



May 15, 2019

VIA FIRST CLASS MAIL

Donna M. Connolly, Esq.
Rothstein Donatelli
1215 Paseo de Peralta
Santa Fe, NM 87501

Re: Revision to Gaming Ordinance Resolution No. 2019-018

Dear Ms. Connolly:

This letter responds to your May 1, 2019 request on behalf of the Pueblo of Santa Clara for the National Indian Gaming Commission Chairman to review and approve the Pueblo's revised gaming ordinance, adopted pursuant to Resolution Number 2019-018.

The gaming ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations. If you have any questions concerning this letter or the ordinance review process, please contact Suzanne Nunn at (202) 632-7003.

Sincerely,

A handwritten signature in black ink, which appears to read "Jonodev O. Chaudhuri". The signature is fluid and cursive.

Jonodev O. Chaudhuri
Chairman

SANTA CLARA

POST OFFICE BOX 580
(505) 753-7330
(505) 753-5375 Fax



INDIAN PUEBLO

ESPANOLA, NEW MEXICO
87532
OFFICE OF GOVERNOR

PUEBLO OF SANTA CLARA TRIBAL COUNCIL RESOLUTION NO. 2019-018

APPROVING CHANGES TRIBAL GAMING CODE REQUIRED BY NIGC

WHEREAS, the Pueblo of Santa Clara is a federally recognized Indian Tribe exercising inherent powers of sovereignty and self-government, through its traditional institutions and by virtue of its Constitution, which was approved on December 20, 1935; and

WHEREAS, by Resolution 201-011, Adopting Tribal Gaming Code; Repealing Existing Gaming Code, the Tribal Council approved a new Gaming Code and repealed the Pueblo's existing Gaming Code, to be effective upon the approval of the new Code by the chairman of the National Indian Gaming Commission ("NIGC"); and

WHEREAS, the Pueblo's general counsel submitted the new Gaming Code to NIGC for review and approval, and in order to approve the Code NIGC required three changes to the Code, which changes are reflected on the revised Gaming Code attached hereto in redline and clean formats; and

WHEREAS, the Tribal Council believes it would be in the Pueblo's best interest to approve the changes required by NIGC;

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


1. The Gaming Code, as revised to comply with the NIGC's requirements, in the form attached hereto be and the same is hereby adopted as the law of the Pueblo, but effective only upon the approval of this Code by both the chairman of the National Indian Gaming Commission as required by 25 U.S.C. § 2710(d)(1)(A)(iii), and the Secretary of the Interior as required by the Pueblo's Constitution.

2. Upon the approval of the Gaming Code adopted by this Resolution by both the chairman of the National Indian Gaming Commission and the Secretary of the Interior, the Pueblo's existing Gaming Code, codified at Title XIX, Chapter 109 of the Santa Clara Tribal Code (2006 Comp.), shall be deemed repealed in its entirety and of no further force or effect; and the new Code shall be codified at Chapter 109 of the Tribal Code.

3. The Governor and the Pueblo's general counsel are authorized and directed to transmit the attached Gaming Code to the National Indian Gaming Commission and to the Secretary of the Interior for their review and approval.

CERTIFICATION

I, the undersigned, as Governor of the Pueblo of Santa Clara, hereby certify that the Santa Clara Tribal Council, at a duly called meeting that was convened with proper notice and was held on the 9th day of May, 2019, at the Santa Clara Pueblo, New Mexico, a quorum being present, approved the foregoing Resolution with 11 members voting in favor, 0 opposed, 0 abstaining and 1 being absent.



Hon. J. Michael Chavarria, Governor

Attest:



Kevin H. Tafoya, Tribal Secretary

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CHAPTER 109 - GAMING CODE

Sec. 109.1 General

1.1. Purpose. The Purpose of the Pueblo of Santa Clara Gaming Code is to accomplish the following:

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

1.2. Sovereign Immunity Preserved. Nothing in this Code shall be construed as a waiver of sovereign immunity of the Pueblo of Santa Clara, nor shall any entity described in this Code be empowered to grant a waiver of the Pueblo's sovereign immunity.

1.3. Ownership. The Pueblo of Santa Clara, or a Pueblo-owned Gaming Enterprise designated by the Tribal Council, will have the sole proprietary interest in and responsibility for the conduct of any gaming activity Santa Clara Lands.

Sec. 109.2 Definitions

In this Code, unless the context otherwise requires:

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

2.2. Class II Gaming means:

- (1) The game of chance, commonly known as Bingo or Lotto, whether or not electronic, computer, or other technological aids are used, in which:
 - a. Players play for prizes or money with cards bearing numbers or other designations;
 - b. Players cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - c. Players win the game by being the first Person to cover a designated pattern on such cards:
- (2) If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo,
- (3) Non-banking card games that:

- a. The State of New Mexico laws explicitly authorize and are played legally anywhere in New Mexico, and
- b. Players play in conformity with those laws and regulations (if any) of the State regarding hours, periods of operation, and limitations on wagers and pot sizes in such card games.

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

- (1) Any house banking game, including but not limited to -
 - a. Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
 - b. Casino games such as roulette, craps, and keno;
- (2) Any slot machines as defined in 15 U.S.C. 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance;
- (3) Any sports betting and pari-mutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or
- (4) Lotteries.

2.4. Code means this Tribal Gaming Code

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

2.6. Gaming Commission means the Pueblo of Santa Clara Gaming Commission.

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

2.8. Gaming Enterprise means the Pueblo-owned economic entity designated by the Tribal Council and licensed by the Gaming Commission, to conduct Gaming on Santa Clara Lands.

2.9. Gaming Employee means a person connected directly with the conduct of Class II or Class III Gaming, handling or accounting for the proceeds thereof, or handling any Gaming Device; but Gaming Employee does not include:

- (1) Bartenders, cocktail servers or other persons engaged solely in preparing or serving food or beverages;
- (2) Secretarial or janitorial personnel;
- (3) Stage, sound and light technicians; or
- (4) Other nongaming personnel.

2.10 Gaming Enterprise Board means the Santa Clara Gaming Enterprise Board that oversees the Pueblo Gaming Enterprise and carries out the duties and powers set out in the Gaming Enterprise Charter.

2.11 Gaming License means any license required by and issued pursuant to this Gaming Code. A Gaming License is a revocable privilege and no Person holding a Gaming License shall be deemed to have acquired any vested rights therein.

2.12. Gaming Manager means the General Manager or Management Contractor of a Gaming Enterprise.

2.13. Gaming Facility or Gaming Premises means each separate physical building or structure in which Class II or Class III gaming is operated or conducted on Santa Clara Lands. With respect to Class III Gaming, the term Gaming Facility only applies to spaces in which Class III gaming actually takes place, to spaces in which Class III gaming-related funds or devices are kept, and to spaces in which other activities directly related to Class III Gaming occur. Gaming Facility does not include structures or spaces housing businesses or amenities that are ancillary or unrelated to Gaming activities, such as conference centers, restaurants, spas, golf courses, recreational vehicle parks, water parks, marinas, hotels, gift shops, amphitheaters, show-rooms, parking lots, etc., even if they are overseen by the Gaming Enterprise or are located near or adjacent to a Gaming Facility.

2.14. Gaming Vendor means a Person that provides Gaming Equipment, Gaming Devices, or Gaming Supplies to the Gaming Enterprise or Management Contractor.

2.15. Governor means the Governor of the Pueblo.

2.16. IGRA means the Indian Gaming Regulatory Act, as codified as 25 U.S.C §§2701-2721 and 18 U.S.C. §§1166-1168, and the regulations issued thereunder by the NIGC at 25 C.F.R. pts. 501-599;

2.17. Key Employee means a Gaming Employee employed by a Gaming Enterprise or Management Contractor who may have limited supervisory authority within the department in which he or she works, including, but not limited to:

- (1) Bingo Callers and Managers;
- (2) Cage and Counting Room Supervisors;
- (3) Security Manager and all Security Officers;
- (4) Custodian of Gaming Supplies or Cash;
- (5) Floor Manager;
- (6) Pit Boss;
- (7) Dealer;
- (8) Croupier;
- (9) Surveillance Manager and all Surveillance Agents;
- (10) Custodian of Gaming Devices, including Persons with access to cash and accounting records within such devices;
- (11) Administrative Assistants to any of the above Persons;
- (12) Approver of credit;
- (13) If not otherwise included, any Gaming Employee who earns in excess of \$50,000 per year, and the four most highly compensated persons in the Gaming operation; and

(14) Any other Gaming Employee designated by the Gaming Commission as a Key Employee.

2.18. Licensee means any Person holding a valid and current Gaming License pursuant to the provisions of this Code.

2.19. Management Contract means 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 the Gaming operation. "Management Contract" does not include any employment contract under which an individual is employed by the Gaming Enterprise in a management or supervisory position.

2.20. Management Contractor means any Person who enters into a Management Contract with the Pueblo or with the Gaming Enterprise.

2.21. Management Fee means any amount paid to a Management Contractor as a fee under a Management Contract. "Management Fee" does not include any amounts paid for the salary or employment benefits of any individual employed by the Gaming Enterprise in a management or supervisory position.

2.22. Net Revenues means gross gaming revenues of the Gaming Enterprise less (a) those amounts paid out for prizes, (b) total gaming related operating expenses, excluding Management Fees, and (c) non-operating expenses consistent with professional accounting pronouncements.

2.23. NIGC means the National Indian Gaming Commission.

2.24. Person means a natural person, firm, association, corporation or other legal entity, except the Pueblo, but including the Gaming Enterprise.

2.25. Primary Management Official means:

(1) Any Person having management responsibilities for Gaming activities carried out by the Gaming Enterprise or by a Management Contractor.

(2) Any Person who has the authority to hire or terminate Gaming Employees;

(3) Any Person having financial management responsibility with respect to the finances of Gaming operations;

(4) Any Person whose total cash compensation is in excess of \$50,000 and whose duties are not indicative of a Key Employee;

(5) Any Person who has the authority to set up working policy for the Gaming Operation; and

(6) Any other Gaming Employee designated by the Gaming Commission as a Primary Management Official.

2.26. Pueblo means the Pueblo of Santa Clara.

2.27. Santa Clara Lands means all lands within the exterior boundaries of the Santa Clara Pueblo Grant that are owned by the Pueblo, all lands within the Santa Clara Indian Reservation, and any other lands that are held by the United States in trust for the Pueblo or owned by the Pueblo in fee but subject to federal law restrictions on alienation, and over which the Pueblo exercises governmental jurisdiction.

2.28. State means the State of New Mexico.

2.29. Tribal Bingo Game means a bingo game or games conducted or operated by the Santa Clara Pueblo in accordance with the regulatory procedures and all applicable provisions of this Code.

2.30. Tribal Council means the Pueblo of Santa Clara Tribal Council.

2.31. Tribal Court means the Pueblo of Santa Clara Tribal Court.

2.32. Tribal-State Gaming Compact, or Compact, means the Tribal-State Class III Gaming Compact between the Pueblo and the State that has been approved by the Secretary of the Interior pursuant to IGRA, and that is in effect.

Sec. 109.3 Santa Clara Tribal Gaming

3.1. Gaming Limited.

(1) Gaming on Santa Clara Lands is limited to Gaming conducted and operated by the Pueblo or the Gaming Enterprise in accordance with the provisions of the Compact and this Code.

(2) No Person who is not licensed by the Gaming Commission under the provisions of this Code may hold, operate or conduct any Gaming on Santa Clara Lands.

3.2. Authorization. The Pueblo or the Gaming Enterprise may hold, operate and conduct a Gaming Operation at a licensed Gaming Facility, in accordance with the provisions of this Code, the Compact and IGRA.

3.3. Records Retention.

(1) Class II Gaming. The Gaming Enterprise shall maintain complete and accurate written records of Bingo, and all other Class II Gaming activities conducted by the Gaming Enterprise for a period of at least six (6) years.

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

(3) Such records shall include, without limitation:

- a. Gross receipts.
- b. Records of prizes
- c. Any and all expenses.
- d. Capital expenditures.
- e. Contracts for all goods and services related to gaming.

- f. Net profits.
- g. Payments to the Pueblo's general fund.
- h. Documents and calculations required to be maintained to satisfy terms of the Tribal-State Gaming Compact and Management Contract.

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

3.5. Net Profit Uses.

(1) Net profits from the Gaming Operation may be used only for the following purposes, as determined by the Gaming Enterprise and the Tribal Council:

- a. Fund tribal governmental operations or programs;
- b. Provide for the general welfare of the Pueblo of Santa Clara and its members;
- c. Promote the economic development for the benefit of the Pueblo of Santa Clara;
- d. Donate to charitable organizations; or
- e. Help fund operations of local government agencies.

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

3.7. Safety. Each Gaming Facility operated at Santa Clara Pueblo shall be constructed, maintained, and operated in compliance with all environmental and public health and safety laws, resolutions, Codes, policies, standards, and procedures applicable to the Gaming Facility to protect the environment and the public health and safety. Without limiting the generality of the foregoing, each Gaming Facility shall be constructed and maintained in accordance with standards at least as stringent as those identified in Section 8(I) of the Compact.

3.8. Drug Testing. The Gaming Enterprise Board shall have authority to require all Gaming employees to submit to drug testing in accordance with a policy which may be established by the Gaming Enterprise Board. All results will be stored and placed in employees' files, and may be provided to the Gaming Commission on request.

3.9. Regulation of Gaming Operations as Required by the Tribal-State Gaming Compact. All Class III Gaming Activities shall be conducted in accordance with the Compact. The prohibitions and requirements in Section 4(B) of the Compact are hereby adopted in this Code and shall be enforced with respect to the conduct of Class III Gaming on Santa Clara Lands.

3.10. Problem Gambling. The Gaming Commission and the Gaming Enterprise shall comply with all provisions of Section 4(F) of the Compact to address problem gambling.

3.11. Gaming by Gaming Enterprise Board/Vendors/Gaming Commission. Gaming by Enterprise Board Members shall be prohibited. Any Person who holds, operates or conducts, or assists in holding, operating or conducting Gaming at Santa Clara may not play at any session of gaming at which such Person is licensed or employed. Vendors of gaming machines and equipment shall not play at any session of gaming at which such vendor(s) is licensed. The Gaming Commission, its agents and employees are prohibited from Gaming at any Gaming Facility.

3.12. Hours. The Gaming Enterprise may conduct Gaming twenty-four (24) hours a day, seven (7) days a week.

3.13. Prize and Wager Limit's. There shall be no limit on the size of the prizes offered or given in any single game. Wager limits may be set by the Gaming Enterprise.

3.14. Audit. Not less than annually at the Gaming Enterprise's fiscal year end, the Gaming Enterprise will cause an audit by an independent accounting firm to be conducted of its financial statements for that year, in full compliance with Section 4(C) of the Compact and applicable regulations of the NIGC, and shall submit the results of those audits to the NIGC. The audit shall include but not be limited to all contracts for gaming supplies, services, or concessions for amounts in excess of \$25,000 annually (except contracts for professional legal or accounting services).

Sec. 109.4 Santa Clara Gaming Commission

4.1. Establishment of the Gaming Commission, Appointment and Terms. The Gaming Commission has been established and shall consist of a maximum of five (5) voting members appointed by Tribal Council. One member shall be selected for an initial term of one year. A second member shall be selected for an initial term of two years. The third and any additional members shall be selected for an initial term of three years. After the expiration of each initial term, succeeding members of the Gaming Commission shall be chosen for full terms of three (3) years each in order to achieve staggered terms. Each voting member of the Gaming Commission shall hold office from the date of selection and qualification until a successor shall have been duly selected and qualified, unless earlier removal, resignation, death or incapacity shall occur. An individual may serve more than one consecutive term on the Gaming Commission.

4.1.1 The Tribal Council may appoint one of its members to serve as a non-voting member of the Commission, who would be entitled to attend all Commission meetings and would receive notice thereof, and would have access to all information provided to voting members, but would not be entitled to vote on any matter before the Commission. This non-voting member would be allowed to report to the Tribal Council on the activities of the Commission, but would be prohibited from disclosing any matter discussed in executive session of the Commission, or any confidential personnel information. The non-voting member would serve in this position at the pleasure of the Tribal Council, but his or her term would end should the member no longer be a member of the Tribal Council.

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

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

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

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

Each Gaming Commissioner must be open-minded and committed to the best interest of the Pueblo, and should have some background or experience in business. Each Commissioner shall complete an employment application form and privacy waiver providing background information and allowing investigation as desired by the Pueblo.

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

4.6. Procedures of the Gaming Commission

(1) Meetings. The Gaming Commission shall meet at the call of the Chairperson or a majority of its members, but shall meet at least once every month.

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

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

(4) Quorum and Voting. Three members of the Gaming Commission, at least one of whom is the Chairperson or Vice-Chairperson, shall constitute a quorum. The vote of a majority of the members present at any meeting at which a quorum is present shall be the act of the Gaming Commission.

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

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

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

4.7. Compensation

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

4.8. Powers and Duties of the Gaming Commission

The Gaming Commission shall have the following powers and duties:

(1) Oversight of Gaming Activities. The Gaming Commission shall have primary responsibility for overseeing all Gaming activity to assure the integrity of Gaming at Santa Clara and shall for that purpose employ a staff including one or more Agents and other employees who shall be under the sole supervision of the Gaming Commission. The Agents and Commissioners shall have immediate access to all areas of any Gaming Facility at all times. Each of the staff shall report to the Gaming Commission regarding any failure by the Gaming Enterprise to comply with any of the provisions of this Code and any other applicable laws and regulations. All Agents and other employees shall be licensed by the Gaming Commission and subject to background investigations.

(2) Inspect and Copy. The Gaming Commission and its Agents may:

- a. Inspect and examine all premises where Gaming is conducted or Gaming Devices or Equipment are manufactured, sold, stored, or distributed.
- b. Inspect all equipment and supplies in, upon or about such premises.
- c. When warranted due to an apparent or suspected malfunction, and in cooperation with the Gaming Enterprise, remove from the Gaming Premises and inspect any Gaming Device.
- d. Inspect and copy any books or records of the Gaming Enterprise related to the conduct or the proceeds of Gaming.

(3) Witness Testimony. The Gaming Commission, in the course of any investigation or proceeding authorized by this Code, shall have the power to compel by subpoena the attendance of witnesses and the production of books, papers, documents and other things related to the matters under consideration or investigation by the Gaming Commission, and if

necessary to bring actions for the enforcement of such subpoenas in the Tribal Court. The Gaming Commission may administer oaths and require testimony under oath. The Gaming Commission may pay the transportation and other expenses of witnesses, as it may deem reasonable and proper. Any Person who knowingly makes a false statement under oath in any matter before the Gaming Commission may be prosecuted for perjury.

(4) Reports to Governor, Tribal Council, Santa Clara Public. The Gaming Commission shall submit written reports of its activities to the Governor and the Tribal Council within two weeks after the end of each quarter. The Gaming Commission shall be available to present those reports in person, as desired by the Governor and Tribal Council. After the annual internal (non-financial) audit of Santa Clara Gaming has been completed, the Gaming Commission shall present a summary of the audit and its annual report to the Pueblo of Santa Clara at the next Tribal Council meeting held after the completion of the audit.

(5) Training.

a. The Gaming Commission shall budget time and money as needed for training and education of Gaming Commissioners, Gaming Commission staff, and all Gaming employees as needed to be aware of proper Gaming industry practices and applicable laws and regulations.

(6) Gaming Regulations. The Gaming Commission may promulgate regulations, not inconsistent with the provisions of this Code, the Compact, and IGRA, to govern the operation and management of each Gaming Enterprise and Gaming Operation. Prior to any regulation taking effect, the Gaming Commission shall submit the proposed regulation in draft form to the Governor, the Tribal Council, the Gaming Enterprise, and the Pueblo's general counsel, and allow no less than thirty (30) days for submission of written comments, which comments shall be fully considered by the Gaming Commission prior to the promulgation of the final regulation.

(7) Gaming Device Standards and Technical Standards.

a. The Gaming Commission will adopt standards for any and all Class III Gaming equipment, devices or supplies to be used in any Gaming Facility, which standards shall be at least as strict as the comparable standards applicable to Class III Gaming equipment, devices or supplies within the State of Nevada. Any and all Class III Gaming equipment, devices or supplies used by the Tribe shall meet or exceed the standards thereby adopted.

b. The Gaming Commission shall promulgate, review, approve, and revise the technical standards and rules of each game operated by the Gaming Enterprise or Management Contractor and shall notify the Gaming Enterprise of the rules and of any change to the rules.

(8) Health, Safety and Security Standards. The Gaming Commission shall enforce and require that all health, safety and security standards applicable to the Gaming Enterprise are fully complied with.

(9) Operational Budget. The Gaming Commission shall adopt an annual operating budget, which shall be subject to the approval of the Tribal Council. The Gaming Commission may, in accordance with the budget, employ a staff as it deems necessary to fulfill its responsibilities under this Code and may retain legal counsel, consultants, and other professional services, including investigative services, to assist the Gaming Commission with its responsibilities under the Code. The expenses of the Gaming Commission in accordance with such budget shall be appropriated by the Tribal Council.

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

(11) Gaming Compact Regulations. The Gaming Commission shall have the primary responsibility for satisfying regulatory requirements imposed by the Compact.

(12) Licensing Authority. The Gaming Commission shall have the authority to issue, suspend, place conditions or limitations on, and revoke Gaming Licenses as further provided in this Code.

(13) Amendments to Code. The Gaming Commission may recommend amendments to this Gaming Code to the Tribal Council.

(14) Contracts. Subject to the approval of the Tribal Council, the Gaming Commission may enter into cooperative agreements with regulatory and law enforcement agencies and officials of the State of New Mexico (including cities and counties thereof), the Bureau of Indian Affairs, the United States government, and other Indian Tribes, when the Gaming Commission determines that such cooperation is in the best interests of the Pueblo and will help to ensure enforcement of this Code, the Compact and IGRA on Santa Clara Lands.

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

4.9. Appeals to Tribal Court

Any Licensee aggrieved by the final action of the Gaming Commission, may file an appeal to the Tribal Court. The Tribal Court shall not take new evidence; it shall base its decision on the record made before the Gaming Commission. The Tribal Court may send any appeal back to the Commission for further fact-finding or reconsideration or both. An action of the Gaming Commission shall not be reversed unless it is arbitrary, capricious, clearly erroneous, not supported by substantial evidence, or otherwise contrary to law. Any Licensee who wishes to appeal shall file a written Notice of Appeal in the Tribal Court, stating the specific basis of the appeal, within 30 days of the final Commission action being appealed, and shall pay any court fees. Notice of Appeal shall also be delivered to the Gaming Commission which shall, upon

receipt of a Notice of Appeal deliver the administrative record to the Tribal Court for review. Upon receipt of a notice of appeal, the court clerk shall schedule a hearing before the Tribal Court. The final decision of the Tribal Court shall end the tribal appeal process.

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

4.10. Patron Disputes

The Gaming Enterprise shall establish, subject to the Gaming Commission's approval, and shall publish in a conspicuous location within each Gaming Facility easily visible to patrons, procedures by which any patron who is dissatisfied with a decision of the Gaming Enterprise with respect to the patron's entitlement to a prize, pot, or other benefit from a gaming activity conducted by the Gaming Enterprise may have his or her complaint heard and decided by the management of the Gaming Enterprise. A patron who is dissatisfied with the final decision of the Gaming Enterprise as to any such dispute may appeal to the Gaming Commission, which will convene a hearing at which the patron and the Gaming Enterprise shall present their positions and any evidence relevant to the dispute. The decision of the Gaming Commission shall be final and not subject to review in the Tribal Court or elsewhere.

4.11 Agent for Service of Process

The Chairperson of the Gaming Commission shall be the agent for service of any official determination, order or notice of violation, or process issued by any court in a matter in which the Gaming Commission is named as a party.

109.5 Gaming Licenses and Investigations

5.1 Authority

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

5.2 Investigations

The Gaming Commission may conduct investigations, hearings, inquiries, compel the production of any information or documents, or otherwise exercise the investigatory powers necessary to carry out its duties under this Code.

5.3 Standards

The Gaming Commission may not issue a Gaming License to any Person whose prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest or to the effective regulation of Gaming at Santa Clara. No license shall be issued to any Person who may create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming at Santa Clara.

5.4 Gaming Facility Licenses

(1) License Required. Gaming regulated by this Code may take place only at a Gaming Facility which has a Gaming Facility License for Gaming at Santa Clara.

(2) Issuance. The Gaming Commission shall issue a Santa Clara Gaming Facility License for each Gaming Facility for which the Gaming Enterprise submits a proper application. The Gaming Commission shall issue a separate Gaming Facility License to each place, facility, or location on Santa Clara Lands where Gaming is conducted pursuant to this Code.

(3) Appropriate Lands for Gaming Sites. A Gaming Facility License can only be issued for a Gaming Facility located on Santa Clara Lands that qualify for Gaming under IGRA.

(4) Term and Renewal. Each Gaming Facility License shall be for a three (3) year term, and shall be renewable upon proper application to the Gaming Commission.

(5) Submissions to NIGC. The Gaming Commission shall be responsible for submitting to the NIGC all documentation required for issuance of a Gaming Facility License.

(6) Revocation of a Gaming Facility License. The Gaming Commission shall have the authority to revoke a Gaming Facility License in the event it determines, after having given notice to the Gaming Enterprise and an opportunity for a hearing, that the Facility itself is not in compliance in some material respect with this Code, the Compact or IGRA, and the noncompliance has not been corrected within sixty (60) days after notice thereof, describing the condition of noncompliance in detail, was served on the Gaming Enterprise.

5.5. Gaming Employee Licenses

Every person employed as a Gaming Employee by the Gaming Enterprise or a Management Contractor must have a valid temporary Gaming License issued by the Gaming Commission prior to beginning employment, and must have a Gaming License issued by the Gaming Commission within ninety (90) days after his or her employment begins (but provided that any period during which the employee's application for a Gaming License is not being diligently processed by the Gaming Commission shall not be counted as part of the ninety-day period). Any Person, including Key Employees and Primary Management Officials, not receiving a Gaming License within that time period shall be terminated.

5.6. Gaming Employee License Conditions

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

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

(3) Display of License. Every Gaming Employee shall keep his or her Gaming License on his or her person and clearly visible while on duty.

5.7. Procedures

The following procedures must be followed in order to obtain a Gaming License.

(1) All Gaming Employees

a. Applications of Employment and License. Every Person hired by the Gaming Enterprise as a Gaming Employee shall complete a Gaming License application form

and submit it to the Gaming Commission. All Gaming License applications and reports (if any) of background investigations shall be kept by the Santa Clara Gaming Commission and available for inspection by the NIGC for at least three (3) years from the ending date of employment for each employee.

b. Determination. The Santa Clara Gaming Commission shall make a determination for issuing a temporary Gaming License on the basis of the Gaming License application and any preliminary background investigation report. The Gaming Commission shall make a determination of eligibility for issuing a Gaming License on the basis of the Gaming License application, and all completed background investigation reports.

c. License Standard. The Gaming Commission shall review an applicant's prior activities, criminal record, if any, reputation, habits and associations to make a finding concerning the eligibility of a Gaming Employee, including a Key Employee or Primary Management Official for licensing and employment in a Gaming Operation. If the Gaming Commission determines that employment of the applicant poses a threat to the public interest or to the effective regulation of Gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming, such applicant, including any Key Employee or Primary Management Official, shall be denied a Gaming License and Gaming Operations shall not employ that Person in a position that requires a Gaming License under this Code.

5.8. Notice to Applicants

(1) Privacy Act Notice. The following notices shall be placed on the license application form for each Gaming Employee, including Key Employees and Primary Management Officials, required to be licensed under this Code before that form is filled out by an applicant or the applicant must sign a statement that contains the foregoing Privacy Act notice and consent to the routine uses described in that notice:

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

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

(2) False Statement Notice. The Gaming Commission shall require each applicant seeking a license as a Gaming Employee, including Key Employees and Primary Management Officials, to sign and submit a notice regarding false statements on an application form as required by IGRA.

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment. (U.S. Code, title 18, section 1001.)

5.9. Background Investigations

The Gaming Commission shall require from each applicant for a Gaming License, including those applying as a Primary Management Official or Key Employee, all of the following information:

(1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

(2) Currently and for the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers' license numbers;

(3) The names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (2) of this section;

(4) Current business and residence telephone numbers;

(5) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(7) The name and address of any licensing or regulatory agency with which the Person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(8) For each felony, including those for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

(9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;

(10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within (10) years of the date of the application and is not otherwise listed pursuant to paragraph (8) or (9) of this subsection, the criminal charge, the name and address of the court involved and the date and disposition;

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

(12) A current photograph;

(13) Any other information the Gaming Commission deems relevant;

(14) Fingerprints consistent with procedures adopted by the Gaming Commission according to 25 C.F.R. § 522.2(h); and

(15) Consent to Tribal Court jurisdiction and compliance with applicable Pueblo law. By submitting the application, the applicant agrees to comply with all of the laws, rules and regulations of the Pueblo and expressly consents to the jurisdiction of the Tribal Court for any action that may arise while on Santa Clara Lands to the extent allowed by federal law.

5.10. Sufficient Investigation

The Gaming Commission, through appropriate law enforcement, its agents, or other agents, shall conduct a background investigation sufficient to make a determination under Section 5.7(1) of this Code. In conducting a background investigation, the Gaming Commission or its agent shall promise to keep confidential the identity of each Person interviewed in the course of the investigation.

(1) Background Investigative Report. Pursuant to the procedures set out in subsection 5.7(1) of this section, and before issuing a Gaming License to a Key Employee or Primary Management Official, the Gaming Commission shall prepare, or cause to be prepared, and forward to the NIGC a background investigative report on each applicant, including Key Employees and Primary Management Officials. An investigative report shall include all of the following:

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

(2) Procedure for Fingerprint Submissions. The Gaming Commission shall perform a background investigation for all Persons required to be licensed pursuant to this Code, including Key Employees and Primary Management Officials. The Gaming Commission shall request fingerprints from all Gaming Employees. Fingerprints shall be taken by the Gaming Commission.

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

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

(3) Procedure for Processing Fingerprint Submissions. Upon receipt of a completed application for a license and the payment arrangement of any required fees, the Gaming Commission is authorized to obtain fingerprints. The Gaming Commission shall capture the applicant's fingerprints on an established live scan fingerprint processing machine. For Key Employees and Primary Management Officials, fingerprints will then be forwarded to the NIGC for processing through the Federal Bureau of Investigation and the National Criminal Information Center to determine the applicant's criminal history, if any.

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

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

(5) Applications Retained. With respect to Key Employees and Primary Management Officials, the Gaming Commission shall retain applications for licensing,

investigative reports, and eligibility determinations for inspection by the Chairperson of the NIGC or designee for no less than three (3) years, from the date of termination of employment.

5.11. Eligibility Determination

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

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

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

5.12. Application Denied

In applying the standards adopted in this Code, if the Gaming Commission determines that the licensure of the applicant, including Key Employees and Primary Management Officials, poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Gaming Commission shall not license that applicant, and the Gaming Commission shall proceed with denying the application. If the Gaming Commission denies the application, the Gaming Commission shall give written notice to the applicant and to the Gaming Enterprise informing them of the action, setting forth the grounds for the action, and revoking any temporary license. The initial decision to deny a license is not reviewable. The denial of an application to renew a license is reviewable by Tribal Court.

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

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

5.13. Granting a Gaming License

(1) Generally, except for Key Employees and Primary Management Officials, if the Gaming Commission determines that the licensure of the applicant does not pose a threat to

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

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

a. The issuance of a temporary license signals the Key Employee's or Primary Management Official's permission to begin work for the Gaming Enterprise. When a Key Employee or Primary Management Official begins work at the Gaming Enterprise, the Gaming Commission shall maintain a complete application file containing the information listed under Section 5.9 of this Code.

b. Before issuing a Gaming License to a Key Employee or Primary Management Official, the Gaming Commission shall create and maintain a background investigation report consistent with Section 5.10(1) of this Code.

c. Within 60 days after the Key Employee or Primary Management Official begins work, but before the Gaming Commission issues a Gaming License, the Gaming Commission shall submit a Notice of Results of the applicant's background investigation to the NIGC. As noted elsewhere, the issuance of a temporary license signals the Key Employee's or Primary Management Official's permission to begin work for the Gaming Enterprise. The Notice of Results shall contain:

- i. Applicant's name, date of birth, and social security number;
- ii. Date on which applicant began work as a Key Employee or Primary Management Official;
- iii. A summary of the information presented in the background investigative report, which shall at a minimum include a listing of:
 1. Licenses that have previously been denied;
 2. Gaming licenses that have been revoked, even if subsequently reinstated;
 3. Every known criminal charge brought against the applicant within the last 10 years of the date of application; and
 4. Every felony of which the applicant has been convicted or any ongoing prosecution.

iv. a copy of the suitability or eligibility determination.

d. After the Gaming Commission has provided a Notice of Results of the background check to NIGC, the Gaming Commission may issue a license to the Key Employee or Primary Management Official.

e. Upon receipt of a Notice of Results for a Key Employee or Primary Management Official, the NIGC has 30 days to request additional information from the Gaming Commission concerning the applicant or licensee and to object.

f. If, within the thirty (30) day period after the NIGC receives a Notice of Results, the NIGC notifies the Gaming Commission that it has no objection to the issuance of a license pursuant to a license application filed by a Key Employee or a Primary Management Official for whom the Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Gaming Commission may issue a license to such applicant, at which time the temporary license (if any) shall expire.

g. If, within the thirty (30) day period described above, the NIGC Chairperson requests additional information concerning a Key Employee or Primary Management Official who is the subject of the Notice of Results, the Gaming Commission shall respond to such request for additional information. Such a request shall extend the thirty (30) day period until the Chairperson or designee of the NIGC receives the additional information.

h. If, within the thirty (30) day period described above, the NIGC provides the Gaming Commission with a statement itemizing objections to the issuance of a license to a Key Employee or to a Primary Management Official, the Gaming Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. If the Gaming Commission has not issued a license, the Gaming Commission shall make the final decision whether to issue a Gaming License to such applicant. If the Gaming Commission has already issued a Gaming License before receiving NIGC's statement of objections, then the Gaming Commission shall provide a notice and hearing to the licensee as provided in this Code.

i. Within thirty (30) days after the issuance of a license to a Key Employee or Primary Management Official, the Gaming Commission shall notify the NIGC of its issuance.

5.14. License Suspension and Revocation

(1) If, after the issuance of a Gaming License to a Key Employee or Primary Management Official, the NIGC informs the Gaming Commission that a Key Employee or a Primary Management Official is not eligible for a license, the Gaming Commission shall immediately suspend the license and shall provide the licensee with written notice of suspension and proposed revocation. The Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license pursuant to this Code. A right to a hearing under this part shall vest only upon receipt of a license granted under this Code.

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

(3) The Gaming Commission shall notify the Licensee of a time and a place for a hearing on the proposed revocation of a Gaming License or proposed suspension and revocation

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

- a. For the hearings to be public;
- b. Procedures for discovery;
- c. Assurance that procedural due process requirements are satisfied;
- d. For the maintenance of a record of the hearing proceedings and

assessment of costs of any transcription of testimony that is required for judicial review purposes; and

- e. For the hearing to be held on Santa Clara Lands.

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

(4) After a suspension and/or revocation hearing, the Gaming Commission shall decide to suspend, revoke, place conditions or limitations on, or reinstate a Gaming License. The Gaming Commission shall issue a written decision supported with findings of fact and conclusions of law. The Gaming Commission shall decide whether the licensee's license shall remain suspended or be suspended for a period of time not to exceed 30 days, be revoked, or be permitted to retain a license subject to conditions or limitations (also referred to as a "conditional license"), or be reinstated. The written decision shall be issued not more than fifteen (15) days after the hearing and shall be mailed by certified mail, return receipt requested, to the licensee, and the Gaming Enterprise. The effective date of the decision of the Gaming Commission made under this section is the date the decision is received by the aggrieved party as reflected on the return receipt ("Effective Date"). The Gaming Commission shall notify the NIGC of its decision concerning each Key Employee or Primary Management Official within 45 days of receiving notification from the NIGC that a Key Employee or Primary Management Official is not eligible for a license or employment pursuant to Section 5.14(1) of this Code.

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

(6) The decision of the Gaming Commission revoking a Gaming License may be appealed to the Tribal Court. Written notice of the appeal must be filed with the Tribal Court and served on the Gaming Commission within ten (10) days of the Gaming Commission's decision. The Tribal Court shall decide the appeal based on the record before the Commission, and shall state in writing the reasons for its decision. The Tribal Court shall not take new evidence, unless the party offering new evidence shows that such evidence is relevant and material to the issues on appeal and was unavailable to the party during the proceedings before the Gaming Commission. The Tribal Court shall base its decision on the whole record. The Tribal Court may send any appeal back to the Gaming Commission for further fact finding or reconsideration or both. An action of the Gaming Commission shall not be reversed unless it is

arbitrary or capricious, an abuse of discretion, not supported by substantial evidence in the record, outside the scope of the Gaming Commission's authority, or otherwise contrary to law.

5.15. Cost of Investigations

Gaming Employees, including Key Employees and Primary Management Officials, and contractors that require a background investigation pursuant to IGRA, or in the judgment of the Gaming Commission, shall pay the full cost of such investigations.

5.16. License Fees

The Gaming Commission shall set a reasonable fee for processing each Gaming License application. A current license fee schedule shall be available from the Gaming Commission upon request.

5.17. Temporary License

The Gaming Commission through its Chair or Executive Director may issue a temporary Gaming License to individuals who have completed a notarized Gaming License application and a notarized Release of Information form, except where grounds sufficient to disqualify the applicant are apparent on the Gaming License application or preliminary background investigation. For Key Employees and Primary Management Officials, a preliminary background investigation shall be conducted by the Gaming Commission before issuing a temporary Gaming License. A valid Gaming License issued by another tribe or state which permits Class III gaming, and which is in good standing with that jurisdiction, may be used to satisfy this requirement. Any temporary license shall be valid for ninety (90) days, or five (5) days after no objections letter from the NIGC have all been provided to the Gaming Commission, whichever the Gaming Commission determines is in the best interest of Gaming, unless extended pursuant to Section 5.5. A temporary license may be renewed, suspended or revoked by the Gaming Commission at any time, for cause. The suspension or revocation of a temporary license shall not be appealable to the Tribal Court and the decision of the Gaming Commission shall stand.

5.18. Gaming Vendors - Licensing Providers of Gaming Equipment, Devices, or Supplies

(1) Required. The Gaming Commission shall have responsibility for licensing providers of Gaming Devices and supplies, including those required by the Tribal-State Gaming Compact. The Gaming Commission shall obtain sufficient information and identification from the proposed seller or lessor and all Persons holding any direct and indirect financial interest in the lessor or the lease/purchase agreement concerning Gaming Equipment, Devices or supplies, to allow the Gaming Commission to make an informed decision.

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

(2) Licensing Standards. The Gaming Commission will apply the same standards for the licensing of vendors as are applicable under this Code for Gaming Employee licenses, provided that Gaming Vendors shall also agree that as a condition of its licensing, the applicant shall require all of its employees, subcontractors, or agents, who will be working on Santa Clara

Lands on the applicant's behalf, to consent to the jurisdiction of the Tribal Court and to the laws, rules and regulations of the Pueblo, to the fullest extent allowed by federal law, and the applicant shall furnish consents to such jurisdiction, executed by each employee, subcontractor or agent who will provide services on Santa Clara Lands.

5.19. License Suspension and Revocation

The provisions of this Code applicable to employee license, suspension and revocation shall apply to the suspension and revocation of any vendor's license issued under this subsection.

5.20. Vendor License Fee

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

Sec. 109.6 Operation of Games

6.1. Inspections

(1) The premises where any Gaming is being held, operated and conducted shall at all times be open to inspection by authorized representatives of the Gaming Commission.

(2) The State Gaming Representative shall have access to inspect all aspects of the Gaming Operations as provided by the Tribal-State Gaming Compact; but any documents or information received by the State Gaming Representative or any other official or agency of the State relative to the Gaming operations of the Gaming Enterprise shall be kept confidential, to the extent required by Section 4(E)(4) of the Compact.

6.2. Bingo Operation

(1) The equipment used in the playing of bingo and the method of play, shall be such that each card shall have an equal opportunity to be a winner. The objects or balls to be drawn shall be essentially the same as to size, shape, weight, balance and all other characteristics that may influence their selection. All objects or balls shall be present in the receptacle before each game is begun. All numbers announced shall be plainly and clearly audible or visible to all the players present. Where more than one room is used for any one game, all numbers announced shall be plainly audible or visible to the players in the room and also audible or visible to the players in the other room or rooms. The cards or sheets of the players shall be part of a deck, group or series of cards, and which deck, group or series shall not be so prepared or arranged as to prefer any card.

(2) The receptacle, the caller and the Person removing the objects or balls from the receptacle must be visible to all players at all times except where more than one room is used for any one game wherein the provisions of subsection 6.2(1) prevail.

(3) The particular arrangement of numbers required to be covered in order to win the game and the amount of the prize shall be clearly and audibly or visibly described and announced to the players immediately before each game is begun.

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

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

6.3. Applicability

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

6.4. Security

Each Gaming Facility shall have adequate security and surveillance. Surveillance footage shall be maintained for a reasonable period of time as approved by the Gaming Commission. The security plan for the Gaming Operation shall be reviewed with and approved by the Gaming Commission at least once each year.

Sec. 109.7 Scope of Gaming

(1) Games Permitted. The Gaming Enterprise may conduct any form of Gaming permitted by the Compact.

Sec. 109.8 Prohibited Acts

8.1. Prohibited Acts and Penalties

(1) Prohibited Acts. The following are prohibited:

- a. The conduct or participation in any Class II or Class III Gaming activity on Santa Clara Lands other than games conducted at a licensed Gaming Facility.
- b. Receiving, distributing, applying or diverting any property, funds, proceeds, or other assets of a Gaming Operation to the benefit of any Person except as authorized by this Code, the Compact, or other applicable law.
- c. Tampering, with any Gaming Device or Gaming Equipment with the intent to cause any Person to win or lose any wager.
- d. Altering or misrepresenting the outcome of events on which wagers have been made after the outcome is made sure but before it is revealed to the players.
- e. Placing, increasing or decreasing a bet or determining the course of play after acquiring knowledge, not available to all players, of the outcome of the game or of any event that affects the outcome of the game or which is subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome.
- f. Claiming, collecting or taking, or attempting to claim, collect or take, money or anything of value in or from a Gaming Device or Gaming Equipment, with intent to defraud, without having made a wager thereon, or to claim, collect or take an amount greater than the amount actually won.
- g. Placing or increasing a wager or bet after acquiring knowledge of the outcome of the game or other event which is subject to the bet, including past-posting and pressing bets.
- h. Reducing the amount wagered or canceling the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets.

i. Manipulating, with the intent to cheat, any Gaming Device or Gaming Equipment, including, but not limited to manipulating a Gaming Device or Gaming Equipment with knowledge that the manipulation affects the outcome of such device or equipment.

j. Knowingly using illegal or unapproved coins or tokens, or using a coin not of the same denomination as the coin intended to be used in a Gaming Device.

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

l. Using any device or means to cheat, or to possess any such device or means while at a Gaming Facility.

m. Threats, threatening behavior, or acts of violence against any Gaming Commission or Gaming Enterprise employees, visitors, or others at a Gaming Facility. This includes physical attacks, verbal or physical threats, destruction of property, verbal or physical intimidation, or abusive language.

n. Members of the Tribal Council, Tribal Administration, Gaming Commission, Gaming Enterprise Board, and employees of each, including their immediate families, receiving any personal compensation, reimbursement or payment from any person doing or wishing to do business with the Pueblo or the Gaming Enterprise relating to gaming or from any person wishing to obtain an unfair advantage in any authorized wager on gaming. This prohibition of gifts does not include the acceptance of meals. Any property received in violation of this provision, including cash payments, shall be immediately forfeited to the Pueblo.

(2) Criminal Penalties. Any Indian Person who violates any provision of this Section 8 of this Code shall be guilty of a criminal offense punishable by a fine of not more than one thousand dollars (\$1000.00), or by imprisonment for not more than one year, or both.

(3) Civil Penalties. Any Person who is not subject to the criminal jurisdiction of the Pueblo, and who violates any provision of this Section 8 of this Code, shall be liable for a civil penalty not to exceed one thousand dollars (\$1000.00), plus costs, for each violation.

Sc. 109.9 Severability

(1) Severability. If any part of this Gaming Code is determined to be unlawful by a court of competent jurisdiction, the remainder of the Gaming Code shall remain in full force and effect.

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