June 8, 2009

VIA MAIL & FACSIMILE : 575-759-3242

Levi Pesata, President
Jicarilla Apache Nation
P.O.Box 507
Dulce, New Mexico 87528-0507

RE: The Jicarilla Apache Nation Gaming Ordinance Amendment April 3, 2009

Dear President Pesata:

This letter responds to your request to the National Indian Gaming Commission (NIGC) for the review and approval of an amended Jicarilla Nation Gaming Ordinance that was received May 4, 2009.

The original Jicarilla Apache Nation Gaming Ordinance was approved on April 11, 1994. This comprehensive amendment was adopted by the Legislative Council of the Jicarilla Apache Nation by Ordinance No. 2009-0-226-04. This letter constitutes approval of this amended gaming ordinance pursuant to the Indian Gaming Regulatory Act (IGRA).

It is important to note that the gaming ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Jicarilla Apache Nation exercises jurisdiction. Furthermore, this approval does not constitute approval of specific games.

Thank you for submitting this amendment to the Jicarilla Apache Nation Gaming Ordinance and for working with our staff to assure that this version is comprehensive and in full conformity with IGRA. Should you have any questions or concerns, please contact Toni Cowan, the staff attorney assigned to this matter, at 202-632-7039.

Sincerely,

Philip N. Hogen
Chairman

THE JICARILLA APACHE NATION

P.O. BOX 507 • DULCE, NEW MEXICO • 87528-0507

MAY - 4 2009

Ordinance of the Legislative Council

Re: GAMING REGULATION
(Amending Ordinance [Chapter] No. Title 22 Chapter 2 Gaming Regulation)

Ordinance No. 2009-O-226-04

WHEREAS, the Jicarilla Apache Nation ("Nation") is a federally recognized Indian Tribe organized under the Indian Reorganization Act of June 18, 1934 (25 U.S.C.§ 476); **And**

WHEREAS, the Jicarilla Apache Legislative Council is authorized by Article XI, Section 1 of the Revised Constitution of the Nation to enact ordinances to promote the peace, safety and general welfare of the Nation; **And**

WHEREAS, the Nation enacted the Jicarilla Apache Gaming Ordinance on March 24, 1994, which was approved by the National Indian Gaming Commission on April 11, 1994, and which is codified at Title 22, Chapter 2 of the Jicarilla Apache Tribe Code, in order to authorize and regulate gaming on the Nation's lands; **And**

WHEREAS, the Legislative Council has determined that it is in the best interests of the Nation to amend the Gaming Ordinance at this time; **And**

WHEREAS, the Legislative Council has determined that this Gaming Ordinance as amended shall repeal and replace any and all existing Nation Resolution(s) addressing or pertaining to the Nation's gaming activities or revenues generated therefrom.

NOW, THEREFORE, BE IT ORDAINED, by the Legislative Council of the Jicarilla Apache Tribe that the Jicarilla Apache Gaming Ordinance, Title 22, Chapter 2, of the Jicarilla Apache Tribe Code, is hereby amended to read as follows:

TITLE 22, CHAPTER 2
GAMING REGULATION

The Legislative Council of the Jicarilla Apache Nation, a federally recognized Indian tribe ("Nation"), hereby enacts this Ordinance pursuant to its authority under Article XI, Section 1 of the Revised Constitution of the Jicarilla Apache Nation, which shall be codified as Title 22, Chapter 2 of the Jicarilla Apache Nation Code.

Section 1. Purpose.

The purpose of this Chapter is to make lawful and to regulate the operation, conduct, and playing of games of chance on Jicarilla Apache lands, to produce revenue to fund governmental operations and programs of the Nation, to promote the health, education and welfare of the Nation and its members, to promote economic development of the Nation, and to fund other lawful activities of the Nation in conformity with the Indian Gaming Regulatory Act, 25 U.S.C. §2710 et. Seq. ("IGRA"). This Chapter shall apply to all gaming activity on Jicarilla Apache lands.

Section 2. Definitions.

Unless specified otherwise, terms used herein shall have the same meaning as in IGRA. Further, for the purposes of this Chapter:

a. **"Chairperson"** means the Chair of the Jicarilla Apache Gaming Regulatory Commission established by this Chapter

b. **"Class II gaming"** means class II gaming as defined by IGRA and regulations of the National Indian Gaming Commission ("NIGC").

c. **"Class III gaming"** means class III gaming as defined by IGRA and regulations of the NIGC.

d. **"Compact"** means any Tribal-State Gaming Compact, including amendments thereto, between the Nation and the State of New Mexico that is in effect governing class III gaming on Jicarilla Apache lands.

e. **"Gaming activity"** means any class II gaming and/or class III gaming as defined in this Chapter.

f. **"Gaming device"** means any mechanical, electromechanical, electronic, or video machine or device that, for consideration, allows a player a play a game of chance. "Gaming device" includes any such machine or device whether the game played is a class II or a class III game, and also includes "Gaming Machines" as defined in the Compact.

g. **"Gaming facility"** means any building, room or structure in which any gaming activity is conducted, including any fills and credits and any area where any currency or coin related to or generated from any gaming activity is stored or counted. "Gaming facility" does not include any non-gaming area, such as a restaurant, gift shop, parking lot or hotel, regardless of whether such non-gaming area is within the exterior walls of any building, room or structure in which any gaming activity is conducted.

h. **"Gaming operation"** means a business entity owned by the Nation for the conduct of any gaming activity in any gaming facility on the Jicarilla Apache lands.

i. **"Gaming-related services"** means any goods, services or concessions provided or used in connection with gaming activities, whether exclusively or otherwise, including but not limited to, equipment, gaming devices and components thereof, equipment ancillary to gaming devices, implements of gaming activities such as playing cards and dice, furniture designed primarily for use with gaming activities, surveillance or security equipment, and consulting services. "Gaming-related services" does not include professional legal or accounting services.

j. **"Gaming Vendor"** means any person providing gaming-related services to the gaming operation, management contractor, or the gaming facility, as determined by the JAGRC.

k. **"Jicarilla Apache Gaming Regulatory Commission" or "JAGRC"** means the Jicarilla Apache Gaming Regulatory Commission established by this Chapter.

l. **"Jicarilla Apache lands"** means all lands within the exterior boundaries of the Jicarilla Apache Reservation and any lands title to which is either held in trust by the United States for the benefit of the Nation or held by the Nation subject to restriction by the United States against alienation and over which the Nation exercises governmental power.

m. **"Key employee"** means:

1. Any person who performs one or more of the following functions:

   A. Approver of Credit;
   B. Assistant Comptroller;
   C. Assistant General Manager;
   D. Assistant Slot Manager;
   E. Assistant Vault Manager;
   F. Bar Manager;
   G. Bingo Caller;
   H. Bingo Manager;
   I. Cage Manager;
   J. Casino Manager;
   K. Comptroller;
   L. Counting Room Supervisor;
   M. Croupier;
   N. Custodian of gaming supplies or cash;
   O. Custodian of gaming devices, including persons with access to cash and accounting records within such devices
   P. Dealer;
   Q. Floor Manager;

R. General Manager;
S. JAGRC Commissioner;
T. Personnel Manager;
U. Pit Boss;
V. Security Manager/Chief of Security
W. Security Officer;
X. Slot Manager;
Y. Vault Manager;
Z. Any employee of the JAGRC; and

AA. Any employee with access to "sensitive area", which at the discretion of the JACRC shall include the surveillance room, cage, vault, and any location in which money is counted or stored.

2. Any other person whose total cash compensation exceeds $50,000.00 per year; or

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

n. **"Legislative Council"** means the Legislative Council of the Jicarilla Apache Nation, the governing body of the Jicarilla Apache Nation, duly elected in accordance with the Constitution of the Jicarilla Apache Nation.

o. **"Nation"** means the Jicarilla Apache Nation, its authorized officials, agents and representatives.

p. **"Net revenues"** means gross gaming revenues of a gaming operation less amounts paid out as, or paid for, prizes, and total gaming-related operating expenses, excluding management fees paid to any management contractor. Operating expenses include but are not limited to annual fees paid to the NIGC, utilities costs, insurance costs, maintenance costs, costs of supplies, security services costs, janitorial services costs, trash removal costs, taxes, rent, travel costs related to the gaming operation, lawyers' and accountants' fees, fees paid to independent auditors, and such other deductions or charges as may be specifically authorized by this Chapter. "Net revenues" as used in this Chapter are not the same as "Net Win" for purposes of the Compact.

q. **"NIGC"** means the National Indian Gaming Commission established under the IRGRA.

r. **"Non-gaming vendor"** means any person providing any goods or services (other than gaming-related services) to the gaming operation, management contractor, or the gaming facility, but excluding any professional legal or accounting services.

s. **"Person"** means any natural person or entity, including but not limited to any partnership, corporation, trust or other legal entity.

t. **"Police Department"** means the Jicarilla Apache Nation Police Department.

u. **"President"** means the President of the Jicarilla Apache Nation.

v. **"Primary management official"** means:

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

2. Any person who has the authority:

   A. To hire and fire employees;

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

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

w. **"State"** means the State of New Mexico, its authorized officials, agents and representatives.

x. **"Trial Court"** means the trial court of the Nation established by Article XXIII of the Revised Constitution of the Nation.

Section 3. Nature and Scope of Gaming Activities.

a. Authorized Gaming Activities. Class II gaming and Class III gaming are hereby authorized on Jicarilla Apache lands, provided that the conduct of such gaming is in conformity with this Chapter. Further, only those forms of gaming authorized within the applicable license issued by the JAGRC may be operated within a gaming facility.

b. Ownership of Gaming Activity. The Nation shall have the sole proprietary interest in and responsibility for the conduct of any class II or class III gaming activity on Jicarilla Apache lands authorized by this Chapter; provided that (1) nothing herein shall prevent the Nation from entering into a management contract for the operation and management of any gaming activity, and (2) nothing herein shall prevent the JAGRC from authorizing by regulation individually owned class II for charitable purposes by entities other than the Nation, to the extent permitted and in accordance with IGRA and any applicable NIGC regulations.

c. Wagering Limitations. The JAGRC shall be regulation approve the maximum wager for each class and form of gaming conducted in accordance with this Chapter. A gaming operation may set maximum wagers in its gaming facility at a level less than the maximum wager approved by the JAGRC.

d. Hours of Operation. The JAGRC shall by regulation approve the hours and days during which gaming activities can be conducted within each gaming facility.

e. Limited English-Only Policy. It is the Nation's finding that an English-only policy is necessary in certain "sensitive areas" of its gaming facilities to permit supervisory and surveillance staff to fully perform their job responsibilities. These responsibilities include the prevention of collusion and theft, and thus the protection of Nation assets. To this end, the JAGRC shall have the discretion to enact a regulation limiting the use by an employee of any language other than English in any "sensitive area" of a gaming facility. Such policy shall be narrowly tailored to meet these needs and shall contain the following provisions:

1, "Sensitive area" shall be defined to include the surveillance room, cage, vault, and any location in which money is counted or stored:

2. No language other than English may be spoken in any sensitive area; and

3. All employees must be informed of this policy, as well as the consequences of its violation.

f. Prohibition on Minors.

1. Participating in Gaming. No person under the age of eighteen (18) shall participate in any Class II gaming and no person under the age of twenty one (21) shall participate in any Class III gaming.

2. Employment. No person under the age of twenty one (21) shall be employed in one of the following types of positions: a position that is directly connected with the conduct of Class III gaming; a position that handles the proceeds of Class III gaming; or a position that handles any "Gaming Machine" as defined in the Compact. Nothing herein shall prohibit the employment of a person under the age of twenty-one (21) in one of the following types of positions: bartender, cocktail server or other position engaged solely in preparing or serving foods or beverages; secretarial or janitorial personnel; stage, sound and light technicians; and other nongaming personnel.

Section 4. Use of Net Revenues and Accounting Controls.

a. Use of Net Revenues. Net revenues (as defined in this Chapter) from any Class II or Class III gaming, or any individually owned gaming, shall be used exclusively for the following purposes:

1. To fund government operations or programs of the Nation;

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

3. To promote economic development of the Nation;

4. To donate to charitable organizations identified by the Council; or

5. To help fund operations of local governmental agencies.

b. Separate Accounting for Gaming Revenue. In order to assure compliance with any applicable restrictions on the use of gaming revenue under federal law or the Compact, the Nation shall create accounts for its gaming revenues that are separate from those which are used for purposes that may not be funded from gaming revenues.

c. Annual Audit. All gaming operations shall be subject to an annual audit by independent certified public accountants selected by the gaming operator and approved by the JAGRC. The JAGCR shall supervise the conduct of the audit. Copies of the annual audit shall be submitted to the JAGRC, and sent to the Legislative Council and the NIGC within 120 days after the end of each fiscal year of the gaming operation. All gaming related contracts that result in purchases of supplies, services, or concessions for more than $25,000 in any year (except contracts for professional legal or accounting services) shall be specifically included within the scope of the annual audit. Nothing in this section shall be construed to limit the authority of the Legislative Council to require other or additional audits of a gaming operation.

Section 5. Protection of the Environment and the Public Health and Safety.

a. Standard. All gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety, and that complies with all applicable health, safety and environmental standards imposed by federal or tribal law or by any applicable tribal, federal or tribal/state agreements or compacts. Each gaming facility shall meet the stricter of the foregoing applicable requirements.

b. Certificate of Compliance. Before any gaming activity is conducted in any gaming facility, the gaming operation or management contractor shall obtain a certificate of compliance from the JAGRC. The JAGRC shall issue such a certificate of compliance upon a determination – in consultation with other relevant agencies of the Nation – that the gaming facility complies with applicable health and safety standards.

Section 6. Jicarilla Apache Gaming Regulatory Commission.

a. Establishment of the Jicarilla Apache Gaming Regulatory Commission: Appointment; Term. The Legislative Council hereby establishes an independent regulatory Commission to be known as the Jicarilla Apache Gaming Regulatory Commission ("JAGRC"), members of which shall be appointed by the President with the approval of the Legislative Council. Commissioners shall be key employees and shall serve for a term of three (3) years commencing on the date of their appointment. Terms shall be staggered so that no more than two terms expire in the same year. Commissioners may serve more than one term and may serve past the expiration of any term until replaced or removed.

1. Existing Commissioners. Notwithstanding anything in this Section 6 to the contrary, with regard to the Commissioners who were in office as of the date on

which this Chapter is approved by the Legislative Council, the following terms shall be assigned: 1) the Chair shall be assigned an initial term of three years; 2) the Vice Chair shall be assigned an initial term of two years; and 3) the Secretary/Treasurer shall be assigned an initial term of one year. Thereafter, all Commissioner shall serve a three year term as provided for in this Chapter.

b. Independence of the JAGRC. In order to maintain independence and ensure the highest level of integrity, the Legislative Council shall not interfere with JAGRC business or compromise the JAGRC's ability to perform its duties and responsibilities as provided for in this Chapter. The decisions of the JAGCR regarding licensing, suitability and compliance with applicable law shall be within the exclusive control of the JAGRC has exceeded its authority under this Chapter.

c. Composition of the JAGRC. The JAGRC shall be comprised of five (5) Commissioners, a majority of whom shall be members of the Nation. A Commissioner may not be an elected official of the Nation, or be an employee of or have a financial interest in any gaming facility or gaming operation of the Nation, while serving as a Commissioner.

d. Officers of the JGRC. The President shall appoint one member of the JAGRC to serve as Chairperson. The Commissioners shall select a Vice-Chair and a Secretary/Treasurer from among the membership of the JAGRC.

1. Chairperson. The Chairperson shall preside over any meetings called and shall be the official representative to the New Mexico Indian Gaming Commissioner's Association. The Chairperson shall be responsible for monitoring JAGRC staff and occurrences within any gaming facility and reporting the same to the other members of the JAGRC. The Chairperson shall exercise any and all other duties of the JAGRC as assigned by the Legislative Council, consistent with this Chapter. The Chairperson position shall be a full-time position.

2. Vice-Chair. The Vice Chair shall assume the role of the Chairperson in the Chairperson's absence. The Vice-Chair shall be responsible for all other duties as assigned by the Chairperson. The Vice-Chair position shall be a part-time position.

3. Secretary/Treasurer. The Secretary/Treasurer shall be the official custodian of all files and records of the JAGRC and shall be responsible for recording, either in writing or electronic medium, the minutes of all JAGRC meetings. The Secretary/Treasurer shall also serve as the Treasurer of the JAGRC and shall be responsible for ensuring that JAGRC funds are disbursed in accordance with the budget. The Secretary/Treasurer shall also be responsible for all other duties as assigned by the Chairperson. The Secretary/Treasurer position shall be a part-time position.

e. Qualifications of JAGRC Commissioners. Commissioners must possess a minimum of one (1) year gaming management and/or regulatory experience, or one (1) year of comparable business experience. Commissioners must be of high moral character and must meet or exceed the standards set for key employees as established by this Chapter. As key employees,

Commissioners shall be required to pass a background investigation, which shall include a review of financial, criminal, and employment history, and must hold a valid gaming license consistent therewith. Before submitting a proposed Commissioner to the Legislative Council for approval, the President shall cause a background investigation to be conducted to determine whether the person is eligible to serve on the JAGRC consistent with this Chapter.

f. Compensation of the JAGRC. The compensation of members of the JAGRC shall be established by resolution of the Legislative Council. Additionally, Commissioners shall be reimbursed for all reasonable expenses incurred in connection with the performance of their duties as Commissioners.

g. Meeting of JAGRC. The JAGRC shall meet at least once every week at such time and place as it deems appropriate, and shall discuss and vote on all pending matters. Unless any Commissioner objects, any meeting may be held by teleconference or by polling.

1. Regular Meetings. Regular meetings of the JAGRC may be held upon specified dates to be established by the JAGRC, and at such time and place as it deems appropriate. Unless otherwise specified by the JAGRC, no notice of such regular meetings shall be necessary.

2. Special Meetings. Special meetings of the JAGRC may be called by the Chairperson. The Chairperson shall fix the time and place of the special meeting. The Chairperson shall give written notice of all special meetings to all Commissioners when practicable, but nothing shall prevent the Chairperson from calling a special meeting upon verbal notice to each Commissioner at least four hours before the meeting is scheduled to begin. Neither the business to be transacted at, nor the purpose of, any special meeting of the JAGRC needs to be specified in the meeting notice.

3. Quorum. Three Commissioners shall constitute a quorum for the purpose of conducting business at any meeting of the JAGRC. All official actions of the JAGRC shall be taken by majority vote of the Commissioners present at a meeting at which a quorum is present. The Chairperson may vote on any issue.

4. Minutes. The Secretary/Treasurer shall be responsible for recording, either in writing or electronic medium, the minutes of all JAGRC meetings. The JAGRC shall ensure that accurate minutes of all meetings are kept and that the minutes are approved by the JAGRC. As the official custodian of all files and records of the JAGRC, the Secretary/Treasurer shall maintain official copies of all approved minutes.

h. Vacancies.

1. Death, disability or resignation. In the event any Commissioner dies, becomes disabled, or resigns before the expiration of his or her term, or for any other reason a Commissioner position becomes vacant, the President shall appoint and the Legislative Council shall confirm a successor to serve out the balance of that

Commissioner's term. In the case of resignation, a Commissioner must provide at least thirty (30) days notice before such resignation may take effect. Furthermore, a Commissioner who has resigned may not engage in any gaming activities in any gaming facility of the Nation for a period of one (1) year after such resignation takes effect.

2. Removal. The Legislative Council may only, by a majority vote, remove a member of the JAGRC from office before the expiration of his or her term for neglect of duty, malfeasance or other good cause shown. Any member of the JAGRC so removed shall be subject to any policy of the Nation regarding removal and the ramifications thereof.

i. Powers, Duties and Authority of the JAGRC. The JAGRC shall have the power, duty, and primary responsibility of executing and enforcing the Nation's regulatory responsibilities and ensuring the compliance of all gaming activities on Jicarilla Apache land with all applicable laws, including the requirements of this Chapter and the Compact. The JAGRC shall also have the power, duty and primary responsibility for ensuring the integrity and reputation of the Nation and its gaming activities and shall be accountable directly to the Legislative Council or its designees for the proper performance of these duties. The JAGRC shall also be responsible for safeguarding the Nation's assets transported to, within, and from any gaming facility. The JAGRC shall accomplish these goals through formal actions under provisions including the following.

1. Reports to the Legislative Council. The JAGRC shall report to the Legislative Council at least quarterly concerning the status of the regulation of gaming activities on Jicarilla Apache land.

2. On-Site Gaming Regulation. The JAGRC shall have the power, duty, and primary responsibility of conducting on-site gaming regulation and control, including the inspection, testing, auditing and examination of all gaming activities on Jicarilla Apache land. The JAGRC shall have unrestricted access to all areas of a gaming facility at all times, including the authority to demand access to and inspect, examine, photocopy and audit all papers, books and records relating to any gaming activity, gaming facility or gaming operation, regardless of their location, in an effort to protect against any illegal activity.

3. Investigations. The JAGRC shall have the power, duty and primary responsibility to investigate any aspect of a gaming activity, gaming facility, or gaming operation in order to protect the integrity of the Nation's gaming activities and the public's interest therein, as well as to prevent any improper or unlawful conduct in the course thereof, to protect the Nation's assets, and to ensure compliance with this Chapter. In particular, the JAGRC shall investigate any suspicion of wrongdoing in connection with any gaming activity, gaming facility, or gaming operation, and shall investigate all credible information suggesting a violation of this Chapter.

4. Safety of Personnel and Patrons. The JAGRC shall work with the gaming operation to ensure the physical safety of personnel employed in any gaming

facility or by any gaming operation. The JAGRC shall also work with the gaming operation to ensure the physical safety or any patron in any gaming facility, and shall also provide for the protection of the property of the patrons.

5. Safeguarding of Assets. The JAGRC shall have the power, duty, and primary responsibility of providing for the physical safeguarding of assets transported within and to from any gaming facility.

6. Gaming Licenses. The JAGRC shall issue, deny, renew, suspend and/or revoke all licenses in accordance with this Chapter.

7. Background Investigations. The JAGRC shall conduct or cause to be conducted background investigations as required by this Chapter, or as may be, in the discretion of the JAGRC, reasonably necessary to carry-out its duties and responsibilities under this Chapter.

8. Surveillance. The JAGRC shall be responsible for providing surveillance coverage of the gaming facility. At its discretion, the JAGRC shall determine who should provide surveillance coverage of all other areas. The JAGRC shall adopt regulations establishing minimum standards for surveillance equipment and procedures that shall govern in all instances.

9. Review of Plans. The JAGRC shall review and approve floor plans and surveillance systems for each gaming facility and may confer with other organizations regarding the adequacy of such plans and systems.

10. Health and Safety Standards. The JAGRC shall enforce the health and safety standards applicable to the gaming facilities under this Chapter and any other applicable laws.

11. Hearings. The JAGRC is empowered to conduct any hearing, investigation, or inquiry, compel the appearance of any person or the production of any information or documents, and otherwise exercise the investigatory powers necessary to carry out its duties and responsibilities under this Chapter. The JAGRC may at its discretion designate a hearing official or one or more members of the JAGRC to conduct such a hearing on its behalf.

A. Subpoena. The JAGRC may issue a subpoena to any person within the jurisdiction of the Nation compelling such person to appear before it and provide testimony and/or to produce for inspection any information, documents, or other materials.

B. Oath of Affirmation. The JAGRC shall have the power, duty, and primary responsibility of administering oaths or affirmations to witnesses appearing before the JAGRC.

C. Emergency Orders. The JAGRC may issue emergency orders having immediate effect without a prior hearing whenever the JAGRC determines such order is necessary to protect the public interest, the integrity of gaming activities on Jicarilla Apache lands, or the Nation's resources. The JAGRC shall provide notice and an opportunity to be heard to the affected person as soon as is reasonably practicable following issuance of an emergency order.

12. Civil and Criminal Actions. The JAGRC may in the name of the Nation bring any civil action in any court of competent jurisdiction to enforce the provisions of this Chapter, IGRA, any Compact or other applicable law, or to enjoin or otherwise prevent any violation of this Chapter, IGRA, any Compact or other applicable law, occurring on Jicarilla Apache lands. The JAGRC may also refer suspected criminal violations of this Charter, IGRA, or other applicable law to the appropriate governmental authority for investigation and prosecution as prescribed by the Compact.

13. Rulemaking Efforts. The JAGRC is authorized to adopt regulations and/or policies and procedures as it deems necessary or helpful in order to carry-out its duties and responsibilities under this Chapter.

14. Document Execution. The JAGRC shall have the power, in accordance with other applicable laws of the Nation, to execute contracts, agreements, etc., reasonably necessary to carry-out the requirements of this Chapter.

15. Other Appropriate Duties. The JAGRC shall carry-out such other duties as assigned by the Legislative Council regardless of whether such duties relate to the regulation of gaming. Such assignment shall be made by formal action of the Legislative Council

j. Commission Staff. The JAGRC shall be staffed by an appropriate number of individuals in positions that, at the discretion of the JAGRC, may be either full-time or part-time positions. JAGRC employees shall report only to the JAGRC; any attempt to circumvent this chain of command shall be ground for disciplinary action. All JAGRC employees shall be key employees.

1. Staff Director. The administrative head of the JAGRC staff shall be the Staff Director. The Staff shall be a permanent, full-time employee of the JAGRC, and as with all other JAGRC employees, the Staff Director shall be governed by the JAGRC's Personnel Policies and Procedures. The JAGRC shall advertise and screen candidates for Staff Director, submitting recommendations to the President. The President, upon recommendation of the JAGRC Commissioners, shall select the Staff Director. The Staff Director shall report to and work under the direction of the JAGRC Commissioners, and shall keep them fully informed of all gaming and/or other relevant activities. The Staff Director shall also be responsible for coordinating interactions between that JAGRC and other tribal, federal, state, and local agencies as necessary.

2. Compliance Inspectors. To ensure the integrity of all gaming activities and to carry out its duties under this Chapter, the JAGRC shall employ Compliance Inspectors who shall be under the sole supervision of the JAGRC and not under the supervision of any management contractor or gaming operation. The Compliance Inspectors shall have unrestricted access to all areas of the gaming facilities at all times. The Director of Compliance Inspectors shall report to the Commissioners and the Staff Director regarding both routine activities and any failure or suspected failure by the gaming operation or any management contractor to comply with any of the provisions of this Chapter or any other applicable laws.

k. Budget of the JAGRC. The JAGRC shall prepare an annual operating budget which shall be subject to the approval of the Legislative Council. The Legislative Council shall act in good faith to approve the budget and no unjust pressure shall be placed on the JAGRC through the budgeting process. Such budget shall be sufficient for the JAGRC to satisfy its duties and responsibilities under this Chapter, including the ability to employ a staff as prescribed by this Chapter, and retain legal counsel, consultants and other professional services, including investigative services, to assist the JAGRC with respect to any of the issues over which the JAGRC exercises jurisdiction.

l. Patron Disputes. The JAGRC shall adopt regulations establishing procedures for the resolution of disputes between a gaming operation and a patron in the event the dispute cannot be resolved by the gaming operation. Notice of such procedures shall be posted in a conspicuous location within the gaming facility at all times gaming activities are conducted. Where a patron alleges that either bodily injury or property damage was caused by the conduct of the gaming operation, such regulations shall satisfy the specific requirements of the Compact. Where a patron alleges something other than bodily injury or property damage caused by the conduct of the gaming operation, such regulations shall include the degree of due process specified in Section 11(c) of this Chapter.

m. Rulemaking Efforts. The JAGRC is authorized to adopt regulations and/or policies and procedures as it deems necessary or helpful in order to carry-out its duties and responsibilities under this Chapter.

1. Regulations. The JAGRC shall adopt regulations governing the regulation, operation and/or management of all gaming activities, including those specified below, and to ensure compliance with this Chapter and any other applicable law. Regulations promulgated by the JAGRC shall be effective upon approval of the Legislative Council.

A. Class III Gaming. The JAGRC shall adopt regulations establishing standards of operation and management for class III gaming that are consistent with industry standards and are adequate to protect the integrity of the gaming activity. The standards for conducting class III gaming shall include all regulations required by the Compact. If no Compact is in effect and Compact negotiations fail or become unnecessary under IGRA, the standards for conducting class III gaming shall include all requirements that, in the discretion of

the JAGRC, are required for the gaming activity to be in full compliance with applicable law.

B. Class II Gaming. The JAGRC shall adopt regulations establishing standards of operation and management for class II gaming that are consistent with industry standards and are adequate to protect the integrity of the gaming activity. The standards for conducting class II gaming shall include all requirements that, in the discretion of the JAGRC, are required for the gaming activity to be in full compliance with applicable law.

C. Charitable Fundraising. The JAGRC shall adopt regulations establishing standards of operation and management for gaming activity conducted to raise funds for charitable organizations, provided that all such gaming activity shall be limited to class II gaming.

D. Standards for Games. The JAGRC shall adopt regulations establishing technical standards and rules for each game operated pursuant to this Chapter.

E. Public Safety. The JAGRC shall adopt regulations to ensure that all gaming operations or management contractors shall prepare and submit for review and approval of the JAGRC a satisfactory plan for the protection of the safety and health of the public in gaming facilities.

F. Patron Disputes. The JAGRC shall adopt regulations establishing procedures for the resolution of disputes between a gaming operation and a patron in the event the dispute cannot be resolved by the gaming operation.

G. Exclusion Policy. The JAGRC shall adopt regulations concerning an exclusion policy that includes a right to a hearing and requires maintenance of a list of all persons barred from the gaming facility, including those barred by a self-ban.

2. Policies and Procedures. The JAGRC may adopt such other policies and procedures as it deems necessary or convenient to govern its affairs and which are consistent with this Chapter. Policies and procedures promulgated by the JAGRC shall be effective upon approval of the JAGRC.

Section 7. Gaming Licenses – General.

a. Persons Required to be Licensed. All gaming licenses must be issued by the JAGRC before a person can engage in the activity requiring such license, or before a gaming facility may be used for any gaming activity, or before a gaming device may be used therein. Each of the following persons shall be required to have and display prominently, or display upon request, an appropriate, valid, and current Jicarilla Apache Gaming License issued pursuant to the provisions of this Chapter:

1. Gaming Facilities:

2. Primary Management Officials, Key Employees and All Other Employees;

3. Gaming Vendors;

4. Non-Gaming Vendors;

5. Gaming Devices; and

6. Charitable Class II Gaming.

b. Persons not Eligible to be Licensed.

1. General Requirements. The JAGRC may not issue a license to any person who, based on reliable information, the JAGRC determines in its sole discretion:

A. Has provided materially false or misleading statements to the JAGRC and/or the NIGC, or has omitted material information from his or her application, or has refused to respond to all requests b the JAGRC and/or the NIGC for information concerning the applicant's background and activities;

B. Has been convicted of (either by plea or by verdict) or has entered a plea of nolo contendre to any felony, any gaming offense, or any misdemeanor involving theft or conversion of property, where such conviction or plea, in the sole discretion of the JAGRC, jeopardizes the integrity of the Nation's gaming activities;

C. Is a person whose prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming, any management contract or gaming operation, or the carrying on of the business and financial arrangements incidental thereto; or

D. Has attempted to interfere or to influence, and/or has interfered and/or influenced, unduly for gain or advantage, any decision or process of the JAGRC or the government of the Nation relating to gaming. Undue influence means the use of bribery, blackmail, intimidation, threats of violence, or other improper means to influence governmental actions of the Nation. Nothing in this section shall be interpreted as preventing a person from expressing their opinions to and consulting with members of the Nation's government, or from responding to inquiries or requests from the JAGRC or the Legislative Council.

2. Primary Management Officials, Key Employees and JAGRC Commissioners.

The JAGRC may not issue a license to any primary management official or key employee who, based on reliable information, the JAGRC determines in its sole discretion:

A. Is not eligible to hold a license in accordance with subsection (b)(1) above;

B. Has any direct financial interest in, or management responsibility for, any gaming related contract with the Nation or any gaming activity;

C. Has any direct financial interest in, or management responsibility for, any management contract with the Nation;

D. Is a key employee of any gaming vendor, including but not limited to slot machine suppliers and table game suppliers;

E. Has been convicted of (either by plea or by verdict) any misdemeanor involving dishonesty, violence or moral turpitude (which shall not include driving under the influence of alcohol, but shall include offenses such as fraud, blackmail, robbery and perjury) within the preceding five years of the date of the application for license;

F. Has promoted, played or participated in any gaming activity that the person knew or should have known was being operated in violation of tribal or other applicable law;

G. Has ever been denied a license by any governmental entity engaged in the regulation of gaming activity for a material reason, except where the denial was based on a technical deficiency that was subsequently corrected by the applicant;

H. Has been known to associate with known criminals or with persons reliably believed by law enforcement agencies to be engaged in corrupt or criminal activities, or with persons identified by the NIGC or any other gaming regulatory agency as being disqualified from gaming activity;

I. Has violated the Gaming Ordinance or any associated regulations, or any federal laws or regulations related to Indian gaming; or

J. Has engaged in any other activity or omission that, in the sole discretion of the JAGRC, renders the person ineligible for a gaming license.

c. Gaming License is a Privilege Not a Right. A gaming license is a revocable privilege, and no holder thereof shall be deemed to have acquired any vested right (property or other) therein or thereunder. The burden of proving qualifications to hold any license rests at all times on the licensee. The JAGRC may in its sole discretion require that any person obtain a gaming license at any time.

d. Agreement to Comply with All Applicable Law. Acceptance of a gaming license or renewal thereof constitutes an agreement on the part of that person to be bound by all regulations and policies and procedures of the JAGRC, as well as any other applicable law, as the same now are or may hereafter be amended or promulgated. It is the responsibility of the licensee to keep informed of the content of all such laws, regulations and policies and procedures, and ignorance thereof will not excuse any violation.

e. Licensing Fees. Each application for a gaming license, including renewals, shall be accompanied by payment of the appropriate fee. The JAGRC shall by regulation establish procedures governing the payment and collection of such fees, including the amount of the same. Such procedures shall also require the payment of a deposit for all background investigations and shall require that all applicable fees and costs be received by the JAGRC before the gaming license can be issued. Should actual costs incurred by the JAGRC for a background investigation exceed the amount deposited, those additional costs shall be assessed to the applicant during the investigation process, provided that in such cases the JAGRC shall submit a detailed billing of such costs and an explanation as to why such excess costs were incurred.

1. Deposit of Funds. All funds received by the JAGRC, including without limitation, license application fees, background investigation fees and civil penalties, shall promptly be deposited in the Treasury accounts of the Nation following receipt by the JAGRC.

2. Waiver of Fee. The JAGRC may, upon a finding of good cause, waive any fee under this Chapter.

f. Temporary Licenses. The JAGRC may issue a temporary license to any applicant upon the completion of an appropriate application and the payment of any applicable fees. The applicant may begin working at any gaming facility after receiving a temporary license from the JAGRC. Temporary licenses shall remain in effect for ninety (90) days, or until one of the following occurs, at which time the temporary license must be surrendered:

1. A gaming license is issued;
2. The person is deemed unsuitable or ineligible to be licensed; or
3. The person's employment or relationship with the Nation is terminated.

g. Duration, Renewal and Loss of a Gaming License.

1. Duration of a Gaming License. Any license issued by the JAGRC shall be effective for one (1) year from the date of issuance.

2. Renewal of a Gaming License. An applicant for renewal who has submitted the required application and any other information required by the JAGRC at least sixty (60) days before the expiration of his or her license may continue to be employed under the expired license or until final action is taken on the renewal application by the JAGRC or, if required by IGRA, the NIGC. Applicants for renewal of licenses shall provide updated material and information as requested on the appropriate

renewal forms, but shall not be required to resubmit historical data already provided or otherwise available to the JAGRC.

3. Denial of a Gaming License. Any person who is denied a gaming license may request a hearing before the JAGRC by submitting a written request for a hearing with the JAGRC within fourteen (14) calendar days after receiving a notice of denial. This deadline may be extended at the discretion of the JAGRC. The request for a hearing and events occurring thereafter shall be governed by Section 11 (c) of this Chapter.

4. Suspension of a Gaming License. The JAGRC may immediately suspend a gaming license if in its sole discretion it determines that immediate suspension is warranted in order to protect the public interest, the effective regulation and control of the Nation's gaming activities, or the safe, fair and honest operation and conduct of the Nation's gaming activities. Additionally, the JAGRC must suspend the license of a key employee or primary management official upon receipt of notice from the NIGC that the person is no longer eligible for employment in that capacity.

A. Notice of Suspension. Any time the JAGRC decides to suspend a gaming license, a written notice of suspension must be provided immediately to the affected person. The notice of suspension shall state the reasons for the suspension and inform the affected person of their right to submit a written request for a hearing on the suspension before the JAGRC. The notice of suspension shall also state that any request for a hearing concerning the suspension of a gaming license must be submitted to the JAGRC within fourteen (14) calendar days after receipt of the notice or the person's license shall automatically be revoked. Revocation under these circumstances shall be deemed a final action of the JAGRC appealable under Section 11(c)(5) of this Chapter.

B. Hearing. Where a timely request for a hearing is made concerning the suspension of a gaming license, the JAGRC shall set a hearing date, which shall be no later than fourteen (14) calendar days after receipt of the request for a hearing, unless upon a showing of good cause by either the JAGRC or the person making the request, an extension is granted. In the event such a hearing is not held within thirty (30) calendar days, the suspension will automatically be deemed to be discharged. Except as otherwise provided in this subsection, the request for a hearing and events occurring thereafter shall be governed by Section 11(c) of this Chapter.

h. Record Retention. The JAGRC shall retain all records pertaining to a person's license application, background investigation, if applicable, and any related matters, for no less than three (3) years following the date of termination of the applicant's employment, and shall make such records available for inspection by the NIGC pursuant to lawful requests submitted to the JAGRC. The JAGRC by regulation my impose additional record retention requirements, consistent with this Chapter.

Section 8. Gaming Licenses – Issuance.

a. Gaming Facilities. Each gaming facility shall be separately licensed by the JAGRC as provided in this Chapter and in any applicable regulations or policies and procedures of the JAGRC. No license shall be required for class I gaming.

1. Content of Application. Each applicant for a license for a gaming facility shall submit a completed application to the JAGRC. Such application shall include all items required by the JAGRC in any applicable regulations, including but not limited to the following:

A. Documentation demonstrating that the facility complies with any and all applicable building codes and other public safety, health, and environmental laws or regulations; and

B. A copy of any proposed or approved management contract with the Nation.

2. Granting of License. The JAGRC may, in its sole discretion, issue a gaming license to a gaming facility at any time after it determines that the application is complete, that the gaming facility is eligible to hold a license under this Chapter, and that all other applicable requirements have been satisfied. In the event the JAGRC denies the application, the applicant shall be informed of the right of appeal this decision as provided by this Chapter.

b. Primary Management Officials, Key Employees and all Other Employees. All primary management officials and key employees shall be subject to background investigation and licensed by the JAGRC as provided in this Chapter and in any applicable regulations or policies and procedures of the JAGRC. All other employees of the gaming facility and the gaming operation shall be licensed by the JAGRC as provided in this Chapter.

1. Content of Application. Each person applying for a license as a primary management official, key employee, or other employee of the gaming facility or the gaming operation, shall submit a completed application indicating the type of gaming activity (class II or class III or both) for which the license is sought and any other information required by the JAGRC, including but not limited to the following:

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

B. Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license number(s);

C. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence during the previous five (5) years;

D. Current business and residence telephone number(s);

E. A description of any existing or previous business relationships with the gaming industry generally, including ownership interests in those businesses;

F. A description of any existing or previous business relationships with the gaming industry generally, including ownership interests in those businesses;

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

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

I. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of application, the name and address of the court involved and the date and disposition ("minor traffic violation" means any violation of law governing the operation of a motor vehicle, if the violation does not involve personal injury to any person or property damage in excess of $1,000);

J. For each criminal charge (excluding minor traffic violations) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise required to be disclosed, the criminal charge, the name and address of the court involved and the date and disposition;

K. The names and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit whether or not such license or permit was granted;

L. A current photograph;

M. Any other information the JAGRC deems relevant;

N. Fingerprints taken by the licensing department of the JAGRC, Jicarilla Apache Police Department or any other law enforcement agency

approved by the JAGRC, and that are consistent with procedures adopted by the Nation in accordance with 25 C.F.R. § 522.2(h); and

O. The application form shall include the Privacy Act notice required by 25C.F.R. §556.2(a) and the notices concerning false statements required by 25 C.F.R. §556(a). The JAGRC shall notify any key employee or primary management official who has not completed an application containing both the Privacy Act and false statement notices that they shall either complete a new application that contains both the Privacy Act and false statement notices, or sign a statement that contains the Privacy Act and false statement notices and consent to the routine uses described in that notice.

2. Financial Disclosures of Primary Management Officials and Key Employees. Each applicant for the position of primary management official or key employee shall provide a financial statement, in the form adopted by the JAGRC, including his or her income for the previous five (5) years and the sources of that income, as well as all assets and debt of the applicant at the time of application. The financial statement shall include copies of all federal income tax returns filed by the applicant during the previous five (5) years.

3. Mandatory Background Investigation of Primary Management Officials and Key Employees. Upon receipt of a completed application for a primary management official or key employee and the license fees required under this Chapter, the JAGRC shall conduct or cause to be conducted a background investigation in accordance with Section 9 of this Chapter. The JAGRC, in its sole discretion, may conduct a background investigation at any time of any person applying for or holding a license under this Chapter.

4. Granting of License. The JAGRC may, in its sole discretion, issue a gaming license to a primary management official, key employee or other employee of the gaming facility or the gaming operation at any time after it determines that the application is complete, that the person is eligible to hold a license under this Charter, and that all other applicable requirements have been satisfied. In the event the JAGRC denies the application, the applicant shall be informed of the right to appeal this decision as provided by this Chapter.

5. Minors. Each person applying for a license as a primary management official, key employee, or other employee of the gaming facility or the gaming operation, and who is under the age of twenty-one (21) years, shall submit a completed application in the same form as that required of other persons applying for such a license, however, any license granted shall clearly identify the person as a minor.

6. Identification Cards. The JAGRC shall require all primary management officials, key employees and other employees of the gaming facility to wear identification cards issued by the JAGRC which shall include at a minimum the employee's photograph, first and last name, license number, signature, type of gaming authorized (Class II or Class III or both) and date of expiration.

c. Gaming Vendors. All gaming vendors shall be subject to background investigation and license by the JAGRC as provided in this Chapter and in any applicable regulations or policies and procedures of the JAGRC.

1. Content of Application. The application for any person proposing to sell, lease or otherwise provide any gaming device or gaming-related services for use on Jicarilla Apache lands shall contain the following information:

A. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, residence and business addresses, and driver's license number(s) of the person or entity making the application;

B. The name(s) and residence and business addresses of all interested parties (including those with a direct or indirect financial interest) and their interest and connection with the applicant;

C. The type of activity to be engaged in under the license;

D. For each person identified in subsections (A) and (B) above, the following information:

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

ii. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition ("minor traffic violation" means any violation of law governing the operation of a motor vehicle, if the violation does not involve personal injury to any person or property damage in excess of $1,000.00); and

iii. For each criminal charge (excluding minor traffic violations) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise required to be disclosed, the criminal charge, the name and address of the court involved and the date and disposition;

E. The applicant's history of licensure as a manufacturer of gaming devices and/or equipment in any state in which the applicant has been or is currently licensed as a valid manufacturer. Such history shall include dates that licenses were granted, revoked, or suspended and the reasons for any revocation or suspension;

F. A statement authorizing the Nation to conduct a background investigation of the applicant and any other person identified in subsections (A) and (B) above;

G. The application form shall include the Privacy Act notice required by 25C.F.R.§ 556.2(a) and the notices concerning false statements required by 25 C.F.R. § 556.3(a); and

H. Any other information the JAGRC deems relevant.

2. Mandatory Background Investigation of Gaming Vendors. Upon receipt of a completed application for a gaming vendor and the license fees required under this Chapter, the JAGRC shall conduct or cause to be conducted a background investigation in accordance with Section 9 of this Chapter. The JAGRC, in its sole discretion, may conduct a background investigation at any time of any person applying for or holding a license under this Chapter.

3. Granting of License. The JAGRC may, in its sole discretion, issue a gaming license to a gaming vendor at any time after it determines that the application is complete, that the person is eligible to hold a license under this Chapter, and that all other applicable requirements have been satisfied. In the event the JAGRC denies the application, the applicant shall be informed of the right to appeal this decision as provided by this Chapter.

d. Non-Gaming Vendors. All non-gaming vendors shall be subject to registration, background investigation and/or licensing by the JAGRC as provided in this Chapter and in any applicable regulations or policies and procedures of the JAGRC.

1. Non-Gaming Vendors of less than $20,000 annually. All non-gaming vendors must register with the JAGRC by completing the appropriate form designated by the JAGRC. Such form may be completed by the person seeking such license, or where deemed appropriate by the JAGRC, by another person on their behalf. Such form shall at a minimum identify all employees and/or subcontractors that may be providing such goods and services to the Nation on Jicarilla Apache lands.

2. Non-Gaming Vendors of $20,000 or more annually. The application for any person wishing to sell, lease, or otherwise provide any goods or services to a gaming facility or gaming operation (other than any gaming device or gaming-related services) in an amount exceeding $20,000 annually for use on Jicarilla Apache lands shall contain the following information:

A. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, residence and business addresses, and driver's license number(s) of the person or entity making the application;

B. The type of activity to be engaged in under the license:

C. For each person identified in subsection (A) above, the following information:

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

ii. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition ("minor traffic violation" means any violation of law governing the operation of a motor vehicle, if the violation does not involve personal injury to any person or property damage in excess of $1,000.00);

D. The application form shall include the Privacy Act notice required by 25 C.F.R. § 556.2(a) and the notices concerning false statements required by 25 C.F.R. § 556.3(a); and

E. Any other information the JAGRC deems relevant.

3. Granting of License. The JAGRC may, in its sole discretion, issue a gaming license to a non-gaming vendor at any time after it determines that the application is complete, that the person is eligible to hold a license under this Chapter, and that all other applicable requirements have been satisfied. In the event the JAGRC denies the application, the applicant shall be informed of the right to appeal this decision as provided by this Chapter.

4. JAGRC may Require License at any Time. The JAGRC may in its sole discretion require that any non-gaming vendor obtain a license at any time for any reason, regardless of the amount of goods or services provided in any given year.

5. Waiver of Requirements. The JAGRC may in its sole discretion waive any requirement regarding the licensing and payment of fees by non-gaming vendors, except that all non-gaming vendors must at a minimum register with the JAGRC.

e. Gaming Devices. Each gaming device shall be licensed by the JAGRC as provided in this Chapter and in any applicable regulations or policies and procedures of the JAGRC, and shall be inspected and certified for proper operation at least annually by an inspector approved by the JAGRC.

1. In addition to any other license required by this Chapter, an annual non-transferable license shall be required for each gaming device to be placed in a gaming facility located on Jicarilla Apache land. The application shall contain the following information:

A. The name and address of the applicant;

B. Identification numbers or codes for each gaming device to be placed in a gaming facility, including the manufacturer, the serial number and model number;

C. Proof of approval and certification of the machine by an approved gaming test laboratory or proof that the gaming device conforms precisely to the exact specifications of the gaming device prototype tested and approved by the gaming test laboratory;

D. Any other information required by law or deemed relevant by the JAGRC.

2. Granting of License. The JAGRC may, in its sole discretion, issue a gaming license to a gaming device at any time after it determines that the application is complete, that the gaming device is eligible to hold a license under this Chapter, and that all other applicable requirements have been satisfied. In the event the JAGRC denies the application, the applicant shall be informed of the right to appeal this decision as provided by this Chapter.

f. Charitable Class II Gaming. Individually owned class II gaming that is conducted exclusively for the benefit of charitable organizations, shall be licensed by the JAGRC as provided in this Chapter and in any applicable regulations or policies and procedures of the JAGRC, and shall only be conducted to the extent that it is consistent with the requirements of IGRA and any applicable NIGC regulations.

Section 9. Gaming Licenses – Background Investigations.

a. Background Investigations of Key Employees and Primary Management Officials. Upon receipt of a completed application for a key employee or primary management official and the license fees required under this Chapter, the JAGRC shall conduct or cause to be conducted a background investigation sufficient to make a determination of eligibility under this Chapter. Such background investigation shall be completed in accordance with policies and procedures of the JAGRC and shall include at a minimum the following requirements:

1. The performance of background investigations and the issuance of gaming licenses shall be in accordance with requirements at least as stringent as 25 C.F.R. Parts 556 and 558;

2. In conducting any background investigation, the JAGRC and all agents of the Nation who participate in the investigation shall keep the identity of each person interviewed in the course of the investigation confidential;

3. When a key employee or primary management official is employed by the Nation, the JAGRC shall forward a completed application containing the information and notices required by IGRA and regulations of the NIGC to the NIGC and the New Mexico Gaming Control Board;

4. When a key employee or primary management official is employed by the Nation, the JAGRC shall forward fingerprints, and any other information required for a criminal history check, to the NIGC and the New Mexico Gaming Control Board for processing through the Federal Bureau of Investigation to determine the applicant's criminal history, if any;

5. The JAGRC shall verify or cause to be verified by written or oral communication all information submitted by applicants as part of their license application; and

6. Upon completion of the necessary background investigation, including the verification of application information and the interview of references, the JAGRC shall review the applicant's prior activities, criminal record, if any, the reputation, habits and associations, to make a finding concerning eligibility for a license under the standards established by this Charter. The JAGRC may require drug testing of the applicant and may require any applicant who tests positive to submit additional medical records to substantiate eligibility for a license.

b. Reports Concerning Background Investigations of Key Employees and Primary Management Officials.

1. Applicant Determined Ineligible for Gaming License. If the JAGRC determines the applicant is not eligible for employment as a key employee or primary management official, the JAGRC shall send the applicant a statement setting forth the grounds for denial and the applicant shall be informed of the right to appeal this decision as provided by this Chapter. A copy of such statement and the investigative report, if any, shall be sent to the NIGC and the New Mexico Gaming Control Board.

2. Applicant Determined Eligible for Gaming License. Upon the completion of a background investigation and a determination of eligibility for employment as a key employee or primary management official, the JAGRC shall forward an investigative report to the NIGC and the New Mexico Gaming Control Board within 60 days after an employee begins work. The investigative report shall include the following information:

A. Steps taken in conducting the background investigation;

B. Results obtained;

C. Conclusions reached;

D. The bases for those conclusions; and

E. A copy of the JAGRC's determination of eligibility.

3. Additional Questions or Failure to Object. If, within the 30-day period after the NIGC and/or the New Mexico Gaming Control Board receives the JAGRC's investigative report and determination of eligibility, the NIGC and/or the New Mexico Gaming Control Board notifies the JAGRC that it has no objection to the issuance of a license to the person identified in the report, the JAGRC may issue the license to the applicant if all requirements of this Chapter have been met. If the NIGC and/or the New Mexico Gaming Control Board requests additional information regarding an applicant, the JAGRC shall supply

the requested information. If the NIGC and/or the New Mexico Gaming Control Board requests additional information regarding an applicant, the running of the 30-day period shall be suspended until the NIGC receives the requested additional information.

4. Objections. If, within the 30-day period after the NIGC and/or the New Mexico Gaming Control Board receives the JAGRC's investigative report and determination of eligibility, the NIGC and/or the New Mexico Gaming Control Board notifies the JAGRC of its objections to the issuance of a license to the person identified in the report, the JAGRC shall reconsider its determination of eligibility for employment, taking into account the objections stated by the NIGC and/or the New Mexico Gaming Control Board. After such reconsideration, the JAGRC may issue the license to the applicant if all requirements of this Chapter have been met.

5. Limitation on Employment. A gaming facility may not employ a key employee or primary management official who does not have a license after 90 days.

c. Background Investigations of Gaming Vendors. Upon receipt of a completed application for a gaming vendor and the license fees required under this Chapter, the JAGRC shall conduct or cause to be conducted a background investigation sufficient to make a determination of eligibility under this Chapter. Such background investigation shall be completed in accordance with policies and procedures of the JAGRC.

d. Background Investigations of all Persons other than Key Employees, Primary Management Officials and Gaming Vendors. The JAGRC, in its sole discretion, may at any time conduct a background investigation of any person applying for or holding a license under this Chapter.

Section 10. Prohibited Acts.

a. It shall be a violation of this Chapter for any person to violate any provision contained herein, or for any person to take, whether knowingly or otherwise, any of the following actions:

1. To engage in any activity requiring a license under this Chapter, if the person does not currently hold a valid license.

2. To conduct or participate in any gaming activity on Jicarilla Apache lands other than at an authorized and licensed gaming facility.

3. To knowingly entice or induce another to go to any place where gaming is being conducted or operated in violation of the provisions of this Chapter, IGRA, a Compact, or other applicable law and regulation with the intent that the other person play or participate in that gaming.

4. To receive, distribute, apply or divert any property, funds, proceeds, assets or other thing of value from any gaming activity to the benefit of any person except as authorized by this Chapter, a Compact, or IGRA.

5. To tamper with any gaming device or equipment used in the conduct of any gaming activity with the intent to cause any person to win or lose any wager other than in accordance with the publicly announced rules of the gaming facility.

6. To do any other act in connection with the conduct of any gaming activity with the intent to affect the outcome of any wager other than in accordance with the publicly announced rules of such gaming facility.

7. To alter or misrepresent the outcome of any event on which wagers have been made after the outcome is made sure but before it is revealed to the players.

8. To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome. This includes past-posting, pressing, and pinching bets.

9. To claim, collect or take, or attempt to claim, collect or take money or anything of value in or from a gaming device or equipment, with intent to defraud, without having made a wager thereon, or to claim, collect or take an amount greater than the amount won.

10. To manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to manipulating a gaming device, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

11. Knowingly to use other than coins or tokens approved by the JAGRC or other lawful coin, legal tender of the United States of America, or to use a coin not of the same denomination as the coin intended to be used in the gaming device.

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

13. To use any device or means to cheat, or to possess any such device while at the gaming facility.

14. To take any other action or omission that in the sole discretion of the JAGRC is determined to be a violation of this Chapter.

Section 11. Enforcement.

a. Jurisdiction. The JAGRC shall have full jurisdiction to enforce this Chapter to the fullest extent permitted by the laws of the Nation and any other applicable law.

b. Enforcement Action. Any person found to be in noncompliance or violation of any requirement of this Chapter shall, at the discretion of the Director of Compliance Inspectors, be issued a notice of noncompliance.

1. Notice of Noncompliance. A notice of noncompliance shall inform the person of the nature of the noncompliance or violation, and may include any enforcement action(s) deemed proper by the Director of Compliance Inspectors, be issued a notice of noncompliance.

A. Suspension or revocation of any license issued under this Chapter.

B. Issuance of an order requiring the person to come into compliance with this Chapter and/or to cease committing the violation.

C. Imposition of a civil penalty as authorized by this Chapter.

D. Issuance of an order requiring seizure of property as authorized by this Chapter.

E. Issuance of an order closing the premises at which the noncompliance or violation is taking place.

F. Issuance of an order suspending or terminating the employment and/or association of any person at a gaming facility.

G. Issuance of an order excluding any person from a gaming facility.

H. Issuance of an order excluding any non-member of the Nation from Jicarilla Apache lands.

2. Deadline for Compliance. The notice of noncompliance shall specify the date by which the person must cure the noncompliance or violation and pay any civil penalty. The Director of Compliance Inspectors shall set the deadline for compliance at no later than thirty (30) calendar days from the date of the notice.

3. Service of Notice of Noncompliance. The notice of noncompliance shall be personally served on the person alleged to be in noncompliance or violation, or shall be mailed, return receipt requested, to the person's last known address. Service shall be deemed to be received either on the date of personal service or on the date assigned to the returned receipt.

4. Request for Additional Time. Any person served with a notice of noncompliance may, before the deadline for compliance, request any additional time to: (1) commence actions necessary to cure the noncompliance or violation, (2) pay any civil penalty, and/or (3) complete actions necessary to cure the noncompliance or violation. Such request must be made in writing to the Director of Compliance Inspectors. The Director of Compliance Inspectors shall in his or her sole discretion grant or deny such request.

c. Right to a Hearing Before the JAGRC. Any person served with a notice of noncompliance or otherwise aggrieved by the JAGRC (with the exception of decisions regarding gaming licenses which are provided for in Section 7(g) of this Chapter), may request a hearing before the JAGRC by submitting a written request for hearing. Where the person was served with a notice of noncompliance, such request must be submitted to the JAGRC on or before the deadline for compliance specified in the notice; provided that, if the compliance date is less than five (5) calendar days following receipt of notice, the person shall have ten (10) calendar days from receipt of the notice to submit the request. All other requests for a hearing must be submitted to the JAGRC within fourteen (14) calendar days of the occurrence of the action by which the person alleges to have been aggrieved.

1. Content of the Request for a Hearing. Any request for a hearing before the JAGRC must be made in writing and include the reasons for such request. Any request for a hearing may be accompanied by information relevant to the reason for the appeal.

2. Stay of Payment. Filing a request for a hearing shall stay the due date for payment of any civil penalty, but shall not otherwise stay the effectiveness of any enforcement action unless the JAGRC orders a stay to that effect.

3. Hearing. Where a timely request for a hearing is made, the JAGRC shall set a hearing date, which shall be no later than thirty (30) calendar days after receipt of the request for a hearing, unless upon a showing of good cause by either the JAGRC or the person making the request, an extension is granted. During such hearing, the person making the request shall be afforded an opportunity to appear and be heard before the JAGRC, either in person or through a representative or legal counsel, and to submit such evidence as the JAGRC deems relevant to the matter at issue.

4. Final Order. The JAGRC shall investigate the allegations as it deems necessary and shall issue a final order within 60 (sixty) calendar days of any hearing. The JAGRC shall notify the NIGC of any decision to revoke or reinstate the gaming license of a primary management official or key employee.

5. Appeal. Any person aggrieved by a final order of the JAGRC may file a request for a rehearing with the JAGRC. Any such request must be made in writing, include the reasons for such request, and be filed with the JAGRC within sixty (60) calendar days of the final order of the JAGRC. Where a timely request for rehearing is made, the JAGRC shall set a hearing date, which shall be no later than thirty (30)

calendar days after receipt of the request for rehearing, unless upon a showing of good cause by either the JAGRC or the person making the request, an extension is granted. During such rehearing, the person making the request shall be afforded an opportunity to appear and be heard before the JAGRC, either in person or through a representative or legal counsel, and to submit such evidence as the JAGRC deems relevant to the matter at issue. The decision of the JAGRC after rehearing shall be final and not subject to review.

d. Seizure of Property.

1. Grounds for Seizure. Any property or interest therein in actual or constructive possession of a person that has violated or is violating any provision of this Chapter or of a license issued under this Chapter, and used in connection with that violation, may be seized and held to secure payment of a civil penalty or to be forfeited as provided in Section 11(i) of this Chapter. Seizure under this subsection shall not require proof that the owner of the property or the interest therein participated in, had knowledge of, or consented to the illegal use of the property.

2. Persons Authorized to Seize Property. Property subject to seizure under this subsection may be seized by any police officer of the Nation upon: (1) issuance of a notice of noncompliance by the Director or Compliance Inspectors; and (2) the written determination by the Director of Compliance Inspectors that the seizure is necessary to protect the integrity of the Nation's gaming activity.

3. Custody of Seized Property. Property seized under this subsection shall be held in the custody of the Police Department of the Nation, subject only to the order of the Trial Court, including without limitation orders for sale of the property at public auction to collect any civil penalty assessed under this Chapter and order issued in a forfeiture proceeding.

4. Release of Property. Unless a forfeiture proceeding concerning property seized under this subsection is initiated pursuant to Section 11(i) of this Chapter, such property shall be released to its owner upon the earliest of the following:

A. Thirty (30) days after seizure of the property;

B. Payment of the civil penalty for which the property was seized as security; or

C. Upon a finding by the Trial Court that such civil penalty is not proper.

e. Civil Forfeiture Proceedings.

1. Within thirty (30) days after seizing property pursuant to this section, the JAGRC may initiate an in rem judicial forfeiture proceeding against the seized property. The forfeiture complaint shall describe with reasonable specificity the property at issue and the basis for forfeiture.

2. The Trial Court shall give written notice of forfeiture proceedings to all known or reasonably ascertained persons with an interest in the seized property, including any lien interest. All such persons shall answer the complaint and file any adverse claim to the property within thirty (30) days after notice is given.

3. Upon notice to all interested persons, the Trial Court shall conduct a hearing to adjudicate whether the property and/or any known interests therein have been forfeited to the Nation, and shall enter an appropriate judgment. The court may deny forfeiture of an interest in property if the owner of the interest proves that he or she did not participate in, have knowledge of, or consent to the illegal use of the property; or that he or she took all reasonable measures to prevent the illegal use of the property; or that the person committing the violation obtained possession of the property without his or her consent.

4. Property forfeited to the Nation and proceeds from the sale thereof shall be retained by the Nation and used to equip and finance enforcement activities under this Chapter.

f. Civil Penalties. The JAGRC is empowered to impose civil penalties for violations of this Chapter in amounts to be established by regulations adopted by the JAGRC and approved by the Legislative Council, but not to exceed Ten Thousand Dollars ($10,000.00) per violation per day the violation continues.

Section 12. Jurisdiction of the Jicarilla Apache Courts.

The courts of the Nation shall have jurisdiction, to the extent not inconsistent with this Chapter or federal law, over all violations of this Chapter and over all persons who are licensed pursuant to this Chapter, including agents, employees, owners, directors, and officers of an licensed holder, an may, in addition to the penalties prescribed above, grant such other legal and equitable relief as is necessary and property for the enforcement of this Chapter and of the provisions of any management contract entered pursuant to this Chapter, including but not limited to injunctive relief against acts in violation thereof.

Section 13. Sovereign Immunity.

The Nation does not in any way waive its sovereign immunity from suite in any court to contest the validity of this Chapter.

Section 14. Service of Process.

The Nation hereby designates as its agent for the service of any official determination, order or notice of violation, the President of the Nation, Post Office Box 507, Dulce, New Mexico 87528, with a copy to the Chair of the JAGRC, Post Office Box 740, Dulce, New Mexico 87528. The NIGC shall be informed of any change in this designation within ten (10) days of such change.

Section 15. Management Contracts.

a. Application. This section shall only apply to management contracts that are subject to NIGC approval under IGRA. A management contract with a Section 17 entity that is wholly owned and controlled by the Nation is not subject to NIGC Approval under IGRA.

b. Approval. No management contract, and no modification, revision, or amendment thereto, shall be binding upon the Jicarilla Apache Nation unless and until it is approved by the Legislative Council and the NIGC.

c. Required Provisions. Any management contract, including any modification, revision, or amendment thereto, shall satisfy the requirements of IGRA and any applicable NIGC regulations, and shall also include the following:

1. Compliance with Applicable Tribal, Federal and State Law Required. Any management contract shall provide that all gaming activities covered there under shall be conducted in accordance with all applicable tribal, federal and state law, including the requirements of this Chapter.

2. Identification of Duties and Responsibilities. Any management contract shall identify the duties and responsibilities of each party for each identification function as set forth in IGRA and any NIGC regulations.

3. Accounting. Any management contract shall provide for the establishment and maintenance of appropriate accounting systems and procedures that shall, at a minimum, permit the preparation of financial statements in accordance with generally accepted accounting principles, are susceptible to audit, and that permit the proper calculation of fees and expenses.

4. Reports. Any management contractor shall, at its own expense, be required to provide a monthly verifiable financial report to the Legislative Council, the JAGRC, and if required by IGRA, the Secretary of the Interior and/or the NIGC.

5. Access. Any management contractor shall be required to allow immediate access to the gaming operation and gaming facilities, including its books and records, to individuals designated by Legislative Council resolution, the JAGRC, the Secretary of the Interior, and/or the NIGC, for the purposes of verifying the daily gross revenues and income from any gaming activity and of verifying compliance with all applicable tribal, federal and state law.

6. Guaranteed Minimum Payment. Any management contract shall provide for a minimum guaranteed monthly payment to the Nation in a sum certain that has preference over the retirement of any development and construction costs.

7. Disputes. Any management contract shall include a mechanism to resolve disputes between the Nation and the management contractor.

8. Assignments and Subcontracting. Any management contract shall indicate that assignment of rights under a management contract and subcontracting are not permitted unless approved by the JAGRC, the Legislative Council and the NIGC.

9. Ownership Interest. Any change in the ownership interest in a management contractor shall require advance approval of the JAGRC and the Legislative Council.

10. Prohibited Provisions. A management contract shall not transfer or in any other matter convey any interest in Jicarilla Apache lands unless authorized by federal law and unless clearly specified in writing in said management contract.

Section 16. Severability.

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

Section 17. Effect of Headings.

Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, provisions, or intent of any article or section of the Chapter.

Section 18. Liberal Interpretation.

The provisions of this Chapter, being necessary for the welfare of the Nation and its members, shall be construed liberally to effect the purposes and objectives hereof.

Section 19. Amendments.

This Chapter may be amended only by majority vote of the Legislative Council at a meeting at which all members of the Legislative Council are present at the time of the vote.

President

Certification

The foregoing Ordinance was enacted by the Legislative Council of the Jicarilla Apache Nation on the ***3rd*** day of ***April, 2009***, by a vote of ***8*** for, ***0*** against, ***0*** abstaining, at a duly called meeting at which a quorum of the Legislative Council members were present.

Ordinance of the Legislative Council
Re: GAMING REGULATION
(Amending Ordinance [Chapter] No. Title 22 Chapter 2 Gaming Regulation)
Ordinance No. 2009-O-226-04

Attest:

Secretary