

**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0313-18

**DATE:** September 24, 2018

AN ACT RELATING TO LAW AND ORDER, RESOURCES AND DEVELOPMENT,  
NAABIK'İYÁTI' COMMITTEES; ADOPTING "THE NAVAJO GAMING ORDINANCE  
AMENDMENT ACT OF 2018" AMENDING 5 N.N.C. § 2001 *ET SEQ.*,  
NAVAJO GAMING ORDINANCE

**PURPOSE:** The purpose of this legislation is to update the Navajo Gaming Ordinance, 5 N.N.C. § 2001 et. seq., to incorporate mandatory federal law requirements, mandatory compact provisions within the Navajo Nation-Arizona gaming compact and Navajo Nation-New Mexico gaming compact, provisions for potential internet gaming and sports betting, employee and vendor licensing updates, Navajo law updates, and to clean up grammatical and spelling errors. Upon approval by the Navajo Nation, in accordance with federal law, the amendments must be submitted to National Indian Gaming Commission for final approval.

**This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate review the proposed resolution in detail.**

3-DAY BILL HOLD PERIOD: 11/1/18  
Website Posting Time/Date: 3:34pm 9/25/18  
Posting End Date: 9/30/2018  
Eligible for Action: 10/1/2018

Law & Order Committee  
Thence  
Resources & Development Committee  
Thence  
Naa'bik'iyáti' Committee  
Thence  
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
23<sup>rd</sup> NAVAJO NATION COUNCIL – Fourth Year, 2018

INTRODUCED BY

ALTON JOE SHEPHERD  
(Prime Sponsor)

TRACKING NO. 0313-18

OTD 730

AN ACT

RELATING TO LAW AND ORDER, RESOURCES AND DEVELOPMENT,  
NAABIK'IYÁTI' COMMITTEES; ADOPTING "THE NAVAJO GAMING  
ORDINANCE AMENDMENT ACT OF 2018" AMENDING 5 N.N.C. § 2001 *ET SEQ.*,  
NAVAJO GAMING ORDINANCE

BE IT ENACTED:

Section One. Authority

A. The Navajo Nation Council established the Law and Order Committee (LOC) as a Navajo Nation standing committee; and empowered LOC to review and make recommendations to the Navajo Nation Council on proposed Navajo Nation Code amendments and enactments and empowered LOC with oversight authority over the Navajo Nation Labor Commission, pursuant to 2 N.N.C. §§ 164(A)(9), 600(A), 601(B)(14) and (C) (1).

B. The Navajo Nation Council established the Resources and Development Committee as a Navajo Nation standing committee that exercises authority over gaming to establish policy, oversee regulation, grant final approval for the plan of operation for NNGRO, and review and make recommendations to the Navajo Nation Council for final approval of resolutions requiring Navajo Nation Council approval to accomplish the committee purposes, pursuant to 2 N.N.C. § 500, 501(B)(2)(g), 501(B)(4)(f).

C. The Navajo Nation Council established the Naabik'iyáti' Committee as a Navajo Nation standing committee and as such proposed legislation that requires final action by the

1 Navajo Nation Council shall be assigned to the Naabik'iyáti' Committee, pursuant 2 N.N.C. § 164  
2 (A)(9), 700(A).

3 D. The Navajo Nation Council must review and approve enactments or amendments  
4 of positive law, pursuant to 2 N.N.C. § 164(A).

5  
6 **Section Two. Findings**

7 A. On October 16, 2001, the Navajo Nation Council by Resolution CO-75-01 initially  
8 approved the Navajo Gaming Ordinance, and the Ordinance was submitted to the National Indian  
9 Gaming Commission (hereinafter “NIGC”) for approval.

10 B. On January 30, 2002, the NIGC disapproved the submitted Navajo Gaming  
11 Ordinance because of deficiencies.

12 C. On April 18, 2002, the Navajo Nation Council by Resolution CAP-34-02 approved  
13 amendments to cure the deficiencies, and on December 9, 2003 the NIGC subsequently approved  
14 the Navajo Gaming Ordinance, as amended.

15 D. Since the Navajo Gaming Ordinance was approved by the Navajo Nation and  
16 NIGC, the Tribal State Gaming Compact between the Navajo Nation and the State of Arizona  
17 was amended by the Tribal-State Gaming Compact Amendment, dated December 19, 2008,  
18 effective March 25, 2009, and there has been a renegotiated Indian Gaming Compact between the  
19 State of New Mexico and the Navajo Nation, dated April 13, 2015, effective June 22, 2015.

20 E. Since the Navajo Gaming Ordinance was approved by the Navajo Nation and  
21 NIGC, there have been newly enacted and updated federal statutes, regulations and guidance  
22 documents, including the Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. §  
23 5361 *et seq.*, amendments to 25 C.F.R. Part 500 *et seq.*, and NIGC Bulletin No. 2018-1.

24 F. Since the Navajo Gaming Ordinance was approved by the Navajo Nation and  
25 NIGC, many court decisions have been issued that impact, or may impact, Navajo gaming,  
26 including *Murphy v. National Collegiate Athletic Association*, 138 S. Ct. 1461, 200 L. Ed. 2d 854  
27 (2018); *Colorado River Indian Tribes v. National Indian Gaming Commission*, 466 F.3d 134  
28 (D.C. Cir. 2006); *State of California v. Iipay Nation of Santa Ysabel*, 898 F.3d 960 (9th Cir. 2018);  
29 and *Navajo Nation v. Dalley*, 896 F.3d 1196 (10th Cir. 2018).

30 G. Since the Navajo Gaming Ordinance was approved by the Navajo Nation and  
NIGC, the Navajo Nation has:

1           1.       Established the Navajo Nation Gaming Enterprise (hereinafter "NNGE")  
2 to conduct gaming for the Navajo Nation, and the NNGE opened and operates the  
3 following Navajo casinos:

- 4           a.       Fire Rock Navajo Casino, opened November 19, 2008,  
5           b.       Flowing Water Navajo Casino, opened October 13, 2010,  
6           c.       Northern Edge Navajo Casino, opened January 16, 2012, and  
7           d.       Twin Arrows Navajo Casino Resort, opened May 24, 2013;

8           2.       Enacted numerous Navajo laws that impact gaming including amendments  
9 to 17 N.N.C. § 421 and 422, approval of the Navajo Nation Gaming Distribution Plan by  
10 Resolution CJY-30-06 and the Gaming Development Fund by Resolution CJY-30-08;  
11 and

12           3.       Changed by reducing the number and authorities of the Navajo Nation  
13 standing committees by Resolution No. CAP-10-11.

14       H.       Overall, the Navajo Gaming Ordinance needs major updates.

15       I.       It is in the best interest of the Navajo Nation to approve updates to the Navajo  
16 Gaming Ordinance.

17  
18 **Section Three. Amendment to Title 5 of the Navajo Nation Code**

19  
20 The Navajo Nation Council hereby amends Title 5 of the Navajo Nation Code, as follows:

21 \_\_\_\_\_  
22  
23 **TITLE 5, NAVAJO NATION CODE**

24 **Chapter 10. Ordinance for the Regulation of Gaming Activities**

25 **within the Navajo Nation**

26 **Subchapter 1. Findings and Purposes.**

27  
28 **§ 2001. Legislative Findings**

29 The Navajo Nation ~~Council of the Navajo Nation~~ hereby finds:  
30

1           A.     That the orderly and honest conduct of Gaming Activities within the Navajo  
2 Nation (hereinafter "Nation") will be of vital importance to the economy of the Nation, and to the  
3 general welfare of its members;

4           B.     That the growth and success of gaming within the ~~Navajo~~-Nation is dependent  
5 upon public confidence and trust that such activities are conducted honestly and that they are free  
6 from criminal and corrupt elements, and that the facilities in which such activities are conducted  
7 are designed and maintained to assure the safety and comfort of patrons of the Gaming Activities;

8           C.     That such public confidence and trust can only be maintained by the  
9 comprehensive regulation of all Persons, practices, and activities related to the operation of the  
10 Nation's Gaming Facilities;~~and~~

11           D.     All of the Nation's establishments where gaming is conducted, and all Persons  
12 holding positions of responsibility with respect to any such activity, must therefore be licensed,  
13 and their activities monitored to assure that the public health, safety and general welfare of the  
14 inhabitants of the Nation and the patrons of its Gaming Facilities are fully protected, and so as to  
15 assure the economic success of Gaming Activities within the Nation-; and

16           E.     The Nation's territory extends for approximately twenty-seven thousand (27,000)  
17 square miles covering three states, and with an unemployment rate in the Nation's territory of  
18 approximately fifty percent (50%), the Nation has authorized gaming through this Ordinance for  
19 the purpose of creating governmental revenue, and most importantly, jobs.

20  
21 **§ 2002. Purposes**

22           This Ordinance is enacted, and shall be interpreted, so as to accomplish the following  
23 purposes:

24           A.     The maintenance of the highest standards of honesty and integrity in the operation  
25 of any and all Gaming Activities within the ~~Navajo~~-Nation;

26           B.     The maintenance of public confidence and trust in the honesty and integrity of  
27 such Gaming Activities, and in the Persons engaged in such activities;

28           C.     The maximum reasonable economic return to the ~~Navajo~~-Nation as the owner of  
29 Gaming Facilities within the Nation consistent with the fair and reasonable expectations of  
30

1 patrons of such activities and the assurance of their safety and comfort in participating in Gaming  
2 Activities; and

3 D. Compliance with all applicable laws of the ~~Navajo~~ Nation and the United States  
4 of America, including but not limited to the ~~Indian Gaming Regulatory Act of 1988~~ IGRA, as  
5 well as the Compacts.

6  
7 **§ 2003. Applicability**

8 Unless specifically indicated otherwise, all provisions of this Ordinance shall apply to  
9 Class II and Class III Gaming on the Nation's Indian Lands.

10  
11 **Subchapter 2. Definitions**

12  
13 **§ 2004. 2003. Applicability Definitions for Purposes of this Ordinance**

14 Terms that are defined in the IGRA, and the NIGC regulations, 25 C.F.R. Part 500 et seq.,  
15 shall have the same meaning and effect as those same terms are defined in the IGRA or NIGC  
16 regulations. Terms that are defined in Compacts with the State of Arizona and the State of New  
17 Mexico shall have the same meaning and effect as those terms are defined in the Compacts. For  
18 purposes of this Ordinance:

19 A. "Appeals Hearing Officer" means an independent contractor with experience in  
20 gaming regulation and operations who serves from time to time as the presiding officer for all  
21 appeals of NNGRO decisions. ~~"Act" means the Indian Gaming Regulatory Act of 1988, Public~~  
22 ~~Law 100-497, 25 U.S.C. § 2701-2721 and 18 U.S.C. § 1166 -- 1168, and all regulations~~  
23 ~~promulgated pursuant thereto.~~

24 B. "Class I Gaming" means all forms of gaming defined as Class I in Section 4(6) of  
25 the Act ~~IGRA~~, 25 U.S.C. § 2703(6), which include:

- 26 1. Social games played solely for prizes of minimal value; or  
27 2. Traditional forms of Indian gaming when played by individuals in  
28 connection with tribal ceremonies or celebrations.

29 C. "Class II Gaming" means all forms of gaming defined as Class II in Section 4(7)  
30 of the Act ~~IGRA~~, 25 U.S.C. § 2703(7), which include:

1           1.     Bingo or lotto (whether or not electronic, computer or other technologic  
2 aids are used) when players:

3               a.     Play for prizes with cards bearing numbers or other designations;

4               b.     Cover numbers or designations when objects, similarly numbered  
5 or designated, are drawn or electronically determined; and

6               c.     Win the game by being the first Person to cover a designated  
7 pattern on such cards;

8           2.     Pull-tabs, punch boards, tip jars, instant bingo and other games similar to  
9 bingo, if played in the same location as bingo or lotto; or

10          3.     Non-banking card games that:

11               a.     State law explicitly authorizes, or does not explicitly prohibit, and  
12 are played legally anywhere in the State; and

13               b.     Players play in conformity with State laws and regulations  
14 concerning hours, periods of operation, and limitations on wagers and pot sizes.

15          D.     “Class III Gaming” means all forms of gaming as defined in Section 4(8) of the  
16 Aet-IGRA, 25 U.S.C. § 2703(8), which include:

17           1.     Any house banking game, including but not limited to:

18               a.     Card games such as baccarat, chemin de fer, blackjack (21), and  
19 pai gow (if played as house-banking games); and

20               b.     Casino games such as roulette, craps, and keno;

21           2.     Any slot machines, as defined in 15 U.S.C. § 1711(a)(1), and electronic or  
22 electromechanical facsimiles of any game of chance;

23           3.     Any sports betting and pari-mutuel wagering, including but not limited to,  
24 wagering on horse racing, dog racing or jai alai; or

25           4.     Lotteries.

26          E.     ~~“Commission” means the National Indian Gaming Commission established~~  
27 ~~pursuant to 25 U.S.C. § 2704.~~

28          F.     ~~“Compact(s)” means a Tribal State Compact~~ those gaming compacts entered  
29 into between the Navajo Nation and the a-State of Arizona, the State of New Mexico, and any  
30 other State in which the Nation has Indian Lands, and all amendments and modifications thereto.

1 pursuant to Section 11(d) of the ~~Act~~ IGRA, 5 U.S.C. § 2710(d), for purposes of regulating Class  
2 III Gaming Activities conducted within the Nation, ~~and all amendments and modifications~~  
3 ~~thereto~~.

4 F. "Conflict of Interest" means an actual or potential incompatibility between a  
5 Person's private interests and his or her official, public, or fiduciary responsibilities.

6 G. "Distributor" means a Person ~~that who~~ distributes Class II and Class III Gaming  
7 Devices and/or component parts thereof as defined by this Ordinance for use or play in a Gaming  
8 Facility.

9 H. "Executive Director" means the Executive Director of the Navajo Nation Gaming  
10 Regulatory Office.

11 I. "Facility License" means a separate license issued by the Nation to each place,  
12 facility or location on Indian Lands where the Nation elects to allow Class II or Class III Gaming.

13 J. ~~I.~~ "Gaming Activity" means all forms of Class II and Class III Gaming ~~owned~~  
14 ~~and operated by the Nation and~~ conducted within the territorial jurisdiction of the Nation.

15 K. "Gaming Device" means a mechanical device, an electro-mechanical device, or a  
16 device controlled by an electronic microprocessor, or another manner, that allows a player to play  
17 games of chance, whether or not the outcome is also affected in some part by skill, whether the  
18 device accepts coins, tokens, bills, coupons, ticket vouchers, pull tabs, smart cards, electronic in-  
19 house accounting system credits or other similar forms of consideration and through the  
20 application of chance, allows a player to become entitled to a prize, which may be collected  
21 through the dispensing of coins, tokens, bills, coupons, ticket voucher, smart card, electronic in-  
22 house accounting system credits or other similar forms of value.

23 J. "Gaming Device" or "Electronic Game of Chance" means a microprocessor-  
24 controlled electronic device which allows a player to play games of chance, some of which are  
25 affected by skill, which device is activated by the insertion of a coin, currency, tokens or by the  
26 use of a credit, and which awards game credits, cash, tokens or replays, or a receipt that can be  
27 redeemed by the player for any or the foregoing. Game play may be displayed by:

28 1. Video facsimile; or  
29  
30



1                   2.     ~~Mechanical rotating reels whereby the software of the device~~  
2     ~~predetermines the stop positions and the presence, or lack thereof, of a winning~~  
3     ~~combination and pay out, if any.~~

4           L.     ~~K.~~ “Gaming Employee” means any Person employed as a Primary Management  
5     Official or Key Employee of a Gaming Operation of the Nation and any other Person employed  
6     in the operation or management of a Gaming Operation, including but not limited to, any Person  
7     who is designated a Gaming Support Employee whose employment duties require or authorize  
8     ~~access to restricted areas of a Gaming Facility not otherwise open to the public. Gaming~~  
9     ~~Employee does not mean janitors, cooks, waitresses or waiters, and other employees not directly~~  
10    ~~involved in the Gaming Operation within a Gaming Facility.~~

11           M.    ~~L.~~ “Gaming Facility” means the building(s) or structures(s) licensed and approved  
12    by the Nation NNGRO in which Gaming Activities are conducted.

13           N.    ~~M.~~ “Gaming Facility Operator” means the Navajo Nation Gaming Enterprise,  
14    which is the a-wholly-owned tribal enterprise, or such other entity of the Nation as the Nation  
15    may from time to time designate as the wholly-owned tribal entity having full authority and  
16    responsibility for the operation and management of Class II or Class III Gaming Activities, or  
17    such other Person as the NNGRO may authorize to conduct small bingo or raffle in accordance  
18    with the IGRA and this Ordinance.

19           O.    “Gaming Manager” means a Management Contractor or a Primary Management  
20    Official.

21           P.    ~~N.~~ “Gaming Operation” means any Gaming Activity conducted within a Gaming  
22    Facility.

23           Q.    ~~Q.~~ “Gaming Ordinance” means this Ordinance which governs the conduct of  
24    Gaming Activities within the ~~Navajo~~-Nation, all amendments thereto, and all regulations  
25    promulgated thereunder.

26           R.    ~~P.~~ “Gaming Services” means the providing of any goods or services, ~~except for~~  
27    ~~legal services, to a Gaming Facility Operation in connection with the operation of Class II or~~  
28    ~~Class III gaming, including but not limited to, equipment, transportation, food, linens, janitorial~~  
29    ~~supplies, maintenance or security services for the Gaming Facility in an amount in excess of ten~~  
30    ~~thousand dollars (\$10,000) in any single month directly to a Gaming Operation in connection~~

1 with the operation of Gaming Activities, except for any professional services that are exempt  
2 from a corresponding definition in one or more Compacts shall not be included in this definition  
3 as it relates to Class III Gaming Activity conducted within the boundaries of the State that is a  
4 party to such relevant Compact(s).

5 S. “Gaming Support Employee” shall mean, except as expressly exempted by  
6 NNGRO regulation, the following, excluding management positions:

7 1. Food and beverage service personnel, such as chefs, cooks, waiters,  
8 waitresses, bus persons, dishwashers, food and beverage cashiers, and hosts;

9 2. Gift shop employees, cashiers, and clerks;

10 3. Greeters;

11 4. Wardrobe personnel;

12 5. Warehouse personnel; and

13 6. Other non-gaming personnel as may be determined by the NNGRO.

14 T. “Immediate Family” means spouse, children and members of the household of an  
15 employee.

16 U. “IGRA” means the Indian Gaming Regulatory Act of 1988, Public Law 100-497,  
17 25 U.S.C. § 2701 - 2721 and 18 U.S.C. § 1166 - 1168, and all regulations promulgated pursuant  
18 thereto.

19 V. Q.—“Indian Lands” means land as defined in 25 U.S.C. § 2703(4)(A) and (B),  
20 subject to the provisions of 25 U.S.C. § 2719.

21 W. “Investigator” means any Person or independent contractor employed or appointed  
22 by the NNGRO to investigate matters regarding compliance under this Ordinance.

23 X. R.—“Key Employee” means a Gaming Employee who performs one or more of the  
24 following functions:

25 1. A Person who performs one or more of the following functions:

26 a. 1- Bingo caller;

27 b. 2- Counting room supervisor;

28 c. 3- Chief of security;

29 d. 4- Custodian of gaming supplies or cash;

30 e. 5- Floor Manager;

1                   6. ~~Custodian of Gaming Devices, including persons with access to~~  
2                   ~~cash and accounting records within such devices~~

3                   7. ~~Dealer;~~

4                   f.     ~~8. Pit boss;~~

5                   g.     ~~Dealer;~~

6                   h.     ~~9. Croupier;~~

7                   i.     ~~10. Approval Approver of credit; or~~

8                   j.     ~~Custodian of Gaming Devices, including Persons with access to~~  
9                   ~~cash and accounting records within such devices;~~

10                2.     If not otherwise included, any other Person whose total cash compensation  
11                from the Gaming Operation is in excess ~~fifty thousand dollars (\$50,000) per year; or, if of~~  
12                ~~the amount set forth in 25 C.F.R. § 502.14, as may be amended;~~

13                3.     If not otherwise included, the four most highly compensated Persons in the  
14                Gaming Operation; or

15                4.     Any other Person designated by the NNGRO as a Key Employee.

16                Y.     "License" means an approval, evidenced in writing, issued by the NNGRO to any  
17                Person to be involved in the conduct of Gaming Activity, management of a Gaming Facility,  
18                providing Gaming Services to a Gaming Facility, or extending financing to a Gaming Facility.

19                Z.     "Licensee" means a Gaming Facility Operator, Vendor, Distributor, Management  
20                Contractor, Manufacturer, Key Employee, Primary Management Official, or Gaming Employee  
21                licensed by the NNGRO under the provisions of this Ordinance.

22                AA.    "Management Contract" means any contract, subcontract, or collateral agreement  
23                between the Nation and a contractor or between a contractor and a subcontractor if such contract  
24                or agreement provides for the management of all or part of a Gaming Operation.

25                S.     ~~Management Contract" means a management contract within the meaning of 25~~  
26                ~~U.S.C. § 2710(d)(9) and 2711.~~

27                BB.    ~~T.—"Management Contractor" means a natural person or entity~~ Person ~~that has~~  
28                ~~entered into a Management Contract with the Nation or a Gaming Facility Operator~~ NNGE ~~which~~  
29                ~~has been approved pursuant to 25 U.S.C. § 2710(d)(9) and 2711.~~

1            CC.    ~~U.~~ “Manufacturer” means a ~~natural person or entity that~~ Person that manufactures  
2 Gaming Devices and/or component parts thereof as defined by this Ordinance for use or play in  
3 ~~the a Gaming Facility-Facilities.~~

4            DD.    ~~V.~~ “Nation” means the Navajo Nation.

5            EE.    ~~W.~~ “Navajo Nation Council” means the Navajo Nation Council of the Navajo  
6 Nation.

7            FF.    “Navajo Nation Gaming Enterprise” or “NNGE” means the enterprise of the  
8 Nation established pursuant to 5 N.N.C. § 1701 et seq., as may be amended, to conduct gaming  
9 operations within the Navajo Nation in order to generate gaming revenues and provide a fair  
10 return to the Nation in accordance with the IGRA, this Ordinance and all other applicable laws of  
11 the Nation.

12           GG.    ~~X.~~ “Net Revenue” means the gross revenues of any Gaming Activity less amounts  
13 paid out as, or paid for, prizes and total gaming related operating expenses, including all those  
14 expenses of the Gaming Activity commonly known as operating expenses and non-operating  
15 expenses consistent with professional accounting pronouncements, excluding management fees.

16           HH.    “NIGC” means the National Indian Gaming Commission established pursuant to  
17 25 U.S.C. § 2704.

18           II.     “NNGRO” means the Navajo Nation Gaming Regulatory Office.

19           JJ.     ~~Y.~~ “Office of the Attorney General” means the Office of the Attorney General of  
20 the Navajo Nation.

21           KK.    ~~Z.~~ “Person” includes a corporation, company, partnership, firm, association or  
22 society as well as a natural person. When “person” is used to designate the violator or offender  
23 of any law, it includes a corporation, company, partnership, firm, association, or society of  
24 persons.

25           LL.    ~~AA.~~ “Primary Management Official” means the Person having management  
26 responsibility under a Management Contract; ~~or~~ any Person who has authority to hire and fire  
27 employees, or to set up working policy for the a Gaming Operation; or the chief financial officer  
28 or other Person who has financial management responsibility ~~for a Gaming Operation; or any~~  
29 other Person designated by the Nation or NNGRO as a Primary Management Official.

30           MM.    ~~BB.~~ “Principal” means with respect to any entity:

1. A director; Each of its officers and directors;
2. An officer;
3. ~~2. Each of its~~ A principal management employee, including any chief  
executive officer, chief financial officer, chief operating officer, or general manager;
4. ~~3. Each of its owners or partners~~ An owner or partner, if an unincorporated  
business;
5. ~~4. Each of its shareholders who own~~ A shareholder who owns more than  
~~five ten~~ percent (~~510~~%) of the shares of the corporation; ~~and~~
6. ~~5. Each person~~ A Person other than a banking institution who has provided  
financing for the entity constituting more than ~~five ten~~ percent (~~510~~%) of the entity; and
7. ~~6. Each of the beneficiaries~~ A beneficiary or trustee of a trust.

NN. ~~CC.~~ “Privacy Act” means the Privacy Act of 1974, as amended (P.L. 93-579, as amended; 5 U.S.C. § 552(a)), and the obligations and responsibilities placed on the United States government under the Privacy Act as applied to the ~~Commission~~ NIGC pursuant to the ~~Act~~ IGRA.

OO. ~~DD.~~ “Public Employee” means a public employee within the meaning of the Navajo Nation Ethics in Government Law, 2 N.N.C. § 3751, *et seq.*

PP. ~~EE.~~ “Public Official” means a public official within the meaning of the Navajo Nation Ethics in Government Law, 2 N.N.C. § 3751, *et seq.*

QQ. ~~FF.~~ “State” means the State of Arizona, State of New Mexico, or State of Utah, or any other state in which the Nation has Indian Lands, and any of their authorized officials, agents and representatives.

RR. “Vendor” means a Person that provides Gaming Services to the NNGE or a Gaming Operation for conducting Gaming Activities in a Gaming Facility.

GG. ~~“Tribal Gaming Enterprise” means the Nation, an enterprise of the Nation, or such other entity of the Nation designated by the Navajo Nation Council to conduct a Gaming Operation.~~

### **Subchapter 3. Navajo Nation Ownership**

#### **Tribal Ownership and Use of Net Revenues**

1       **§ 2005.2004. Tribal Navajo Nation Ownership of Gaming Activities**

2           The Nation shall have the sole proprietary interest in, and responsibility for, the conduct  
3 of any Gaming Operation authorized by this Ordinance, with the following exceptions:

4           A.     Class I Gaming; and

5           B.     Small bingo games and raffles, as provided in Section 2081 of this Ordinance.

6  
7           ~~All Gaming Activities within the Nation shall be owned entirely by the Nation and~~  
8 ~~conducted and operated by a Tribal Gaming Enterprise, with the following exceptions:~~

9           ~~A.     Class I Gaming; and~~

10          ~~B.     Small bingo games and raffles as provide in Section 2047 of this Ordinance.~~

11  
12       **§ 2006. 2005. Use of Net Revenues**

13          A.     All Net Revenues received by the Nation from all Gaming Activities shall be  
14 utilized according to applicable Navajo Nation laws and in accordance with the National Indian  
15 Gaming Regulatory Act-IGRA and CFR 25-its regulations. Gaming revenues shall not be  
16 distributed as per capita payment to any member or group of the Nation.

17          B.     In accordance with the IGRA, Net Revenues from Gaming Operations shall be  
18 used only for the following purposes:

19               1.     To fund the Nation's government operations or programs;

20               2.     To provide for the general welfare of the Nation and its members;

21               3.     To promote the Nation's economic development;

22               4.     To donate to charitable organizations; or

23               5.     To help fund operations of local government agencies.

24  
25       **§ 2007. [Reserved]**

26       **§ 2008. [Reserved]**

27  
28                       **Subchapter 4. Navajo Nation Gaming Regulatory Office**

29  
30       **§ 2009. 2006. Establishment of the Navajo Nation Gaming Regulatory Office**

1           There is hereby established the Navajo ~~Gaming Regulatory Office~~ NNGRO within the  
2 Executive Branch of the Navajo Nation Government, with legislative oversight by the ~~Economic~~  
3 Resources and Development Committee of the Navajo Nation Council, ~~and~~ The NNGRO shall  
4 have overall civil regulatory authority over Gaming Activities within the Nation as specifically  
5 provided herein.

6  
7 **§ ~~2010. 2007. Personnel~~**

8           A. NNGRO Personnel. ~~A. The Navajo Gaming Regulatory Office (hereinafter “the~~  
9 ~~Gaming Regulatory Office”); NNGRO~~ shall consist of an Executive Director, ~~Inspectors and such~~  
10 ~~assistants and other staff employees~~ as the Executive Director shall determine are required from  
11 time to time, ~~subject to funding provided by the Navajo Nation Council.~~

12           1. ~~No employee of the Gaming Regulatory Office shall:~~

13           a. ~~be employed by a Gaming Facility Operator,~~

14           b. ~~have an immediate family member employed by a Gaming Facility~~  
15 ~~Operator.~~

16           2. ~~No former employee of the Gaming Regulatory Office shall be employed~~  
17 ~~by a Gaming Facility Operator within six months of leaving employment of the Gaming~~  
18 ~~Regulatory Office.~~

19           3. ~~No employee of the Gaming Regulatory Office shall be employed by or~~  
20 ~~hold, directly or indirectly, a financial interest in an organization or entity which,~~

21           a. ~~has entered into a Management Contract with the Nation or a~~  
22 ~~Gaming Facility Operator;~~

23           b. ~~is a distributor;~~

24           c. ~~provides gaming services; or~~

25           d. ~~provides financing to the Nation or a Gaming Facility Operator for~~  
26 ~~purposes of conducting gaming operations within the Nation.~~

27           B. Executive Director.

28           1. Term. ~~B. The Executive Director of the Gaming Regulatory Office~~  
29 NNGRO shall be retained by contract by the President of the Navajo Nation, such contract  
30 being approved by the Navajo Nation Council for a four (4) year term, and such contract

1 being executed by the President. The job performance of the Executive Director shall be  
2 reviewed periodically by the President who shall submit a written report of each such  
3 review to the Speaker of the Navajo Nation Council. The Executive Director of the  
4 ~~Gaming Regulatory Office~~ NNGRO shall be removable only for breach of contract.

5 2. Character. ~~C.~~ The Executive Director shall be a Person of the utmost  
6 honesty and integrity, shall not have been convicted of a felony or a misdemeanor  
7 involving theft, embezzlement or a crime involving moral turpitude, whose prior  
8 activities, reputation, habits and associations shall not pose a threat to the public interest  
9 or to the effective regulation of gaming, or create or enhance the dangers of unsuitable,  
10 unfair, or illegal practices and methods and activities in the conduct of gaming.

11 3. Qualifications. ~~D.~~ ~~The contract of the Executive Director shall require the~~  
12 ~~Executive Director to be the Nation's designated agent for service of any official~~  
13 ~~determination, order or notice of the Commission.~~ The contract shall further require the  
14 Executive Director to have a bachelor's degree in business administration or related field  
15 and at least six (6) years of experience in gaming management and/or regulation; or the  
16 contract shall require the Executive Director to have a master's degree in business  
17 administration or related field and at least four (4) years of experience in gaming  
18 management and/or regulation.

19 ~~E. Inspectors shall act under the authority and supervision of the Executive Director.~~  
20 ~~Inspectors shall have the right to inspect any Gaming Facility at any time and shall have~~  
21 ~~immediate and unrestricted access to any and all areas of a Gaming Facility.~~

22 C. Gaming License and Background Investigation. Every employee of the NNGRO,  
23 including the Executive Director, shall have a background investigation conducted and obtain a  
24 gaming license prior to employment. The NNGRO shall promulgate regulations consistent with  
25 this Ordinance, the IGRA, and the Compacts to govern the licensing of NNGRO employees.

26 ~~F. The background of every employee, Inspector, and the Executive Director of the~~  
27 ~~Gaming Regulatory Office shall be investigated by the Nation's Personnel Department to ensure~~  
28 ~~qualification for employment in the Gaming Regulatory Office. Except for the Executive~~  
29 ~~Director, who shall be subject to section 2007(C), no person shall be employed by the Gaming~~  
30 ~~Regulatory Office if the Nation's Personnel Department determines that such person:~~



1           1.     ~~Has been convicted of any felony within the past 10 years or any gaming~~  
2     ~~offense;~~

3           2.     ~~Has knowingly and willfully provided materially important false~~  
4     ~~statements for information on his or her license application; or~~

5           3.     ~~Has been determined to be a person whose prior activities, criminal record,~~  
6     ~~if any, or reputation, habits or associations pose a threat to the public interest or to the~~  
7     ~~effective regulation and control of gaming, or create or enhance the dangers of unsuitable,~~  
8     ~~unfair, or illegal practices, methods and activities in the conduct of gaming or the carrying~~  
9     ~~on of the business and financial arrangements incidental thereto.~~

10     D.   Conflicts.

11           1.     No employee or independent contractor of the NNGRO shall:

12               a.     Be simultaneously employed or contracted by any Gaming Facility  
13     Operator or in a Gaming Facility;

14               b.     Be a current Public Official of the Nation; or

15               c.     Have direct audit or regulatory authority over an Immediate Family  
16     member employed by any Gaming Facility Operator or in a Gaming Facility.

17           2.     No former employee or independent contractor of the NNGRO shall be  
18     employed by any Gaming Facility Operator within sixty (60) calendar days of leaving  
19     employment of the NNGRO.

20           3.     No employee or independent contractor of the NNGRO shall be employed  
21     by or hold, directly or indirectly, a financial interest in an organization or entity which:

22               a.     Has entered into a Management Contract with any Gaming Facility  
23     Operator;

24               b.     Vendor (including Manufacturers and Distributors); or

25               c.     Provides financing to any Gaming Facility Operator for purposes  
26     of conducting Gaming Operations within the Nation.

27           4.     No employee or independent contractor of the NNGRO is permitted to  
28     game in any Gaming Operation within the Nation.

29           5.     No employee or independent contractor of the NNGRO shall solicit or  
30     accept complimentary items from any Gaming Facility Operator or Gaming Employee.

1           except food, beverages, and promotional items of non-substantial value made available to  
2           all employees or independent contractors of the NNGRO through the employee dining  
3           room or during special events.  
4

5       **§ ~~2011. 2008.~~ Powers and Duties of the Navajo Nation Gaming Regulatory Office**

6           In addition to those powers and duties otherwise expressly provided for in this Ordinance,  
7       ~~and subject Subject~~ to all of the provisions of this Ordinance, the ~~Gaming Regulatory Office~~  
8       NNGRO shall have the following powers and duties, which it may exercise directly or through  
9       such agents or employees as it deems appropriate:

10           A.     To have and to exercise full authority and responsibility for the regulation of all  
11       Gaming Activities within the Nation, as provided in this Ordinance, the IGRA, and the ~~Aet~~  
12       Compacts;

13           B.     To enter at any time any Gaming Facility or other location within the Nation where  
14       Gaming Activities are conducted for the purpose of inspecting the facility, its employees and  
15       operations, its equipment and supplies, and its business records, books of account, and any and  
16       all other financial records or documents pertaining to the business operations of the facility, and  
17       to make such summaries or copies of any and all such documents or other records for the purpose  
18       of ensuring compliance with the provisions of this Ordinance ~~or the Aet~~, the IGRA, and the  
19       Compacts;

20           C.     To issue subpoenas and compel the attendance of witnesses at any place within the  
21       Nation, to administer oaths and to require testimony under oath;

22           D.     To seize, ~~and remove~~ from any ~~Gaming Facility~~ location where any Gaming  
23       Activities are conducted, and impound any equipment, supplies, documents or records for the  
24       purpose of examination in connection with an investigation, including but not limited to, the  
25       power to confiscate or shut down any Gaming Device, other equipment, or gaming supplies that  
26       fail to comply with any standards required by this Ordinance, the IGRA, the Compacts, and  
27       regulations of the NNGRO;

28           E.     To review for compliance with all applicable laws and regulations and to make  
29       recommendations thereon to the ~~Department of Justice~~ Office of the Attorney General for ~~their~~  
30       approval:

1           1.       The terms of any and all proposed contracts between ~~the Navajo or a Tribal~~  
2       ~~Gaming Enterprise~~ a Gaming Facility Operator and any Person ~~or entity which that~~  
3       provides for the management or operation of any Gaming Activity or Gaming Facility  
4       within the Nation; and

5           ~~2.       the provisions of any and all gaming services; and~~

6           ~~2.~~       3. The terms of any lease of land which is the site or proposed site of such  
7       a Gaming Facility;

8       F.       To investigate any aspect of any Gaming Activities within the Nation in order to  
9       protect the public interest in the integrity of such Gaming Activities and to prevent improper or  
10      unlawful conduct in the course of such Gaming Activities, and to investigate any report of a  
11      failure ~~any Gaming Operation of any Person (including any Gaming Facility Operator)~~ within the  
12      Nation to comply with the provisions of this Ordinance, ~~or the Act IGRA, or the Compacts,~~ and  
13      to require such ~~Gaming Operation Person~~ to take any corrective action deemed necessary by the  
14      ~~Gaming Regulatory Office NNGRO~~ upon such terms and conditions as the ~~Gaming Regulatory~~  
15      ~~Office NNGRO~~ may determine appropriate, including but not limited to, disciplinary action and  
16      legal action;

17      G.       To establish a list of Persons who, because of their criminal history or association  
18      with career offenders or career offender organizations, pose a threat to the integrity of the Gaming  
19      Activities of the Nation, or are barred from any Gaming Operation within the Nation pursuant to  
20      § 2049(~~F~~) § 2085(F) of ~~this the~~ Ordinance;

21      H.       To approve the rules of each game of chance operated by the Nation pursuant to  
22      ~~Section 2004 of this Ordinance;~~

23      I.       ~~To require that all contracts for supplies, services, of concessions in an amount in~~  
24      ~~excess of ten thousand dollars (\$10,000) annually (except contracts for professional legal or~~  
25      ~~accounting services) relating to such gaming be subject to annual audits by an independent~~  
26      ~~certified public accountant licensed in a state;~~

27      J. ~~To perform background investigations as may be required on License applicants~~  
28      in accordance with this Ordinance, the IGRA, and the Compacts; on every applicant for a Gaming  
29      Facility Operator's License, a Gaming Manager's License, a Manufacturer's/Supplier's License,  
30

1 a Gaming Employee License and every applicant for a position of Primary Management Official  
2 or Key Employee with a Gaming Facility Operator;

3 J. ~~K.~~—To approve or deny applications for licenses or to limit, condition, restrict,  
4 revoke or suspend any license which it has granted;

5 K. ~~L.~~—To issue licenses and employee identification cards on such forms as may be  
6 designated by the ~~Gaming Regulatory Office~~ NNGRO;

7 L. ~~M.~~—To issue a notice of violation to, or impose a civil penalty upon, any Person or  
8 entity for violation(s) of any provision(s) of this Ordinance or the ~~Act~~ IGRA;

9 M. ~~N.~~—To detain any Persons who may be involved in illegal activities for purposes  
10 of notifying and summoning appropriate law enforcement authorities; ~~and~~

11 N. To license the operation or conduct, in whole or in part, of Gaming Activities  
12 within the Nation, and to specify conditions thereof in accordance with this Ordinance, the IGRA,  
13 and the Compacts;

14 O. ~~To do all other things reasonably necessary for the proper and efficient fulfillment~~  
15 ~~of the powers and responsibilities of the Gaming Regulatory Office under this Ordinance or the~~  
16 ~~Act.~~

17 O. To bring suit in the courts of the Nation to enforce this Ordinance, including  
18 seeking temporary and permanent orders to cease any Gaming Activities not licensed or otherwise  
19 authorized by this Ordinance;

20 P. To enter into agreements with tribal, federal, state and private entities in  
21 accordance with Navajo law for activities and services necessary to carry out the duties of the  
22 NNGRO under this Ordinance;

23 Q. To cooperate with other tribal gaming offices, State gaming agencies and the  
24 NIGC for the enforcement of applicable federal and tribal regulation of Gaming Activities  
25 conducted with the Nation;

26 R. To hire employees, professionals, or independent contractors necessary for the  
27 effective and efficient operation and conduct of all gaming regulated pursuant to this Ordinance,  
28 including, but not limited to, an Appeals Hearing Officer;

29 S. To issue regulations and establish internal controls in accordance with this  
30 Ordinance, the IGRA, and the Compacts;

1           T.     P. To create and establish a ~~revolving account~~ proprietary fund to deposit the  
2 license fees collected from the license applicants, and fines assessed by the NNGRO. The ~~account~~  
3 proprietary fund shall be used to pay for the expenses of operating the ~~office~~ NNGRO including,  
4 but not limited to the salaries of additional ~~personnel employees,~~ training, equipment, vehicles,  
5 travel, program items, and other expenses related to the operation of the ~~office~~ NNGRO. The  
6 ~~plan of operation for the revolving account~~ Fund Management Plan for the proprietary fund shall  
7 be approved by the ~~Economic Resources and~~ Development Committee and Budget and Finance  
8 Committee of the Navajo Nation Council; and

9           U.     To do all other things reasonably necessary for the proper and efficient fulfillment  
10 of the powers and responsibilities of the NNGRO under this Ordinance or the IGRA.  
11

## 12 **§ 2012.2009. Issuance of Regulation**

13           A.     The ~~Gaming Regulatory Official~~ NNGRO shall from time to time promulgate and  
14 issue regulations governing any aspect of its responsibilities or the conduct of Gaming Activities,  
15 in each case to the maximum extent permitted under this Ordinance, which ~~so long as they are in~~  
16 ~~furtherance of and not in conflict with any provision of this Ordinance,~~ regulations shall have the  
17 force of law. Without limitation, the matters to be addressed by such regulations may include the  
18 following:

19                 1.     License eligibility determinations and the process and application  
20 requirements to apply for any License, including information necessary for adequate  
21 assessment of the applicant's eligibility and determination;

22                 1.     The time and manner for applying for a Gaming Operator's License under  
23 this Ordinance, and the specific information to be provided in connection with such  
24 application, including information necessary for adequate assessment of the applicant's  
25 background, and the manner in which such applications will be processed;

26                 2.     The procedure by which applicants for licenses under this Ordinance shall  
27 apply for such licenses, including the information to be provided by the applicant  
28 necessary for adequate assessment of the applicant's background, and the manner in which  
29 such applications will be processed; and  
30

1                   2.       3. The specific types of accounting, security, record keeping and reporting  
2 measures required by this Ordinance or the ~~Act~~ IGRA to be in place and functioning at  
3 any Gaming Facility licensed under this Ordinance;

4                   3.       Specific Gaming Activities allowed, with applicable minimum internal  
5 control and technical standards and safeguards required to assure the integrity of the  
6 games and the security of the gaming proceeds; and

7                   4.       Any and all other standards required under federal law or any Compact and  
8 necessary to carry out the duties under this Ordinance.

9           B.       Except in emergency situations addressed in Subsection (C) ~~below of this Section,~~  
10 prior to promulgating a final regulation, the ~~Gaming Regulatory Office~~ NNGRO shall publish the  
11 regulation in proposed form, ~~which form shall include strikethrough and underline.~~ The proposed  
12 regulation shall be provided directly to the President of the Nation, the Speaker of the Navajo  
13 Nation Council, ~~the Chairperson and each member of the Economic Development Committee of~~  
14 ~~the Navajo Nation Council,~~ the Office of the Attorney General, and the NNGRO ~~to any other~~  
15 ~~interested person or interested office or agency of the Nation.~~ The proposed regulation shall be  
16 accompanied by a notice stating that the ~~Gaming Regulatory Office~~ NNGRO will accept written  
17 comments for no less than thirty (30) calendar days following the date of publication. ~~As provided~~  
18 ~~in this Section, "publish" shall mean publication in newspaper(s) of general circulation within the~~  
19 ~~Nation.~~ In the event of significant public interest with respect to any regulation, the ~~Gaming~~  
20 ~~Regulatory Office~~ NNGRO may hold a public hearing prior to issuing a final regulation. Notice  
21 of such hearing, ~~if any,~~ shall be given as set forth above, and in addition shall be mailed directly  
22 to any Person submitting comments on the proposed regulation. Except as provided in Subsection  
23 (C) of this Section, no final regulation shall be issued until the ~~Gaming Regulatory Office~~  
24 NNGRO has reviewed all comments received by the close of the comment period, as well as all  
25 presentations made at any hearing held pursuant to this Subsection.

26           C.       In the event the ~~Gaming Regulatory Office~~ NNGRO determines that an immediate  
27 rule-making is necessary to avoid serious jeopardy to the integrity of any Gaming Activity within  
28 the Nation, or otherwise to deal with an emergency situation affecting the responsibilities of the  
29 ~~Gaming Regulatory Office~~ NNGRO, the ~~Gaming Regulatory Office~~ NNGRO may, upon making  
30 an express written finding as to such emergency, issue a final regulation to take effect

1 immediately; provided, that the ~~Gaming Regulatory Office~~ NNGRO shall publish notice and  
2 request comments on such regulation in the same manner as is provided above and upon  
3 consideration of any comments received, shall make such amendments to such final regulation as  
4 the ~~Gaming Regulatory Office~~ NNGRO deems appropriate.

5 D. All final regulations adopted by the ~~Gaming Regulatory Office~~ NNGRO shall be  
6 officially ~~filed with the~~ delivered to Reporting Section of the Navajo Nation Council, the Office  
7 of the Navajo President, the Office of the Attorney General, and ~~the NNGE~~ Records and  
8 Communications.

9  
10 **§ 2013. Internal Controls**

11 A. The NNGRO shall by regulation establish, and all applicable Gaming Facility  
12 Operators shall implement, minimum standards of internal controls to be in place at each Gaming  
13 Facility, which shall include systems of accounting and administrative controls. Internal controls  
14 include the plan of organization and all of the coordinate methods and measures adopted within  
15 a Gaming Operation to safeguard its assets, check the accuracy and reliability of its accounting  
16 data, promote operational efficiency and encourage adherence to prescribed managerial policies.

17 B. The system of accounting controls shall provide a plan of organization and a  
18 description of procedures and records that will permit reasonable assurance that the following  
19 objectives will be maintained:

- 20 1. Safeguarding of assets;
- 21 2. Reliability of financial records;
- 22 3. Execution of transactions in accordance with management's general or  
23 specific authorization;
- 24 4. Recording of transactions as necessary to permit recording of gaming  
25 revenue and to maintain accountability for assets;
- 26 5. Access to assets only in accordance with management's authorization; and
- 27 6. Comparison of records of assets with existing assets at reasonable intervals  
28 with provision for appropriate action with respect to any differences.

29 C. The system of administrative controls shall include a complete plan of  
30 organization that will provide appropriate segregation of functional responsibilities and sound

1 practices to be followed in the performance of those duties by competent and qualified personnel.  
2 The plan of organization shall be diagrammatic and narrative describing the interrelationship of  
3 functions and the division of responsibilities upon which the system of internal control relative to  
4 Gaming Operations is based.

5 D. Upon written application to the NNGRO, the NNGE may request any material  
6 change in the internal control system it determines appropriate. The NNGRO shall notify the  
7 NNGE in writing that such application is accepted or rejected, within thirty (30) calendar days of  
8 receiving such application. The written decision of the NNGRO shall constitute final action of  
9 the NNGRO.

10 E. The system of accounting controls shall include a detailed system for counting  
11 cash receipts at least daily, and shall be appropriate to the types of Gaming Activities carried on  
12 at the Gaming Facility and the physical characteristics of the system utilized for collecting cash.

13 F. The NNGRO shall require that all bank accounts maintained by the operators of  
14 the Gaming Facility shall be identified by bank and account number and that all signatories to  
15 such accounts be identified by name.

16 G. By approval of the Executive Director, the NNGRO may establish tribal internal  
17 control standards ("TICS") that provide an equal or greater level of control than the minimum  
18 standards of internal controls. Upon making a determination that additional internal controls  
19 would be beneficial to the Gaming Operations, the NNGRO will propose TICS for Gaming  
20 Operations to the NNGE. TICS will not be implemented by the NNGRO without consultation  
21 and cooperation with the NNGE. If the NNGE opposes proposed TICS, and the NNGRO  
22 continues to believe that the proposed TICS are necessary for effective Gaming Operations and  
23 the protection of the Nation's assets, the NNGRO shall utilize the process for adopting minimum  
24 internal controls codified in Subsection 2013(A) of this Ordinance.

25  
26 **§ 2014.2010. Petition for Self-Regulation**

27 Upon the Gaming Regulatory Office's NNGRO's determination that the Nation is eligible  
28 therefore, the Gaming Regulatory Office NNGRO may submit to the Commission NIGC an  
29 application for a certificate of self-regulation, under the provisions of 25 U.S.C. § 2710(C)(4).  
30



1 The ~~Gaming Regulatory Office~~ NNGRO shall do everything necessary and appropriate to obtain  
2 such certificate and to maintain the certificate in good standing.

3  
4 **§ 2015. 2011. Independence of Navajo Nation Gaming Regulatory Office**

5 The ~~Gaming Regulatory Office~~ NNGRO is constituted as an independent regulatory  
6 agency of the Nation. The ~~Gaming Regulatory Office~~ NNGRO shall not be subject to political  
7 direction or influence in the performance of its duties from any Public Official or Public  
8 Employee of the Nation.

9  
10 **§ 2016. 2012. Relation to Gaming Management**

11 Neither the Executive Director ~~of the Gaming Regulatory Office~~ nor any other Public  
12 Official or Public Employee of the Nation (individually or collectively) shall have any role in the  
13 management of any Gaming Facility ~~licensed gaming establishment~~. Aside from the specific  
14 duties of the Executive Director, as defined in this Ordinance, all decisions, policies, and actions  
15 with regard to the operation of any Gaming Facility ~~licensed gaming establishment~~ are the  
16 prerogative and responsibility of the gaming management as described in ~~Subchapters 5 and 6~~ of  
17 this Ordinance.

18  
19 **§ 2017. Agent for Service of Process**

20 The Nation designates the Executive Director to be the agent for service of any official  
21 determination, order or notice of violation from the NIGC or any State gaming regulatory agency.

22  
23 **§ 2018. [Reserved]**

24 **§ 2019. [Reserved]**

25 **§ 2020. [Reserved]**

26  
27 **Subchapter 5. Navajo Nation Gaming Enterprise**  
28 **Gaming Facility Operator's License**

29  
30 **§ 2021. Gaming Facility and Gaming Facility Operator's Licenses.**

1           A.     Pursuant to 5 N.N.C. § 1701 *et seq.*, the NNGE was established by the Nation to  
2 conduct Gaming Operations within the Nation, and shall obtain a Facility License from the  
3 NNGRO, in accordance with Subchapter 12, before the NNGE may commence a Gaming  
4 Operation.

5           B.     In accordance with applicable requirements under 5 N.N.C. § 1707, each appointee  
6 for the position of member of the board of directors of NNGE shall obtain a Gaming Facility  
7 Operator's License from the NNGRO.

8  
9 **§ 2013. Requirement of License**

10           ~~Each Tribal Gaming Enterprise established by the Navajo Nation Council to conduct a~~  
11 ~~Gaming operation within the territorial jurisdiction of the Nation shall obtain a Gaming Facility~~  
12 ~~Operator's License from the Gaming Regulatory Office before the Tribal Gaming Enterprise may~~  
13 ~~commence operation of a Gaming Activity. Each appointee for the position of member of the~~  
14 ~~Board of Directors of such Tribal Gaming Enterprise shall also obtain a Gaming Facility~~  
15 ~~Operator's License from the Gaming Regulatory Office before submission of the appointment to~~  
16 ~~the Navajo Nation Council for approval.~~

17  
18 **§ 2014. Standards of Suitability**

19           A.     ~~Tribal Gaming Enterprise. No Tribal Gaming Enterprise shall be issued a Gaming~~  
20 ~~Facility Operator's license by the Gaming Regulatory Office unless the Gaming Regulatory~~  
21 ~~Office is satisfied that the Tribal Gaming Enterprise is established and organized pursuant to a~~  
22 ~~plan of operation adopted by the Navajo Nation Council.~~

23           B.     ~~Board of Directors. No member of the Board of Directors of a Tribal Gaming~~  
24 ~~Enterprise established by the Navajo Nation Council to conduct a gaming operation shall be~~  
25 ~~issued a Gaming Facility Operator's license or have his license re-need by the Gaming Regulatory~~  
26 ~~Office if the Gaming Regulatory Office determines that such person:~~

- 27                 1.     ~~Has been convicted of any felony or gaming offense;~~  
28                 2.     ~~Has knowingly and willfully provided materially important false~~  
29 ~~statements or information on his license application;~~  
30                 3.     ~~Has been determined to be a person whose prior activities, criminal record,~~

1 if any, or reputation, habits or associations pose a threat to the public interest or to the  
2 effective regulation and control gaming or create or enhance the dangers of unsuitable,  
3 unfair, or illegal practices, methods and activities in the conduct of gaming or the carrying  
4 on of the business and financial arrangements incidental thereto; or

5 4. Has a conflict of interest or a potential for a conflict of interest if a member  
6 of the Board of Directors. Any public official or public employee of the Nation shall be  
7 deemed to have a conflict of interest.  
8

9 **§ 2022. Navajo Nation Gaming Enterprise Employment Standards**

10 A. The NNGE shall be subject to standards and requirements equivalent to or more  
11 stringent than those contained in the federal Fair Labor Standards Act of 1938, the federal  
12 Occupational Safety and Health Act of 1970, and other federal laws relating to wages, hours of  
13 work and conditions of work, and the regulations issued thereunder.

14 B. The NNGE shall not discriminate in the employment of Persons to work for the  
15 NNGE or in a Gaming Facility on the grounds of race, color, national origin, gender, sexual  
16 orientation, age or handicap; provided, however, that nothing herein shall prevent the NNGE from  
17 granting preference in employment in accordance with the Nation's laws and policies, including  
18 the Navajo Preference in Employment Act, 15 N.N.C. § 601 et seq.

19 C. The NNGE shall ensure that all NNGE employees are provided with employment  
20 benefits including, at a minimum, sick leave, life insurance, paid annual leave or paid time off  
21 and medical and dental insurance as well as providing unemployment insurance and worker's  
22 compensation insurance, through participation in programs offering benefits at least as favorable  
23 as those provided by comparable State programs, to the extent required by the applicable  
24 Compact(s), and which programs shall afford the employees due process of law and shall include  
25 an effective means for an employee to appeal an adverse determination by the insurer to an  
26 impartial forum, such as (but not limited to) courts of the Nation, which appeal shall be decided  
27 in a timely manner and in an administrative or judicial proceeding and as to which no defense of  
28 tribal sovereign immunity would be available.

29  
30 **§ 2023. [Reserved]**

1 § 2024. [Reserved]

2 § 2025. [Reserved]

3  
4 **Subchapter 6. Management Contractor License**

5 **Gaming Manager's License**

6  
7 **§ 2026. Requirement for Management Contractor License**

8 A. No person, corporation, partnership, or other entity shall manage any gaming  
9 operation as the general manager of a Tribal Gaming Enterprise without first obtaining a Gaming  
10 Manager's License from the Gaming Regulatory Office. No Person, corporation, partnership, or  
11 other entity shall manage a Gaming Operation, in whole or in part, as a Management Contractor  
12 without first obtaining a Gaming Manager's License from the NNGRO. In the case of a  
13 corporation, partnership or other entity, each Principal of the corporation, partnership or other  
14 entity must also obtain a Gaming Manager's License from the Gaming Regulatory Office  
15 NNGRO.

16 B. As a condition of any Gaming Manager's License, the NNGRO shall require that  
17 any licensed entity maintain an office within the Nation.

18  
19 **§ 2015. Requirement of License**

20 No person or entity may commence any Gaming Activities subject to regulation hereunder  
21 at any facility or location within the Nation until such facility or location has received a Gaming  
22 Facility license under the provisions of this Chapter, nor shall any person or entity offer any new  
23 or different Gaming Activities, as defined by regulations to be issued by the Gaming Regulatory  
24 Office, at any facility or location that is already licensed, without first obtaining an amended  
25 license for, such new and different Gaming Activities from the Gaming Regulatory Office.

26  
27 **§ 2016. Standards of Suitability**

28 A. Individuals. No person shall be issued a Gaming Manager's License or have his  
29 license renewed under the Chapter if the Gaming Regulatory Office determines that such person:

- 30 1. Has been convicted of any felony or gaming offense;

1           2.     ~~Has knowingly and willfully provided materially important false~~  
2     ~~statements or information on his license application.~~

3           3.     ~~Has been determined to be a person whose prior activities, criminal record~~  
4     ~~if any, or reputation, habits, and associations pose a threat to the public interest or to the~~  
5     ~~effective regulation and control of gaming, or create or enhance the dangers of unsuitable,~~  
6     ~~unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying~~  
7     ~~on of the business and financial arrangements incidental thereto; or~~

8           4.     ~~Has a conflict of interest or a potential for a conflict of interest if a gaming~~  
9     ~~manager. Any public official or public employee of the Nation shall be deemed to have a~~  
10    ~~conflict of interest.~~

11    B.     ~~Corporations, Partnerships, and other Entities.~~

12           1.     ~~No corporation, partnership, or other entity shall be issued a Gaming~~  
13     ~~Manager's License or have its license renewed by the Gaming Regulatory Office unless~~  
14     ~~the Gaming Regulatory Office is satisfied that such corporation, partnership or other~~  
15     ~~entity.~~

16               a.     ~~Is an organization and in good standing under the laws of the~~  
17     ~~jurisdiction where it was established, and is qualified to do business within the~~  
18     ~~Nation and the State;~~

19               b.     ~~Is in sound financial condition, as shown by a financial status;~~

20               c.     ~~Is not now and has not been in the past five years the subject of any~~  
21     ~~criminal investigation by any tribal, federal, or state law enforcement authority, as~~  
22     ~~shown by an affidavit of principals of the organization having personal knowledge~~  
23     ~~thereof;~~

24               d.     ~~Has established a reputation for financial integrity and sound~~  
25     ~~business practices, or if the organization was recently formed, that all persons~~  
26     ~~having any role in its formation, including persons supplying financing, are~~  
27     ~~Persons qualified to be licensed individually under the terms of this Chapter.~~

28               e.     ~~Has established that any person having a role in the formation or~~  
29     ~~acting as a principal of the organization is not a Public Official or Public Employee~~  
30     ~~of the Nation; and~~

f. ~~In all other respects will be reliable and trustworthy, and whose involvement in Gaming Activities within the Nation will be in the best interests of the Nation.~~

~~2. As a condition of any such license, the Gaming Regulatory Office shall require that any licensed corporation, partnership or other entity:~~

a. ~~Maintain an office within the Nation; and~~

~~b. Give notice to the Gaming Regulatory Office within 10 days of any material change in any information disclosed in the application for which prior notice was not feasible, including but not limited to, any change in its Principals.~~

## **~~Subchapter 7. Manufacturers/Suppliers License~~**

~~§ 2017. Requirement of License~~

Each Manufacturer and each distributor of gaming devices, and each supplier of gaming services shall be licensed by the Gaming Regulatory Office prior to the sale or lease of any gaming devices or gaming services to a Gaming Facility Operator licensed under this Ordinance. In addition, any person, corporation, partnership or other entity extending or guarantying financing for the gaming operation or the gaming facilities shall be licensed by the Gaming Regulatory Office, unless such person, corporation, partnership or entity is an agency of the United States or a lending institution licensed and regulated by the State or the United States.

~~§ 2018. Standard of Suitability~~

~~A. Individuals. No person shall be issued a license or have his license renewed under this chapter if the Gaming Regulatory Office determines that such person:~~

~~1. Has been convicted of any felony or gaming offense;~~

2. ~~Has knowingly and willfully provided materially important false statements or information on his license application;~~

3. ~~Has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulations and control of gaming, or create or enhance the dangers of unsuitable,~~

1 ~~unfair, or illegal practices, methods, and activities in the conduct of gaming or carrying~~  
2 ~~on of the business and financial arrangements incidental hereto; or~~

3 4. ~~Has a conflict of interest or a potential for a conflict of interest. Any public~~  
4 ~~official or public employee of the Nation shall be deemed to have a conflict of interest.~~

5 B. ~~Corporations, Partnerships, and Other Entities.~~

6 1. ~~No corporation, partnership, or other entity shall be issued a license or have~~  
7 ~~its license renewed under this Chapter unless the Gaming Regulatory Office is satisfied~~  
8 ~~that such corporation, partnership or other entity:~~

9 a. ~~Is organized and in good standing under the laws of the jurisdiction~~  
10 ~~where it was established, and is qualified to do business within the Nation and the~~  
11 ~~State;~~

12 b. ~~Is in sound financial condition, as shown by a financial statement~~  
13 ~~certified by a certified public accountant to be a current, complete and accurate~~  
14 ~~depiction of the organization's financial status;~~

15 c. ~~Is not now and has not been in the past five years the subject of any~~  
16 ~~criminal investigation by an tribal, federal, or state law enforcement authorities, as~~  
17 ~~shown by an affidavit of principals of the organization having personal knowledge~~  
18 ~~thereof;~~

19 d. ~~Has established a reputation for financial integrity and sound~~  
20 ~~business practices, or, if the organization was recently formed, that all persons~~  
21 ~~having any role in its formation, including persons supplying financing, are~~  
22 ~~persons qualified to be licensed individually under the terms of this Chapter;~~

23 e. ~~Has established that any person having a role in the formation or~~  
24 ~~acting as a principal of the organization is not a public official or public employee~~  
25 ~~of the Nation; and~~

26 f. ~~Is in all other respects reliable and trustworthy, and whose~~  
27 ~~involvement in Gaming Activities within the Nation will be in the best interests of~~  
28 ~~the Nation as set forth in this Ordinance.~~

29 2. ~~As a condition of any such license, the Gaming Regulatory Office shall~~  
30 ~~require that any licensed corporation, partnership or other entity give notice to the Gaming~~

1 Regulatory Office within 10 days of any material change in any information disclosed in  
2 the application for which prior notice was not feasible, including but not limited to, any  
3 change in its Principals.  
4

5 § 2027. [Reserved]

6 § 2028. [Reserved]  
7

## 8 Subchapter 7.8. Gaming Employee's License 9

### 10 § 2029. 2019. Requirement of for Gaming Employee License

11 A. ~~Every Gaming Employee of a Gaming Facility Operator shall be licensed by the~~  
12 ~~Gaming Regulatory Office prior to commencement of employment. No Person shall be employed~~  
13 ~~as a Gaming Employee in any applicable Gaming Operation without first obtaining a gaming~~  
14 ~~license from the NNGRO, unless an exemption or exception applies to such Gaming Employee~~  
15 ~~in an applicable Compact and/or NNGRO regulations; provided, however, that any such~~  
16 ~~exemption or exception must be consistent with the IGRA.~~

17 B. The NNGRO shall issue licensing standards for Gaming Employees that are  
18 consistent with this Ordinance, regulations promulgated by the NNGRO, and the Compacts.  
19

### 20 § 2020. Standards of Suitability

21 ~~No person shall be issued a Gaming Employee's License or have his license renewed under this~~  
22 ~~Chapter if the Gaming Regulatory Office determines that such Person:~~

23 A. ~~Has been convicted of any felony within the past ten years or any gaming offense;~~  
24 B. ~~Has knowingly and willfully provided materially important false statements or~~  
25 ~~information on his or her license or employment application; or~~

26 C. ~~Has been determined to be a person whose prior activities, criminal record if any,~~  
27 ~~or reputation, habits, and associations pose a threat to the public interest or to the effective~~  
28 ~~regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal~~  
29 ~~practices, methods, and activities in the conduct of gaming or the carrying on of the business and~~  
30 ~~financial arrangements incidental thereto.~~



1           ~~D.     Has a conflict of interest or a potential for a conflict of interest if a Gaming~~  
2 ~~Employee. Any Public Official or Public Employee of the Nation shall be deemed to have a~~  
3 ~~conflict of interest.~~

4  
5 **§ 2030. [Reserved]**

6 **§ 2031. [Reserved]**

7  
8 **Subchapter 8. Vendor License**

9  
10 **§ 2032. Requirement for Vendor License**

11           Each Vendor shall be licensed by the NNGRO in accordance with this Ordinance,  
12 regulations promulgated by the NNGRO, and the Compacts. In addition, any Person extending  
13 or guarantying financing for the Gaming Operation or the Gaming Facilities shall be licensed by  
14 the NNGRO, unless such Person is exempt pursuant to Section 2034.

15  
16 **§ 2033. Vendor Classifications**

17           A.     Management Contractors, Manufacturers, Distributors and financial service  
18 providers subject to licensing shall be deemed a class of vendors subject to the NNGRO's most  
19 rigorous background investigation.

20           B.     Vendors who provide goods and services related to security devices, surveillance  
21 systems, currency handling, check cashing and gaming data analysis shall be deemed a class of  
22 vendors subject to heightened scrutiny by the NNGRO.

23           C.     All other Vendors shall be subject to a proper level of scrutiny under the  
24 circumstances. Accordingly, notwithstanding the requirements of Subchapter 9, and in  
25 accordance with federal law and the applicable Compact(s), the NNGRO may elect to require (i)  
26 only individual licensing applications from such a Vendor's key executive officer and sales  
27 representative or other individual who will have direct contact with the Gaming Operation, or (ii)  
28 no individual licensing applications; provided that the NNGRO may increase the scope of  
29 investigation in the event the NNGRO has any reason to believe a Vendor may not satisfy the  
30 Standard of Suitability set forth in Section 2037.

1           D.     The following two types of Vendor employees shall be required to obtain a Vendor  
2 license prior to commencing any work in connection with the Gaming Operation: (i) employees  
3 of Management Contractors, and (ii) employees who have unescorted access to secure areas.  
4

5 **§ 2034. Exemption for Certain Vendors**

6           The Nation has determined that, except as required under the Compacts, the following  
7 types of Vendors are not required to be licensed by the NNGRO, subject to the requirements of  
8 the Compacts and regulations adopted by the NNGRO:

9           A.     Entertainers;

10          B.     Publicly traded companies;

11          C.     Providers of training services;

12          D.     Providers of travel services;

13          E.     Automobile dealerships;

14          F.     Companies, including financial sources, regulated or licensed by the federal, state,  
15 or Nation governments; and

16          G.     Any other Vendors that are exempt or excepted from licensing requirements under  
17 the applicable Compact(s).

18  
19 **§ 2035. [Reserved]**

20 **§ 2036. [Reserved]**

21  
22               **Subchapter 9. Standards of Suitability** ~~License Application Procedures~~

23  
24 **§ 2037. Standards of Suitability**

25           A.     Individuals. No Person shall be issued a license or have his or her license renewed  
26 under this Subchapter if the NNGRO determines that such Person:

27               1.     Has been convicted of any felony or gaming offense;

28               2.     Has knowingly and willfully provided materially important false  
29 statements or information on his or her license application;  
30

1           3.     Has been determined to be a Person whose prior activities, criminal record  
2 if any, or reputation, habits, and associations pose a threat to the public interest or to the  
3 effective regulation and control of gaming, or create or enhance the dangers of unsuitable,  
4 unfair, or illegal practices, methods, and activities in the conduct of gaming or carrying  
5 on of the business and financial arrangements incidental hereto; or

6           4.     Will have a conflict of interest or a potential conflict of interest if licensed.  
7 Any Public Official or Public Employee of the Nation shall be deemed to have a conflict  
8 of interest.

9     B.     Corporations, Partnerships, and Other Entities.

10           1.     No corporation, partnership, or other entity shall be issued a license or have  
11 its license renewed under this Subchapter unless the NNGRO is satisfied that such  
12 corporation, partnership or other entity:

13               a.     Is organized and in good standing under the laws of the jurisdiction  
14 where it was established, and is qualified to do business within the Nation and the  
15 applicable State;

16               b.     Has not been:

17                   i.     Convicted of a felony, or

18                   ii.    Convicted of any misdemeanor involving moral turpitude  
19 within the ten (10) year period immediately preceding the submission of  
20 the application;

21               c.     Has not associated with criminal profiteering activity or organized  
22 crime;

23               d.     Has not been in contumacious defiance of any legislative  
24 investigatory body of any state or of the United States, when that body is engaged  
25 in the investigation of crimes relating to gambling, criminal profiteering activity,  
26 or organized crime;

27               e.     Has established a reputation for financial integrity and sound  
28 business practices, or, if the organization was recently formed, that all applicable  
29 Persons having a role in its formation, including Persons supplying financing, are  
30

1 Persons qualified to be licensed individually under the terms of this Subchapter;  
2 and

3 f. Has established that any Person having a role in the formation or  
4 acting as a Principal of the organization is not a Public Official or Public Employee  
5 of the Nation.

6 2. After a corporation, partnership or other entity is licensed by the NNGRO,  
7 it shall file a report of each change of Principals with the NNGRO. Subject to NNGRO  
8 regulations and licensing standards, the NNGRO may require each new Principal to file a  
9 complete application within thirty (30) calendar days of appointment or election. The  
10 corporation, partnership or other entity's license shall remain valid unless the NNGRO  
11 disapproves of the change in ownership of Principals or denies the application.

12  
13 **§ 2038. [Reserved]**

14 **§ 2039. [Reserved]**

15  
16 **Subchapter 10. License Application Procedures**

17  
18 **§ 2040. ~~2021.~~ Application Requirements; Processing**

19 A. Each application for a license ~~under Subchapters 5, 6, 7 or 8 of~~ required to be  
20 issued under this Ordinance must be submitted to the ~~Gaming Regulatory Office-NNGRO~~ NNGRO on  
21 forms prescribed by the ~~Gaming Regulatory Office-NNGRO~~, and must be accompanied by the  
22 required fee, ~~if any,~~ and such supporting information as the ~~Gaming Regulatory Office-NNGRO~~  
23 may prescribes by regulation, ~~which shall include:~~

24 1. ~~In the case of individual persons:~~

25 a. ~~Full name, including any aliases by which applicant has ever been~~  
26 ~~known;~~

27 b. ~~Social security number;~~

28 c. ~~Date and place of birth, gender, current citizenship, and all~~  
29 ~~languages spoken or written;~~

1                   d.     ~~Currently and for the previous five years: business and employment~~  
2     ~~positions held, ownership interests in those businesses, business and residence~~  
3     ~~addresses, and drivers license numbers;~~

4                   e.     ~~The names and current addresses of at least three personal~~  
5     ~~references, including one personal reference who was acquainted with, the~~  
6     ~~applicant during each period of residence listed under Paragraph 1(d) of this~~  
7     ~~Subsection (A);~~

8                   f.     ~~Education history;~~

9                   g.     ~~Current business or employment and residence telephone numbers;~~

10                  h.     ~~A description of any existing and previous business relationships~~  
11     ~~with Indian tribes including ownership interests in those businesses;~~

12                  i.     ~~Description of any existing and previous business relationships~~  
13     ~~with the gaming industry generally, including ownership interests in those~~  
14     ~~businesses;~~

15                  j.     ~~The name and address of any licensing or regulatory agency with~~  
16     ~~which the person has filed an application for a license or permit related to gaming;~~  
17     ~~whether or not such license or permit was granted;~~

18                  k.     ~~The name and address of any licensing or regulatory agency with~~  
19     ~~which the person has filed an application for an occupational license or permit;~~  
20     ~~whether or not such license or permit was granted;~~

21                  l.     ~~All criminal proceedings, except for minor traffic offenses, to~~  
22     ~~which the applicant has been a party including description of the charge, the name~~  
23     ~~and address of the court involved and the date and disposition;~~

24                  m.     ~~A set of fingerprints;~~

25                  n.     ~~A current photograph; and~~

26                  o.     ~~A complete and current financial disclosure statement.~~

27                  2.     ~~In the case of corporations, partnerships or other entities applying for a~~  
28     ~~license under Subchapters 5, 6, 7 or 8 of this Ordinance:~~

29                         a.     ~~The name, address, and other additional pertinent background~~  
30     ~~information on each the principals;~~

1                   b.     ~~The name, address, and other additional pertinent background~~  
2     ~~information on each of its related, associated, affiliated, parent or subsidiary~~  
3     ~~corporations, partnerships, entities or individuals;~~

4                   e.     ~~A description of any previous experience that each Principal has~~  
5     ~~had with other Indian tribes involving gaming, any management contract, or with~~  
6     ~~the gaming industry generally, including specifically the name and address of any~~  
7     ~~licensing or regulatory agency with which such person has had contact relating to~~  
8     ~~gaming; and~~

9                   d.     ~~A complete financial statement of each Principal.~~

10           B.     ~~The Gaming Regulatory Office NNGRO~~ and its staff may assist any applicant in  
11 assembling all information required for processing of the application, but no application will be  
12 processed until it is complete. ~~The Gaming Regulatory Office NNGRO~~ staff may at any time  
13 after an application is submitted request the applicant in writing to supply additional information  
14 to enable the ~~Gaming Regulatory Office NNGRO~~ to complete the processing of the application,  
15 which request must be complied with forthwith.

16           C.     The issuance of a license by the NNGRO does not create or imply a right of  
17 employment or continued employment.

18           ~~C.     The application forms used by the Gaming Regulatory Office shall contain the~~  
19 ~~Privacy Act notice and the notice regarding false statements, and in the form required by the~~  
20 ~~Commission, pursuant to 25 C.F.R. Part 556, and each applicant shall consent in writing to the~~  
21 ~~release of any information that may be relevant to the Gaming Regulatory Office's inquiry into~~  
22 ~~the applicant's background from any person or entity. Any and all information obtained by the~~  
23 ~~Gaming Regulatory Office in the course of reviewing an application with remain confidential,~~  
24 ~~and will not be released by the Gaming Regulatory Office to any other person or agency (other~~  
25 ~~than the commission if disclosure is required under the Act) without the applicant's consent, or~~  
26 ~~pursuant to an order of court or other body of competent jurisdiction.~~

27           D.     ~~The Gaming Regulatory Office shall issue a decision on the application in writing.~~  
28 ~~The written decision of the Gaming Regulatory Office shall constitute final action of the Gaming~~  
29 ~~Regulatory Office on such application. In the event any application for a license is denied, the~~  
30 ~~decision shall specify the reason for such denial.~~

1  
2 **~~§ 2022. Fees~~**

3       ~~The Gaming Regulatory Office shall collect the following fees in connection with the~~  
4 ~~processing of applications and the issuance of licenses:~~

5       ~~A.    Gaming Facility Operator's License:~~

6           ~~1.    Initial application fee:~~

7               ~~a.    Tribal Gaming Enterprise:   fifty thousand dollars (\$50,000).~~

8               ~~b.    Member, Board of Directors: five hundred dollars (\$500).~~

9           ~~2.    Annual renewal fee:~~

10              ~~a.    Tribal Gaming Enterprise; fifteen thousand dollars (\$15,000).~~

11              ~~b.    Member, Board of Directors: one hundred dollars (\$100.00).~~

12       ~~B.    Gaming Manager's License:~~

13           ~~1.    Initial application fee:                   one thousand dollars (\$1,000).~~

14           ~~2.    Annual renewal fee:                   five hundred dollars (\$500.00).~~

15       ~~C.    Manufacturer's/Supplier's License:~~

16           ~~1.    Initial application fee:~~

17               ~~a.    Manufacturer/Distributor of Gaming Devices: one thousand~~  
18 ~~dollars (\$1,000).~~

19               ~~b.    Supplier of Gaming Services: one hundred dollars (\$100.00).~~

20               ~~c.    Third Party Financier one thousand dollars (\$1,000).~~

21           ~~2.    Annual renewal fee:~~

22               ~~a.    Manufacturer/Distributor of Gaming Devices: five hundred~~  
23 ~~dollars (\$500.00).~~

24               ~~b.    Supplier of Gaming Services: fifty dollars (\$50.00).~~

25               ~~c.    Third Party Financier: five hundred dollars (\$500.00).~~

26       ~~D.    Gaming Employee License:—~~

27           ~~1.    Initial application fee of                   twenty-five dollars (\$25.00)~~

28           ~~2.    Annual renewal fee of                   ten dollars (\$10.00).~~

29       ~~E.    Other Fees. The Gaming Regulatory Office may be regulation prescribe such~~  
30 ~~other fees as it deems appropriate.~~

1  
2 **§ 2023. License Terms: Renewal**

3       A.     ~~Each Gaming Facility Operator's license, Gaming Manager's License,~~  
4 ~~Manufacturers/suppliers license and Gaming Employee License issued by the Gaming Regulatory~~  
5 ~~Office hereunder shall have a primary term of one year. Such license may be renewed for~~  
6 ~~subsequent one-year periods upon proper application therefor, on forms specified by the Gaming~~  
7 ~~Regulatory Office, but no licensee shall have any vested right to renewal of any license issued~~  
8 ~~hereunder.~~

9       B.     ~~The Gaming Regulatory Office shall issue a temporary license within 60 days of~~  
10 ~~the receipt of a completed application for licensing pursuant to Subchapters 5, 6, 7 and 8 of this~~  
11 ~~Ordinance unless the background investigation undertaken by the Gaming Regulatory Office~~  
12 ~~discloses that the applicant has a criminal history, or unless other grounds sufficient to disqualify~~  
13 ~~the applicant pursuant to this Ordinance are apparent on the face of the application. The~~  
14 ~~temporary license shall become void and be of no effect upon either the issuance of a license or~~  
15 ~~upon the issuance of notice of denial of the license in accordance with the provisions of this~~  
16 ~~Ordinance.~~

17  
18 **§ 2024. [Reserved]**

19  
20 **§ 2041.2025. Non-transferability of License**

21       Each     ~~Gaming Facility Operator's license, Gaming Manager's License,~~  
22 ~~Manufacturer's/Supplier's license, and Gaming Employee License issued by the Gaming~~  
23 ~~Regulatory Office-NNGRO hereunder is valid only for the Person or entity at the place of business~~  
24 ~~shown on the License. The License is not transferable or otherwise assignable without prior~~  
25 ~~approval from the Gaming Regulatory Office-NNGRO.~~

26  
27 **§ 2042. License Application Forms**

28       A.     The following notice shall be placed on the NNGRO's license application forms  
29 for individual Persons before the form is filled out by an applicant:  
30



1 In compliance with the Privacy Act of 1974, the following information is provided:  
2 Solicitation of the information on this form is authorized by 25 U.S.C. § 2701 et  
3 seq. The purpose of the requested information is to determine the eligibility of  
4 individuals to be granted a gaming license. The information will be used by the  
5 NNGRO authorities and by the NIGC members and staff who have need for the  
6 information in the performance of their official duties. The information may be  
7 disclosed by the Nation or the NIGC to appropriate federal, tribal, state, local or  
8 foreign law enforcement and regulatory agencies when relevant to civil, criminal  
9 or regulatory investigations or prosecutions or when pursuant to a requirement by  
10 a tribe or the NIGC in connection with the issuance, denial, or revocation of a  
11 gaming license, or investigations of activities while associated with a tribe or a  
12 gaming operation. Failure to consent to the disclosures indicated in this notice will  
13 result in a tribe being unable to license you for a Primary Management Official or  
14 Key Employee position.

15  
16 The disclosure of your Social Security Number (SSN) is voluntary. However,  
17 failure to supply a SSN may result in errors in processing your application.  
18

19 B. The following additional notice shall be placed on the application form for a Key  
20 Employee or a Primary Management Official before it is filled out by an applicant:

21 A false statement on any part of your license application may be grounds for  
22 denying a license or the suspension or revocation of a license. Also, you may be  
23 punished by fine or imprisonment (U.S. Code, title 18, section 1001).  
24

#### 25 **§ 2043. License Fees**

26 The Nation may charge a reasonable license fee, to be set by the NNGRO, to cover its  
27 expenses in investigating and considering license applications.  
28

### 29 **Subchapter 10. Background Investigations; Notifications**

30

1  
2 **§ ~~2044, 2026.~~ Background Investigations**

3 A. The NNGRO shall perform a background investigation for each Primary  
4 Management Official and Key Employee in a Gaming Operation. The investigation must be  
5 sufficient to allow the NNGRO to make an eligibility determination under Section 2046 of this  
6 Ordinance, and any additional investigation reasonably deemed necessary and proper by the  
7 NNGRO to comply with this Ordinance, the IGRA, and the Compacts.

8 ~~A. Unless otherwise provided in a tribal-state compact entered into between the~~  
9 ~~Navajo Nation and a state, the Gaming Regulatory Office shall at all times have in place, and~~  
10 ~~shall regularly update and improve, a system for conducting background investigations of every~~  
11 ~~applicant for licensing under the Ordinance. Such system shall comply with the requirements of~~  
12 ~~this Ordinance and the Act, and shall include, at a minimum, utilization of records of all available,~~  
13 ~~tribal, state and federal law enforcement agencies, resources of the Commission, communications~~  
14 ~~with other Indian tribes engaged in Gaming Activities, and any and all other sources of~~  
15 ~~information accessible to the Gaming Regulatory Office for this purpose. Such system shall~~  
16 ~~ensure that all applicants are notified of their rights under the Privacy Act as specified in 25 C.F.R.~~  
17 ~~Part 556.~~

18 B. The NNGRO is responsible for conducting the background investigations of  
19 Primary Management Officials and Key Employees. The background investigation shall include  
20 a check of criminal history records information maintained by the Federal Bureau of  
21 Investigation.

22 ~~B. Every applicant for licensing under this Ordinance shall be subjected to a thorough~~  
23 ~~background investigation, and such investigations shall be updated upon application for renewal~~  
24 ~~of a license, and at such other times as the Gaming Regulatory Office may determine appropriate.~~

25 C. The NNGRO shall request fingerprints from each Primary Management Official  
26 and Key Employee, and shall take such fingerprints or cause such fingerprints to be taken in  
27 accordance with the requirements of the IGRA. The fingerprints will then be forwarded to the  
28 NIGC for processing through the Federal Bureau of Investigation and the National Criminal  
29 Information Center to determine the applicant's criminal history, if any. Navajo Nation  
30 Department of Public Safety will review tribal and state court records to further determine the

1 applicant's criminal history, if any. The NNGRO may request and process fingerprints from any  
2 other license applicant in accordance with NNGRO regulations and the Compacts.

3 C. The Gaming Regulatory Office shall prepare a background investigation report on  
4 every applicant for licensing under the Ordinance which shall include all of the following:

- 5 1. Steps taken in conducting a background investigation;
- 6 2. Results obtained;
- 7 3. Conclusions reached; and
- 8 4. The bases for those conclusions.

9 D. The NNGRO shall request from each Primary Management Official and Key  
10 Employee all of the following information:

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

13 2. Currently, and for the previous five (5) years; business and employment  
14 positions held, ownership interests in those businesses, business and residential addresses,  
15 and driver's license numbers;

16 3. The names and current addresses of at least three (3) personal references,  
17 including one (1) personal reference who was acquainted with the applicant during each  
18 period of residence listed under Paragraph (D)(2) of this Section;

19 4. Current business and residential telephone numbers, and all cell phone  
20 numbers;

21 5. A description of any existing and previous business relationships with  
22 other tribes, including any ownership interests in those businesses;

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

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

28 8. For each felony for which there is an ongoing prosecution or a conviction,  
29 the charge, the name and address of the court involved, and the date of disposition, if any;  
30

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

4           10.    For each criminal charge (excluding minor traffic charges), whether or not  
5           there is a conviction, if such criminal charge is within ten (10) years of the date of the  
6           application, and is not otherwise listed pursuant to Paragraphs (D)(8) or (D)(9) of this  
7           Section, the criminal charge, the name and address of the court involved, and the date of  
8           disposition, if any;

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

12          12.    A current photograph;

13          13.    Any other information the NNGRO deems relevant; and

14          14.    Fingerprints obtained in accordance with procedures adopted by the  
15          NNGRO.

16          ~~D.     The cost of performing the background investigations on Gaming Employees shall~~  
17          ~~be an expense of the Gaming Facility Operator who has hired or proposes to hire the employee.~~

18          E.     When a Primary Management Official or Key Employee is employed by any  
19          Gaming Facility Operator, a complete application file, containing all of the information listed in  
20          Sections 2044(D) and 2045 shall be maintained.

21          ~~E.     The Gaming Regulatory Office shall at all times maintain files containing the~~  
22          ~~results of any background investigations conducted by it. Such files shall be retained for no less~~  
23          ~~than three years from the date of termination of employment or expiration of the license. Such~~  
24          ~~files shall contain systems designed to safeguard the identities of confidential informants from~~  
25          ~~inadvertent disclosure.~~

26          F.     The NNGRO, and its investigators, shall keep confidential the identity of each  
27          Person interviewed in the course of conducting a background investigation.

28  
29       **§ 2045. Investigative Reports**  
30

1           A.     The NNGRO shall create and maintain an investigative report for each background  
2 investigation of a Primary Management Official or Key Employee.

3           B.     Investigative reports shall include all of the following information:

4               1.     Steps taken in conducting the investigation;

5               2.     Results obtained;

6               3.     Conclusions reached; and

7               4.     The basis for those conclusions.

8  
9 **§ 2027. Criminal History Checks**

10           A.     ~~Unless otherwise provided in a tribal state compact entered into between the~~  
11 ~~Navajo Nation and the State of New Mexico or the State of Arizona, the Navajo Nation~~  
12 ~~Department of Public Safety will take fingerprints when required and send them to the NIGC.~~  
13 ~~The NIGC will send the fingerprints to the FBI which will review them for any federal criminal~~  
14 ~~activity including all felonies and misdemeanors. The FBI will send the fingerprints back to the~~  
15 ~~NIGC along with a report stating any recorded federal criminal activity, and the NIGC will return~~  
16 ~~the reviewed fingerprints with the FBI report to the Navajo Nation Department of Public Safety.~~

17           B.     ~~As part of the background investigation, the applicant will be required to disclose~~  
18 ~~whether they have ever been prosecuted or convicted of a felony or a misdemeanor. In addition,~~  
19 ~~unless otherwise provided in a tribal state compact entered into between the Navajo Nation and~~  
20 ~~the State of New Mexico or the State of Arizona, the Navajo Nation Department of Public Safety~~  
21 ~~will review the records of the Tribal Court and also the statewide district, supreme and superior~~  
22 ~~courts for New Mexico and Arizona for any criminal records as prospective employee may have.~~

23  
24 **§ 2046. Eligibility Determinations**

25           A.     Before the NNGRO issues any license to a Person under this Ordinance, it shall  
26 make a finding concerning the eligibility of a Person to receive a gaming license by reviewing  
27 the applicant's prior activities, criminal record, if any, and reputation, habits and associations.

28           B.     If the NNGRO, in applying the standards adopted in this Ordinance, determines  
29 that licensing the Person poses a threat to the public interest or to the effective regulation of  
30 gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods

1 and/or activities in the conduct of gaming, the NNGRO shall not license that Person in a Primary  
2 Management Official or Key Employee position.

3 C. Copies of the eligibility determination shall be included with the notice of results  
4 that must be submitted to the NIGC before the licensing of a Primary Management Official or  
5 Key Employee.

6  
7 **§ 2047. Notice of Results of Background Investigations**

8 A. Before issuing a license to a Primary Management Official or Key Employee, the  
9 NNGRO shall prepare a notice of results of the applicant's background investigation to submit to  
10 the NIGC. The notice of results must be submitted to the NIGC no later than sixty (60) calendar  
11 days after the applicant begins working for a Gaming Facility Operator.

12 B. The notice of results shall include the following information:

13 1. The applicant's name, date of birth, and social security number;

14 2. The date on which the applicant began, or will begin, working as a Primary  
15 Management Official or Key Employee;

16 3. A summary of the information presented in the investigative report,  
17 including:

18 a. Licenses that have previously been denied;

19 b. Gaming licenses that have been revoked, even if subsequently  
20 reinstated;

21 c. Every known criminal charge brought against the applicant within  
22 the last ten (10) years of the date of the application; and

23 d. Every felony offense, or Nation equivalent thereof, of which the  
24 applicant has been convicted or any ongoing prosecution; and

25 4. A copy of the eligibility determination made in accordance with Section  
26 2046.

27  
28 **§ ~~2048.~~ 2028. Notification to the Gaming Commission NIGC and States**

29 A. Within the time requirements established by the Commission, the Gaming  
30 Regulatory Office NIGC, the NNGRO shall transmit to the Commission NIGC a complete copy

1 of license applications or such other information of Primary Management Officials and Key  
2 Employees as may be required by the Commission IGRA. After completion of the background  
3 check of ~~the such~~ applicant, and within the time requirements established by the Commission  
4 NIGC, the ~~Gaming Regulatory Office NNGRO~~ shall provide to the Commission NIGC a  
5 complete report on the results of such ~~the~~ background investigation. In the event the Gaming  
6 Regulatory Office NNGRO receives any information from the Commission NIGC concerning the  
7 such applicant, such information shall be taken into account by the Gaming Regulatory Office  
8 NNGRO in its action on the application. The ~~Gaming Regulatory Office NNGRO~~ shall notify  
9 the Commission NIGC if the ~~Gaming Regulatory Office NNGRO~~ does not license ~~an such~~  
10 applicant.

11 B. Upon issuance of a Primary Management Official or Key Employee license under  
12 this Ordinance, the ~~Gaming Regulatory Office NNGRO~~ shall give notice thereof to the  
13 Commission NIGC, as may be required by the IGRA. Should the ~~Gaming Regulatory Office~~  
14 NNGRO receive information from the Commission NIGC indicating that a Primary Management  
15 Official or Key Employee does not meet the standard established in this Ordinance or in the Aet  
16 IGRA for issuance of such a license, the ~~Gaming Regulatory Office NNGRO~~ shall immediately  
17 ~~suspend such license and give written notice thereof to the licensee~~ take action in accordance with  
18 Section 2051. ~~The Gaming Regulatory Office shall also notify the licensee that the licensee has~~  
19 ~~15 days following receipt of the notice of suspension to request that the Gaming Regulatory Office~~  
20 ~~reconsider the notice of suspension. Upon such request for reconsideration, the Gaming~~  
21 ~~Regulatory Office shall consider such oral statement(s) or written documentation as the license~~  
22 ~~may present to the Gaming Regulatory Office at the time and place designated by the Gaming~~  
23 ~~Regulatory Office. Within 15 days of receipt of such statement(s) or documentation, or the~~  
24 ~~licensee's request for reconsideration, whichever is later, the Gaming Regulatory Office shall~~  
25 ~~issue a written decision. The written decision of the Gaming Regulatory Office shall constitute~~  
26 ~~final action of the Gaming Regulatory Office. The Gaming Regulatory Office shall notify the~~  
27 ~~Commission of its decision.~~

28 C. The NNGRO shall transmit to the applicable State(s) a complete copy of license  
29 applications or such other information of potential Licensees as may be required by the applicable  
30

1 Compact(s); and upon issuance of a license under this Ordinance, the NNGRO shall give notice  
2 thereof to the applicable State(s) as may be required under the applicable Compact(s).

3  
4 **§ 2049. Granting Gaming Licenses**

5 A. All Primary Management Officials and Key Employees of a Gaming Operation  
6 must have a gaming license issued by the NNGRO.

7 B. The NNGRO is responsible for granting and issuing gaming licenses to Primary  
8 Management Officials and Key Employees.

9 C. The NNGRO may license a Primary Management Official or Key Employee  
10 applicant after submitting a notice of results of the applicant's background investigation to the  
11 NIGC as required by Section 2047.

12 D. The NNGRO shall notify the NIGC of the issuance of a license to a Primary  
13 Management Official or Key Employee within thirty (30) calendar days of issuance.

14 E. A Gaming Facility Operator shall not employ an individual in a Primary  
15 Management Official or Key Employee position who does not have a license after ninety (90)  
16 calendar days of beginning work at the Gaming Operation.

17 F. The NNGRO must reconsider a license application for a Primary Management  
18 Official or Key Employee if it receives a statement of itemized objections to issuing such a license  
19 from the NIGC, and those objections are received within thirty (30) calendar days of the NIGC  
20 receiving a notice of results of the applicant's background investigation.

21 G. The NNGRO shall take the NIGC's objections into account when reconsidering a  
22 license application.

23 H. The NNGRO will make the final decision whether to issue a license to an applicant  
24 for a Primary Management Official or Key Employee position.

25 I. If the NNGRO has issued a license to a Primary Management Official or Key  
26 Employee before receiving the NIGC's statement of objections, notice and a hearing shall be  
27 provided to the Licensee, as required by Section 2051.

28  
29 **§ 2050. Denying Gaming Licenses**  
30



1           A.     The NNGRO shall not license a Primary Management Official or Key Employee,  
2 or any other applicant, if the Person:

- 3                 1.     Poses a threat to the public interest;  
4                 2.     Poses a threat to the effective regulation of gaming; or  
5                 3.     Creates or enhances the dangers of unsuitable, unfair or illegal practices,  
6 methods and/or activities in the conduct of gaming.

7           B.     When the NNGRO does not issue a license to an applicant for a Primary  
8 Management Official or Key Employee position, or revokes a previously issued license after  
9 reconsideration, it shall:

- 10                1.     Notify the applicant and the NIGC; and  
11                2.     Forward copies of its eligibility determination and notice of results of the  
12 applicant's background investigation to the NIGC for inclusion in the Indian Gaming  
13 Individuals Record System.

14           C.     An applicant may appeal the NNGRO's final decision in accordance with  
15 Subchapter 11. The NNGRO's final decision whether to issue a license cannot be appealed by  
16 the applicant to the Office of Navajo Labor Relations, the Navajo Nation Labor Commission, any  
17 non-Nation administrative body, or any court.

18  
19 **§ 2051. NIGC: Gaming License Suspensions and Revocations**

20           A.     If, after a license is issued to a Primary Management Official or Key Employee,  
21 the NNGRO receives notice from the NIGC that the Primary Management Official or Key  
22 Employee is not eligible for employment, the NNGRO shall do the following:

- 23                1.     Immediately suspend the license;  
24                2.     Provide the Licensee with written notice of the suspension and proposed  
25 revocation; and  
26                3.     Provide the Licensee with notice of a time and place for a hearing on the  
27 proposed revocation of the license.

28           B.     Following a revocation hearing, the NNGRO shall decide whether to revoke or  
29 reinstate the license at issue. The written decision of the NNGRO shall constitute final action of  
30 the NNGRO. A Licensee may appeal a written decision issued by the NNGRO in accordance with

1 Subchapter 11. No Licensee may file a request for reconsideration with the Office of Navajo  
2 Labor Relations, Navajo Nation Labor Commission, any non-Nation administrative body, or any  
3 court.

4 C. The NNGRO shall notify the NIGC of its decision to revoke or reinstate a license  
5 within forty-five (45) calendar days of receiving notification from the NIGC that a Primary  
6 Management Official or Key Employee is not eligible for employment.

7  
8 **§ 2052. General: License Revocation, Suspension or Denial**

9 A. Grounds for Revocation, Suspension or Denial of License. The NNGRO may  
10 revoke or suspend a License or deny an application for a License when the Licensee or applicant:

11 1. Has violated, failed or refused to comply with the provisions, requirements,  
12 conditions, limitations or duties imposed by any provision of this Ordinance, the relevant  
13 Compact or state gaming agency rule, or when such violation has occurred upon any  
14 premises occupied or operated by any such Person over which he or she has substantial  
15 control;

16 2. Knowingly causes, aids, abets, or conspires with another to cause any  
17 Person to violate any of the laws of the Nation or NNGRO regulations, or the provisions  
18 of the relevant Compact;

19 3. Has obtained his or her License or a State Certification by fraud,  
20 misrepresentation, concealment or through inadvertence or mistake;

21 4. Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty  
22 to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required  
23 payment or reports to any tribal, state or United States governmental agency at any level,  
24 or filing false reports therewith, or of any similar offense or offenses or of bribing or  
25 otherwise unlawfully influencing a public official or employee of a tribe, any state of the  
26 United States or of any crime, whether a felony or misdemeanor, involving any Gaming  
27 Activity or physical harm to individuals or moral turpitude;

28 5. Makes misrepresentation of, or fails to disclose, a material fact to the  
29 Nation, the NNGRO, or a state gaming agency;  
30

1           6.     Fails to prove, by clear and convincing evidence, that he, she or it is  
2 qualified in accordance with the provisions of this Section;

3           7.     Is subject to current prosecution or pending charges, or a conviction which  
4 is under appeal, for any of the offenses included under Section 2052(A)(4);

5           8.     Has had a gaming license issued by any state or tribe in the United States  
6 revoked or denied, unless such revocation or denial is shown to have been made for  
7 reasons unrelated to licensure suitability;

8           9.     Has demonstrated a willful disregard for compliance with a gaming  
9 regulatory authority in any jurisdiction, including suspension, revocation, denial of  
10 application or forfeiture of license;

11          10.    Has pursued or is pursuing economic gain in an occupational manner or  
12 context which is in violation of the criminal laws of any state if such pursuit created  
13 probable cause to believe that the participation of such Person in gaming or related  
14 activities would be detrimental to the proper operation of an authorized gaming or related  
15 activity in the Nation. For the purposes of this paragraph, occupational manner or context  
16 shall be defined as the systematic planning, administration, management or execution of  
17 any activity for financial gain;

18          11.    Is a career offender or member of a career offender organization or an  
19 associate of a career offender or career offender organization in such a manner which  
20 creates probable cause to believe that the association is of such a nature as to be  
21 detrimental to the proper operation of the authorized gaming or related activities in the  
22 Nation. For the purposes of this paragraph, career offender shall be defined as any Person  
23 whose behavior is pursued in an occupational manner or context for the purposes of  
24 economic gain utilizing such methods as are deemed criminal violations of tribal law,  
25 federal law or state law. A career offender organization shall be defined as any group of  
26 Persons who operate together as career offenders;

27          12.    Is a Person whose prior activities, criminal record, if any, reputation, habits  
28 and associations pose a threat to the public interest of the Nation or a state or to the  
29 effective regulation and control of gaming, or creates or enhances the dangers of  
30

1            unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming, or  
2            the carrying on of the business and financial arrangements incidental thereto; or

3            13.    Fails to provide any information requested by the NNGRO within fourteen  
4            (14) working days of the request for the information.

5            B.    Revocation, Suspension or Denial of License.    The NNGRO shall notify an  
6            applicant or Licensee and the applicable Gaming Facility Operator in writing of its determination  
7            to revoke or suspend a License or deny an application for a License. Such a decision shall specify  
8            the reason, including the applicable grounds from subsection A of this Section, for such denial.  
9            An applicant may appeal any adverse licensing decision pursuant to Subchapter 11. No applicant  
10           or Licensee may appeal any adverse licensing decision to the Office of Navajo Labor Relations,  
11           Navajo Nation Labor Commission, any non-Nation administrative body, or any court.

12           C.    Summary Suspension of License.    The NNGRO, pursuant to the laws and  
13           regulations of the Nation, may summarily suspend any License if the continued licensing of a  
14           Person constitutes an immediate threat to the public health, safety or welfare.

15  
16           **§ 2053. Records Retention**

17           The NNGRO shall retain, for no less than three (3) years from the date a Primary  
18           Management Official or Key Employee is terminated from employment with the Nation, the  
19           following documentation:

20           A.    Applications for licensing;

21           B.    Investigative reports; and

22           C.    Eligibility determinations.

23  
24           **§ 2054. [Reserved]**

25           **§ 2055. [Reserved]**

26  
27           **Subchapter 11. Administrative Review of Adverse Licensing Decisions**

28  
29           **§ 2056. NNGRO Review**

1           A.     An applicant or Licensee may appeal an adverse licensing decision of the NNGRO  
2 by submitting by certified mail, return receipt requested, a written notice of appeal of the adverse  
3 licensing decision to the Executive Director within ten (10) calendar days after receipt of the  
4 adverse licensing decision, evidenced by certified mail receipt. The notice of appeal shall clearly  
5 state the reason(s) why the Licensee contests the adverse licensing decision.

6           B.     Upon receipt of the notice of appeal, the NNGRO shall notify the Appeals Hearing  
7 Officer to schedule a hearing to be conducted within thirty (30) calendar days of the NNGRO's  
8 receipt of the appellant's notice of appeal. Written notice of the time, date, and place of the appeal  
9 hearing shall be delivered, by certified mail, return receipt requested, to the appellant no later than  
10 fifteen (15) calendar days prior to the scheduled date of the hearing.

11          C.     The appellant, at appellant's own cost, and the NNGRO may be represented by  
12 legal counsel at the appeal hearing. The appellant and the NNGRO may present witnesses and  
13 relevant evidence and cross examine witnesses presented by the opposing side. All matters  
14 presented at the appeal hearing shall be limited to the scope of the adverse licensing decision and  
15 reasons set forth by the NNGRO for such licensing decision.

16          D.     The Appeals Hearing Officer shall issue a written decision to both parties, by  
17 certified mail, return receipt requested, no later than ten (10) working days after the date of the  
18 appeals hearing. The decision of the Appeals Hearing Officer shall be final and conclusive.

19  
20 **§ 2057. Stay Upon Request for Review**

21           The filing of a request for review with the NNGRO shall not stay the enforcement of the  
22 determination. A stay may be granted where justice so requires, and upon such terms and  
23 conditions as are just and proper. An order granting a stay shall be in writing and shall state the  
24 grounds therefore and the terms and conditions thereof.

25  
26 **§ 2058. [Reserved]**

27 **§ 2059. [Reserved]**

28  
29 **Subchapter 12. 11. ~~Gaming Facility License~~**

1 **§ 2060.-2029. Requirement of License**

2 A. The NNGRO shall issue a separate license to each place, facility or location on  
3 Indian Lands where Gaming Activity is conducted under this Ordinance.

4 B. The NNGRO is responsible for issuing new or renewed Facility Licenses to each  
5 place, facility or location.

6 C. No Person or entity may commence any Gaming Activities subject to regulation  
7 hereunder at any facility or location within the Nation until such facility or location has received  
8 a Gaming Facility License under the provisions of this Ordinance-Subchapter, nor shall any  
9 Person ~~or entity~~ offer any new or different Gaming Activities, as defined by regulations to be  
10 issued by the ~~Gaming Regulatory Office~~ NNGRO, at any facility or location that is already  
11 licensed, without first obtaining an amended license for such new and different Gaming Activities  
12 from the ~~Gaming Regulatory Office~~ NNGRO.

13  
14 **§ 2061.-2030. Standards for Issuance of License**

15 The ~~Gaming Regulatory Office~~ NNGRO shall not issue a ~~Gaming~~ Facility License for any  
16 facility or location at which Gaming Activities are to be offered within the Nation unless the  
17 Gaming Facility meets the following requirements:

18 A. The physical facility within which the Gaming Activities are to be conducted is  
19 constructed, maintained and operated in a manner that adequately protects the environment and  
20 the public health and safety;

21 B. The Gaming Activities to be conducted within the facility will lawfully be carried  
22 on by the ~~Nation~~ prospective Licensee under the ~~Act~~ IGRA, and ~~that~~ the facilities are appropriate  
23 to the carrying on of such activities;

24 C. The ~~Gaming Facility Operator~~ prospective Licensee will adequately staff and  
25 equip the facility to ensure the safety, comfort and convenience of the patrons thereof, and ~~that~~  
26 the ~~Gaming Facility Operator~~ prospective Licensee has taken adequate measures to provide for  
27 traffic, emergency service accessibility, food, drink and sanitary needs for patrons and employees,  
28 security, and law enforcement and other concerns raised by the type of Gaming Activity proposed  
29 to be undertaken in compliance with this Ordinance, the IGRA, and the Compacts Act;

1 D. The Nation or ~~Tribal Gaming Enterprise~~ NNGE has agreed to a Management  
2 Contract or has made provision for management of the facility under terms and provisions that  
3 ensure that the activities will be carried out in a manner consistent with the requirements of this  
4 Ordinance, ~~that~~ the contracting party or parties have received appropriate licenses issued under  
5 the provisions of this Ordinance, and ~~that~~ all applicable employees hold Gaming Employee  
6 Licenses issued under the provisions of this Ordinance; and

7 E. In all other relevant respects, the facility will be operated in a way that is fully  
8 consistent with the provisions of this Ordinance, and ~~that~~ its operation will further the interests of  
9 the Nation with respect to its operation of Gaming Activities.

10  
11 **§ 2062. ~~2031.~~ Application for a New or Amended Gaming Facility License Procedure;**  
12 **Inspection**

13 A. An application for a new or amended ~~Gaming Facility~~ License shall be submitted  
14 by the ~~Tribal Gaming Enterprise~~ applicable Licensee prior to the commencement of operations at  
15 the facility or the commencement of the new Gaming Activity at the facility for which an amended  
16 license is required.

17 B. The ~~Gaming Regulatory Office~~ NNGRO shall by regulations prescribe the  
18 information required to be submitted with such applications, ~~but at a minimum, such application~~  
19 ~~for licensing a new facility shall include the following:~~

20 1. ~~The name, specific position and job descriptions of all persons to be~~  
21 ~~employed as Primary Management Officials or Key Employees at the facility;~~

22 2. ~~Job descriptions for every other position in which persons will be~~  
23 ~~employed at the facility;~~

24 3. ~~A detailed description of each Gaming Activity to be engaged in at the~~  
25 ~~facility, together with expected payouts to winners.~~

26 4. ~~A description of the internal controls, plan of organization and all~~  
27 ~~coordination methods and measures for the safeguarding of assets, ensuring the accuracy~~  
28 ~~and reliability of its accounting data, promoting operational efficiency and encouraging~~  
29 ~~adherence to prescribed managerial policies;~~  
30

1           5.     ~~Detailed plans for the facility, including landscaping, traffic controls,~~  
2     ~~parking, food and drink services, and other physical aspects of the building.~~

3           6.     ~~A detailed description of how security will be maintained at the facility,~~  
4     ~~identifying the persons, agencies or entities that will provide such security;~~

5           7.     ~~A detailed description of how gaming proceeds will be accounted for an~~  
6     ~~disposed of on a daily basis;~~

7           8.     ~~A copy of any proposed Management Contract or other contractual~~  
8     ~~arrangement by which the activities at the facility are to be managed.~~

9           9.     ~~A description of provisions for dealing with fire or other potential~~  
10    ~~emergencies at the facility;~~

11          10.    ~~A detailed description of how sewage and other waste products from the~~  
12    ~~facility will be handled and disposed of; and~~

13          11.    ~~Any other information relevant to the proposed operation of the facility or~~  
14    ~~requested by the Gaming Regulatory Office as part of the application.~~

15          C.     An application for an amended license to conduct new or different Gaming  
16    Activities at a licensed location or to otherwise alter the terms or conditions of an existing license,  
17    shall, at a minimum, include the following information:

18               1.     Any change in information previously provided in the original license  
19    application or any previous application for an amended license for the facility;

20               2.     A detailed description of the changes in the facility or in the Gaming  
21    Activities to be carried on therein for which the amended license is required, together with  
22    a statement of the reasons for such change;

23               3.     If a proposed change will require any change in the existing Management  
24    Contract with respect ~~for~~ to the facility, a copy of the proposed amendment to such  
25    contract or new contract; and

26               4.     Any other information relevant to the changes or new activities requiring  
27    the amendment.

28          D.     In its decision to license any facility, or to amend any existing license to permit  
29    the conduct of new or different Gaming Activities at a licensed Gaming Facility, the ~~Gaming~~  
30    ~~Regulatory Office NNGRO~~ may specify, consistent with the provisions of the Ordinance, terms



1 or conditions it believes necessary or appropriate to ensure the health and safety of patrons and  
2 employees of any such facility, the integrity of the Gaming Activities carried on at such facility,  
3 and the security of gaming proceeds. If dissatisfied with any such condition, the applicant may  
4 request that the ~~Gaming Regulatory Office~~ NNGRO reconsider its determination. Upon such  
5 request for reconsideration, the ~~Gaming Regulatory Office~~ NNGRO shall issue a written decision  
6 within fifteen (15) calendar days of its receipt of the request for reconsideration. A decision by  
7 NNGRO with regard to a Facility License may not be appealed to any court, tribunal, or  
8 administrative body. ~~The written decision of the Gaming Regulatory Office shall constitute final~~  
9 ~~action of the Gaming Regulatory Office.~~

10 E. The NNGRO shall submit to the NIGC Chair a notice that issuance of a Facility  
11 License is under consideration by the NNGRO. This notice must be submitted at least one  
12 hundred twenty (120) calendar days before the opening of any new place, facility or location on  
13 Indian Lands where Gaming Activities will occur.

14 F. The NNGRO shall submit a copy of each newly issued or renewed Facility License  
15 to the NIGC Chair within thirty (30) calendar days of issuance, along with any other required  
16 documentation.

17  
18 **§ 2032. Fees**

19 ~~The Gaming Regulatory Office shall collect the following fees in connection with the~~  
20 ~~processing of application and the issuance of licenses:~~

21 ~~A. Gaming Facility License:~~

22 ~~1. Annual fee of thirty thousand (\$30,000).~~

23 ~~2. Application for amendment of an existing Gaming Facility license:~~  
24 ~~(\$15,000).~~

25 ~~B. The annual fee shall be payable in equal quarterly installments, the first of which~~  
26 ~~shall be payable within 15 days of receipt of notice of approval of the Gaming Facility license.~~  
27 ~~The remaining installments shall be paid on the first day of each succeeding calendar quarter.~~

28 ~~C. The Gaming Regulatory Office may be regulation prescribe such other fees as it~~  
29 ~~deems appropriate.~~

1 **§ 2063. 2033. License Terms; Renewal**

2 Except as may be required by a Compact or NNGRO regulations, each gaming-Facility  
3 License issued to the NNGE by the Gaming Regulatory Office-NNGRO shall be for a term of  
4 two (2) years. Such license may be renewed for subsequent three-year two (2) year terms upon  
5 proper application on forms specified by the Gaming Regulatory Office-NNGRO. Facility  
6 Licenses for any Gaming Facility Operator other than NNGE shall be for an appropriate term  
7 under the circumstances, to be determined by the NNGRO, provided that such term shall not  
8 exceed one (1) year.

9  
10 **§ 2064. Facility Inspection**

11 The NNGRO shall, in cooperation with the Licensee and no less than annually, cause  
12 detailed inspections to be made of each Gaming Facility licensed under the provisions of this  
13 Ordinance, to assure that such facility is being operated in accordance with the terms of the license  
14 and of the provisions of this Ordinance, the IGRA, and the Compacts.

15  
16 **§ 2065. [Reserved]**

17 **§ 2066. [Reserved]**

18  
19 **Subchapter 13. [Reserved]-Gaming Operation**

20  
21 **§ 2067. [Reserved]**

22 **§ 2068. [Reserved]**

23 **§ 2069. [Reserved]**

24  
25 **Subchapter 14. 12. Facility Inspection; Notices of Violation of License Requirements;**  
26 **Complaints; Judicial Review**

27  
28 **§ 2034. Facility Inspection**

29 The Gaming Regulatory Office shall, no less than monthly and at such other times as it  
30 believes are warranted, cause detailed inspections to be made of each Gaming Facility licensed

1 under the provisions of this Ordinance, to assure that such facility is being operated in accordance  
2 with the terms of the license and of the provisions of this Ordinance and the Act.  
3

4 **§ 2070.2035. Notice of Violation of License Requirements**

5 A. The Executive Director of the ~~Gaming Regulatory Office~~ NNGRO shall issue a  
6 notice of violation to any Person or entity who has been determined by the ~~Gaming Regulatory~~  
7 ~~Office~~ NNGRO to be in violation of any provision of this Ordinance, NNGRO regulations, or the  
8 ~~Act~~ IGRA. B. A notice of violation shall contain:

9 1. A citation to ~~the this~~ Ordinance, ~~regulation of federal law~~ regulations of  
10 the NNGRO, or the IGRA that has been or is being violated;

11 2. A description of the circumstances surrounding the violation, set forth in  
12 common and concise language;

13 3. The action that must be taken to correct the violation;

14 4. Notice of the time-frame in which the violation must be corrected; Notice  
15 that the violation must be corrected within fifteen (15) days from receipt of the notice of  
16 violation;

17 5. Notice of a civil fine or other enforcement action that will or may be  
18 imposed if the violation is not corrected;

19 6. Notice that a written response to the notice of violation must be submitted  
20 to, and received by, the ~~Gaming Regulatory Office~~ NNGRO within fifteen (15) calendar  
21 days of the receipt of the notice of violation; and

22 7. Notice that the cited violation shall be the written decision of the ~~Gaming~~  
23 ~~Regulatory Office~~ NNGRO if no written response to the notice of violation is submitted  
24 to the ~~Gaming Regulatory Office~~ NNGRO within fifteen (15) calendar days ~~the time~~  
25 ~~prescribed in Section 2035(B)(6).~~

26 B. With regard to notices of violation issued to an entity that has been granted a  
27 Facility License, such Licensee shall work diligently and immediately to resolve the NNGRO's  
28 concerns identified in the notice of violation and if such concerns are not satisfactorily and timely  
29 resolved, the NNGRO may issue to the Gaming Facility a notice of temporary closure, seize the  
30

1 Gaming Facility and all equipment, records, and Gaming Activity proceeds, and take any other  
2 actions necessary to protect the health, safety and welfare of employees, patrons, or the Nation.

3 C. With regard to notices of violation issued to a Person other than an entity that has  
4 been granted a Facility License, the NNGRO may take one or more of the following actions: In  
5 the event the violation is not corrected, or a written response to the notice of violation is not made  
6 within 15 days following receipt of the notice of violation, the Gaming Regulator Office may take  
7 one or more of the following actions:

8 1. Consistent with Section 2052, suspend or revoke the License of the Person  
9 or entity to whom the notice of violation was directed;

10 2. Assess a civil penalty in accordance with the provisions of this Ordinance;

11 3. Forcibly eject the violator from the premises of the Gaming Facility;

12 4. Seize the Gaming Facility and all equipment, records, and proceeds of  
13 Gaming Activities located within the Gaming Facility; or

14 5. Upon consultation with the Nation's Attorney General, initiate in the  
15 District Court of the Navajo Nation a civil action or criminal complaint to enforce the this  
16 Ordinance, regulations of the Gaming Regulatory Office NNGRO regulations, or the  
17 IGRA Act.

18 D. Each Person or entity to whom a notice of violation is issued shall submit a written  
19 response to the Gaming Regulatory Office NNGRO together with any additional written  
20 information the Person believes the Gaming Regulatory Office NNGRO should consider. Such  
21 response and supporting documentation must be received by the Gaming Regulatory Office  
22 NNGRO within fifteen (15) calendar days of the receipt of the notice of violation. Upon receipt  
23 of the written response, the Gaming Regulatory Office NNGRO shall issue a written decision  
24 within fifteen (15) working days. Such written decision shall constitute final action of the Gaming  
25 Regulatory Office NNGRO with respect to such notice of violation. No Person may apply to the  
26 Office of Navajo Labor Relations, Navajo Nation Labor Commission, NIGC, any non-Indian  
27 administrative body, or any court for review of a notice of violation. No action to enforce the  
28 notice of violation shall be taken by the Gaming Regulatory Office until the Gaming Regulatory  
29 Office issues its written decision; provided that, the Gaming Regulatory Office may summarily  
30 suspend any license issued under this Ordinance or take such other immediate action if the

1 continued licensing of, or conduct by, a person or entity constitutes an immediate threat to the  
2 public health, safety or welfare. The notice of violation is the final action of the Gaming  
3 Regulatory Office if no written response to the notice of violation is submitted to the Gaming  
4 Regulatory Office within the time prescribed in Section 2035(B) (6).

5 E. The Gaming Regulatory Office may employ a Hearing Officer to hear and decide  
6 matters to be heard by the Gaming Regulatory Office in accordance with the provisions of this  
7 Ordinance; provided, sufficient funds are appropriated or made available for a Hearing Office and  
8 appropriate staff.

9  
10 **§ 2071.2036. Investigation of Complaints**

11 A. The Gaming Regulatory Office NNGRO shall investigate all ~~sworn~~ complaints  
12 that are ~~filed~~ lodged with the Gaming Regulatory Office NNGRO alleging that a Licensee is  
13 acting in violation of the terms of any License, or a Gaming Facility is not being maintained in  
14 accordance with the terms of any License or does not adequately protect the health, safety and  
15 welfare of the employees or patrons.

16 B. The Gaming Regulatory Office NNGRO shall ~~give~~ provide to the Licensee written  
17 notice of ~~and provide~~ all complaints, together with a copy of the ~~sworn~~ any written complaint to  
18 ~~the licensee and a detailed description of any non-written complaint.~~ The copy provided to the  
19 Licensee may redact the name of the individual filing the complaint or other witnesses. The  
20 Licensee shall file with the Gaming Regulatory Office NNGRO a written reply to the complaint  
21 within fifteen (15) working days of receipt of the notice and complaint.

22 C. Following receipt of the Licensee's response to the complaint, the Gaming  
23 Regulatory Office NNGRO shall cause a full investigation to be made of the allegations. If the  
24 Gaming Regulatory Office NNGRO determines that a violation of ~~the this~~ Ordinance, NNGRO  
25 regulations, or the IGRA Act has occurred or is occurring, the Executive Director shall issue a  
26 notice of violation or commence license revocation or suspension procedures in accordance with  
27 this Ordinance ~~the provisions of the Chapter.~~

28  
29 **§ 2037. Judicial Review**  
30

1           A.     ~~Any person or entity who has been issued a notice of violation by the Executive~~  
2 ~~Director of the Gaming Regulatory Office and who has submitted a written response to the~~  
3 ~~Gaming Regulatory Office in compliance with the provisions of Section 2035(D) of this Chapter,~~  
4 ~~may apply to the District Court of the Navajo Nation for review of such notice of violation. Any~~  
5 ~~applicant for a license under this Ordinance, any person or entity licensed pursuant to this~~  
6 ~~Ordinance, and any patrol of a gaming operation may apply to this District Court of the Navajo~~  
7 ~~Nation for review of a final action of the Gaming Regulatory Office.~~

8           B.     ~~Any such application for court review must be made within 15 days of receipt of~~  
9 ~~notice of the final action of the Gaming Regulatory Office. The person or entity requesting judicial~~  
10 ~~review shall be the moving party and shall have the burden of proof by clear and convincing~~  
11 ~~evidence.~~

12           C.     ~~The reviewing court shall decide all relevant questions of law presented, interpret~~  
13 ~~statutory provisions, and determine the basis for the action of the Gaming Regulatory Office. The~~  
14 ~~reviewing court shall uphold the action of the Gaming Regulatory Office unless the court~~  
15 ~~determines that such action was:~~

16                 1.     ~~Arbitrary, capricious, an abuse of discretion, or otherwise not in~~  
17 ~~accordance with law;~~

18                 2.     ~~Contrary to statutory right, power, privilege, or immunity;~~

19                 3.     ~~In excess of statutory jurisdiction, authority, or limitations, or in violation~~  
20 ~~of statutory right;~~

21                 4.     ~~Without observance of procedure required by law; or~~

22                 5.     ~~Unsupported by substantial evidence.~~

23  
24 § 2072. [Reserved]

25 § 2073. [Reserved]

26  
27                                 **Subchapter 15. ~~13~~: Gaming Operations**

28  
29 § 2074. ~~2038~~. Scope of Permissible Gaming

1        All Gaming Activity, including, small bingo games and raffles, and Class I Gaming, are  
2 authorized to be conducted on the Nation's Indian Lands, if such gaming is conducted in  
3 accordance with this Ordinance, the IGRA, the applicable Compacts, and any other applicable  
4 laws and regulations. This Ordinance, however, shall not apply to Gaming Activity owned or  
5 operated by the Nation or the NNGE that occurs outside of the boundaries of the Nation's Indian  
6 Lands. The Gaming Activity permitted to be conducted in a licensed Gaming Facility are those  
7 which may lawfully be carried on by the Nation under applicable provisions of federal law  
8 including, but not limited to the Act, subject to any limitations which may be imposed by this  
9 Ordinance.

10  
11 **~~§ 2039. Hours. Days. Other Standards~~**

12        ~~A. For all activities on Indian lands located outside the State of New Mexico the~~  
13 ~~Gaming Regulatory Office may be regulation establish the permissible hours and days of~~  
14 ~~operation of Gaming Activities. The regulations may authorize a licensed Gaming Facility.~~

15        ~~B. For all activities on Indian lands located within the State of New Mexico, the~~  
16 ~~following standards shall apply:~~

17            ~~1. The Navajo Nation shall take all necessary action to impose on its gaming~~  
18 ~~operation standards and requirements equivalent to or more stringent than those contained~~  
19 ~~in the federal Fair Labor Standards Act of 1938, the federal Occupation Safety and health~~  
20 ~~Act of 1970, and any other federal laws relating to wages, hours of work and conditions~~  
21 ~~of work, and the regulations issued thereunder;~~

22            ~~2. On any construction project involving any Gaming Facility or related~~  
23 ~~structure that is funded in whole or in part by federal funds, all workers will be paid wages~~  
24 ~~meeting or exceeding the standards established for New Mexico under the federal~~  
25 ~~DavisBacon Act;~~

26            ~~3. The Navajo Nation, the gaming enterprise and a management contractor~~  
27 ~~shall not discriminate in the employment of persons to work for the gaming enterprise or~~  
28 ~~in the Gaming Facility on the grounds of race, color, national origin, gender, sexual~~  
29 ~~orientation, age or handicap. This provision shall not be deemed to prohibit the~~  
30 ~~application of the Navajo Preference in Employment Act.~~

1           4.     ~~All employees of a gaming establishment shall be provided employment~~  
2 ~~benefits, including, at a minimum, sick leave, life insurance, paid annual leave and~~  
3 ~~medical and dental insurance as well as providing unemployment insurance and workers~~  
4 ~~compensation insurance through participation in programs offering benefits at least as~~  
5 ~~favorable as those provided by comparable programs of the State of New Mexico.~~

6           5.     ~~A grievance process shall be provided for an employee in cases~~  
7 ~~disciplinary or punitive action taken against an employee that includes a process for~~  
8 ~~appeals to persons of greater authority than the immediate supervisor of the employee;~~

9           6.     ~~New Mexico State Department of Environment inspectors shall be~~  
10 ~~permitted to inspect gaming facilities§ food service operations during normal Gaming~~  
11 ~~Facility business hours to assure that standards and requirements equivalent to New~~  
12 ~~Mexico§ Food Service Sanitation Act are maintained;~~

13           7.     ~~Gaming enterprises are prohibited from cashing any paycheck or any type~~  
14 ~~of government assistance check, including Social Security, AFDC, pension and other~~  
15 ~~similar checks, for any patron.~~

16           8.     ~~Gaming enterprise are prohibited from extending credit by accepting IOUs~~  
17 ~~or markers from its patrons;~~

18           9.     ~~Odds shall be posted on each electronic and eletronmechanical gaming~~  
19 ~~device.~~

20           10.    ~~Automatic teller machines on Gaming Facility premises shall be~~  
21 ~~programmed so that the machines will not accept cards issued by New Mexico to AFDC~~  
22 ~~recipients for access to AFDC benefits.~~

23           11.    ~~Each electronic or electromechanical gaming device in use at the Gaming~~  
24 ~~Facility shall pay out a mathematically demonstrable percentage of all amounts wagered,~~  
25 ~~which must not be less than eighty percent (80%);~~

26           12.    ~~No later than ninety days after this compact takes effect, all gaming~~  
27 ~~machines on the premises of the Gaming Facility will be connected to a central~~  
28 ~~computerized reporting and auditing system on the Gaming Facility premises, which shall~~  
29 ~~collect on a continual basis the activity of each gaming machine in use at the Gaming~~  
30 ~~Facility, and that such data shall be electronically accessible to New Mexico gaming~~



1        ~~representative upon entry of appropriate security codes;~~

2            ~~13. Employees of a Gaming Facility are prohibited from selling, serving,~~  
3        ~~giving or delivering and alcoholic beverage to an intoxicated person or from procuring or~~  
4        ~~aiding in the procurement of any alcoholic beverage for an intoxicated person at the~~  
5        ~~Gaming Facility.~~

6            ~~14. Gaming Facility employees that dispense, sell, serve or deliver alcoholic~~  
7        ~~beverages shall attend alcohol server education classes similar to those classes provided~~  
8        ~~for in the New Mexico Liquor Control Act;~~

9            ~~15. Gaming Facility Operators shall purchase and maintain in liquor liability~~  
10       ~~insurance policy that will provide, at a minimum, personal injury coverage of one million~~  
11       ~~dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) aggregate per~~  
12       ~~policy year;~~

13           ~~16. Alcoholic beverages shall not be sold, served, delivered or consumed in~~  
14       ~~that part of a Gaming Facility where gaming is allowed;~~

15           ~~17. The Tribal Gaming Enterprise shall spend an amount that is no less than~~  
16       ~~on quarter of one percent (25%) of its net win as that term is defined herein annually to~~  
17       ~~fund or support programs for the treatment and assistance of compulsive gambling;~~

18           ~~18. Governing any management contract regarding its Class III Gaming~~  
19       ~~Activity such that it conforms to the requirements of tribal law and the IGRA and the~~  
20       ~~regulations issued thereunder;~~

21           ~~19. The operation of any class III Gaming shall be prohibited for at least four~~  
22       ~~consecutive hours daily, Monday through Thursdays (except federal holidays);~~

23           ~~20. Gaming Facility Operators and the Navajo Nation shall not provide, allow,~~  
24       ~~contract to provide or arrange to provide alcoholic beverages, food or lodging for no~~  
25       ~~charge or at reduced prices at a Gaming Facility or lodging facility as an incentive or~~  
26       ~~enticement for patrons to game; and~~

27           ~~21. The Navajo Nation, the Navajo Gaming Regulatory Office or a~~  
28       ~~management contractor shall be prohibited from contributing directly, or through an agent,~~  
29       ~~representative or employee, revenue for a gaming enterprise owned by the Navajo Nation,~~  
30       ~~or anything of value acquired with that revenue, to a candidate, political committee or~~

1 person holding an office elected or to be elected at an election covered by New Mexico's  
2 Campaign Reporting Act.

3  
4 **§ 2075. State Gaming Compact**

5 For all Class III Gaming Operations conducted by the NNGE, the NNGRO shall by  
6 regulations establish the requirements and conduct of Class III Gaming Operations in accordance  
7 with the applicable Compact(s).

8  
9 **§ 2076. 2040. Employee and Player Age Limit**

10 No Person under twenty-one (21) years of age shall be permitted to place any wager,  
11 directly or indirectly, in any Class III Gaming Activity. ~~No person under 18 years of age shall be~~  
12 ~~employed by a Gaming Facility Operator or by the Gaming Regulatory Office. Neither a Gaming~~  
13 ~~Facility Operator nor NNGRO shall employ any Person under the minimum age set forth in the~~  
14 ~~IGRA and the applicable Compact(s).~~ The Gaming Regulatory Office NNGRO shall by  
15 regulation establish measures by which Licensees shall enforce the provisions of this Section.

16  
17 **§ 2041. Management Security**

18 A. ~~The Gaming Facility Operator shall have the responsibility for the on-site~~  
19 ~~operation, management and security of the Gaming Facility, and shall comply with all~~  
20 ~~requirements of this Ordinance and the Act. The Gaming Facility Operator shall adopt reasonable~~  
21 ~~procedures, consistent with this Ordinance and the Act, designed to provide for the following: the~~  
22 ~~physical safety of this employees; the physical safety of patrons in the Gaming Facility; the~~  
23 ~~physical safeguarding of assets transported to and from the Gaming Facility and cashier's cage~~  
24 ~~department; and the protection of the patrons§ and the gaming operation's property from illegal~~  
25 ~~activity.~~

26 B. ~~The Gaming Facility Operator shall designate an agent for service of any official~~  
27 ~~determination, order or notice of the Commission.~~

28  
29 **§ 2042. Internal Controls**

30 A. ~~The Gaming Regulatory Office shall by regulation establish and the Gaming~~

1 Facility Operators shall implement minimum standards of internal controls to be in place at each  
2 licensed Gaming Facility, which shall include systems of accounting and administrative controls.  
3 Internal controls include the plan of organization and all of the coordinate methods and measures  
4 adopted within a gaming operation to safeguard its assets, check the accuracy and reliability of  
5 its accounting data, promote operational efficiency and encourage adherence to prescribed  
6 managerial policies.

7 B. The system of accounting controls shall provide a plan of organization and a  
8 description of procedures and records that will permit reasonable assurance that the following  
9 objectives will be maintained:

- 10 1. Safeguarding of assets;
- 11 2. Reliability of financial records;
- 12 3. Execution of transaction in accordance with management's general or  
13 specific authorization;
- 14 4. Recording of transactions as necessary to permit recording of gaming  
15 revenue and to maintain accountability for assets;
- 16 5. Access to assets only in accordance with management's authorization; and
- 17 6. Comparison of records of assets with existing assets at reasonable intervals  
18 with provision for appropriate action with respect to any differences.

19 C. The system of administrative controls shall include a complete plan of  
20 organization that will provide appropriate segregation of functional responsibilities and sound  
21 practices to be followed in the performance of those duties by competent and qualified personnel.  
22 The plan of organization shall be diagrammatic and narrative describing the interrelationship of  
23 functions and the division of responsibilities upon which the system of internal control relative to  
24 gaming operations is based.

25 D. Upon written application to the Gaming Regulatory Office, the licensee may  
26 request any material change in the internal control system it determines appropriate. The Gaming  
27 Regulatory Office shall notify the licensee in writing that such application is accepted or rejected,  
28 within thirty days of receiving such application. The written decision of the Gaming Regulatory  
29 Office shall constitute final action of the Gaming Regulatory Office.

30 E. The system of accounting controls shall include a detailed system for counting

1 cash receipts at least daily, and shall be appropriate to the types of Gaming Activities carried on  
2 at the facility and the physical characteristics of the system utilized for collecting cash.

3 F. ~~The Gaming Regulatory Office shall require that all bank accounts maintained by~~  
4 ~~the operators of the Gaming Facility shall be identified by bank and account number and that all~~  
5 ~~signatories to such accounts be identified by name.~~

6  
7 **§ 2077. Internet Gaming**

8 Internet gaming under this Ordinance shall be permitted to the extent that all bets or  
9 wagers are placed, received or otherwise made exclusively within the Nation's Indian Lands, or  
10 between the Indian Lands of two or more Indian tribes, provided that any Class III Gaming over  
11 the internet shall be subject to the applicable Compact(s). NNGRO shall promulgate regulations  
12 that include:

13 A. Age and location verification requirements reasonably designed to block access to  
14 Persons under twenty-one (21) years of age and Persons located out of the applicable Indian  
15 Lands, and

16 B. Appropriate data security standards to prevent unauthorized access by any Person  
17 whose age and current location has not been verified in accordance with this Ordinance.

18  
19 **§ 2078. 2043. Annual Independent Audit**

20 A. ~~Each licensed Gaming Facility Operator shall provide at its own expense an~~  
21 ~~audited—financial statement for each of its licensed Gaming facility Facilities to the Gaming~~  
22 ~~Regulatory Office—NNGRO at least annually, on a date to be established by the Gaming~~  
23 ~~Regulatory Office—NNGRO, and at such other times as the Gaming Regulatory Office—NNGRO~~  
24 ~~may require.~~

25 B. The audit shall be conducted by an independent certified public accountant  
26 licensed in a state, who shall submit an audit report expressing an unqualified or qualified opinion  
27 or if appropriate, disclaim an opinion on the statement taken as a whole in accordance with  
28 generally accepted auditing principles of the accounting profession. The examination and audit  
29 shall disclose whether the accounts, records, and internal controls and accounting procedures  
30 maintained by the licensed Gaming Facility are in compliance with this Ordinance and the IGRA

1 Aet. To facilitate the completion of such audits, each ~~licensed~~ Gaming Facility Operator shall  
2 make and maintain complete, accurate and legible records of all transactions pertaining to any  
3 Gaming Activities and any other revenue producing activities conducted by the Licensee at or in  
4 conjunction with any licensed Gaming Facility. Such records as well as all original entry  
5 transaction records shall be maintained for at least five (5) years from the date on which they are  
6 made, and during the pendency of any litigation arising thereunder. Annual audits shall conform  
7 to generally accepted auditing principles. Such records shall be maintained on the licensed  
8 premises or at a location approved by the ~~Gaming Regulatory Office-NNGRO~~.

9 C. To the extent required by the IGRA, all gaming-related contracts that result in the  
10 purchase of supplies, services or concessions for more than twenty-five thousand dollars  
11 (\$25,000) in any year (except contracts for professional legal and accounting services) shall be  
12 specifically included within the scope of the audit.

13 D. ~~C.~~—Each ~~licensed~~ Gaming Facility Operator shall maintain general accounting  
14 records on a double entry system of accounting with detailed, supporting subsidiary records  
15 sufficient to furnish the information required for the standard financial reports to adequately  
16 reflect gross income and expenses related to gaming and subsidiary operations.

17 E. ~~D.~~—The ~~Gaming Regulatory Office-NNGRO~~ shall from time to time prescribe a  
18 uniform chart of accounts and accounting classifications in order to assure consistent and effective  
19 disclosure of financial information.

20 F. ~~E.~~—The ~~Gaming Regulatory Office-NNGRO~~, when it deems necessary, may  
21 request additional information from either the Licensee or its independent accountant through the  
22 Licensee, regarding either the financial statements, the audit or both. The Licensee shall provide  
23 to the ~~Gaming Regulatory Office-NNGRO~~ copies of all letters from the independent accountant  
24 to the Licensee regarding internal control matters within thirty (30) calendar days after receipt by  
25 the Licensee.

26 G. ~~F.~~—The ~~Gaming Regulatory Office~~ shall ~~provide copies of all annual audits of~~  
27 ~~Gaming Activities and licensees to the Commission as required under the Act, within the time~~  
28 ~~requirements established by the Commission, and shall cooperate with the Commission with~~  
29 ~~respect to any additional information required.~~ The NNGRO shall provide copies of all annual  
30 audits of each Gaming Operation and each audit for supplies, services, concessions for each

1 Gaming Operation to the NIGC within one hundred and twenty (120) calendar days after the end  
2 of each fiscal year of the Gaming Operation.

3 H. Navajo Nation Office of the Controller shall provide to NNGRO a report from an  
4 independent certified public accountant that examines audited proceeds received pursuant to any  
5 pooling or transfer agreement entered into by the Nation in accordance with the Compact between  
6 the Nation and State of Arizona. The NNGRO shall submit an agreed upon procedures report  
7 relating to all pooling and transfer agreements to the Arizona Department of Gaming in  
8 accordance with the applicable Compact requirements.

9  
10 **§ 2079.2044. Public Disclosure of Payouts**

11 A schedule of payout information as to all Gaming Activities carried on within a licensed  
12 Gaming Facility shall be displayed at all times within the facility at a location clearly visible to  
13 patrons, and shall be updated regularly.

14  
15 **§ 2080. Patron Disputes**

16 Unless otherwise required under the express terms of a Compact, the following procedure  
17 shall apply with respect to patron complaints against a Gaming Facility:

18 A. With respect to the payout of gaming prizes or amounts and promotional prizes  
19 and activities:

20 1. Any such patron complaint must be submitted to the NNGRO, by certified  
21 mail, return receipt requested, within thirty (30) calendar days of the incident giving rise  
22 to the complaint. All claims by a patron shall be limited to a patron's entitlement to a  
23 game prize or promotion, which shall be limited to the amount of such prize or promotion.

24 2. If the dispute involves less than five hundred dollars (\$500), the following  
25 procedures must be followed:

26 a. The Gaming Facility Operator will attempt to initially resolve any  
27 such complaints, which must be in writing, against the Gaming Facility lodged by  
28 a patron.

29 b. If the Gaming Facility Operator cannot resolve any such complaint,  
30 the complaining patron shall have as their sole remedy the right to request in

1 writing, by certified mail, return receipt requested, that the NNGRO conduct an  
2 investigation.

3 c. Within thirty (30) calendar days of such written request, the  
4 NNGRO shall inform the patron and the Gaming Facility Operator of its final  
5 determination in writing, by certified mail, return receipt requested, which shall  
6 not be appealable in any event to any court or administrative body.

7 3. If the dispute involves five hundred dollars (\$500) or more, the following  
8 procedures must be followed:

9 a. The Gaming Facility Operator will notify the NNGRO of the  
10 dispute and attempt to initially resolve all such complaints, which must be in  
11 writing, against the Gaming Facility lodged by a patron.

12 b. If the Gaming Facility Operator cannot resolve any such complaint,  
13 the complaining patron shall have as their sole remedy the right to request in  
14 writing, by certified mail, return receipt requested, that the NNGRO conduct an  
15 investigation.

16 c. Within thirty (30) calendar days of such written request, the  
17 NNGRO shall inform the patron and the Gaming Facility Operator of its  
18 determination in writing, by certified mail, return receipt requested, regarding the  
19 patron's request.

20 d. If the patron objects to the determination of the NNGRO, the patron  
21 may appeal the determination of the NNGRO by sending to the Executive  
22 Director, by certified mail, return receipt requested, a written notice of appeal  
23 within thirty (30) calendar days of the date the patron received the NNGRO's  
24 written determination. The notice of appeal shall clearly state the reason(s) why  
25 the patron contests the determination.

26 e. Upon receipt of the notice of appeal, the NNGRO shall notify the  
27 Appeals Hearing Officer to schedule a hearing to be conducted within thirty (30)  
28 calendar days of the NNGRO's receipt of the patron's notice of appeal. Written  
29 notice of the time, date, and place of the hearing shall be delivered, by certified  
30

1 mail, return receipt requested, to the patron no later than fifteen (15) calendar days  
2 prior to the scheduled date of the hearing.

3 f. The patron, at the patron's own expense, and the NNGRO may be  
4 represented by legal counsel at the appeal hearing. The patron and the NNGRO  
5 may present witnesses and relevant evidence and cross examine witnesses  
6 presented by the opposing side. All matters presented at the appeal hearing shall  
7 be limited to the scope of the NNGRO's determination and reasons set forth by  
8 the NNGRO for such determination.

9 g. The Appeals Hearing Officer shall issue a written decision to both  
10 parties, by certified mail, return receipt requested, no later than ten (10) working  
11 days after the date of the appeal hearing. The decision of the Appeals Hearing  
12 Officer shall be final and conclusive.

13 h. The patron may, within sixty (60) calendar days of receipt of the  
14 Appeals Hearing Officer's written decision, appeal the decision to the Navajo  
15 Nation Supreme Court in accordance with the Navajo Nation Rules of Civil  
16 Appellate Procedure. The Court shall review the decision of the Appeals Hearing  
17 Officer on the administrative record only. The decision shall not be subject to de  
18 novo review on appeal. The Court may substitute its judgment on those questions  
19 of law within its special competence but shall otherwise uphold the decision of the  
20 hearing officer where reasonable.

21 B. With respect to tort claims arising from personal injury or property damage alleged  
22 to have been suffered by a patron, all such claims may only be brought pursuant to the Navajo  
23 Sovereign Immunity Act, 1 N.N.C. § 551 et seq., and provided that, if the alleged tort claim arose  
24 from activity in a Gaming Facility in a State in which the NNGE operates Gaming Activity  
25 pursuant to a Compact, then the claim shall be made and adjudicated consistent with the  
26 applicable Compact.

27  
28 **§ 2045. Patron Disputes**  
29  
30



1           A.     ~~Refusal to Pay Winnings. Whenever the Gaming Facility Operator refuses~~  
2 ~~payment of alleged winnings to a patron, and the Gaming Facility Operator and the patron are~~  
3 ~~unable to resolve the dispute to the satisfaction of the patron and if the dispute involves:~~

4                 1.     ~~At least five hundred dollars (\$500), the Gaming Facility Operator shall~~  
5 ~~notify the Gaming Regulatory Office as soon as possible; or~~

6                 2.     ~~Less than five hundred dollars (\$500), the Gaming Facility Operator shall~~  
7 ~~inform the patron of his or her right to request that the Gaming Regulatory Office conduct~~  
8 ~~an investigation. The Gaming Regulatory Office shall conduct whatever investigation it~~  
9 ~~deems necessary and shall determine whether payment should be made.~~

10           B.     ~~Notice to Patrons. The Gaming Regulatory Office shall mail written notice by~~  
11 ~~certified mail, return receipt requested, to the Gaming Facility Operator and the patron of its~~  
12 ~~decision resolving the dispute within 30 days after the date that the Gaming Regulatory Office~~  
13 ~~first receives notification from the Gaming Facility Operator or a request to conduct an~~  
14 ~~investigation from the patron.~~

15           C.     ~~Effective Date of Decision. The decision of the Gaming Regulatory Office is~~  
16 ~~effective on the date it is received by the aggrieved party as reflected on the return receipt.~~

17           D.     ~~Review of Decision. Within 30 days after the date of receipt of the written~~  
18 ~~decision, the aggrieved party may file a petition with the Gaming Regulatory Office requesting a~~  
19 ~~review of the decision. The Gaming Regulatory Office may set a hearing on the matter or may~~  
20 ~~make a decision based solely upon the prior decision and other documentation provided to it by~~  
21 ~~the patrol and the Gaming Facility Operator. The Gaming Regulatory Office shall then issue a~~  
22 ~~written decision and mail it to the parties pursuant to the procedures set forth in Section 2045 (B).~~  
23 ~~The written decision of the Gaming Regulatory Office shall be the final decision of the Gaming~~  
24 ~~Regulatory Office.~~

25  
26 **~~§ 2046. Play by Employees~~**

27 ~~No Primary Management Official, Key Employee, member or staff of the board of directors of a~~  
28 ~~Tribal Gaming Enterprise, management contractor, employee of a Gaming Facility, and no~~  
29 ~~employee of the Gaming Regulatory Office shall play or be permitted to play either in person or~~  
30

1 through an agent in any Gaming Activity carried on in any Gaming Facility licensed by the  
2 Gaming Regulatory Office pursuant to this Ordinance.

3  
4 **§ 2081. 2047. Small Bingo Games and Raffles**

5 Any Person ~~non-profit organization~~, upon proper application to the NNGRO Gaming  
6 Regulatory Office, any may conduct or operate a small bingo game or raffle within the territorial  
7 jurisdiction of the Nation, in accordance with the regulatory provisions of the IGRA (including  
8 25 C.F.R. § 542.6) Indian Gaming Regulatory Act and the regulations issued by the NNGRO  
9 Gaming Regulatory Office specifying the manner in which such games may be conducted.

10  
11 **§ 2048. Processing of Contracts**

12 The Department of Justice shall review the recommendation of the Gaming Regulatory  
13 Office and, if in compliance with applicable law and regulation, approve the terms of any and all  
14 proposed contracts between the Nation or a Tribal Gaming Enterprise and any person or entity  
15 which provide for the management or operation of any Gaming Facility within the Nation, the  
16 provision of any and all games services, as well as the terms of any lease of land which is the site  
17 or proposed site of such Gaming Facility.

18  
19 **§ 2082. [Reserved]**

20 **§ 2083. [Reserved]**

21 **§ 2084. [Reserved]**

22  
23 **Subchapter 16. 14. Violations of this Ordinance and Remedies**

24  
25 **§ 2085. 2049. Violations of this Ordinance**

26 It shall be a violation of this Ordinance for any Person to:

27 A. Conduct or operate any Gaming Activities within the Nation except as provided  
28 in this Ordinance;

1 B. Receive, distribute, apply or direct any property, funds, proceeds or other asset of  
2 any Gaming Activity to the benefit of any individual or other Person except as authorized by this  
3 Ordinance or by any duly enacted resolution of the Navajo Nation Council;

4 C. Tamper with any equipment used in the conduct of Gaming Activities with the  
5 intent to cause any Person to win or lose any wager other than in accordance with the publicly  
6 announced rules of such Gaming Activities;

7 D. Do any other act in connection with the conduct of any Gaming Activities with the  
8 intent to affect the outcome of any wager other than in accordance with the publicly announced  
9 rules of such Gaming Activities;

10 E. Participate as a player in any Gaming Activities if such Person is prohibited under  
11 ~~Section 2046~~ this Ordinance from participating in such Gaming Activities; or

12 F. Participate as a player in any Gaming Activities while such Person is listed as a  
13 Person barred from the Nation's Gaming Facilities as provided in Section ~~2008-2011~~ (G).

14  
15 **§ 2086. 2050. Civil Penalties**

16 Any Person who violates any provision of this Ordinance or the ~~Act~~ IGRA shall be subject  
17 to civil penalties, including exclusion from employment by any Gaming Facility Operator,  
18 exclusion from attendance at any Gaming Facility, exclusion from the Nation if the Person is a  
19 nonmember of the Nation, or a civil fine of not more than ten-thousand dollars (\$10,000) for each  
20 such violation.

21  
22 **§ 2087. 2051. Civil Remedies**

23 The ~~Gaming Regulatory Office~~ NNGRO may, in the name of the Nation, bring a civil  
24 action in the courts of the Nation to enforce the provisions of this Ordinance or the IGRA ~~Act~~ or  
25 to enjoin or otherwise prevent any violation of this Ordinance or the IGRA ~~Act~~ occurring within  
26 the territorial jurisdiction of the Nation.

27  
28 **§ 2088. [Reserved]**

29 **§ 2089. [Reserved]**  
30

1                   **Subchapter 17. ~~15.~~—Amendments; Compliance with Applicable Laws, etc.**

2  
3                   **§ ~~2090.~~2052. Amendments**

4                   This Ordinance may be amended by the Navajo Nation Council upon recommendations  
5 from the Resources and Development Committee, NNGRO, and NNGE, and shall take effect  
6 immediately upon its approval by the Chair of the NIGC.

7  
8                   **§ ~~2091.~~2053. Compliance with the IGRA Act**

9                   All Gaming Activities conducted pursuant to this Ordinance shall comply with the terms  
10 and conditions of the IGRA Act.

11  
12                   **§ ~~2092.~~2054. Severability**

13                   If any Section, provision, or portion of this Ordinance is adjudged to be invalid by a court  
14 of competent jurisdiction, the remainder of this Ordinance will remain valid.

15  
16                   **§ ~~2093.~~2055. Non-liability**

17                   The Nation declares that there is no liability on the part of the Nation, its agencies, agents,  
18 or employees for any damages which may occur as a result of reliance upon or conformity with  
19 the requirements of this Ordinance. The Nation by adoption of this Ordinance does not waive its  
20 sovereign immunity in any respect.

21  
22                   **§ ~~2094.~~2056. Navajo Preference**

23                   Preference in employment and contracting by the NNGE and at each licensed ~~gambling~~  
24 ~~establishments—Gaming Facility~~ shall be in compliance with the Navajo Preference in  
25 Employment Act, 15 N.N.C. § 601 *et seq.*, and the Navajo Nation Business Opportunity Act, 5  
26 N.N.C. § 201 *et seq.*

27  
28                   **§ 2095. Compliance with Federal Law and Compacts**

29                   A. The Nation shall comply with all applicable federal laws, including the Bank  
30 Secrecy Act, 31 U.S.C. § 5311 *et seq.*, and all reporting requirements of the Department of

1 Treasury, the Internal Revenue Service, the Financial Crimes Enforcement Network, and any  
2 other related divisions thereof, as applicable.

3 B. This Ordinance shall be construed to the extent possible to be consistent with the  
4 applicable Compact(s).

5 C. To the extent this Ordinance is inconsistent with federal law or a Compact, federal  
6 law or the respective Compact shall supersede.

7 D. Neither the NNGE nor the Nation, in connection with Class III Gaming Activity,  
8 will cash any paycheck or any type of government assistance check issued pursuant to a State or  
9 federal program to provide for needy families or individuals, including federal Social Security,  
10 Temporary Assistance for Needy Families, pension, other similar checks, and other non-cash  
11 items, for any patron.

12 E. Automatic teller machines on Gaming Facility premises where Class III Gaming  
13 Activity is conducted shall be programmed so the machines do not accept electronic benefit  
14 transfer cards issued pursuant to a State or federal program intended to provide for needy families  
15 or individuals, including, but not limited to, cards issued by the State to Temporary Assistance  
16 for Needy Families recipients for access to Temporary Assistance for Needy Families benefits.

17 F. To the extent prohibited by the 2003 Navajo Nation and State of Arizona Compact,  
18 as may be amended or modified from time to time, the following provisions apply to Class III  
19 Gaming Activity in the State of Arizona, in accordance with the Compact:

20 1. Automatic teller machines may not be located adjacent to, or in close  
21 proximity to, any Gaming Device; and

22 2. Neither the NNGE nor the Nation, in connection with gaming, will extend  
23 credit to any patron.

24 G. To the extent required or prohibited, as applicable, by the 2015 Indian Gaming  
25 Compact between the State of New Mexico and the Nation, as may be amended or modified from  
26 time to time, the following provisions apply to Class III Gaming Activity in the State of New  
27 Mexico, and capitalized terms in this Section 2095(G) not defined in this Ordinance have the  
28 meanings given to them in such Compact:

29 1. On any construction project involving any Gaming Facility or related  
30 structure that is funded in whole or in part by federal funds, all workers will be paid wages

1 meeting or exceeding the standards established for New Mexico under the federal Davis-  
2 Bacon Act;

3 2. The NNGE shall permit inspectors from the Indian Health Service, a  
4 federal agency within the Department of Health and Human Services, to inspect the  
5 Gaming Facility's food service operations during normal Gaming Facility business hours  
6 to assure that standards and requirements equivalent to the New Mexico Food Service  
7 Sanitation Act [NMSA 1978, § 25-1-1 1977, as amended through 2014] are maintained,  
8 and if such inspections have occurred, the NNGE, through the NNGRO, shall provide  
9 documentation of the inspection to the State Gaming Representative with the Compliance  
10 Report (as such terms are defined in the applicable Compact), provided that if the Indian  
11 Health Service does not conduct such inspections, the State Department of Environment  
12 shall be permitted to conduct such inspections;

13 3. Neither the NNGE nor the Nation, in connection with gaming, will extend  
14 credit by accepting IOUs or markers from its patrons; except that short-term credit may  
15 be extended to certain qualified patrons with sufficient demonstrated available cash  
16 balances to cover the amount of the credit extended (not less than ten thousand dollars  
17 (\$10,000) to be repaid within thirty (30) calendar days); provided that the extension of  
18 such credit shall comply with all applicable federal law and all provisions of the applicable  
19 Compact appendix related to credit (including reporting requirements to the State of New  
20 Mexico) and a copy of the regulations referenced in the appendix shall be provided by the  
21 NNGRO for review and comment prior to implementation;

22 4. Each electronic or electromechanical gaming device in use at a Gaming  
23 Facility must pay out a mathematically demonstrable percentage of all amounts wagered,  
24 which must not be less than eighty percent (80%); and the NNGE will prominently post  
25 in visible locations within the Gaming Facility notices stating that the NNGE is in  
26 compliance with this requirement, and providing a comprehensible explanation of the  
27 meaning of this requirement;

28 5. All Class III Gaming Machines on the premises of a Gaming Facility will  
29 be connected to a central computerized monitoring and control system on the Gaming  
30 Facility premises, which shall collect on a continual basis the unaltered activity of each

1 Gaming Machine in use at the Gaming Facility, and that the wager and payout data of  
2 each machine, electronically captured by the Gaming Enterprise's central computer, may  
3 be accessed and downloaded electronically by the State Gaming Representative by a  
4 dedicated telecommunications connection, on a "read-only" basis, upon entry of  
5 appropriate security codes; but provided that in no event shall the State Gaming  
6 Representative be able to alter or affect the operation of any Gaming Machine or other  
7 device on the premises of the Gaming Facility, or the data provided to the central  
8 computer, and provided further that the system for electronic access to the machine wager  
9 and payout data collected by the NNGE's central computer shall be constructed and  
10 installed at the State's cost, and shall be designed in conjunction with NNGE technical  
11 staff so as to preserve the integrity of the system and the data contained therein, to  
12 minimize any possibility of unauthorized access to the system or tampering with the data,  
13 and to minimize any access by the State Gaming Representative to information other than  
14 machine wager and payout data residing in the central monitoring and control system;

15 6. NNGE employees will not sell, serve, give or deliver an alcoholic beverage  
16 to an intoxicated Person or procure or aid in the procurement of any alcoholic beverage  
17 for an intoxicated Person at a Gaming Facility;

18 7. NNGE employees that dispense, sell, serve or deliver alcoholic beverages  
19 will attend Alcohol Server Education Classes similar to those classes provided for in the  
20 New Mexico Liquor Control Act;

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

24 9. Alcoholic beverages will not be sold, served, delivered, or consumed in  
25 that part of a Gaming Facility where gaming is allowed;

26 10. The NNGE will spend, annually, an amount that is no less than one-quarter  
27 of one percent (.25%) of its Adjusted Net Win as that term is defined in the applicable  
28 Compact, to fund or support programs that the Nation will select for the treatment and  
29 assistance of compulsive gamblers in New Mexico or who patronize New Mexico gaming  
30 facilities, and for the prevention of compulsive gambling in New Mexico; a substantial

1 portion of such funds shall be distributed to an organization that has expertise in and  
2 provides counseling, intervention or other services for compulsive gamblers in New  
3 Mexico, and whose services are available to all Persons without regard to race or tribal  
4 membership; and the NNGE will submit a report accounting for the use of these funds as  
5 set forth in an appendix to the Compact, and this report and any other information existing  
6 as a result of this paragraph, not including information that may identify or contain  
7 information referring to any gaming patron, will be made available for inspection and  
8 publication without restriction or limitation;

9 11. Any Management Contract regarding Class III Gaming Activity will  
10 conform to the requirements of this Ordinance and the IGRA;

11 12. Neither the NNGE nor the Nation will provide, allow, contract to provide  
12 or arrange to provide alcoholic beverages for no charge or at reduced prices within a  
13 Gaming Facility;

14 13. Neither the NNGE nor the Nation will provide, allow, contract to provide  
15 or arrange to provide food or lodging for no charge or at reduced prices, at a Gaming  
16 Facility or lodging facility as an incentive or enticement for patrons to game  
17 ("Complimentaries"), except that (i) this provision shall not apply to rewards received by  
18 patrons in exchange for points or credits accrued under any form of a players' club  
19 program; and (ii) the NNGE may provide discretionary Complimentaries provided that  
20 the cumulative market value of all discretionary Complimentaries, on an annual basis,  
21 does not exceed three percent (3%) of the Tribe's annual Adjusted Net Win for the same  
22 year, which amounts are subject to quarterly reports to the State of New Mexico in  
23 accordance with Compact requirements;

24 14. The NNGRO's adoption of minimum internal control standards and  
25 policies and procedures set forth in the Compact appendix shall comply with all applicable  
26 federal law and provisions of the appendix related to Complimentaries (including the State  
27 reporting requirements), and NNGRO shall provide a copy of the regulations referenced  
28 in the appendix to the State of New Mexico for review and comment prior to  
29 implementation.



1       **§ 2096.2057. Prior Inconsistent Law**

2               All prior laws inconsistent with this Ordinance are, hereby expressly repealed to the extent  
3 of their inconsistency.

4 \_\_\_\_\_  
5       **Section Four. Effective Date**

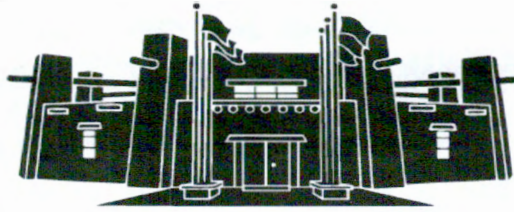
6       This Ordinance shall take effect in accordance with 2 N.N.C. § 221, and immediately upon  
7 subsequent approval by the NIGC Chair as set forth in 25 C.F.R. § 522.

8  
9       **Section Five. Codification**

10       The provisions of this Act which amend sections of the Navajo Nation Code shall be codified by  
11 the Office of Legislative Counsel.


12  
13       **Section Six. Savings Clause**

14       Should any provisions of this Act be determined invalid by the Navajo Nation Supreme Court, or  
15 the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, or  
16 any other court of competent jurisdiction, those portions of this Act which are not determined  
17 invalid shall remain the law of the Navajo Nation.



**MEMORANDUM**

**TO:** Honorable Alton Joe Shepherd  
Navajo Nation Council

**FROM:**   
Edward A. McCool, Principal Attorney  
Office of Legislative Counsel

**DATE:** September 24, 2018

**SUBJECT:** AN ACT RELATING TO LAW AND ORDER, RESOURCES AND DEVELOPMENT, NAABIK'IYÁTI' COMMITTEES; ADOPTING "THE NAVAJO GAMING ORDINANCE AMENDMENT ACT OF 2018" AMENDING 5 N.N.C. § 2001 *ET SEQ.*, NAVAJO GAMING ORDINANCE

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§500, 501. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.

**THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW SUMMARY**

**LEGISLATION NO.: 0313-18**

**SPONSOR: Honorable Alton Joe Shepherd**

**TITLE: An Action Relating to Law And Order, Resources And Development, NAABIK'IYATI' Committees; Adopting "The Navajo Gaming Ordinance Amendment Act Of 2018" Amending 5 N.N.C. § 2001 ET SEQ., Navajo Gaming Ordinance**

**Posted: September 25, 2018 at 3:43 PM**

**5 DAY Comment Period Ended: September 30, 2018**

**Digital Comments received:**

<b>Comments Supporting</b>	<i>None</i>
<b>Comments Opposing</b>	<i>None</i>
<b>Inconclusive Comments</b>	<i>None</i>

  
\_\_\_\_\_  
**Legislative Secretary II  
Office of Legislative Services**

10/1/2018 8:11am  
**Date/Time**

**LAW AND ORDER COMMITTEE  
23<sup>rd</sup> NAVAJO NATION COUNCIL**

**FOURTH YEAR 2018**

**COMMITTEE REPORT**

Mr. Speaker,

The **LAW AND ORDER COMMITTEE** to who has been assigned:

**Legislation 0313-18:** An Action Relating to Law and Order, Resources and Development, Naabik'iyati' Committee; and the Navajo Nation Council: Adopting "The Navajo Gaming Ordinance Amendment Act of 2018" Amending 5 N.N.C. § 2001 *ET SEQ.*, Navajo Gaming Ordinance. *Sponsor: Honorable Alton Joe Shepherd, Co-Sponsor: Honorable Otto Tso.*

Has had it under consideration and reports a **DO PASS** with no amendments.

And thereafter referred the legislation to **Resources and Development Committee**.

Respectfully submitted,



Herman Daniels, Jr., Pro Tempore Chairperson  
Law and Order Committee  
The 23<sup>rd</sup> Navajo Nation Council

Date: October 2, 2018 – Special Meeting

Meeting Location: LOC Conference Room, Window Rock, Arizona

**MAIN MOTION:** Otto Tso S: Kee Allen Begay, Jr. V: 2-0-1 (PTCNV)

**YEAS:** Otto Tso and Kee Allen Begay, Jr.

**NOT VOTING:** Herman Daniels, Jr.

**EXCUSED:** Edmund Yazzie and Raymond Smith, Jr.

**LAW AND ORDER COMMITTEE**

**Special Meeting**

**October 2, 2018**

**ROLL CALL**

**VOTE TALLY SHEET:**

**Legislation 0313-18:** An Action Relating to Law and Order, Resources and Development, Naabik'iyati' Committee; and the Navajo Nation Council: Adopting "The Navajo Gaming Ordinance Amendment Act of 2018" Amending 5 N.N.C. § 2001 *ET SEQ.*, Navajo Gaming Ordinance. *Sponsor: Honorable Alton Joe Shepherd, Co-Sponsor: Honorable Otto Tso.*

**MAIN MOTION:** Otto Tso     S: Kee Allen Begay, Jr.     V: 2-0-1 (PTCNV)

**YEAS:** Otto Tso and Kee Allen Begay, Jr.

**NAYS:** Kee Allen Begay, Jr.

**NOT VOTING:** Herman Daniels, Jr.

**EXCUSED:** Edmund Yazzie and Raymond Smith, Jr.



Herman Daniels, Jr., Pro Tempore Chairperson  
Law and Order Committee



Laureen Spencer, Legislative Advisor  
Law and Order Committee

**RESOURCES AND DEVELOPMENT COMMITTEE  
23rd NAVAJO NATION COUNCIL**

**FOURTH YEAR 2018**

**COMMITTEE REPORT**

Mr. Speaker,

The **RESOURCES AND DEVELOPMENT COMMITTEE** to whom has been assigned:

**Legislation # 0313-18:** An Action Relating to Law and Order, Resources and Development Committee and Naabik'Iyati Committee; Adopting "The Navajo Gaming Ordinance Amendment Act of 2018" Amending 5 N.N.C. Section 2001 Et Seq., Navajo Gaming Ordinance. *Sponsor: Honorable Alton Joe Shepherd, Co-Sponsor: Honorable Otto Tso*

Has had it under consideration and reports a **DO PASS** with no amendment;

And thereafter the matter was referred to Naabik'Iyati Committee.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Ben Bennett', with a long horizontal stroke extending to the right.

Benjamin Bennett Vice-Chairperson  
Resource and Development Committee of  
the 23<sup>rd</sup> Navajo Nation Council

Date: October 3, 2018 - Regular Meeting

Meeting Location: Navajo Nation Council Chambers, Window Rock, Arizona

**MAIN MOTION:** Davis Filfred S: Jonathan Perry V: 3-0-1 (VCNV)

YEAS: Davis Filfred, Jonathan Perry and Leonard Pete

NAYS: None

EXCUSED: Alton Joe Shepherd and Walter Phelps

**RESOURCES AND DEVELOPMENT COMMITTEE**  
**Regular Meeting**

**October 3, 2018**

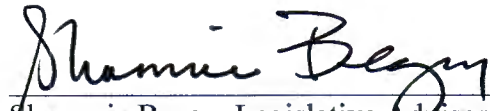
**ROLL CALL**  
**VOTE TALLY SHEET:**

**Legislation # 0313-18:** An Action Relating to Law and Order, Resources and Development Committee and Naabik'Iyati Committee; Adopting "The Navajo Gaming Ordinance Amendment Act of 2018" Amending 5 N.N.C. Section 2001 Et Seq., Navajo Gaming Ordinance. *Sponsor: Honorable Alton Joe Shepherd, Co-Sponsor: Honorable Otto Tso*

Main Motion: Davis Filfred      Second: Jonathan Perry      Vote: 3-0-1 (VCNV)  
YEAS: Davis Filfred, Leonard Pete, and Jonathan Perry  
NAYS:  
EXCUSED: Alton Joe Shepherd and Walter Phelps



Benjamin Bennett, Vice-Chairperson  
Resources and Development Committee



Shammie Begay, Legislative Advisor  
Resources and Development Committee

# **23<sup>rd</sup> NAVAJO NATION COUNCIL NAABIK'ÍYÁTI' COMMITTEE REPORT Fourth Year 2018**

The **NAABIK'ÍYÁTI' COMMITTEE** to whom has been assigned:

## **NAVAJO LEGISLATIVE BILL #0313-18**

An Act Relating to Law and Order, Resources and Development, Naabik'íyáti' Committees; Adopting "The Navajo Gaming Ordinance Amendment Act of 2018" Amending 5 N.N.C. § 2001 *ET. SEQ.*, Navajo Gaming Ordinance

*Sponsored by: Honorable Alton Joe Shepherd*

*Co-Sponsored by: Honorable Otto Tso*

Has had it under consideration and reports the same **PASSED AND REFERRED TO THE NAVAJO NATION COUNCIL**

Respectfully Submitted,



*Honorable LoRenzo C. Bates, Chairman  
NAABIK'ÍYÁTI' COMMITTEE*

**11 OCTOBER 2018**

### **MAIN MOTION:**

*Motioned by: Honorable Davis Filfred*

*Seconded by: Honorable Leonard H. Pete*

*Vote: 12 in Favor, 03 Opposed (Chairman Bates Not Voting)*



# NAVAJO NATION

RCS# 1058

10/11/2018

Naa'bik'iyati Committee

04:03:47 PM

Amd# to Amd#	Legislation 0313-18: The Navajo	PASSED
MOT Filfred	Gaming Ordinance Amendment Act	
SEC Pete	of 2018; Amending 5 NNC S 201	

**Yea : 12**

**Nay : 3**

**Excused : 0**

**Not Voting : 8**

## Yea : 12

Bennett	Daniels	Perry	Smith
Brown	Filfred	Pete	Tso
Chee	Jack	Phelps	Witherspoon

## Nay : 3

Tsosie	Crotty	Damon
--------	--------	-------

## Excused : 0

## Not Voting : 8

Bates	Begay, NM	Hale	Slim
Begay, K	BeGaye, N	Shepherd	Yazzie