

TITLE 16 – GAMING

CHAPTER 1 - REGULATION OF GAMING ACTIVITIES

Legislative History: Ordinance No. 93-01, Ordinance for the Regulation of Gaming Activities Within the Tohono O'odham Nation, was enacted by Resolution No. 93-296 on August 17, 1983; amended by Resolution No. 97-150 (amending Section 1104) on May 12, 1997; amended by Resolution No. 97-168 (amending Section 1104) on May 19, 1997; amended by Resolution No. 97-303 (authorizing per capita payments) on July 23, 1997; amended by Resolution No. 99-206 (amending Ordinance No. 93-01 and approving minimum internal control standards) on May 13, 1999; amended by Resolution No. 03-084 (amending Ordinance No. 93-01 to comport with newly approved tribal-state gaming compact) on February 11, 2003; amended by Resolution No. 07-300 (amending Section 701, Requirement of License) on May 28, 2007.

**ORDINANCE FOR THE REGULATION OF
GAMING ACTIVITIES WITHIN THE TOHONO O'ODHAM NATION**

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ORDINANCE FOR THE REGULATION OF GAMING ACTIVITIES
WITHIN THE TOHONO O'ODHAM NATION

Chapter 1. Findings and Purposes.

Section 101. Legislative Findings. The Legislative Council of the Tohono O'odham Nation hereby finds:

(a) that the orderly and honest conduct of gaming activities within the Tohono O'odham Nation has been and will continue to be of vital importance to the economy of the Nation, and to the general welfare of its members;

(b) that the continued growth and success of gaming within the Tohono O'odham Nation are dependent upon public confidence and trust that such activities are conducted honestly and that they are free from criminal and corrupt elements, and that the facilities in which such activities are conducted are designed and maintained to assure the safety and comfort of patrons of the gaming activities;

(c) that such public confidence and trust can only be maintained by the comprehensive regulation of all people, practices, and activities related to the operation of the Nation's gaming facilities; and

(d) all of the Nation's establishments where gaming is conducted, and all people holding positions of responsibility with respect to any such activity, must therefore be licensed, and their activities monitored, to assure that the public health, safety, and general welfare of the inhabitants of the Nation and the patrons of its gaming facilities are fully protected, and so as to assure the economic success of gaming activities within the Nation.

Section 102. Purposes. This Ordinance is therefore enacted, and shall be interpreted, so as to accomplish the following purposes:

(a) the maintenance of the highest standards of honesty and integrity in the operation of any and all gaming activities within the Tohono O'odham Nation;

(b) the maintenance of public confidence and trust in the honesty and integrity of such gaming activities, and in the people engaged in such activities;

(c) the maximum reasonable economic return to the Tohono O'odham Nation as the owner of gaming facilities within the Nation consistent with the fair and reasonable expectations of patrons of such activities and the assurance of their safety and comfort in participating in gaming activities; and

(d) compliance with all applicable laws of the Tohono O'odham Nation and the United States of America pertaining to gaming, including but not limited to the Indian Gaming Regulatory Act of 1988.

Chapter 2. Definitions.

Section 201. Definitions. For purposes of this Ordinance:

(a) "Act" means the Indian Gaming Regulatory Act, Public Law 100-497, 25 U.S.C. §§ 2701 - 2721 and 18 U.S.C. §§ 1166 - 1168, and all regulations promulgated pursuant thereto.

(b) "Class I Gaming" means all forms of gaming defined as Class I in section 4(6) of the Act, 25 U.S.C. § 2703(6).

(c) "Class II Gaming" means all forms of gaming defined as Class II in section 4(7) of the Act, 25 U.S.C. § 2703(7).

(d) "Class III Gaming" means all forms of gaming as defined in section 4(8) of the Act, 25 U.S.C. § 2703(8).

(e) "Commission" means the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.

(f) "Compact" means the Tribal-State Compact entered into between the Tohono O'odham Nation and the State of Arizona pursuant to section 11(d) of the Act, 25 U.S.C. § 2710(d).

(g) "Constitution" means the Constitution of the Nation adopted by the Tohono O'odham and approved by the Secretary of Interior on March 6, 1986 pursuant to section 16 of the Act of June 18, 1934 (48 Stat. 987, 25 U.S.C. § 476).

(h) "Distributor" means a Person who distributes Gaming Devices and/or component parts of Gaming Devices.

(i) "District" means any of the eleven Districts of the Tohono O'odham Nation established under in Article IX of the Constitution of the Tohono O'odham Nation.

(j) "Gaming Activities" means any forms of Class II and Class III Gaming conducted within the territorial jurisdiction of the Nation.

(k) "Gaming Device" or "Electronic Game of Chance" means a mechanical device, an electro-mechanical device or a device controlled by an electronic microprocessor or another manner, whether that device constitutes Class II Gaming or

Class III Gaming, that allows a player or players to play games of chance, whether or not the outcome also is affected in some part by skill, and whether the device accepts coins, tokens, bills, coupons, ticket vouchers, pull tabs, smart cards, electronic in-house accounting system credits or other similar forms of consideration and, through the application of chance, allows a player to become entitled to a prize, which may be collected through the dispensing of coins, tokens, bills, coupons, ticket vouchers, smart cards, electronic in-house accounting system credits or other similar forms of value. Gaming Device does not include any of the following:

1. Those technological aids for bingo games that function only as electronic substitutes for bingo cards.
2. Devices that issue and validate paper lottery products and that are directly operated only by Arizona State Lottery licensed retailers and their employees.
3. Devices that are operated directly by a lottery player and that dispense paper lottery tickets, if the devices do not identify winning or losing lottery tickets, display lottery winnings or disburse lottery winnings.
4. Devices that are operated directly by a lottery player and that validate paper lottery tickets for a game that does not have a predetermined number of winning tickets, if:
 - (A) The devices do not allow interactive gaming;
 - (B) The devices do not allow a lottery player to play the lottery for immediate payment or reward;
 - (C) The devices do not disburse lottery winnings; and
 - (D) The devices are not Video Lottery Terminals, as defined in the Compact.
5. Player Activated Lottery Terminals, as defined in the Compact.

(l) "Gaming Employee" means any individual employed as a Primary Management Official or Key Employee of a Gaming Operation of the Nation and any individual employed in the operation or management of a Gaming Operation, including, but not limited to, any individual whose employment duties require or authorize access to restricted areas of a Gaming Facility not otherwise open to the public.

(m) "Gaming Facility" means the buildings or structures in which Gaming Activities are conducted.

(n) "Gaming Facility Operator" means the Tribal Enterprise designated by the Nation as having the authority and responsibility for conducting Gaming Activities within the Nation.

(o) "Gaming Operation" means any Gaming Activities conducted within a Gaming Facility.

(p) "Gaming Services" means the providing of any goods or services, except for legal services, to the Gaming Facility Operator in connection with the operation of Class II or Class III gaming in a Gaming Facility, including, but not limited to, equipment, transportation, food, linens, janitorial supplies, maintenance, or security services for the Gaming Facility, in an amount in excess of \$10,000 in any single month.

(q) "Indian Lands" means land as defined in 25 U.S.C. § 2703(4)(A) and (B), subject to the provisions of 25 U.S.C. § 2719.

(r) "Key Employee" means:

1. Any individual employed by the Gaming Facility Operator who performs one or more of the following functions: (i) Bingo caller; (ii) Counting room supervisor; (iii) Chief of security; (iv); Custodian of gaming supplies or cash; (v) Floor manager; (vi) Pit boss; (vii) Dealer; (viii) Croupier; (ix) Approver of credit; (x) Custodian of Gaming Devices including any individual with access to cash and accounting records within Gaming Devices;
2. Any individual employed by the Gaming Facility Operator whose total cash compensation from his or her employment by the Gaming Facility Operator exceeds \$50,000 per year; and
3. The four most highly compensated employees of the Gaming Facility Operator.

(s) "Legislative Council" means the Legislative Council of the Tohono O'odham Nation as established and empowered under Articles IV, V and VI of the Constitution of the Tohono O'odham Nation.

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

(u) "Management Contractor" means a Person who has entered into a Management Contract with the Gaming Facility Operator which has been approved pursuant to 25 U.S.C. §§ 2710(d)(9) and 2711.

(v) "Manufacturer" means a Person that manufactures Gaming Devices and/or component parts of Gaming Devices.

(w) "Nation" means the Tohono O'odham Nation organized under the Constitution.

(x) "Net Revenues" means the gross gaming revenues of the Gaming Facility Operator less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

(y) "Office of Attorney General" means the Office of the Attorney General of the Tohono O'odham Nation.

(z) "Ordinance" means this Ordinance for the Regulation of Gaming Activities Within the Tohono O'odham Nation which governs the conduct of Gaming Activities within the Tohono O'odham Nation, all amendments thereto, and all regulations promulgated thereunder.

(aa) "Person" includes natural persons, as well as corporations, limited liability companies, partnerships, and other unincorporated associations, societies, or firms.

(bb) "Primary Management Official" means: (1) the individual having management responsibility for a Management Contract; (2) any individual who has authority to hire and fire employees or to set up working policy for a Gaming Operation; and (3) the chief financial officer or other individual who has financial management responsibility for a Gaming Operation.

(cc) "Principal" means with respect to any entity:

1. Each of its officers and directors;
2. Each of its principal management employees, including its chief executive officer, its chief financial officer, its chief operating officer, and its general manager;
3. Each of its owners or partners, if an unincorporated business;
4. Each of its shareholders who own more than ten (10) percent of the shares of the corporation, if a corporation;
5. Each Person other than a banking institution who has provided financing for the entity constituting more than ten (10) percent of the total financing of the entity; and
6. Each of the beneficiaries and trustees of a trust.

(dd) "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 pursuant to the Act.

(ee) "State" means the State of Arizona, and its authorized officials, agents, and representatives.

(ff) "Transfer Agreement" means a written agreement authorizing the transfer of Gaming Device Operating Rights between the Nation and another Indian tribe, in accordance with the provisions of the Compact.

(gg) "Tribal Enterprise" means a wholly-owned enterprise of the Nation authorized and chartered under Section 1(b) or Section 1(e) of Article VI the Nation's Constitution, or any other wholly-owned tribal entity, designated by the Nation's Legislative Council to be the Gaming Facility Operator.

(hh) "Tribal Gaming Regulatory License" means a license issued pursuant to this Ordinance by the Nation's Human Resources Office to an employee of the Gaming Office.

Chapter 3. Tribal Ownership and Use of Net Revenues.

Section 301. Tribal Ownership of Gaming Activities. All Gaming Activities within the Nation shall be owned entirely by the Nation and conducted and operated by the Gaming Facility Operator.

Section 302. Use of Net Revenues. The net revenues received by the Nation from all Gaming Activities shall be used exclusively for one or more of the following purposes:

- (a) to fund government operations or programs of the Nation or Districts;
- (b) to provide for the general welfare of the Nation and its members;
- (c) to promote the Nation's economic development;
- (d) to benefit charitable organizations providing services benefitting the Nation or its members;
- (e) to help fund operations of local government agencies;
- (f) to make per capita payments to enrolled members of the Nation, subject to compliance with all applicable laws of the United States and the Nation.

Chapter 4. Tohono O'odham Gaming Office.

Section 401. Establishment of the Gaming Office. There is hereby established the Tohono O'odham Gaming Office (hereinafter "the Gaming Office"), as a department within the Executive Branch of the Nation, which shall have overall civil regulatory authority over Gaming Activities within the Nation and the Gaming Facility Operator as specifically provided in this Ordinance.

Section 402. Personnel.

(a) The Gaming Office shall consist of an Executive Director, Inspectors and such assistants and other staff as the Executive Director shall determine are required from time to time, subject to funding provided by the Legislative Council. All employees of the Gaming Office shall act under the authority and supervision of the Executive Director. The Assistant Executive Director shall act on behalf of the Executive Director in the absence of the Executive Director. No employee of the Gaming Office shall be employed by the Gaming Facility Operator. No employee of the Gaming Office shall be employed by or hold, directly or indirectly, a financial interest in an organization or entity which (i) has entered into a Management Contract with the Gaming Facility Operator; (ii) is a Manufacturer or Distributor; (iii) provides Gaming Services; or (iv) provides financing to the Nation or the Gaming Facility Operator for purposes of conducting Gaming Operations within the Nation.

(b) The Executive Director of the Gaming Office shall be appointed by the Chairperson of the Nation and shall serve at the pleasure of the Chairperson. The appointment shall be subject to approval by a majority vote of the Legislative Council. The job performance of the Executive Director shall be reviewed periodically by the Nation's Chairperson who shall submit a written report of each such review to the Chairperson of the Legislative Council.

(c) The Executive Director shall be an individual (i) of the utmost honesty and integrity, (ii) who has not been convicted of any felony or of a misdemeanor involving theft or embezzlement or a crime involving moral turpitude, and (iii) whose prior activities, reputation, habits, and associations do not pose a threat to the public interest or to the effective regulation of Gaming Activities.

(d) The Executive Director shall be the Nation's designated agent for service of any official determination, order or notice of the Commission.

(e) The Gaming Office shall have the right to inspect any Gaming Facility at any time and shall have immediate and unrestricted access to any and all areas of a Gaming Facility, which it may exercise directly or through such agents or employees as determined by the Executive Director. The Executive Director shall notify the Gaming Facility Operator of Persons authorized to have immediate and unrestricted access and the Executive Director shall periodically update its notification to the Gaming Facility

Operator of Persons authorized to have immediate and unrestricted access. An Inspector shall be present in each Gaming Facility during all hours of Gaming Operation.

(f) The Nation shall not employ any individual in the Gaming Office unless the Nation's Human Resources Office has first issued the individual a Tribal Gaming Regulatory License. Before issuing a Tribal Gaming Regulatory License, the Nation's Human Resources Office shall conduct a background investigation of each applicant for a Tribal Gaming Regulatory License, which investigation shall comply with any requirements of the Act or the Compact, to ensure that the applicant is qualified for a Tribal Gaming Regulatory License. Any individual who is not an enrolled member of the Nation also shall be certified by the Arizona Department of Gaming pursuant to the Compact before being employed by the Gaming Office. The Nation's Human Resources Office shall not issue a Tribal Gaming Regulatory License to any individual, and shall revoke any such license issued to any individual, whom it determines:

1. has been convicted of any felony or gaming offense;
2. has knowingly and willfully provided materially important false statements or information or omitted materially important information on his or her license application; or
3. is an individual whose prior activities, criminal record, if any, or reputation, habits, and 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 or the carrying on of the business and financial arrangements incidental thereto.

(g) The Nation's Human Resources Office shall forward a copy of every application for a Tribal Gaming Regulatory License to the Arizona Department of Gaming in accordance with Section 5 of the Compact. If the application for a Tribal Gaming Regulatory License is denied by the Nation's Human Resources Office, a statement setting forth the grounds for denial shall be forwarded to the Arizona Department of Gaming together with all other documents relied upon by the Nation's Human Resources Office, to the extent allowed by law. The Nation's Human Resources Office shall afford the Arizona Department of Gaming an opportunity for a hearing before an appropriate forum of the Nation, pursuant to Sections 5(q)(2) and 5(q)(3) of the Compact, to contest a licensing decision of the Nation's Human Resources Office or to recommend suspension or revocation of a license issued by the Nation's Human Resources Office. The decision of the tribal forum shall be final.

Section 403. Powers and Duties of the Gaming Office. Subject to all of the provisions of this Ordinance, the Gaming Office shall have the following powers and duties, which it may exercise directly or through such agents or employees as determined by the Executive Director:

(a) to have and to exercise full responsibility for the regulation of Gaming Activities within the Nation, as provided in this Ordinance, the Act, and the provisions of the Compact;

(b) to enter any Gaming Facility at any time to inspect (1) the Gaming Facility, (2) its employees and operations, (3) its equipment and supplies, and (4) its business records, books of account, and any and all other financial records or documents pertaining to the business operations of the Gaming Facility Operator (regardless of where those records or documents may be located) and to make summaries or copies of any and all such records or documents to ensure compliance with the provisions of this Ordinance, the Compact or the Act;

(c) to investigate any aspect of Gaming Activities or the Gaming Facility Operator necessary: to protect the public interest in the integrity of Gaming Activities and the integrity of the Gaming Facility Operator; to assure that the Gaming Facility Operator is accountable for and able to protect its assets; to prevent improper or unlawful conduct in the course of Gaming Activities, financial accounting or money handling of the Gaming Facility Operator; and to investigate any report of a failure of any Gaming Operation, the Gaming Facility Operator, or any Person to comply with the provisions of this Ordinance, the Compact or the Act;

(d) to issue a notice of violation to any Person for violating provisions of this Ordinance, the Compact, or the Act and to impose civil penalties for such violations, in accordance with the provisions of this Ordinance;

(e) to require any Person whom the Gaming Office determines has violated any provisions of this Ordinance to correct the violation upon such terms and conditions as the Gaming Office determines to be appropriate;

(f) to issue subpoenas and compel the attendance of witnesses at any place within the Nation, to administer oaths and to require testimony under oath;

(g) to summarily seize, remove, or impound any equipment, supplies, documents, or records of the Gaming Facility Operator or found in a Gaming Facility so that it may examine such items;

(h) to review any proposed Management Contract, Transfer Agreement or proposed lease of land for the site of a Gaming Facility to determine whether the contract, agreement or lease complies with all applicable laws and regulations and to make recommendations regarding the terms of any proposed Management Contract, Transfer Agreement or lease to the Nation's Chairperson;

(i) to establish a list of individuals who, because of their criminal history or their association with career offenders or career offender organizations, pose a threat to

the integrity of Gaming Activities, and who shall be barred from all Gaming Facilities within the Nation;

(j) to remove from any Gaming Facility and the surrounding premises controlled by the Gaming Facility Operator any individual barred from the Nation's Gaming Facilities as provided in Section 403(i);

(k) to approve the rules of Gaming Activities prior to implementation by the Gaming Facility Operator;

(l) to approve the system of internal controls required in Section 1305 prior to implementation by the Gaming Facility Operator, and to issue regulations addressing compliance with the approved system of internal controls;

(m) to perform background investigations on every applicant for a license under this Ordinance, including all applicants for positions of employment with the Gaming Facility Operator;

(n) to approve or deny applications for licenses or to limit, condition, restrict, revoke, or suspend any license which it has granted;

(o) to issue licenses and employee identification cards in the form designated by the Gaming Office, which cards shall include a photograph, the employee's first and last name, a unique identification number, the Nation's seal, and an expiration date;

(p) to issue regulations limiting or restricting the access of Persons who are not Gaming Employees to the non-public areas of a Gaming Facility;

(q) to detain individuals who may be involved in illegal activities, for purposes of notifying and summoning appropriate law enforcement authorities; and

(r) to do all other things reasonably necessary to protect the integrity of Gaming Activities, financial accounting and money handling and for the proper and efficient fulfillment of the powers and responsibilities of the Gaming Office under this Ordinance, the Compact, or the Act.

Section 404. Issuance of Regulations.

(a) The Gaming Office shall from time to time promulgate and issue regulations governing any aspect of its responsibilities under this Ordinance, which, so long as they are in furtherance of and not in conflict with any provision of this Ordinance, shall have the force of law. Without limitation, the matters to be addressed by such regulations may include the following:

1. the time and manner for applying for a Gaming Facility Operator's License under this Ordinance, and the specific information to be provided in connection with such application, including information necessary for adequate assessment of the applicant's background, and the manner in which such applications will be processed;
2. the procedure by which applicants for licenses under this Ordinance shall apply for such licenses, including the information to be provided by the applicant necessary for adequate assessment of the applicant's background, and the manner in which such applications will be processed; and
3. the specific types of accounting, security, accessibility to non-public areas, recordkeeping and reporting measures required by this Ordinance, the Compact or the Act to be in place and functioning at any Gaming Facility licensed under this Ordinance.

(b) Except in emergency situations addressed in subsection (c) below, prior to promulgating a final regulation the Gaming Office shall publish the regulation in proposed form. The proposed regulation shall be provided directly to the Chairperson of the Nation, the Chairperson of the Legislative Council, the Chairperson and each member of the Commerce Committee of the Legislative Council, the Office of the Attorney General, the office of each District Chairperson, the Gaming Facility Operator and to any other interested Person or interested office or agency of the Nation. The proposed regulation shall be accompanied by a notice stating that the Gaming Office will accept written comments on the proposed regulations for a set period of time, which shall be no less than thirty (30) days following the date the Gaming Office publishes the proposed regulations. As used in this section, the term "publish" shall mean publication in newspaper(s) of general circulation within the Nation and posting in each of the Nation's District offices. In the event of significant public interest with respect to any regulation, the Gaming Office may hold one or more public hearings prior to issuing a final regulation. The Gaming Office shall give notice of any hearing in the manner set forth above, and also shall mail a notice directly to any Person submitting comments on the proposed regulation. Except as provided in subsection (c) of this section, the Gaming Office shall not issue a final regulation until it has reviewed all comments received by the close of the comment period, as well as all presentations made at any hearing held pursuant to this subsection.

(c) In the event the Gaming Office determines that an immediate rule-making is necessary to avoid serious jeopardy to the integrity of any Gaming Activities within the Nation, or otherwise to deal with an emergency situation affecting the responsibilities of the Gaming Office, the Gaming Office may, upon making an express written finding as to such emergency, issue a final regulation to take effect immediately; provided, that the Gaming Office shall publish notice and request comments on such regulation in the same

manner as is provided above, and upon consideration of any comments received, shall make such amendments to such final regulation as the Gaming Office deems appropriate.

(d) All final regulations adopted by the Gaming Office shall be officially filed with the Secretary of the Legislative Council, the Office of the Chairperson, and the Office of the Attorney General.

(e) Any regulations modified in accordance with Section 1305(c) are exempt from the provisions of subsections (b) and (c) of this Section.

Section 405. Petition for Self-Regulation. As soon as the Gaming Office determines that the Nation is eligible therefor, the Gaming Office shall submit to the Commission an application for a Certificate of Self-Regulation, under the provisions of 25 U.S.C. § 2710(c)(4). The Gaming Office shall do everything necessary and appropriate to obtain such Certificate and to maintain the Certificate in good standing.

Chapter 5. Gaming Facility Operator's License.

Section 501. Requirement of License. Before a Tribal Enterprise designated as the Gaming Facility Operator may conduct Gaming Activities, it shall first obtain a Gaming Facility Operator's License from the Gaming Office. Each individual appointed to be a member of the Board of Directors of any such Tribal Enterprise shall obtain a Gaming Facility Operator's License from the Gaming Office before his or her appointment is submitted to the Legislative Council for approval.

Section 502. Standards of Suitability.

(a) Tribal Enterprise. The Gaming Office shall not issue a Gaming Facility Operator's License under this Chapter to a Tribal Enterprise unless the Gaming Office is satisfied that the Tribal Enterprise is established and organized pursuant to a plan of operation adopted by the Legislative Council.

(b) Board of Directors. The Gaming Office shall not issue a Gaming Facility Operator's License under this Chapter to a member of the Board of Directors of a Tribal Enterprise established by the Legislative Council to conduct a Gaming Operation if the Gaming Office determines that such individual:

1. has been convicted of any felony or gaming offense;
2. has knowingly and willfully provided materially important false statements or information or omitted materially important information on his or her license application; or
3. is an individual whose prior activities, criminal record, if any, or reputation, habits, and 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 or the carrying on of the business and financial arrangements incidental thereto.

Chapter 6. Gaming Manager's License.

Section 601. Requirement of License. No Person shall function as the general manager of the Gaming Facility Operator without first obtaining a Gaming Manager's License from the Gaming Office. In the case of a Person other than an individual, each Principal of such entity must obtain a Gaming Manager's License from the Gaming Office.

Section 602. Standards of Suitability.

(a) **Individuals.** The Gaming Office shall not issue a Gaming Manager's License under this Chapter to an individual if it determines that the individual:

1. has been convicted of any felony or gaming offense;
2. has knowingly and willfully provided materially important false statements or information or omitted materially important information on his or her license application; or
3. is an individual whose prior activities, criminal record, if any, or reputation, habits, and 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 or the carrying on of the business and financial arrangements incidental thereto.

(b) **Corporations, Partnerships, and Other Entities.**

4. The Gaming Office shall not issue a Gaming Manager's License under this Chapter to a corporation, partnership, or other entity unless it is satisfied that the entity:
 - (A) is organized and in good standing under the laws of the jurisdiction where it was established, and is qualified to do business within the Nation and the State of Arizona;
 - (B) is in sound financial condition, as shown by a financial statement certified by a certified public accountant to be a fair presentation in all material respects of the financial

position and results of operations and cash flows of the entity in conformity with generally accepted accounting principles;

- (C) is not now and has not been in the past five years the subject of any criminal investigation by any federal or state law enforcement authority, as shown by an affidavit of Principals of the entity having personal knowledge thereof;
- (D) has established a reputation for financial integrity and sound business practices, or, if the entity was recently formed, that all Persons having any role in its formation, including Persons supplying financing, are Persons qualified to be licensed individually under the terms of this Chapter; and
- (E) 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. The Gaming Office shall not issue a Gaming Manager's License under this Chapter to any corporation, partnership, or other entity unless the entity:

- (A) Agrees to maintain an office within the Nation as a condition of maintaining its license; and
- (B) Agrees to give the Gaming Office notice within ten days of any change in its Principals, of any change in the location of its office(s), and of any material change in the information disclosed in its application for its license.

Chapter 7. Licenses for Gaming Device Manufacturers, Distributors, Suppliers of Gaming Services, and Financers.

Section 701. Requirement of License. Each Manufacturer and each Distributor of Gaming Devices shall be licensed by the Gaming Office before selling or leasing any Gaming Devices to the Gaming Facility Operator. Each supplier of Gaming Services also shall be licensed by the Gaming Office before providing Gaming Services to the Gaming Facility Operator. The Gaming Office may waive the requirement of a license under this section if it determines licensing is not necessary to protect the public interest. Such waiver will be in effect for two years unless withdrawn earlier by the Gaming Office. In addition, any Person extending or guarantying financing for a Gaming Operation or Gaming Facility shall be licensed by the Gaming Office, unless the Person is an agency of the United States or a lending institution licensed and regulated by the State or the United States.

Section 702. Standards of Suitability.

(a) Individuals. The Gaming Office shall not issue a license under this Chapter to an individual if it determines that the individual:

1. has been convicted of any felony or gaming offense;
2. has knowingly and willfully provided materially important false statements or information or omitted materially important information on his or her license application; or
3. is an individual whose prior activities, criminal record, if any, or reputation, habits, and 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 or the carrying on of the business and financial arrangements incidental thereto.

(b) Corporations, Partnerships, and Other Entities.

1. The Gaming Office shall not issue a license under this Chapter to any corporation, partnership, or other entity unless the Gaming Office is satisfied that the entity:
 - (A) is organized and in good standing under the laws of the jurisdiction where it was established, and is qualified to do business within the Nation and the State of Arizona;
 - (B) is in sound financial condition, as shown (at a minimum) by a financial statement certified by the entity's chief executive officer (or equivalent) to be a fair presentation in all material respects of the financial position and results of operations of the entity;
 - (C) has established a reputation for financial integrity and sound business practices, or, if the entity was recently formed, that all Persons having a role in its formation, including its Principals, are qualified to be licensed individually under the terms of this Chapter; and
 - (D) is in all other respects reliable and trustworthy, and whose involvement in Gaming Activities within the Nation will be in the best interests of the Nation as set forth in this Ordinance.

2. The Gaming Office shall not issue a license under this Chapter to any corporation, partnership, or other entity unless the entity agrees to give the Gaming Office notice within ten days of any change in its Principals, of any change in the location of its office(s), and of any material change in the information disclosed in its application for its license.

Chapter 8. Gaming Employee's License.

Section 801. Requirement of License. Every Gaming Employee of the Gaming Facility Operator shall be licensed by the Gaming Office before commencing employment. For purposes of this Chapter, the Gaming Facility Operator may compensate a potential employee for attending basic training and orientation sessions conducted outside of a Gaming Facility without that individual being considered to have commenced employment.

Section 802. Standards of Suitability. The Gaming Office shall not issue a Gaming Employee's License under this Chapter to an individual if it determines that the individual:

- (a) has been convicted of any felony or gaming offense;
- (b) has knowingly and willfully provided materially important false statements or information or omitted materially important information on his or her license or employment application; or
- (c) is an individual whose prior activities, criminal record, if any, or reputation, habits, and 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 or the carrying on of the business and financial arrangements incidental thereto.

Chapter 9. License Application Procedure.

Section 901. Application Requirements; Processing.

(a) Each applicant for a license under Chapters 5, 6, 7, and 8 of this Ordinance shall submit an application to the Gaming Office on the appropriate form prescribed by the Gaming Office accompanied by the required fee and such supporting information as the Gaming Office may require.

1. The Gaming Office shall request from Primary Management Officials and Key Employees all of the following information:
 - (A) Full name, including any aliases (oral or written) by which applicant has ever been known;

- (B) Social security number;
- (C) Date and place of birth, gender, current citizenship, and all languages spoken or written;
- (D) Currently and for the five previous years: business and employment positions held, affiliations or relationships with any business or ventures including positions as officers or directors, ownership interests in any business or venture, business and residence addresses, and drivers license numbers;
- (E) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant while he resided at each address listed on the application;
- (F) Educational history;
- (G) Current business and residence telephone numbers;
- (H) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (I) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (J) The name and address of any licensing or regulatory agency with which the individual has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (K) The name and address of any licensing or regulatory agency with which the individual has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (L) All criminal proceedings to which the applicant has been a party, except for minor traffic offenses, and a description of each charge, the name and address of the court involved, and the disposition of the charge and the date of disposition (if any).

- (M) A set of fingerprints;
- (N) A current photograph; and
- (O) A complete and accurate financial disclosure statement.

2. In addition to any other information the Gaming Office may deem pertinent, the Gaming Office may require a corporation, partnership, or other entity applying for a license to provide the following information with an application for a license:

- (A) The name, address, and other additional pertinent background information on each of its Principals;
- (B) The name, address, and other additional pertinent background information on each of its related, associated, or affiliated Persons;
- (C) A description of any previous experience that the entity and each Principal has had with other Indian tribes involving gaming (including under any management contracts) or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such individual has had contact relating to gaming; and
- (D) A complete financial statement of each Principal.

(b) The Gaming Office and its staff may assist any applicant in assembling all information required for processing of the application, but shall not be required to process any application until it is complete. The Gaming Office may, at any time after an application is submitted, make a written request that an applicant supply any additional information the Gaming Office deems necessary to complete the processing of the application and the applicant shall comply with such a request forthwith.

(c) The application forms used by the Gaming Office shall contain the notice required under the Privacy Act and the notice regarding false statements in the form required by the Commission under 25 C.F.R. Part 556, and each applicant shall consent in writing to the release of any information that may be relevant to the Gaming Office's inquiry into the applicant's background from any Person. The Gaming Office shall keep confidential any and all information it obtains in the course of investigating an application (including the identity of all individuals interviewed in the course of the investigation) and shall comply with all applicable laws pertaining to the confidentiality of such information. The Gaming Office shall not release such information to any other

individual or agency (other than to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a request by a tribe or the Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation) without the applicant's consent, or pursuant to an order of court or other body of competent jurisdiction.

(d) The Gaming Office shall issue a written decision on each application. The written decision of the Gaming office shall constitute final action of the Gaming Office on such application. If the Gaming Office denies an application for a license, the decision shall specify the reason for such denial.

Section 902. Fees. The Gaming Office shall collect the following fees in connection with the processing of applications and the issuance of licenses:

- (a) Gaming Facility Operator's License:
 - 1. Initial application fee:
 - (A) Tribal Enterprise: \$50,000.00.
 - (B) Member, Board of Directors: \$200.00.
 - 2. Annual renewal fee:
 - (A) Tribal Enterprise: \$50,000.00.
 - (B) Member, Board of Directors: \$100.00.
- (b) Gaming Manager's License:
 - 1. Initial application fee: \$1,000.00.
 - 2. Annual renewal fee: \$500.00.
- (c) Licenses for Gaming Device Manufacturers, Distributors, Suppliers of Gaming Services, and Financers.
 - 1. Initial application fee:
 - (A) Manufacturer/Distributor of Gaming Devices: \$2,000.00.
 - (B) Supplier of Gaming Services: \$200.00.
 - (C) Third Party Financer: \$2,000.00.

2. Annual renewal fee:
 - (A) Manufacturer/Distributor of Gaming Devices: \$1,000.00.
 - (B) Supplier of Gaming Services: \$100.00.
 - (C) Third Party Financer: \$1,000.00.
- (d) Gaming Employee's License:
 1. Initial application fee: \$25.00.
 2. Annual renewal fee: \$10.00.
- (e) Other Fees. The Gaming Office may by regulation modify the schedule of fees in this Section or prescribe such other fees as it deems appropriate.

Section 903. License Terms; Renewal.

(a) Each Gaming Employee's License issued by the Gaming Office shall have a primary term of one year and may be renewed for subsequent one-year periods upon the timely submission of a completed application on the forms specified by the Gaming Office. Each license issued by the Gaming Office for Management Contractors, Financiers, Manufacturers and Distributors of Gaming Devices, and Persons providing Gaming Services, shall be effective for two (2) years from the date of issuance and may be renewed for subsequent two-year periods upon the timely submission of a completed application on the forms specified by the Gaming Office. No licensee shall have any vested right to renewal of any license issued under this Ordinance.

(b) The Gaming Office shall issue a temporary license to an applicant within 20 days after receiving a completed application for licensing under Chapter 5, 6, 7, or 8 of this Ordinance, unless (1) grounds sufficient to disqualify the applicant are apparent on the face of the application, (2) the background investigation undertaken by the Gaming Office discloses that the applicant may have a criminal history sufficient to disqualify the applicant from holding a license, or (3) the background investigation undertaken by the Gaming Office discloses other information that may be sufficient to disqualify the applicant from holding a license. A temporary license shall become void and shall be of no effect upon either the issuance of a license or upon the issuance of a notice of denial of the license in accordance with the provisions of this Ordinance.

Section 904. State Certification. Every Person required to be licensed under this Ordinance also shall comply with the state certification requirements of the Compact, if those requirements are applicable to the Person. Within the time requirements established by the Compact, the Gaming Office shall forward to the Arizona Department of Gaming a report of final disposition of the licensing actions of the Gaming Office. The

Gaming Office shall afford the Arizona Department of Gaming an opportunity for a hearing before an appropriate forum of the Nation, pursuant to Sections 5(q)(2) and 5(q)(3) of the Compact, to contest a licensing decision of the Gaming Office or to recommend suspension or revocation of a license issued by the Gaming Office. The decision of the tribal forum shall be final, except as provided in Section 5(q)(4) of the Compact.

Chapter 10. Background Investigations; Notifications.

Section 1001. Background Investigations.

(a) The Gaming Office shall at all times have in place, and shall regularly update and improve, a system for conducting background investigations of every applicant for licensing under this Ordinance. The system shall comply with the requirements of this Ordinance, the Compact and the Act, and shall include, at a minimum, the use of records of all available tribal, state and federal law enforcement agencies, resources of the Commission, communications with other Indian tribes engaged in gaming activities, and any and all other sources of information reasonably accessible to the Gaming Office for this purpose. The system shall ensure that all applicants are notified of their rights under the Privacy Act as specified in 25 C.F.R. Part 556.

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

(c) The Gaming Office shall prepare a background investigation report on every applicant for licensing under this Ordinance which shall include all of the following:

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

(d) The Gaming Facility Operator shall pay the initial application fees required by Section 902(d) of this Ordinance and the initial application fees required by Section 5(l) of the Compact for each Gaming Employee hired by the Gaming Facility Operator. If an individual applicant for a Gaming Employee license or certification fails to report to work for the Gaming Facility Operator or leaves the employment of the Gaming Facility Operator within one year of initial hire, the Gaming Facility Operator may recover from the applicant the fees it paid for the applicant's initial licensing and certification, by setting off any sums it owes to the applicant against the fees paid, by

bringing suit in the Tohono O'odham Judicial Court to recover the fees, or by any other lawful manner. The Gaming Facility Operator shall not be required to pay initial application fees for the same individual applicant for a Gaming Employee license or certification more than one time. If an individual applies for a Gaming Employee license or certification more than once, whether because the individual did not complete the application process, because the individual failed to renew a license or certification, or otherwise, the Gaming Facility Operator may require the individual applicant to pay the license and certification fees incurred for the subsequent applications. The Gaming Facility Operator shall pay any required renewal fees for licensing and certification for each Gaming Employee who remains in the employment of the Gaming Facility Operator.

(e) The Gaming Office shall maintain files containing the results of any background investigations conducted by it for the longer of: (i) three years from the date of a Gaming Employee's termination of employment, with respect to the files for a Gaming Employee; or (ii) the term of record retention required by the Compact. Such files shall contain systems designed to safeguard the identities of confidential informants from inadvertent disclosure.

Section 1002. Notification to the National Indian Gaming Commission.

(a) Within the time required by the Commission, the Gaming Office shall transmit to the Commission licensing information on Primary Management Officials and Key Employees as required by the Commission. After the Gaming Office completes its background investigation for a Primary Management Official or Key Employee, and within the time requirements established by the Commission, the Gaming Office shall provide to the Commission, as required by the Commission, a report on the results of the background investigation. If the Gaming Office receives any information from the Commission concerning the applicant, it shall take that information into account in its action on the application. The Gaming Office shall notify the Commission if the Gaming Office does not license an applicant.

(b) Upon issuing a license to a Primary Management Official or Key Employee under this Ordinance, the Gaming Office shall give notice thereof to the Commission. If the Gaming Office receives information from the Commission indicating that a Primary Management Official or Key Employee does not meet the standards established in this Ordinance or in the Act for issuance of such a license, the Gaming Office shall immediately suspend such license and give written notice of the suspension to the licensee. The Gaming Office shall also notify the licensee that the licensee has 15 days following receipt of the notice of suspension to request that the Gaming Office reconsider the notice of suspension. Upon such request for reconsideration, the Gaming Office shall consider such oral statement(s) or written documentation as the licensee may present to the Gaming Office at the time and place designated by the Gaming Office. Within 15 days of receipt of such statement(s) or documentation, or the licensee's request for reconsideration, whichever is later, the Gaming Office shall issue a written decision.

The written decision of the Gaming Office shall constitute final action of the Gaming Office. The Gaming Office shall notify the Commission of its decision.

Chapter 11. Gaming Facility License.

Section 1101. Requirement of License. No Gaming Activities shall be conducted in any Gaming Facility unless the Gaming Office first has issued a Gaming Facility License for the Gaming Facility under the provisions of this Chapter. The Gaming Facility Operator shall not offer any new or different Gaming Activities, as defined by regulations to be issued by the Gaming Office, at any facility or location that is already licensed, without first obtaining an amended license for such new and different Gaming Activities from the Gaming Office.

Section 1102. Standards for Issuance of License. The Gaming Office shall not issue a Gaming Facility license for any facility at which Gaming Activities are to be offered unless the Gaming Facility meets the following requirements:

- (a) the physical facility within which the Gaming Activities are to be conducted is designed and constructed in compliance with the laws of the Nation, the requirements of the Compact and the requirements of the Act, so as to ensure the health and safety of all employees and patrons of such activities, and the protection of the natural environment from any contamination due to discharge of waste or unreasonable disturbance of the land surface;
- (b) the Gaming Activities to be conducted within the Gaming Facility will lawfully be carried on by the Nation under the Compact and the Act, and the facilities are appropriate to the carrying on of such activities;
- (c) the Gaming Facility Operator will adequately staff and equip the Gaming Facility to ensure the safety, comfort and convenience of the patrons thereof, and the Gaming Facility Operator has taken adequate measures to provide for traffic, emergency service accessibility, food, drink and sanitary needs for patrons and employees, security, law enforcement and other concerns raised by the type of Gaming Activities proposed to be undertaken in compliance with this Ordinance, the Compact and the Act;
- (d) the Gaming Facility Operator has entered into a Management Contract or has made provision for management of the facility under terms and provisions that ensure that the Gaming Activities will be carried out in a manner consistent with the requirements of this Ordinance, that the contracting party or parties have received appropriate licenses issued under the provisions of this Ordinance, and that all employees hold Gaming Employee's Licenses issued under the provisions of this Ordinance; and
- (e) in all other relevant respects, the Gaming Facility will be operated in a way that is fully consistent with the provisions of this Ordinance, and that its operation will further the interests of the Nation with respect to its operation of Gaming Activities.

Section 1103. Application for a New or Amended License; Procedure.

(a) The Gaming Facility Operator shall obtain a new or amended Gaming Facility License before commencing operations at a new facility or commencing new activity at a licensed facility for which an amended license is required.

(b) The Gaming Office shall prescribe the information required to be submitted with such applications, but at a minimum, such application for licensing a new facility shall include the following:

1. the name, specific position and job description of all individuals to be employed as Primary Management Officials or Key Employees at the facility;
2. job descriptions for every other position in which individuals will be employed at the facility;
3. a detailed description of the Gaming Activities to be engaged in at the facility, together with expected payouts to winners;
4. a description of the internal controls, plan of organization and all coordinate methods and measures for the safeguarding of assets, ensuring the accuracy and reliability of its accounting data, promoting operational efficiency and encouraging adherence to prescribed managerial policies;
5. detailed plans for the facility, including landscaping, traffic controls, parking, food and drink services, and other physical aspects of the building;
6. a detailed description of how security will be maintained at the facility, identifying the Persons, agencies or entities that will provide such security;
7. a detailed description of how gaming proceeds will be accounted for and disposed of on a daily basis;
8. a copy of any proposed Management Contract or other contractual arrangement by which the activities at the facility are to be managed;
9. a description of provisions for dealing with fire or other potential emergencies at the facility;

10. a detailed description of how sewage and other waste products from the facility will be handled and disposed of; and
11. any other information relevant to the proposed operation of the facility or requested by the Gaming Office as part of the application.

(c) An application for an amended license to conduct new or different Gaming Activities at a licensed location or to otherwise alter the terms or conditions of an existing license, shall, at a minimum, include the following information:

1. any change in information previously provided in the original license application or any previous application for an amended license for the Gaming Facility;
2. a detailed description of the changes in the Gaming Facility or in the activities to be carried on therein for which the amended license is required, together with a statement of the reasons for such change;
3. if a proposed change will require any change in the existing Management Contract with respect to the Gaming Facility, a copy of the proposed amendment to such contract or new contract; and
4. any other information relevant to the changes or new activities requiring the amendment.

(d) In its decision to license any Gaming Facility, or to amend any existing license to permit the conduct of new or different Gaming Activities at a licensed facility, the Gaming Office may specify, consistent with the provisions of this Ordinance, terms or conditions it believes necessary or appropriate to ensure the health and safety of patrons and employees of any such facility, the integrity of the Gaming Activities carried on at such facility, the Gaming Facility Operator's ability to account for and protect its assets, and the security of gaming proceeds. If dissatisfied with any such condition, the applicant may request that the Gaming Office reconsider its determination. Upon such request for reconsideration, the Gaming Office shall issue a written decision within 15 days of its receipt of the request for reconsideration. The written decision of the Gaming Office shall constitute final action of the Gaming Office.

Section 1104. Fees.

(a) The Gaming Facility Operator shall pay an annual fee of \$600.00 per Gaming Device in operation to the Nation in connection with the Gaming Office's processing of applications and the issuance of Gaming Facility licenses.

(b) The Gaming Facility Operator shall pay the required annual fee in equal quarterly installments, the first of which shall be payable within 15 days of receipt of notice of approval of the Gaming Facility License. The remaining installments shall be paid on the first day of each succeeding calendar quarter calculated at the rate imposed under subsection (a) then in effect for the number of gaming devices in operation on the date each quarterly installment is due.

(c) The Gaming Office may by regulation prescribe such other fees as it deems appropriate.

Section 1105. License Terms; Renewal.

Each Gaming Facility License issued by the Gaming Office shall be for a term of one year. Such license may be renewed for subsequent one-year terms upon proper application on forms specified by the Gaming Office.

Chapter 12: Facility Inspection; Investigations; Notice of Violation; Judicial Review.**Section 1201. Facility Inspection.**

The Gaming Office shall, no less than quarterly and at such other times as required by applicable law, cause detailed inspections to be made of each Gaming Facility licensed under the provisions of this Ordinance, to assure that such facility is being operated in accordance with the terms of the license and of the provisions of this Ordinance, the Compact and the Act.

Section 1202. Investigations.

(a) The Gaming Office shall investigate any reported violation of this Ordinance, the Compact or the Act. The Gaming Office shall also investigate any reported violation of the Compact's appendices when the Gaming Office determines that an investigation is reasonably necessary to ensure the integrity of gaming, the protection of persons and property, and compliance with the Compact.

(b) The Gaming Office shall make a written record of reported violations in accordance with the requirements of Section 6(e) of the Compact. The Gaming Office shall make reports of its investigations to the Arizona Department of Gaming in accordance with the requirements of Section 6(g) of the Compact.

(c) The Gaming Office shall issue a written warning of its preliminary determination of violation to any licensee alleged to have committed a violation and to the Gaming Facility Operator. The warning shall require the licensee and/or the Gaming Facility Operator, as appropriate, to correct the violation upon such terms and conditions as the Gaming Office determines are necessary and proper under the provisions of this Ordinance.

(d) If a licensee fails to correct a violation within the time set forth in a warning issued under Section 1202(c), the licensee shall file, and the Gaming Facility Operator may file, with the Gaming Office a written response to the warning within 7 days of receiving the warning. Following receipt of the responses, the Gaming Office shall complete its investigation into the alleged violation. The Executive Director shall issue a notice of violation if the Gaming Office determines that a licensee violated or is violating the Ordinance, the Compact or the Act and has failed to correct the violation within the time set forth in a warning issued under Section 1202(c). The Executive Director also may issue a notice of violation if the Gaming Office determines that a Person other than a licensee violated or is violating the Ordinance, the Compact or the Act.

Section 1203. Notice of Violation.

(a) The Gaming Office shall deliver the notice of violation to the Person the Gaming Office is charging with a violation of this Ordinance, the Compact or the Act. The Gaming Office shall also deliver a copy of each notice of violation relating to a Gaming Facility (including any violation alleged to have been committed by an employee, vendor, or patron) to the Gaming Facility Operator, with any redactions necessary to avoid disclosure of any information which the Gaming Office is obligated to keep confidential under any applicable privacy laws, including Section 901(c) of this Ordinance.

(b) A notice of violation shall contain:

1. a citation to the Ordinance, regulation, Compact provision, minimum internal control standard, or federal law that has been or is being violated;
2. a description of the circumstances surrounding the violation, set forth in common and concise language;
3. notice of any action that the Gaming Office proposes must be taken to correct the violation, if the Gaming Office determines that the violation is capable of being corrected;

4. notice of the time frame within which any action to correct the violation must be taken, unless the Gaming Office determines that the violation is incapable of being corrected;
5. notice of any civil fine or other enforcement action that the Gaming Office proposes to impose in accordance with Section 1203(e) of the Ordinance as a result of the violation;
6. notice that a written response to the notice of violation must be submitted to, and received by, the Gaming Office within 15 days of the receipt of the notice of violation; and
7. notice that, if no written response to the notice of violation is submitted to the Gaming Office within the time prescribed in Section 1203(b)(6), the Gaming Office may issue its final decision regarding the violation alleged in the notice and impose a civil fine or take the enforcement action set forth in the notice without hearing from the Person to whom the notice was issued or from the Gaming Facility Operator.

(c) The Person(s) to whom a notice of violation is issued and the Gaming Facility Operator each may submit a written response to the Gaming Office together with any additional written information the Gaming Office should consider. A Person desiring to submit a written response and any supporting documentation must do so within 15 days after receiving notice of the alleged violation. The Gaming Office shall issue a written decision within 15 days after receiving all written responses or, if no party submits a written response in a timely manner, within fifteen days after the deadline for the submission of written responses. The written decision shall constitute final action of the Gaming Office with respect to any notice of violation. Except as provided in Section 1203(d), the Gaming Office shall take no action to enforce a notice of violation until it issues its written decision.

(d) Notwithstanding the requirements of Section 1202(c), if the Gaming Office determines that the Ordinance, the Compact, or the Act have been violated and the continued licensing of, or conduct by, a Person constitutes an immediate and substantial threat to: the public health, safety or welfare; the integrity of Gaming Activities; the integrity of the Gaming Facility Operator; the Gaming Facility Operator's ability to account for and protect its assets; or to the security of gaming proceeds, the Gaming Office may:

1. summarily suspend any license issued under this Ordinance;
2. summarily eject any Person who has violated the Ordinance, the Compact, or the Act from a Gaming Facility or the surrounding

premises controlled by the Gaming Facility Operator, using such force as may be reasonably necessary under the circumstances;

3. summarily seize the proceeds of any Gaming Activities not conducted by the Gaming Facility Operator;
4. summarily seize, remove, or impound any equipment, supplies, business records, books of account, or any and all other financial records or documents pertaining to the business operations of a Gaming Facility (regardless of where those records or documents may be located). If the Gaming Office seizes, removes, or impounds any business records, books of account, or other financial records or documents of the Gaming Facility Operator, it shall provide the Gaming Facility Operator with a copy of any such items upon receiving a written request for copies from the Gaming Facility Operator; or
5. upon consultation with the Nation's Attorney General, initiate in the Judicial Court of the Tohono O'odham Nation a civil action or criminal complaint to enforce the Ordinance, the Compact, or the Act, which action may include a request for an order permitting the Gaming Office to seize a Gaming Facility or to seize the proceeds from Gaming Activities.

(e) After the Gaming Office renders a decision in accordance with Section 1203(c), if the Gaming Office has determined that the Ordinance, the Compact, or the Act have been violated, it may take one or more of the following actions, as may be appropriate under the circumstances:

1. require remedial action to correct the violation and/or prevent future violations;
2. suspend or revoke the license of the Person to whom the notice of violation was directed;
3. assess a civil penalty in accordance with the provisions of this Ordinance; or
4. upon consultation with the Nation's Attorney General, initiate in the Judicial Court of the Tohono O'odham Nation a civil action or criminal complaint to enforce the Ordinance, the Compact, or the Act, which action may include a request for an order permitting the Gaming Office to seize a Gaming Facility or to seize the proceeds from Gaming Activities.

Section 1204. Judicial Review.

(a) Any Person who has been issued a notice of violation by the Executive Director of the Gaming Office and who has submitted a written response to the Gaming Office in compliance with the provisions of Section 1203(c) of this Chapter may apply to the Judicial Court of the Tohono O'odham Nation for review of the Gaming Office's written decision regarding the alleged violation. If the Gaming Facility Operator submits a written response to the Gaming Office in compliance with the provisions of Section 1203(c), it also may apply to the Judicial Court of the Tohono O'odham Nation for review of the Gaming Office's written decision regarding the alleged violation.

(b) Any applicant for a license under this Ordinance, any Person licensed pursuant to this Ordinance, and any patron of a Gaming Operation aggrieved by a final action of the Gaming Office may apply to the Judicial Court of the Tohono O'odham Nation for review of the final action of the Gaming Office.

(c) Any Person desiring to appeal a final decision of the Gaming Office must file an application for judicial review within 60 days after receiving notice from the Gaming Office of its final decision.

(d) A Person aggrieved by a summary action taken by the Gaming Office under Section 1203(d) may seek an interlocutory review of the Gaming Office's action by filing an application for judicial review. The application for judicial review must be filed within 15 days after receiving notice of the Gaming Office's action.

(e) The reviewing court shall decide all relevant questions of law presented, interpret constitutional and statutory provisions, and determine the basis for the action of the Gaming Office. The reviewing court shall uphold the action of the Gaming Office unless the court determines that the Gaming Office's action was:

1. Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
2. Contrary to constitutional right, power, privilege, or immunity;
3. In excess of statutory jurisdiction, authority, or limitations, or in violation of statutory right;
4. Without observance of procedure required by law; or
5. Unsupported by substantial evidence.

Chapter 13: Gaming Operation.

Section 1301. Scope of Permissible Gaming. The Gaming Facility Operator may conduct only those Gaming Activities which may lawfully be carried on by the Nation under applicable provisions of federal law including, but not limited to, the Act, subject to any limitations which may be imposed by the Compact and this Ordinance.

Section 1302. Hours, Days, Other Standards. Consistent with the provisions of the Compact, the Gaming Office may by regulation establish the permissible hours and days of operation of Gaming Activities. The regulations may authorize the Gaming Facility Operator to operate Gaming Facilities and conduct Gaming Activities twenty-four hours a day, seven days a week. The Gaming Office also may, by regulation, establish other standards of operation for such Gaming Facilities, as the Gaming Office deems appropriate.

Section 1303. Employee and Player Age Limit. Effective June 1, 2003, individuals under 21 years of age shall not play or place any wager, directly or indirectly, in any Gaming Activities. Prior to June 1, 2003, individuals under 18 years of age shall not play or place any wager, directly or indirectly, in any Gaming Activities. The Gaming Facility Operator shall take reasonable steps to prevent underage individuals from playing or placing wagers in Gaming Activities. Neither the Gaming Office nor the Gaming Facility Operator shall employ any individual under 18 years of age. The Gaming Facility Operator shall not permit any individual under 21 years of age to serve alcoholic beverages at any Gaming Facility, unless otherwise permitted under State law. The Gaming Office may by regulation establish measures by which the Gaming Facility Operator shall enforce the provisions of this section.

Section 1304. Management; Security.

(a) The Gaming Facility Operator shall have the responsibility for the on-site operation, management and security of each Gaming Facility, and shall comply with all requirements of this Ordinance, the Compact and the Act. The Gaming Facility Operator shall adopt reasonable procedures, consistent with this Ordinance, the Compact and the Act, designed to provide for the following: the physical safety of its employees; the physical safety of patrons in each Gaming Facility; the physical safeguarding of, and accountability for, assets transported to and from each Gaming Facility and each cashier's cage department; and the protection of the patrons' and the Gaming Facility Operator's property from illegal activity. The Gaming Facility Operator shall adopt reasonable procedures, consistent with Section 3(v)(2) of the Compact, to advise individuals who inquire about the self-exclusion procedures established by the State. The Gaming Facility Operator shall, consistent with Section 3(v)(2) of the Compact: remove all self-excluded persons from all mailing lists and revoke any slot or player's cards; take reasonable steps to ensure that cage personnel check a person's identification against the Arizona Department of Gaming's list of self-excluded persons before allowing the person to cash a check or complete a credit card cash advance transaction; take reasonable steps to identify self-excluded persons who may be in a Gaming Facility and, once identified, promptly escort the self-excluded person from the Gaming Facility; and not pay any

hand-paid jackpot to a person who is on the Tribal or State self-exclusion list. Any jackpot won by a person on the self-exclusion list shall be donated by the Gaming Facility Operator to an Arizona-based non-profit charitable organization.

(b) The Gaming Facility Operator may temporarily or permanently ban individuals from the Nation's Gaming Facilities and the surrounding premises controlled by the Gaming Facility Operator for such reasons as the Gaming Facility Operator shall determine appropriate. The Gaming Facility Operator may detain individuals briefly for purposes of obtaining identification from the individuals in connection with the issuance of a banning notice and may detain individuals who may be involved in illegal activities, for purposes of notifying and summoning appropriate law enforcement authorities. If the Gaming Facility Operator requests that an individual leave a Gaming Facility or the surrounding premises for any reason and the individual refuses to do so, the Gaming Facility Operator may eject the individual using such force as may be necessary under the circumstances or request the Tohono O'odham Police Department to remove the individual.

(c) The Gaming Facility Operator shall pay to the Arizona Department of Gaming the Nation's regulatory costs and tribal contributions required under Section 12 of the Compact, in accordance with the directives of the Legislative Council.

(d) The Gaming Facility Operator shall designate an agent for service of any official determination, order or notice of the Commission.

Section 1305. Internal Controls.

(a) The Gaming Office shall by regulation establish minimum standards of internal control applicable to the Gaming Facility Operator and the Gaming Facilities that provide a level of control that equal or exceed the standards required by the Act and the Compact to provide reasonable assurance that the following objectives will be maintained:

1. Assets are safeguarded and accountability over assets is maintained;
2. Liabilities are properly recorded and contingent liabilities are properly disclosed;
3. Financial records including records relating to revenues, expenses, assets, liabilities, and equity/fund balances are accurate and reliable;
4. Transactions are performed in accordance with the general or specific authorization of the Gaming Facility Operator's management;

5. Access to assets is permitted only in accordance with the specific authorization of the Gaming Facility Operator's management;
6. Recorded accountability for assets is compared with actual assets at frequent intervals and appropriate action is taken with respect to any discrepancies; and
7. Functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by qualified personnel.

(b) The Gaming Facility Operator shall operate each Gaming Facility pursuant to a written internal control system in accordance with the requirements of Section 11 of the Compact. The Gaming Facility Operator shall adopt policies and procedures and a plan of organization to implement the minimum internal control standards established by the Gaming Office. The Gaming Office shall ensure that the Gaming Facility Operator's policies and procedures are consistent with the approved minimum internal control standards prior to implementation of the policies and procedures by the Gaming Facility Operator. The policies and procedures shall include a detailed system for counting cash receipts at least daily, and shall be appropriate to the types of Gaming Activities carried on at each Gaming Facility and the physical characteristics of the systems used for collecting cash. The plan of organization shall provide appropriate segregation of functional responsibilities and shall require sound practices to be followed in the performance of those duties by competent and qualified personnel. The plan of organization shall be diagrammatic and narrative describing the interrelationship of functions and the division of responsibilities upon which the system of internal control relative to gaming operations is based.

(c) The Gaming Facility Operator shall provide the Gaming Office with copies of its policies and procedures and plan of organization and any proposed changes before implementation. Within 7 days after submission by the Gaming Facility Operator, the Gaming Office shall issue a letter approving the policies and procedures and a plan of organization or any approved changes unless the policies and procedures and plan of organization or any proposed changes (or any part thereof) are inconsistent with the minimum internal control standards. If the policies and procedures and plan of organization or any proposed changes (or any part thereof) are inconsistent with minimum internal control standards, the Gaming Office shall issue a letter of disapproval, which shall set forth the inconsistencies in detail.

(d) The minimum internal control standards may be modified by the Gaming Office in the manner set forth in Section 404, or in the manner set forth below. The Gaming Office shall inform ADOG in writing of any changes to the Nation's minimum internal control standards.

1. The Gaming Office may propose modifications to the minimum internal control standards by providing written notice of the proposed changes to the Gaming Facility Operator and the date the Gaming Office proposes to have the changes be effective. The Gaming Facility Operator shall submit any comments on the proposed changes to the minimum internal control standards to the Gaming Office within thirty (30) days after receiving notice of the proposed changes from the Gaming Office. The Gaming Office shall not issue a final regulation modifying the minimum internal control standards until it has reviewed and considered the Gaming Facility Operator's comments. The Gaming Office's decision to modify any minimum internal control standards shall constitute final action of the Gaming Office.

2. The Gaming Facility Operator may propose changes to the minimum internal control standards by providing written notice of the proposed changes to the Gaming Office and the date the Gaming Facility Operator proposes to have the changes be effective. The Gaming Office shall review the proposed changes within 30 days after receiving them from the Gaming Facility Operator and shall notify the Gaming Facility Operator in writing whether it approves or does not approve of the proposed changes. If the Gaming Office approves the proposed changes, its notice of approval shall set forth the date on which the proposed changes will become effective. The Gaming Office's decision to approve or disapprove any proposed changes shall constitute final action of the Gaming Office.

(e) The Gaming Facility Operator shall provide written notice to the Gaming Office identifying all bank accounts maintained by the Gaming Facility Operator by bank and account number and identifying by name all individuals with authority to sign on each account. The Gaming Facility Operator shall provide written notice to the Gaming Office of any changes to this information within five business days of any changes.

Section 1306. Notification. The Gaming Facility Operator shall promptly notify the Gaming Office of any non-compliance with the minimum internal control standards, the Ordinance, the Compact or the Act or any other matters adversely affecting the integrity of Gaming Activities or the integrity of the Gaming Facility Operator. The Gaming Facility Operator shall promptly notify the Gaming Office of any employee termination and the reason for the termination.

Section 1307. Annual Independent Audit.

(a) The Gaming Facility Operator shall prepare financial statements for its operations in accordance with generally accepted accounting principles on a regular basis and shall provide the Gaming Office with copies of those financial statements.

(b) Within 110 days after the end of each fiscal year, the Gaming Facility Operator shall provide the Gaming Office with an audit of its financial statements for the prior year, along with any reports or management letter(s) the accountant has prepared. The audit shall be conducted by an independent certified public accountant in accordance with generally accepted auditing standards. Either the firm or all independent certified public accountants engaged to do audits pursuant to this Section shall be licensed by the Arizona State Board of Accountancy. The audit shall be prepared at the Gaming Facility Operator's expense. The auditor shall prepare an audit report expressing an unqualified or qualified opinion on the financial statements or, if appropriate, disclaim an opinion on the financial statements taken as a whole. The examination and audit shall disclose whether the accounts, records, internal controls, and accounting procedures of the Gaming Facility Operator are in compliance with the Act. The audit shall comply with the requirements of Section 12(g) of the Compact; it shall audit and report the Nation's Class III Net Win. It shall also include or be supplemented with an attestation by the auditor that Class III Net Win is accurately reported consistent with the terms of Compact Appendix I.

(c) All gaming related contracts that result in purchases of supplies, services, or concessions in an amount exceeding \$25,000 in any year (except contracts for professional legal or accounting services) shall be specifically included within the scope of the audit conducted under this section.

(d) To facilitate the completion of such audits, the Gaming Facility Operator shall make and maintain complete, accurate, and legible records of all transactions pertaining to any Gaming Activities and any other revenue producing activities conducted by the Gaming Facility Operator at or in conjunction with any Gaming Facility. The Gaming Facility Operator shall maintain its financial records in accordance with generally accepted accounting principals and shall keep those records in a form suitable for audit under the standards of the American Institute of Certified Public Accountants. The Gaming Facility Operator shall maintain the records, as well as all original entry transaction records, until the later of five years from the date on which they are made or the term of record retention required by the Compact. The records shall be maintained at a Gaming Facility or in other locations approved by the Gaming Office.

(e) The Gaming Facility Operator shall maintain:

1. Accurate, complete, legible and permanent records of all transactions pertaining to the Gaming Operation in a manner suitable for audit under the standards of the American Institute of Certified Public Accountants;

2. General accounting records using a double entry system of accounting with transactions recorded on a basis consistent with Generally Accepted Accounting Principles;
3. Detailed supporting and subsidiary records;
4. Detailed records identifying revenues, expenses, assets, liabilities and fund balances or equity for the Gaming Operation;
5. All records required by the internal control system including, but not limited to, those relating to any Gaming Activity authorized by this Compact;
6. Journal entries for the Gaming Operation;
7. Detailed records sufficient to accurately reflect gross income and expenses relating to its operations on a monthly and year-to-date basis;
8. Detailed records of any reviews or audits, whether internal or otherwise, performed in addition to the annual audit required in this Section, including, but not limited to, management advisory letters, agreed upon procedure reviews, notices of non-compliance and reports on the internal control system; and
9. Records of any proposed or adjusting entries made by an independent certified public accountant.

(f) The Gaming Facility Operator shall use a uniform chart of accounts and accounting classifications to assure consistent and effective disclosure of financial information and shall submit to the Gaming Office a copy of any changes to its chart of accounts.

(g) The Gaming Office, when it deems necessary, may request additional information regarding the Gaming Facility Operator's financial statements, its audits, or both from the Gaming Facility Operator. The Gaming Office also may require the Gaming Facility Operator to have its independent accountant provide such information to the Gaming Office. If the Gaming Facility Operator receives any written communications from its independent accountant regarding internal control matters, the Gaming Facility Operator shall provide copies of those communications to the Gaming Office within thirty days after receiving the communications.

(h) The Gaming Office shall provide copies of the Gaming Facility Operator's annual reports and management letters setting forth the results of the annual audit to the

Commission within 120 days after the end of each fiscal year for the Gaming Facility Operator and to the State in accordance with the requirements of the Compact. The Gaming Office shall cooperate with the Commission and the State with respect to any additional information the Commission or the State may request.

Section 1308. Public Disclosure of Payoffs. The Gaming Facility Operator shall display at all times in each Gaming Facility a schedule of payoff information for all Gaming Activities conducted in the Gaming Facility. The Gaming Facility Operator shall post the information in a location accessible to patrons and in a manner clearly visible to patrons. The Gaming Facility Operator shall regularly update the posted information to reflect any changes in Gaming Activities or in payoffs.

Section 1309. Patron Disputes.

(a) **Refusal to Pay Winnings.** Whenever the Gaming Facility Operator refuses payment of alleged winnings to a patron or there is otherwise a dispute with a patron regarding that patron's wins or losses from Gaming Activity, and the Gaming Facility Operator and the patron are unable to resolve the dispute to the satisfaction of the patron:

1. If the dispute involves five hundred dollars (\$500) or more, the Gaming Facility Operator shall immediately notify the Gaming Office and shall inform the patron of his or her right to file a complaint with the Gaming Office requesting that it investigate.
2. If the dispute involves less than five hundred dollars (\$500), the Gaming Facility Operator shall inform the patron of his or her right to file a complaint with the Gaming Office requesting that it investigate.

(b) **Complaint.** If a patron files a complaint with the Gaming Office alleging that the Gaming Facility Operator has failed to pay winnings owed to the patron, the Gaming Office shall promptly provide a copy of the complaint to the Gaming Facility Operator. Within 15 days after notifying the Gaming Office of a patron dispute or within 15 days after receiving from the Gaming Office a copy of a complaint filed by a patron, whichever is later, the Gaming Facility Operator shall file with the Gaming Office a written statement setting forth its position regarding the dispute. The Gaming Office shall cause a full investigation to be made of the patron's allegations and the Gaming Facility Operator's response, and shall determine whether the patron's complaint is valid, whether the patron is entitled to any relief, and if so, the relief to which the patron is entitled.

(c) **Notice to Patrons.** The Gaming Office shall mail written notice by certified mail, return receipt requested, to the Gaming Facility Operator and the patron of its decision resolving the dispute within 30 days after the date that the Gaming Office is

notified of a dispute by the Gaming Facility Operator or a request to conduct an investigation from the patron, whichever is later.

(d) **Effective Date of Decision.** The decision of the Gaming Office is effective on the date it is received by the aggrieved party as reflected on the return receipt.

(e) **Review of Decision.** Within 30 days after the date of receipt of the written decision, the aggrieved party may file a petition with the Gaming Office requesting a review of the decision. The Gaming Office may set a hearing on the matter or may make a decision based on the record previously developed and other documentation provided to it by the patron and the Gaming Facility Operator. The Gaming Office shall then issue a written decision within 60 days of the filing of the petition and mail it to the parties by certified mail, return receipt requested. This written decision of the Gaming Office shall be the final decision of the Gaming Office, subject to the provision for judicial review in Section 1204(c).

Section 1310. Play by Employees. No Primary Management Official, Key Employee, member of the board of directors of the Gaming Facility Operator, or Management Contractor, and no employee of the Gaming Office, shall play or place any wager, directly or indirectly, in any Gaming Activities. The Gaming Facility Operator shall take reasonable steps to prevent such individuals from playing or placing wagers in Gaming Activities.

Section 1311. Financial Services at Gaming Facilities. The Gaming Facility Operator is prohibited from:

- (a) Locating an automatic teller machine (“ATM”) adjacent to, or in close proximity to, any Gaming Device;
- (b) Locating in a Gaming Facility an ATM that accepts electronic benefit transfer cards issued pursuant to a state or federal program that is intended to provide for needy families or individuals;
- (c) Accepting checks or other non-cash items issued pursuant to a state or federal program that is intended to provide for needy families or individuals; and
- (d) Extending credit to any patron of a Gaming Facility for Gaming Activities.

Section 1312. Advertising Guidelines. In accordance with the requirements of Section 3(x)(3) of the Compact, the Gaming Facility Operator shall adopt and shall comply with guidelines for the advertising and marketing of Gaming Activities that are no less stringent than those contained in the American Gaming Association’s general advertising guidelines.

Chapter 14. Violations and Remedies.

Section 1401. Violations. It shall be a violation of this Ordinance for any Person to:

- (a) conduct or operate any Gaming Activities within the Nation except as provided in this Ordinance;
- (b) receive, distribute, apply or direct any property, funds, proceeds or other asset of any Gaming Activities to the benefit of any individual or other Person except as authorized by this Ordinance or by any duly enacted Resolution of the Legislative Council;
- (c) tamper with any equipment used in the conduct of Gaming Activities with the intent to cause any Person to win or lose any wager other than in accordance with the publicly announced rules of such Gaming Activities;
- (d) do any other act in connection with the conduct of any Gaming Activities with the intent to affect the outcome of any wager other than in accordance with the publicly announced rules of such Gaming Activities;
- (e) participate as a player in any Gaming Activities if such individual is prohibited under Section 1303 or Section 1309 from participating in such Gaming Activities;
- (f) participate as a player in any Gaming Activities while such individual is listed as an individual barred from the Nation's Gaming Facilities as provided in Section 403(i);
- (g) to conduct Gaming Activities within the Nation without complying with the terms and conditions of the Ordinance, the Compact, or the Act;
- (h) to intentionally misrepresent a material fact to the Gaming Office or intentionally falsify any business records of the Gaming Facility Operator or report required by this Ordinance, the Compact or the Act; and
- (i) to fail to comply with any other provision of this Ordinance.

Section 1402. Civil Penalties. Any Person who violates any provision of this Ordinance, the Compact, or the Act is subject to civil penalties, including exclusion from any Gaming Facility, exclusion from the Nation if the Person is a not an enrolled member of the Nation, or a civil fine of not more than \$10,000.00 for each such violation.

Section 1403. Civil Remedies. The Gaming Office may in the name of the Nation bring any civil action in the courts of the Nation to enforce the provisions of this Ordinance, the Compact, or the Act or to enjoin or otherwise prevent any violation of this Ordinance, the Compact, or the Act occurring within the territorial jurisdiction of the Nation.

Chapter 15: Transition Provisions.

Section 1501. Existing Games Lawful. Subject to the provisions of the Compact and notwithstanding any other provision of this Ordinance, any Gaming Facilities otherwise legally situated within the Nation, and Gaming Activities carried on at such facilities as of the date on which this Ordinance becomes effective, shall be lawful until the day that is 120 days after the date on which applications for licenses of such facilities and personnel are due to be submitted to the Gaming Office established hereunder; provided, that the Gaming Office may, upon application by the Gaming Facility Operator, extend such period to permit proper processing of any duly filed application.

Section 1502. Repeal of Prior Ordinances and Resolutions. Upon enactment of this Ordinance, Ordinance 12-82 (referred to as the Bingo Ordinance), as amended by Resolutions 06-85 and 92-006, and any other Resolutions or Ordinances of the Nation which are inconsistent with this Ordinance, are hereby repealed. Resolution 92-007 (Amending Chapter 15 of the Nation's Criminal Code) shall be amended consistent with the provisions of this Ordinance.

Chapter 16. Amendments.

Section 1601. Amendments. This Ordinance may be amended by action of the Legislative Council.