

**TITLE 8 – REGULATORY CODE
PART II – GAMING
CHAPTER 2-1 – GAMING ORDINANCE**

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TITLE 8 – REGULATORY CODE
PART II – GAMING
CHAPTER 2-1 – GAMING ORDINANCE

Legislative History:

Originally the Arizona Club Bingo Ordinance enacted by Tribal Council in Ordinance No.C4-2-89 dated April 13, 1989.

Repealed and replaced by the Gaming Ordinance of the Pascua Yaqui Tribe, Ordinance No. 92-12-01 dated December 17, 1992. Approved by National Indian Gaming Commission on October 14, 1993.

Amended by Tribal Council Resolution No. 94-23-C4 dated April 28, 1994 to dissolve the Gaming Commission and amend Sec. 3.040. Submitted for approval to the National Indian Gaming Commission on May 17, 1994. Currently on file with the National Indian Gaming Commission.

Amended by Tribal Council Resolution No. C05-119-00, dated May 6, 2000 to add Chapter14, Limited Waiver of Sovereign Immunity.

Amended by Tribal Council Resolution No. C05-23-03 dated May 14, 2003 to repeal and replace Part I, Chapter 2.000 Gaming Authorized; amend Part 2, Chapter 1, 1.070; amend Part 2, Chapter 1, 1.340; amending by adding Part 2, Chapter 1, 1.520 Wager; and amending by adding Part 2, Chapter 11, 11.015 Unlawful Wagering. Approved by National Indian Gaming Commission on January 14, 2004.

Amended by Tribal Council Resolution No. C06-84-04 dated June 15, 2004 as follows: Part I, amend Chapter 5.000 and Chapter 7.000; Part II, amend Section 1.000, repeal Section 1.080, amend Section 1.140, amend Section 1.170, add Section 1.355, amend Section 2.050, amend Section 4.020, amend Section 5.090, Section 6.020, add Section 7.025, add Section 8.020, amend Section 8.030, delete Section 8.070, amend Section 8.080, amend Section 10.010, amend Section 14.010, amend Section 14.030, amend Section 14.050, amend Section 14.070, add Section 14.070, add Section 14.080, and amend Section 14.090. Approved by the National Indian Gaming Commission on September 20, 2004.

Amended by Tribal Council Resolution No. C05-93-08 and Ordinance No. 14-08 dated May 23, 2008 to revoke existing Title 8, Part II, Chapter 2-1, and adding a new Title 8, Part II, Chapter 2-1. Approved by National Gaming Commission on March 5, 2009.

Amended by Tribal Council Resolution No. C07-158-08 and Ordinance No. 27-08 dated July 23, 2008 as follows: Revising section 570. Approved by the National Indian Gaming Commission on March 5, 2009.

Amended by Tribal Council Resolution No. C12-272-08 and Ordinance No. 38-08 dated December 3, 2008 as follows: Repealed existing Section 2-1-570. Approved by the National Indian Gaming Commission on March 5, 2009.

Amended by Tribal Council Resolution No. C09-278-11 and Ordinance No.24-11 dated September 28,2011 to revoke existing Title 8, Part II, Chapter 2-1 and adding new Title 8, Part II, Chapter 2-1. Approved by National Indian Gaming Commission on January 13, 2011.

Amended by Tribal Council Resolution No. C01-02-12 and Ordinance No. 01-12 dated January 11, 2012 as follows: revoking the existing Title 8, Part II, Chapter 2-1, Subchapter B, section 150 and replacing with new Section 150. Approved by the National Indian Gaming Commission on January 13, 2012.

Amended by Tribal Council Resolution No.C10-178-12 and Ordinance No. 20-12 dated October 16, 2012as follows; revoking and amending the existing Title 8, Part II, Chapter 2-1 Section20(Z)(4), Section 100 and Section130. Approved by the National Indian Gaming Commission on May 14, 2013.

SUBCHAPTER A GENERAL PROVISIONS

Section 10 Purpose (8 PYTC § 2-1-10)

The Tribal Council of the Pascua Yaqui Tribe (hereinafter "Tribe"), empowered by the Tribe's Constitution to enact ordinances, hereby enacts this ordinance in order to set the terms for Class I, Class II, and Class III gaming operations on tribal lands and to comply with the requirements of the Indian Gaming Regulatory Act, the Johnson Act, and the Pascua Yaqui Tribe-State of Arizona Gaming Compact.

Section 20 Definitions (8 PYTC § 2-1-20)

- (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.
- (B) "Applicant" means any Person or Enterprise who has applied for a license or certification under the provisions of this Ordinance and the Compact, or employment with the Gaming Enterprise Division, or approval of any act or transaction for which approval is required or permitted under the provisions of this Ordinance and the Compact.
- (C) "Application" means a request for the issuance of a license or certification or for employment by the Gaming Enterprise Division, or for approval of any act or transaction for which approval is required or permitted under the provisions of this Ordinance and the Compact.
- (D) "Authorities" means agents of the Tribal Gaming Office, Tribal Police, Federal Law Enforcement Officers, the State Gaming Agency, a Management Contractor and its principals, employees and agents, and principals, employees and agents of the Gaming Enterprise Division. It also means an Arizona Peace Officer if deputized pursuant to an Intergovernmental or Cross-deputization Agreement with the Tribe.
- (E) "Cheat" means to alter the selection of criteria which determine:
 - (1) The result of a game; or
 - (2) The amount or frequency of payment in a game.
- (F) "Class I Gaming" means Class I gaming as defined in accordance with the Act, 25 U.S.C. § 2703(6), and the regulations promulgated thereunder by the NIGC.
- (G) "Class II gaming" means Class II gaming as defined in accordance with the Act, 25 U.S.C. § 2703 (7) (A), and the regulations promulgated thereunder by the NIGC.
- (H) "Class III gaming" means Class III gaming as defined in accordance with the Act, 25 U.S.C. § 2703(8).
- (I) "Compact" means that written document between the Pascua Yaqui Tribe and the State of Arizona approved by the Assistant Secretary, Indian Affairs, Department of the Interior on January 24, 2003, governing the conduct of Class III gaming activities on Tribal lands.
- (J) "Complimentary" means a service or item provided at no cost, or below cost, to a customer.

- (K) "Distributor" means a person who distributes Gaming Devices and/or component parts thereof.
- (L) "Enterprise" means any corporation (other than a "publicly traded corporation" as defined hereinafter), firm, partnership, limited partnership, trust, or other form of business organization other than a Tribal enterprise wholly owned by the Tribe; provided, however, that the term "enterprise" shall also include each corporation, firm, partnership, limited partnership trust or other form of business organization not a natural person which, directly or indirectly, owns, has the power or right to control or holds with the power to vote all or any part of the outstanding voting securities, partnership interests, limited partnership interests or beneficial interest in a trust which holds or applies for a license or finding of suitability under the provisions of the Compact and this Ordinance.
- (M) "Executive Director" means the Executive Director of the Tribal Gaming Office.
- (N) "Finding of suitability" means an approval to be issued a license or to receive an amended license granted to a Person or Enterprise directly or indirectly involved with the Gaming Operation and relates only to the specified involvement for which it was made. If the nature of the involvement changes from that for which the applicant is found suitable, the Office may require the Person or Enterprise to submit for a determination of suitability in the new capacity.
- (O) "Fiscal year" means the fiscal year utilized by the Gaming Enterprise Division.
- (P) "Game" and "gambling game" means any game of chance played with cards, dice, equipment or any mechanical, electromechanical or electronic device or machine for money, checks, cheques or any other cash equivalent.
- (Q) "Gaming" or "gambling" or "Gaming Activity" means all forms of Class II and Class III gaming conducted on the Indian Lands of the Tribe.
- (R) "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.
- (5) Player Activated Lottery Terminals.
- (S) "Gaming equipment" means any equipment or mechanical, electromechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming, any game that would not otherwise be classified as a gaming device, including dice, playing cards, equipment which affects the proper reporting of gaming revenue, computerized systems for monitoring gaming devices and devices for weighing or counting money.
- (T) "Gaming Facility" or "gaming facilities" means the buildings, improvements and facilities in which Gaming is conducted.
- (U) "Gaming Operation" means any Gaming Activity conducted within any Gaming Facilities.
- (V) "Gaming Enterprise Division" means the Tribal entity having full authority and responsibility for the operation and management of Gaming Activities.
- (W) "Gaming services/supplier" means a Person or Enterprise that provides any goods or services, except for legal services, to the Gaming Enterprise Division in connection with the operation of Gaming Activity in a Gaming Facility.
- (X) "Gross gaming revenue" means the total of all cash received as winnings, and compensation received by the Gaming Operation for conducting any game in which the Gaming Operation is not a party to the wager, less the total of all cash paid out as losses to patrons.
- (Y) "Internal control system" means written administrative and accounting procedures for the purpose of exercising effective control over the internal fiscal affairs of the Gaming Operation.
- (Z) "Key Employee" means:
 - (1) A person who performs one or more of the following functions:
 - (a) Bingo caller;
 - (b) Counting room supervisor
 - (c) Chief of security;
 - (d) Custodian of gaming supplies or cash;
 - (e) Floor manager;
 - (f) Pit boss;
 - (g) Dealer;
 - (h) Croupier;
 - (i) Approver of credit; or
 - (j) Custodian of gambling devices including persons with access to cash and accounting records within such devices;

- (2) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
 - (3) If not otherwise included, the four most highly compensated persons in the Gaming Enterprise Division; or
 - (4) Any other person so designated by the Tribe; however, a person designated by the Tribe as a key employee purposes other than those set forth in this section is not automatically a “ key employee” as that phrase is used in this Gaming Ordinance, the Compact, or its appendices.
- (AA) "Lessor" means any person who leases or rents any property, real or personal, to the Gaming Enterprise Division.
 - (BB) "Lease" means any formal or informal, written or oral, contract or understanding or arrangement whereby any operating licensee obtains the use or possession of any gaming device and/or gaming equipment. The term "lease" includes, without limitation, payments made to an affiliated, controlled or not controlled, controlling or not controlling, person under a gaming device and/or gaming equipment lease.
 - (CC) "License" means an approval issued by the Office to any Person or Enterprise to be involved in the Gaming Operation or in the providing of Gaming Services to the Gaming Enterprise Division.
 - (DD) "Licensee" means any Person or Enterprise who has been licensed by the Office to be involved in the Gaming Operation or in the providing of Gaming Services to the Gaming Enterprise Division.
 - (EE) "Management Contract" means a contract within the meaning of 25 U.S.C. §§2710(d) (9) and 2711.
 - (FF) "Management Contractor" means a natural person or entity that has entered into a Management Contract with the Tribe or the Gaming Enterprise Division which has been approved pursuant to 25 U.S.C. §§2710(d)(9) and 2711.
 - (GG) "Manufacturer" means a natural person or entity that manufactures Gaming Devices and/or component parts thereof as defined by this Ordinance for use or play in the Gaming Facilities.
 - (HH) "Net revenue" means gross revenues of a gaming activity less amounts paid out as, or paid for, prizes, winnings, and total operating expenses, excluding management fees.
 - (II) “NIGC” means National Indian Gaming Commission.
 - (JJ) "Office" means the Tribal Gaming Office.
 - (KK) "Ordinance" means this Pascua Yaqui Tribe Gaming Ordinance.
 - (LL) “Person” includes a corporation, company, partnership, firm, association or society, as well as a natural person. Except as otherwise noted when “Person” is used to designate the violator or offender of any law, it includes a corporation, partnership or any association of Persons.
 - (MM) “Per Capita Payment” means the distribution of money or other thing of value to all members of the Tribe, or to identified groups of members, which is paid directly from the net revenues of any Gaming Enterprise Division Gaming Activity.
 - (NN) “Primary Management Official” means:
 - (1) The person (s) having management responsibility for a management contract;
 - (2) Any person who has authority:

- (a) To hire and fire employees; or
 - (b) To set up working policy for the gaming operation.
- (3) The chief financial officer or other person who has financial management responsibility; or
- (4) Any other person so designated by the Tribe.
- (OO) "Principal" means with respect to any Person:
 - (1) Each of its officers and directors;
 - (2) Each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer or general manager;
 - (3) Each of its owners or partners, if an unincorporated business;
 - (4) Each of its shareholders who own more than 10% 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 10% of the total financing of the entity, and
 - (6) Each of the beneficiaries, or trustees of a trust
- (PP) "Publicly traded corporation" means any corporation or other legal entity except a natural person which has one or more classes of securities registered pursuant to section 12 of the Securities Exchange Act of 1934, as amended (15 U.S.C. § 781), or is an issuer subject to section 15(d) of the Securities Exchange Act of 1934, as amended (15 U.S.C. § 780).
- (QQ) "Regulation" means a rule, standard, directive or statement of general applicability which effectuates the provisions and policy of the Act, Compact, this Ordinance or the policy of the Tribe.
- (RR) "Reservation" or "Tribal lands" means Pascua Yaqui Tribe Indian lands as defined by 25 U.S.C. § 2703 (4) (A) and (B), subject to the provisions of 25 U.S.C. § 2719.
- (SS) "Respondent" means any licensee or applicant that has been subject to an adverse licensing action.
- (TT) "Slot machine" means and includes Gaming Device as that term is defined in Section 2(l) of the Compact and Paragraph (R) of this Section.
- (UU) "State" means the State of Arizona, its authorized officials, agents, and representatives.
- (VV) "State Gaming Agency" means the agency of the State which the Governor may from time to time designate by written notice to the Tribe as the single state agency which shall act on behalf of the State under the Compact.
- (WW) "Statistical drop" means the dollar amount of cash wagered by a patron that is placed in the drop box plus the dollar amount of chips or tokens purchased at a table by a patron with currency.
- (XX) "Statistical win" means the dollar amount won by the licensee through table play.
- (YY) "Subsidiary" means a corporation, all or any part of whose outstanding voting securities are owned, subject to a power or right of control, or held with power to vote by a publicly traded corporation or other holding company.

- (ZZ) "Token" means a metal representative of value, redeemable for cash, and issued and sold by the Gaming Enterprise Division for use in slot machines or for use in slot machines and at table games or counter games at the Gaming Facility.
- (AAA) "Tribal Gaming Office" means the department, agency, or commission designated by action of the Tribal Council as the Tribal entity which shall exercise the civil regulatory authority of the Tribe over Gaming Activities within the Tribe.
- (BBB) "Tribal law enforcement agency" means the police force of the Tribe established and maintained by the Tribe pursuant to the Tribe's powers of self-government to carry out law enforcement within the Tribal Lands.
- (CCC) "Wager" means:
- (1) In the case of a Gaming Device, the sum of money placed into the Gaming Device in cash, or cash equivalent, by the player which will allow activation of the next random play of the Gaming Device.
 - (2) In the case of poker, the sum of money placed into the pot and onto the Card Game Table by the player in cash, or cash equivalent, which entitles the player to an initial deal of cards, a subsequent deal of a card or cards, or which is required to be placed into the pot and onto the Card Game Table by the player entitling the player to continue in the game.
 - (3) In the case of blackjack, the sum of money in cash, or cash equivalent, placed onto the Card Game Table by the player entitling the player to an initial deal of cards and to all subsequent cards requested by the player.
 - (4) A sum of money or thing of value risked on an uncertain occurrence.

Section 30 Gaming Authorized (8 PYTC § 2-1-30)

Class I, Class II, and Class III gaming are hereby authorized.

Section 40 Adoption of the Compact (8 PYTC § 2-1-40)

- (A) The Compact is hereby incorporated into this Ordinance and adopted as the Tribe's law.
- (B) In the event of any conflict between a provision of this Ordinance and a provision of the Compact, the provision set forth in the Compact shall be deemed to be controlling, except in the event that the provision set forth in this Ordinance is stricter or more stringent.
- (C) The adoption of the Compact and incorporation herein shall under no circumstances be deemed to affect the operation by the Tribe of any Class II gaming, whether conducted within or without the Gaming Facilities, or to confer upon the state any jurisdiction over such Class II gaming conducted by the Tribe on the reservation.

Section 50 Ownership of Gaming (8 PYTC § 2-1-50)

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

Section 60 Use of Gaming Revenue (8 PYTC § 2-1-60)

- (A) Net revenues from Class II and Class III gaming shall be used only for the following purposes:
- (1) To fund tribal government operations and programs;
 - (2) To provide for the general welfare of the Tribe and its members;

- (3) To promote tribal economic development;
- (4) To donate to charitable organizations;
- (5) To help fund operations of local government agencies.

Section 70 Per Capita Payments (8 PYTC § 2-1-70)

- (A) If the Tribe elects to make per capita payments to tribal members from revenues derived from its gaming operations, it shall ensure that the following requirements of 25 C.F.R. Part 290 are met:
- (1) The Tribe shall authorize and issue such payments only in accordance with a revenue allocation plan submitted to and approved by the Secretary of the Interior under 25 U.S.C. § 2710(b)(3).
 - (2) The Tribe shall ensure that the interests of minors and other legally incompetent persons who are entitled to receive any per capita payments under a Tribal per capita payment plan are protected and preserved, and that the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person, under a plan approved by the Tribe and the Secretary of the Interior. The Tribe must also establish criteria and a process for withdrawal of funds by the parent or legal guardian.
 - (3) The Tribal Council shall designate or create a Tribal court system, forum, or administrative process for resolution of disputes concerning the allocation of net gaming revenues and the distribution of per capita payments and will explain how it will correct for deficiencies.
 - (4) The Tribal Council shall ensure that the Tribal revenue allocation plan reserves an adequate portion of net gaming revenues from the tribal gaming activity to do one or more of the following purposes: fund Tribal government operations or programs; provide for the general welfare of the Tribe or its members; promote tribal economic development; donate to charitable organizations; or to help fund operations of local government.
 - (5) The Tribal Council shall ensure that distributions of per capita payments are made according to specific eligibility requirements.
 - (6) The Tribal Council shall ensure that Tribal members are notified of the tax liability for per capita payments and how taxes will be withheld.

Section 80 Protection of the Environment and Public Health and Safety (8 PYTC § 2-1-80)

Gaming Facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

Section 90 Interpretation and Definitions as used in this Chapter (8 PYTC § 2-1-90)

If the definition of a term provided in this Ordinance directly conflicts with the definition of the same term addressing the same subject matter in the Act (e.g., both terms define the same aspect of Class III, but not Class II gaming), the definition of that term in the Act shall control. A definition in this Ordinance shall not be deemed in conflict with the Act when the Ordinance definition merely varies from or expands on the definition of the same term in the Act. The same rules of construction shall apply to terms defined in both this Ordinance and in the Compact.

SUBCHAPTER B LICENSING

Section 100 Types of Licenses Required (8 PYTC § 2-1-100)

- (A) The following individuals/entities shall be licensed by the Office.
 - (1) All Employees of the Gaming Enterprise Division including Key Employees and Primary Management Officials
 - (2) Employees of the Tribal Gaming Office
 - (3) Gaming Device Manufacturers;
 - (4) Gaming Device Distributors;
 - (5) Financiers;
 - (6) Gaming Facilities; and
 - (7) Anyone person whose employment duties require or authorize access to restricted areas of a Gaming Facility not otherwise open to the public.

Section 110 Gaming Enterprise Division Employee License (8 PYTC § 2-1-110)

- (A) Requirement of License. All Gaming Enterprise Division employees shall be required to obtain a license from the Office, and no person may commence or continue employment as a Gaming Enterprise Division employee unless he or she is the holder of a valid license issued by the Office, and is certified by the State Gaming Agency, if so required by the Compact.
- (B) The Office may create a multi-tiered licensure system which requires a greater degree of information be provided and a more comprehensive background investigation for various positions and authorities within the Gaming Enterprise Division.
- (C) These licenses may be defined by position, such as, Chief Executive Officer, Vice President, Department Director, Manager, Supervisor, and Line Employee.
- (D) Whenever it is the judgment of the Office that the policies set forth in the Compact or this Ordinance will be served by requiring any Person or Enterprise to be licensed or found suitable as a Key Employee, the Office shall serve notice of such determination upon the Gaming Enterprise Division, or the licensee, as appropriate.
 - (1) The Office shall not be restricted by the title of the job performed but shall consider the functions and responsibilities of the person involved in making its decision as to key employee status.
 - (2) Grounds for requiring licensing as a key employee include but are not limited to the following:
 - (a) The key employee is new to the Gaming Enterprise Division, or the business of the licensee, the position, or the level of influence or responsibility which he has and the Office has little or outdated information concerning his character, background, reputation, or associations, or
 - (b) Information has been received by the Office which, if true, would constitute grounds for a finding of unsuitability to be associated with the Gaming Enterprise Division or a licensee.

- (3) The Gaming Enterprise Division or licensee shall, within 30 days following receipt of the notice of the Office's determination, present the application for licensing of the key employee to the Office or provide documentary evidence that such key employee is no longer employed by the Gaming Enterprise Division or licensee.

Section 120 Tribal Gaming Office Employees License (8 PYTC § 2-1-120)

All Tribal Gaming Office employees shall be required to obtain a license from the Tribal Gaming Office, and no person may commence or continue employment as a Tribal Gaming Office employee unless he or she is the holder of a valid license issued by the Tribal Gaming Office, and is certified by the State Gaming Agency if so required by the Compact.

Section 130 Gaming Device Manufacturers and Distributors License (8 PYTC § 2-1-130)

Each Manufacturer and each Distributor of Gaming Devices shall be licensed by the Office, and certified by the State Gaming Agency if so required by the Compact, before selling or leasing any Gaming Devices to the Gaming Enterprise Division. The Office may but is not required to promulgate regulation allowing for the licensing by the Office of all certain Gaming Service Suppliers.

Section 140 Financiers License (8 PYTC § 2-1-140)

Any Person or Enterprise extending financing to the Gaming Enterprise Division shall be licensed by the Office, and certified by the State Gaming Agency if so required by the Compact, unless said Person is an agency of the United States or a lending institution licensed and regulated by the State or the United States.

Section 150 Gaming Facility License (8 PYTC § 2-1-150)

No Gaming Activities shall be conducted in any Gaming Facility unless the Office first has issued a Gaming Facility License for that Gaming Facility under the provisions of this Ordinance. The Office shall issue a separate license to each place, facility, or location on Indian lands where the Tribe elects to allow class II gaming.

Section 160 Temporary Licenses (8 PYTC § 2-1-160)

- (A) Within 20 days of the receipt of a complete Application for a tribal gaming license, the Office may issue a temporary license to the Applicant unless the background investigation undertaken by the Office discloses that the Applicant has a criminal history, or unless other grounds sufficient to disqualify the Applicant are apparent on the face of the application.
- (B) The temporary license shall become void and be of no effect upon either the issuance of a tribal gaming license or upon the issuance of a notice of denial.

Section 170 Other Licenses (8 PYTC § 2-1-170)

Any other Person or Enterprise whose employment duties require or authorize access to restricted areas of a Gaming Facility not otherwise open to the public must obtain a license issued by the Office, and shall also be certified by the State Gaming Agency if so required by the Compact.

SUBCHAPTER C LICENSING APPLICATION PROCESS

Section 180 License Application Procedure (8 PYTC § 2-1-180)

- (A) Applications; General

- (1) Unless other wise exempted in this Ordinance, every Person or Enterprise that desires to be employed by, or conduct business with, the Gaming Enterprise Division must apply for and be issued a tribal gaming license before they begin employment or conduct business with the Gaming Enterprise Division.
- (2) An application for a license or finding of suitability is seeking the granting of a privilege, and the burden of proving qualification to receive such license or finding of suitability is at all times on the applicant. An applicant must accept any risk of adverse public notice, embarrassment, criticism, or other action or financial loss which may result from action with respect to an application and expressly waive any claim for damages against the Tribe as a result thereof.
- (3) An application for a license or a finding of suitability shall constitute a request to the Office for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in, or be associated with, the Gaming Operation in the manner or position sought by the application, or the manner or position generally similar thereto.
- (4) All license applications of the Office for key employees and primary management officials shall contain a Privacy Act Notice in accordance with 25 C.F.R. §556.2.
- (5) All license applications of the Office for key employees and primary management officials shall contain a notice regarding false statements in accordance with 25 C.F.R. §556.3.
- (6) By filing an application with the Office, the applicant specifically consents to the making of such a decision by the Office at its election when the application, after filing, becomes moot for any reason other than death.

(B) Applications; Primary Management Officials and Key Employees

For purposes of conducting a background investigation on each applicant for a primary management official or key employee position, the Office shall request from each primary management official and key employee applicant all of the following information:

- (1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (2) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
- (3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (B)(2) of this section;
- (4) Current business and residence telephone numbers;
- (5) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

- (8) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (10) For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (a)(8) or (a)(9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- (11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (12) A photograph;
- (13) Any other information the Office deems relevant.
- (13) The Office shall take the fingerprints of the applicant.
- (14) The Office shall forward to the NIGC a completed application containing the information listed in this section (B) (1)-(13) above.

Section 190 Summoning of Applications (8 PYTC § 2-1-190)

The Office may summon any person applying for a license or finding of suitability to appear and testify before it or its agents at such time and place as it may designate. All such testimony may be under oath and embrace any matter which is relevant to the application. Failure to so appear and testify fully at the time and place designated, unless excused, constitutes grounds for denial of the application without further consideration by the Office.

SUBCHAPTER D BACKGROUND INVESTIGATIONS

Section 200 Background Investigations; Notifications (8 PYTC § 2-1-200)

- (A) General
 - (1) Once the Applicant has submitted a complete application, the Office shall conduct a background investigation on the Applicant.
 - (2) The 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.
 - (3) The system shall comply with the requirements of the Act, the Compact, the Ordinance, or any Office regulation, and shall include, at a minimum, the use of records of all available tribal, state and federal law enforcement agencies, resources of the Office, communications with other Indian tribes engaged in Gaming Activities, information obtained from other tribal government offices, as allowed by law, and any other sources of information reasonably accessible to the Office for this purpose.

- (4) The Office shall take the fingerprints of each Applicant for use in conducting a criminal history check using the criminal history records information maintained by the Federal Bureau of Investigation.
 - (5) Background investigations shall be updated upon application for renewal of a license, and at such other times as the Office may determine appropriate.
 - (6) The Office shall prepare a background investigation report on every applicant which shall include all of the following:
 - (a) Steps taken in conducting a background investigation;
 - (b) Results obtained;
 - (c) Conclusions reached; and
 - (d) The bases for those conclusions.
 - (7) The Office shall maintain files containing the results of any background investigations conducted by it for the longer of five years from the date of a licensee's termination of employment, with respect to the files for a licensee; or 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.
 - (8) In conducting such background investigations, the Office and its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.
 - (9) The Office shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel, or others employed by the Gaming Enterprise Division on a need-to-know basis for actions taken in their official capacities. Background investigation information shall also be disclosed to law enforcement agencies and to the Office of the Attorney General upon written request to the Executive Director. With respect to applications and records of background investigations for primary management officials and key employees, these shall be made available for inspection by the Chairman of the NIGC or his or her designee for not less than three (3) years from the date of termination of employment.
 - (10) The Office may issue additional regulations regarding background investigations.
- (B) Notification to the NIGC: Primary Management Officials and Key Employees
- (1) The Office shall prepare a report on each background investigation regarding a Primary Management Official or Key Employee. An investigative report shall include:
 - (a) Steps taken in conducting a background investigation;
 - (b) Results obtained;
 - (c) Conclusions reached; and
 - (d) The bases for these conclusions.
 - (2) The Office shall forward to the NIGC from the results of the background investigation the following information:

- (a) Tribal Affiliation;
 - (b) Employee name, date of birth, and social security number;
 - (c) Applicant status, i.e., key employee or primary management official;
 - (d) Synopsis of background investigation conducted and the results of the investigation; and
 - (e) Suitability determination, i.e., license granted, denied or revoked.
 - (f) The date the applicant began work; and
 - (g) Any other information required under 25 C.F.R. §556.
- (3) The Office shall forward the information listed in section 200 (B)(2)(a)-(g) above to the NIGC within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the NIGC.
- (4) During a 30 day period beginning when the NIGC receives an investigative report, the Chairman of the NIGC may request additional information from the Office concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30 day period until the Chairman of the NIGC receives the additional information.
- (5) If, within the 30-day period described in subparagraph (B) (4) of this section, the NIGC provides the Office with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the tribe has provided an application and investigative report to the NIGC pursuant to subparagraph (B) (1) of this section, the Office shall reconsider the application, taking into account the objections itemized by the NIGC.
- (6) If, within the 30 day period after the NIGC receives an investigative report, the NIGC notifies the Office that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Office has provided an application and investigative report to the NIGC, the Office may issue a license to such applicant.
- (7) The Office shall notify the NIGC if the Office does not license an applicant for a key employee or primary management official, and may forward copies of its investigative report, if any, to the NIGC for inclusion in the Indian Gaming Individuals Records System.
- (8) Upon issuing a license to a Primary Management Official or Key Employee under this Ordinance, the Office shall give notice thereof to the NIGC.

SUBCHAPTER E LICENSING STANDARDS

Section 210 Standards of Suitability for Issuing Licenses (8 PYTC § 2-1-210)

- (A) General Standards. The Office shall not issue a license to an Applicant or shall revoke a license if it determines that the Applicant or Licensee:
- (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.
- (4) Is under the age of 18.

(B) Enterprise Standards.

- (1) Management Contractors. No license or finding of suitability shall be granted to a management contractor unless and until the applicant has satisfied the Office that the funding of the enterprise is:
 - (a) Adequate for the nature of the enterprise, and
 - (b) From a suitable source. The suitability of the source of funds shall be determined by the standards enumerated in Section 210(A) above.
- (2) In making a determination of whether to issue a license to an Enterprise, the Office shall consider whether the Enterprise:
 - (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 Tribe 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 Ordinance;
 - (d) Is in all other respects reliable and trustworthy, and whose involvement in Gaming Activities within the Tribe will be in the best interests of the Tribe as set forth in this Ordinance.
 - (e) Has been licensed by any other Tribe in the State of Arizona.
 - (f) The Office shall not issue a license to any Enterprise unless the Enterprise agrees to give the Office notice within 10 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.

(C) Gaming Facility License Standards

- (1) The 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 Tribe, 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 Tribe under the Ordinance, Compact, and the Act, and the facilities are appropriate to the carrying on of such activities;
- (c) The Gaming Enterprise Division will adequately staff and equip the Gaming Facility to ensure the safety, comfort and convenience of the patrons thereof, and the Gaming Enterprise Division 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 Enterprise Division has or will use Gaming Devices and Gaming Equipment that has been inspected and approved by the Office, as required by this Ordinance and the Compact;
- (e) If the Gaming Enterprise Division has entered into a Management Contract or has made provision for management of the facility, the contract must include terms and provisions that ensure that the Gaming Activities will be carried out in a manner consistent with the requirements of the Act, the Compact, the Ordinance, or any Office regulation, and that the contracting party or parties have received appropriate licenses issued under the provisions of the Act, the Compact, the Ordinance, or any Office regulation, and has submitted a copy of the Management Contract to the Office for forwarding to the NIGC;
- (f) If the Gaming Enterprise Division has entered into a Consultant Contract or has made provisions for management of the facility, the contract must include terms and provisions that ensure that the Gaming Activities will be carried out in a manner consistent with the requirements of the Act, the Compact, the Ordinance, or any Office regulation, and that the contracting party or parties have received appropriate licenses issued under the provisions of the Act, the Compact, the Ordinance, or any Office regulation, and has submitted a copy of the Consulting Contract to the Office; and
- (g) In all other relevant respects, the Gaming Facility will be operated in a way that is fully consistent with the provisions of the Act, the Compact, the Ordinance, or any Office regulation, and that its operation will further the interests of the Tribe with respect to its operation of Gaming Activities.

Section 220 Grounds for Adverse Licensing Action (8 PYTC § 2-1-220)

- (A) General. The Office may deny, suspend, or revoke a license when an Applicant or Licensee:
 - (1) Has violated, failed, or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by the Act, the Compact, the Ordinance, or any Office regulation, or when any such violation has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;
 - (2) Knowingly causes, aids, abet, or conspire with another to cause any Person to violate the Act, the Compact, the Ordinance, or any Office regulation;
 - (3) Has obtained a tribal license by fraud, misrepresentation, concealment or through inadvertence or mistake;
 - (4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payment or reports to any tribal,

state or United States governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses or of bribing or otherwise unlawfully influencing a public official or employee of a tribe, any state of the United States or of any crime, whether a felony or misdemeanor, involving any Gaming Activity or physical harm to individuals or moral turpitude;

- (5) Makes a misrepresentation of, or fails to disclose, a material fact to the Office or State Gaming Agency;
- (6) Fails to prove, by clear and convincing evidence, that they are qualified in accordance with the provisions of the Act, the Compact, the Ordinance, or any Office regulation,;
- (7) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under Section 210(A) of this Ordinance; provided that, at the request of an Applicant for an original license, the Office may defer decision upon the Application during the pendency of such prosecution or appeal;
- (8) Has had a gaming license issued by any state or tribe in the United States revoked or denied;
- (9) Has demonstrated a willful disregard for compliance with gaming regulatory authority in any jurisdiction, including suspension, revocation, denial of Application or forfeiture of license;
- (10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal laws of any tribe or state if such pursuit creates probable cause to believe that the participation of such Person in gaming or related activities would be detrimental to the proper operation of an authorized gaming or related activity on the Reservation. For the purposes of this paragraph, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;
- (11) Is a career offender or a member of a career offender organization or an associate of a career offender or career offender organization in such a manner which creates probable cause to believe that the association is of such a nature as to be detrimental to the proper operation of the authorized gaming or related activities on the Reservation. For the purposes of this paragraph, career offender shall be defined as any Person whose behavior is pursued in an occupational manner or context for the purposes of economic gain utilizing such methods as are deemed criminal violations of state law or federal law or that violate the Compact or any Tribal ordinance or regulation governing gaming or that constitute offenses involving moral turpitude A career offender organization shall be defined as any group of Persons who operate together as career offenders;
- (12) Is a Person whose prior activities, criminal record, if any, reputation, habits and associations pose a threat to the public interest of the Tribe or the State or to the effective regulation and control of Gaming, or creates or enhances 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;
- (13) Fails to provide any information requested by the Office within 14 days of the request for the information;
- (14) Fails to notify the Office within three business days of any arrest, criminal indictment, complaint, or any pending criminal investigation. Notification shall consist of a written statement from the licensee filled out on a form furnished by the Office. A licensee may initially provide a verbal notice if filling out the form is not possible, but must fill out the form as soon as reasonably possible;
- (15) Is associated with, or controls, or is controlled by, or is under common control by, an unsuitable person.

- (16) If, in applying the above standards for a key employee or a primary management official, the Office determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Office shall not license that person in a key employee or primary management official position.

(B) Gaming Operation

- (1) It is the policy of the Tribe to require that the Gaming Enterprise Division, and all enterprises licensed or found suitable in connection therewith, are conducted in a manner suitable to protect the public health, safety, morals, good order and general welfare of the Tribe.
- (2) Responsibility for the employment and maintenance of suitable methods of operation rests with the licensee and the Gaming Enterprise Division and willful or persistent use or toleration of methods of operation deemed unsuitable will constitute grounds for license revocation or other disciplinary action.
- (3) As such, the Office deems that any activity on the part of the Gaming Enterprise Division or any licensee, his agents or employees, that violates the Compact or any Tribal ordinance or regulation governing gaming or that constitute offenses involving moral turpitude, to be an unsuitable method of operation and shall be grounds for adverse licensing action, including summary suspension of any tribal license, by the Office in accordance with the Compact, this Ordinance, and the regulations of the Office.
- (4) Without limiting the generality of the foregoing, the following acts or omissions may be determined to be unsuitable methods of operation:
 - (a) Catering to, assisting, employing or associating with, either socially or in business affairs, persons who have been identified in writing by the Office or the State Gaming Agency as persons of notorious or unsavory reputation or who have extensive police records, or persons who have defied congressional investigative committees or other officially constituted bodies acting on behalf of the United States, or any state, or the employing either directly or through a contract, or any other means, of any firm or individual in any capacity where the repute of the Tribe or the Gaming Operation is liable to be damaged because of the unsuitability of the firm or individual or because of the unethical methods of operation of the firm or individual.
 - (b) Employing in a position for which the individual could be required to be licensed as a key employee, any person who has been denied a license or a finding of suitability or who has failed or refused to apply for licensing as a key employee when so requested by the Office.
 - (c) Employing in the Gaming Operation or the business of a licensee any person whom the Tribe or any court has found guilty of cheating or using any improper device in connection with any game, whether as a licensee, dealer, or player at a licensed game or device; as well as any person whose conduct of a licensed game as a dealer or other employee of a licensee resulted in revocation or suspension of the license of such licensee.
 - (d) Failure to comply with or make provision for compliance with all Tribal, federal, and state laws and regulations pertaining to the operations of the Gaming Facility or a licensee, including, without limiting the generality of the foregoing, payment of all license fees.

- (e) Possessing or permitting to remain in or upon the premises of the Gaming Facility any cards, dice, mechanical device or any other cheating device whatever, the use of which is prohibited by statute or ordinance, or conducting, carrying on, operating or dealing any cheating or thieving game or device on the premises of the Gaming Facility, either knowingly or unknowingly, which may have in any manner been marked, tampered with or otherwise placed in a condition, or operated in a manner, which tends to deceive the public or which might make the game more liable to win or lose, or which tends to alter the normal random selection of criteria which determine the results of the game.
- (f) Denying any agent of the Office, the State Gaming Agency, or Tribal police, upon proper and lawful demand, access to, inspection or disclosure of any portion or aspect of the Gaming Facility as authorized by this Ordinance and the Compact.

(C) Information obtained from the NIGC

- (1) If the Office receives information from the NIGC 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 Office shall:
 - (a) Immediately suspend such license and give written notice of the suspension and proposed revocation to the licensee.
 - (b) The Office shall notify the licensee of a time and place for a hearing on the proposed revocation of a license;
 - (c) After a revocation hearing, the Office shall decide to revoke or to reinstate a gaming license; and
 - (d) The Office shall notify the Commission of its decision.

SUBCHAPTER F LICENSE APPLICATION DECISIONS

Section 230 Issuance of License (8 PYTC § 2-1-230)

- (A) The Office shall issue a license to an applicant if it determines that the applicant satisfies the standards set forth in Section 210 and that there are no grounds for denial as set forth in Section 220.
- (B) Conditional Licenses. The Office may promulgate regulations regarding the issuance of conditional licenses.

Section 240 Denial of License (8 PYTC § 2-1-240)

- (A) The Office shall deny an application for a license if it determines that the Applicant has failed to meet the standards set forth in Section 210 and/or that there are grounds for denial as set forth in Section 220.
 - (1) Applicants shall be notified of the Office’s decision and shall be informed of their right to appeal the decision pursuant to Subchapter K below.
 - (2) Any Person or Enterprise whose application has been denied is not eligible to apply again for a license, for at least one year from the date of such denial, unless the Office advises that the denial is without prejudice as to delay in reapplication.

Section 250 Issuance of Gaming Facility License Applications (8 PYTC § 2-1-250)

- (A) In its decision to license any Gaming Facility, to amend any existing license to permit the conduct of new or different Gaming Activities at a licensed facility, or to renew a Gaming Facility License, the Office may:
- (1) 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 Enterprise Division's ability to account for and protect its assets, and the security of gaming proceeds.
 - (2) If dissatisfied with any such condition, the Applicant may submit a written request to the Executive Director of the Office that the Office reconsider its determination.
 - (3) Upon such request for reconsideration, the Office shall issue a written decision within 15 days of its receipt of the request for reconsideration. The written decision of the Executive Director shall constitute final action of the Office.

SUBCHAPTER G LICENSING TERMS/FEES

Section 260 License Terms; Renewal (8 PYTC § 2-1-260)

- (A) Licenses issued by the Office to Gaming Enterprise Division employees and to Office employees shall be effective for one year from the date of issuance.
- (B) Licenses issued by the Office to Management Contractors, financiers, manufacturers and distributors of Gaming Devices, and Persons or Enterprises providing Gaming Services, shall be effective for two years from the date of issuance. Such license may be renewed for subsequent two year terms upon proper application on forms specified by the Office.
- (C) Licenses issued by the Office for the Gaming Facility shall be effective for one year from the date of issuance. The Gaming Enterprise Division may continue to operate a Gaming Facility under an expired license until action is taken on the renewal application by the Office.
- (D) A licensee that has applied for a renewal may continue to be employed or engaged under the expired license until action is taken on the renewal application by the Office.
- (E) Applicants for renewal of a license shall provide updated material as requested, on the appropriate renewal forms, to the Office but shall not be required to resubmit historical data already available to the Office. Additional background investigations shall not be required of Applicants for renewal unless new information concerning the Applicant's continuing eligibility for a license is discovered.

Section 270 License Fees (8 PYTC § 2-1-270)

- (A) The Office, shall by regulation, establish the fees for Tribal Gaming Licenses.
- (B) Except as otherwise provided herein, all fees and costs incurred in conjunction with the investigation of any application to the Office must be paid by the applicant in the manner prescribed by this Section.
- (C) In addition to any nonrefundable application fees paid, the Office may require an applicant to pay such supplementary investigative fees and costs as may be determined by the Office pursuant to the Compact.
- (D) The Office may estimate the supplementary investigative fees and costs and require a deposit to be paid by the applicant in advance as a condition precedent to beginning or continuing an investigation.

- (E) The Office will not take final action to approve any application unless all application and investigative fees and costs have been paid in full. The Office may deny the application if the applicant has failed or refused to pay all application and investigative fees and costs.
- (F) After all supplementary investigative fees and costs have been paid by an applicant, the Office shall refund to the person who made the required deposit any balance remaining in the investigative account of the applicant.
- (G) The Office may, for good cause, waive the licensing fee.

SUBCHAPTER H REPORTING REQUIREMENTS

Section 280 Gaming Enterprise Division Reporting Requirements (8 PYTC § 2-1-280)

- (A) Property Report. The Gaming Enterprise Division shall report to the Office all leases for gaming devices and equipment to which it is a party not later than 30 days after the effective date of the lease, unless required earlier by agreement, and shall include the following information:
 - (1) The name, address, and a brief statement of the nature of the business of the lessor.
 - (2) A brief description of the material terms of the lease.
 - (3) A brief description of any business relationships between the operating licensee and the lessor other than by the lease.
- (B) Periodic reports. The Gaming Enterprise Division shall report to the Office any changes in the lease within 30 days after such changes occur.
- (C) Employee Report.
 - (1) Annually, on or before the 30th of April, the Gaming Enterprise Division shall submit an employee report to the Office on a form to be furnished by the Office. The report shall identify every individual who is directly or indirectly engaged in the administration or supervision of the Gaming Operation or physical security activities of the Gaming Enterprise Division. The following classes of gaming employees are presumed to be actively and directly engaged in the administration or supervision of gaming:
 - (a) Key employees and Primary Management Officials.
 - (2) The annual employee report shall also include a description of the gaming duties, responsibilities, and authority delegated to each individual identified in the report.
 - (3) Any changes, additions, or deletions to any information contained within the annual employee report which occurs subsequent to the filing of the report and prior to the filing of the report for the next calendar year shall be reported to the Office in writing no less than 10 days after the end of the calendar quarter during which the change, addition, or deletion occurred.
- (D) Audit
 - (1) The Gaming Enterprise Division, in accordance with the Compact and subject to Tribal Council approval, shall select independent certified accountants to perform an annual audit of the following audit functions for the Gaming Operation:
 - (a) To conduct periodic audits or reviews of the books and records of the Gaming Operation;

- (b) To review the accounting methods and procedures used by the Gaming Enterprise Division;
 - (c) To review and observe methods and procedures used by the Gaming Enterprise Division to count and handle cash, chips, tokens, and negotiable instruments; cheques and cash equivalents.
 - (d) To examine and review the Gaming Enterprise Division's internal control procedures and, if applicable, the Manager Contractor's compliance therewith;
 - (e) To examine all contracts for suppliers, services or concessions for any contract amount in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to Class II and Class III Gaming operated by the Gaming Enterprise Division.
- (2) Such independent certified public accountant shall submit an audit report expressing an unqualified or qualified opinion or, if appropriate, disclaim any opinion on the financial statement taken as a whole in accordance with generally accepted auditing standards published by the American Institute of Certified Public Accountants. The examination and audit shall disclose whether the accounts, records and internal controls and accounting procedures maintained by the licensed Gaming Facility are as required by the Act, the Compact, the Ordinance, or any Office regulation.
- (3) To facilitate the completion of such audits and presentation of such financial statements:
- (a) The Gaming Enterprise Division 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 Enterprise Division at or in conjunction with any Gaming Facility licensed hereunder. Such records as well as all original entry transaction records shall be maintained for at least seven years from the date on which they are made, and shall be maintained on the licensed premises;
 - (b) The Gaming Enterprise Division shall maintain general accounting records on a double entry system of accounting with detailed, supporting subsidiary records sufficient to furnish the information required for the standard financial reports to adequately reflect gross income and expenses related to gaming and subsidiary operations; and
 - (c) The Office, when it deems necessary, may request additional information, from either the Gaming Enterprise Division or the independent accountant through the Gaming Enterprise Division, regarding the financial statement, the audit or both. In addition, copies of all letters from the independent accountant to the Gaming Enterprise Division regarding internal control matters shall be provided to the Office within 30 calendar days after receipt by the Gaming Enterprise Division.
 - (d) The Office shall provide copies of all annual audits of Gaming Activities and Gaming Operations to the NIGC and/or to the State Gaming Agency, as required by law. Nothing herein shall limit the Tribal Council or the Office to require such further internal intermittent or other audits as may be deemed appropriate.
- (4) The Gaming Enterprise Division shall provide a copy of the annual audit to the Office, at its own expense, no later than 120 days after the end of the Gaming Enterprise Division's fiscal year.
- (E) Retention of Records. All books and records relating to authorized Gaming Activities, including the records of any Management Contractor, the Gaming Enterprise Division and the Office, shall be separately maintained in order to facilitate auditing of these books and records to ensure compliance with the

Compact. The Gaming Enterprise Division shall maintain all records it creates or receives relating to the operation and management of Gaming Activity. Records of the Office and the Gaming Enterprise Division may be destroyed prior to the time set forth as allowed by Compact and any amendments thereto. Provisions in the Gaming Enterprise Division Ordinance that allow others access to these records is not supplanted by these provisions.

- (F) Loans to Gaming Enterprise Division. Whenever the Gaming Enterprise Division receives, accepts, or makes use of any loans, it shall notify the Office within 30 days of such transaction. Such notice shall be on forms provided by the Office and shall include a report of the names and addresses of all parties to the transaction, the amount and source of the funds, property or credit received or applied, the nature and amount of security provided by or on behalf of the Gaming Enterprise Division, the purpose of the transaction, and such other information as the Office may require. The report shall be accompanied or supplemented by copies of documents, and such other supporting data as the Office may require.
- (G) Gaming Revenue Reports: The Gaming Enterprise Division must provide the Office with a report of the monthly distributions paid to the Tribe within five days of making the distribution.

SUBCHAPTER I OPERATIONAL REQUIREMENTS

Section 290 Gift Policy (8 PYTC § 2-1-290)

- (A) Every Person and Enterprise shall be prohibited from offering, giving, or providing any gift to any specific employee(s) of the Gaming Enterprise Division where such gift is intended, appears to be intended, or reasonably could create the appearance of intent, to influence the Gaming Enterprise Division employee whether within or outside the authority of the employee.
- (B) Every Person and Enterprise shall report any gift(s) given to employees of the Gaming Enterprise Division that total more than \$100 in a single month to the Office.

Section 300 Hours of Operation (8 PYTC § 2-1-300)

Consistent with the provisions of the Compact, the Office may by regulation establish the permissible hours and days of operation of Gaming Activities. The regulation may authorize the Gaming Enterprise Division to operate Gaming Facilities and conduct Gaming Activities 24 hours a day, seven days a week.

Section 310 Gaming by Principles and Key Employees (8 PYTC § 2-1-310)

No person who is licensed or found suitable as a principal or key employee of the Gaming Enterprise Division or Management Contractor, nor any key employee who actively participates in the management of the Gaming Facility or the conduct of its licensed games, shall play or be permitted to play, either directly or indirectly through another person, any gambling game, including slot machines and gaming devices, but not including poker in the Gaming Facility.

Section 320 Gaming Devices (8 PYTC § 2-1-320)

- (A) The Gaming Enterprise Division shall only operate Gaming Devices for play by the public at the Gaming Facility that:
 - (1) Have been approved under the provisions of the Compact and Ordinance, or have otherwise been authorized by the Office; and
 - (2) Have been leased, purchased or otherwise obtained from licensed manufacturers and distributors as required by the Compact and Ordinance.

- (B) The Office shall require each licensed manufacturer and distributor to verify under oath, on forms provided by the Office, that the Gaming Devices manufactured or distributed by them for use or play at the Gaming Facility meet the requirements of the Compact, the Ordinance, and any applicable Office regulations.
- (C) The Office may require the testing of any Gaming Device to ensure compliance with the requirements of this Section. Any such testing shall be conducted by persons selected by the agency requiring the testing and shall be at the expense of the licensed manufacturer unless otherwise agreed.
- (D) The Office shall have the responsibility and authority to confiscate or shut down any Gaming Device or other equipment or gaming supplies failing to conform to any required standards.

Section 330 Approval of Gaming Equipment (8 PYTC § 2-1-330)

- (A) The Office shall have the discretion to review and approve all Gaming Equipment and other devices used in the Gaming Facility as to integrity, fairness, and honesty.
- (B) Any evidence that Gaming Equipment or other devices used in the Gaming Facility have been tampered with or altered in any way that would affect the integrity, fairness, honesty, or suitability of the equipment or device shall be immediately reported to the Office.
- (C) The use or presence of unauthorized gaming equipment or devices within any Gaming Facility shall be prohibited.

Section 340 Posting of Rules (8 PYTC § 2-1-340)

The rules of each authorized game offered at any duly licensed Gaming Facility shall be posted in a conspicuous location and shall be clearly legible.

Section 350 Complimentary Items (8 PYTC § 2-1-350)

- (A) The issuance of complimentary items shall be governed by regulations promulgated by the Office.
- (B) Tribal government officials and employees shall not be provided with any complimentary (i.e., no-cost or below cost) tickets, passes, meals, other items or services by the Division while conducting Government business where such items are provided to influence the officials' or employees' decision with respect to a transaction. In addition, Tribal Council Members shall be subject to Tribal Gaming Office complimentary regulations as well as Tribal Council-approved compensation and expense policies.
- (C) State government agency employees and NIGC employees shall not be provided with any complimentary (i.e., no-cost or reduced cost) tickets, passes, meals, other items or services by the Gaming Enterprise Division while conducting their official business.
- (D) The following shall not be considered to be Complimentary Items, and may be given by the Gaming Enterprise Division in its discretion:
 - (1) Giving or selling, at no cost, or below cost, of perishable items which would not otherwise be useable by the GED, and would go to waste if not given or sold.
 - (2) Giving, or selling at below face value, of tickets or licenses to entertainment events if done within 7 days prior to the event, provided that the Gaming Enterprise Division makes a reasonable determination that the event will not likely sell out, and in the event the event is put on by the Tribe, the Gaming Enterprise Division makes a reasonable determination that giving or selling those tickets or licenses at no cost, or below cost, would likely increase ancillary revenues, such as food and beverage sales and the like, at the entertainment event.

Section 360 Internal Controls (8 PYTC § 2-1-360)

- (A) The Office shall by regulation establish minimum standards of internal controls to be in place at each Gaming Facility licensed hereunder.
- (B) Internal controls include the plan of organization and all of the coordinate methods and measures adopted within a Gaming Operation to safeguard its assets, check the accuracy and reliability of its accounting data, and encourage adherence to prescribed managerial policies. Generically, internal controls shall include a system of accounting controls and a system of administrative controls.
- (C) The system of accounting controls shall be governed by the following considerations:
 - (1) It shall provide a plan of organization and a description of procedures and records that will permit reasonable assurance that the following objectives will be maintained:
 - (a) Safeguarding of assets;
 - (b) Reliability of financial records;
 - (c) Execution of transactions in accordance with management's general or specific authorization;
 - (d) Recording of transactions as necessary to permit recording of gaming revenue and to maintain accountability for assets;
 - (e) Access to assets only in accordance with management's authorization;
 - (f) Comparison of records of assets with existing assets at reasonable intervals with provision for appropriate action with respect to any differences.
 - (2) In order to accomplish the objectives stated in the preceding paragraph, the system of accounting controls shall, according to regulations prescribed by the Office, at a minimum include a detailed system for accounting for cash receipts and gross revenues at least daily, which system shall be appropriate to the types of Gaming Activities carried on at the facility and the physical characteristics of the system utilized for collection of cash at the facility.
 - (3) As part of a system of accounting controls, the Gaming Enterprise Division shall provide written notice to the Office identifying all bank accounts maintained by the Gaming Enterprise Division by bank and account number and identifying by name all individuals with authority to sign on each account. The Gaming Enterprise Division shall provide written notice to the Office of any changes to this information within five business days of any changes.
- (D) The system of administrative controls shall be governed by the following considerations:
 - (1) It shall at a minimum include a complete plan of organization that will set forth an organizational chart showing appropriate segregation of functional responsibilities and a regimen of sound practices to be followed in the performance of such segregated functional responsibilities.
 - (2) The plan of organization shall be both diagrammatic and narrative and shall clearly describe and depict the interrelationship of organizational and administrative control.

Section 370 Amendments to the Internal Control Policies and Procedures (8 PYTC § 2-1-370)

- (A) The Gaming Enterprise Division shall provide the Office with copies of its policies and procedures and plan of organization and any proposed changes at least 14 days before implementation.

- (B) Within seven days after submission by the Gaming Enterprise Division, the 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.
- (C) 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 Office shall issue a letter of disapproval, which shall set forth the inconsistencies in detail.
- (D) The policies and procedures and plan of organization, and any proposed changes to them, must be approved by the Office prior to implementation.

Section 380 Accounting Records (8 PYTC § 2-1-380)

- (A) The Gaming Enterprise Division shall keep 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.
- (B) The Gaming Enterprise Division shall keep accounting and financial records in accordance with Generally Accepted Accounting Principles on a double entry system of accounting, maintaining detailed, supporting, subsidiary records, including:
 - (1) Detailed records identifying revenues, expenses, assets, liabilities, and equity;
 - (2) Detailed records of all returned checks;
 - (3) Individual and statistical game records to reflect statistical drop, statistical win, and the percentage of statistical win to statistical drop by table for each table game, and to reflect statistical drop, statistical win, and the percentage of statistical win to statistical drop for each type of table game, either by each shift or other accounting period determined by the Gaming Enterprise Division, and individual and statistical game records reflecting similar information for all other games;
 - (4) Slot analysis reports which, by each machine, compare actual hold percentages to theoretical hold percentages; and
 - (5) The records required by the internal control system.
- (C) The Gaming Enterprise Division shall create and maintain records sufficient to accurately reflect gross gaming revenue and expenses relating solely to the Gaming Operation.

Section 390 Automatic Teller Machines (8 PYTC § 2-1-390)

- (A) The Gaming Enterprise Division shall not locate an automatic teller machine (“ATM”) adjacent to, or in close proximity to, any Gaming Device.
- (B) The Gaming Enterprise Division shall not locate 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) The Gaming Enterprise Division shall not accept checks or other non-cash items issued pursuant to a state or federal program that is intended to provide for needy families or individuals.
- (D) The Gaming Enterprise Division shall not extend credit to any patron of a Gaming Facility for Gaming Activities, unless extending credit is permitted under the Compact then in effect.

SUBCHAPTER J ENFORCEMENT

Section 400 Inspection (8 PYTC § 2-1-400)

- (A) Facility Inspection. The Office shall, no less than annually 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 the Act, the Compact, the Ordinance, or any Office regulation,.
- (B) Gaming Devices Inspection. Unless otherwise agreed to by the Office, the Office shall conduct monthly inspections of no less than a random 5% sample of the Gaming Facility's Gaming Devices or 25 randomly selected Gaming Devices in use for play at each of the Tribe's Gaming Facilities. Unless the Office discovers one or more Compact violations while conducting its inspections and testing, which shall be reported to the State Gaming Agency within 48 hours pursuant to Section 6(g) of the Compact, the Office shall provide the Gaming Enterprise Division a written report detailing when and where the inspections and testing took place, what Gaming Devices were inspected and tested, and the complete results of the inspections and testing within 10 days of completing any inspections and testing. The Office shall adhere to the procedures in this Ordinance while conducting its inspections and testing.

Section 410 Investigations (8 PYTC § 2-1-410)

- (A) The Office shall investigate any reported violation of the Act, the Compact, the Ordinance, or Office regulation when the Office determines that an investigation is reasonably necessary to ensure the integrity of gaming, the protection of persons and property, and compliance with the Act, Compact, Ordinance, or Office regulation.
- (B) The Office shall make a written record of reported violations in accordance with the requirements of Section 6(e) of the Compact. The Office shall send reports of its investigations to the State Gaming Agency in accordance with the requirements of Section 6(g) of the Compact.
- (C) Nothing in this subchapter shall prevent the Pascua Yaqui Police Department from investigating criminal activity within their jurisdiction.

Section 420 Office Reporting Requirements (8 PYTC § 2-1-420)

- (A) Documentation of violations of the Act, Compact, Ordinance, and Office regulations.
 - (1) Office inspectors shall document unusual occurrences and all violations or suspected violations of the Act, Compact, Ordinance, or Office regulations by an employee or agent of the Gaming Enterprise Division, or any person on the premises whether or not associated with Gaming Activities. Regardless of the identity of the reporter or to whom the report is made, the Office shall make a written record of any unusual occurrences, violations or suspected violations, without regard to materiality.
- (B) Reporting to State Gaming Agency.
 - (1) The Office shall notify the State Gaming Agency within 48 hours of the time a violation or suspected violation of the Compact or the Ordinance is reported and within 72 hours of the time an unusual occurrence is reported.
 - (2) Upon completion of any investigation of an unusual occurrence or a violation or suspected violation, the Office shall provide copies of its investigative report to the State Gaming Agency, if such disclosure will not compromise on-going law enforcement investigations or activities.
 - (3) In order to efficiently and effectively regulate and monitor Gaming Activity, the Office and the State Gaming Agency will enter into a memorandum of understanding calling for the sharing of investigatory files, including at a minimum files for Persons licensed and/or certified pursuant to Section 4 of the

Compact and the records required to be kept pursuant to Section 6(e) of the Compact, and agreeing upon the procedure for processing fingerprints, the confidentiality of records, and the process for reporting unusual occurrences and violations of the Compact's appendices. The Office shall enter into this memorandum no later than 90 days after the effective date of this Ordinance.

Section 430 Detention and Questioning of Person Suspected of Violating Ordinance; Limitations on Liability; Posting of Notice (8 PYTC § 2-1-430)

- (A) Agents of the Office may question any person in the Gaming Facility suspected of violating any of the provisions of the Act, the Compact, the Ordinance, or any Office regulation. None of the Agents is criminally or civilly liable:
 - (1) On account of any such questioning; or
 - (2) For reporting, to the Authorities, the identity of the person suspected of the violation.
- (B) Any of the Authorities who have probable cause for believing that an illegal act has been committed in or near the Gaming Facility by any person may take that person into custody and detain him in the Gaming Facility in a reasonable manner and for a reasonable length of time. Such a taking into custody and detention does not render the Authorities criminally or civilly liable unless it is established by clear and convincing evidence that the taking into custody and detention are unreasonable under all the circumstances.
- (C) There must be displayed in a conspicuous place in the Gaming Facility a notice in boldface type clearly legible and in substantially this form:
 - (1) Agents of the Office, Tribal Police, Federal law enforcement agents, or the State Gaming Agency, or any of the Authorities who has probable cause for believing that any person has violated any provision of the Pascua Yaqui Tribe Tribal Gaming Ordinance prohibiting cheating in gaming may detain that person in the Gaming Facility.
- (D) State authorities' right to detain and question under this Ordinance within the reservation is restricted to the Gaming Facility boundaries unless cross-deputized as Tribal police and in the supervisory presence of a Tribal police officer. Nothing in this Ordinance shall be construed to grant to the State of Arizona criminal prosecutorial jurisdiction over Tribal members or non-member Indians for acts committed on the Reservation or Tribal Lands.

Section 440 Disposition of Evidence Seized by Office (8 PYTC §2-1-440)

- (A) After the final adjudication of a complaint involving a violation of the Act, the Compact, the Ordinance, or any Office regulation, or of any other complaint involving the seizure of evidence by an agent of the Office or the State Gaming Agency, a court of competent jurisdiction may enter an appropriate order disposing of all physical evidence pertaining to the complaint, whether or not the evidence was introduced as an exhibit.
- (B) Except as otherwise provided in subparagraph (C) below, evidence seized by an agent of the Office or the State Gaming Agency which does not result in a complaint charging a violation of the law and evidence for which an order of disposition is not entered pursuant to subsection (A) above, must be disposed of as follows:
 - (1) The Office shall notify by certified mail each potential claimant of the evidence that he has 30 days after receipt of the notice within which to file a written claim with the Office for return of the evidence.
 - (2) If more than one person files a claim for the evidence:
 - (a) The claimants may agree among themselves as to how they wish to divide the evidence, subject to the approval of the Office;

- (b) The claimants may agree to submit the matter to binding arbitration or any claimant may institute legal proceedings before the Tribal Court to determine the proper disposition of the evidence. The Office shall return the evidence to the claimants in accordance with any agreement approved by the Office, final judgment or award made pursuant to the provisions of this section.
- (3) A person who receives property from the Office pursuant to this section shall execute such documents as are required by the Office to defend, hold harmless, indemnify and release the Office from any liability arising from the delivery of the property to the claimant.
- (4) If no claim is submitted within 60 days, the Office shall deposit all money with the Tribe and may use all other property for any lawful purpose. The Office may dispose of any property which cannot be used for any lawful purpose in any reasonable manner.
- (C) Evidence which constitutes a device for cheating may not be returned to a claimant and must be retained by the Office. The Office shall periodically destroy such devices in any reasonable manner.

Section 450 Notices of Concern (8 PYTC 2-1-450)

- (A) The Office may issue a Notice of Concern of its preliminary determination of a violation to any licensee alleged to have committed a violation and to the Gaming Enterprise Division. The warning shall require the licensee and/or the Gaming Enterprise Division, as appropriate, to correct the violation upon such terms and conditions as the Office determines are necessary and proper under the provisions of this Ordinance.
- (B) The licensee shall file, and the Gaming Enterprise Division may file, a written response to the warning within 10 days of receiving the warning. Following receipt of the responses, the Office shall complete its investigation into the alleged violation.
- (C) The issuance of a notice of concern shall not be considered a licensing action.

Section 460 Notices of Violation (8 PYTC § 2-1-460)

- (A) The Executive Director may issue a Notice of Violation if the Office determines that a licensee violated or is violating the Act, the Compact, the Ordinance, or any Office regulation and has failed to correct or address the violation within the time set forth in a Notice of Concern. The Executive Director also may issue a Notice of Violation if the Office determines that a Person other than a licensee violated or is violating the Act, the Compact, the Ordinance, or any Office regulation.
- (B) The Office shall deliver the Notice of Violation to the licensee charged with a violation of the Act, the Compact, the Ordinance, or any TGO regulation.
- (C) The 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 Enterprise Division with any redactions necessary to avoid disclosure of any information which the Office is obligated to keep confidential under any applicable privacy laws.
- (D) A Notice of Violation shall contain:
 - (1) A citation to the Act, the Compact, the Ordinance, or any Office regulation 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 Office proposes must be taken to correct the violation, if the 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 Office determines that the violation is incapable of being corrected;
 - (5) notice of any civil penalty that the Office proposes to impose 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 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 Office within the time prescribed above, the 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 licensee to whom the notice was issued.
- (E) The licensee to whom a notice of violation is issued shall, and the Gaming Enterprise Division may, submit a written response to the Office together with any additional written information the Office should consider within 10 days after receiving notice of the alleged violation.
- (F) The 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 15 days after the deadline for the submission of written responses. The written decision shall constitute final action of the Office with respect to any notice of violation. Except as provided in paragraph (G) below, the Office shall take no action to enforce a Notice of Violation until it issues its written decision.
- (G) If the Office determines that the Act, the Compact, the Ordinance, or any Office regulation have been violated and the continued licensing of, or conduct by, a licensee constitutes an immediate and substantial threat to: the public health, safety or welfare; the integrity of Gaming Activities; the integrity of the Gaming Enterprise Division; the Gaming Enterprise Division's ability to account for and protect its assets; or to the security of gaming proceeds, the Office may:
- (1) Summarily suspend any license issued under this Ordinance;
 - (2) Summarily seize the proceeds of any Gaming Activities not conducted by the Gaming Enterprise Division;
 - (3) Summarily seize, remove, or impound any equipment, supplies, or copies of 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 Office seizes, removes, or impounds copies of any business records, books of account, or other financial records or documents of the Gaming Enterprise Division, it shall provide the Gaming Enterprise Division with a copy of any such items upon receiving a written request for copies from the Gaming Enterprise Division.
- (H) After the Office renders a decision, if the Office has determined that the Act, the Compact, this Ordinance, or any Office regulation 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 or Enterprise to whom the notice of violation was directed;
 - (3) assess a civil penalty in accordance with the provisions of this Ordinance;
 - (4) Refer the matter to law enforcement for criminal investigation and prosecution.

- (I) the issuance of a notice of violation shall not be considered a licensing action.

Section 470 Adverse License Actions (8 PYTC § 2-1-470)

(A) Summary Suspension of license

- (1) The Office may summarily suspend any tribal licenses pending a hearing if the continued licensing of a person or entity constitutes an immediate and substantial threat to the public health, safety or welfare, or the integrity of gaming activities; the integrity of the Gaming Enterprise Division, the Gaming Enterprise Division's ability to account for and protect its assets; or to the security of gaming proceeds. .
- (2) If the Executive Director determines that a summary suspension is necessary, he shall prepare and serve a letter upon the licensee either personally, or by registered or certified mail at his address on file with the Office.
- (3) The letter must be a written statement of charges which must set forth in ordinary and concise language, the acts or omissions with which the respondent is charged. It must specify the sections of the Act, the Compact, the Ordinance, or any Office regulation, which the respondent is alleged to have violated.
- (4) Licensees shall not have the right to appeal the Office's decision to summarily suspend their license.

(B) Suspension or Revocation of license

- (1) If the Executive Director determines that a suspension or revocation is necessary, he shall prepare and serve a letter upon the respondent either personally, or by registered or certified mail at his address on file with the Office.
- (2) The letter must be a written statement of charges which must set forth in ordinary and concise language, the acts or omissions with which the respondent is charged. It must specify the sections of the Act, the Compact, the Ordinance, or any Office regulation, which the respondent is alleged to have violated.

Section 480 Civil Penalties (8 PYTC § 2-1-480)

(A) The Office may impose civil penalties upon any Person who has violated any provision of the Act, the Compact, the Ordinance, or any Office regulation. Such penalties shall include:

- (1) Exclusion from any Gaming Facility;
- (2) A civil fine of not more than \$5,000 for each such violation.

(B) The Office may promulgate regulations regarding these civil penalties which may include:

- (1) Factors to be considered to determine whether a civil penalty will be imposed.
- (2) Procedures for the assessment of a civil penalty.
- (3) Procedures for the settlement, reduction, or waiver of a civil penalty.

Section 490 Civil Remedies (8 PYTC § 2-1-490)

The Office may, with the approval of and through the Office of the Attorney General, bring any civil action in the courts of the Tribe to enforce the provisions of the Act, the Compact, the Ordinance, or any Office regulation or to

enjoin or otherwise prevent any violation of the Act, the Compact, the Ordinance, or any Office regulation occurring within the territorial jurisdiction of the Tribe.

SUBCHAPTER K APPEALING ADVERSE LICENSING ACTION

Section 500 Right of Review (8 PYTC § 2-1-500)

Any applicant or licensee has the right to request a review of any denial, suspension, or revocation of their license.

Section 510 Answer; Review of Adverse Licensing Decision (8 PYTC § 2-1-510)

- (A) Respondents may file an answer to a letter of denial, suspension, or revocation with the Office within 20 days after service of the letter. In the answer the respondent must:
- (1) State in short and plain terms his/her defenses to each claim asserted.
 - (2) Admit or deny the facts alleged in the complaint.
 - (3) State which allegations he/she is without knowledge or information sufficient to form a belief as to their truth. Such allegations shall be deemed denied.
 - (4) Affirmatively set forth any matter which constitutes an avoidance or affirmative defense.
- (B) In the answer, the respondent may demand a meeting with the Executive Director to contest the adverse licensing decision. Failure to demand a meeting constitutes a waiver of that right.
- (C) Upon written request for a hearing, the Executive Director shall schedule an informal meeting with the respondent to discuss the grievance. The Executive Director shall explain to the participant the basis for the adverse licensing decision and the information used to make such decision. The respondent may present any additional information which were not considered or wrongfully considered in the decision. The Executive Director will examine the additional information provided by the respondent and make a determination of whether the original decision is to be changed or not. The Executive Director shall submit the findings in writing to the respondent.
- (D) Respondents may appeal the Executive Director's adverse licensing decision pursuant to Subchapter L below.

Section 520 Applications for License after Denial (8 PYTC § 2-1-520)

Any Person or Enterprise whose application has been denied is not eligible to apply again for a license, for at least one year from the date of such denial, unless the Office advises that the denial is without prejudice as to delay in reapplication.

Section 530 Application for License after Revocation (8 PYTC § 2-1-530)

Following a decision by the Office to revoke a license, a succeeding application for a tribal license shall not be entertained by the Office for a period of two years from the date of the Office's decision to revoke.

SUBCHAPTER L TRIBAL COURT JURISDICTION

Section 540 Tribal Court Jurisdiction (8 PYTC § 2-1-540)

The Tribal Courts shall have jurisdiction over all violations of the Act, the Compact, the Ordinance, or any Office regulation, and over all employees and patrons of the Gaming Enterprise Division and may grant such other relief as is necessary and proper for the enforcement of this Ordinance and of the provisions of any management contract, including but not limited to, injunctive relief against acts in violation thereof, subject to arbitration procedures, if any, applicable to any management contract. Nothing, however, in this Ordinance shall be construed to authorize or require the criminal trial and punishment of non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.

Section 550 Tribal Court Review of Adverse Licensing Decisions (8 PYTC § 2-1-550)

- (A) If a respondent disagrees with the adverse licensing decision of the Executive Director, (s)he can file a petition with the Pascua Yaqui Tribal Court to review the Executive Director's decision.
- (B) The Tribal Court shall overturn the decision of the Executive Director if the court finds the Director's decision was arbitrary, capricious, an abuse of discretion, or contrary to tribal or federal law.
- (C) The Tribal Court decision may be appealed to the Court of Appeals in accordance with the Tribe's Rule of Appellate Procedure.

Section 560 Patron Dispute Hearings (8 PYTC § 2-1-560)

- (A) Refusal to Pay Winnings. Whenever the Gaming Enterprise Division refuses payment of alleged winnings to a patron, and the Gaming Enterprise Division and the patron are unable to resolve the dispute to the satisfaction of the patron and the dispute involves:
 - (1) At least \$500, the Gaming Enterprise Division shall immediately notify the Office. The Office shall conduct whatever investigation it deems necessary and shall determine whether payment should be made; or
 - (2) Less than \$500, the Gaming Enterprise Division shall inform the patron of his or her right to request that the Office conduct an investigation. Upon request of the patron, the Office shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.
- (B) Notice to Patrons. The Office shall mail written notice by certified mail, return receipt requested, to the Gaming Enterprise Division and the patron of the decision resolving the dispute within 30 days after the date that the Office first receives notification from the Gaming Enterprise Division or a request to conduct an investigation from the patron.
- (C) Effective Date of Decision. The decision of the Office is effective on the date it is received by the aggrieved party as reflected on the return receipt.
- (D) Review of Decision. Within 30 days after the date of receipt of the written decision, the aggrieved party may file a petition with the Office requesting a review of the decision. The Office may set a hearing on the matter or may make a decision based solely upon the prior decision and other documentation provided to it by the patron and the Gaming Enterprise Division. The Office shall then issue a final written decision within 60 days of its receipt of the petition for review of the initial decision and mail it to the parties by certified mail, return receipt requested.
 - (1) For disputes involving less than \$500, the decision of the Office shall be final and binding upon the patron and the Gaming Enterprise Division and shall not be subject to judicial review, dispute resolution or other legal action.

- (2) For disputes of \$500 or more, if the final decision of the Office rendered pursuant to this Section is against the patron, the patron shall be entitled, within 60 days of his or her receipt of the notice of final decision of the Office, to file a complaint for the amount of the disputed winnings only in Tribal Court, which shall be empowered by this Ordinance to hear such dispute and render judgment in favor of either party and against the other party. There shall be no right of appeal from the Tribal Court's decision in such action.

Section 570 Retention of Rights (8 PYTC § 2-1-570)

The Tribe expressly retains its sovereign immunity from suit for those claims or caused of action for which a waiver is not expressly granted pursuant to the provisions of this subchapter. Nothing contained in this subchapter shall prohibit the Tribe from waiving its sovereign immunity by separate to permit claims not included in this subchapter.

Section 580 Penalties (8 PYTC § 2-1-580)

- (A) Any Indian person who violates any provision of this Ordinance or any rule or regulation authorized thereunder, shall be guilty of a criminal offense punishable by a fine of not more than \$5,000 or by imprisonment for not more than one year, or both.
- (B) Any Person who violates any provision of the Act, the Compact, the Ordinance, or any Office regulation is subject to civil penalties, including exclusion from any Gaming Facility, exclusion from the Reservation if the Person is not an enrolled member of the Tribe, and/or a civil fine of not more than \$5,000 for each such violation.

SUBCHAPTER M CRIMES & LIABILITIES CONCERNING GAMING

Section 590 Unlawful Wagering (8 PYTC § 2-1-590)

It is unlawful for any person under 21 years of age to place any wager directly or indirectly, in a Class III gaming activity.

Section 600 Fraudulent Acts (8 PYTC § 2-1-600)

- (A) It is unlawful for any person:
 - (1) To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players.
 - (2) To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome.
 - (3) To claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a gambling game, with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won.
 - (4) Knowingly to entice or induce another to go to any place where a gambling game is being conducted or operated in violation of the provisions of this Ordinance, with the intent that the other person play or participate in that gambling game.
 - (5) To place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets.

- (6) To reduce the amounts wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets.
- (7) To manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a slot machine, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

Section 610 Use of Device for Calculating Probabilities (8 PYTC § 2-1-610)

- (A) It is unlawful for any person at the Gaming Facility to use, or possess with the intent to use, any device to assist:
 - (1) In projecting the outcome of the game;
 - (2) In keeping track of the cards played;
 - (3) In analyzing the probability of the occurrence of an event relating to the game; or
 - (4) In analyzing the strategy for playing or betting to be used in the game.

Section 620 Use of Counterfeit or Unapproved Chips or Tokens or Unlawful Coins or Devices; Possession of Certain Devices, Equipment, Products or Materials (8 PYTC § 2-1-620)

- (A) It is unlawful for any licensed person enterprise, employee or other person to use counterfeit chips in a gambling game.
- (B) It is unlawful for any person, in playing or using any gambling game designed to be played with, receive or be operated by chips or tokens approved by the Office or by lawful coin of the United States of America:
 - (1) Knowingly to use other than chips or tokens approved by the Office or lawful coin, legal tender of the United States of America, or to use coin not of the same denomination as the coin intended to be used in that gambling game; or
 - (2) To use any device or means to violate the provisions of the Compact or this Ordinance.
- (C) It is unlawful for any person, not a duly authorized employee of the Gaming Facility Operator acting in furtherance of his employment within the Gaming Facility, to have on his person or in his possession on or off the premises of the Gaming Facility any device intended to be used to violate the provisions of the Compact or this Subchapter.
- (D) It is unlawful for any person, not a duly authorized employee of the Gaming Facility Operator acting in furtherance of his employment within the Gaming Facility, to have on his person or in his possession on or off the premises of the Gaming Facility any key or device known to have been designed for the purpose of and suitable for opening, entering or affecting the operation of any gambling game, drop box or any electronic or mechanical device connected thereto, or for removing money or other contents therefrom.
- (E) It is unlawful for any person to have on his person or in his possession any paraphernalia for manufacturing slugs. As used in this subsection, "paraphernalia for manufacturing slugs" means the equipment, products and materials that are intended for use or designed for use in manufacturing, producing, fabricating, preparing, testing, analyzing, packaging, storing or concealing a counterfeit facsimile of the chips or tokens approved by the Office or a lawful coin of the United States, the use of which is unlawful pursuant to Subsection (B). The term includes, but is not limited to:
 - (1) Lead or lead alloys;

- (2) Molds, forms or similar equipment capable of producing a likeness of a gaming token or United States coin;
 - (3) Melting pots or other receptacles;
 - (4) Torches; and
 - (5) Tongs, trimming tools or other similar equipment.
- (F) Possession of more than one of the devices, equipment, products or materials described in this section permits a rebuttable inference that the possessor intended to use them for cheating.

Section 630 Cheating (8 PYTC § 2-1-630)

It is unlawful for any person, whether he is a principal or employee of the Gaming Facility Operator, or a player in the Gaming Facility, to cheat at any gambling game.

Section 640 Unlawful Manufacture, Sale, Distribution, Marking, Altering or Modification of Equipment and Devices Associated with Gaming; Unlawful Instruction (8 PYTC § 2-1-640)

- (A) It is unlawful to manufacture, sell or distribute any cards, chips, dice, game or device which is intended to be used to violate any provision of the Compact or this Subchapter.
- (B) It is unlawful to mark, alter or otherwise modify any gaming equipment or gaming device, as defined in the Compact, in a manner that:
 - (1) Affects the result of a wager by determining win or loss; or
 - (2) Alters the normal criteria of random selection, which affects the operation of a game or which determines the outcome of a game.
- (C) It is unlawful for any person to instruct another in cheating or in the use of any device for that purpose, with the knowledge or intent that the information or use so conveyed may be employed to violate any provision of the Compact or this Subchapter.

Section 650 Unlawful Dissemination of Information Concerning Racing: Exemptions; Penalty (8 PYTC § 2-1-650)

- (A) It is unlawful for any person to furnish or disseminate any information in regard to racing or races, from any point within the State to any point outside the State, by telephone, telegraph, teletype, radio or any signaling device, with the intention that the information is to be used to induce betting or wagering on the result of the race or races, or with the intention that the information is to be used to decide the result of any bet or wager made upon the race or races.
- (B) This section does not prohibit:
 - (1) A newspaper of general circulation from printing and disseminating news concerning races that are to be run or the results of races that have been run; or
 - (2) The furnishing or dissemination of information concerning wagers made in an off-track pari-mutuel system of wagering authorized under the Compact.
 - (3) Any person who violates the provisions of this section shall be punished as provided in the federal criminal laws already existing or State criminal laws already existing or enacted pursuant to the Compact.

SUBCHAPTER N SEVERABILITY

Section 660 Severability (8 PYTC § 2-1-660)

The provisions of this Ordinance shall be severable and if any phrase, clause, sentence or provision of the Ordinance is found to be contrary to the Pascua Yaqui Tribal Constitution, or declared to be in violation of applicable Federal Law, or is held to be invalid, the validity of the remainder of this ordinance shall not be affected and shall remain in full force and effect.