



October 9, 2009

via facsimile: 505.867.3383
and First Class mail

Anthony Ortiz, Governor
Pueblo of San Felipe
P.O. Box 4339
San Felipe Pueblo, NM 87001

Re: Amended gaming ordinance, approval

Dear Governor Ortiz:

On September 2, 2009, you requested that the NIGC Chairman review and approve the San Felipe Pueblo's Fourth Amended and Restated Gaming Ordinance, adopted by Resolution No. 2009-91. The amendment is a substantial revision of the Pueblo's existing gaming ordinance: it bifurcates patron dispute procedures, amends internal procedures for conducting the annual audit required by the Indian Gaming Regulatory Act, conforms the ordinance to the 2007 compact between the Pueblo and the State of New Mexico, reorganizes the Pueblo's gaming commission, and makes various other administrative revisions.

This letter constitutes my approval. Nothing in the amended gaming ordinance conflicts with IGRA or NIGC regulations.

Thank you for your submission. If you have any questions, please contact Staff Attorney Heather McMillan Nakai at (202) 632-7003.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Skibine", with a long horizontal flourish extending to the right.

George T. Skibine
Acting Chairman

SEP 10 2009

SAN FELIPE PUEBLO
FOURTH AMENDED AND RESTATED
GAMING ORDINANCE

Reviewed and Ratified
At a Duly Called San Felipe Pueblo Tribal Council Meeting
On
August 26, 2009

Tribal Council Resolution No. 2009-91

**SAN FELIPE PUEBLO FOURTH AMENDED
AND RESTATED GAMING ORDINANCE**

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SAN FELIPE PUEBLO FOURTH 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; and

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; and

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

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; and

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 on January 14, 2003; and

WHEREAS, to effect limited amendments relating to the San Felipe Pueblo Gaming Regulatory Commission, the Pueblo of San Felipe approved its Third Amended and Restated Gaming Ordinance on February 12, 2004, which Ordinance was approved by the National Indian Gaming Commission on April 29, 2004; and

WHEREAS, the Pueblo of San Felipe entered into an amended Tribal-State Compact with the State of New Mexico on April 24, 2007 ("2007 Compact"), which Compact took effect on June 18, 2007 (72 *Fed. Reg.* 36717); and

WHEREAS, the Pueblo now wishes to amend the Gaming Ordinance to incorporate the 2007 Compact provisions and modifications based on the Pueblo's continued experience with the operation and regulation of gaming.

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 Fourth 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 therewith) when players:

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

2. 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.

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 pari-mutuel 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 Device"** means any gambling device as defined in 15 U.S.C. § 1171(a).

G. **"Gaming Employee"** means a Person connected directly with the conduct or management of Class II or Class 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 the Gaming Enterprise that the Tribal Council may in the future designate to operate Games of Chance.

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

L. **"Gaming Operation"** means a division, department, or unit of the Gaming Enterprise that is responsible for receiving or disbursing the revenues, issuing the prizes, and paying the expenses in connection with the conduct of gaming activity. For purposes of this Ordinance, unless the context dictates otherwise, a Gaming Operation includes any Management Contractor having a Management Contract related to the Gaming Operation.

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

M. **"Gaming Services"** means goods or services provided or sold to the Pueblo, the Gaming Enterprise, any Gaming Facility, or a Gaming Contractor, directly in connection with the operation of Class II or Class III Gaming in a Gaming Facility, including but not limited to 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, and including but not limited to equipment, merchandise, transportation, food, linens, janitorial supplies, maintenance, or security services for the Gaming Facility, in an aggregate of more than ten thousand dollars (\$10,000) per month.

N. **"General Manager"** means the Manager of gaming for a Gaming Enterprise or, if a Gaming Enterprise enters into a Management Contract, the chief operational manager of the 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 or 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 Commission pursuant to Section 11 of this Gaming Ordinance.

U. **"Licensee"** means any entity or Person who has been duly licensed by the 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 the 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 Pueblo or the Gaming Enterprise.

X. **"Member of the Pueblo" and "Pueblo Member"** mean an enrolled member of the San Felipe Pueblo.

Y. **"National Indian Gaming Commission" and "NIGC"** mean the National Indian Gaming Commission established by 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 2007 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 to winning patrons, including the cost to the Pueblo of noncash prizes, won on Gaming Machines. The phrase "won on Gaming Machines" means the patron has made a monetary wager, and as a result of that wager, has won a prize of any value. Any rewards, awards or prizes, in any form, received by or awarded to a patron under any form of a players' club program (however denominated) or as a result of patron-related activities, are not deductible. The value of any complimentary given to patrons, in any form, are not deductible;
2. The amount paid to the State by the Pueblo under the provisions of Section 4(E)(6) of the 2007 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. **"Principal"** means with respect to any entity; (i) each of its officers and directors; (ii) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager; (iii) each of its owners or partners, if an unincorporated business; (iv) each of its shareholders who own more than ten percent (10%) of the shares of the corporation, if a corporation; and (v) each person other than a banking institution who has provided financing for the entity constituting more than ten percent (10%) of the total financing of the entity.

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 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. **"Table Game"** means a Class III Game of Chance, in which the outcome depends to a material degree on an element of chance, notwithstanding that some skill may be a factor, that is played using a wheel; cards or dice, and that requires an attendant to initiate the game or to collect wagers or pay prizes.

JJ. **"Temporary License"** means a License of short duration issued by the Commission pursuant to Sections 11(E)(1) and (2) of this Gaming Ordinance.

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

LL. **"Tribal Court"** means the San Felipe Pueblo Tribal Court, including any judge *pro tem* appointed by the Governor to hear appeals authorized by this Gaming Ordinance.

MM. **"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 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.

A. **In General.** This Ordinance is an exercise of the sovereign power of the Pueblo and shall be construed in a manner that accomplishes its purposes and promotes the integrity of gaming and complies with applicable law.

B. Specific Provisions.

- 1. **Computing Time.** The following rules apply in computing any time period specified in this Ordinance or in any rules, regulations, or policies enacted by the Commission unless specifically stated otherwise.
 - a. **Day of the Event Excluded.** Exclude the day of the act, event, or default that begins the period.
 - b. **Last Day.** Include the last day of the period unless it is a Saturday, Sunday, or legal holiday. When the last day is excluded, the period runs until the end of the next day that is not a Saturday, Sunday, legal holiday, or day when the clerk's office is inaccessible.
 - c. **"Legal Holiday" Defined.** As used in this Ordinance, "legal holiday" means any day observed by the Pueblo through the closure of the Pueblo government office.
 - d. **"Calendar Day"** means any and all days, subject to the "Last Day" rule above.
 - e. **"Business Day"** means days excluding Saturdays, Sundays, and legal holidays, subject to the "Last Day" rule above.

- f. Time periods given in hours are to be strictly construed and are not subject to the "Last Day" rule above.
2. **Service.** In all situations in which the Commission is required to provide service upon a Person under this Ordinance or under any rules, regulations, or policies enacted by the Commission, unless otherwise specifically provided, service shall be deemed complete upon the final regular attempted delivery of the relevant notice by certified mail or overnight delivery service to the last address provided by the Person to the Commission, or if no address was provided directly to the Commission, to the Gaming Enterprise or the Pueblo.
3. If the Pueblo executes a lawful Tribal-State Compact that amends or replaces the 2007 Compact while this Gaming Ordinance is in force, all provisions of this Ordinance shall be construed as necessary to comply with the new Compact until such time as this Ordinance is amended to conform to the new 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 Pueblo 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. The Gaming Enterprise shall conduct all gaming in compliance with this Gaming Ordinance, other applicable Pueblo law, IGRA, any applicable Tribal-State Compact, and any regulations adopted pursuant thereto. The Gaming Enterprise shall be responsible for operating the surveillance system of each Gaming Facility.

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 15(C) of this Ordinance.
- D. **Age Restrictions.** No Person under twenty-one (21) years of age may participate in any Class III gaming on the Reservation, and no Person under twenty-one (21) years of age may be employed as a Gaming Employee, Key Employee, or Primary Management Official of

any Gaming Enterprise on the Reservation who is connected directly with the conduct or management of Class III Gaming. No Person under eighteen (18) years of age may participate in any Class II gaming on the Reservation, and no Person under eighteen (18) years of age may be employed as a Gaming Employee, Key Employee, or Primary Management Official of any Gaming Enterprise on the Reservation who is connected directly with the conduct or management of Class II Gaming.

E. **Persons Barred from Personal Participation in Gaming.** No person serving in any of 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 ninety (90) calendar days after the termination of such employment or office:

1. Members of any Gaming Enterprise Board;
2. Members of the Commission;
3. General Manager of any Gaming Enterprise;
4. Primary Management Officials;

5. Employees of any Gaming Enterprise and the Commission; *provided*, however, the Gaming Enterprise Board and the Commission are each authorized to exempt classes of their respective employees from the prohibition of this Section.

SECTION 7. Class II and Class III Games Authorized.

A. **Class II Games.** The 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 in the future.

B. **Class III Games; Tribal-State Compact Required.** No Person may conduct Class III gaming on the Reservation unless either a Tribal-State Compact is in effect or Secretarial Procedures authorize such Class III gaming. When 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, the 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 in the future.

C. **Designation of Manager in Charge.** The General Manager shall designate a Primary Management Official to be 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 Commission at least five (5) business 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, or in immediate proximity to, the Premises continuously throughout the period during which gaming activities

are being conducted and for a period of at least one (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 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 Commission.** All areas of any Premises in which any Class II or Class III gaming will be or is operated or conducted, shall at all times be open to inspection by the 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 the 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. The 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 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.** The 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. The Gaming Enterprise must provide sufficient training to all employees to enable them to perform their jobs properly.

2. The 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 Commission shall have the following powers and duties:

1. The following powers and duties are non-delegable and may be performed only by the Commission:

- a. 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.
- b. To adopt by regulation internal control standards not less stringent than those lawfully required under this Gaming Ordinance and any regulations promulgated hereunder, under IGRA and its implementing regulations, under the Compact, or under equivalent procedures lawfully prescribed by the Secretary of the Interior.
- c. 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, *provided* that the Commission may delegate to the Executive Director the authority to conduct such negotiations.
- d. To implement 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.

- e. To issue Licenses to, at minimum, qualified Gaming Enterprise Key Employees and Primary Management Officials under requirements at least as strict as those established in Section 11(E)(6) of this Ordinance; and to grant, condition, suspend, revoke, and renew Licenses and to hear and decide matters affecting such granting, conditioning, suspension, revocation, or renewal of Licenses, *provided* that the Executive Director may grant a Temporary License to the extent provided in Section (11)(E)(1) and (2) of this Gaming Ordinance.
- f. To promulgate rules for any Class II or Class III gaming activity on the Reservation consistent with this Ordinance and with IGRA and implementing federal regulations, *provided* that rules for Class III activities shall not conflict with rules, if any, adopted under any Tribal-State Compact.
- g. To hold such hearings, sit and act at such times and places, take testimony, and receive such evidence as the Commission deems relevant in fulfilling its duties.
- h. 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 Commission, and to bring actions in the Tribal Court for the enforcement of such subpoenas.
- i. To administer oaths and affirmations to witnesses appearing before the Commission.
- j. To bring an action in the Tribal Court to enforce the provisions of this Gaming Ordinance.
- k. To suspend any gaming activity if, in the opinion of the 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.
- l. 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 Commission and to contract with the National Indian Gaming Commission for the enforcement of federal regulations governing gaming on Indian Reservations.

- m. Subject to the approval of the Tribal Council, to adopt the budget of the Commission at least annually and to adopt modifications of such budget. The Commission shall submit a quarterly and annual financial report to the Tribal Council.
- n. To approve or disapprove Management Contracts in accordance with this Gaming Ordinance.
- o. To hear appeals in accordance with this Gaming Ordinance.
- p. To promulgate rules and regulations, in addition to those specifically stated herein, 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, IGRA, or any applicable Tribal-State Compact.
- q. To recommend amendments to this Gaming Ordinance to the Tribal Council.
- r. 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 14(G) of this Gaming Ordinance.
- s. To submit an annual report to the Tribal Council and Governor on the activities of the Commission. Such reports must include information on the funding, income, and expenses of the Commission.
- t. To hire an individual to serve as Executive Director of the Commission to administer and execute the Commission's delegable duties and responsibilities under this Gaming Ordinance, and to delegate to the Executive Director duties of the Commission in a manner consistent with this Gaming Ordinance.
- u. To oversee and monitor the Executive Director in the competent and ethical operation of the Commission.
- v. To impose civil penalties as permitted by this Gaming Ordinance.

2. The following powers and duties are delegable and may be performed by the Executive Director:

- a. 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 15(C).

- b. To enforce compliance with internal control standards not less stringent than those lawfully required under this Gaming Ordinance and any regulations promulgated hereunder, under IGRA and its implementing regulations, under the Compact, or under equivalent procedures lawfully prescribed by the Secretary of the Interior.
- c. To administer the system adopted by the Commission for investigating, licensing and monitoring management, employees, vendors, and others connected with gaming activities, as required under this Ordinance, IGRA, and any Tribal-State Compact or equivalent procedures prescribed by the Secretary of the Interior.
- d. To conduct background investigations regarding any Person or entity in any way connected with any gaming activity and to recommend to the Commission whether a License should be granted or denied.
- e. To serve as the Tribal Gaming Agency for purposes of implementing any Tribal-State Compact, 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.
- f. 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 Commission under this Gaming Ordinance.
- g. To record and investigate any suspicion of wrongdoing related to any gaming activity.
- h. 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.
- i. To establish and collect License, investigation, and regulatory fees to cover or help cover the costs connected therewith.
- j. To keep minutes, records, and books in which shall be kept a true, faithful, and correct record of all proceedings of the Commission.

- k. In consultation with the Commission, to manage, hire, and fire, and consistent with applicable laws, regulations, policies, and procedures, all employees of the Commission, *provided* that the Commission may not employ any Person who would be disqualified from being a Commissioner under one or more of the five prohibitions in Section 8(E) below, and *provided* further that all employment actions of the Commission (excluding matters involving the hiring, firing, discipline, compensation, and other rights and duties of the Commissioners, which shall be governed by this Gaming Ordinance and other applicable tribal law and policies) shall be governed by the personnel policies of, and administered by, the San Felipe Tribal Human Resources Department.
- l. To take action as may be reasonable and appropriate to enforce this Gaming Ordinance and the rules and regulations of the Commission, including the reasonable application of this Ordinance to any Class II and Class III gaming activities that may be authorized in the future.

C. **Procedure for the Promulgation of Regulations.** Where the Commission is authorized to promulgate regulations, the following procedure shall be followed:

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

2. After the Gaming Enterprise Board and General Manager have had an opportunity to advise the Commission of any concerns, the Commission shall put the proposed regulation in a form for formal circulation and comment. At a minimum, the proposed regulation shall be provided to the Gaming Enterprise Board and General Manager, and to each party known by the 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 Commission shall allow a minimum of fourteen (14) calendar days for comment.

3. The Commission may receive comments from all interested parties. After considering all comments, the 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 the Gaming Enterprise Board and General Manager, and to each party known by the 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 fourteen (14) calendar 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.

7. Notwithstanding the foregoing subsections, if the Commission determines that a regulation must be promulgated immediately to protect the public safety or to maintain the legality of gaming activities by the Gaming Enterprise, such regulation shall become effective upon posting in the locations listed in Section 8(C)(2). The Commission shall, within two (2) business days of promulgating an emergency regulation under this subsection, commence the normal promulgation procedures for the regulation. An emergency regulation shall expire thirty (30) calendar days after the close of the comment period under Section 8(C)(3) unless sooner withdrawn or replaced by the Commission.

D. **Composition.** The Commission shall consist of three (3) Commissioners appointed 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. Commissioners shall serve staggered three (3) year terms unless a Commissioner earlier resigns or is terminated under Section 8(G). A Commissioner who resigns may continue to serve until a new Commissioner is appointed by the Tribal Council. A Commissioner who is terminated under Section 8(G) shall serve until the effective date of termination agreed upon by the Tribal Council.

E. **Qualifications of Commissioners.** No Person shall be eligible or qualified to serve, or continue to serve, as a Commissioner who:

1. Has been convicted of any felony or of any crime involving gaming, dishonesty, or moral turpitude;

2. Is a member of the Tribal Council or would be a member of the Tribal Administration, a Tribal Administrator, or an employee of the 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 may be permitted);

4. Has any financial interest in, or responsibility for, any gaming-related contract;
or

5. Has engaged in any conduct that would be detrimental to the integrity, reputation, or best interests of the Pueblo, the Commission, or the Gaming Enterprise.

F. **Licensing of Commissioners.** Each Commissioner appointed by the Tribal Council must submit a License application to the Commission as provided in Section 11. No Commissioner may begin service without a License, *provided* that a Commissioner may begin service upon the issuance of a temporary License. Upon conclusion of the required background investigation and after making its suitability determination, the Commission shall grant or deny a License. If a License application is denied, the selection committee shall select another Commissioner. 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 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 as follows:

1. **Termination Without Cause.** A Commissioner may be terminated by the Tribal Council at any time, without cause, upon written notice and the payment of two (2) months' stipend. Upon direction from the Tribal Council, the Governor shall provide written notice of the termination to the Commissioner and the Commission, which notice shall state the effective date of the termination.

2. **Termination for Cause.**

- a. Termination of a Commissioner for cause shall be initiated by the Governor, with written notice to the Commissioner and the Commission, specifying the cause for termination.
- b. Cause for termination shall be limited to:
 - i. conviction in any court of any felony or other crime involving gaming, dishonesty, or moral turpitude;
 - ii. violation of the laws of the Pueblo, another tribe, any state, the United States, or any foreign sovereign in some respect that casts doubt on the Commissioner's fitness to continue in office;
 - iii. failure to meet or maintain the qualifications for Commissioners set forth in Section 8(E);
 - iv. gross neglect of duty;
 - v. malfeasance in office, or conduct which amounts to intentional disregard of the laws and procedures applicable to the affairs of the Commission;

- vi. conduct in or out of office detrimental to the integrity, reputation, or best interests of the Pueblo, the Commission, or the Gaming Enterprise; or
 - vii. other good cause shown.
- b. The Governor shall refer the proposed termination to the Tribal Council for final action. Before final action is taken by the Tribal Council, the Commissioner shall be given a full opportunity to appear before the Tribal Council to answer or otherwise respond to any and all charges against him or her. A Commissioner may be suspended with pay by the Governor pending the meeting with the Tribal Council. The Tribal Council may reinstate or terminate the Commissioner. Under no circumstances may the Tribal Council authorize the payment to a Commissioner terminated for cause the value of the unearned stipend for the uncompleted balance of the Commissioner's term or any other monetary or other compensation unearned as of the date of final termination.
 - c. To terminate a Commissioner for cause, the affirmative action of a consensus of the members of the Tribal Council present at such meeting is required.

H. Resignations and Vacancies. Any Commissioner may resign at any time by giving written notice to the Commission and to the Governor on behalf of 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 Commission, howsoever caused, shall be filled in accordance with this Ordinance.

I. Selection of Officers. At the first meeting of the Commission after a new Commissioner is fully licensed and annually thereafter on or about the anniversary of that first meeting, the 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 Commission at which the Chairman is absent.

J. Motions and Resolutions; Meetings; Quorum.

1. Except as otherwise provided herein or as sound regulatory practice may require under the circumstances, all official actions required to be taken by the full Commission shall be taken by motion or resolution approved by the affirmative vote of a majority of the Commission members present at a meeting with a quorum.

2. Two members of the Commission shall comprise a quorum for all purposes under this Gaming Ordinance, including but not limited to hearings and public meetings conducted under this Ordinance.

3. The Commission shall hold at least one regular meeting each month. Regular meetings may be held upon such notice, or without notice, and at such time and place as shall from time to time be fixed by the Commission. Unless otherwise specified by the Commission, no notice of such regular meetings shall be necessary.

4. Special meetings of the Commission may be called by the Chairman, who shall fix the time and place of the special meeting.

5. Neither the business to be transacted at, nor the purposes of, any regular or special meeting of the Board need be specified in the notice of the meeting. Commissioners may participate in a regular or special meeting by telephone or other similar electronic means.

6. If 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. Cooperation with Other Law Enforcement Agencies. The 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.

L. Compensation for Service; Reimbursement of Expenses. Commissioners shall be paid a stipend for serving on the Commission in an amount to be determined by the Tribal Council. The Tribal Council shall give three (3) months' advance written notice if the stipend is to be decreased. Commissioners shall additionally be reimbursed for reasonable expenses incurred in connection with the performance of their Commission duties at the rate at which such expenses are customarily reimbursed.

SECTION 9. Executive Director

A. Appointment. The Commission shall hire an Executive Director, who shall serve at the will and pleasure of the Commission. The Executive Director may not also simultaneously be a member of the Tribal Council or an officer or official of the Pueblo. Before appointing the Executive Director, the Commission shall conduct a background investigation of the proposed appointee using the standards in this Ordinance.

B. Qualifications. The Executive Director shall:

1. Have at least five (5) years of experience in public administration, business management, law, or gaming;

2. Not have been convicted of any felony or of any crime involving a crime involving gaming, dishonesty, or moral turpitude; and

3. Not have, directly or indirectly, a financial interest in, or a business relationship with, any Person licensed under this Ordinance (except that marriage to an individual who is an employee or management official of the Gaming Enterprise may be permitted).

C. Salary. The Executive Director shall be paid an annual salary in the amount specified by the Commission and approved in the Commission's budget by the Tribal Council.

D. Staff. The Executive Director shall employ Persons who possess training and experience in the fields of investigation, law enforcement, accounting, law, and gaming to assist in carrying out all powers and perform all duties assigned to the Executive Director under this Gaming Ordinance, *provided* that the Executive Director may not retain legal counsel or an outside accountant without the prior approval of the Commissioners.

E. Powers and Duties. Subject to the oversight of the Commission, the Executive Director shall manage the day-to-day activities of the Commission and, except as otherwise provided herein or in duly adopted resolutions of the Commission, exercise the powers and perform the duties of the Commission, and shall administer and enforce the Commission's duties and responsibilities under this Gaming Ordinance. The Executive Director shall oversee the Commission staff, conduct investigations, and otherwise act on behalf of the Commission as authorized by the Commission. The Executive Director shall be responsible for coordinating the functions of the Commission and other federal, state, and local agencies as necessary.

F. Conflict of Interest. If the Commission determines that the Executive Director has a conflict of interest with respect to any duty delegated to the Executive Director, it may delegate that duty to another Commission employee.

SECTION 10. San Felipe Pueblo Gaming Regulatory Commission's Relationship to Tribal Government.

A. Agency of Tribal Government.

1. The Commission shall be an independent agency of the Tribal Government. However, to conserve the resources of the Pueblo and to promote consistency within Tribal Government, the Commission shall be subject to the Pueblo's personnel and financial policies and procedures, which policies and procedures shall be administered by the San Felipe Tribal Government Human Resources and Finance Departments in coordination with the Commission. Notwithstanding the prior sentence, the Commission shall retain all managerial and supervisory control over personnel and finance matters.

2. The Commission is the Tribal Gaming Agency for purposes of any Tribal-State Compact.

B. **Independent Decision-Making Authority.** Because the Commission is an independent agency of Tribal Government, the decisions of the Commission regarding licensing, suitability, compliance with applicable law, and other regulatory matters shall be within the exclusive province of the Commission, *provided* that any Person or entity adversely affected by a ruling of the Commission, including, but not limited to a patron, the Gaming Enterprise, or any employee of the Gaming Enterprise, may petition the Tribal Court for review of such decision, in accordance with Section 20 below.

SECTION 11. Licenses for Operating and Conducting Games of Chance.

A. Licenses Required.

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

2. **Gaming Facility and Gaming Establishment.** Each place, facility, or location within the Reservation where the Pueblo elects to allow Class II or Class III Gaming shall be licensed by the Commission. 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 and safety 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 the Gaming Enterprise Board shall be licensed by the Commission and subject to a background investigation.

4. **Gaming Employees.** Each Gaming Employee shall be licensed by the Commission and subject to a background investigation.

5. **Management Contractors.** All Management Contractors, including their Principals, Primary Management Officials, Key Employees, and shareholders having in excess of five percent (5%) ownership, shall be licensed by the 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 II or Class III gaming or to provide Gaming Services to the Gaming Enterprise shall be licensed by the Commission and subject to a

background investigation before being permitted to sell or lease any devices or supplies used in Class II or Class III gaming, or to provide any Gaming Services to the Gaming Enterprise, Gaming Facility, or Management Contractor.

7. **Lenders, Investors and Providers of Financial Services.** Lenders, investors, and providers of financial services, and such agents, employees and major shareholders of such Person as required by the Commission, shall be licensed by the 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 financial services.

B. **License Application.** Each applicant for a License shall file with the Commission a written application in the form prescribed by the Commission, duly executed and verified, along with the applicant's fingerprint card, current photograph, and any fees required by the 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 the 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 required to be licensed by Section 11(A) above whose licensing process did not include a 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 the 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 Commission shall notify in writing any Persons 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 Commission shall request from each Person required by Section 11(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 and written);
- b. Currently and for the previous ten (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 eighteen (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 11(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, suspended, or revoked;
- 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 eighteen (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 eighteen (18) years and is not otherwise listed pursuant to Section 11(B)(5)(h) or Section 11(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, suspended, or revoked;
- l. A current photograph;
- m. Fingerprints shall be taken by the 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 Commission and the NIGC;
- n. The fee required by the Commission; and
- o. Any other information which the 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 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 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 Commission.
- c. The Commission shall investigate the information provided in the applications. This investigation will include:
 - i. contacting Persons identified in the application, and verifying by written or oral communication that the information contained in the application is accurate;
 - ii. interviewing a sufficient number of knowledgeable people, such as former employers, partners, business associates, and others referred to in the application, to provide a basis for the Commission to make a determination concerning whether the applicant meets applicable eligibility requirements;
 - iii. reviewing relevant financial records of the applicant for up to fifteen (15) years preceding the application, *provided* that the Commission may, for good cause, review financial records going back further than fifteen (15) years;
 - 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 Commission shall document any information it obtains that calls into question whether the applicant would meet the eligibility

requirements under this Ordinance. The 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 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 Commission will perform additional investigations.

3. In conducting a background investigation, the Commission and its agents shall keep confidential the identity of each Person interviewed in the course of the investigation.

4. The 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 Commission shall retain applications for employment and reports (if any) of background investigations for no less than six (6) years from the date of termination of employment.

6. Once the investigation is complete, the Commission will decide whether the applicant meets the eligibility criteria under this Ordinance.

7. All background investigations and reports shall remain confidential unless disclosure is otherwise required by applicable law.

D. Procedures for Forwarding Applications and Reports.

1. When a Key Employee or Primary Management Official begins work at the Gaming Enterprise authorized by an applicable Tribal-State Compact, this Gaming Ordinance, and other Pueblo law, the 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 Commission shall forward the report referred to in Section 11(D)(4) to the NIGC and, as required, to the State Gaming Representative within sixty (60) calendar days after an employee begins work.

3. Subject to renewal of a Temporary License pursuant to Section 11(E)(2) below, a Key Employee or Primary Management Official who does not have a License shall not be employed after ninety (90) calendar days.

4. The Commission shall prepare and forward to the NIGC and, as required by an applicable Tribal-State Compact, 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 Commission shall submit with the report a copy of the eligibility determination made under Section 11(C)(6).

6. If a License is not issued to an applicant, the Commission shall notify the NIGC and, as required by a Tribal-State Compact, the State Gaming Representative.

E. Granting a Gaming License; Standards.

1. Temporary License. Within twenty (20) calendar days of the receipt of a completed application for licensing, and upon request of an applicant, the 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, *provided* that the Executive Director may grant a Temporary License upon receipt of a License application that does not require denial on its face, subject to confirmation of that grant by the Commission at its next meeting.

2. Temporary License Renewal. A Temporary License may be renewed for good cause.

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;
- c. The end of the Temporary Licensee's employment by the Gaming Enterprise; or
- d. Subject to Section 11(E)(2) above, ninety (90) calendar days after the Temporary License is issued,

whichever occurs first.

4. If within thirty (30) calendar days after it receives an Investigative Report, neither the NIGC nor the State Gaming Representative has notified the 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 Commission may issue a License to such applicant.

5. The 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 licensing or involvement in the Gaming Enterprise. The Commission shall either issue a License or deny the application. If the 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 Commission shall deny the application.

6. The 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 Commission for information concerning the background and activities of the applicant;
- b. If a natural Person
 - i. who is connected directly with the conduct or management of Class III gaming, has attained the age of twenty-one (21) years;
 - ii. who is connected directly with the conduct or management of Class II gaming, has attained the age of eighteen (18) years;
- 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 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 11(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 11(E)(4) of this Ordinance for a total period of more than sixty (60) calendar 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 Commission with a statement itemizing objections to the issuance of a License to a Principal, Key Employee, or Primary Management Official for whom the Commission has provided an application and Investigative Report, the 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 schedule of fees for gaming Licenses and background investigations shall be set by the 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 Commission (other than Temporary Licenses) shall be valid for a period of one to three (3) 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 (3) years. Any employee applying for renewal of a License who has submitted the required application and any other information required by the Commission at least sixty (60) calendar days before the expiration of the License may continue to be employed under the expired License until the Commission or NIGC, if required by 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 accurate and complete historical data already provided to the Commission.

H. **Notification of Current Address.** It is the responsibility of each Licensee to ensure that the Commission is informed of any change in his, her, or its current address. As provided in Section 4(B)(2), the Commission is entitled to rely on the last reported address for purposes of providing service or notice to a Licensee under this Ordinance and under regulations, policies, and rules of the Commission.

SECTION 12. Management Contracts.

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

B. **Contract Requirements.** The Pueblo or 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 IGRA, governing tribal law, 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 Section 14(E) of this Gaming Ordinance and 25 C.F.R. § 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 for public liability and property loss or damage;
- n. Complying with all applicable provisions of the Internal Revenue Service Code and regulations;
- 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, the 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, 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 thirty percent (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 forty percent (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 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 Commission and the Chairman of the NIGC, date of signature of the parties notwithstanding, and has been approved by the 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 Commission shall not approve any Management Contract if the Commission determines that:

- 1. The General Manager or any of its individuals required to be licensed by Section 12(A) above is not licensed or is ineligible to be licensed; or
- 2. The contract does not meet the requirements of this Section 12.

D. Action by the Commission and the Tribal Council. The Commission shall, subject to action by the Tribal Council, approve or disapprove a Management Contract within thirty (30) calendar days after it is submitted to the Commission for approval. The Executive Director may extend the 30-day period by not more than thirty (30) calendar days if he or she notifies the Gaming Enterprise, in writing, of the reason for the extension. The Commission shall forward any approved Management Contract to the Tribal Council for final approval.

E. **Modification and Revocation of Management Contract.** The 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.

F. **Appeal of Decision of the Commission.** Any person aggrieved by a decision of the Commission under this Section may appeal that decision pursuant to Section 20 of this Gaming Ordinance.

SECTION 13. Providers of Class II and Class III Gaming Machines or Supplies.

A. **Standards.** Within thirty (30) calendar days after the effective date of this Ordinance, the Commission shall adopt standards for any and all Class II and 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 II or Class III gaming, which standards shall be at least as strict as the comparable standards applicable to Class II and Class III gaming equipment, devices or supplies within the State of Nevada. Any and all Class III gaming equipment, devices or supplies acquired by the 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 the Gaming Enterprise in its gaming activities as of the effective date of any applicable Tribal-State Compact shall be upgraded or replaced, if necessary, to comply with such standards, by no later than one (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 II or 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 Commission to License those Persons in accordance with Section 11 above.

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

SECTION 14. Financial Practices and Reporting.

A. **Monthly Reports.** On or before the twentieth (20th) day of each month, the Gaming Enterprise Board and each Gaming Establishment shall file with the 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 the 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 materially accurate and complete, the License of

the Gaming Establishment may be suspended by the Commission until such time as the deficiency has been corrected.

B. Maintenance of Books and Records; Commission Access. Full and accurate books of account, in accordance with generally accepted accounting principles, shall be kept at the places of business of the Gaming Enterprise, showing the condition of the business and all transactions. The Gaming Enterprise Board is authorized to open and maintain bank accounts pursuant to authorized banking resolutions. All books and records shall be maintained for at least five (5) years by the 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 drop box, and gaming room bank;
3. 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;
4. Contracts, correspondence, and other transaction documents relating to all vendors and contractors;
5. Records of all tribal gaming enforcement activities;
6. Audits prepared by or on behalf of the Pueblo; and
7. 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 reasonably necessary for the operation of the Gaming Enterprise.

D. Deposit of Gross Receipts; Payment of Operating Expenses. All Gross Receipts shall be deposited in an operating account of the 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 the 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 ten (10) business days of authorization.

E. Audits. Subject to the approval of the Commission, which approval shall not be unreasonably withheld, the Gaming Enterprise shall retain, at its expense, an outside independent auditor and shall define the scope of work. The auditor shall be an independent

certified public accountant licensed by the State. The auditor shall prepare an audit and Certified Financial Statement of all financial activities of the Gaming Enterprise, including written verification of the accuracy of the quarterly Net Win calculation, prepared in accordance with generally accepted accounting principles. The financial statement shall specify the total amount wagered in Class III Gaming on all Gaming Machines at any Gaming Facility for purposes of calculating "Net Win" under Section 11 of the 2007 Compact using the format specified therein. 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 Gaming 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, the Tribal Council, the Commission, and the Gaming 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.** All contracts for supplies, services, or merchandise in an amount greater than twenty-five thousand dollars (\$25,000) annually (except contracts for professional legal or accounting services), which contracts relate to gaming activities, shall be subject to annual outside independent certified audits.

G. **Disposition of Net Revenues.** The Net Revenues derived from Games of Chance, after allocation by the Gaming Enterprise Board between surplus reserve of the Gaming Enterprise and dividends or taxes payable 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 donate to charitable organizations; or
- e. 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) and 25 C.F.R. Part 290.

H. **Compliance with Bank Secrecy Act and Internal Revenue Service Requirements.** The 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 15. Protection of Visitors.

A. **Liability to Visitors.** The Pueblo or the Gaming Enterprise shall at all times maintain in effect policies of liability insurance insuring the Pueblo, the Gaming Enterprise, the Gaming Enterprise Board, the 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. Unless no longer required by a Tribal-State Compact, such claims may, at the election of the visitor, be brought in an arbitration proceeding.

The policies shall provide bodily injury and property damage coverage in an amount specified in an applicable Tribal-State Compact, currently at least ten million dollars (\$10,000,000) per person and ten million dollars (\$10,000,000) per occurrence. Such liability limits are subject to increase as set forth in Section 8(G) of the 2007 Compact. The Gaming Enterprise Board shall provide the 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 by 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 15(A) above, currently ten million dollars (\$10,000,000) 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 or arbitral determination of fault, and the Pueblo, the Commission, the Gaming Enterprise Board, the Gaming Enterprise, its insurer(s), or any of them, shall in every instance have the right to fully defend such claims.

C. **Public Health and Safety.** The 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 a 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 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. The Gaming Enterprise or Management Contractor shall correct any deficiencies noted in such inspections within a reasonable period of time. The 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 the resolution of disputes at the lowest possible level, and as quickly as possible. These provisions should be followed only 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 the payment of alleged winnings to a patron or any other matter not within the limited scope of Sections 15(A) and (B), and the General Manager and the patron are unable to resolve the dispute to the satisfaction of the patron:

a. If the dispute involves less than five hundred dollars (\$500), the General Manager shall inform the patron in writing that the patron has the right, within seven (7) calendar days of the patron's receipt of that notice, to make a written request to the Commission to conduct an investigation ("Request for Investigation").

b. If the dispute involves at least five hundred dollars (\$500), the General Manager shall notify the Commission in writing of the dispute ("Notice of Dispute") no later than forty-eight (48) hours after he or she becomes aware of the dispute, and shall provide a copy of that notice to the patron, which shall include an explanation of the patron's right to make a written Request for Investigation within seven (7) calendar days of the patron's receipt of the Notice of Dispute.

c. If the General Manager fails to provide a timely Notice of Dispute to the Commission or the patron, the Gaming Operation shall be subject to regulatory penalty where

applicable; further, the patron shall have seven (7) calendar days to make a written Request for Investigation from the date of actual notice to the patron of the right to make such a Request.

d. Failure by the patron to make a Request for Investigation to the Commission within the relevant seven-day period shall bar any and all claim to any money in dispute. A Request for Investigation shall be considered timely if it is postmarked on or before the seventh calendar day after the patron is informed of the right to make a Request. The Commission and the Gaming Operation shall provide reasonable assistance to a patron seeking to make a Request.

2. Upon a Request by a patron, the Commission, through an inspector, shall conduct whatever investigation it deems necessary and shall determine its recommendation for resolution of the dispute.

3. Within thirty (30) calendar days after the date that the Commission first receives notification from the General Manager or a Request for Investigation from the patron, the Commission shall make a recommendation to resolve the dispute. If the recommendation concerns law enforcement action, the 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 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 fifteen (15) calendar days after the date of receipt of the recommended decision of the Commission to file a statement of position with the Gaming Enterprise Board. The Gaming Enterprise Board may set a hearing on the matter or may make a decision based solely upon the 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 Gaming Enterprise Board may be appealed to the Tribal Court pursuant to Section 20 of this Gaming Ordinance.

SECTION 16. Suspension or Revocation of Licenses.

A. Grounds.

1. NIGC Information.

- a. If, after the issuance of a gaming License, the Commission receives from the NIGC reliable information indicating that a Key Employee or a Primary Management Official is not eligible for licensing under Section 11(E)(6) above, the Commission shall suspend such License under the provisions of Section 16(B) below and follow the procedures in Section 16(B) through (H) as applicable.

- b. After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming License, and the 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 Commission for information; is determined to have engaged in any activity that had not yet occurred or was otherwise 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 (*provided* that conviction of a DWI offense shall not be a bar to licensing if the conviction occurred more than five (5) years before the license application, and *provided* further that no Licensee who has at any time been convicted of a DWI offense may hold or be licensed for any position requiring that the employee drive a vehicle as part of his or her employment); 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 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 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. 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 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 Commission of the outcome and may seek to have the suspension lifted. If the charge is dropped or if the Licensee is acquitted, the 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.

1. Proceedings to suspend or revoke a License shall be initiated by the Executive Director by serving a Notice of Recommended Action upon the Licensee, recommending that the Commission suspend or revoke the Licensee's License.

2. The Executive Director may suspend the License immediately, pending proceedings before the full Commission, if necessary to protect the public welfare. Such an immediate suspension shall take effect upon service of the Notice of Recommended Action upon the Licensee, but shall not exceed ten (10) business days. If the Commission agrees based on available information that the public welfare is at risk, the full Commission may extend the temporary suspension of a License pending its resolution of the Notice of Recommended Action under this Section for a period not to exceed sixty (60) calendar days.

C. Contents of Notice of Recommended Action; Service. The Notice of Recommended Action shall set forth the violations of this Gaming Ordinance or other applicable law that the Executive Director or the Commission has reasonable cause to believe the Licensee has committed. The Executive Director shall cause the Notice of Recommended Action 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 Notice of Recommended Action shall notify the Licensee of the License suspension or revocation process, including the required Answer and the right to request a hearing.

D. Procedure. The procedure before the Commission shall be governed by Section 20 of this Gaming Ordinance.

E. Effective Date. The order of the Commission suspending or revoking a License shall state the effective date of the suspension or revocation.

F. Surrender of License. When the Commission suspends or revokes a License, the Licensee shall surrender the License to the Commission on or before the effective date of the suspension or revocation. No License shall be valid as of the effective date of the suspension or revocation, whether surrendered or not.

G. Additional Sanctions. Upon a determination to suspend or revoke a License, the Commission, in addition to any other penalties that may be imposed, may declare the Licensee ineligible to operate or conduct Games of Chance, to participate, directly or indirectly, in the operation or conduct of Games of Chance, or to apply for a License for a period not exceeding twelve (12) months. Such declarations 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 Commission may appeal the order pursuant to Section 20 of this Gaming Ordinance.

SECTION 17. 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 Class II or Class III gaming 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, the 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, or paraphernalia that could 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 a Game of Chance with the intent to affect the outcome of any wager other than in accordance with the publicly-announced rules of the 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 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 Tribal-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 or internal control validly promulgated by the Commission, including any regulation prohibiting or allowing damages to be assessed based on intentional, reckless, and negligent actions of any Person.

V. Violate any policy of the Gaming Enterprise that is directly related to the operation or integrity of any Game of Chance or the proper handling of revenues derived from any Game of Chance.

SECTION 18. 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 the 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 Commission may impose a fine and may require restitution. The 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 or validly promulgated regulations hereunder 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 committed such a violation. Proceedings under this Section shall be initiated by the Commission by serving a Notice of Violation upon the Person(s) alleged to be in violation. 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. Proceedings of the Commission under this Section are governed by Section 20 of this Gaming Ordinance.

SECTION 19. Enforcement; Jurisdiction; Subpoenas.

A. **Civil Remedies in Court.** Notwithstanding the Commission's authority to impose civil penalties under Section 18 above, the Commission may, in its sole discretion, elect to 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, attorneys' 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 five thousand dollars (\$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, subject to Section 19(A) above, 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 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 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 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 Commission conducting such investigation or hearing, the Commission may apply to the Tribal Court for an order directing the Person to show cause why he should not comply with such subpoena or answer such question. 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 by the Pueblo 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 20. Proceedings Before the Commission; Appeals.

A. Proceedings Before the Commission.

1. **Applicability.** This Subsection applies to all hearings and other proceedings before the Commission under this Gaming Ordinance.
2. **Initiation of Proceedings.**
 - a. Proceedings before the Commission shall be initiated as provided in this Gaming Ordinance.
 - b. The Notice or other document initiating the proceeding shall be served by personal service, by certified mail, or by overnight delivery.
 - c. The Notice or other document initiating the proceeding shall specify the nature of the proceeding; the provision of this Gaming Ordinance or other law serving as the basis for the proceeding; the facts on which the proceeding is based; the action proposed to be taken; the civil penalty proposed to be imposed, if any; and a description of the process, including the requirement of an Answer and the right to request a hearing.
3. **Answer; Subpoenas.** Upon receipt of the Notice or other document initiating the proceeding, the Person receiving the Notice ("Respondent") shall file an Answer with the Commission within ten (10) business days and shall inform the Commission whether the Respondent desires (i) to have a hearing, and (ii) to present evidence. If the Respondent does not request a hearing, the Executive Director may make such a request, or the Commission can require a hearing on its own initiative. At the request of a party (including the Executive Director) and for good cause shown, or on its own motion, the Commission shall issue subpoenas for the attendance of witnesses and for the production of papers, books, records, and documents of any kind.

4. Disclosure. The parties shall disclose such information to each other or to the Commission as determined by the Commission pursuant to regulations promulgated by the Commission to govern proceedings before it.
5. Briefing; Hearing; Written Decision.
 - a. The Commission may order pre-and post-hearing briefing.
 - b. If a hearing is requested, it shall be held and concluded without unreasonable delay, taking into account witness availability, evidentiary issues, and any pre-hearing briefing ordered by the Commission.
 - c. The Respondent may be represented at any hearing by counsel or other representative of his or her choice, at his or her sole expense.
 - d. The Commission shall make a decision in writing, including findings of fact in support of its decision. Absent extraordinary circumstances, the Commission shall issue its decision within thirty (30) calendar days of the filing of the Answer, of the hearing, or of the conclusion of any briefing, whichever is later.
 - e. The Commission's order shall advise the parties of the right to appeal the order to the Tribal Court.
 - f. All parties, including the Executive Director, shall be informed immediately of the Commission's decision.

B. Appeal to Tribal Court.

1. From Decisions of the Commission.
 - a. Any person aggrieved by a decision of the Commission may appeal the order to the Tribal Court.
 - b. The Tribal Court shall affirm the order of the Commission unless such order was entered in violation of due process, was arbitrary or capricious, or was otherwise in contravention of applicable law, in which event the Tribal Court may reverse, vacate, or modify the order of the commission.
 - c. 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 Commission and was available to the commission at the time of its decision.

2. From Decisions of the Gaming Enterprise Board Resolving Patron Disputes.
 - a. Any person aggrieved by a decision of the Gaming Enterprise Board determining a patron dispute pursuant to Section 15(D)(2)(4) of this Gaming ordinance may appeal the decision to the Tribal Court.
3. The decision of the Tribal Court shall be final and unappealable to any other entity.

SECTION 21. 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 Sections 8(B)(16) (suspension of gaming activity); 10(B); 12(F) (modification or revocation of Management Contract); 16(H) (licensing decisions); 15 (protection of visitors and patron disputes), 25(F) (appeal from insurers' decisions), and 20 (Appeals) of this Gaming Ordinance; in the Charter of the Gaming Enterprise; or in other applicable Pueblo law. As an independent agency of the Pueblo government, the Commission, Commissioners, and Commission staff expressly are authorized to assert the sovereign immunity of the Pueblo to the greatest extent possible consistent with this Ordinance and any applicable Tribal-State Compact.

SECTION 22. 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 23. Amendments.

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

SECTION 24. 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 Tribal 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; the Second Amended and Restated Gaming Ordinance, adopted by the Tribal Council on November 27, 2002; and the Third Amended and Restated Gaming Ordinance,

adopted by the Tribal Council on February 12, 2004. 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 25. Effective Date.

This Gaming Ordinance shall be effective as of the date of its approval by the Chairman of the NIGC or on the 91st day after its submittal to the Chairman of the NIGC, whichever occurs first.

SECTION 26. Compact Compliance – Additional Requirements.

This Section adds to the San Felipe Gaming Ordinance the following provisions required by Sections 3(C) and 4 of the 2007 Compact. In the event that a Tribal-State Compact no longer requires a provision in this Section, such provision shall lapse sixty (60) calendar days later unless the Tribal 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 twenty-one (21).
- B. Employment of any Person under the age of twenty-one (21) as a Class III Gaming Employee is prohibited, and employment of any Person in Class III gaming who is not licensed in accordance with Section 11 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. A federal law is "generally applicable to Indian tribes" if: (1) the law is not susceptible to a good faith argument that it does not apply to Indian tribes, or (2) the United States Court of Appeals for the Tenth Circuit or the United States Supreme Court has held in an opinion that has not been reversed or overruled that the law is generally applicable to Indian tribes, or (3) a court of competent jurisdiction has held that the law is applicable to the Gaming Operation specifically.
- 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, the Gaming Enterprise, and any Management Contractor are prohibited from discriminating in the employment of Persons to work for the Gaming Enterprise or in the Gaming Facility on the grounds of race, color, national origin, gender, sexual orientation, age, or handicap. 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. Such programs shall afford the employee due process of law and shall permit an employee to appeal an adverse determination by the insurer to the Tribal Court, which appeal shall be decided in a timely manner. The insurer may not assert as a defense in any such proceeding the defense of tribal sovereign immunity. The Tribe may elect to participate in the State's program upon execution of an appropriate agreement with the State.

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

K. Any automatic teller machine on Gaming Facility Premises shall be programmed so that the machine will not accept cards issued by the State to TANF recipients for access to TANF benefits.

L. 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 eighty percent (80%). The Gaming Enterprise shall prominently post in visible locations within the Gaming Facility notices stating that the Gaming Enterprise is in compliance with this requirement, and providing a comprehensible explanation of the meaning of this requirement.

M. 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 unaltered activity of each Gaming Machine in use at the Gaming Facility. To the extent required by any applicable Tribal-State Compact, the wager and payment data of each machine, electronically captured by the Gaming Facility's central computer, shall be electronically accessible to and downloadable by the State Gaming Representative by a dedicated telecommunications connection, on a read-only basis, upon entry of appropriate security codes; but *provided* that in no event shall the State Gaming

Representative be able to alter or affect the opening of any Gaming Machine or other device on the Premises of the Gaming Facility, or the data provided to the central computer.

N. 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.

O. 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.

P. The Gaming Enterprise shall:

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

2. Prohibit alcoholic beverages 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 one quarter of one percent (.25%) of its Net Win as that term is defined herein annually to fund or support programs for the treatment and assistance of compulsive 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. The Gaming Enterprise shall provide the Commission with documents sufficient to verify compliance with this requirement, including amounts spent for this purpose and the recipients of the payments. Any information existing as a result of this Section, not including information that may identify or contain information referring to any gaming patron, shall not be subject to the confidentiality provisions of the Tribal-State Compact and shall be made available for inspection and publication without restriction or limitation.

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

R. Each Gaming Operation must prohibit the operation of any Class III Gaming for at least four (4) consecutive hours daily, Mondays through Thursdays (except federal holidays).

S. The 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. This provision shall not apply to rewards received by patrons in exchange for points or credits accrued under any form of players' club program.

T. The Pueblo, the Gaming Enterprise, the 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, person holding an office elected or to be elected in 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).

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

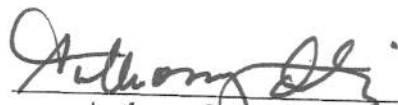
V. The Pueblo may not conduct Class III gaming in more than two separate physical buildings or structures on the Reservation.

W. The Commission will assure that the Gaming Enterprise:

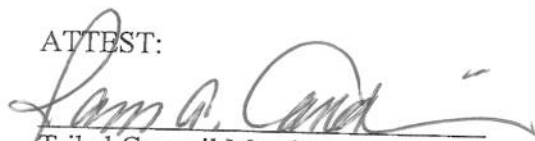
- a. Operates all Class III gaming in accordance with Pueblo laws, IGRA and other applicable federal law, and the Tribal-State Compact;
- b. Provides for the physical safety of patrons in every Gaming Facility;
- c. Provides for the physical safety of employees of the Gaming Enterprise;
- d. Provides for the physical safeguarding of assets transported to and from a Gaming Facility and the cashier's cage department;
- e. Provides for the reasonable protection of the property of patrons and the Gaming Enterprise from illegal activities;
- f. Participates in licensing of Primary Management Officials and Key Employees of a Class III Gaming Enterprise;
- g. Detains Persons who may be involved in illegal acts for the purpose of notifying law enforcement authorities; and
- h. Records and investigates any and all unusual occurrences related to Class III Gaming within the Gaming Facility.

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 26th day of August 2009, a quorum being present, approved and adopted the foregoing Fourth Amended and Restated Gaming Ordinance.


Anthony Ortiz, Governor

ATTEST:


Tribal Council Member


Tribal Council Member