the age of 21 as a Gaming Employee is prohibited, and employment of any person in Class III gaming who is not licensed in accordance with Section 10 herein is prohibited.
- C. The Pueblo is required to take all necessary action to impose on its gaming operations 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 of general applicability to Indian tribes relating to wages, hours of work and conditions of work, and the regulations issued thereunder.
- D. On any construction project involving any Gaming Facility or related structure that is funded in whole or in part by federal funds, all workers shall be paid wages meeting or exceeding the standards established for New Mexico under the federal Davis-Bacon Act.
- E. The Pueblo, each Gaming Enterprise, and any Management Contractor are prohibited from discriminating in the employment of persons to work for the Gaming Enterprise Board or in the Gaming Facility on the grounds of race, color, national origin, gender, sexual orientation, age or handicap. However, Tribal and other Indian preference in employment is allowed.
- F. All employees of a gaming establishment shall be provided employment benefits, including, at a minimum, sick leave, life insurance, paid annual leave and medical and dental insurance as well as unemployment insurance and workers' compensation insurance through participation in programs offering benefits at least as favorable as those provided by comparable State of New Mexico programs.
- G. A grievance process must be provided for employees in cases of disciplinary or punitive

action taken against an employee, and that process shall provide for appeals to persons of greater authority than the immediate supervisor of the employee.

H. State Department of Environment inspectors shall be permitted to inspect Gaming Facilities' food service operations during normal Gaming Facility business hours to assure that standards and requirements equivalent to the New Mexico Food Service Sanitation Act [Chapter 25, Article 1 N.M.S.A. 1978] are maintained.

I. Each Gaming Enterprise is prohibited from cashing any paycheck or any type of government assistance check, including Social Security, TANF, pension and other similar checks, for any patron.

J. Each Gaming Enterprise is prohibited from extending credit by accepting IOUs or markers from its patrons.

K. Each Gaming Enterprise shall post on each Gaming Machine the odds of a player achieving a winning outcome from the games available on the Gaming Machine.

L. Any automatic teller machine 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.

M. Each Class III 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 80%.

N. All Gaming Machines on the premises of the Gaming Facility must be connected to a central computerized reporting and auditing system on the Gaming Facility premises, which shall collect on a continual basis the activity of each gaming machine in use at the Gaming Facility. The wager and payment data of each machine, once it is fed into the Gaming Facility's central computer, shall be electronically accessible to 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 opening of any Gaming Machine or other device on the premises of the Gaming Facility, or the data provided to the central computer.

O. Any and all employees of the Gaming Facility are prohibited from selling, serving, giving or delivering an alcoholic beverage to an intoxicated person or from procuring or aiding in the procurement of any alcoholic beverage for an intoxicated person at the Gaming Facility.

P. All Gaming Facility employees who dispense, sell, serve or deliver alcoholic beverages must attend Alcohol Server Education Classes similar to those classes provided for in the New Mexico Liquor Control Act; and

Q. Each Gaming Enterprise shall:

1. Purchase and maintain a liquor liability insurance policy that will provide, at a minimum, personal injury coverage of \$1,000,000 per incident and \$2,000,000 aggregate per policy year.

2. Prohibit alcoholic beverages from being sold, served, delivered or consumed in that part of a Gaming Facility where gaming is allowed;

3. Spend an amount that is no less than .25% of its net win as that term is defined herein annually to fund or support programs for the treatment and assistance of compulsive gamblers in New Mexico or who patronize New Mexico gaming facilities, and for the prevention of compulsive gambling in New Mexico. A substantial portion of such funds shall be distributed to an organization that has expertise in and provides counseling, intervention, or other services for compulsive gamblers in New Mexico, and whose services are available to all persons without regard to race or tribal membership. Each Gaming Enterprise shall provide the San Felipe Pueblo Gaming Regulatory Commission with documents sufficient to verify compliance with this requirement, including amounts spent for this purpose and the recipients of the payments.

R. Any Management Contract regarding the Pueblo's Class III Gaming activity must conform to the requirements of tribal law and the IGRA and the regulations issued thereunder.

S. Each gaming operation must prohibit the operation of any Class III Gaming for at least four consecutive hours daily, Mondays through Thursdays (except federal holidays).

T. Each Gaming Enterprise and the Pueblo are prohibited from providing, allowing, contracting to provide or arranging to provide alcoholic beverages, for no charge or at reduced prices at a Gaming Facility or lodging facility as an incentive or enticement for patrons to game. Food or lodging may be provided at reduced prices, so long as their prices are greater than a minimal amount.

U. The Pueblo, each Gaming Enterprise, the San Felipe Pueblo Gaming Regulatory Commission or a Management Contractor must report to the Secretary of State, in the same manner and at the same time as are required of political committees under the provisions of the New Mexico Campaign Reporting Act [1-19-25 to 1-19-36 N.M.S.A. 1978] any and all contributions whether directly or through an agent, representative or employee, all monies derived from revenue from the Gaming Enterprise, or of anything of value acquired with that revenue to a candidate, political committee, or person holding an office elected or to be elected at any election covered by the State's Campaign Reporting Act. In the event any report required to be made under this Section is not made, or is false or incomplete, the Pueblo shall be liable to pay the Secretary of State a penalty in the amount of fifty dollars (\$50.00) for each working day after the day on which the report was due until the day on which the complete or true report is filed, up to a maximum of five thousand dollars (\$5,000), except that with respect to the report due on the Friday before an election the penalty shall be five hundred dollars (\$500) for the first working day after the due date and fifty dollars (\$50.00) per working day thereafter, up to a maximum of five thousand dollars (\$5,000).

V. The San Felipe Pueblo Gaming Regulatory Commission shall certify annually to the State Gaming Representative that the Commission has met its regulatory obligations under the Compact.

CERTIFICATION

I, the undersigned, as Governor of the Pueblo of San Felipe, hereby certify that the Tribal Council of the San Felipe Pueblo, at a duly called meeting convened and held at the Pueblo of San Felipe on the 12th day of February 2004, a quorum being present, approved and adopted the foregoing Third Amended and Restated Gaming Ordinance


Harold Candelaria, Governor

ATTEST:


Tribal Council Member


Tribal Council Member