

## NOTICE OF ISSUANCE OF FINAL EMERGENCY REGULATIONS

September 12, 2018

Pursuant to Section 14-1-10I(5) of the Pueblo of Laguna Code, the Pueblo of Laguna Gaming Control Board hereby promulgates the emergency regulation amendments, first approved on August 2, 2018, as final regulations with one revision discussed below. In the meantime, the regulation amendments that had been distributed for comment on May 22, 2018 became final last week, on September 7, 2018. The current regulations therefore reflect all of these amendments and become effective under Section 704 tomorrow, September 13, 2018, a day after their publication on the TGRA website and distribution as required by the regulation, on September 12, 2018.

As required by the Code, the Board gave notice of a 30-day comment period on the emergency regulation revisions. By the comment deadline on September 11, 2018, one commenter (Laguna Development Corporation (“LDC”)) responded, providing only two comments.

First, the commenter pointed out that Section 1502(b) currently provides that the “gaming day” starts at 6:00 a.m. each day. It has long been the practice of LDC, recognized by the Board and TGRA, that the “gaming day” starts at 4:00 a.m. In fact, subsection (b) was not changed as part of the emergency promulgation; only subsection (a) was changed. However, subsections (b) and (c) were circulated for context, the Board received a comment, and the comment is well-taken. The Board sees no reason to wait until the next round of revisions to make the revision and does so now.

The second comment relates to Section 1022(g) (which with intervening revisions is now subsection (h)). Section 4(A) of the 2015 Compact requires in part that “[t]he Tribal Gaming Agency will assure that the Tribe will . . . 7. detain persons who may be involved in illegal acts for the purpose of notifying law enforcement authorities.” It should be apparent to everyone, including the State and the State Gaming Representative, that the State is not requesting, nor did New Mexico’s gaming tribes agree, that tribal gaming and security personnel would risk potentially serious injury to themselves or others in an attempt to detain suspected criminals. The Board recognizes that fact, and so proposed that the subsection (now 1022(h)) implementing that Compact provision read: **“In accordance with all applicable law and policies and procedures, including prudent concern for personal and public safety,** the Gaming Operation and TGRA will detain persons who may be involved in illegal acts for the purpose of notifying law enforcement authorities.” (Emphasis added.) The commenter suggests that the Board also add “make reasonable attempt to” in front of “detain.”

The Board added the highlighted initial clause to the Compact language to allow for LDC, in conjunction with TGRA and the Board, to ensure that there are procedures in place that will allow LDC personnel to protect themselves and the public in the wide range of potentially dangerous, and even deadly, situations that might arise. The Board does not disagree with LDC’s comment but concludes that “prudent concern for personal and public safety” captures the same idea and that spelling out what a “reasonable attempt” means should be done through LDC policies and procedures. If it would be helpful at some point, the Board and TGRA are certainly willing to consider TICS or regulation provisions that would assist LDC in that effort, but the safety issues compel the Board to conclude that LDC should

guide the evolution of those policies and procedures within the rather broad parameters of subsection 1022(h). In short, the Board declines to add the suggested phrase, not because it is incorrect, but rather because it is already captured in the regulation and will be spelled out in policies and procedures.

With the one change discussed above, the Board promulgates the final version of the emergency regulations.