

NATIONAL
INDIAN
GAMING
COMMISSION

OCT 19 1993

Tom Diamond, Esq.
Diamond, Rash, Gordon & Jackson
300 E. Main Street
El Paso, Texas 79901

Dear Mr. Diamond:

This letter responds to your request to review and approve the tribal gaming ordinance submitted on July 22, 1993, and amended on October 5, 1993, for the Ysleta Del Sur Pueblo Tribe of El Paso, Texas. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

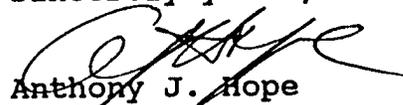
Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Ysleta Del Sur Pueblo Tribe for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,


Anthony J. Hope
Chairman

cc: Julian Granillo, Governor

YSLETA DEL SUR PUEBLO

TRIBAL GAMING ORDINANCE RESOLUTION TC-27-93

WHEREAS, the Tribal Council (the "Council") of the Ysleta del Sur Pueblo (the "Pueblo") is the duly constituted traditional governing body of the Pueblo exercising all inherent governmental powers, fiscal authority and Tribal sovereignty as recognized in Section 101 and 104 of the Ysleta Del Sur Pueblo Restoration Act, 101, Stat. 666, Public Law 100-89 as codified in 25 USC § 1300g (the "Restoration Act"); and

WHEREAS, the Pueblo has operated from time immemorial as a Native American political sovereign without organic or written constitution, charter, or by-laws; and

WHEREAS, the Pueblo governs itself by oral tradition; and

WHEREAS, the civil and criminal law authority of the Pueblo is vested in the "Council" consisting of the Cacique, the Governor, the Lieutenant Governor and five (5) Councilmembers; and

WHEREAS, by unanimous vote, the Council determined to become involved in the operation of bingo games as such term is defined in the Indian Gaming Regulatory Act, Public Law 100-497 as codified in 25 USC § 2701 et. seq. (the "Gaming Regulatory Act"), and in the Regulations (the "Regulations") promulgated thereunder by the National Indian Gaming Commission (the "Commission"); and

WHEREAS, the Council had unanimously voted on the 6th day of May, 1992, to adopt and enact a Tribal Gaming Ordinance No. 00492 (the "Gaming Ordinance"), to which reference is here made and the terms thereof are incorporated herein for all purposes as if set forth in full as to all particulars; and

WHEREAS, the Council unanimously voted on the 16th day of October, 1992, to adopt and enact an amendment to said Tribal Bingo Ordinance No. 00492 (the "Bingo Ordinance, As Amended"), to which reference is here made and the terms thereof are incorporated herein for all purposes as if set forth in full as to all particulars; and

WHEREAS, the Council unanimously voted on the 15th day of April, 1993, to adopt and enact additional amendments to said Tribal Bingo Ordinance No. 00492 (the "Bingo Ordinance, As Amended"), to which reference is hereby made and the terms thereof are incorporated herein for all purposes as if set forth in full as to all particulars; and

WHEREAS, the Council unanimously voted on the 22nd day of July, 1993, to adopt and enact additional amendments to said Tribal Bingo Ordinance No. 00492 (the "Bingo Ordinance, As Amended"), to which reference is hereby made and the terms thereof are incorporated herein for all purposes as if set forth in full as to all particulars; and

WHEREAS, the "Guidelines to Govern the Review and Approval of Gaming Contracts and other Gaming Activities" dated as of March 5, 1992, and promulgated by the Assistant Secretary - Indian Affairs of the United States Department of the Interior (the "Guidelines") requires in Section B.1 thereof, that when an Indian Tribe adopts an ordinance concerning gaming matters it must include a resolution duly adopted by the governing body of the tribe with a citation to the section of the tribe's organic document which authorizes the action; and, when the tribe lacks a formal organic document, a tribal resolution adopted by the general council shall be required; and

WHEREAS, not possessing any organic documents as referred to in the Guidelines, the Council intends that this Resolution shall constitute the resolution required so that the Bingo Ordinance, As Amended, will meet and fulfill the requirements of the Gaming Regulatory Act and of the Regulations.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Pueblo as follows:

1. The preambles hereto shall be incorporated herein and made part of the Resolution.
2. That certain amendments to the Bingo Ordinance, As Amended, were adopted and enacted by the Council on the 22nd day of July, 1993.
3. That this Resolution shall constitute the citation evidencing the authority of the Council to enact and adopt the Bingo Ordinance, As Amended, as required by Section B.1 of the Guidelines.

ADOPTED this the 22nd day of July, 1993.

By: Julian Trancillo
Authorized Officer

Title: Tribal Governor

ATTEST:

By: [Signature]
Authorized Officer

Title: Tribal Secretary

**YSLETA DEL SUR PUEBLO
TRIBAL BINGO ORDINANCE**

NO. 00492

AMENDED ON

OCTOBER 16, 1992,

APRIL 15, 1993,

JULY 22, 1993,

AND

OCTOBER 5, 1993

**Ysleta Del Sur Pueblo
Bingo Ordinance
As Amended**

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YSLETA DEL SUR PUEBLO
TRIBAL BINGO ORDINANCE

NO. 00492

AS AMENDED

Pursuant to the authority vested in the Tribal Council (the "Council") as the duly constituted traditional governing body of the Ysleta Del Sur Pueblo (the "Pueblo") a federally recognized Indian Tribe, exercising all inherent governmental powers, fiscal authority and tribal sovereignty as recognized in the Ysleta Del Sur Pueblo Restoration Act (Public Law 100-89 as codified in 25 USC § 1300g, hereinafter the "Restoration Act"), and its lawful authority to provide for the health, safety, morale, welfare, tribal economic development and self-sufficiency of the Pueblo, the Council of the Pueblo hereby adopts the following amendment to Ordinance No. 00492 which was originally enacted on May 6, 1992, pursuant to the requirements of the Indian Gaming Regulatory Act (Public Law 100-497 as codified in 25 USC § 2701, et. seq., sometimes hereinafter the "Gaming Regulatory Act," or the "I.G.R.A."), for the purpose of regulating the conduct of Class II Gaming (as such term is defined in the Gaming Regulatory Act) on the Pueblo Tribal Lands (sometimes hereinafter referred to as "Indian Lands" or "Reservation"). Accordingly, Ordinance No. 00492 as adopted and enacted on May 6, 1992, amended October 16, 1992, amended April 15, 1993, amended July 22, 1993, and is amended this October 5, 1993, by substituting therefore the following:

Section 1. Title.

This Ordinance shall be known as the Ysleta Del Sur Pueblo Bingo Ordinance, As Amended, or the Bingo Ordinance, As Amended.

Section 2. Findings.

The Council of the Pueblo finds that:

1. The Ysleta Del Sur Pueblo Indian Tribe has the exclusive authority to operate, license, and regulate Class II Gaming activities on Pueblo Tribal Lands (or Indian Lands as such term is defined in the Restoration Act and the Gaming Regulatory Act) within the State of Texas; and

2. It is essential to the health, safety and general welfare of the Ysleta Del Sur Pueblo Indian Tribe and the visitors to its Tribal Lands that standards and regulations be promulgated to govern the conduct of Class II gaming activities on Pueblo Tribal Lands.

Section 3. Purposes.

The purpose of this Bingo Ordinance, As Amended, are to:

1. Provide standards and regulations governing the conduct of Class II gaming activities on Pueblo Tribal Lands;
2. Promote tribal economic development;
3. Enhance employment opportunities for tribal members;
4. Strengthen the economy of the Ysleta Del Sur Pueblo Indian Tribe; and,
5. Generate revenue for use in improving the health, education and general welfare of enrolled members of the Ysleta Del Sur Pueblo Indian Tribe.

I. General Provisions

Section 4. Definitions.

1. "Bingo" means the game of chance (whether or not electronic, computer or other technological aids are used in connection therewith) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations; in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards. "Bingo" includes, if played at the same location, pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo.

2. "Bingo Occasion" shall mean a single session or gathering at which a series of successive bingo games are played.

3. "Class I Gaming" means 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.

4. "Class II Gaming" means all forms of gaming which are defined as Class II Gaming in the Indian Gaming Regulatory Act, P.L. 100-497, 25 USC § 2703(7)(A) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. § 502.3.

5. "Commission" means the National Indian Gaming Commission established

and existing pursuant to the Gaming Regulatory Act.

6. "Electronic, computer or other technological aid" shall mean certain Equipment including a device such as a computer, telephone, cable, television, satellite or bingo blower and which when used: (i) is not a game of chance but merely assists a player or the playing of the game; (ii) is readily distinguishable from the playing of a game of chance on an electronic facsimile, and, (iii) is operated according to applicable Federal Communications law.

7. "Enterprise" shall mean an economic entity authorized to conduct Class II Gaming Operations and related activities authorized on the Pueblo's Reservation pursuant to this Bingo Ordinance, as amended, and where applicable, a Management Contract.

8. "Equipment" means the receptacle and numbered objects drawn from it, the master board upon which such objects are placed as drawn; the cards or sheets bearing numbers or their designations to be covered and the objects used to cover them; the board or sign, however operated, used to announce or display the numbers or designations as they are drawn; the public address system; and all other articles essential to the operation, conduct, and playing of Bingo.

9. "Game Card" and "Bingo game card" means a regular or special Bingo card.

10. "Games Similar to Bingo" means any game in which players play for prizes with cards bearing numbers or other designations, cover numbers or designations with objects when similar numbers or designations are drawn or electronically determined and win the game by being the first person to cover a designated pattern on such cards, provided that the game is not a house banking game (i.e. any game of chance that is played with the house as a participant in the game, where the house takes on all players, collects from all losers, and pays all winners, and the house can win).

11. "Gaming Employee" means any natural person employed in the operation or management of the Gaming Operation, whether employed by or contracted to the Pueblo or by any person or enterprise providing on or off-site services to the Pueblo within or without the Gaming Facility regarding any Class II gaming activity, including, but not limited to, Key Employees, Gaming Operation employees, Management Companies, and their Principals; and any other natural person whose employment duties require or authorize access to restricted areas of the Gaming Operation not otherwise opened to the public.

12. "Gaming Regulatory Act" or "I.G.R.A." means the Indian Gaming Regulatory Act, Public Law 100-497 as codified in 25 USC § 2701 et seq.

13. "Gross Revenue" means the total revenue from the conduct of the Pueblo Gaming Operation.

14. "Gaming Services" means the providing of any goods or services to the Pueblo directly in connection with the operation of Class II gaming in a Gaming Facility, including equipment, maintenance, or security services for the Gaming Facility.

15. "Indian" shall mean an individual who is listed on the Tribal roll of a Federally recognized Indian tribe.

16. "Instant Bingo" means a game of chance whereby the player purchases a card and removes paper slips, which act as concealing flaps, revealing numbers or symbols or numbers and letters, and on the reverse side of the card are printed the winning combination such that the player need only compare the sides to determine if and what they may have won.

17. "Key Employee" means:

(a) A person who performs one or more of the following functions:

(1) Bingo caller;

(2) Counting room supervisor;

(3) Chief of security;

(4) Custodian of gaming supplies or cash;

(5) Floor manager;

(6) Pit boss;

(7) Approver of credit; or

(8) Custodian of Equipment including persons with access to cash and accounting records;

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

(c) If not otherwise included, the four most highly compensated persons in the Gaming Operation.

18. "Lotto" means a game of chance with cards bearing numbers or other designations, in rows of 9, in which the player holding the card covers such numbers or designations when objects similarly numbered or designated are drawn or otherwise

randomly determined, in which the game is won by the first player to cover a predesignated arrangement on the card.

19. "Net Revenues" means the gross gaming revenues from the Pueblo Gaming Operations, less (a) amounts paid out as, or paid for, prizes; and (b) total gaming - related Operating Expenses, excluding management fees.

20. "Management Contract" means a management contract within the meaning of 25 U.S.C. § 2711.

21. "Non-Banking Card Games" means any card game in which two or more players play against each other and the players do not wager against the house. Non-banking card games played in conformity with State law regulating hours of play, wage, and pot limits are Class II gaming. All other non-banking card games are Class II games.

22. "Operating Expenses" shall mean expenses of the Enterprise, which expenses are necessary for the operation of the Enterprise and which include but are not necessarily limited to the following:

- (a) The payment of salaries, wages and benefit programs for employees engaged at the Enterprise;
- (b) Materials and supplies for the Enterprise;
- (c) Utilities;
- (d) Routine remodeling, repairs and maintenance of the Gaming Facility;
- (e) Interest on installment contract purchases by the Enterprise;
- (f) Insurance and bonding;
- (g) Advertising and marketing, including busing and transportation of employees to the Gaming Facility;
- (h) Professional fees;
- (i) Security costs;
- (j) Reasonable and necessary travel expenses for employees of the Pueblo, the Enterprise and of a management company pursuant to a Management Contract, subject to an approved budget;
- (k) Equipment which costs less than \$500 per item or unit;

- (l) Trash removal;
- (m) Costs of goods sold;
- (n) Cost depreciation as defined by Generally Accepted Accounting Principles ("GAAP");
- (o) Other expenses designated as Operating Expenses in the annual budget of the Enterprise;
- (p) Expenses specifically designated as Operating Expenses in a Management Contract and ordinarily considered as such in accordance with GAAP;
- (q) Such other expenses which are determined by an annual audit to be operating expenses; and
- (r) Any payments in lieu of taxes made to any governmental entity.

23. "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual cooperative, fraternal or nonprofit doing business within the Indian Lands. The Tribe is not within the definition of person.

24. "Player" means any person participating in Class II gaming activity, who is participating with the reasonable expectation of, or for the chance of, receiving a prize of some value.

25. "Principal" means with respect to any enterprise: (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 of the shares of the corporation, if a corporation; (v) each person other than a banking institution who has provided financing for the enterprise constituting more than ten percent of the total financing of the enterprise; and, (vi) any person or entity set forth and described in 25 CFR § 537.1.

26. "Primary management officials" means:

- (a) The person having management responsibility for a management contract;

- (b) Any person who has authority:
 - (1) to hire and fire employees; or,
 - (2) to set up working policy for the Gaming Operation; or,
- (c) The chief financial officer or other person who has financial management responsibility.

27. "Prize" means any U.S. currency, cash or other property or thing of value awarded to a player or players, or received by a player or players as a result of their participation in Class II gaming activity.

28. "Pueblo" or "Tribe" means the Ysleta Del Sur Pueblo Indian Tribe located within the counties of El Paso and Hudspeth in the State of Texas, being at its present location since time immemorial, being duly recognized by the Secretary of the Department of the Interior, and other agencies of the United States of America, and having special rights of self government, (all as set forth in the Ysleta Del Sur Pueblo Restoration Act, Public Law 199-89, 25 USC 1300g), and its authorized officials, agents and representatives.

29. "Pueblo Gaming Facility" or "Gaming Facility" means any location in which Class II gaming as authorized by this Bingo Ordinance is conducted on the Pueblo Tribal Lands.

30. "Pueblo Gaming Operation" or "Gaming Operation" means the Class II Gaming Operations conducted by the Pueblo on its Tribal Lands as part of the Enterprise.

31. "Pueblo Tribal Lands" or "Indian Lands" or "Ysleta Del Sur Pueblo Indian Lands" or "Reservation" means all lands within the limits of the Ysleta Del Sur Pueblo Indian Reservation; and any lands title to which is either held in trust by the United States for the benefit of the Ysleta Del Sur Pueblo Indian Tribe or individual Ysleta Del Sur Pueblo tribal member subject to restriction by the United States against alienation and over which the Pueblo exercises governmental power.

32. "Pueblo Tribal Member" shall mean an individual who is listed on the official Pueblo Tribal roll.

33. "Pull Tabs" means factory covered tickets which are purchased and opened by customers revealing a predetermined winning arrangement.

34. "Punch Board" means a small board that has many holes, each filled with a rolled up printed slip to be punched out upon payment of a player fee, in an effort to obtain a slip that entitles the player to a designated prize.

35. "Regular Bingo Card" means a board card issued to a person upon payment of admission fee which affords a person the opportunity to participate in all regular bingo games played at a bingo occasion.

36. "Regulations" shall mean Rules and Regulations promulgated from time to time by the Commission pursuant to the Gaming Regulatory Act, and Tribal Regulations, and this Bingo Ordinance, as amended, as the case may be.

37. "Reservation" means lands within El Paso and Hudspeth Counties, Texas:

a. held by the Tribe on August 18, 1987;

b. held in trust by the State or by the Texas Indian Commission for the benefit of the Tribe on such date;

c. held in trust for the benefit of the Tribe by the Secretary under 25 USC 1300g-4(g)(2);

d. subsequent to such date, acquired and held in trust by the Secretary for the benefit of the Tribe;

e. the term "State" means the State of Texas; and,

f. the term "Tribal Council" means the governing body of the Tribe as recognized by the Texas Indian Commission on August 18, 1987, and such tribal council's successors.

38. "Secretary" means the Secretary of the Department of the Interior.

39. "Special Bingo Card" means a disposable, specially marked bingo card which affords a person the opportunity to participate in a special bingo game for special prizes.

40. "Special Bingo Game" means any bingo game which is not a regular bingo game and which is played with special bingo cards for special prizes.

41. "State" means the State of Texas.

42. "Tigua Gaming Agency" means such agency of the Pueblo as the Pueblo may from time to time designate as the single Tribal agency responsible for regulatory oversight of Gaming Operations.

43. "Tip Jars" means a game of chance, wherein a person upon payment of a fee, is permitted to reach into, or tip a jar containing printed slips, and extract one slip in an effort to obtain a slip that entitles the player to a designated prize.

44. "Tribal Building Inspector" means the person appointed as Tribal Building Inspector, his qualified agent or if none, such other person as the Council designates or appoints, to perform the duties of a building inspector, including but not limited to, enforcement of applicable building, safety and health codes.

45. "Tribal Council" or "Council" means the Tribal Council of the Pueblo consisting of the Cacique, the Governor, the Lieutenant Governor, and five (5) Councilmembers, who are recognized as the governing body of the Pueblo, possessing plenary power over the people, land and property within the exterior boundaries of the Pueblo.

46. "Tribal Court" means the Ysleta Del Sur Pueblo Tribal Court.

Section 5. Gaming Authorized and Regulated.

Class II gaming is authorized on Indian lands. Class II gaming shall be regulated by the Pueblo through the Tigua Gaming Agency, and shall only be operated consistent with the provisions of the Bingo Ordinance, As Amended, and the Gaming Regulatory Act.

Section 6. Use of Net Revenue from Class II Gaming Activities.

1. Net Revenues from Class II Gaming activities shall be used only to:
 - a. fund tribal government operations or programs;
 - b. provide for the general welfare of the Tribe or Tribal members;
 - c. promote economic development within the Ysleta Del Sur Pueblo Indian Reservation;
 - d. fund operations of local tribal government agencies; and/ or
 - e. donate to charitable organizations, and
 - f. other lawful purposes.

Section 7. Gaming Facilities.

1. To ensure that the environment and the public safety and welfare are adequately protected, each Gaming Facility shall be constructed and maintained in compliance with the minimum standards of the 1988 edition of the Southern Standard Building Code, with local amendments.

2. Each Gaming Facility shall be subject to inspection to insure compliance, annually or on such basis as the Tribal Building inspector, or if none, Tribal Council, determines necessary and appropriate.

3. The Pueblo shall construct, maintain and operate each Gaming Facility in a manner that adequately protects the environment and the public health and safety.

Section 8. Persons Under the Age of Twenty-One (21), Employees Prohibited.

1. No person under the age of twenty-one (21) years shall be permitted to play any Class II game.

2. No person who is employed at a Gaming Facility may play any game conducted therein while on duty, except in the course of employment, on behalf of the employer, in which event employee status shall be clearly identifiable to the patron players.

Section 9. Prizes: Assignments and Forfeiture.

1. Non Assignable, exception.

The right of any person to a prize shall not be assignable except that payment of any prize may be made to the estate of a deceased prize winner or to a person pursuant to an order of the Tribal Court.

2. Forfeiture.

a. Any unclaimed prize of a Class II Gaming Operation shall be retained for ninety (90) days after the prize is available to be claimed. Any person who fails to claim a prize during such time shall forfeit all rights to the prize, and the amount of the prize shall be awarded to the Enterprise.

b. Any prize won by a person under the age of twenty-one (21) shall be forfeited as a violation of Section 8 of this Ordinance. Any such prize shall be awarded to the Enterprise, and the approximate consideration paid by such person shall be

refunded to such person.

II. Administration

Section 10. Tigua Gaming Agency.

1. Establishment and Composition.

- a. There is hereby created the Tigua Gaming Agency.
- b. The Tigua Gaming Agency shall be comprised of a Gaming Commissioner and four (4) members.

2. Qualifications and Appointment.

a. The Gaming Commissioner may be a person other than a tribal member, shall be appointed by the Tribal Council, and shall possess and demonstrate as minimum qualifications:

- (1) Knowledge and experience in the commercial gaming industry;
- (2) Familiarity with the Gaming Regulatory Act;
- (3) Experience in and knowledge of administration and administrative procedure.

b. The members shall be appointed by the Tribal Council. All members other than the Gaming Commissioner, shall be from among the Tribal membership.

c. Appointments of the Gaming Commissioner and members shall be for a period of four (4) years, except that of the initial members one shall be one year, one for two (2) years, one for three (3) years and one for four (4) years, which will result in staggered appointments and provide continuity within the Agency. The Gaming Commissioner and all members may be re-appointed for one or more successive terms.

d. No person shall be appointed to the Tigua Gaming Agency unless the Tribal Council is satisfied that:

- (1) He or she is a person of good character, honesty and integrity, who's prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of the Pueblo, its members or to the effective

regulation of Gaming Activities, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conducting of gaming or the carrying on of the business and financial arrangements incidental thereto; and,

(2) He or she has no interest in any private gaming activity on Pueblo Tribal Lands or any activity which may have interests in conflict with the Tribal Gaming Operations.

e. The Gaming Commissioner and members may be removed for good cause, after written notice and opportunity to be heard by the Tribal Council. Good cause shall exist when any condition occurs or is discovered which would exclude a person from appointment.

3. Duties and Powers.

The Gaming Commissioner shall administer the provisions of the Bingo Ordinance, As Amended, and shall have all powers necessary therefore. In exercise of its duties, the Tigua Gaming Agency shall:

a. Promulgate such rules and regulations as may be necessary and desirable for the proper implementation of the Bingo Ordinance, As Amended;

b. Identify and define the rules of play for each Class II game permitted;

c. License, supervise, inspect and oversee all Gaming Operations and persons employed in Gaming Operations conducted on Pueblo Tribal Lands;

d. Carry on a continuous study and investigation of Class II gaming on Pueblo Tribal Lands for the purpose of:

(1) Ascertaining any defects in or abuses of the standards and regulations in the Bingo Ordinance, As Amended, or applicable rules and regulations;

(2) Formulating recommendations for changes in the standards and regulations in the Bingo Ordinance, As Amended, and any and all applicable rules and regulations;

(3) Preventing abuses and evasions of the standards and regulations prescribed by the Bingo Ordinance, As Amended, and applicable rules.

e. Report to the Tribal Council on any matters related to gaming which are deemed by the Tigua Gaming Agency to constitute an emergency requiring immediate action;

f. Take such actions as are necessary and appropriate for violation(s) of the Bingo Ordinance, As Amended, applicable rules and/ or regulations, including but not limited to license suspension, revocation, prosecution, referral for prosecution, or civil suit.

g. Employ such employees as are necessary to carry out the specific and general powers and duties of the Tigua Gaming Agency. The Tigua Gaming Agency shall comply with Tribal employment preference ordinance in effect.

h. Ensure that background investigations are conducted on the Primary Management Officials and Key Employees of the Gaming Operation and that oversight of such officials and their management is conducted on an on-going basis.

4. Compensation.

The Gaming Commissioner and members, and employees shall be reasonably compensated, as determined by the Tribal Council. The compensation shall be paid from the Pueblo's share of Net Revenues from the Enterprise.

Section 11. Licensing.

1. Authority to License.

The Tigua Gaming Agency shall have the sole and exclusive authority to license and regulate Class II gaming operations on Pueblo Tribal Lands which are now, or may hereafter, be permitted by federal law.

2. Types of Licenses to be Issued.

The Gaming Agency shall issue the following licenses for gaming on Pueblo Tribal Lands:

- a. Enterprise Management License
- b. Key Employment License
- c. General Employee License
- d. Other Licenses necessary and appropriate.

3. License Fees: Application Fees and Continuing Yearly Fees.

- a. Any person making application for a Pueblo gaming license pursuant

to this Gaming Ordinance shall submit his or her application, and required forms and information, as set forth by the Tigua Gaming Agency, pursuant to this Bingo Ordinance, As Amended, together with an application fee as follows:

- (1) Class II License fees:
 - (a) Enterprise Management License - \$1,000.00
 - (b) Key Employee License - \$200.00
 - (c) General Employee License - \$50.00
 - (d) Other - \$25.00

The Tigua Gaming Agency may waive fees in its discretion if a proponent is unable to pay fees.

b. A Licensee shall, at least sixty (60) days prior to the expiration of such license make application for renewal, as required by the Tigua Gaming Agency, and shall submit the application required forms and information together with a renewal fee equivalent to 75% of the above stated license fee applicable.

4. License Validity: Effective Period and Place.

a. Period. Tribal gaming licenses shall be valid and effective for a period of one year from the date of issue, unless same is sooner suspended, or revoked for cause after notice and hearing, pursuant to this Bingo Ordinance, As Amended.

b. Place.

A tribal gaming license shall be valid for any Enterprise operation located on the Pueblo's Tribal Lands.

5. License: Qualifications and Requirement.

a. General.

(1) An application to receive a license or to be found suitable to receive a license shall not be granted unless the Tigua Gaming Agency is satisfied, after review of a background investigation that such applicant is:

- (a) A person of good character, honesty and integrity;
- (b) A person whose prior activities, criminal record, if any,

reputation, habits and association do not pose a threat to the public interest of the Tribe, its members or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conducting of gaming or the carrying on of the business and financial arrangements incidental thereto; and

(c) In all other respects is qualified to be licensed or found suitable consistent with the declared policy of the Pueblo Gaming Operation.

(d) An application to receive a license or to be found suitable constitutes a request for a determination of the applicant's general character, integrity and ability to participate or engage in, or be associated with gaming. Any written or oral statement made in the course of an official proceeding of the Tigua Gaming Agency or the National Indian Gaming Commission established pursuant to 25 USC § 2704, by any member thereof or any witness testifying under oath which is relevant to the purpose of the proceeding is absolutely privileged and does not impose liability or defamation constituting a ground for recovery in any civil action.

b. Primary Management Officials, Key and Other Employees; Identification.

(1) No person shall be employed in a Pueblo Gaming Operation on Pueblo Tribal Lands who:

(a) Has been convicted of or who has pled guilty or nolo contendere to any felony within ten (10) years, or has ever been convicted of or has ever plead nolo contendere to any gaming offense, or other offense involving moral turpitude.

(b) Is under the age of eighteen (18), except that, no person shall be employed as a primary management official or key employee, or in any position wherein the employee might be required to serve alcoholic beverages who is under the age of twenty-one (21).

(2) No person shall be employed as a primary management official or key employee in a Class II gaming activity who:

(a) Has not first applied for and obtained a tribal gaming license, pursuant to the Bingo Ordinance, As Amended, and, has been made the subject of a background investigation conducted by the Pueblo, its agents, or designee pursuant to the requirements of this Ordinance.

(b) Is ineligible for fidelity bonding or similar insurance covering employee dishonesty.

(3) Every person employed at a Gaming Facility operated on Pueblo Tribal lands shall wear an identification card issued by the Tigua Gaming Agency which conspicuously states the place of employment, the first name of the person and their position of employment. The card shall include a photo, first name and four digit identification number unique to the individual which shall also include a Pueblo seal or signature, and a date of expiration.

6. License Suspension and Revocation.

a. Suspension and Revocation.

(1) Any license issued by the Tigua Gaming Agency shall be suspended, without prior notice, if the National Indian Gaming Commission, after notification by the Tigua Gaming Agency of the issuance of a license, and after appropriate review, indicates that a primary management official, operator, or key employee does not meet the standards established and set forth herein, pursuant to 25 USC § 2710, and after notice and hearing may revoke such license.

(2) The Tigua Gaming Agency shall immediately suspend, and after notice and hearing, revoke the license of any primary management official or key or other employee, vendor or other gaming licensee of a Class II Gaming Operation who is or becomes ineligible to hold a license under this Ordinance or who violates any provision of this Ordinance or applicable federal law, including 25 USC §§ 1166, 1167, 1168 or 2701, et seq. or of 18 USC § 1663.

7. Revocation Notice.

a. The Tigua Gaming Agency shall promptly notify in writing any licensee whose license has been suspended or will be revoked and shall include in said notice:

(1) The effective date of suspension and/ or revocation;

(2) The reason(s) for the suspension and/ or revocation;

(3) The right of the licensee to appeal the suspension and/ or revocation to the Tribal Court within ten (10) days of the licensee's receipt of the revocation notice.

b. A copy of the suspension and/ or revocation notice shall be sent to the National Indian Gaming Commission.

8. Revocation Hearing.

a. A licensee may appeal the suspension and/ or revocation of his/ her license to the Tribal Court by sending a written notice of appeal of the suspension and/ or revocation to the Tribal Court and the Tigua Gaming Agency no later than ten (10) days after the licensee receives notice that his/ her license has been revoked. The notice of appeal shall clearly state the reason(s) why the licensee believes his/ her license should not be revoked.

b. Upon receipt of the notice of appeal of the license revocation, the Tribal Court shall schedule a revocation hearing to be conducted within twenty (20) days of receipt of the licensee's notice of appeal. Written notice of the time, date and place of the hearing shall be delivered to the licensee no later than five days before the scheduled date of the hearing.

c. The licensee, at their own cost, and the Tigua Gaming Agency may be represented by legal counsel at the revocation hearing. The licensee and the Tigua Gaming Agency may present witnesses and evidence presented by the opposing side.

d. The Tribal Court shall issue its decision no later than ten (10) working days following the revocation hearing. The decision of the Tribal Court shall be final and conclusive.

e. A copy of the Tribal Court's decision regarding the revocation of a license shall be sent to the Tigua Gaming Agency and National Indian Gaming Commission.

Section 12. Background Investigations of Gaming Employees

1. Background Investigations Prior to Employment.

a. The Pueblo, prior to hiring a prospective gaming employee (including Primary Management Officials and Key Employees), shall obtain sufficient information and identification from the applicant to permit a thorough background investigation of the applicant. The applicant shall provide to the Pueblo a written release authorizing the Pueblo or its agents, to conduct a background investigation. Prior to providing such release, Key Employees and Primary Management Officials shall be notified of their rights under the Privacy Act as specified in 25 CFR § 556.2 and as required by 25 CFR § 522.2 (b). The Tigua Gaming Agency shall be responsible for the performance of such background investigations. The information obtained shall include:

- (1) Full name, including any aliases or other names which the applicant has used or has ever been known whether oral or written;
- (2) Social security number(s);
- (3) Date and place of birth;
- (4) Citizenship of the applicant;
- (5) Gender of the applicant;
- (6) All languages spoken or written by the applicant;
- (7) For the previous five (5) years an itemization or description of all:
 - (a) business and employment positions held;
 - (b) any ownership interests in businesses listed;
 - (c) business and residence addresses; and
 - (d) current or present drivers license number(s);
- (8) Provide the names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under sub-section (7) (c), above;
- (9) A current business and residence address and telephone number(s);
- (10) A description of any current as well as previous business relationship with Indian tribes, including ownership interests in those businesses;
- (11) A description of any existing and previous business relationships with the gaming industry generally, including interests in those businesses.
- (12) The name and address of any licensing or regulatory agency with which the applicant has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (13) A description of all criminal proceedings in which the applicant was or is currently involved, including the following:

(a) for each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition thereof;

(b) for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years as of the date of the application, the name and address of the court involved and the date and disposition thereof;

(c) for each criminal charge (excluding minor traffic charges) whether or not there is a connection, if such criminal charge is within ten (10) years of the date of application and is not otherwise listed pursuant to the provisions of subsection (a) and (b), above, the criminal charge, the name and address of the court involved and the date and disposition thereof.

(14) The name and address of any licensing or regulatory agency with which the applicant has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(15) A current photograph;

(16) A set of fingerprints prepared by an authorized state, local, federal or tribal law enforcement agency; and,

(17) A statement as to any civil litigation involving fraud in which the applicant has been involved, and a statement as to any other civil litigation in which the applicant has been involved within ten (10) years of the date of application.

This information shall be provided in writing to meet the requirements of 25 CFR § 556.4 and § 537.1 as to background investigations.

b. The Pueblo may employ, on a probationary basis, any prospective gaming employee who represents, in writing, that he or she meets the standards set forth in this Section, until such time as the written report on the applicants' background investigation is completed, however, the Pueblo shall comply with the Tribal employment preference ordinance in effect.

c. The Pueblo shall not employ as a gaming employee, and shall terminate any probationary gaming employee, if the report on the applicant's background investigation finds that the applicant:

(1) has been convicted of or has plead nolo contendere to any felony within the previous ten (10) years or has ever been convicted of or has ever plead nolo contendere to any gaming offense;

(2) has knowingly and willfully provided materially important false statements or information on his employment application; or,

(3) has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits, and association pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

d. In the event of any dispute as to Subsection (c) above, the parties shall meet and in good faith attempt to resolve the differences. Until the matter is resolved the applicant shall not be employed as a gaming employee by the Pueblo.

2. Background Investigation of Gaming Employee During Employment. The Pueblo shall retain the right to conduct such additional background investigations of any Primary Management Official, Key Employees, or other gaming employee at any time during the term of that person's employment. Any gaming employee found to fall within the provision of Section c above shall be immediately suspended and shall be dismissed, after notice to the employee and hearing pursuant to Section 11(6), (7) and (8) of this Bingo Ordinance, as amended.

3. Background Investigation of any Principal. The Pueblo shall retain the right to conduct background investigations of any Principal of an entity which provides management services to the Pueblo or the Enterprise.

III. Class II Gaming

Section 13. Exclusive Ownership by Pueblo.

Class II gaming shall be owned and operated exclusively by the Pueblo, which shall have the sole proprietary interest in and responsibility for the conduct of any Gaming Operation.

Section 14. Management Contracts.

The Pueblo may enter into a management contract for the operation and management of Class II gaming activities. Each such contract must comply with the provisions of this Ordinance, other applicable provisions of tribal law (including, but not

limited to any tribal employment preference ordinance), and provisions of federal law (including, but not limited to, 25 USC §§ 2710, 2711.

Section 15. Games Permitted.

1. The Pueblo may conduct Bingo, Class II non-banking card games or a combination of Bingo and Class II non-banking card games.

2. A Bingo facility at each Bingo Occasion shall conduct regular Bingo games and may additionally conduct special Bingo games, and such other Class II games as are permitted by the Tigua Gaming Agency pursuant to the requirements of applicable law.

3. A schedule of the Class II games to be conducted must be conspicuously posted at each entrance to a Bingo Gaming Facility each week in which games will be conducted at least 24 hours prior to the start of the first game scheduled. The schedule must include a statement of the fee to play and the prizes offered for each game.

Section 16. Bingo Game Cards.

The Tigua Gaming Agency shall provide the game cards to be used for each Bingo game conducted.

Section 17. Player Limitation.

The number of persons permitted to play any Class II game shall be determined by the Tigua Gaming Agency, except that:

1. the number of people permitted in the Bingo Gaming Facility or in any room in the Facility shall not exceed the limitation of the number permissible under the applicable fire, building or other safety codes or standards.

2. the number of people permitted to play any bingo game shall not exceed the number of chairs available in the room(s) in which the game is being played.

Section 18. Entry Prohibited.

No person may enter any room in which a bingo game is being played unless the person is a player, except Gaming Facility employees and persons present by authority of the Tigua Gaming Agency, for purposes of inspection or regulatory duties.

Section 19. Hours of Operation; Approval by Tigua Gaming Agency.

Class II gaming may be conducted twenty-four (24) hours a day, seven days a week, subject to approval by the Tigua Gaming Agency.

IV. Records and Audits

Section 20. Records Maintenance.

1. Each Gaming Facility administered by the Tigua Gaming Agency shall maintain accurate and up-to-date records for each gaming activity conducted.

Records shall include records of:

- a. all financial transactions;
- b. all gaming machine testing, malfunctions, maintenance and repairs;
- c. personnel;
- d. complaints of patrons;
- e. facility in-house investigations of any kind;
- f. incidents and accidents;
- g. actions by the Tigua Gaming Agency against players or Gaming Facility visitors;
- h. actions by Tigua Gaming Agency against or in reprimand of employees.

Section 21. Independent Audits.

1. Gaming Activities Conducted by the Pueblo.

The Tigua Gaming Agency shall require, and the Tribal Council shall cause, an audit to be conducted each year of all Class II Gaming Operations conducted on Indian Lands. Such audit(s) shall be conducted by an independent auditing firm, selected at the sole discretion of the Tribal Council, or by the Tigua Gaming Agency on its behalf. However, nothing in this sub-paragraph shall prohibit the annual audit of tribal gaming activities from being encompassed within the Pueblo's existing audit system.

2. Contracts for Supplies, Services or Concessions.

Each contract for supplies, services, or concessions with a contract amount in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to Class II gaming activity shall be subject to the independent audit required by subparagraph 1, above.

3. Annual Audit Report to be Provided to Commission.

The Tigua Gaming Agency shall furnish a copy of each annual gaming activities outside audit to the Commission.

V. Violations

Section 22. Crimes; Penalties.

1. It shall be unlawful for any person to:
 - a. Operate or participate in gaming on Indian Lands in violation of the provision of this Bingo Ordinance, As Amended, or in violation of rules and/ or regulations promulgated pursuant to this Bingo Ordinance, As Amended;
 - b. Knowingly make a false statement in an application for employment with a Pueblo Gaming Operation on Pueblo Tribal Lands;
 - c. Bribe or attempt to bribe, or unduly influence or attempt to unduly influence, any person who operates, conducts, assists, or is otherwise employed in a Pueblo Gaming Operation located on Pueblo Tribal Lands.
 - d. Alter or misrepresent the outcome or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players.
 - e. 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.
 - f. Claim, collect or take or attempt to claim, collect, or take, money or anything of value in or from a gambling game, with intent to defraud without having made a wager thereon or to claim, collect, or take an amount greater than the amount won.

2. Any person who willfully or knowingly violates any provision of this Ordinance or any rule or regulation authorized thereunder, shall be guilty of a criminal offense punishable by a fine not to exceed five hundred dollars (\$500.00) for each violation or for each day the violation continues or by imprisonment for not more than six (6) months or both.

3. Any person who willfully and knowingly violates any provision of this Ordinance or any rule or regulation authorized thereunder may have the equipment, material and supplies used in conducting the unlawful activity impounded.

4. The Tribal Court shall have jurisdiction over all violations of the Bingo Ordinance, As Amended. Nothing, however, in this Ordinance, shall be construed to authorize or require a criminal trial and punishment by the Pueblo of non-Indians except to the extent allowed or required by any applicable present or future act of Congress or any applicable federal court decision.

5. The Pueblo shall retain the right to revoke any license of any contractor who engages in conduct other than is authorized by this Ordinance or the contractor's agreement with the Pueblo which involves moral turpitude, dishonesty or any act which is punishable as a felony or misdemeanor involving moral turpitude under State or Federal laws.

6. Any property used in the commission of a violation or a provision of this Ordinance may be seized by the Tigua Gaming Agency or their agents. The owner of the property shall be afforded an opportunity to object and be heard in accordance with principles of due process. If no objection is raised, or the objection is not sustained, the Pueblo may dispose of the seized property.

7. Any non-Indian who violates a provision of this Ordinance may be excluded from the Indian Lands within the jurisdiction of the Ysleta Del Sur Pueblo Indian Tribe.

Section 23. Civil Penalties.

1. Any person or entity who violates any term or condition of this Ordinance or any provision of a management contract issued pursuant to Sections 15 or of Section 22, above, may be assessed a civil fine by the Pueblo. Such fine may be assessed only after the person or entity has been given notice and an opportunity to be heard before the Tribal Court. Each violation shall be treated separately and may be assessed as a separate violation.

2. The fine assessed pursuant to subparagraph 1, above, shall not exceed \$5,000.00 per violation, or twice the amount of any grand prize awarded in a gaming activity which is directly associated with the violation, whichever is greater.

3. Civil fines provided for in this Section may be imposed in addition to the criminal penalties provided for in Section 22 above.

Section 24. Enforcement.

After any person or entity fails or refuses to pay a final assessment levied pursuant to Section 22 and/or Section 23 above, the Pueblo may proceed to collect the assessment by initiating a civil action against the person or entity in the Tribal Court or in any other court of competent jurisdiction. In such civil action, validity and amount of the assessment shall not be subject to judicial review. The Pueblo shall be entitled to all remedies in law or in equity that are available to civil litigants generally and/or specially, by law.

VI. Validity of Ordinance

Section 25. Severability.

If any provision or provisions in this Ordinance are held invalid by a court of competent jurisdiction, this Bingo Ordinance, As Amended, shall continue in effect as if the invalid provision(s) were not a part hereof.

Section 26. Amendments.

The Bingo Ordinance, As Amended, may be amended by action of the Tribal Council and documented by Tribal Council Resolution.

Section 27. Effective Date of Ordinance.

This Bingo Ordinance, As Amended, shall take effect upon adoption of the Tribal Council and after it has been approved by the Chairman of the Commission.

NOW, THEREFORE, BE IT RESOLVED, that the foregoing amendment to Ordinance No. 00492 is hereby enacted by the Tribal Council of the Ysleta Del Sur Pueblo on this the 5th day of October, 1993.

By: Julian Granillo
Authorized Officer
Title: Governor

ATTEST:

By: [Signature]
Authorized Officer
Title: Tribal Secretary

CERTIFICATION

The foregoing amendment to Ordinance No. 00492 was considered by the Ysleta Del Sur Pueblo Tribal council at a duly called meeting and was adopted by the Tribal Council, with a quorum being present, and which meeting was held on the 5th day of October, 1993.

By: Julian Brantley
Authorized Officer
Title: Governor

ATTEST:

By: [Signature]
Authorized Officer
Title: Tribal Secretary